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LAUDER, JOHN, SIR, BART., LORD
FOUNTAINHALL, 1646-1722.
HISTCRICAL OBSERVES OF
MEMDRABLE OCCURRENTS IN CHURCH
AND STATE.





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HISTORICAL OBSERVES

OF MEMORABLE OCCURRENTS

IN CHURCH AND STATE,

FROM OCTOBER 1680 TO APRIL 1686.

BY

SIR JOHN LAUDER OF FOUNTAINHALL.

PRINTED AT EDINBURGH:

M.DCCC.XL.

EDINBURGH: PRINTED BY THOMAS CONSTABLE,
PRINTER TO HER MAJESTY.

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At an Extraordinary General Meeting of the BANNATYNE CLUB, held at Edinburgh, in the Hall of the Antiquarian Society, on Friday the 8th of July 1836:—

RESOLVED,—That the Historical Observations from October 1680 till April 1686, by SIR JOHN LAUDER OF FOUNTAINHALL, afterwards one of the Senators of the College of Justice, with a continuation of Historical Notices of Scottish Affairs, selected from his other Manuscripts, preserved in the Advocates Library, be printed for the Members, under the joint superintendence of ADAM URQUHART, Esq. and THE SECRETARY OF THE CLUB; and that fifty copies of the work be thrown off on a different kind of paper for general sale.

At a Meeting of the Committee of the BANNATYNE CLUB, held at Edinburgh, in the House of the President, on Friday the 3d of July 1840:—

RESOLVED,—That the volume of “Historical Observes of Memorable Occurents,” by SIR JOHN LAUDER of Fountainhall, which was circulated among the Members of the Club in January 1838, be now completed as a separate work.

Extracted from the Minutes of the Club.

DAVID LAING, *Secretary.*

THE BANNATYNE CLUB.

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PREFACE.

SIR JOHN LAUDER OF FOUNTAINHALL BARONET, the author of the following work, was born at Edinburgh, on the 2d of August 1646. He was admitted Advocate, on the 5th of June 1668: at the Revolution, he was raised to the Bench, and took his seat as Lord Fountainhall on the 1st of November 1689: and died at the advanced age of 76, on the 20th of September 1722.

During the greater part of his life, LORD FOUNTAINHALL was accustomed both to commit to writing a digest of his ordinary course of study, and to record the proceedings of the several Law Courts in Scotland. "From my admission as an Advocate," he says, "in June 1668, I began to mark the Decisions of the Court of Session;"—and this practice he continued, with singular industry and perseverance, for the long period of forty-four years. In his Law Manuscripts are interspersed occasional notices of passing events, and he likewise carried on, in the form of a Diary, a series of "Historical Observes of memorable occurrents, happening either in Church or State," which he purposed, as he expresses it, "to be reviewed *cum dabit otium Deus.*" Of his numerous

volumes in Manuscript, several, and perhaps the most important, are preserved in the Library of the Faculty of Advocates; and these, with the exception of the earliest of the series, (which was obtained for the Library at a subsequent period,) were made use of in compiling the work usually quoted as "Fountainhall's Decisions," which was published under the title of—"The Decisions of the Lords of Council and Session, from June 6th 1678, to July 30th 1712: Collected by the Honourable Sir John Lauder of Fountainhall, one of the Senators of the College of Justice: Containing also the Transactions of the Privy Council, of the Criminal Court, and Court of Exchequer, and interspersed with a variety of Historical Facts, and many curious Anecdotes." Edinburgh, 1759, 1761, 2 vols. folio.

The task of selecting from that work, and from the other manuscript volumes of Lord Fountainhall which are extant, such passages as contain historical information, or notices illustrating the manners and customs of the time, was commenced several years ago by SIR THOMAS DICK LAUDER, BART., the present representative of his family. Some interruption having occurred to stop the intended publication, the whole of the collections made for that purpose were handed over to THE BANNATYNE CLUB, with the view of the work being adopted as a Club publication. This having been resolved upon, and the superintendance of it entrusted to the present Editors, it was thought desirable that a more copious selection should be made, with a closer adherence to the text of the Author's MSS. than had been originally contemplated. While this was in progress, the work was commenced by printing, as a

distinct portion, the whole of the Manuscript which bears the quaint title of "Some Historicall Observes of Memorable Occurrents," &c., from October 1680 to April 1686. This portion was circulated among the Members in January 1838; with the intention that the Selections from his other MSS. should form an additional volume. It has been found, however, that these Selections are amply sufficient to fill two volumes, and that it would in many respects be preferable to keep them as a separate publication. The Author, it will be observed, makes mention of another Manuscript, under the title of "Miscellanie Historicall Collections, digested into Annals, (in imitation of Tacitus,) by order of tyme as they occurred," from the year 1660 to 1680. This volume may possibly still exist, although it has hitherto remained undiscovered; but should it ever be found, it would form a more suitable introduction to the "Historical Observes," of which it was the commencement, than a series of extracts gleaned from the Author's law Manuscripts.

The COMMITTEE OF THE BANNATYNE CLUB, therefore, have authorised this volume of HISTORICAL OBSERVES to be completed in its present form; and the Editors have thought it unnecessary to enlarge this brief notice, as they expect to be favoured with a detailed Memoir of the Author, to accompany the volumes of Selections which are now in the course of publication for the Members of the CLUB, under the title of HISTORICAL NOTICES OF SCOTISH AFFAIRS.

A few mistakes having been made by the transcriber of the MS., from unacquaintance with Lord Fountainhall's handwriting, the following corrections are requisite: Most of these, however, are very unimportant.

- Page 14, l. 24, *for* by Stewart, *read* Hy Stewart.
 „ 24, l. 25, *for* ij others, *r.* j others.
 „ 26, l. 22, *read* Isabel Alison, a Perth woman, the other Marion Harvy.
 „ 46, l. 3, *insert a comma after* Advocat.
 „ 55, l. 23, *for* lenty, *r.* lently.
 „ 73, l. 10, *for* marked G. *r.* marked E.—l. 11, *for* 2 .) *r.* 266.)
 „ 87, l. 22, *for* Daver, *r.* Daveis.
 „ 123, l. 8, *for* Mevis, *r.* Nevis.
 „ 141, l. 25, *read* Semple and [Thomson.]
 „ 180, l. 8, *for* plate, *r.* place.
 „ 189, l. 1, *for* 23 of December 1682, *r.* 20 of November 1681.
 „ 201, l. 13, *insert a comma after* Charleton.
 „ 205, l. 7, *for* Melthorp, *r.* Nelthorp.
 „ 208, l. 8, *for* Griffiffs, *r.* Griffiths.
 „ 253, l. 13, *for* redarque, *r.* redargue.
 „ 254, l. 4, *for* Holland, *r.* Island, [Jeeland.]
 „ 254, l. 25, *for* intend to, *r.* intend, God willing, to.
 „ 255, l. 1, *The following marginal note was accidentally omitted.*

As particularlie anent some cruelties done by the Dutch at Amboyna, in March 1623, upon many English, most barbarously torturing them to death, under pretence of their accession to a forged conspiracy of the Japonees, for taking in their fort of Amboina, and for which Oliver caused them pay him a considerable soume. Sie the Dutch treacheries and cruelties in S. G. De taen beside me.

- „ 255, l. 10, *dele* heir.—l. 11, *insert in blank* it had bein.—l. 12, *r.* [Few] privat.—
for our King and them, *r.* our King and the States.
 „ 256, l. 14, *for* seazing, *r.* seasure.—l. 29, *for* deputes pretend, *r.* depute pretends.
 „ 258, l. 3, *for* seamen, *r.* samen.—l. 6, *for* one place, *r.* first place.
 „ 259, l. 14, *for* their's or, *r.* their's and.—l. 27, *for* the no, *r.* the 100.
 „ 260, l. 3, *for* man, *r.* man can.—l. 14, *dele* the before sentence.—l. 25, *for*
 revelant, *r.* relevant.—l. 27, *insert to before* suffer.
 „ 261, l. 11, *insert and after* owners.

JEHOVAH PORTIO MEA.

SOME HISTORICALL OBSERVES
BREIFLIE MENTIONING
SOME OF THE MEMORABLE OCCURRENTS
HAPPENING ATHER IN CHURCH OR STATE
THROW EUROPE
BUT MORE ESPECIALLY IN SCOTLAND
AND ENGLAND.

BEING A CONTINUATION OF REMARKS OF THIS NATURE
IN ANOTHER 8vo. BOOK.

[M.DC.LXXX.—M.DC.LXXXVI.]

HISTORIA EST LUX VERITATIS, MAGISTRA VITAE, &c.

IN ANE thick 8vo. Manuscript, opening by the length, marked with the P. 1. letter F, I have sett doune some Miscellanie Historiall Collections of the affairs of the Ile of Brittain, but particularly of Scotland, digested into Annals, (in imitation of Tacitus,) by order of tyme as they occurred; beginning at 1660, and ending in O&tober 1680; but with many omiffions, it being oft intermitted and neglected by me. Yet the pleasure ther is from such observations hath so far prevailed with me, that seeing the forsaide Manuscript is now filled, I have resolved to continue them heer, *modo propitium sit numen.*

The last observe I made in that other litle Manuscript, at page 222 of it, (which falls to be about the midle of the saide book,) is anent the invectives and pasquills flew abroad in England, on the approach of the fitting of the English Parliament on the 21st of O&tober 1680; and the Popish project of furnishing our King with French gold, he indire&tly suffering Tangier to fall unto the French King's hands. What I shall begin this book with, is the Duke of Albany and York's voyage for Scotland. *Quod felix faustumque sit.*

[POSTSCRIPT.] What materials I have gathered in this and my other books, are onlie for memoires, seedules and heads, from which a more exact Annal or Historie may be compiled, (if God give tyme;) ther being many errors and mistakes heir insert, on trust and from report, which on review will be purged and cut of; and many things will be added or enlarged from thir abbreviats. This is to prevent my oune lasines, and to mind me this Colle&tion is far from being compleit or perfite; being set doune onlie for the prima cura, as any thing occurred or came to my notice, without full examination; which I left to the 2d review.

HISTORICAL OBSERVÉS.

 OCTOBER 1680.

His Royall Highnesse the D[uke] of A[lbany] and Y[ork,] having been earnestly delt with by the King's Privy Councell in England, (who fate 2 dayes without interruption almost theiron,) to declare himself Protestant, and he refusing to goe against his conviction, he was advised to retire unto Scotland, in regard the King's necessities pressed to give way P. 2. to the Parliament's fitting; and accordingly he parted on the 20 of October with his brother at Woolwich on the Thames, and arrived at Kirkcaldy bay on the 26 thereafter, having borne out a mighty storme. The Chancelor and fundrie of the nobility and gentry of Fyffe, and a part of his Majestie's guards, attended his landing, and he with his Dutcheffe ware conveyed straight to Leslie, wher he staved till the 29 of October; on which day he came from Bruntland to Leith; from which, in much solemnity, he was conveyed to the Palace of Halirudhoufe. (See his former reception in the other manuscript at the 21 of November 1679, page 178. See my law folio manuscript at the 2d of November 1680. See the printed narrative of his reception.)

A litle after his arriveall, having visited the Castle of Edinburgh, and for a testimony of joy the gun called Muns Meg, being charged by the advice of ane English canoneer, in the shooting was riven; which some foolishly called a bad omen. The Scots repented it extremely, thinking

the Englishman might of malice have done it purpofely, they having no canon in all England fo big as thee.

About this tyme on Mr. William Wifheart, minifter at Wells in Anandale (Nithfdale,) deferted his miniftry, and fent a dimiffion of it to the Prefbyterie, and turned Roman Catholick : fo this is one of the remarkable trophees and fpoills the Papifts are beginning to gain upon our religion.

On the 21 of O&tober 1680, the English Parliament met ; wheir the King had a pertinent difcourfe at ther opening, to which I refer, becaufe it is befylde me in print. The Commons, *nemine contradicente*, elect one Mr. William Williams, (vide infra pa. 16,) recorder of the city of Chefters, for ther Speaker, who had been eminent in his oppofition againft the Duke of York ; he is approven by his Majefty, and obtains a grant of the 3 ufuall praeliminaries, that the members of the houfe, ther goods and fervants, be free from arrefts, that they may have freedome of fpeach within doors, and may have ready acceffe to his Majefty when required. By ane unanimous vote, they declare it was and is the duety of every true Englishman to petition the King for the fitting of the parliament, (tho we find in the other manufcript, page 181, the King by proclamation had difcharged it as factious, and feditious, and contrare to his praerogative,) and that theffe who gave in declarations bearing their abhorrency at thefe petitioners, were not dutifull fubjects, and ware therefore in contempt called the Abhorrers. (Vide infra pag. in principio.) They likewayes refolved upon a bill for difenabling the D[uke] of York, or any other Popifh fuceffor, from inheriting the Imperiall crown of England. The Duke's party comfort themfelves with this, that ther was great buftle and oppofition made before, againft both the entries of Quean Marie and Quean Elizabeth in England, as being unlawfully begotten ; and yet after the cafe of ther fuceffions exifted, they ware admitted by the people of England, and did reigne peaceably all their lifetyme ; and the Duke hopes it may even fo befall him.

Some ridiculouſly imagined they found a fimilitude betuixt *Dux Albanus*, the tyrannous Duke of Alva who oppreſſed the Hollanders, and *Dux Albanicæ* the Duke of Albany and York.

It is the obſervation of a learned man, that England in the ſpace of 20 years changed oftener ther religion than all Chriſtendome had done for 1500 years before; for they made 4 mutations and tranſitions from 1540 till 1560. King Hendry the 8th abolifhes the Pope's ſupremacy and ſuppreſſes Abbacies, but retains the bulk of the Popiſh religion; his ſone Edward brings in the Reformed religion; Mary when ſhe ſucceeds throws it out and introduces Popery; Queen Elizabeth baniſhes Popery again, and re-eſtablifheth the Proteſtant religion; and all this done in leſſe than the forſaid ſpace.

Not only too many amongs ourſelves, but the French turned the Plot into matter of ſport and laughter; for at Paris they acted, in ther comædy called Scaramuchio, the Engliſh tryall, and buſked up a dog in a gounce like Cheiff Juſtice Scrogs, and a theiff is brought to the bar and accufed P. 3. that he had ſtollen one of the King's great ſhips carrieng 100 guns, and had conveyed it away under his cloak. The pannell defends himſelfe that the fa& libelled againſt him was impoſſible to be done, and they might as weell ſay he had taken away Notre Dame Church on his back. Scrogs cryes, No, firrah, you did it, we can prove it, call the witneſſes. And ſo on is brought in like Titus Oats and Bedlo, who depone they ſaw him doe it.

On the 12 of November 1680, a part of his Majeſties forces apprehend ſome of Mr. Donald Cargil, the miniſter (who eſcaped narrowlie), his affociats, viz. on James Skein a wryter youth brother to the Laird of Skeen in the North, on Archibald Stewart ſkipper in Borrowſtounneſſe, [Robert] Hamilton in Broxburne, and [John] Spreul apothecarie in Glaſgow. As for James Skeen, tho formerly known to be a ſimple lad, yet was [he] fo obſtinatly ſtout that, both in face of Privy Councell and of the Criminall Court, he ouned Camron's declaration of war againſt Charles Stuart (as he

called the King) at Sanquhar, approved their fighting at Bothwellbridge, Moorpark, or Airdsmoore, their covenant, their excommunication, &c. tho he was present at none of them, and that he had freedom to kill the King as an enemy to God and the country, and suborned the same. It was a pity to see his forwardness, considering, if he had refrained what he confessed with his own tongue, no probation could have reached him. Some concluded him melancholy and hypochondriack. The other 3 (tho tortured in the boots) would give no positive categorical answer to that question, If they thought it lawful to kill his Majesty? but would rather call it lawful nor unlawful: so that they are singly guilty of a perverse obstinacy in opinion, which principle might be fatally dangerous if they should happen to put it in execution, as God forbid.

William Johnston and some other marchants were seized on upon a suspicion; but their being no evidence against them farther than that they were strict Presbyterians, they were set at liberty.

Old Mr. John Carstairs, once minister at Glasgow, being brought before the Privy Council, gave a very satisfactory account of his submission to and acknowledgement of the King and Council's power. The Bishop of Edinburgh declared his contentment, but alledged, he swerved from the Presbyterian principles, in his acquiescing to the government and disclaiming the rising in arms. Mr. Carstairs, picked at this, replied, he paid all deference to the King's Council, but he did not owe Mr. Paterfone's power as a judge their; for which he was removed with a rebuke.

When the Bishop of Edinburgh was reasoning in Council for the Militia Act, one whispered to another, Come let us hear the Apostle Paul discoursing on the Militia: Episcopus Miles is an incongruity. (See Zieglerus book, so called, against the late Bishop of Munster, Christopher Bernardus.)

James Skein and the other 3 have got an indyment of treason to answer at the Criminal Court on the 22 of November next; and the Advocate

then only infisting againft Skeen, and he adhering to all he had formerly declared, with this qualification, that he thought it lawfull to kill the King if he came in armes againft them, he was fentenced to be hanged on the 25 of November, and his head to be therafter ftricken of. He was repreived; de quo vide infra page following.

15 Novembris 1680. The Lord Ruffel and 200 of the House of Com- P. 4.
mons, having brought up to the Houfe of Lords the ingroffed Bill, paff after 3 feveral readings in ther Houfe, againft the Duke of York, for difinheriting him and all papifts from fuceeeding to the Imperiall Croun of England, France, and Ireland, (mentioned fupra page 2,) but prejudice to the neareft proteftant fuceffor, and that it fhould be treason to correfpond with the faid Duke, &c.; the faid Bill, by plurality of votes, was rejedted, ther was 30 for it, and about 62 or 63 againft it, and all the Bifchops, fave only 3 votes, viz. Compton bifchop of London, brother to the Earle of Northampton, Doctour Pearfon bifchop of Chefter, and Thomas Lamplugh bifchop of Exeter; all the reft of the Bifchops ware for the Duke of York's fuceffion, though a papift, thinking it unjuft to deprive him of his birthright for his opinion: The peers ware not frequent when it was voted, but many ware abfent; vide infra.

Ther was only 3 members in the Commons Houfe againft this bill, viz. Mr. Seymour, late fpeaker, Laurence Hyde, the Duke of York's brother-in-law, and Sir Lionel Jenkins; fome affirme ther ware many mo againft it.

James Skeen, (of whom mention is made in the preceeding page,) having been perfuaded to apply to the Duke of York and the Councell, for a delay of putting his fentence to execution, till he had tyme to confer with learned and pious men, and informe himfelf of his principles, he obtained a repreive to the 1 of December; but he repented of this addrefse, and obftinatly maintained his former tenets.

On the 29 of November 1680, Archbald Stuart and John Potter being pannelled for the fame crymes at the Juftice Court; Stuart very boldly

owned all they had done, and confessed he was at Airdsmoffe fighting against the King's forces; Potter was more timorous, but his hand was at a bond with some 30 others, wherein he renounced the King; he would have qualified his adherence to these practises, in so far as they agreed with the Word of God; but both of them are condemned to be hanged on the same 1 of December, to which day Skeen was delayed; and accordingly, they were all 3 hanged at the Croce of Edinburgh on that day, Skeen being all cloathed in white linnen to his very shoes and stockings, in affectation of purity and innocencie, and I with it might be a prælibation and type of a white robe to be given him in Heaven; however, the singularity was unnecessary, if not wain. I conferred with him the day before his suffering, and with the other 2, I found him very settled and composed with much humanity and civility, but still owning his opinions; he pretended to much peace and assurance of salvation, and upon my reasoning, he confessed some hæreticks had dyed with much seeming constancy, but he hoped his was of another sort; he could give me no solid or satisfieng returne; to that I urged, ther was no difference betwixt him and us in fundamentals, and that many godly presbyterians disclamed the principles he was to seal with his blood; only he affirmed the Episcopall and Eraftian Government had introduced errors in fundamentals, besydes profanity and other immoralities; wher I pressed, we that are privat persons were not to answer for the faults of governors, but only to pray and mourn for them, he affirmed, from the old prophet's example, that we are bound to coerce them, &c. Assurance of salvation is always hung on the chain of truth, so that we may doubt the boastings of men dying in a known error, that ther confidence may be on mistaken grounds. Many thought, since he had committed no cryme deserving death, the

P. 5. only wenteing of these opinions (being interrogated thereon, wherein men (unlesse suspe&) should not be infnared), should not be capitally punished, but some said he should be put in physicians hand for phle-

botomy, and dyet to purge his melancoly, and kept in perpetuall prifon and firmance, that it might not be in his power nather to diffeminat nor practife any of his dangerous pofitions; the fear is, he might efcape and perpetrate on the King, or others, his bloody zeall, and then it would be vulneratâ caufa remedium quærere. It is true, the putting to death for opinions, is a popifh maxime not yet received among proteftants, but that is to be understood when a man conceals it; but if he openly awow do&trines deftru&tive of all governement, the fparing fuch might in the event prove cruelty; (fee the marginal note on the A& of Parliament, James VI. Parl 3. A& 47, in 1572.) Mr. James Guthry minifter, in 1662, fuffered death for his judgment; and the very declining his Majefties authority, is declared treafon by a& 129 in 1584, fo perfons doe not advert to the hazard of the diffolution of all governement, (which Camron, Cargil, Skeen, and theffe men aime at), who think it was hard to take ther lives for ther opinions, having perpetrat no capital a&tion, and though *Lex unica C. fiquis imperatori maledixerit*, feemes to pardon words againft the Prince, yet that is wheir they proceed ex levitate et infaniâ, and not when they are malicious to fhake of the King whollie, and affirme fince they are in a declared war with him, that he may be lawfully killed as ane enemy, ane perjured apoftat, ane excommunicat, &c.; for the poifonous leven may diffufe throw the gidly people loving changes, and alwayes inclined to beleive the worft of ther rulers, and may throw us in the fame ftate convulfions fuch tricks did formerly draw on us. See in my folio law manufcript, Neving's cafe, condemned for words againft the Duke of York, its at the 15 and 16 July 1680, page 156.

In the debates betwixt the learned Origen and the Heathen phyfitian Celfus, Origen, boafting of the great conftancy and joy with which the Chriftians ran upon martyrdom, Celfus answers, this was no argument of a good caufe, but might proceed from a blind mifguided light of zeall, from oftentation, and a ftubborne præfra&torinefs and ftifnes of humor.

It is a strange humour of dying, Plutarch tells, some Milesian virgins took of killing themselves, which they could not get stemmed till they exposed some of their bodies ignominiously to public view.—See Plutarch.

The cause must be very commendable and just, and clearly founded in the word of God, ere a man can be esteemed a martyr for suffering in it: see Rathillet's death alibi; as to pretended constancy in dying, of Servetus and others of the Devill's martyrs, Non pœna sed causa facit martyrem, (Cyprian,) et schisma vix martyrio eluitur; and a martyr ought to have a clear call and a humble frame and preparation of spirit, and knowledge what he dyes for.—See the other octavo Manuscript, page 194 et sequentibus. Vide infra of 2 weemen execut for this same cause, page 13; and Alexander Hamilton's case ther.

In November 1680, we had the account of a most dreadful earthquake at Malaga in Spain, (our colder climate is fortunately free of such,) which made terrible demolitions and devastations, the ground opening and swallowing up all about it, and particularly a river, which afterwards it cast out with so great violence, that it made an inundation.

In November 1680, Mr. James Lundie, one of the principall Ministers of Edinburgh, removed himselfe to Dalkeith, whither he got a call, which I mark as extraordinary, for to leave a better stipend to goe to a much leaner; their were fundrie conjectures about it, some thought the Bishopp was displeas'd with the freedoms he fundry tymes used. On his removeall was advanced, in Februar 1681, on Mr. Ro^t Bruce, minister at Auldeir; in this different from the great Mr. Ro^t Bruce, in King James the VI tyme, that this Mr. Ro^t is for the hight of Episcopacie, which the old Mr. Ro^t strugled much against.

- P. 6. Supra page 4 in princ: we have seen the Commons disappointed in their designe of disinheriting the D. of York, now they fall upon other methods for securing the Protestant religion, as, that ane bond of association be entered into for preserving our King's life and our religion; of

which see more in the other Manuscript in 8vo. page 181 ; and 2do. That the act excepting and frieng the D. of York from taking the oaths of alledgeance, supremacy, and declaration, be repealed. See of this in my law Manuscript in folio, 4to Dec^{ris}. 1679, page 99. 3tio. That the post office, Portsmouth, and the fleet be taken out of the said Duke's hands, and his gift to be Admiral of England declared null. 4to. An addressse, that George Earl of Hallifax (who very lately was the great idol of the Commons, but had now deserted them, and stept asyde to dine with his Majesty) be removed from the King's Councils for ever. The King's answer to this last was a discreet refusal, but if they would impeach him, or any other of his Councell, for any cryme, he should not hinder the course of justice against them. See the following page, and page 9 in calce.

On the 3d of December 1680, on Drydaill, a weaver, assaulted on of his Majesty's guard called Masterton, about Kirkclifton, railing upon him as on of them that was accessory to the murdering of the people of God, and particularly of James Skeen and these other innocent persons who had suffered tuo dayes before, and he wounded him with a sword ; wheirupon the trouper pershueing him, did at last apprehend him and bring him in prisoner to Edinburgh, wheir he feingied himself to be distracted. See the Edenborough Weeklie Gazet.

On the 6th of December 1680, dyed Æneas Lord Macdonald, a bold man, and a great opposer of Argyle's, and defender of the Maclean's interest, and who had a great influence and command in the Hylands, though his private estate was very low, only he was popish, which made the Duke of Y. regrate his death the more. Vide infra, page 8, Aboyne's death.

About the 12, 14 of December, and for fundry dayes thereafter, a formidable comet appeared at Edinburgh, and was seen in many other places. It arose in the west from a small star appearing a litle after day light was gone,

and moved northward, and sent out a prodigious long tail, greater then any that had been observed for these many 100 years. Some doubted if it was a comet, (it was a reall comet) but called it that meteor which goes under the name of Trabs or Columna; however it was red, and interpreted by every one according to their severall jealousies and interests. Generally comets are thought to portend war, desolation, blood, ruine, conversions of states, catastrophes of kingdoms, deaths of great men, sterilities, famines, plagues, &c.; and in respect of the present fears of confusions and disorders, each applied it as he pleased. Some said, you banish, confine, and imprison our preachers, but there is a preacher sent from Heaven, who is without the reach of malice. Rushworth in his Historical Collections, in anno 1618 page 8, tells of a great comet appeared in that year 1618, whereupon ensued, first, the Bohemian wars, then P. 7. the German and Swedish, &c. Doctor Bainbridge observed it to be vertical to London, and to pass over it in the morning, so it gave England and Scotland in their civil wars a sad wipe with its tail. They seldom shine in vain, though they proceed from exhalations and other natural causes. See Lucan's description of that comet, which appeared before the civil wars betwixt Cæsar and Pompey, de bello Pharfalico libro. See *infra* this same page, and *infra* page 39 in principio.

In the beginning of December 1680, Howard Viscount Stafford, on the 4, 5 popish lords imprisoned in the Tower, being accused in name of the Commons of England before the House of Lords, and the Lord Chancellor nominate by Stewart for that effect, after a fair tryall of 5 dayes, and a probation by Oats, Dugdale, Turberville, and others, that he was present at consults where the King's death was proposed, and that he had offered Turberville 1500 lb. sterling to kill his Majesty; the Lords, by the plurality of votes, found him guilty of treason, though every overt individual act was not proven by 2 concurring witnesses, for they judged it enough that the witnesses agreed on treasonable acts in the generall, and each of them de-

poned on ſpeciall deids though they ware feverall ones, which adminiculative probation, Cavalcanus and other Lawyers approve of in crimine læſæ majefſtatis; and therfor, he was condemned to be headed on the 29th day of December 1680, which was accordingly done at Towerhil on that day. See his printed ſpeech, apud me. The Chancellor in his ſpeech to him hath this expreſſion, that the Plot was now clearly made out and proven beyond all contradiction and doubt; which is a great conviction of its reality, this flowing from him who was no hearty encourager of the diſcoverie of this Plot. It is reported this V. Stafford had been only a filly man, and exceeding vitious. See animadverſions on his ſpeech in my 4 Manuscript marked A 3, page 22. I find 55 Lords of the Houſe of Peers voted him guilty upon ther honor, and 31 not guilty: the Biſchops abſtained from voting. See his printed tryall. Vide of Turberville, infra page 21.

In proſecution of what we ſpoke ſupra, in the præceeding page, of comets, the place and ſituation thereof is much queſtioned; of old it was thought by Ariſtotle and others, they did not aſcend above the third region of the air, but ware generat ther with other meteors, and the learned Julius Scaliger hath interpolat and defended this opinion, but, however eminent he was in other knowledge, it appears from his diſputations againſt Cardan, he was no great aſtronomer nor mathematician: now commonly Tycho Brache, Galileo, and others, they place comets above the ſun and other planets in cælo 8vo., becauſe they find they have no parallaxes for the moſt part. See this noted in another manuſcript, page 67. As to the effects, prognosticks, and ſignifications therof, ſome will allow them none at all, becauſe, forſooth, during all the reigne of Nero, comets appeared very frequent at Rome; ſo the people concluded the ſigne gave them hopes that the tyrant ſhould ſhortly be cut of, and when he was killed ther was no comet at all appearing. But this is only a particular inſtance, and the effects of thir fatal and ominous ſtars doe not follow

Scotland are fadder and furer prognosticks of blood and defolation then any comet can be, which, by no afromieall or natural efficiency, can portend or fignifie fuch things, farder, then the air infected by it may occasion fertility, peftilential difeafes, and famine.

About this tyme dyed Gordon, Earle of Aboyne, a man of much naturall fharpnes and a very good poet; was popifh, but made a faint profeffion of being converted to the reformed religion. Vide fupra, page 6, Macdonald's death.

On the 26 of December 1680, being Chriftmas day, fome of the fehollars P. 9. of the Colledge of Edinburgh having contributed together for the making ane effigies and image of the Pope, they entred in a bond and combination to burne him after a folemne proceffion on Yuille day, and gave oaths on to another for the feerey of it; yet it came abroad, and a Councell being called on the 24 of December, at night, for preventing it, they ordered the Kings forees to be brought within the City of Edinburgh to oppofe it, and feized on fome Englifh boyes of the name of Gray and others, the next morning in thair beds, and imprifoned thame. Yet all this did not divert the defigne, but, by a witty stratagem, the boyes carried a portrait to the Cattlehil, (as if this blind had been the true on, and they had intended to carry it in proceffion doune the ftreets, and performe ther ceremony and pageantrie in the Abbey Court over againft the Duke of Albanies windows,) which made all the forees draw up at the Weft Bow head, and in the Graffe Mereat, leift the boyes fhould efcape by coming doune the South Back of the Cattle, and thus having flopped all avenues as they thought, thir boyes efaped by running doune vennells leading to the North Loeh fide, and other boyes carried the true effigies from the Grammar Schooll yeard to the head of Blackfreis Wind, and that on the Hy-Street, firft elodded the picture with dirt, and then fet fyre to the powder within the trunk of his body, and fo departed. This was highlie refented by fome as ane inhospitall affront, defigned to the Duke of York, (though

it was only to his religion and not to himselfe,) being a stranger among us, (though he be defended of Scots blood,) and that it was but an aporie of the London apprentices, who had done the like before, and that it opened the Papists' mouths to call us cruell. But what the boyes did in show, the Papists were wont to do to us as hæreticks in reality; and some thought boyes might as well sport themselves with this, as ministers in the pulpit affirme the Popes to have been bougerers, hæreticks, adulterers, forcerers, sodomites, &c.; the punishment wherof by all laws is *Vivi comburium*, burning alive;—and it was a compensation for his excommunicating all Protestants yearly on this day. In summe, it was a childish folly, and scarce deserved so much notice should have been taken of it. I find in John Knox his Cronicle, book 1, in 1555, page 103 and 104, on of the beginnings of the Reformation of Religion then was by burning St. Giles image in Edenbrugh, and a 2d being made, it was wrung out of the preift's hands and broken in peices. See a printed Apologie for this fact of the Students, in a 4to manuscript marked A 3. pag. 23. *Vide infra*, page 26.

For a farther testimony and bravado, the scoll boyes, with the apprentices to merchands, trades, and wryters, with other servants, got all the badge of blew ribbons in ther hats, with thir words embroidered on them: 'No Pope,' 'no Preift,' 'no Bishop,' 'no Atheist;' some of the Episcopall and Court party have in opposition got rid ribbons, with this engraven, 'I am no Phanatick,' as if all who declare against popery were phanaticks; this minds me of the old quarrell of Cavaleer and Round head, and betwixt the Guelfs for the Pope, and the Gibelins for the Emperour. *Vide infra*, page 11, anent the burning of Preiftfeild. *Vide infra*, page 28. I hear the watermen and apprentices of London, in this far have imitat us, (though otherwayes they disdain us,) that they have all got up the blew ribbon with 'No Pope' woven on it. In the 15 of Numbers, v. 38, God appoints the Israeletes to wear a blew ribbon.

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About the same tyme, a hypochondriack fellow was imprifoned in the Canongate, for teaching that the day of Judgement was to be the next day, and offered himfelfe willing to be hanged, if what he averred fhould prove falfe. See in my former manufcript in Auguft laft, anent the 2 Galileans at Tholoufe; it's page 210. Vide page feq. in fine.

The Houfe of Commons, befydes ther former Adrefle to his Majefty, (vide fupra, page 6,) which was plain enough, they prefent a new on upon the 21 of December, 1680, in anfwer to his fpeech of the 15 of December before; in which fpeech, the King had offered to concur with them in all remedies for fecuring ther religion and property, except the P. 10. diverting the Succelfion of the Crown out of its naturall channell and courfe. The Commons in this Adrefle, beg his Majefty to depart from that refervation, and to pafs ther bill for difinheriting the Duke of York, or any other Papift from afcending the Imperiall Throne; and entreat him to confider, feing they have growen fo numerous under him, how they would encreafee if ther be hopes left of a Popifh fuceffor, and that all fincere Proteftants may refolve to be deftroyed, feing the Duke hath promifed to forraine Popifh Princes, to extirpate all hæreticks fo foon as he has power; and all this whille he hath fo influenced his Majefties Councils, that in 1673, the King's refident and agent in Holland prefented a memoriall to the States Generall, and preffed them to yeeld to the French King's demand, that the Roman Catholick religion fhould be publickly eftablifhed throw all thefe provinces, which was a moft abfurd demand from the Embaffador of the King of Brittain, who hath the honor and reputation of being the head of the Proteftant intereft. Nota, this is in the firft Adrefle; then they adde, they intend to debar none of the Royal line but the Duke of York and Papifts, but if the King refufe to comply with this ther defire, they advife him to look if he do not provock fuch a great part of his people to oppofe the Duke of York's entry to the Croun, as may endanger the feclufion, not only of the reft of the Royal

line, but even the English monarchy it selfe: which is a dreadful boast that they will erect themselves in a commonwealth; but this would entail an everlasting war upon them, as long as any of the Royal line were in being and capacity with forraine help to disturb them, though they should sell their right, and take it holden as a feudatary Crown of the French King, and when they were lately reared in a republick, they naturally slid back again unto a monarchy. Then follows an advise to his Majesty, that none be put in places of judicator, magistracy, government, or military trusts, but such as are of known integrity and affection to the Protestant religion, and that they be secured their, *Quam diu se bene gesserint*; and complains, that, by the Duke of York's power, honest men have been turned out of their offices, and men of known principles for Popery and Arbitrary government invested in their roume, and concludes, these things being granted, they will supply his Majesties necessity for Tangier, and all his other concernes in forraine alliances, &c. This is a severe and shrewd paper, and some marvelled at the King's patience; (see the 4to manuscript, marked A, page 18,) the King is of a better nature then many other princes have been, who were jealous of their brether, and always suspected the next successor to the Crown, and were willing to depreffe them, being angry to see the rising sun so much worshipped. Upon the back of this addressse followed the Earle of Shaftesburies speech in the House of Peers, in his Majesties one hearing, ripping up the faults of the King's government with more plainnesse then any ever yet did; and in effect, resolved in this, that the people of England had been so oft cheated, they would not trust the King's promises, nor give him money till first he performed what they desired of him, viz. to quite his Popish quean, Popish brother, his whoores, his councillors and his new convert, and cast himself in his peoples armes, change his court and principles, and once be himselfe. See it at large. Shaftesburie refused part of this printed speech to be his; and it was brunt by the hand of the hangmen.

Many other things at this tyme concurred to fright us, as a vision seen by a countryman called Zuille; while he was wondring at the comet, he saw a fyre descend from the Castle doune the city of Edinburgh to the Abbey, and then he heard a voice saying, 'This is the sword of the Lord,' and other things which he would not utter: it was on Charles Gray a merchant in Edinburgh, saw this fire, but Zuille heard the voice. On in a fouldiers apparell comes to Sir George Monro at mid day in the streets, and bids him goe doun and tell the Duke of York. If he did not P. 11. counsell his brother the King to extirpate the Papists, both the King and he were dead men; and Sir Geo. turning about to call some witnesses, the man in a sudden retired he knew not whither; like the admonition given to our King James the IV. before he went to Flouden, wher he was killed,—the old man evanishing, tho diligent search was made after him: see Buchanan and others for this. Vide pag. 9 supra, anent the prophecy that Doomday was the morrow. We had account of strange visions and apparitions seen in Germany, like these which the country people observed before the last great war. (See le Journal des Scavans, of the year 1665, printed in 1666, page 170.) It is an old observation of the excellent historian Philip de Comines, that the English nation is superstitiously fond of apparitions, visions, prophecies, and wonders.

ANNUS 1681.

ON of the first things we heard at the entry of this new year, was of the death of Mr. John Welsh, on of the eminent Conventicle hill preachers in Scotland: he had been the occasion of seducing many people away from the orderly government of the Church; he was both in the insurrections at Pantland lands and Bothuelbridge, but was not so grosse as wholly to disowne the King with Camron in the proclamation at Sanquhar in June last, or to excommunicat him with Cargil in September last, tho he was a great enemy to the Bishops; as his Grandfather of the same name in the reign of James the VI. was, and was banished for it, and lived in France. and see strange things of him, both in the preface of his book called Popery Anatomized, and in the Status Ecclesiæ Gallicanæ, or the Ecclesiasticall Historie of France, page : So that this Mr. John Welsh, his grandchild, in comparison of these other hotheads, may passe for a soberer man. He dyed at London. Ther is but a small remnant of these disorderlie ministers now left, unlesse a new fleece arise to oune the same principles.

10 Januarij 1680–81. The King, being very exceedingly displeas'd P. 12. with the House of Commons, who would yeeld to nothing except the King pass'd the bill excluding his Brothir from the crown, and reject'd all other remedies propos'd, both as insufficient to heal and as dangerous, he prorogued them to the 20 of Januar; which put that bill, and all others unpass'd, quite of the hinges, and out of doors. Some thought it had only been to give them occasion to bring in the bill of new, since, by ther

custome, a bill rejected cannot agane be presented that Session of Parliament, but the event disproved this. It was observed, that the same day whereon the King had prorogued this Parliament, viz. the 10 of Januar, his Father in the year 1642-3 deserted his city of London, and the Parliament then sitting at Westminster, which was the beginning of all his troubles, for he never entred London after that till he was brought prisoner ther; tho ther be litle fatality in observing dayes, yet the giving rife to such odious parallels may be shunned.

The King, during the prorogue, not being able to please them, on the 18 of Januar he brook of capitulation with them, and by his proclamation, intimated throw London by found of trumpet, he dissolved the Parliament. It bears, he was resolved to meet his people in frequent Parliaments, and therfor he promises under his great seall to issue furth writs for calling another to meet on the 21 of March nixt at Oxford. The changinge the place was a check to the factious and tumultuary humor of the Londoners; yet it made them remember that the King's father, as a counterpoize to the long Parliament, which sat at London, he, in Januar 1643-4, called a Parliament at the same city of Oxford, but without any prosperous success. However the abatement of profit in removeall of the Parliament, made fundry of the Londoners relent somewhat in ther heat against the Court party, and willing to faune and doe mean things if the Parliament might be brought again to them. See Baker's and other English Chronicles, and the book called the Civill Wars of Brittain, chapter 37, page 64, and cap. 52, page 100.

Monmouth, Shaftsburie, and ij others, made ane addresse to the King, requesting the new Parliament might meet at London, representing the Parliaments held at Oxford by the King's father, and others the Kings of England, had always been unfortunat, and that the members of Parliament would not think themselves secure except in London. See this paper, and the answer of it, beyde me. King Charles the I. had also in

the year 1625 and [1644] a Parliament at Oxford, but he found the members no more tractable their then at London. Some boasted and others feared the House of Commons should not have obeyed the King's dissolution so peaceably as they did; but whatever violence they shew when met in a parliamentary capacity, they are more warie and circumspect and flow in their hot proceedings then Scotsmen are when once awakened; and are not so suddenly blowen up with groundlesse fears and causeles jealousies of poperie and arbitrarie government. Vide infra, page 16, anent the Oxford Parliament.

11 Januarij 1680-1. The mansion house of Preitfeild, beyde Edenbrough, belonging to S. James Dick proveft of Edinburgh, was in this evening, about 7 or 8 a cloak, brunt, whither by casuall accident and negligence, or designedly by præcogitat malice, could not well be determined. The Proveft had frequentlie said, he would take doune his house and rebuild it. Some jealousd the scooll boyes at the Colledge, because he had imprifoned some of them for their frolique of burning the Pope, (de quo supra, folio præcedente,) and some of them had threatened to pull doune his house. Others thought this suspition not weel grounded, nather the malice, wit, conduct, nor contrivance of lads amounting to fyre raising. See the Councell's proclamation anent it. Of the præsumption *Minarum præcedentium et damni secuti*, see the criminal lawyers, requiring they be *malæ famæ*, and such *qui minas exequi soliti sunt*; and the forsaid præsumption of *damnum minas sublequens*, takes mainly place in malefices committed by witches. Some said the Privy Councell, in their tryall, ware not so exact as they should have been, for the scrutiny that would best have explicated the manner, was to have examined the Proveft, his Ladie, their servants and tennents, wheir the keyes, when ther was fyre last put on, and who was most lately their, &c.: which was not done; but a number of school boyes called, who declared they knew nothing of it till it was brunt. Yet the Privy Councell thought fit, by a proclamation

in print, to shut up the Colledge of Edinburgh, and banish the boys 15 miles, unless their parents found caution for their good behavior; which made some cry out, Shall the succeeding generation be starved of good learning, because in a Protestant country the children in mockerie brunt the Pope? Others added, that Julian the Apostat thought it the most effectual method to suppress Christianity to shut up their schools. (See Hermanus Latherg. de Censu, libro 1^o. cap. 1, pag. 150 et seqq.; item libro 3, cap. 19, pag. 967, et sequentibus; Joannes Casus de Sphæra Civitatis, seu Republica, libro 5, cap. 11, pag. 375.) It was furnished, this interdict put upon the Colledge was in part designed by the Bishop of Edinburgh to get out Mr. A. Cant from being Primar, and to get in Mr. Robert Parterson, his brother, unto that place. Some asked, If the Councells interdict could be justified to shut up a colledge created by a king, with priviledges, and 100 years in possession thereof, and ratified in severall Parliaments, and whereof the town of Edinburgh were patrons, without their consent. on small and frivolous jealousies and suspicions. Thereafter, the Colledge was again opened with conditions; which see alibi, in the manuscript marked E, at the first of Februar 1681, pag. 182.

- P. 13. 26 Januarij 1681. There were hanged at Edinburgh 2 weemen of ordinarie rank, for their uttering treasonable words, and other principles and opinions contrary to all our government; the one was called Janet Alison, a Perth woman, the other Harvy, from Borrowtownesse; they were of Cameron's faction, bigot and sworn enemies to the King and the Bishops; of the same stamp with Rathillet, Skeen, Stewart, and Potter; of whom, supra page 4, et seq., when we debate how far men (for weemen are scarce to be honored with that martyrdom, as they think it) are to be punished capitally for their bare perverse judgement without acting. Some thought, the threatening to drown them privately in the North Loch, without giving them the credit of a publick suffering, would have more effectually reclaimed them nor any arguments which

were used; and the bringing them to a scaffold but disseminats the infection. However, thir weemen proved verie obstinat, and for all the pains taken would not once acknowledge the King to be ther lawfull prince, but called him a perjured bloody man. At the stage, they told, so long as they followed and heard the curats, they ware sweaters, sabbath-breakers, and with much averfion red the Scriptures, but found much joy upon hir spirit since thee followed the conventicle preachers. Ther ware 5 other miserable weemen executed with them for infant murder. See my folio law manuscript, 17 and 18 Januarij 1681, page 180. See with what wonderfull patience most execrable hæreticks suffer, in Baker's Cronicle, in the reign of K. Henry the 2d page 58, and of Henry the 3d page 89.

23 and 25 Januarij 1681. Alexander Hamilton and Trotter of Morton-hall, questioned at Privy Councell for expreffions seeming to reflect on the governement. See my folio law manuscript farther at the saids dayes, page 181. Vide supra, page 5, Siquis imperatori maledixerit, &c.

About this tyme, we heard the Earle of Eglington had killed the postmaster of Doncaster, in England, in the postmaster's oune house, being transported with drink and passion at some slight provocation given him by the said postmaster. His unckle the Duke of Rothes did intercede with the King for a remiffion to him.

This year 1681, the 30 of Januar falling on a Sunday, the commemoration of the King's father's murder was deferred till the next day. See my 8vo. manuscript of Session occurrents, page 45 et sequente.

3 Februarij 1681. The Duke of York parted about 7 a'clock in the morning from the Abbey to goe for Stirling to see the Castle and the strong passés on the river of Forth; and in regard of the preparations the Earles of Argile, Mar, and Lithgow had made for him, and not to disapoint them, he was not interrupted from going by a great storme of snow, had fallen 2 dayes before, in greater quantities then ever I had observed in so short a space, tho the storme in the winter 1674 lasted longer. He

stayed not long, for he returned on the 5th of Februar in the afternoon. See the account of this progresse in print.

P. 14. Upon dissolving of the English Parliament, severall of the councellers left the Councill board, and the King put the Earle of Sunderland from his place as principall Secretarie of State; and, on the 2d of Februar 1681, instilled the Earle of Convay therein. Sunderland had been on of them who, in the last Parliament, had appeared against the Duke of York; but thereafter Sunderland, in 1683, made his peace; and on Convayes dimission he was again reponed to be Secretary, by the Dutcheffe of Portsmouth's power with the King, somewhat against York's will.

In Februar 1681, Generall Dalzeel executed much severity against on of his poor soulders for stealing a pair of pistols out of the magazine; he caused shoot him to death. Another, being sentinel at on of the gates of the Abbey, was found lying sleeping when the Duke of York passed, Dalzeel caused sentence him in a court martial to be shot; and for that purpose he was carried to Leith Links, and when all was ready, the Duke of York interceded for his life, and obtained it. Some exclaimed on this Muscovian rigour as too severe in tyme of peace, and that the rigour of discipline was not absolutely necessarie, save tempore belli, or in a garrison and besieged towne; others called them wholesome examples to repress the naturall insolency and luxuriancy of fogers. See Voet. de Jure Militari.

On the 21 of Februar 1681, ther ware brought in from Borrowstounness a company of distracted men and women (for I know not what other name to give them); they called themselves the only true faints, declared for Cargil's covenant, had a napkin dipt in the blood of Stewart and Potter, who ware hanged and headed on the 1 of December last, (supra page 4,) and weaved it in ther prayers before the Lord, crying for vengeance on the murderers; and in this furious posture, worse than quakers and enthusiasts, run up and doune that towne, disowned the King and all government, and followed a failer named Gib, who had now assumed the name of

King Soloman, (for they, instead of their former names, take names out of the Old Testament, as Abram, &c.): [And such as have] husbands, not of their own opinion, they are so far from conversing with them that they will not suffer them to touch them, and if any do, they wash the place as having contracted impurity, like the Jewish ceremonially uncleanesse, with 100 such fopperies. See the following page.

In the end of Februar 1681, we heard that of 4 Lyons in the tower 3 of them dyed, and the Lyon remaining was that which was designed the Duke of York's Lyon, whereon every one made their observe. As to the age of Lyons, see Plinius' Natural Historie, lib. cap. . Some of the pamphlets printed against the Duke of Monmouth, in mockery desired him to go and give a demonstration of the legitimacy of his birth, by approaching the Lyons in the tower, who certainly would lick the hand of a prince of the blood royal, and would stoop to one who had the Lyon on his side from his birth, and offer no violence. And why might not he try this experiment as well as his sister, Madam Fanshawe, [who] had cured one of the Kings evil, by touching and using the words which his Majesty does.

ij Martij 1681. There were 3 persons hanged at the Grassmarket of P. 15. Edinburgh, for dishonouring the King's authority, and adhering to Cargil's covenant, declaration, and excommunication, and thinking it lawful to kill the King and his Judges. See the preceding page anent these from Borrowstouness. Their names were Gogar, Millar, and Sangster; if they would but have acknowledged his Majesty, they would have been pardoned; yea, when they were upon the scaffold, the Earle of Roscommon, by a privy warrant from the Duke of York, came and offered them their lives, if they would but say, God save the King; but they refused to do it, tho' Daniel wishes Nebuchadnezar and Darius, heathen kings, to live for ever. See the chapter of the book of Baruch, v. ij. where the Jews in their captivity pray for the peace and prosperity of the kings of Babylon; and it is undoubtedly every Christians duty to pray for all Kings, 1

Timothy, 2 chapter, v. 1 and 2. To refuse the pardoning their enemies was to dy in much malice and unmortified rankor, as appears by Gogar's printed speech. Yet some thought it sad to dispatch men away to the other world in such a spirituall madnesse and religious melancoly, who rushed upon death and ware wain of suffering, and from whose boldnesse in dying (as if it had come from the immediate divine assistance) other simple people, as Hydra's head, and Cadmus teeth sown, ware profelyted, at leist ware hardened and confirmed in their error; and that it would have been better to have kept them in bonds as madmen, or to have employed physicians to use their skill upon them as on hypocondriack persons. Nam furiosus homicida non est morte plectendus satis enim ipso furore multatur, c. 14. D. de officio præsidis. About 8 dayes before this, they had stollen away 2 of the heads, which stood on the West Port of Edinburgh, viz. : Stewart's and Potter's; the criminal Lords, to supply that want, ordained 2 of their criminall's heads to be struck off and to be affixed in their place. There was a 4th condemned with them for these same principles, called Murray, but he was prevailed on to give in a petition to the Privy Council disowning the doctrine of killing Kings, or rising in armes against them, (only he qualified it with this exception, unlesse it was in selfe defence,) and acknowledged the King supream in all civill matters, but not in ecclesiasticks, which, tho contrarye to law, yet so far prevailed as to obtaine a reprivall to him of his life. Vide infra, more of their people, page 25.

Against defending the true religion with armes, see an excellent citation from Lactantius, libro 5 Divinarum Institut., de Justiciâ, cap. 20; adduced by Camerarius, tomo 1 Meditationum Historicarum, cap. 40, page 179. See anent this more alibi, from Tertullian, Grotius, &c. in a 4to manuscript, marked A 1. page 91. As to the praying for usurping powers, see Gee's right of Magistracy, who thinks it unlawful, and answers their texts, page 304 and 334.

13 Martij 1681. Dyed suddenly at Edinburgh, Dr. Archbald Turner, on of the ministers ther, a man of a ready wit and good parts. He was buried, at his owne desire, under the elder's desk, in his owne parish church, called the Old Kirk, (which some thought superstitious), and his comerad, Mr. John Robertson preached his funeral sermon. The Towne Councell advanced Mr. Alexander Ramsay, on of ther 2d ministers, unto his place; and in roume of Mr. Ramsay they called back to officiat as 2d minister in the Greyfriars Church, Mr. Alexander Malcolme, minister at Newbottle, who had been once a minister of Edinburgh before.

Supra page 12, we see the King calls a new Parliament to meet at P. 16. Oxford the 21 of March; accordingly they convene that day, most of the elections and members being the same who served in former Parliaments; the whole number of the house, (as I saw by the list,) being 513, and of which ther ware 404-405 that ware members of the former, and re-elected of new, so that ther ware 108-9 changed, and even few of thir ware on the Court's syde. See the King's speech to them, apud me, in print; it is spoken in a very free dialect. The House of Commons re-elect the same persone to be ther speaker, who was ther mouth in the former Parliament, viz. Mr. William Williams, (vide sup. page 2,) who told the King in his speech to him, that the Commons of England, to give a demonstration they ware not for changes, had re-elected him for ther Speaker, which was ambiguous, (like the canons of the synod of Trent, made to please both parties,) ather to answer the King's desire, that no change be made in the laws of Church and State, or to tell they mind not to change ther principles nor athings they had in the last Parliament which sate at Westminster. The King all alongst, in his speech, never calls it the Protestant religion, but the religion in general in opposition to Poperie, which he mentions as also the consigning the government in Protestant hands in caise of a Popish successor. After the preliminaries ware over, they fall to examine why the Bill rescinding the first A& made in the 35 year of Q. Elizabeth against

Protestant dissenters (which in the last Parliament was passed both the Houses) was not, before the prorogation and dissolution, presented to his Majesty, that it might have obtained the royal assent; yet, in fine of that act it appears to be only temporary and expired, and acts reviving it since are of the same nature. It was an Act taking of the edge of the penal statutes against non-conformists, being a comprehension and toleration to Presbyterians, Independents, and Anabaptists, (and some say to Quakers, Arminians, Socinians, &c.) but excluded all Papists, and intended to banish the principal Papists, under which generality the D. of York would also fall. It is observable, almost none of the English nobility (even of the King's party), and few of the gentry, came to visit the D. of York during his abode in Scotland, for fear of offending the other faction; only it was reported. Roger L'Estrange, the licenser of the press, was heir with the Duke incognito; but on Shaftsbury's imprisonment, sundry then came to see the Duke, as Sir Joseph Williamson, &c.

Advertisement was also given to the Members of Parliament, and their attendants, to take heed to their pockets, for it was designed to drop treasonable papers in them at Oxford, that thereupon they might ground false accusations against them. It was made out by probation against Gaven, the Jesuit, who had suffered for the plot about 2 years ago, that tho he dyed obtesting his innocence, (see the Animadversions on the Viscount Stafford's speech on the scaffold, in my 4to manuscript, marked A 3, page 22,) yet he had affirmed to a gentlewoman, the Queen might lawfully kill the King, because he had disloyally abused her bed with adultery.

The Commons sent up an impeachment to the Lords of Edward Fitzharris, as guilty of the Popish plot of murdering the King; the Peers, by plurality, rejected it, because, before their doone sitting, he was standing already indicted before the Lord Chief Justice. Monmouth, and 18 other Lords, gave in a protestation, in writ, subscribed by them, showing this was *Denegare iusticiam Populo Anglicano*. The house referred them to

profecute him at the common courts of justice, wher his accusation was already depending. I have seen his deposition and narrative in print, taken before Clayton and Treby; wherin he confirms T. Oat's discovery of the design of introducing Popery and arbitrary power into England, and killing his Majesty as the readiest means for it; and that the Marquis de Montecuculi, the Duke of Modena's embassador, offered him 10,000^{lb}. sterling to kill the King; and he declining it, the Marquis told him, that the Dutcheffe Mazarini understood the art of poisoning, and it was easy to dispatch the King by a powder, when he should come to see her; and that the Duke of Y. knew of this designe; and that a Priest told him he was on of them who had murdered Sir Edmondbury Godfrey, and which was consulted at Windsor, &c.

In this Parliament, a motion was made in the Commons' house, by the King's party, as an expedient instead of the bill of seclusion of the D. of York, that in case of a Popish successor, (who should retain the title of King,) the next heir of the crown, being Protestant, should be Regent of the realme, and administrat till religion war fully secured. This motion was hudibrazed by the country partie; for what if the Regent ware a child, then the regent behooved to have a Protector also. And when the King's late army was up, the most part of all the officers ware Popish, as those whom his Majesty trusted most.

In regard the King, in his speech, had reflected on the last House of Commons, this House ware intending to passe a vote vindicating, approving, and justifying all that the last had done. This, and the want of hopes and expectation of any supplee or other good from this Parliament, moved his Majesty, on the 28 of March, that same day 8 dayes they fate doune, to dissolve them, without mentioning the calling any new one; this being the third, since he had disbanded, at the Earle of Danbie's desire, (which did not secure him ather), the Long Parliament, which, though become trouble- P. 17. some, yet was far more for his Majesties interest than any that have suc-

ceeded it, every on being worfe then the former Parliament which had præceeded them. This laft Parliament was fo unruly and fhort, that it may be faid of it, as was faid of that Roman, “ O vigilantem confulem qui toto confulatûs fui tempore ne fomnum quidem oculis cæpit !” it had nather ver, nor æftas, autumnus nor hyems in it ; and becaufe this Parliament was foon diffolved and melted away, it was in raillery called the Encho to Parliament.

ij Aprilis 1681. The King, in place of Sir William Scrogs, Lord Chief Juftice of England, laid afyde, he gave his commiffion to Sir Francis Pemberton to fucceed him in that office, and in roume of Judge Dolben, on of the judges of that Court, on Sergeant Street was placed. It was thought thir new entrants had undertaken to condemne Fitzharris, which the former ware ferupulous to doe, (fee the preceeding page, item infra, page 19), for fear of being quaftioned in fome fubfequent Parliament. At the fâme time, the King publifhed his manifefto or declaration, containing the caufes moving him to diffolve the 2 laft Parliaments ; which fee in print. Some think a prince at a loffe when he is put to give ane accompt of his actions, or to apologize to his fubjects. The Juftices of peace of Middlefex, and the Grand jury of Bristol, by ther printed addreffes, gave his Majefty thanks for this his declaration ; and feverall others did the like, as the toune and county of Southampton, Windfor, Dover, Norwich, Portfmouth, and many mo.

About the midle of 8 April, dyed [William] Fleming Earle of Wigton, at his houfe of Cambernald.

This fpring, 1681, the contention grew very hot betuen his Holineffe the Pope and the King of France, anent the regalities or Jura regalia. The Gallican church did never fo implicitly and blindly allow the Papall ufurpations as the Spanifh, and other churches, did. See the book called the Policie of the Clergie of France againft the Proteftants, page 59, 60, 63, &c. Craig, our countryman, (Fendorum, page 16 and .) tells, the

French and Scots Kings would never quite the presentation of benefices to the Pope. The regalities the Pope at present questions the French King for, are his presenting young boyes, noblemen, and gentlemen, (who are not so much as in religious orders,) to prælacies, abbacies, &c. as commendators of the fruits contrary to the ecclesiastick canons, and his assuming the whole fruits of the benefice during the vacancie. See D. Gilbert Burnet's book on this, called the Right of Princes in conferring ecclesiasticall benefices and lands, which hes a collection of many letters of the Pope, and others, passed on this subject of the regale; it's printed in 1681. This Pope being Janfenist, they joine with him, and the Jesuits, in opposition to him, fyde with the French King against the Pope, and the Sorbonists being Janfenists demurr to ratify the King's act. The Bishop of Pamiers, Cerle, his grand vicar, and Arnauld, the Janfenist, and sundry others, joynd with the Pope against the French King, and refused to obey his orders. (See the note of the book called l'Esprit d'Arnaud, in my 4to manuscript, page .)

But the great "cardo controversiæ" and encroachment is, the French King hath erected ane Hospitall des Invalides, called l'Hospital de Sainte Lazare, and la Salle de Mars, the Hall of Mars, whither all fouldiers, wounded and maimed, or passed 60 years, and so rendered unserviceable, doe retire, and ther are entertained most nobly, and want for nothing; this hath endeared all martiall spirits to him, being a vast encouragement for them to know of ane honorable retrait, when they are weary, and the best of France are not ashamed to list themselves in it. For ther maintenance, the King hath not only doted great revenues of his oune, but also suppressed sundry convents and monasteries, and annexed ther patrimony and revenue to thesse his oune hospitals; of which the monks and Pope exceedingly complains that monasteries, confirmed by papall authority, should so summarly by the King alone be extinguished, and a new religious order erected, (for they are to be tyed to some such lyke rules as the Knights of Malta are) without

the Popes approbation and consent. He is now convening a generall assembly of his clergy, to assert that, sede vacante, he hath right to the fruits of the benefice and to present, and it's wished he may prove another Henry the 8th of England, who, though he retained Popery, yet shook of the Papal yoke of supremacy. (Vide in margine paginae sequentis.) The French King also inclined to have the Masse and all ther religious offices and services done in the French tongue, and no more in Latin; and convocated a generall assembly of his clergy, to justify his proceedings with the Pope. See ther proceedings, and his edi&t in print, besyde me, declaring the King independent of the Pope in temporalls, and the generall counceills being above a Pope, &c. Vide infra, more of this page 33 and 64 in fine.

- P. 18. Let not the Papists boast that the Protestant Presbyterian principles are not so loyall as theirs, and that they (though persecuted, and under the pressure of severe pœnal laws, and restrained the liberty of their religion in Scotland, England, and Ireland) do not rise in arms against the King's authority, as they doe at Pentland, Bothuelbridge, &c. but submits to the government; for, 1mo, these foolish people that assume the name of Presbyterians, have unwarily drunk in these restless principles from the Jesuites and seminary priests, who have had a hand in all our troubles and blown the coall. 2do, The Papists have never been a whit more peaceable when touched in their copiehold: let us but examine their carriage since the English Reformation. King Henry the 8th, abolishes the Pope's supremacy, suppresses monasteries and abbacies, and allows the use of the Bible in the English tongue; for thir small beginnings I find six severall rebellions and insurrections raised by the Papists and ther priests in the year 1536 & 1537; (see Baker's Chronicle at that year, and our countryman Mr. Gilbert Burnet's History of ther Reformation, that same year, first part, pag. 229 et seq.); and, forsooth, for preserving the King's person too. Their was one of them very famous, called the Holy pilgrimage of grace, wher 40,000 Papists rose in the north, and ther priests went before them

with crucifixes, and banners with Christ's 5 wounds and a chalice ; and they were dissolved at Doncaster. Nather King Edward Sixt nor his sifter Elizabeth ware secure of ther life by ther perpetuall plots and conspiracies ; and James miraculously escaped ther Gun powder treason ; and they ware the first broachers of the late rebellion against King Charles and main incendiaries, as Du Moulin has proven ; and that same spirit is yet working and fermenting our dissentions ; and shall the world be such fools as to beleive ther oune testimonie that they are peaceable and loyall to governement, and though oppressed, will not rise up by armes, or stratagems to subvert or disquiet it. A Papist quâ Papist cannot be a faithfull subject, its absolutely impossible, it implyes a contradiction, for he ounes a forraine jurisdiction above his prince ; so that, if the Pope command on thing and the King another, he most obey the Pope, especially if his prince be once excommunicated for a heretick, (of which see many things at large in other manuscripts besyde me ;) but thir retorsions, You are as guilty as I, leive no convictions behind them, nor make any trophies, and 2 blacks will never amount to a white. I find in Rushworth's Historicall Collections, anno 1640, page 1310, the discovery of a popish plot against King Charles the I. and the Protestant religion, revealed by Sir William Boswell and Andreas ab Habernfeld, and Monsieur L'Estrange, in his annals of the History of England, shews the reality of the said plot. See him cited by Rushworth, ubi supra, 1326, and he tells, that the Reverend Du Moulin hath 20 years ago in print offered to make good that the Jesuites and Priests carried on the late war and consulted the death of the King, &c. and produces ther letters anent it, yet none of the Papists (so conscience are they of ther guilt) dare to this hower give him the defiance, and put him to verify his word. (See the book called the Policie of the Clergie of France against the Protestants, per totum.)

And does not Doctor Oats in his narrative, cap. tell their ware
fundry Jesuites sent into Scotland in 1678, to preach to the people as

discontented presbyterian ministers in the fields, and to stir them up to rebellion; wherein they prevailed in May 1679, though, by God's blessing, they were dissipated. On of the great arguments used against the Yorkists by them who oppose the Duke of York's succession, is the hazard by it of overturning our religion; they call them to remember how the English Queen Mary deceived the Protestants with her false promises to the Suffolk gentry at her entry, and to carry their eyes to France, and observe how the French King presently, in 1681, abuses the Hugonots there, and apply that to themselves when the Duke shall be king; and yet they have the conference of Poissy, the edict of Nantes, and other clear laws in their favours, with long and immemorial possession as strong as any act of Parliament with us, yet all this is violated and broken to them.

In the Summer of 1681, the Protestants of France were most sadly persecuted and oppressed, (see their petition to their King,) their children were robbed from them to be bred Papists, themselves haled with ropes to hear mass, their university of Sedan taken from them and given to the Jesuits, and many 1000's of them fled the kingdom, but were not permitted to take their goods and fortunes with them; and all this without any provocation, but, Imo, to counterballance the English Popish Plot; 2do, to shew his impartiality, when he was differing with the Pope, (vide præced. in calce;) and our King, in September 1681, by a proclamation invited all the persecuted Protestants over to England with large privileges of denization, &c.

P. 19. Supra, page 17, we spoke of Fitzharris' trial; for his council at law he choiced Mr. William Williams, late speaker to the 2 last Houses of Commons, Sir F. Winnington, &c. Their first defence they proponed for him was, that being accused in the name of the people of England by the House of Commons, the affair was so tabled before the Parliament, that no inferior judicatory in England could meddle with it. Answered, the House of Peers had rejected the Endytment, and referred it to the

judges, and the parliament was no more in being, and if a new one should not be called, there was no reason his villany should pass unpunished; for it was alleged, by the King's party, that Fitzharris was only suborned and bribed by Shaftsbury, &c. to affirm the things contained in his narrative.

All the judges being met and demurred some time, at last they repelled and overruled the forsworn dilator, and found the plea not good, and sustained themselves as judges to his tryall, and ordained him to answer farther against the next terme. Thereafter, in May 1681, being adduced as a witness by Mr. Mitchell Godfrey, brother to Sir Edmonbury, who was murdered, he deposed that Monsieur De Puy told him, there was a consult held at Hampton Court, 14 days before Sir Edmonbury was killed, where the Queen, the Duke of York, and the Earl of Danby late treasurer, and on Father Beddingfield, resolved on Sir Edmonbury's murder, and that he heard Danby, coming down the stairs, say he would send S. Edm. such an errand for his officious zeal as he should never returne with an answer, and should make all his heart ache. Then Shaftsbury craved that Fitzharris might have liberty to depone what he knew of the burning of the city of London by the Papists in 1666; which the judges declined on this ground, that it did not relate to S. Edm.'s murder, which was the only point anent which he was adduced to declare.

The D. of York was very offended both at the delay of his tryall, and that on standing accused of his treason himselfe should be admitted to depone, *lite pendente*, against another; and then it was made by Shaftsbury's party a defence (as having overreached the judges) that being now on of the King's evidences and witnesses he should be secured and indemnified, and not tried for his own life. Vide the next page.

About this time, in May 1681, Monsieur De Crow, Envoy to the King of Brittain from the Duke of Holstein, being ready to depart from London, was arrested by some merchants, and imprisoned for debt he was

owing them. Of this the Attorney-Generall made a complaint to the King's Privy Councell, as a breach and violation of the priviledges of embassadors and ministers of state, whoffe persons by the inviolable law of nations are sacred. The Councell sent for the creditors, and ordered them to retire ther actions against him; which they refusing to doe, the Councell committed them to Newgate prison and liberat him. It is ane affront to the prince whom they represent that ther envoyes should not pay the debts they contract.

In the end of May 1681, on Macwarsh, Macgrath, ane Irish papist, deponed before the King's Privy Councell, that Sir Edmondbury Godfrey truly hanged himselfe, and that his brother, Mr. Mitchell Godfrey, employed him to cut him doune and convey him to the place wher he was found, both to lay it on the Papists, and to save the escheat of his goods, which would have fallen to the King, if his selfe murder had been knowen. But he had soe il contrived his perjurie, that immediatly a letter of his was seized on, wheirin he wrote to the midwife Coliers, that obstinate Papist, what he had deponed against Sir Edmondbury, and desiring hir to prepare the rest of the witneses and have them in readines; upon which suspicion, he was brought back to the Councell board again, and, after examination, he confessed all he had deponed was false, and he was suborned and brybed to it by Coliers, and other Papists, wheirupon he was committed. As also the Papists put a number of papers, containing treason, in a meal-tub, in a Presbyterian's house, to fix a plot on them. Thir sham plots are made to discredit Oats' discovery.

P. 20. On the 30 of May 1681, (because the 29, the King's birth-day, fell on Sunday,) the Magistrats of Edinburgh made a very solemne appearance on a theater at the Croffe, wher the Duke of York honored them with his presence, and drunk ther Majesties' healths. See the printed narrative of it beyde me.

About this tyme, in the fouth of Scotland, about Melrossie, some three

unhappie mifercants ware apprehended and brunt for beftiality committed with meirs; it was reported on of them followed after field conventicles; and they declared they did not think it was a fin, which was a great ignorance of the law of nature. It was ftrange, what the mother of on of them reported, that fix weeks before fhee was delivered of him fhee heard him as audibly weep in hir belly as any child cryes and greits after they are borne; which, as it was a fingularity in nature, fo he proved ane unnatural monfter.

About the 8 or 9 of June 1681, Fitzharris (de quo pagina præcedente) was again brought to his tryall, and his Majefties Attorney in particular, infifting againft him as the author of a fcandalous and treasonable pamphlet againft his Majefty and his father and grandfather, incenſing and ftrring up England to raife in armes; and wheir, amongs other things, he charges King Charles the I, as he who gave order and commiffion for the Irifh rebellion in 1641, and makes the preſent king a Papift; and probation being led againft him, it was clearly made out that he had ouned that pamphlet, and that by Everard Smith and Sir Wm. Waller; wheiron the Jury unanimouſly returned him guilty, after that the Lord Cheiff Juſtice Pemberton had fummup the evidence to them in a pretty difcourſe. Then the Lord Howard of Eſcrike being pannelled for acceſſion to the ſame libell, it not being evidenced, the juries verdi&t and returne was ignoramus, which is leſſe then ane abſolvitor. The title of this ſcandalous libell was “The True Engliſhman ſpeaking Plain Engliſh.” See Fitzharris’ execution the nixt page: item pages 24 and 25, Colledge and Rouſe.

On the 14th of June 1681, by his Majefties order a Parliament was proclaimed to meet in Scotland on the 28 of July nixt, the Duke of Albany being the King’s Comiſſioner theirto. Sir Wm. Purves, the K’s folcitor, was, by a miſtake going to cauſe proclame it on the 13 of June, but being a Monday it’s abſolutly dies ferialis, on which no proclamations can be made; it’s nather a mercat day nor dies juridicus, wheiron

courts of justice fit, to occasion a confluence of people. Some thought the Duke was to assume the title of Prorex or Viceroy, as more august for his eminency than that of Commissioner; and they differ in their two, which fute not to a free kingdom as Scotland is, so that a Commissioner is tyed up to instructions, but a Viceroy hath no limitations at all. 2do, Viceroys are sent to debelled and conquered kingdomes, as to Naples, Ireland, &c., but never to independent crownes. Vide infra, page 22, anent the manner of riding the Parliament. See the paper printed by the Connfell; item my folio law manuscript marked E, at the 15 of July 1681, page 208.

It having pleased God, for our sins, to visit many of the Southerne shires of Scotland with a great drought this spring and summer, that scarce ther was any rain from March to neir the end of June, but cold winds and other unseasonable weather, so that the like had not been observed by the space of 40 years before, for no grasse rose but was more withered then it had been in the midst of winter with us, or scorchted with ane Italian summer: and for the cornes, they ware in great hazard, so that a famine, at leist a dearth, and pestilential diseases ware feared to insue. All this ware interpret as the effects of our late Comet, (of which supra page 8,) and certainly, it may drain the moisture from the earth, and influence the weather, and disorder the motions of the heavens; but ther is a higher

P. 21. hand of Providence above all thesse signes pointing out to us our luxury, abuse of plenty, and other crying sins. However, the Privy Councell, by ther A& dated the 16 of June 1681, (which see in print,) enjoyed ane universal fast throw the kingdome for deprecating God's wrath, and obtaining rain, to be held on the 29 of June in the nearer shires, and the 6 of July in the remoter; as also the fast is enjoyed to pray for the success of the subseqent Parliament. Some wished this Parliament might not make us or our posterity fast after it was done. But God thought fit to prevent our applications and addresses, and on the 24 of June and the following dayes sent plentifull showers, yet the fast was observed: In fe-

verall places the cornes ware so brunt at the root that the rain could doe them little or no good.

On the 27 of June 1681, on Mr. Alexr. (Robert) Forbes, a young man who had betaken himself to the ministrie, and preached frequently in Edinburgh, but could not get a church, from misery and want, in desperation, did attempt to cut his owne throat, but was interrupted ere he got that wicked action fully perfyted; and pains was taken upon the curing of him, and the wound was shewed up, tho he did tear it open with his hands, not being desirous to live, so violently did the Devill assault him with his temptations. See of Cromarties and the Lord Newbotle's selfe murder alibi. This unhappy young man, Mr. Forbes, dyed within 3 or 4 dayes after the wounds he gave himselfe, like Cato.

On the 1 of July 1681, Edward Fitzharris (de quo pagina antecedente) was hanged and drawn, and to his last breath asserted, he was threatned to say ther was such a Popish plot, as he in his narrative affirmed. And that same 1 day at Tyburne, was executed Mr. Oliver Plunket, the Pope's titular primate of Ireland and Archbishop of Armach, for his accession to that plot; it being proven against him, not by Protestants, but by Duffie Macmoyer and other Franciscan Friars of the Romish communion, that he intendit to bring ane army of 70,000 French and Spaniards to land at Carlingford in Ireland, and that he keepest correspondence with Baldeschi, the Pope's secretaire, and Principe Collonna to that effect: but see his printed speach wheirin he denyes all this, and sayes thesse monks ware tempted to sweare falsely against him because he keepest a strict hand of discipline over them. At the same tyme, Turberville, the principal witness, on whoffe deposition Stafford (supra page 7) was condemned, came in to the Bishop of London on a remorse, and said, he had deposed falsely against that Vicount. And on the 2d of July, the Earle of Shaftsbury, by order from the King and his councill, was committed close prisoner to the Tower of London, (wher he had been once before in 1676, but not

for treason as now,) in regard some offered to make it appear he was guilty of hy treason ; (vide infra pag. 27 and 28, anent Shaftsbury and Argyle.) So we see God in his providence suffers things to run in some cloud and reverse, that men knows scarce whither to beleive ther was a Popish plot or not, as it was affirmed with all Titus Oats's circumstances ; but he who sits in the heavens laughs at all ther designs and machinations, and whenever he thinks fit he will dash them in peices, and bring order out of confusion, and the truth to light. But sober Protestants turned very jealous that ther witnesses ware only suborned to put out of the way any who appeared warmly against the introduction of Poperie.

P. 22. On the 13 of July 1681, was apprehended Mr. Donald Cargil at Covington milne, besyde Lanerk, with 2 of his accomplices, on Smith and on Boog. This Cargil was a great feild preacher, and he who excommunicated the King at Torwood in September last, and stirred up many poor peepel against the governement. He was brought in to Edinburgh on the 15 of July, and examined before the King's councill, and gave shifting answers, only he ouned the lawfulness of defensive armes. Vide infra this same page.

On the 17 of July 1681, arrived from England at the road of Leith, Ladie Anne, the Duke of Albany and York's second daughter. The King's yaughts ware saluted with a full round of the canons upon the Castle of Edinburgh.

On the 26 of July 1681, at night, dyed, in his oun (the Chancelor's) lodgings, at the Abbey of Halirudhoufe, John Lesly, Duke of Rothes, Lord Hy Chancelor of Scotland, and who swayd the greatest dignities a subjeet was capable of, having been the King's Commiffioner, Chancelor, Treasurer, Generalissimo of the forces, &c. He was a man of excellent indowments, though void of learning, and on who gave himselfe great liberties in all sorts of pleasure and debaucherie, and did by his bad example and instigation infect many of the young nobility and gentrie of the

age, which made him to dy the leffe regrated with ferious and confidering perfons. When the jaundice and hydropfie firft feized on him, he hoped to have notwithstanding praefided in the Parliament, but it pleafed God to cut him of 2 dayes before its doune fitting. He was brought up to the Hy Church of Edenbrugh, and in great ftate and fplendour conveyed thence to the Abbey Church, and from that to Leith, on the 23 of Auguft 1681, (wheirof fee the method befylde me,) and the nixt day carried to Leffie, and interred in his oune fepulchre. Vide infra, Haddo, his fuceffor, page 35.

The fame 26 July, Cargil and 4 of his difciples, viz. Mr. Walter Smith, Mr. James Boog, on Cutle, and on Thomfon, ware tryed at the criminal court, and found guilty of treason and treasonable principles; in difouning the King and his authoritie, for ouning the Sanquhar declaration and covenant, for being in rebellion and armes at Bothuelbridge, excommunicating the King at Torwood, calling the King a tyrant, difouning his fupremacy, and refufing to fay God fave him, though that would redeme ther life. They ware all 5 hanged at the marcat croffe of Edinburgh, on the 27 of July, (which fome thought but ane ill preparation to the Parliament to be ridden the nixt day.) They dyed all a great deal more ftout and firme then ther leader Cargil, who behaved moft timoroufly to fave his life, (if it could have been converted to banifhment,) and minched ther principles, and begged for a longer tyme, that he might be judged in Parliament; but finding ther was no remedy, he put on more ftayedneffe and refolution after his fentence.

On the 28 of July 1681, the Scots Parliament fate doune, and was riden with great pomp and magnificence from the Abbay of Halyroodhoufe to the Parliament Houfe and back again: vide fupra, page 20. Ther being nather Chancelor nor Treafaurer, the Marquis of Atholl, Privy Seall, as the nixt officer of ftate, fupplied the office of Prefident. The Parliament p. 23. was opened by a prayer, faid by the Bifchop of Edinburgh, and the rolls

being called, ther ware severall proteftations made by the Earles of Sutherland, and others, for præcedency before all others, by the inferior officers of ftate, on againft another, viz. the Advocat-Regifter, Juftice-Clerk, and Treafaurer-Depute, by the Commiffioners from the fhires of Fyffe and Perth againft them of Edinburgh fhire, (for which caufe, to preferve ther priviledges, theffe ryde alwayes fome fpace alone before the reft of the Parliament ryde.) Then the King's letter was red, and the Duke had his fpeech; both which fee alibi. During all this tyme, the Dutcheffe of York and other Ladies ware prefent. Then the articles ware chofen according to the a& of Parliament in June 1663, and a committee named to try and report the controverted elections; and then the houfe adjourned, the members having all firft taken the oaths of alledgeance and fupremacy, and figned the declaration. Some expected a motion on the reading of the Duke of York's commiffion in the houfe, that it fhould have been objected againft the Commiffioner, that he was not capable of fo hy a dignity, not being a Proteftant, becaufe by the a& of Parliament in 1557, and the 5th a& in 1609, a Papift is rendered incapable of being a member in any court; at leift, that he ought to fwear the alledgeance and fupremacy, which no Papift without a difpenfation could weel doe, the firft renouncing the Pope's forrain jurifdiction, and the 2d declaring the King to be head of the Church: but none propofed this. Duke Hamilton craved a letter of thanks might be fent to his Majefty, which he was not fo forward to in the Parliament 1673, (de quo plura alibi in a little manufcript in 8vo, ament the minuts and accurrents of this Parliament.) Exception was taken againft his Royall Hyneffe, that being now the commiffioner and reprentative of a King, who ounded himfelfe not onlie to be a Proteftant but ther head, (fee G. Burnet's 2d part of the Hiftory of the Englifh Reformation, p. 101;) he fhould have abfented himfelfe from the Proteftant fervice, and from hearing fermon in our churches, for in this chara&ter he is as the King, and to a& in a fphære confonant to his principles, and not conforme

to his oune private Popish ones: juft as when the King of England employes ane embaffador to France, or other forrain country (though the embaffador be Popish,) yet he may not, under all hieft pain, goe openlie and hear maffe, becaufe his mafter that fent him would not doe it, and he moft aēt nothing difagreable to his quality he fuftains. However, it was concluded, the Duke was more ingenuous in not coming, feing he would readily but incur the note of a hypocrite if he complied. Some thought, feing the Duke of York procraftinated the fecuring of the Proteftant religion, he might juftly be challenged as not performing (befydes his oune promifes) of the inftructions given him by the King, both in private and in his letter to the Parliament, offering his free affent to all laws they could devife for the fecurity of the reformed religion. See of this the 4to manufeript marked A, 5, pages 86, 87, et feq. The motion and propofall made by George Dallas, as a farder fecurity to the Proteftant religion, did not want its oune due confideration, and was generally yeilded to by the Parliament, viz. that the 1 aēt of the Parliament, held in 1662, reftoring Bifhops, had, by inadvertency, refehinded the 1 aēt of the Parliament held in 1592, in the wholle heads of it, becaufe a part of it condemned Epifcopal government, wheiras the reft of it was on of the greateft bulwarks and cleareft laws we had againft Poperie, but the 1 aēt of the Parliament in 1612 refehinded it only in part; and therfor, he craved the faid aēt in 1592 might be révived in fo far as it abolifhed Poperie. See the 4to manufeript marked P, folijs 43 and 47; item, my law folio manufeript, marked E, in July, Auguft, and September 1681, pages 208, 209, 210, et feq. (See that fame manufeript [4to MS. marked A, 5,] at great length, page 94, et fequentibus multis ufque ad finem iftius libri.)

On the 31 of Auguft 1681, Steven Colledge, commonly called the Pro-^{P. 24.}teftant Joyner, was hanged, drawn, and quartered as a traytor at Oxford: The hiftorie of whoffe tragædie was this; being apprehended, fix witneffes, viz. Dugdale, Turberville, Haynes, Mafters, Prance, and Jennings deponed

againſt him that they heard him ſay, when the King was at Oxfoord in March laſt, during the fitting of the Parliament ther, it was intended and reſolved by the Houſe of Commons, and a part of the Lords, to ſeiſe upon the King and carry him priſoner to London, and keep him under captivity and reſtraint till ſuch tyme as he yeilded to the conceſſions and demands of the Earle of Shaftsbury, city of London, and other diſſenters throw England, who ware to have ane army of 50,000 men in readineſſe; and in caſe of the King's reſuſal they would ſend him the way his father went; and they ſwore it was as univerſall a plot as ever the Popiſh on was. Notwithſtanding this ſeemed to be a clear probati^{on}, yet the Middleſex Jurymen of London, ſuſpecti^{ng} the integrity of the witneſſes, returned the verdi^{ct} ignoramus, as not being convinced theirby (vide p. ſeq. Rouſe's caſe, et ſupra, p. 20, Howard.) This ſo diſpleaſed the King, that he cauſed him to be tranſported to Oxford, ther to be tryed again by ane aſſiſe of that county; which was accordingly done, and he was by them found guilty of hy treaſon, and theiron condemned by the Lord Cheif Juſtice and others, which, as I have told, was execute upon him. At his death, he confeſſed he might ſome tymes have uttered indecent words of the King and his counſell, but atteſted his innoceny of the expreſſions libelled, and charged the mercenary witneſſes with perjurie, and that they had deponed falſely, purged himſelfe of Poperie with which he was branded, and declared he dyed preſbyterian, and that he never ſaw the paſquil laid to his charge called "Raree choſſe," ["Rary Shew," a ballad,] till Dugdale ſhew it him, &c. Do^{ct}or Oats appeared at his tryall to defend him, which being reſented as tending to diſparage the King's evidence and witneſſes, Oats was diſcharged the King's preſence and court, and his penſion and guards tane from him, and was threatned with ane accuſation of hy treaſon; but the King called for him, and forgave him, but with a reprimand that he might remember to be more thankfull.

On the 1 of O&tober 1681, the King's trefurie and Exchequer did fet a tack of his wholle fettled revenue for 7 years to Bailzie Baird, Charles Murray, Robert Milne, and fundry others, who ware to pay of tack duety yearly for the fame 90,000lb. fterling, and advance 16,000lb. fterling, for the paying the army; the greateft improvement that ever hitherto was made of the King's rent, it never coming in on hand before, but ordinarily the tackfmen of the cuftomes, and of the 40,000lb. fterling of excife ware different.

On the 3d of O&tober 1681, the D. of Albany parted from the Abbey in the morning, and went to Glafgow and Dumbarton; and being intertained by the Lord Roffe at the Halket, he returned back to Halirudhouffe on the 5th of O&tober, in the afternoon.

At this tyme, Chriftendome was exceedingly allarumed with the French P. 25. King's fudden furprizall of 2 fuch important places of ftrengh as Cafale and Strafbourg, the firft being the key opening the door to all Lombardy and Italy, and the laft being the moft flourishing republick and confiderable paffe upon the river of Rhine, and ane inlet to the Empire; and which greived thofse of the reformed religion moft was, that in Strafbourg, wher the Lutherans did not permit the publick exercife of the Popifh religion, he had brought back the Popifh bifhop, and given the Catholicks the Cathedral church for faying Maffe in. See Heylin's Cofmographie, defcribing Cafale in Mantua, and Montferrat and Strafbourg in Alfatia, pages Item d'Avitie's World, tome , page

On the 10 of O&tober 1681, ther ware 5 poor fellows hanged, befide Edinburgh, for difouning his Majefty and affirming he was a tyrant. See the account of it in my law manuscript, marked with the letter E, pages 222 and fequente. Vide fupra, page 15.

On the 14 of O&tober, was the Duke of York's birth-day kepted at Edinburgh with more folemnities and mo bonfires then the King's ufes to be; fo prone are flatterers to adore the rifing fun, and any but too good a

prince would be displeas'd, and take ombrage at such reception given to his successer in his owne lifetyme. In the beginning of O&tober, this same year, was the Dutcheffe of York's birth-day observed by our Court at the Abbey.

On the 17 of O&tober 1681, Mr. John Roufe was pannelled (see him hanged, infra page 52,) for treasonable words against the King, before the Sessions at the Old Baily in London. Ther ware 6 or seven witnesses who deponed against him thir or the like expressions, That the King had defaulted his right to the crown by his tyranny and breaking his coronation oath, and that the Parliament would pull him doune and serve him as the fooll his father, &c. ; yet the Grand Jury of Middlesex returned this bill Ignoramus, alledging they had satisfi'd their owne consciences in so doing, and that they did not beleive the witnesses, but thought them suborned, and that they prævaricated as they did formerly in Colledges case, (supra pagina precedente,) yet the King found another jury at Oxfoord who condemned Colledge. See the printed account of Roufe, whose principles are the same with our Cameronians and Cargillians, only with us they publicly owne them, and in England they disseminat them clandestinely, and will not abyde at them when they are quæstioned for them. The King is much troubled at thir grand juries, as being no freinds to him ; nor are they to the Papifts, against whom they admit half a probation as sufficient, but rejects the clearer evidences against Protestants. Their is ane a&t, anno 3^{to} Regis Henrici 8^{vi}, statute 12, allowing the justices to reforme the pannell or jury returned by the Shireff, wher they find them to be suspect persons, against whom exceptions may be justly made as disaffected to the King's government ; and de facto, ther ware 2 of Roufes jurie removed, becaufe frequenters of conventicles, till they purged themselves upon oath.

P. 26. On the 1 of November 1681, ther was a new commission for the Lords of the Session, wher President Stairs, Glendoick, Clerk-Register, Newbyth,

and Argill ware left out, and Haddo, Tarbet, Boyne, Drumcairne, and Qneansberry put in ther roume. Then the oath of the Test was taken by the Lords, and many of the Advocats and Wryters: but see a full and perfitt accompt of this great revolution and tranſaction, and of the progreſſe of the Test, in my 8vo manuſcript of Seſſion occurrents, from page 47 of it till page .

In the beginning of this month of November 1681, dyed [William] Douglas Earle of Morton.

About this tyme, ane extraordinary diſcovery happened at London, ſome of the Iriſh witneſſes, John Arthur, Owen Callaghan, Mortach Dounie, and others, mentioned ſupra pages 24 and 25, drinking at a taverne, began a health to the confuſion of all ſuch as reſuſe to depone for money: then fell a quarrelling, why on had gotten more for ſwearing againſt Fitzharris, Colledge, Roufe, and Shaftſburie, then others, they alledging they deſerved it as weel; which being overheard, they ware ſeized on, and being examined at Privy Counſell, they confeſſed they ware bribed to depone falſely; wherupon all the puniſhment inflicted was, they ware ſent with a guard to Ireland, which was no ſatiſfaction to the publick juſtice of the nation againſt ſuch pernitiouſ rogues.

15 Novembris 1681, being the Quean of Brittain's birth-day, it was kept by our Court at Halirudhouſe with great ſolemnitie, ſuch as bon-fyres, ſhooting of canons, and the acting a comedy, called Mithridates King of Pontus, before ther Royall Hyneſſes, &c., wherein Ladie Anne, the Duke's daughter, and the Ladies of Honor ware the onlie actors. Not only the canonifts, both Proteſtant and Popiſh, but the very Heathen Roman lawyers, declared all ſcenicks and ſtage players infamous, and will ſearce admit them to the ſacrament of the Lord's Supper. See more of this alibi, from Durham's præface to the 10 Commands; item Spencer's Similies, or Things new and old, page 292, from Tertullian, &c.

About the ſame midle of November 1681, the ſchollars of Weſtminſter,

in derifion of the Prefbyterians of the City of London, truck't up a fellow of palboard, whom they termed Jack Prefbyter, with a feroll of parchment on his right hand, and Vox Patriæ written on it, which is the name of a feditious pamphlet; and another on his left arme with this infeription, The Solemne League and Covenant; and on his brow a paper with this word, Ignoramus, becaufe they will find no bill relevant againft the Prefbyterians, though they ware never fo guilty. In revenge of this mockerie, the city apprentices brunt a new image of the Pope, in great folemny and proceffion, as our Colledge boyes did in December laft, fupra pages 8 and 9. Vide infra page 28.

P. 27. Supra page 21, we faw the Earle of Shaftfburie imprifoned, now, in November 1681, he is brought to his tryall before a grand jurie within London; before whom Turberville, Haynes, Smith, Macnamara, and other witneffes, deponed, that Shaftberrie had bribed and corrupted witneffes to depone falſely in the Popiſh plot; that they had found a bond and affociation in his cabinet for defence of the King and the Proteftant religion (as it boor in the narrative) by which all who entred into it ware to ſwear ane oath or teft to this purpoſe, That they ſhould obey all the orders and edicts to be made by the managers of the ſaid affociation, and in caſe any ſhould attempt to introduce Popery, whoſeever they ware, (which generality except none,) they ſhould refiſt and oppoſe them by open force to the utmoſt of ther power. Though this ſeemed a very ſtrong probation, yet the grand jurie being ſuſpicious and unconvinced of the truth of quhat was depofed, and ſuſpecting that paper might be malitiouſlie dropped and put in Shaftfburie's chamber, they returned the bill Ignoramus. Wheirupon, on the 29 of November 1681, Shaftberrie, Lord Howard of Eſerick, Wilſon, &c., ware by a Habeas Corpus ſet at liberty upon £3000 Sterling bayl or caution; but tho' the Duke of Monmouth, and other noblemen, ware ther and offered themſelves, yet they ware refuſed, becaufe they might afterwards, as his peers, come to be his judges. Since his libera-

tion, Shaftberrie is perfhueing on Gramme and others on the ftatute of Scandalum Magnatum: fee Shaftfburies printed tryall and the bond of affociation, with animadverfions thereon. See the proteftation and oath made by the Houfe of Commons in England in May 1641, in fubftance very like this affociation; its in Baker's Chronicle, page 528.

In November 1681, ther was ane attempt made by fome French fouldiers, at the Hague, to feize on the perfon of the Prince of Orange while he was hunting beyfde Sceveling, and take him prifoner, and carry him away in a boat to France. But it was difcovered, and fundry of them who ware upon the plot ware apprehended and fentenced to dy; but the Prince pardoned them, which fo difpleafed the people that they threatned to pull doune the French Embaffador's houfe.

In November 1682, many minifters in Scotland defert ther churches becaufe they, though Epifcopall and conformifts, yet had no freedome to fwear the Teft: Some relented, and on ther repentance ware readmitted again to ther kirks.

On the 12 and 13 of December 1681, was Archbald Earle of Argile brought to his tryall upon the indytmnt of treason; wher I was on of his advocats who appeared for him, and was afterwards quarrelled for figning with Sir G. Lockhart and the reft ane opinion that we thought the dittay not relevant to infer theffe crymes againft him. The criminall jufticiars, notwithstanding the defences, fand the explanation given in by the Earle to contain the crimes libelled, wheirupon probation being led, and the fame remitted to the knowledge of ane affife, they by ther verdict returned him Guilty of treason, leifing making, depraving the laws, affuming the legiflative power, &c. wheirof aecompt is given to the King; and the Earle made his efcap out of the Caffle of Edinburgh on the 20 of December at night; and on the 23 of December thereafter the fentence of death, forfaulter, taynting of blood, &c, was pronounced againft him with the ufual formalities of trumpets, rying his arms, &c. See all

this at more lenth, in the folio law manuscript marked E, at the 12, 13, 20, and 23 Decembris 1681, page 233. This is a strange reverse of
P. 28. providence: Argyle, a great courtier in July last, and carries the crown before the Duke before the Riding of the Parliament, and now condemned of treason and forfaitured, and overrun by the violent malice of his enemies, and which many thought was the more readily given way too that he appeared to be a valiant assertor of the Protestant interest in the Parliament; so true is that of Seneca Tragicus in Thyeste, *Quem dies vidit veniens superbum, Hunc dies vidit fugiens jacentem: Nemo confidat nimium fecundis.* For though the Duke of York allows us to continue Protestants, yet whoever appears zealously for it are suspected as factious, as if under that pretence they were republicans, and aimed at a change of the government. But what created pitty to Argyle (though formerly hated enough for oppressing his creditors, and nather paying his oune nor his father's debts) was this apprehension that he suffered for being Protestant; and that they toiled him, and made up a fictitious cryme of treason against him from a slender paper used by him for salving his conscience at the fwearing of the Test, which was more capable and susceptible of a good sense, then of that strained metaphysicall glosse imposed on it, and wheirin all the world, who red it disinterestedly, could find no such cryme; so that the reflection Seneca hes upon Pifó's cruall severity to his fouldiers, (*libro primo de Irâ, cap. 16, sen. ult.*) is very applicable heir, *Excogitaverunt quemadmodum tria crimina facerent quia nullum crimen invenerant.* And some thought it no policy in His Royall Hynesse to notice that Explanation; it would have broken Argyle's credit and reputation with the Presbyterian faction totally, but the persecuting him on that head buoyed up his credit with them again, so as to turne ther Crucifiges unto Hofannas. However, let us admire and adore the providence of God, who from such small rises brings about his oune mysterious decrees, the meaning whereof we cannot farder understand, than that true honesty will at the long

run prove the best policy, though it may be opprest for a tyme by the corruption or timerousnesse of judges, wher justice is thus prostituted and overawed, the nation is in a heſtick decay; for Argile may say to us all *Hodie mihi, cras tibi*. Let us duely confider the voice of thir rods crying to Scotland, and the meaning of God who fends them. *Vide supra*, page 21, anent Shaftsburie. If thir captious methods be once brought in practife, ther is no action ſo innocent but it may be made a ſnare to entrap the unwarie therein, though they meant never ſo weell. (See the theologick 4to manuſcript, marked A 5, page 86 their of; ſee the copie of his indytment, &c. in the 4to manuſcript, marked P, folio 67 et ſequentibus; item the octavo manuſcript of Seſſion occurrents, page 65.) Of Argile's caſe, they ſay, the Earle of Hallifax had this expreſſion to the King. that he knew not the Scots law, but by the law of England that Explanation could not hang his dog.

We ſee, *ſupra* pages 8 & 9, a great ſtir made for the Colleginers burning the Pope at Chriſtmas 1680; this year the boyes and prentices forboor ther ſolemnity on Zuille day, becauſe it happened to be a Sunday, but they had it on the 26 of December at night. Ther preparations ware ſo quiet that none ſuſpected it this year; they brought him to the Croce, and fixed his chair in that place wher the gallows ſtands, he was trucked up in a red goun and a mitar with 2 keyes over his arme, a crucifix in on hand and the oath of the Teſt in the other, then they put fyre to him, and it brunt lenthy till it came to the powder at which he blew up in the air, (*vide ſupra*, page 26.) While they ware at this employment ther ware lightnings and claps of thunder, which is very unuſuall at that ſeaſon of the year. At this tyme many things were done in mockerie of the Teſt: on I ſhall tell. The children of Heriots Hoſpittal finding that the dog which keiped the yairds of that Hoſpittal had a publick charge and office, they ordained him to take the Teſt, and offered him the paper, but he, loving a bone P. 29. rather than it, abſolutely reſufed it; then they rubbed it over with butter,

(which they called ane Explication of the Test in imitation of Argile,) and he licked of the butter but did spite out the paper, for which they held a jurie on him, and in derision of the sentence against Argile, they found the dog guilty of treason, and actually hanged him.

About this tyme dyed Generall David Leslie, Lord Newark, very suddenly ; see it the next page.

ANNUS 1682.

IN Januar and Februar 1682, a famous controverſie was moved by his P. 29. Majesty's Attorney againſt the citie of London, craving, by a writ called Quo Warranto, they might produce ther charters (Magna Chartas) of erection, and other evidents containing ther priviledges, immunities, and franchiſes, before the judges at Weſtminſter, to be caſſed, annulled, and declared void and loſt, and forfeaulted to his Majesty, in reſpe& they contained ſeveral irritant conditions and qualities, ſuch as preſerving the peace of the city againſt unlawfull conventions and meetings, which they had contravened by their convocating, and ther Common Counſel's preſenting a bill to the King intreating him to call a Parliament, and by permitting conventicles to diſſenters from the eſtabliſht governement of the Church of England. (See ſome of ther charters in the ſtatutes and acts of Parliament of England, page .) But the main thing the King aimed at was to deprive them of ther power and juřiſdiction of ſhireſhip, (ſhrivaltie,) within the county of Middleſex, alledging they had no right theirto; and yet, by vertue their of, they called and impanelled all the Grand Juries which ſerved for that county, and ordinarily they choiſed perſons diſaffected to his Majesty's governement, who aſſoizied any whom the King inclined to have puniſhed, as Shaftsbury and others; (de quibus ſupra.) But the Biſchops have fallen on another method to incapacitat ſuch, by excommunicating them for not attending divine ſervice according to the forme of the Engliſh Church, and then getting letters for rejecting them from being on juries, or having *perſonam ſtandi in judicio*.

The King delt with the City, to see if they would submit to him, or redeem their liberties, and remove on Alderman Pilkinton, a factious person. But the city resented their priviledges ware drawn in question before any lesse judieatory then the Parliament, and stood on their defence, and employed the best counsell in England, and named a committee for managing it, and empowered them to call for what money they pleased furth of the Chamber of London, for prosecuting their of; so that his Majesty, fearing the event or disturbance might follow their upon, he delayed the affair till Trinity terme in April. (Vide infra more p. 36 and 49.)

12 Januarij 1682. About some 30 or 40 persons of Camerons faction came incognito to the town of Lanrick, and ther, at the Mercat Croce, publicly brunt the late A& of Parliament anent the test, and emitted a Proclamation against the King, calling him a tyrant; whereof see the copie beyde me. The Privy Counsell, in retribution, caused the Solemne League and Covenant, with the said Presbyterian declaration, and Cargill's Covenant, (which, about a year ago, they allowed to be printed, thinking it so grossely absurd, as none could be seduced by it) to be publicly brunt by the hand of the hangman (the magistrates being in their robes) at the Croffe of Edinburgh. Some thought it but a sorry politique to burne the P. 30. Solemne League, to revive the memory of what was long ago buried in oblivion. The Secret Counsell also fyned the inhabitants of the town of Lanrick in 6000 merks.

13 Januarij 1682. Alexander Cockburne (Cowban), hangman of Edinburgh, killed on John Adamson, alias M'Keinzie, a blew-goun beggar, in the hangmans ounge house, and under night laid him at his door. The magistrates of Edinburgh judged him within three suns as Shirefs within themselves. The probation resulted upon strong presumptions against him of his guilt, as his denying that the beggar was in his house that day, the contrare whereof was proven; the finding bloody cloaths in his house; the hearing groans from that place, &c. The Assise found him guilty, and he

was hanged up in chains between Leith and Edinburgh; but never confessed the fact. He was *peffimæ famæ*, and had perpretrat it for greed of the poor beggar's money. On Mackeinzie (whom Cowburne had undetermined at Stirling, and got him thruft out of his place of hangman at Stirling), officiated *bourreau* upon him. It was reported, that the hangman of London having murdered his wife, was execute to death for it about the same very tyme with our's. (See my folio Law manuscript, at the 16 of Januar 1682, page 238.)

About this tyme we got accompts from Holland, Zeland, and Brabant, of the dreadfull waftations the inundations of the sea breaking over ther bastions, had made in those places, by a strong westerly wind, overflowing many villages, townes, and countries, and drowning great numbers of the inhabitants, reckoned to many 1000's of persons, and many millions of money. A breach so great that the memory of none living remembered the like; and these floods ordinarily are prefaces and omens of some enfueing calamity, and may render us enamoured of our oune native country, which is not exposed to such hazards from the inbreaking of that furious and merciless element the sea, which is hyer than these Netherlands, and would cover them all, were it not debarred by ther waft ramparts and hils of sand on the shoar, which every year and winter it makes impreffions upon, but never overcame them so totally as this. We had also this winter these shaking and formidable winds.

Amongs many other sudden deaths at this tyme in Edinburgh, David Lesly Lord Newark, generall to the Covenanters in 1650, was in the church hearing sermon in the forenoon, (wher I fate beyde him,) and went home weill, and was dead by one a cloak in the forenoon, of ane apoplexy, as was conjectured.

In Februar 1682, a servant woman in Edinburgh, about ij at night, throwing over a tub of foull water from a window 4 stories hy, followed the same, and fell over the window into the street, and broke her skull,

and expired some few hours after with lamentable sobs. O Lord! grant we may be ready whensoever thou shalt call, tho' at midnight.

The 11 of Februar 1682. Sundry people being on the North Loch of Edinburgh, the ice broke, and they fell in, 3 whereof were drowned; on a wryter, Mr. David Ferguffon, the other 2 were fleshers; ther bodies were not found till the next day. We have a proverb, that 'The fox will not set his foot on the ice after Candlemasse,' especially in the heat of the sun, as this was, at 2 a cloak; and at any tyme the fox is so sagacious as to lay P. 31. his ear to the ice, to see if it be frozen to the bottom, or if he hear the murmuring and current of the water.—See Loyd's Fair Warnings to a Careles World, page 146, wher ther is a pretty story of the Persians terror in flying over the river Strymon when frozen, tho they were before hectoring, and ruffing against a Deity.

This same 11 of Februar, ther was, about ij at night, a great ecclips of the moon, it being near the plenilunium: about 19 digits (points) of it was obscured, and the night being otherways clear, I saw it verie distinctly. Q. Curtius tells, in the History of Alexander the Great, that the Indians were amazed how the interposition of the shadow of the earth could make a lunar ecclips; or the body of the moon's interveining betwixt us and the sun, which is 1000 tymes bigger then the moon, should occasion a solar on.

In Januar or Februar 1682, some of the English Republicans, in enmity to the Yorkist party, did deface, cut, and mangle the Duke of York's picture, which is set up at London. The lawyers (see Perezius on the title Cod. de Statuis Principum) saye, it is æquivalent to violat ther statues, and to affront ther persons, for they who do the on wald also kill the principall if they durst. The Mair of London emitted a Proclamation, offering £500 sterling reward to any who should discover the doer. At last, in May, it was found on Broock, a notorious Papist, had craftily and maliciously done it, to thro' the odium of it on the Protestant partie.

About this tyme, in Februar 1682, dyed Mr. Patrick Scougall, Bifchop of Aberdeen, a moderat man, and but half Epifcopall in his judgement. To his chair was advanced Mr. George Haliburton, Bifchop of Brechin, in April thereafter; and on Mr. Robert Douglas, Dean of Hamilton, was made Bifchop of Brichen.

On the 10 of Februar 1682, happened a very ftrange accident neir Iruing, in the houfe of Generall Major Montgomerie. On Margaret Dougall, a fervant ther, being blamed for fome linnens a miffing, flee, for hir oume vindication, and for difcovery of the theiff, raifes the Devill by the turning the riddle 3 tymes witherfhines. See the full particulars of it in a paper beyde me. The divination *per cribrum* is very ancient, and was knowen and praëtified in Greece in the tyme of Paganifme. She may be punifhed by death, not only by the divine law, but alfo by 73 Aët of Parliament 1563, wher confulting and feiking responses from necromancers and witches is declared capitall, ergo, much more the feiking to the Devill. Some think her confeffion not fufficient, *nifi constaret de corpore delicti*, that he was raifed by hir or she used incantations to that end, for her confeffion (though perfevered in) may be *ex phrenesi et tedio vite*. See Gro-tius' notes on the 21 of Ezechiel, v. 21, et feq. See him on Hofea 4, v. ij. This divination *per cribrum* is called by the lawyers *Cofcinomanteia*. See Georgius Adam Struvius, Syntagmate Juris, tomo 2, Exercitatione 49, ad Legem Corneliam de Sicariis, no. 65, page 971, mentioning it.

At this tyme ther was ane Turkiſh embaffador from the Emperor of Morocco at London, called Mehemet Ben Thummim. He had ftrange wayes of courtesies and faluting, and ane od cuſtome of eating his meat, fitting on the floor like a dog: his habit was very antique. The King and Nobility complimented him much; and ther was a firme peace made betwixt the King and his maſter for Tangier.

In Februar 1682, was Thomas Thine eſquire, called Thom of 10,000's, P. 32. becauſe he had upwards of £10,000 ſterling of yearly rent, murdered in

London by fome strangers, by the dire&tion of Count Coningfmark, a Suede. Some faid, the quarrell was about the Lady Ogle, aireffe of Northumberland, who was married to Squire Thin, but had left him, and Coningfmark had a kindneffe to her. Others faid, he had done according to the cuftome of his oune country, becaufe Thin had refufed his challenge to fight him. The Londoners were much enraged becaufe he was a great follower of the Duke of Monmouth's; and fo it might be a draught of the papifts to cut of the moft zealous and eminent proteftants, and the Duke of Monmouth was with him in a coach a quarter of an hower before the accident. They being tryed, the jury returned Captain Fratz and the other two guilty, wheiron they ware execute; but affoilzied and fred Coningfmark. From which verdi&t the relations of Thin and my Lord Cavendifh, who ouned them, appealed as unjuft; but in the meantyme Coningfmark efcaped. Ther was a great debate amongs the Do&ctors of the civill law anent ther judging him a franger and a dependent on ane Embaffador, but they gave him a *medietate lingu&e*, the on halfe of the inqueft forrainers. A German gentlewoman came to the King all cloathed in white, with a petition begging Captain Pratz life, and that he might be granted hir in marriage; but, to gratify the Englifh, the King refufed hir defire. He dyed with great ftayednes and refolution, without exprefing any remorfe for the murder; the other two feemed penitent. They ware execute in the Pell Mell, which was the place where they perpetrated the murder. The body of Boratki, the Polander, who was the immediat and greateft a&tor, was hung up in chains, the other two ware allowed buriall.

On the 6th of March 168 $\frac{1}{2}$, the Duke of Albany and York parted from Edinburgh, and took fhipping in his oune yaught at Leith road, being defired to fee his Majefty at Newmarket. Ther was great folemnity and attendance at his parture. He met with a very croffe and stormy paffage, and at laft landed at Yarmouth, on the 10 of March, being

four dayes toffed, and rode thence to Newmarket. He left his Dutcheffe and daughter behind him in Scotland, wher the Dutcheffe had the good fortune to conceave and be with quickechild when his Royal Hynesse left hir. (Vide infra pag. 38 in fine.)

Seven of the Scots Bischops wrot a letter to the Archbischop of Canterbury, at this nick of tyme extolling the Duke of York's care of them and our religion to the skies; which was printed to avoid false copies of it that ware going abroad.

On the 10 of March 1682, was Major Joseph Lermont apprehended at his oune houle, neir Peibles, by the Laird of Meldrum; he had been a commander of the rebells both at Pentland Hills and Bothuel bridge. Many attempts had been made to take him formerly, but he had frustrated them all by a secreet subterranean cove he had digged under his houle, which, like a mine, did lead him under the ground of his yairds, and thence away to a moffe, out at which passage he formerly escaped, but was discovered this tyme. He owned before the Privy Counsell all his actings, but feimed to disclaime the wild ungoerneable Cameronian principles. A little after this, another of the ringleaders of that party, on Macclellan of Barfcobe, was also seized and sent in prisoner to Edenbrugh. Being both sentenced in the criminall court to be hanged, they ware reprieved; as also on Fleeming, who was condemned for the same.

In March 1682, the French King having blocked up all the avenues of P. 33. the city of Luxembourg by a great army, so that ther was no humane probability but it and all the adjacent province behooved to fall into his hand, ther being no force on foot, or likely in haft to be raised, that could make head against him, or resist him; yet, at the King of Brittain's intercession and mediation, he removed the blockade (when ther was none to pull the prey out of his jaws, or to preserve the provinces, so far as they belonged to Spain), and promised not to trouble Christendome this summer, at least, none on this syde of the Alpes, but proferred his help against

the Turks. Some cryed up this as a noble, generous, and vertuous heroick a&t. Others thought it was but to amuse England, and to carry on the Duke of York and the Popish interest that the English clamour for a Parliament to save the Netherlands might be stopped. Others said it was for want of money that he raised that seige, or with a designe to fall upon Coloigne and Liedge, or to render the Empire secure, and to break the measures of ther leavies and confederacies.

About this same tyme, it was reported that the French King, besydes what he has caused his convocation of the clergie declare against the Pope's infallibility and superiority over a generall counsell, and his power of excommunicating Kings (de quo supra, pag. 17 in fine, and see the printed Edict;) he intends likeways to call a generall assembly of his most learned churchmen, both Protestants and Papists, and cause them set doune rules and canons for a reconciliation, and for drawing his wholle subjects unto ane unity of religion as much as can be. This minded me of Zeno's Henoticon and the Emperor Charles the 5ths Cassandrian Interim, called 'Inter-religio Casarea;' which attempts never prove fortunat nor successfull, of the which see large reflections in another 8vo history manuscript, marked F, page .

The French King resolves to purge the Roman Catholick religion as much of superstition and idolatry as may consist with policy and his interest, to draw all his dissenting subjects in to him, who stumble at these grosse errors; (see alibi of the Bishop of Condom's book, putting a fair face on the popish doctrines and practices, which book is said to be ratified by this Pope); and therefor, he is to discharge the carrying the Hostie in procession, and adoring it publicly; and is to appoint the Masse to be read and sung in French (into which he has already translated it,) and no more in Latin; and has sent over to the Bishop of London to search the English records by what steps Henry VIII. of England began and carried on his reformation. Dr. G. Burnet's history (de quo alibi) will give much

light to this. It's thought, he intends little more reformation but to suppress some monasteries, and assume their revenues as Henry VIII. did, and to make the religious orders and monks depend on the Bishops and not on the Pope, as now they do. He caused register his edict in the records of the University, the Sorbonne, and the Parliament of Paris.

In 1682, the Assembly of the Grand Augustins have ratified the King's doings. The Benedictines demurring on it, the King has incapacitated 12 of their chief religious men, and called for an account of their revenue. The Sorbonne are severely reprov'd by the Parliament of Paris for delaying to approve the King's actions against the Pope, with whom they joined as Janseuists, in odium of La Chese and the other Jesuits, who have the French King's ear. (Vide supra pag. 17.)

The King of Spain, being displeas'd with the Prince of Parma's government of the Netherlands, hath sent, in March 1682, the Marquis de Grana to be governor there in his place, and the Prince's secretary, De Prado, is imprison'd till he give account of his embezzling the publick money. Anew the custom of sending a governor hither each 3 year, see *Observes alibi*.

In this same month of March 1682, it was reported, that the King of P. 34. Sweden had suppress'd the Senate, by whose counsell he and his predecessors used to rule, and had made himself a hereditary absolute prince.

In the middle of April 1682, the King and his brother having come to London, the protesting Lords and the city resolv'd to make a great feast on Easter week the 21 of April, and by printed tickets, bearing that they were resolv'd to meet, and, by a sermon, thank God for preserving his Majesty, the Protestant religion, and the English liberties from the hellish Popish plot. Great numbers were invited to be present at Haberdasher's Hall, where there was great preparations. But his Majesty, looking on this as a seditious act of contempt against the Duke of York, whom they would not countenance, he by an printed act of Privy Counsell, discharged that

meeting, called the True Protestant Feast, on this narrative, that the appointing of days for fasts or thanksgivings was a point of his prerogative, and for his subjects to do so it was to make parties, and distinctions, and confederacies amongs them, &c. They so far obeyed, as not to keep it at the place appointed; but had a great meeting else where, with bonfires, ringing of bells, and the solemnity of the apprentices burning the Pope. The King and the Duke parted the next day from London to Windsor.

About this time, Sir John Dalrymple's eldest son, a young boy of 10 years old, without design, shot his younger brother dead with a pistol he found lying on the table.

On the 3rd of May 1682, (the same day whereon in the year 1679 the late Archbishop of St. Andrews was murdered) happened a tumult in Edenburgh, which lasted 2 days. The occasion of it was, on Johnston, son to the town major of Edenburgh, who was an lieutenant or ensigne in the Dutch service, and some other officers, having seized upon some trades apprentices, and prevailed with them to consent to goe away as soldiers to the Prince of Orange, and particularly attempting to carry away some who had committed a riot on the constable of the bounds, and were therefore imprisoned, their commorads fell upon Major Johnston, and beat him, and extorted a promise from him that he should set these youths at liberty. But he, instead of performing theirs, the next day got some of the King's forces out of Lithgow and Mar's regiments to accompany and conduct these prisoners safely to the ships lying ready in the road of Leith to transport them. Whille they are going downe the streets, some women and tradesmen cryed to them, "PRESSED or not pressed," and they answered that they were pressed, whereupon they began to throw stones and other such materials at the soldiers; and when they came towards the Nether bow, the rabble and commonalty gave them a shrewd attacke, and by what was thrown at them furth of windows and from the houses that they were their building, the King's forces were exceedingly assaulted and abused:

whereupon Major Keith gave them command and orders to shoot among the multitude, which they did, and their ware about 10 or 12 innocent people, (none of them who occasioned the uproar but by-standers) some men and others weemen, killed by this shoot, whereupon they disappeared. Yet hearing ther ware some privy counsellors met in Sir George Kinnaird's chamber, they inolently came and threw in stones at the glasse windows, which was worfe than the offering to rescue ther neilbours. Therafter 3 of them was apprehended, whom his Majesty's advocat resolved to get hanged for examples as ringleaders; and on the 6th of May pannelled them in a criminall court for prefence and acceffion; but the Affise would P. 35. not find them guilty; (de quo plura, in my folio Law MS. marked [E.], at the 6 of May 1682, p. .) The magistrates ware much blamed for ther cowardlineffe and flouth in not suppreffing this tumult, and the allowing the King's forces to enter the toune, (as if they could not manage ther oune affairs and compefce uproars within themfelves,) contrare to ther priviledges, and fo giving occasion to shed more blood then has been at once theffe 60 years done in the ftreets of Edinburgh. The Privy Counfell ordained an indytment to be raifed againft them, concluding that they ought to be deprived for ther maleverfation and negligence. It was propofed that the Proveft, or Dean of Gild, as head of the merchands, fhould find caution for ther keeping the peace under the pain of 50,000 merks, and that the Deacon Conveener fhould doe the like for the trades. The citizens in this affair, efpecially the crafts, ware exceedingly diffatified with ther magiftrats' carriage. (See more of this affair, in my folio Law MS. marked E, at the 7 and 13 of May 1682, pages 256 and 258.)

On the 3rd of May 1682, the Duke of York parted with his Majesty, and took shipping on the 6^t of May, about 5 or 6 of the morning, being Saturday, the Glocefter frigate (in which he was) fell by negligence and bad condu&t or defigne on theffe fhelves or banks of fand within 8 or 9 leagues of Yarmouth (which is the neareft land), called Limon ore (Lam-

mer), and was there broken to peices; though it was a strong man of war mounted with 56 canons and could have carried 10 more. The Duke of York and fundry others escaped by the boat, as Winton, Perth, Middleton, &c. But ther was about 150 persons drowned, wheirof 80 ware persons of quality or gentlemen, and the rest seamen. Of Scotsmen ware drowned the Earle of Roxburgh, the Laird of Hopeton, Sir Joseph Douglas of Pompherston, Mr. James Leviston doctor of medicine, Patrick Gordon President Haddo's cousin and servant, Mr. James Lidderdale attendant on Roxburgh, with many others. The Lord Obryan perished also heir. The President, Sir George Gordon of Haddow, now Lord Chancelor, narrowly escaped drowning. It was a lamentable and fatal accident, charged by some on their unnecessary attendance on ane unfortunat Prince, who hath very bad luck at sea. The pilot was a Scot, on Aird in Borrowstounesse, who was threatned with hanging for going to sleep, and giving wrong directions to steer; though he defended himselfe, however, he was referred to a martial court of Admiralty when they should returne to England, which was *locus delicti*. At last, he was condemned to perpetuall imprisonment. The Duke arrived at Leith on the 7^t. of May at night, in the frigate called the Happy (Speedie) Returne, wheiron ther ware great outward expressions of joy, by canons, bells, &c.

On the 8^t. of May, in the morning, at Privy Counsell, the Duke produced the King's letters patent constituting Sir George Gordon of Haddo President of the Session, to be Lord Hy Chancelor of Scotland, in place of Rothes deceased; which was a mighty wide step of advancement for him, at which the nobility grumbled in ther bosome, they having been now thesse many years in possession of that place, and thesse 60 years not interrupted by any but Chancelor Hay, a gentleman then created Earle of Kinnoull, and Archbifshop Spotswood. His signator decided ane old controversy betuen the Thracfurer and Chancelor, who should preside in Exchequer; and ordains the Chancelor to have precedency in all courts ex-

cept the Exchequer, where the Tresurer principall is present. As the office left in this, by falling in a gentleman's hand, so it's said the Archbishop of St. Andrews is appointed to have the precedency in all cases before the Chancellor; for which there was a letter formerly, but Glencairne P. 36. and Rothes would never yield it to Archbishop Sharp. It's reported, that Chancellor Haddo is created Earle of Aberdeen. (Vide the 8vo MS. of Session affairs, marked I, page 67 et sequente, where there are more pretty remarks.) The Marquis of Athol met with a great disappointment, for he thought himselfe secure of this office, and wanted not ground, having officiated as Chancellor in the last Parliament. The Duke likewise produced the King's superscribed signators; on, making the Marquis of Queensberry sole and principall Tresurer of Scotland, and revoking and discharging the former commission of the Tresury to Lauderdale, Strathmoir, Atholl, Dundonald, &c.; and another, appointing the Earle of Perth to be Justice-Generall in place of Queensberrie.

On the 11 and 12 of May thereafter, the Duke of Hamilton, Earles of Tuedale and Middleton, and Generall Major Drummond were admitted Privy Counsellors. And on the fyfteen day of May, the Duke, with his Dutchesse and Lady Anne, his daughter, and their wholl court and retinue, parted and shipped in at Leith for England; where they arrived on the 27th day of May thereafter at London, being long detained and crossed at sea.

Some began to compare my Lord Haddo's rising to be Chancellor to Oliver Sinclair's being advanced, as they apprehended, by King James the 5th to be Generall of all his forces at Solway Sands in 1542; whereat the Lord Maxwell, and other nobility present, took such offence that they declined to fight; so that the English got a great victorie, meirly from the contempt the nobles conceived at the advance of a small gentleman above them.

In the end of April dyed the Lord Rosse, at his house of Haulkhead, in the West.

In the beginning of May, there was a great tumult fell out in Dublin

by the tradefmens apprentices their, againſt the Popiſh tradefmen and their magiſtrats, for tolerating them, like Demetrius' plea anent Diana's ſilver ſhrines. In this uproar ſome ware killed. It happened much about the ſame tyme with our hubbub at Edinburgh. On of the articles they craved was, that the Maſſe and Popiſh preiſts ſhould not be tolerated as they ware; and they offered to inſtru&ct, that ſeverall of theſſe tradsmen, that had been received as if they had been poor, diſtreſſed, baniſhed French Proteſtants, ware truly Papifts, and ſeen at Meſſe, and who could have no other deſigne but of another maſſacre; and they alſo declared againſt a Popiſh ſueceſſor to the Crown.

In May and June 1682, the affair of the Quo Warranto, was agane ſet on foot againſt the City of London, (de quo ſupra,) and the City having given in ther defences againſt it, they produced Charters from King John and King Richard, and others, giving the City the election of ther ſhireſſs, and their ſhireſſs the nominating the Jurie for Middleſex, with findry other priviledges; wheirupon, the Court or Tory party, deſiſted at that tyme from proſecuting the ſaid ſuit of the Quo Warranto. (Vide more pag. 49.)

On the 24 of June 1682, the wholle liveraymen (freemen) of the 29 free incorporations (companies) of London, met to chuſe ther Shireſſs for the enſhueing year, and having polled, they found that Mr. Papillon and Mr. Du Bois, ware choſen by plurality, and not North and Box. Sir John Muire (Moor,) the Lord Major of London, adjourned the Court, and proteſted againſt it; but they, in a great tumult and uproar, proceeded, and ware very inſolent againſt him. Wheirupon, complaint being made to
 p. 37. the King's Counſell, they immediately ſent Mr. Pilkington and Shut, the 2 ſhireſſs of the former year, to the Tower; but upon a Habeas Corpus they ware preſently bayled and ſet at liberty, under the paine of £20,000 to appear. They are ordained to be pannelled, together with the Lord Gray, Sir Thomas Arnſtrong, and Mr. Corniſh, as encouragers and abettors of the ſaid tumult; and the Chancelor told them, it wanted not

many degrees of treason to offer violence to the Mair, who is the supreme magistrat within London. The plea betwixt the Maire and the Whig party was, that he claims, in right of his office, a power to creat any he pleases to be on of the 2 Shireffs of London, by the ceremony of drinking to him; and that all that belongs to the City and Common Council, is only to ele&t the other, and to confirme the per&on he hath choif&en, but that they have no power to reje&t him, or choife another. And for proving this he adduces ane a&t of ther Common Counfell, anno 24 Elizabethæ Regina, mentioning that priviledge, like as the tenor of the writ for meeting imports this, that they are only to ratify his election of that on, and to choife another; like the Dean and Chapter, who, by the King's *Congé d'elire*, can doe no more but confirme that per&on to be Bif&hop whom the King names to them. I remember Sir Richard Baker, in his Chronicle of England, (in the life of Henry VII. pag. [141],) tells, that Sir Henry [John] Collets, then Lord Mayr of London, drank to on Percival, his oune carver, and by that made him Shireff of London, and who afterwards came to be Mair himfelfe. The difeontented country party, who stood by the Cities priviledges, on the contrarie argued, that all his priviledge was only to prick doune any on he pleased, theirby to get him put upon the list of them who ware to be chofen; fo that they behooved to allow him a venture, if by plurality of fuffrages he should carry it, but he had no power peremptorly to impofe on upon them; and wherever they had confirmed the per&on named by the Mair, by the records it appeared, he always declared he paff from his priviledge of naming on to be Shireff; and esto, ther had been any fuch priviledge, it was now long ago fallen in defuetude. This was of great importance to the King, for the Shireffs (if they war weel affe&ct&ed to his Majesty,) they would impannell and call fuch juries as he ware fatisfy&ed with; fo that, when he minded to proceffe Shaftsberry or others, he might get fuch affy&ors as might find him guilty, which hitherto he hes not been able to get.

The Mair had this year drunk to Dudley North, brother to the Lord North, as the person his Majesty trusted in, and aimed to have Shireff; but the City (tho they put North in the lite) gave the maniest votes to the above mentioned 2 persons, who had both of them [been] on Shaftberries jurie lately, and the on of them was forman, and had returned 'Ignoramus' for ther verdiçt. The Mair adjourned the Court, and ordained the liveray men to attend the 5^t of July nixt thairafter, to confirme North, and to elect another; but they proceeded, and adhared to the choife they had made themfelves; and on the said 5^t day, the Mair sending ane excufe of his being unweel, and craving a continuation, they proceeded of new to the pole, and declared the forsaid 2 persons to be Shirives; which was judged a farder contempt. But the freemen deny the Mair hes power to dissolve or adjurne them without ther oun consent, till they had done the affair they met for. (Vide infra p. 50 in fine and 51.)

P. 38. In June 1682, we heard, that the great Duc of Mosco Emperor of Ruffia dyed, and that his brother, or brother's sone, a boy of 12 years old, was advanced, by the assent of the peeple, to succeed him; which assent seems strange, he being a most absolut monarch, if not a tyrant. Yet ther was a great uproar among them about it.

About this tyme dyed the Lord Arbuthnot.

5^{to}. Julij 1682. The Lords of the Sessjon having met, the Chancelor produced his Majestyes letters for making Neuton President of the Sessjon in his rounge, and Sir George Nicolson to be ane ordinar Lord in his place; and Pitmedden was admitted on of the criminall Lords in place of Newton. See this at more lenth in my 8vo. MS. of Sessjon occurrents, marked I, page 68 and seq.

About this same tyme, my Lord Halton returned from London, whither he had gone in the beginning of May, contrare to the desire of the Chancelor and Trefurer, who required him to stay and attend the Committee named by the King, for trying the coinage and mint. Upon his return

they proceeded very rigorously with him, and caused him peremptorly give in a paper containing a representation of the state of the Mint; wherein he having couched his defenses upon his exonerations, and the King's publick Amnefty and Indemnity in 1679, they urged him to signe it, to see if they could make it amount to a declinator of ther power, or draw him to a tacit acknowledgment that he had coined a quantity of copper beyond the 3000 stone contained in his Majesties warrands; and which definit quantity S. J. Falconer, and other officers of the mint, had upon oath already confessed was far exceeded by them many 1000 stones. (But see this deduced at more lenth, in my folio Law MS. marked G, at the 12 of May and 31 August 1682, pag. 257 and 2 .)

About the same tyme, the Duke of York caused his Attorney pershue Pilkington, on of the Shireffs of London, on the statute of Scandalum Magnatum, for £10[0],000, dammage, that in the Parliament held at Oxford in March 1680, he being a member of the Lower House when the bill of seclusion against the Duke of York, was passing, he moved, that besyde the generall narrative and reason of the Duke's being a Papist, they might also insert this, that he was on the Plot, and forknowledge of the Papists burning the city of London in 1666; therefore, the Duke craved he might be fyned in £100,000 sterling. When this cause came to be debate, he offered to prove the Duke's accession to that fyre, and therfor craved to be assilized, which was a bold defence; but *veritas convictij non semper excusat a convictio*; only what is spoke in Parliament is not properly Convitium. If the Duke prevaill, he hes reason to be afraid. (Vide infra the sentence, p. 44.)

In August, the Dauphinesse of France, (who is the Duke of Bavaria's sifter) was brought to bed of a sone, who is designed the Duke of Burgundy. They say, these severall hundred years the French kings never lived to see a grandchild of ther oun body, till this King.

About the same tyme, the Dutcheffe of York was brought to bed of the

child conceived in Scotland (de quo supra, p. 32,) which proved a daughter, P. 39. and was baptized Charlotta Maria. On the news of it ware great femblances of joy made at Edinburgh; and a comet appeared for 2 weeks at the very tyme, but was nothing so big as we had in December 1680, (supra pag. 6, 7, & 8.) I have seen a late French book proving that comets prognosticat nothing that's fatall or dangerous, but rather prosperous things; yet, at the same tyme it shone, the Duke of Lauderdale, that great minister of state, dyed, (de quo infra, 24 August.) This daughter of the Duke's dyed in the beginning of October 1682.

24 of August 1682, dyed John Maitland, Duke of Lauderdale, the learnedest and powerfulest Minister of State in his age, at Tunbridge wells. Discontent and age ware the ingredients in his death, if his Dutcheffe and Physitians be freed of it; for shee had abused him most grosely, and got all from him she could expect. The Duke of York and he differing together, he, with sorrow and anger, saw his influence with his Majesty everie day diminishing, though the King was so generous as not to desert him to the malice of his enemies, who offered to accuse him for his life; but the King would not give way to it. Yet Lauderdale, some weeks before he dyed, was heard to regrait, in Cardinall Wolfces words, that if he had been as faithful to his God as he had been to his King, he would not have shaken him of in his old age, as his master, and his brother the Duke of York, had done: see Baker's Chronicle of England, in the life of Henry VIII., page [40]. And he minded, that he had waited on the King to and from Oxford, in March 1680, when many turned ther back on his Majesty. It ware to be wished that this would be a beacon and example to other Statesmen. The Duke of York was certainly most ungrate to Lauderdale; for Lauderdale was the first who adventured, in August 1679, to advise the King to bring home the Duke of York from Flanders, wher he was then living, and which counsell contributed much to the Duke's advantage. It's true, Lauderdale's main aime (and so it is all great men's

designe to uphold themselves) was to preserve himselfe, for he fand the Duke of Monmouth, (who then ruled all with the King,) and the Duke of Hamilton, were combining in a knot to break him, and he saw no expediter way to disappoint them, then by bringing in a 3rd. Then, when England was found too hot for the Duke of York, Lauderdale again advised him to goe and stay in Scotland, rather than Flanders, and promised to cause all his freinds and party ther (which was great,) to attend his Hynesse, and do him homage; and he did so, but he lost his oune party by it, and the Duke made up a mongrell party of his oune in Scotland, partly composed of Lauderdale's freinds and of others, new ones, whom York assumed. And this second counsell, sending the Duke to Scotland, conduced exceedingly to the fortifying of the Duke's party in England.

The great thing that implacably angered the Duke of York at Lauderdale, was, his voting the Viscount Stafford guilty of the treasonable Popish plot in the Parliament in December 1680; and that *cum elogio*, as he was a good Protestant, *hinc illæ lacrymæ*. From that hower he eyed and hated him, and broke his power and party all he could: so he dyed seasonably for his oune credit. But all persons eyes shame upon him for ruining the memory and standing of his family, by giving away Dudifton, &c. in property to his Dutcheffe, and Leidington to hir son Huntingtour, (thought by some to be his oune.) Leidington was not honestly purchased, for it belonged of right to the grand-children of William Maitland, his grand-uncle, and Secretar to Queen Mary, and who lived in Rowan in France, and to whom the Duke of Lauderdale paid a small yearly pension. (See this, and fundry other things of the names of Maitland and Hamilton, in a 4to. MS. marked pag. , from the Duke of Roan's testimonie and Spanhemius.) Though in one fence we may use David's words of Abner, (2 Samuel, cap. 3. v. 38,) that in Lauderdale's death a prince and great man has fallen in our Israell; yet we may weel apply what is said of the

fame Abner (v. 33, ther,) to Lauderdale, that he dyed like a fool, by the hand of a woman, as Abimelech and Pyrrhus, murthring the memorie of his family and estate. But the Spirit of God tells us, (Jeremy 17, v. 11,) they who get riches, and not by right, shall leive them in the midft of ther dayes, and in ther end shall be a fooll; fo we are to remark the event of this purchase the Dutcheffe hes made in abusing hir husband.

In the end of O&tober, the Duke of Lauderdale's corps arrived in Scotland, and ware fet in Inueresk church; and he was buried on the 6th day of Aprill 1683, at the church of Hadington, beside his ancestors, and the Bifchop of Edenburgh preached his funerall fermon. (See more, infra page 50.) His Dutcheffe pressed to have him buried at Lauder, that his lying at Hadington might not seeme like a symbolicall possession of that interest their, now disposed to hir.

As for the many places and offices of trust Lauderdale possessed under his Majesty, they ware all filled and disposed thus:—His place as being a knight of the most honorable order of the Garter, was given to his mortall ennemy the Duke of Hamilton, which speaks the wain inconstancy of all fluid things;—How would it fret Lauderdale if he could lift up his head and see Hamilton succeed him in that stall, whom he had persuaded the King to be a disloyal factious man! But his Majesty, being facile, forgets these characters, and sends for Duke Hamilton, who went to London in O&tober. His place of President of the Privy Counsell, was given to [the Earl of Linlithgow]. His Secretaries place, he had installed the Earle of Murray in it about tuo years ere he dyed, but all that while he had reserved the £1000 sterling pension annexed thereto; and instantly on his death, the Earle of Middleton (whom Lauderdale had kept out all his tyme,) was added by the King as his conjunct Secretary for Scotland. (See alibi, of the debate of præcedency betuixt Sir Archbald Acheson, 2d secretary, with my Lord Stirling Alexander, and Sir Thomas Hope then King's advocat.) His office of Governor of the Castle of

Edinburgh, was bestowed on the Marquis of Queanberrie, Lord Hy Threfurer; and Major White was made Deputy governor or Constable in place of Drummond of Lundie, now made Lord Trefurer depute, upon Halton's removall from that place. Drummond, Earle of Perth, was installed in his place, as on of the 4 extraordinarie Lords of the Session; and his governement of the Isle of the Basse, also given to Perth, was annexed to the Crown and Exchequer. His office of being Shireff principall of Haddinton or Eist Lothianshire was given, in May 1683, to the Earle of Winton; who choised Sir John Ramfay and Haliburton of Incheairney his deputs. And his being on of the Commiffioners of the Treasurie ceased, and became extinct in May 'last, when Queanberrie was made sole Hy Treasurer, and the Duke of York took his Commiffioner's place over his head. So that we see, between him and his brother Halton, and his sone, ther hes been a numerous accumulation and suppreffion of great and considerable places of trust, which, if rightly distributed, might have pleased many expectant pretenders.

31 August 1682. At Privy Counsell, a letter from his Majesty was P. 41. produced and red, declaring all the officers of the Mint's places void, and particularly Halton's as generall, and Sir John Falconer as master; in regard the King, with his Scots counsell, having considered the report of the Committee, (de quo supra, pag. 38,) he found they had malversed and grossely exceeded ther trust, and therfor deprived them, and referred them to be pershued civilly or criminally for the same, as his Advocat thought fitt. (See more of this in my folio Law MS. marked E, at the 31 of August 1682, p. 266.)

My Lord Halton's place of Treasurer depute was bestowed on John Drummond of Lundy, Perth's brother, and Major White got Lundie's place as Governor depute of the Castle of Edinburgh. Halton's place as a Lord of the Session was given to John Wauchop of Edmiston, brother to Nidrie. His office as Shireff principall of Mid Lothian was bestowed on the Earle of

Dalhouffie, whoffe grandfather poffeffed it till his death in 1672, and then Halton got it; but Dalhouffie dyed before infalment. (Vide infra p. 44.) And then the Shireffhip of Mid Louthian was given by the King to the Earle of Aberdeen, Chancellor, who entered in December 1682.

Thus Halton, and in him we may fafely conjecture the power of the Maitlands fell for this age, litle regrated, being fo miffortunate, that, by his infolent and difoblidging behaviour, he acquired many enemies, efppecially amongs the nobility, and had but few freinds, and yet was fo blinded with a confident fecurity that he was in favour, and the Duke would not defert him, till the very blow, unexpectedly to him, furprized him. Though the Duke was fenfible enough, that Halton had very officioufly waited on him, and profecute all his defignes, yet he fand the ouning of him in the laft Parliament, when Kipperminfhoch accused Halton of perjurie, was heavy both to him and to the government; and that Halton's violent way of intereffing himfelfe in carrieng on the Duke of York's concernes, was fo far from advancing them, that it raifed up enemies, both in the Parliament and country, to counteract the Duke, meerly in odium to Halton; and that if he did not espoufe theffe things fo feircelie, ther would not have been fo much oppofition made to them; and the Duke had no reafon to let his affairs ather fuffer or be retarded, becaufe they ware manadged by Halton, who was fo univerfally hated that any thing he attempted was difliked, though for no other reafon than for his oun fake, and that he had a hand in it. And he was a man who, in cafe of in-teftin commotions, could bring no following to help the Duke in the feilds, and had no rooted intereft in the country. Thir ware the things that the courtiers, Halton's enemies, answered, when thoffe who ware indifferent accused the Duke of York as ungrate to Halton, who was fo vigilant in promoting all his affairs, and was waking bufily for him many a tyme, when the fignificant men now ware fleeping and doing nothing; and whatever he demerited at the country's hand, yet he deferved nothing but the beft

rewards from his Royall Highneffe, to whom he had been ſo obſequious, and had ſerved the prerogative and the church government to the hieft pitch it could admit, wheirby, though he had loſt the affections of the peeple, yet he merited weel from his prince. But they urged, on the contrary, that all thoſe ſervices, wheirin Halton officiouſly intruded himſelfe, though they commended his zeall, yet noways his prudence and condu&t; and though he reſolved therby to make himſelf appear uſefull and neceſſar to his Majeſty and the Duke, and to ther government, yet in effect he was but a log and burden to both, and created them perſonall enemies, wheir otherwayes they would have had none. Yet ſo tender was the Duke of York in laying him ſoftly aſide, in regard he had boaſted much of his ſerviceableneſſe to the King, and that generally his errors enclined P. 42. in favors of the croun againſt the country, and for avoiding the tach of ingratitude, though he knew it would diſpleaſe ſew to uſe the King's abſolute and arbitrary power by the late cumulative a&t of juriſdiction in 1681, to remove Halton; yet, to vindicat and juſtify the fa&t, the Duke was adviſed to doe it rather *per modum juſticiae* then *ex plenitudine poteſtatis*, and to raiſe a proceſs againſt him, and upon malverſations to deprive him, that none (who conſiders he was depoſed upon juſt reaſons proven againſt him) may be diſcouraged to ſerve the King, or fear they may get the ſame reward, after they had incurred ane univerſall odium for ther zeall in ſerving him. And thus, albeit it would have been both more ſafe and creditable for Halton to have been laid aſyde without giving him a reaſon, yet it was judged more politique to gull the peeple, that ther ſhould be a ſemblance of juſtice, compelling his Majeſty to do that, which otherwayes he would have been loath to have done to any who had ſerved him ſo fervently. They ware, however, reſolved to be rid of him; but a good pretext offered, on his brother the Duke's death, that he, falling to be Earle of Lauderdale by the tailzie, could not properly continue ather to be Trefurer-depute, or a Lord of Seſſion. And ther ware 2 remarks on it;—primo,

That the King's letter againſt him was ſigned that ſame night his brother the Duke dyed;—ſecundo, That the letter was red and intimat on the 31 of Auguſt, which very day 12 moneths he and his ſone, the Juſtice Clerk, ware very active and buſie in carrieng on the fatall act of the Teſt which is dated the 31 of Auguſt 1681;—And this is ther thanks.

Halton, ſuſpecting that a bill of eaſe was coming againſt him, offered, the day before, a dimiſſion of all his offices in my Lord Chancellor's hands; but he, knowing it would come another way, declined to accept their- of. It was alſo at this tyme, in the beginning of Auguſt, deſigned to ſtain him with briberie, in taking 14,000 merks from the tackſmen of the Exciſe of the Louthians, for his vote, and being instrumentall in procuring them the tack. (But ſee how this is managed in my folio law MS. E, page 263, et ſeq. Item, anent his being ſuſpended from all his offices ſee ibidem, p. 266.)

In the month of September 1682, ther was great ſtir in London anent the Shireffs (de quo ſupra, p. 36 & 37). The King and Tory party ware for North and Box; the City and Whigs ware for Papillion and Du Bois. Box being timerous would not hold, but payed his ſyne; wheron Sir John Moor, Lord Mayor, præfixed a day for choiſing a new Sheriff in his rounge; at which the moſt part of the liveray men met, and proteſted ther could not be no new election, in regard they had choiſen 2 already; notwithstanding, the Mair, with about 30 freemen, proceeding to a new election, choiſed on Captain Rich in Boxe's place, though ther ware 1000's of the freemen proteſted againſt it. Yet, having the King's authority to back him, he obtained the ſaids 2 perſons to be ſworne, confirmed, and admitted to be Sheriffs for London, the citizens reſolving not to be provoked, by any arbitrary uſage whatſoever, to riſe in armes, or to mutinie, knowing ther ware ſome who deſired no greater advantage of them, but intended to try the illegality of the Major's procedure at law. This point, which the P. 43. Duke of York hes gained, contrare to the City of London, was by ſome

judged nowayes the King's interest to loſe his ſubjects affections, but that he was forced to yeeld many things to his brother and the Popiſh party, contrary to his oune inclination, meerly out of fear leiſt they ſhould kill him and rob him of his life.

The Duke of York, finding he had carried the Sheriffs, and got them put in poſſeſſion of the exerciſe of ther office, he cauſed arreſt the Duke of Monmouth, as he who travelled up and doune England convocating the people, making himſelfe the head of a party, (as he did lately at Cheſter,) to the terror of his Majeſty and his good ſubjects, and to the weakning of the governement; but he was releaſed on caution. It was reported, that the Earle of Shaftberrie had fled; and many ſcurril pamphlets followed him.

At Michaelmas, the 29 of September 1682, the Aldermen and freemen did meet to elect and choiſe a Lord Mayor for the year enſlueing, in the City of London, wher 4 perſons fell in competition by nearneſſe of votes; viz. Sir William Prichard, on Tuſſe, on Gould ane independent, and Mr. Corniſh, who had been ſhireff 2 years agoe. The Whig country party ware for the 2 laſt, for whom fundry hundreds of Quakers had voted. But a ſerutinie being appointed to try the legality and capacity of the voters, theſſe ſerutineers, after the pole, and comparing and examining the books and regiſters of each companie and corporation of the livery men voters, they found fundry of them who had voted had no freedome at all; others of them, eſpecially amongs the merchants, taylors, and glovers, had not tane the City oaths, and ſo could not vote; others would take no oath at all, ſuch as the Quakers, and ſo ought to be rejected. This act loſt the Quakers ſome of the favour they formerly enjoyed, both with the King and the Duke of York, though many ſuſpected the craftier of them as only diſguiſed Papiſts in maſcarade. At laſt it was found, that Sir William Prichard had the manieſt uncontroverted votes, ther having 2,190 voted to him; and ſo he was declared and admitted Mair, he being the

perfon the King aimed at. Some alledged, that the freemen fhould not be abridged of ther liberties of voting, for choifing ther magiftrats, by oaths impofed on them ; though we in Scotland are fettered in that cafe with declarations, oaths of alledgeances, tefts, &c. (See the Canon Law, *De Electione per scrutinium facta.*)

Theirafter, the faids difcontented citizens raifed a proces before the Judges of the King's Bench, to have Du Bois and Papillion declared Shireffs of London ; in which the Judges ware ather fo confcientious, or fo overawed with the rabble, that they ifhued out a writ called Mandamus, for fwearing theffe 2, Du Bois and Papillion, as the 2 legally elected fheriffs ; but the Duke of York, by his moyen, got it ftopt and delayed that terme.

About the 20 of November 1682, ther happened a great fyre at London, amongs the feamen's hamlets at Cinnamon ftree in Wappin, wher near 1000 houfes ware brunt doune, (by accident or otherwayes, not certain :) and fome people, in blowing up the houfes to intercept the fyre, ware killed.

P. 44. About the fame tyme, we had a report of a famous Scots jefuit, called Father Abirerumby, confeffor to my Lord Nithfdale's family, that at London he had deferted his religion and turned Proteftant, and in wryting had given the reafons of his change.

In the end of November 1682, the Earl of Shaftesberry, though very infirme and aged, yet, for fear of his life, fled over to Holland. And at this fame tyme, the King made a creation of fome Englifh noblemen ; as the advancing the Marquis of Worcester to be Duke of Beaufort ; and the Duke of Ormonde to be ane Englifh Duke under the fame ftile ; and the Lord Hide to be Earle of Rochefter, the male ifhuc of Wilmot, Earle of Rochefter, lately deceafed, being extinfct, and fo the title and honor returned to the King ; and Sir George Kinnaird in Scotland, to be a temporall Lord, called Inchfture ; and Sir George Gordon of Haddo, Lord

Chancellor of Scotland, to be Earle of Aberdein, Vicount Formairton, Lord Haddo, Fetherick, Tarvas, and Kellie.—Providence suffered Rotcheſter's memory to extinguiſh, becauſe of his bad atheiſticklife, though he dyed repenting. (See G. Burnet's account of his life.)

On the 29 of November 1682, dyed William Ramfay, Earle of Dalhouffie, at his oune houſe. His Lady, the Lord Muir in Ireland his daughter, married the Lord Ballenden, the late Roxburgh's brother, within 3 or 4 moneths after this.

At the ſame tyme, dyed Prince Rupert, Duke of Cumberland, unckle to the Eleſtor Palatin, aged 63. In the diſſecting him they found a big ſtone in his bladder or ureter, which certainly would have gravelled and pained him, but the water had perforated it in the middle; as alſo, in the ſubſtances of his heart and brain they found 2 bones;—which ware very extraordinarie remarks.

In the moneth of November 1682, ſome perſons inhappily ware ſo far ſeduced by Satan with us, that they became ther oune bourreaus and executioners. On John Falconer of Feſdo, lait wairden of the Mint, from ane apprehenſion of hazard, (becauſe he was ordained to be perſhued for malverſations in his office with my Lord Halton, &c.,) he hanged himſelfe; and on William Couper, a wryter, young man, did the ſame at Edinburgh; and on Wilſon, a tennent at Falkland, drowned himſelfe;—which are bad omens and prognofticks.

At the ſame tyme, Shireff Pilkington is fyned at London, by the jury, in the ſumme of ane hundred thouſand pounds ſterling, (a waſt ſumme) to be payed to the Duke of York, as dammages modified againſt him in the perſhuit on the ſtatut of Scandalum Magnatum, (of which ſee ſupra, p. 38.) And beſydes the words their ſpoke, it was farder libelled, that he had thir expreſſions in Aprill laſt, when the Common Counſell of London met to ſee if they would ſend any to welcome the Duke of York's ſafe arriveall from Scotland to Newmarket, in England; “ What, (ſaid he) ſhall we ſend

to congratulat a man who brunt our city, and is come to cut the throats P. 45. of our wives, children, and felves!" The expreffions ware fully proven againft him by Aldermen prefent, tho' his counfell at law fludied to divert the words as only fpoke by him againft the Papifts in generall. They report the fine is about the half of his eftate. He hes entered himfelfe in prifon, and fo, by the Englifh law, they cannot both detain his perfon, and affect his eftate.

All this fummer, the Hungarian Proteftants (commonly defigned the rebells of Hungary) have been in armes againft the Emperor of Germany, ther lord and mafter, under the command of Count Tekelie as ther generall, becaufe the Emperor had broke to them the *leges regnandi*, and his capitulations, whcirby they ware to have the free exercife of the Reformed religion; and he, at the Jefuits' perfuafion, had tane ther minifters and put them as flaves in the gallees, and had cruelly oppreffed themfelves; and upon thir, and other grounds, they juftified their rifing, (fee G. Burnet's Conferences anent the Church of Scotland, p. ,) and got the Turks to oune and affift them; and in fundry skirmifhes and rancounters with the Emperor's forces, they had the better, and took fundry forts and touns. (Vide infra pages 52 & 56.)

In November and December 1682, our Bifhops prevailed fo far with our ftatemen, that they obtained a warrand from the Privy Counfell to depofe and filence all the tolerat minifters, who by connivance had preached ever fince the reftitution of Bifchops, without acknowledging them and ther government; by which the Bifhop of Edinburgh depofed in his diocefe thir 5, Mr. Thomas Ramfay, miniſter at Mordington, Mr. John Weitch at Weſtruther, Mr. John Macghie at Dirleton, Mr. John Sinclar at Ormiſton, and Mr. Thomas Paterſon at Borthuick; and the Hy Trefurer gifted ther different eſcheats to Hew Wallace, becaufe they had preached after the 1 of January 1682, without taking the Teſt, contrare to the late act of Parliament. The reſt of the Bifchops took the ſame

course with any such in their bounds. They have not yet meddled to dispossesse those ministers as were admitted by the Privy Counsell on the King's Indulgence; but we know not how long these few may be spared, seeing they are not excepted furth of the act of the Test more then other ministers are.

On the 15 of December 1682, three men called Robison, Finlay, and Cochrane, were hanged at the Grassie-mercat for disfouning the King's authority, and calling him a tyrant, &c. (See more of this in my folio Law MS., at the 11 of December 1682, page .)

On the same 15 of December 1682, dyed Weymes Lord Bruntland, husband to the aire's Countess of Weymes.

On the 20 of December, the Earle of Aberdeen, Chancellor, was installed Sheriff principall of Mid Louthian, by a letter from the King, in place of Dalhousie, lately dead, who was but entering to it in Halton's rounge; so that he is Shireff both in Aberdeen and heir. (See the 8vo. Session MS. marked , page .)

About this tyme, dyed Sir Heneage Finch, Earle of Nottinghame, p. 46. Lord Chancellor of England, aged 61, a man of great moderation and eloquence; and for the first qualitie the Court was beginning to weary of him. The Lord North, one of the Cheiff Justices of the Common Pleas, is made Lord Keeper of the Great Seal of England in his place; and Pemberton is translated to the Common Pleas, tho' lesse honorable, yet more lucrative; and the learned Sanders gets his place of Lord Cheiff Justice of the King's Bench. (Vide infra p. 51.)—In September 1683, North is created Earle of Guildford, and gets the title of Chancellor; and succeeds in this title of Guildford to Lauderdale, and Lady Jean Graye's husband, in Queen Marie of England's reigne, who was headed.

On the 29 of December 1682, on Alexander Home, a small gentleman in the Merse, was hanged at Edinburgh (tho' in Christmas week, in imita-

tion of the Vicount Stafford, execut at London the same day in 1680,) for commanding a party at the infurrection of Bothuel-bridge, tho' he came not that lenth. He dyed more composedly and piously then others of them doe. It was thought, that ther was blood enough shed on that quarrell already, and it being once stemmed it should not be fet to bleed afresh: for they are like Sampson, they kill and persuade mo at ther death then they did in ther life. And some Bischops interceeding for him, (which was said to be but ther common, he dying for ther cause,) the Chancelor refused him a reprieve. He who apprehended him, seing him condemned, dyed of greiff.

ANNUS 1683.

THIS yeir began at Edinburgh with the imprifoning a great many merchands, &c. for not frequenting the Church, and for baptizing ther children by non-conformifts minifters, and for not paying ther fynes, fome of which ware 1000 merks. And this fruitleffe kind of perfection (which, tho' it drove many of them to the church, yet compelled prayers are not worth, force making but hypocrites, and the church like a prifon houfe to them,) was alfo ufed at London at this fame tyme againft the Diffenters; only, it was remarked, that the Papifts and Quakers ware not troubled. (See Samuel Bold's Sermon againft Perfection, befide me, on the French King's perfecuting the Proteftants ther.)

Tho' we change the governors, yet we find no change in the arbitrary government. For we are brought to that paffe we moft depend and court the Chancelor, Treafurer, and a few other great men and ther fervants, elfe we fhall have difficulty to get ather juftice or difpatch in our aétions, or to fave ourfelves from feaith, or being quarrelled on patched up, remot, and innocent grounds. This arbitrarie way Lauderdale attempted, but did not attain fo great a lenth in it as our ftatfmen doe now; and they value themfelves much in putting the military and ecclefiastick laws to ftrict and vigorous execution, fo that, let fouldiers commit as great malverfations and oppreffions as they please, right is not to be got againft them. Witneffe John Cheifly of Dalrye's ufage with Daver and Clerk, in the King's troupe; and Sir John Dalrymple's with Claverhoufe.

I confeffe the obftinacy of thefe people who hitherto withdrew from the

Church, feims to have been from no principle of confcience which could bear the ftreffe of perfecution when it came, but meerly proceeded from this, that they faw they ware connived at and unnoticed ; and theirfor, now we fee, rather than pay any more fines, they croud unto the Church; wheiras, if hearing the prefent minifters ware a fin, the fear of money fhould not alter the cafe with them, but fo long as they could hear Conventicle preachers with fafetie they praferred them as the cleanlieft. However, the Bifhops and ther followers, with the minifters, did not ftick to refle&t upon the former governors of our ftate, (meaning Rothes, Lauderdale, and Tuedale, &c., men whom they durft not once accufe when alive or in power, tho now cowardly they backbite them,) that by ther connivence and remiffneffe the Phanaticks ware imboldned to defert the church and run to conventicles; wheiras, now, ther being governors of fidelity, knowledge, and courage, they give a feeming obedience to the laws; which flattery was defigned by them to cry up the prefent Chancellor for his feverity to the difcontented party.

P. 47.

About this tyme, we had the news from Tangier, that Muley Hamet had got ane army together in Fefle, againft his unckle the Emperor of Morocco, who had feazed upon and invaded his right of fuceffion; and that he had defait his unckle's army and killed him in battell, and was eftablifhed Emperor.—The killing his unckle was afterwards reported as uncertain.

The King of Spain began the year with a fumptuary law, difcharging any of his fubje&ts to wear any cloathing or apparell, fave what was made, and of the produ&t of ther ounce countrie. This frugality refembles our late A&t of Manufactories in 1681.

This year we ware allarumed with ane ftrange conjun&tion was to befall in it, of the 2 planets, Saturne and Jupiter in Leo, obferved by Argol and other Aftronomers, and our prognoficators who all fpoke of it as a thing very ominous, and which had only happened tuife before, fince the creation of the world, and portended great alterations in Europe. And from

England ther came fome obfervations on the late comets, which promifed a furder treatife called Cataftrophe Mundi; (fee the obfervations befide me,) all which helped to fright timorous melancholy peeple; and Mr. George Sinclar, the mathematician, did alfo call this planetary conjunction a very terrible on, in his Defcription of the weather glaffe and hygrofcope. Our winter, from November 1682 till March 1683, was rather like a fpring for mildnes; if it be to be afcrybed to this conjunction I know not. (Vide infra p. 55.)

Mr. John Meinzie, minifter at Aberdeen, having been called by the Magiftrats of Edinburgh, to be ther Profeflor of Divinity, in place of Mr. Laurence Charteris, who refufed the Teft, and having come over to Edinburgh, the Bifhop and he not agreeing, he refufed to accept the call and went home. The reafons ware thought to be, That tacite reftrictions ware required of him, not to preach zealoufly againft Poperie, or ther plots and confpiracies againft princes; 2^{do}. Some of the minifters of Edinburgh defire none of more learning or probity then themfelves to be preachers with them. On Mr. John Strauchan is called by the Magiftrats in his place.

In this moneth of Januar 1683, was difcovered accidentally, by the removing fome feats in the Church of Halirudhoufe, the vault on the fourth-eaft end of the Church, wher the body of King James the 5^t lyes buried. Skeen and others, in ther Chronologies of the Scots Kings, tell us, he was buried at Halirudhoufe, but the lenth of tyme and negligence had worne the particular place out of the memory of men. It was knowen to be him by the infeription on his leaden coffin. I had the curiofitie to goe and view the relifts of that gallant Prince. In the pend or cell ther are fix lead coffins. The firft is King James the 5^t who dyed in the year 1542; P. 48. but Drummond of Hawthorndene, in the very end of his life, tells us, this is not the place wher he was firft interred, but that King Henry the 8^t of England's army having defaced his tomb and monument, he was tranfported into this vault by King James the 6^t and reimalmed; which ap-

pears by the freſchneſſe of his body and the liquor about him. The ſecond is his firſt Quean, Magdalen, daughter to Francis the 1^{ſt}. King of France, who dyed in 1537. The third is Henry, Lord Darnely, father to King James the 6th and Quean Marie's huſband, who was ſtrangled in 1567: by his body he appears to have been a very tall proper man; others call this bodie Seigneur David Rizio's, the Italian Muſitian's. The 4th is Ladie Jean Stewart, baſtard daughter to King James the 5th and Counteſſe of Argyle, who dyed in 1587. The other 2 are ſome of their children.

This was a humbling mortifieng fight, and a great inſtance and document of mortality, and vanity of the world; all the glory of that ſprightly Prince being crouded into this lowly cell, *Mors ſceptra ligonibus æquat: Mors æquo pulſat pede pauperum tabernas Regumque turres: Et ſic tranſit gloria mundi.* Many ordinary perſons have better buriall places now, then what this magnanimous reſtle Prince hes got. If our thoughts deſcended oſter unto the charnel houſe and ſepulchres of our anceſtors, their duſt (the greateſt their not being diſtinguiſhable from the meaneſt, as Lucian in Dialogues wittilie repreſents,) would ſerve to lay the peacock feathers of our vain proud aſpiring projeſts, which we lay in ſuch a train as if we ware immortal. (See this proſecute alibi.) And it might have the ſame effect on us, which Virgil, (libro 4 Georgic.) tells us, the ſprinkling a little duſt on bees hes, *Hi motus animorum atque hæc certamina tanta, Pulveris exigui jactu compreſſa quiſcent.* All the inhabitants of that dark walley have lean and pale cheeks, hollow eyes, fallen noſes, and none of them wear the jewells and other deckings, with which they gliftred when they ware on life: but notwithstanding of this diſſolution, we moſt all riſe again at the great day of accounts. Our Kings of old ly but very meanly intombed. Buchanan names ſome of them buried in Ieolmkill, wher are alſo lying ſome of the Kings of Ireland and Norroway. I ſaw the tombs of King Malcolme and others in Dumfermeling church yeard. The Engliſh have the moſt part of ther Kings inſhrined at Weſtmiſter, wher I have ſeen ther monuments.

In the end of Januar 1683, dyed that unwearied statfman, at Amsterdam, S. Antony Ashley Couper, Earle of Shaftsberry, of the gout in his stomack, being a fwelling ther, stopping the passages of digeftion. His death afforded great joy to the Court party in England, againft whom he had conjured up a male-contented fpirit throw England. However, it cannot be denied, but within halfe a year on of another, dyed 2 great Minifters of State of oppofite fydes, the Duke of Lauderdale and he, to whom we may adde for a 3rd, Chancelor Finch. Shaftsberry had fo diffeminat his principles, that the Earle of Effex, Lord Ruffell, and many others, are able to carry them on though he be gone; though fome of that very party complained, he was too hot and infolent, though he ftudied to walk legally, that they might not reach his life.

On the 6th of Februar 1683, on Urre, a brewars fervant in Leith, barbaroufly murdered his oune wife in the night tyme; all he pretended was, that he was provoked by hir fcolding and drinking. The P. 49. Magiftrats of Edinburgh judged him, which fhews that their jurifdiction of fhireffhip reaches over Leith; and he having confefled the fact, they fentenced his right hand to be cut of, and himfelfe to be hanged on the 10 of Februar, on the Shirefbrae befide Leith bridge, on the very confines betuen the Toune's territories and the Shire's. (See Carpzovius' Criminals, part page , fhewing, a gibbet fhould not be fo erected *in confinio* as that the fhadow fhould reach another's land, that being a kind of indignity to him.)

In this moneth of Februar 1683, was argued before the Judges the cafe of the city of London's Charter of franchifes by the Quo Warranto writ; (de quo, vide fupra, page 29 & 36.) That of ther right of fhireffhip was at this tyme waved, feeing his Majefty had carried the fhirefs to his mind; but the debate ran on 2 points, primo, that the city had, att her oune hand, without authority of Parliament, levied and raifed money upon the citizens, for caulſay maills, and for liberty of getting out ftalls, and for felling their

waires and commodities in the mercat places of the citie (called by our Skeen *pede-pulverosi* and *stallangiatores* chapmen) on the streets; fecundo, for prefuming by a petition to ineroach so far upon his Majesties prerogative, as to advise him to call a Parliament, after he had discharged these petitions as feditious. Sir George Treby, recorder for the city, answered the King's Attorney, that, tyme out of mind, London had been a free corporation, with power to make statutes and by laws for regulation of themselves; and that any exactions they used were fortified with immemoriall possession; and to the 2^d it was only a supplication, and if there were any fault in it, it could not involve any others but the actors into the guilt, for *noxæ caput sequitur*; and the franchises of the city could not be endangered by it. Though the Cheiff Justice Sanders seemed not fully satisfied with their defences, yet the matter was continued till Easter terme. (See page 51 infra.) And in another case, it being objected against the Jurie for the town of Worcester that sundry of them were not capable, because not freeholders; the judges admitted them lest there should be a failance of administration of justice in that place for laik of freeholders, and therfor *in subsidium* they admitted others in their place.

The English Dissenters craving a writ of appellation from the Ecclesiastick Court of Arches, where they were threatening to excommunicate them, the appeal was refused.

About this tyme, the river of Thames at London flowed twice in a forenoon, and swelled to a prodigious height: this was esteemed ominous, for the like had not been observed save a litle before King James the 6th death in 1625. God preserve long our King! There was likewise a great inundation happened at Harwich, drowning a part of the adjacent country; as also thunder and lightning, which is not frequent in winter, which had fyled the steeples of Yarmouth and York. 3^{tio}. And a serving man at Darlington, in some distracted fitt, killed 3 of his master's children, the eldest being about 15 years of age; and being apprehended, refused to eat

or drink. 4^{to}. At this tyme on Le Maitre, a citizen of Paris, borne in 1565, and fo 118 years old, dyed at Paris, and was a few weeks before very P. 51. healthful and vigorous. Nature once in ane age produces such ane on, but 100,000's ly by the way. (See Hackwell's Apologie for the Providence of God, page ; and our Buchanan, page 40, libro primo in fine, Hiftoriae Scotorum, of our old Lawrentius going out in his fisher boat and leather canno at 140; and Par, brought up to London to (King Henry the 8th) Charles the 1st. See Baker's Chronicle, page 475; Plinij Naturalis Hiftor. libro 7, cap. 48.)

On the 2^d of March 168³ dyed Maxuel, Earle of Nithsdale, a papist.

About the same tyme, on Shelden discovered to the Duke of Ormond that he and others ware pensioners to Monsieur Louvoy, the great French minister of state; and that the plot was to deliver up some sea townes in Ireland to the King of France's fleet, which he pretended he was fitting out against the Algerines.

5^{to}. Aprilis 1683. The Duke of Lauderdale is buried. (Vide supra, page 40, in margine.) The Bishopp of Edinburgh (who was once his creature, but follows all courts,) preached the sermon at Inveresk; the text was 1 Corinthy. 15, v. 55. "O death where is thy sting; O grave where is thy victory." Any errors he committed, in the end of his days, he ascribed to the *innocentes* underrowers whom he trusted beneath him, meaning his Dutcheffe and brother Halton. If he had dyed some years sooner he had got more pomp and eulogies. At the buriall place in Haddington, one of the beggars called Bell, being drunk, stabbed another in distributing the money that was given them by the friends. He was apprehended, and several stollen things found on him, and he being made to touch the dead corps, the wound bled fresh; the town of Haddington, (who it seems have a Shireff's power) judged him presently, and hanged him over the bridge the next day.

In May thereafter, came down his Majesties pleasure and determina-

tion anent my Lord Halton and other officers of the mint; (which see in my law manuscript, page .)

On the 13 of April, was his Majesties letter proclaimed as to thosse who had conversed with rebels, distinguishing them into three ranks and classes of delinquents. 1^o. Conversers wittingly and wilfully with forfault or denounced rebels. 2^{do}. Conversers with them by a chance or accident. 3^{io}. Conversers with such as are notourly knowen to have been in the rebellion, but are nather yet forfault denounced fugitives nor intercommuned: —And the punishments determined according to the degrees of ther guilt; and the 2 last are referred to the Privy Counsell, and the first to the Justice or Circuit Court, which is to goe thro the Western shires in June next. (See, anent the point of conversing, the Laird of Blaikwood's proces, in my folio law manuscript, marked , at the 31 day of Januar and 5 of Februar 1683, page .) The King was willing to have granted a large indemnity; but the Chancellor thought such a favour unseasonable, and stopped it by sending up Claverhouse, who maintained that thesse indemnities imboldned them and did ill. Though they did not care much for citing Lauderdale's authority, yet they told the King what he said to Dundonald, regrating the depopulating the West by the Hyland host in 1678. "It was better ther country boor windlestraws and fandy laverocks, then boor rebels against the King."

In the end of April 1683, dyed Dalryell, Earl of Carnwath.

In May 1683, the Lord major of London having pershued thosse who last year elected Papillion and Du Bois as shireffs. The persons mainly pershued and fyned (but many of them fled,) ware, the Lord Gray, Shut, P. 51. Pilkington, Bethel, Cornish, Waird, &c. Cheiff Justice Sir Edmund Saunders, and his brethren the Judges, found, that by præcedents the mair of London was in use to call and dissolve the city counsell without the shireff's consents, and so the electors and voters to Du Bois and Papillion ware ryoters and guilty of disobeying the mayr's adjournement, and

theirby ware liable in a fyne for the ryot; which decifion did much break the wings of that faction in the city, and was a point of great importance to the King, and which led the way to what he obtained againft them afterwards. They urged, that a precedent might be given of his continuing proroguing or adjourning the court. The Lord Cheiff Juftice answered, that he who could diffolve, (which was the greater power) could not but by a confequentiall ftronger argument, have the leffer allowed him of continuing.

After this, Sir Patience Ward, late lord major of London, is perfuaded and found guilty of perjury, on this ground, that it was proved againft him, at on tyme he fwore, he heard not Alderman Pilkington (of whom *supra*, page) affert the Duke of York brunt the city of London, and yet at another tyme he had confefed, that when Pilkington uttered theffe words in his prefence, he put his hand on Pilkington's mouth, and faid, "Brother, you mean not the Duke fyred the city, but that Frènehman." Such an extrajudiciall expreffion with us would not infer perjury, but the Englifh punifhment of it is eafier then ours is.

In 3 June 1683, the famous plea of the Quo Warranto againft the city of London's charter, was decided by the Judges againft them, and they found to have forfeited and loft their priviledges of a corporation and fociety. But on ane addrefse from the Mair and the loyall part of them, the King declared, he would grant them a new charter, with this claufe, that if, after 2 nominations, made by them he fhould not be fatisfyed therewith, in that cafe he fhould name and choife ther fheriffis and all ther other officers and governors; to which regulation they at laft affented and acquiefced: See all this in printed papers befide me. (*Vide supra*, pag. 49.) And after this bold decifion, Judge Saunders stepped of fhortlie after, by death, to appear and give ane account at a greater tribunall. (See him admitted, *supra* page 46.) In Saunders' place, the King puts in Sir George Jefferies to be Lord Cheiff Juftice; and on Pemberton's depriveall he put in on Jonas. Pemberton turned a common pleader again.

The airs of the founders of Gresham Colledge ware now moving to be reponed to the rents, as caduciar, the Society being dissolved; but it was thought they fell to the King. In October 1683, because their tounne counsell would not signe the instrument of furrender and resignation of ther priviledges to the King to get a new charter with limited franchises, theirfor the King entred and past the judgement of forfaitor of ther charter against them, and named all ther magistrats himselfe, and continued Prichard mair during his pleasure. It's said, they might not voluntarily resigne for fear of becoming lyable for all the mortifications made to the city: now it is like on of our brughs of baronies. Then he named Sir Henrie Tulfe for mair.

In the beginning of June 1683, Gordon of Earlestone, on who was forfaited for being at Bothwell-bridge rebellion, is apprehended at Newcastle, with on Edward Aitkin, both going beyond seas, and they are sent doune by his Majesties speciall warrand to Scotland to be judged their. They ware going abroad to the forrain Protestant princes, in a commission from some of the precise phanaticks of that syde to beg supply, as being beggered by our governors, who ware all become ather Papists or Athiefts.

About this same tyme, Andrew Gulan, weiver in Balmerino, on who was present at the murder of the late Archbishop of St. Andrews, was apprehended at Cockpen; and was execute for it on the 13 of July, and dyed very hardned and insensible of any guilt. (See my law manuscript at that day.)

On the 8^t of June 1683, while the Circuit Court was sitting at Stirling, and 5 of the King's guard ware conveying on Smith, a phanatick, prisoner to Glasgow, 7 of that mad persuasion waylays them beyond Killyfyth, at Auchinroch Inchbellie bridge, and rescues the prisoner, and kills David Murray, on of the party attending him, and wounds John Ballyntine, another of them. Two Lefmahaigo men, called Macquhirrie and

Smith, were seized upon, in Stevinson wood, upon a suspicion of their accession; and, being of the number, were hanged at Glasgow for this and other crimes made out on them, the 13 of June 1683. (See my law MS. at that day.)

In June and July, went the criminal Lords in Circuit thro' the Western and Southern shires. (See it at length alibi, in my law MS., and supra page 50.)

In the beginning of this spring, Mahomet the 4th, Emperor of the Turks, emitted a blasphemous declaration of war against the Emperor of Germany; (which see in print.) The Turk did commit great cruelties at this time, and besieged Vienna: (vide infra, p. 56, supra p. 45.)

In June, the rumor began of Prince George, brother to the King of Denmark, his marriage of Lady Anne, daughter to his Royal Highness. Sheffield, the Earle of Mulgrave was banished the English Court for pretending kindness to him. They were married on the 28 of July 1683; and Prince George was made a knight of the Garter thereafter.

About the 1st of June 1683, broke out that plot and conspiracy, attempted by Colonel Rumfay and some republican 5th Monarchy men, against his Majesty and his brother. But afterwards, it was found, that it was deeper laid; for, upon the incoming of one Keeling upon remorse, and the apprehension of the Lord Howard of Effrick, he discovered, that it was managed by greater persons, and that, after Shaftesbury's flying, there was a council of six established for promoting it, viz. the Duke of Monmouth, the Lord Ford Gray, the Lord Russell, Sir Thomas Armstrong, Colonel Algiron Sidney, Mr. Hampden younger, and my Lord Howard himselfe. (The King has given Keeling a remission.) The designe appears to have been to prosecute the association to disappoint the Duke of York's succeeding to the King, and to assault the King's guards, and then to have made themselves masters of the King's person, not to kill him, but to necessitate him to call a Parliament, enact what they craved, declare

his brother a traitor, and simply to give himselfe up to ther counsell and directions. Yet it may be feared, they would no more have stopp'd heir then with his Father, his prison and grave ware near other, and they dare not trust a disoblidged prince. Then Mr. West, a lawyer, Mr. Sheepheard, the vintner, came in, with many others, and boor witnessse to the reality of this plot. The Lord Gray was apprehended, and while on Serjeant Deerham carried him in coach to the Tower, Deerham, wearied, falling fast asleep, Gray made his escape, and fled with his concubine to Holland; Deerham was theirupon thrust into the dungeon. Monmouth also fled. The King's warrand to search Monmouth's house excepted his Dutcheffes bed-chamber, so he might be hid ther. Some alledge, he had a discourse on the plot with the King, and had his allowance; however, he wrote a letter back to the King abominating the plot, and protesting his innocency; but the yaught and Captain who transported him to Holland ware both seized on. The Lord Russell was found hiding himselfe behind a chimney portrait, in a void place above the chimney, and by thrusting a sword throw it accidentally, was discovered. Captain Walcot, John Rouse, and Hone, 3 of the conspirators, was hanged at Tyburne, the 20 of July; and the Lord Russell was headed the next day at Lincoln's Inn fields. (Vide supra, p. 25, anent Rouse.) See ther tryall, with the probation led against them, and ther confessions and speeches, and animadversions on Russell's speech;—our Doctor Burnet having been questioned as the author and penner of it, to move sedition, and doubtings in the spirits of the people if this plot was a sham or reall.

The Earle of Essex was affirmed feloniously (as *felo de se*) to have cutt his owne throat, while he was prisoner in the Tower, to preserve his estate to his son, and to shun the ignominious conviction of a traitor. Yet others thought it very hard to believe such a cowardly villany of such a gallant man, and seimed to find inconsistencies in P. 53. narrative of his servant Paul Bomeny, and the 2 chirurgians; and thought

the naturall averfation and reluctancy could not have fuffered any to have cut ther throat as his was, viz. from the jugular to the other, throw the windpipe, till the razor almoft ftuck on the vertebræ, the back bones of the neck, which could fearee be done without help. This Effex was a very gallant man, and the fon of the Lord Capell, who fuffered death for the King in 1648; yea our King trusted this Effex with the Governement of Ireland, as Deputy, 3 years, and put him in many other places of trust. His Lady hes raifed an action of Scandalum Magnatum againft Bomeny and the Chirurgians witneffes, to prove that his throat was cut by others; and that, in defence of his throat, he had put up his hands, and they had mangled and cut them. (See a note alibi of Ferguffon's book, vindicating Effex from this crime by laying it on others.)

In Februar 1684, Laurence Braddon and Hew Speak wes proceffit and tryed for tampering with witneffes to depone that Effex' throat was cut by others; and alfo Sir Samuel Barnardifton, for reviling and vilifieng the Proteftant plot, and the King's evidences as if it ware a forgerie by his letters; but Captain Blaque was abfolved from the accufation againft him of a defigne to feize on the Tower of London. (See this at more lenth in the 4th. MS. marked A 3, page 100, item pag. ultima.)

Some judged it ridiculous and incredible, that men who ware ufing all means to deprive the Duke of York of the croun, would ever open a fair door to his fuceffion by killing the King; but thoffe who defigned his death ware certainly for a Commonwealth, and nather for fetting up on Duke nor another, for fome had named the Duke of Buckingham as a fit perfon to fucceed. All the guilt that can be charged on Ruffell, if we beleeve his oune fpeech, was, that he had the miffortune to be prefent in company wher Shaftfbury, and fome hot headed men treasonably propofed the feizing on the King's guards; and tho he and Monmouth abfolutely difapproved of it, yet they ware guilty of mifprifion of treason in concealing and not revealing it, which revealing, Ruffell faves, would have

been a meannesse in him, especially seeing he had dissuaded (prevailed with) them from executing these designs. But with us, that concealment is treason and death; tho, it was alledged, it was not capitall by the English law, yet the printed Animadverter on his speech seems to give 2 instances in the contrary, and farther charges Ruffell with perjury, who, as a member of the House of Commons, had oft taken the oath to detect any conspiracy against the King and the State, and yet he had kept up this till it was proven on him. The Earle of Bedford, his old father, offered the King £100,000 sterling to spare his sones life, but York would have him to fall a sacrifice to appease Stafford the popish lord's ghost, and to expiate for his bringing up the bill of seclusion to the Lords house against him.

The great part of Bedford's estate was the lands of the dissolved Abbaey of Tavestocke, gifted them by King Henric the 8th in 1542. So Ruffell had some interest to oppose Popery.

We in Scotland were not behind in emitting proclamations to apprehend Monmouth, Gray, Armstrong, Fergusson the Scots minister, and other conspirators, and to put a price on them. And it was deponed (affirmed) in England, that Sir Hew Campbell of Cefnock elder and younger, Bailzie of Jerefwood, the Lord Melvill, Sir John Cochrane, Major Alexander Munro, late clerk, the late Earle of Argile, and others Scots, were upon the knowledge of this conspiracy, and that on Aaron Smith was sent to Scotland, under the pretence of Carolina plantation, to negotiate the plot; only it was doubted, if the sentence of forfauler of ane English judge could confiscat ther lands lying in Scotland, ane independent nation; and it was thought, tho' they might execut them to death ther, and so ther moveable escheat would follow their person, and the *locus delicti commissi*, the King being æqually King of both, yet ther sentences *quoad* lands situat in Scotland would be *ultra vires, et extra territorium jus dicere*, unless the King personally assumed the judicative power, and sentenced them; whereupon it was desired, they might be transmitted with 2 pregnant evidences

(which would be no great expenſe to Scotland) to be tryed heir. *Quæritur*, If a Scotſman tryed in England gets a *mediatatem linguæ* as a ſtranger alien, or by the law of *poſtnati*, he be repute a denizen?

Many addreſſes came thronging in to the King, from various places, congratulating his preſervation from this helliſh plot. But that *Cenſura* and decree by the congregation of the Univerſity of Oxford was the moſt remarkable, wher they condemn 27 poſitions they had extracted out of Knox, Buchanan, Naphtali, Jus Populi Vindictatum, Hobs, &c. againſt governement, and that if princes malverſe, the people may depoſe them, and can put by the neareſt lineall air, and ſet up on remoter; and ordained theſe books to be brunt as ſeditious, in the court of ther Theater. (See the many papers that ware publiſhed on the occaſion of P. 54. this plot beſyde me, in my 31 bundle marked with that figure.) Some made a parallell betwixt this plot and the late Popiſh on, and thought this was more convincingly made out by the confeſſions of the parties condemned, (tho' they ſaid they ware trepaned and betrayed by Rumſay and others, who ware alwayes more forward in the plot then they, and who inſtigated them to it, and yet went firſt and diſcovered it, and got ther oune life by turning witneſſes and evidences againſt them; and they inſinuated as much as if they might have been only hounden out by ſome, (which was Cromvell's ordinar trick) to decoy, intrap, and inſnare them, by propoſing the treacherous overtures firſt, and then ſeeing who would join with them;) but as for the 17 who ware execute for Titus Oats's plot, never on of them at ther death acknowledged it, tho' we ſay the Popiſh principles bound them up from that ingenuity; and that the ſubſtance of this conſpiracy is ten tymes more clearly and undenyablie made appear then the other was by Coleman's letter or Edmundſberry Godfrey's death, at which ſome laugh now, as Shaftſburie's fables malitiouſly contrived by him: but this ware to caſt a refle&ion on the publi&k juſtice of the Engliſh nation, whoſſe repreſentatives, viz. the King, Houſe of Peers, and Lower Houſe,

did all declare they ware fullie fatiffyed as to the exiftence of the faid Popifh plot. Some wondered, how Oats came not to be named on this new plot. But others answered, tho' they had made ufe of him as a tool, yet they knew him to be fo profligat that they durft not trust him with ther fecrets. When the Duke of York was perfuading the King to ride with a ftronger guard for fear of being affaulted, he took him fhort thus, "James, is ther any in England who will kill me to make you King?" yet he was induced to fuffer all the keyes and locks of his chambers at Whythall to be changed, and that none fhould have acces thither but perfons of knowen loyalty; and 100 gentlemen of great eftates offered themfelves voluntarily to bẽ his additionall guard. Their is a report fpred throw Brittain as if the deceaft George Monek, Duke of Albemarle (who brought home his Majefty) had, about 1669, a dream, that Whythall was all on fyre, and the King in the midft of the flames, and that in a fear he came and found the King in the Quean's chapel at Maffe or popifh fervice, about 12 o'clock at night; which I hope was falfe. Many of the confpirators upon the deteetion fled to Holland; but the King, among the articles of peace with the Holanders, (which they never yeelded before) they condefcended to this, that they would deliver up to him any of his fubjects in their dominions he fhould require from them; but the States generoufly gave them fair advertifement to remove in tyme out of their territories. (See more of this plot, infra, page 57.)

If a man confider the traet of this confpiracy, with the King's oune declaration againft it, and the antidote againft the poifon of my Lord Ruffell's fpeech, (which looks like Roger L'Efrange's pen,) it is very evident, that their hes been two plots carrieng on in England at the fame tyme, the on not being upon the feeret or forknowledge of the other:—the one was by Walcot, Hone, and other mean 5^t Monarchie republicans, to murder the King and the Duke, and fet up a Commonwealth; the other by the great nobles, &c. to poffeffe themfelves of the King, and move him

to disinherise his brother, and to follow ther counfels, but noways to kill the King; and they mistake things who mingle the 2 plots together as both carried on by the same persons. This minds me of Venner, the cooper, and them other 5^t Monarchy men, who made a desperat rebellion, in 1661, and dyed on the place. (See Baker's Chronicle in fine.)

The Bishop of Durham being dead, the Bishop of Rotcheſter was tranſlated thither, and Doctour Turner (who was in Scotland with the Duke of P. 55. York, and whom I heard preach their,) was made Bishop of Rotcheſter: So the Duke's recommendation puts in whom he pleaſes.

Elcana Settle (who had been the great Whig poet, with Tom Shadwell, for the Shaftsberry diſcontented party, and answered Dryden's Abſolon and Achitophell,) turned, a litle before this plot was diſcovered, his cloak on the other ſhoulder, and printed a narrative to the diſparadgement and vilifieing of Titus Oats's plot; (which ſee alibi.)

The Duke of York was extremely pleaſed with the tyning of the Scots Circuit court in June and Julie; for Providence had ſo ordered it, that the infurre&ion in Scotland and England was deſigned much to have been about the ſame tyme; but this Circuit frighted the conſpirators from their oune houſes and lands, which, eventually, by meer accident, broke their ſquares and meaſures, as he thought, and incapacitated them from riſing. Tho they could not directly reach D. G. Burnet, yet the Biſhop of London took upon him to ſuſpend and exauthorat him from his being lecturer at St. Clements, wher he preached to the keepers of the Rolls; and he, finding it fafeſt to withdraw, did obtain liberty from his Majeſty to goe abroad, ſo he hes laid aſyde his clerical habit, and put on gray cloaths.

It's reported, that a ſervant of Sheephard the vintner, on of the witneſſes who depones, in this plot, did dreſſe himſelfe up in the habit of a ſpirit, and appeared to the centinells, telling, he was the Lord Ruffell's ghoſt, and was come to informe the world that the ſpeech printed in his name, was but put in his hands when he came to the ſcaffold, and that

he was abused in it;—thus thinking to impose on the belief of men, if he had disappeared undiscovered, but some of the guards seized on this spirit, and finding it a cheat, beat him soundly.

In the end of July, dyed the Queen of France, of a pestilential botch; and within ane moneth thereafter, dyed the great Monsieur Colbert, a Scotfman by descent) who had been long superintendant of his finances; but immediately on his death he is so far buried in oblivion, that his sone Blaniſſe is turned of by the King, who gives it Louvoy, he paying 50,000 crowns to Blaniſſe. The French King also, hearing that ane English mathematician and astrologer, called John Holwell, had printed a book called “Catastrophe Mundi,” with sundry hieroglyphicall figures of moles, lyons, dragons, wolfs, crowns, miters, dead men in coffins, fyres, fights, ships, &c. wherein he had prophesied woes to fall on Gemini, by which he means London, &c.; but what offended him was, that he had foretold severall unlucky things that ware to befall the French King in 1683, and thereafter, if he should outlive that year. Upon which application⁽¹⁾ he was imprisoned long. (See a litle abridgement of his dreams beyde me in print.) Some say, thir prophets are like him who foretold Paris should be burnt such a tyme, and on the day was found setting fyre to that city, that he might not be a false prophet; so they, to hinder ther predictions from falling to the ground, doe use means to compass them, and would after throw the blame of it on others; the Papists and Protestants mutually charging on another with plottings. They say, the hieroglyphicks are as old as Nostradamus, 120 years since, and ware reprinted by old Lillie the prognosticator in 1651, wherof copies can be shoven since that tyme.

The 9th of September 1683, was appointed a thanksgiving (being a Sabbath day, to oblige all to come to sermon,) for discovering this phantasticall plot:—a fast was enjoyned on the detection of Oats his Popish plot.

⁽¹⁾ Some words are evidently omitted in the former sentence, in regard to this complaint or application, which was the occasion of Holwell's imprisonment.

In the beginning of September 1683, on Mr. John Dick, a Carguillian, was apprehended; and owning all theſe pernicious principles againſt the King, he was ſentenced to be hanged; but for his father, David Dick's ſake, they gave him the longer tyme to prepare himſelfe. See it in my law MS. 3rd. September 1683, p. , wher you'll find, he and others broke priſon and eſcaped; but was afterwards retaken and execute.

Their is ane act of Privy Counſell made at this tyme in England, anent P. 56. the Letter Poſt Office, in favors of his Royall Hyneſſe, to whom the profit of it belongs; that heirafter no letter be carried but by the poſt, and if any be ſent by carriers or private perſons, that they be unſealled:—this is *primo*, done to augment the revenues of the Poſt Office; 2^{do}, to prevent falſe and feditious news.

I ſaw this ſummer a litle printed pamphlet, dedicat to the King, teaching the art of ſtraining, boiling, and ſueiting falt waters, very uſeful for ſhips in ther long voyages at ſea: it is invented by Mr. Boyll and others.

In September 1683, came doune his Majeſties letter recommending George Drummond to be Proveſt of Edinburgh, againſt Rocheid's party, who ware under proces of count and reckoning. (See this at large alibi.)

On the 2^d. of September 1683, was Vienna releived, which was inveſted by the Turkiſh Army. It had been 2 moneths and more cloſely beſeidged by Cara Muſtapha Baſſa, the grand Viſier, (whoſſe father and himſelf have been both eminent favorits of the Grand Seignieur, which is not uſual,) with ane army of 150,000 Turks, by the ſpace of 2 moneths and more; wheirin they had ſprung many mines, bombs, and granards, and once maſtered the Scottiſh port, (ſo called from a monaſtery there founded by Scotſmen, and wheirol the foundation required Scotſmen to be abbots,) ſtanding near the river Vien, which falls into the great river of Danube, and from it the city gets its denomination, (it was of old called Fabian;) but the Count Starenberg, a Suede, defended it with great courage and manhood, till the very laſt extremity of famine, the bloody flux, and dimi-

nation of their garrison. At last the Christian army, commanded by the Duke of Lorraine as general, the King of Poland, and Prince James Sobietkzi, his eldest son, a boy of 15 years old, and by the Dukes Electors of Bavaria and Saxony, did assault the Ottoman forces and defeated them, taking 120 canon, their rich tents, and sundry horse-tails on posts, which are the Turkish standards; and the Polish Hussars, whose horses are armed as well as themselves, killed many of the Turkish Janizaries and got a considerable victory over them, killing their infantry and putting their cavalry to flight.

Thanks were given by the Emperor and others, in the cathedral church of St. Stevin of Vienna, to God, and the *Te Deum Laudamus* sung, and the Turkish captives put to repair the breaches made in the walls. The spoil taken was very rich, and yet got with small loss to the Christians, by the great providence of God, their not being above 1000 of them killed, and few of them of note, except our countryman young Count Lesly, and the Duke of Crove's brother. It was observed, in favor of Count Tekely the Hungarian, who, with the French King, had invited the Turk in to this invasion, that he kept himself as free of giving the Emperor any new provocations, and did not join or assist the Turks at this battle; so that it's hoped by some, that the King of Pole and others may intercede to make his peace with the Emperor of Germany, by obtaining to him and his party the free exercise of the Protestant religion, the denying whereof and banishing their ministers to the galleys, and using other cruelties by the Emperor, who is absolutely preist ridden by the sanguinary Jesuits, did drive them to shelter themselves under the great Turk, who, for 30 pence a year, gave them the free exercise of their religion. It's thought, the Grand Vizier may get a bowstring for the reward of his bad success, according to their custom; however, he began with Ibrahim Bassa, Vizier of Buda, and strangled him, for his first running away cowardly the day of the fight. Jablonousky, Palatin of Ruffia, and Great Marishall of

Pole, distinguished himselfe signally by his valour in this battell. (See the P. 57. 3 fundry printed relations of this victory beyde me.) This is the 2nd tyme the Turk hes attempted Vienna, without success: the first was, in the reign of Charles the 5^t Emperor of Germany, in 1529, when the brave Sultan Solyman the Magnificent, came against with 300,000 men, and was forced to goe home *re infecta* and break his heart for greiff. (See it in the historians of these tymes, and particularly in Sebastiani Munsteri Cosmographia, in his description of Germany, page 315 and 970, and in D'Avitie's World, cap. de l'Allemaigne, p. 883, and others.)

The Vizier retired with his army in great method and order, and the King of Pole, knowing the usuall advantages the Turks get of the Christians is commonly when they prosecute their victories too far, and so being of all guard, the Turks rally again and so defeats them, he resolved to stand to his posture and to follow them but leafurly; and the breaking this his oun rule, had almost cost him and his little son Prince Alexander, a boy only of 15 years of age, (who would signalize himselfe by being in this glorious action,) their lives, had not the Duke of Lorraine come up in tyme to their rescue. However, they cut off many of the Turks rear, and defeat Count Tekely and Michael Abaffi, Prince of Transilvania, (see his declaration of war, in French and English, beyde me printed,) and 2000 of his forces, and drove him to the mountainous townes. Then the King of Pole took Grana, (a town which hes been 78 years in the Turks possession,) and Zetchin, and fundry other places, by surrendrie; and befeidged and blocked up Newhauffell, Belgrade, (the old Strigonium,) and Buda, the capital and metropolis of Pannonia or Hungarie, hoping they will fall in their hands the next Campaigne. But the Grand Seigneur received his Vifier graciously, and threatens to return in the spring in person on the head of 300,000 men, and seve Vienna with salt. On this consternation the Turks ware in, many of the Greek slaves in Moldavia, Valachia, &c. revolted from the Turks, and fell in upon his countries, and carried away much spoill. (Vide infra pag. 62 & 64.)

Our Scots Parliament, by miftake, forgot to be prorogued at this tyme : its now done, which may leive ground to fome to cavill. (See more of this alibi, in the law MS. 16 Auguft 1683.)

Supra page et feq. we fee a new plot burft furth : when the terme fat doune in Ocftober 1683, the Judges being returned from ther circuit, Aaron Smith, (who was alledged to have been fent doune to Scotland, to flir up our difeontents to joyne with them in armes,) is brought to the bar, and in regard they wanted probation to make him on this treasonable plot, they goe back 3 or 4 years, and acufe him for feditious words he uttered at Oxford, as ane attorney for Steven Colledge, the proteftant joyner, who was tried and hanged ther ; and for this Aaron is fet on the pillory and fyned.

On the 1 of November, the Scots prifoners, to the number of 12 or 13, ware embarqued on the Kitchen yacht and fent to Scotland ; wher, after much tempeft and toffing, they arrived on the 14 : ther names ware, Sir George [Hugh] Campbell of Cefnoek, and his fone, Muir of Rowallan, and his fone, and Fairly of Bruntffield, his fon-in-law, Bailzie of Jerrefwood, [Crawfurd] of Crawfurdland, Alexander Munro of Bearcrofts, Murray of Tippermuir, Mr. William Spence, late fervant to Argile, Mr. John [William] Carstairs, and Hepburn, minifters. On ther arrivall they ware keiped eloffe prifoners in the tolbuith of Edinburgh ; only fome of them ware confronted with Gordon of Earlefton, but no difcovery could be gathered theirby.

On the 5^t. of November 1683, by our Bifehops and Statefinen to gratify the Duke of York, the commemoration of the Gunpowder plot was omitted. Some of the modefter pretending meer forgetfulnes why nather fermon was keiped nor cannons fhot, as ufed always to be, (tho' the magiftrats did ther part in ringing ther bells and putting on fome bonefyes ;) others, more impudent, faid ther was no aet of Parliament for obferving the 5^t. of November, as was for the 3rd. of Auguft of Gourie's confpiracy (yet ther was ane aet of Privy Counfell for it, and ane continued praetife,

since,) and that theſe providences ought not to be ſolemnly remembred longer then the life of the Prince who got them.

In November 1683, Algernon Sidney, ſon to the Earle of Leiceſter, and allyed with the beſt of England, was brought to his tryall for his acceſſion to the late phanatick conſpiracy; and on the teſtimonies of Rumfay, Keeling, Howard, &c. was found guilty. Befide the plot, he was charged with a treaſonable pamphlet found in his cabinet, proving the people to be above ther Kings, and ſtating in them a power of depoſing princes in caſe of ther miſgovernement;—it was proven by ſeveralls, who had traded with him and produced his letters, that they verily beleived it was all his oun hand writ; however, I hear this probation, *comparatione literarum*, is not concluding nor convincing by the Engliſh law, not even in civill caſes, much leſſe in capitall ones; which is alſo Antonius Faber's opinion in his Codex Sabaudus, titulo de Probationibus, definitione 71. (See S. G. McKeinzie's criminalls, p. 524, &c.) He ſpoke very learnedly for himſelfe, and alledged, ther ware not 2 witneſſes proving on ouvert a&t: he was minded this was repelled in the Viſcount Stafford's proces in 1680. Then he objected, that many of the Jury ware not freeholders; they deſired him to remember that was overruled in Ruffell's caſe lately. Then he objected the Indytment abated, and had falſe Latin in it, and wanted the King's title *fidei defenſoris*, &c. Thir ware repelled, unleſſe he would wenter his life on thir, and renunce all other defences, that the King's Attorney Generall might demurre to this plea, and be fred (according to ther cuſtome) of leading any probation againſt him. When the Duke of Monmouth returned, (*de quo infra*,) he moved for a new hearing; but he having been found guilty by the Jury before, they denied it: wheiron he was ſentenced and headed at the Towerhill on the 7 December 1683, Shireff Daniel attending him. He ſpoke litle or nothing on the ſcaffold, but gave a paper, and ſeemed very unconcerned at death, like the ancient Romans. The Whig party hoped his life ſhould have been ſpared, but

tho' he was a gallant man, yet he had been so misfortunat as ever to be on the disloyall fyde, and feimed to have drunk in with his milk republican principles, and was a Collonell against King Charles the 1st, and continued a sworn ennemy to monarchy, which justified the taking of his life very much: see his Speach.

On the 24 November 1683, to the great surprize of all the English Court and the Ile of Brittain, the Duke of Monmouth came in, and put himselfe on the King his father's mercie, and confessed his faults; and so was graciously received, and got a pardon and remission. The summons of treason against Monmouth, Lord Melvill, Stairs, &c. was newly sent away to London, by our statfinen, to get them forfaited heir, when this reverse of fortune met it in the teeth. The widow of Tekoa, who brought home our Abfolon, was thought to be the King's French concubine, the Dutchesse of Portsmouth, formerly Madamoiffelle de Carowelle. The Duke of York, finding her under pension of his contrary party, and that by hir they got access to the King, he takes occasion, upon her absence in France this summer, to suggest to the King that shee was dishonest with the Bishop of Paris, and Monsieur le grand Prieur de France. On her returne, finding the King somewhat alienat from hir, but, soon making her peace again, and considering none in England durst play her that trick but the Duke of York, and feeling the King's inclinations to restore and pardon his Sones simplicity in being misled, and to secure him from the hazard of his life, shee joyns with the Marquis of Hallifax and Earle of Meeklesfeild, (who insinuat to the King that his brother was more courted and attended than himselfe,) and they prevail with the King to allow Monmouth to return to his presence. Upon which, immediately all these who ware in prison for this late plot, as Trenchard, Hampden, are all set at liberty upon bayll; which did so blow up the Whig party with hopes, that they began to insult, which partly necessitated the Court to take Sidnie's head, (least, by sparing him, all men would

have concluded, it had been **only** a sham plot,) and gave occasion to the Duke of York and his party to desire the King to require the Duke of Monmouth to publish and present a declaration, or manifesto under his hand, of his knowledge of the circumstances of that late plot, as he had confessed it before the King and his Secretaries at his first coming. Monmouth, finding this was but a trap and snare digged for him by York to rise in judgement against him (notwithstanding his remission) when any thing should ail the King, he refuses; whereon his Majestic, being afraid that the countenancing his Son might breed new troubles, and embolden that party, and thinking he had fully insured his life, to dash that faction, which was reviving again, he banisheth him his presence, and confines him to More park and 5 miles about it. I heard some alledge, that the Duke of Monmouth's coming doune as Generall, in 1679, against our rebels at Bothuel-bridge, was ane artifice and stratagem of York's to draw him under the *premunire* of ane English act of Parliament, made in 1643, and yet standing unrepealed, declaring it hy treason to invade the Kingdome of Scotland without the authority of the Parliament of England, and to shun which Monmouth then took a remission; and that the feiking him to give this manifesto was a new trap laid for him, for if Monmouth would give 1000 renunciations, York will never think himselfe secure till headles, and to accept of a renunciation ware no wisdom, that being a tacit acknowledgement of some right, and the renunciation might be afterwards quarrelled, as given *per vim et metum*, even as his remission may be quibbled on as the deed of ane indulgent father, who could not wrong the *vindicta publica*, if he ware once dead. Our Whigs ware come to that height, that they ware speaking of no lesse then the rescinding the Duke of York's Parliament as null, because it was held by a Papist, who, by our acts of Parliament, are incapable of any office or trust, and much more of that hyest employment; but ther hopes ware very short lived, and we may say of Monmouth's favor, as Tacitus of Galba's reigne, *precarium et brevi transiturum*

imperium ; and we know not which of thir 2 factions, strugling in the womb of our state, shall prevail. Yet it's alledged, the Duke of Monmouth, by the remission, being reintegrat and made a free subject, the King cannot banish or confine him by the English law, but it must be upon the sentence of a judge, after convicting him for some crime. The letter the Duke of York would have had Monmouth signing craves pardon for accession to conspiracy, but denies any designe of killing the King, or knowledge of it ; so the conspiracy seems only to have been the prosecuting or too hasty anticipating of the association against the Duke of York or Popish successors. Monmouth retired over to Holland after this.

In September 1683, dyed Mr. Alexander Young, Bishop of Ross, at Paris, a few days after he was cut of the stone : a moderat and learned man, unjustly supplanted in the Bishoprick of Edinburgh by his successor, and therfor attempts ware made of sending him back *lege talionis* to Ross. At last, Ross was given to Mr. James Ramsay, Bishop of Dumblain, in July 1684, and Douglas, Bishop of Brechin, was translated to Dumblaine, and Mr. Cairneoross, minister of Dumfreis, is made Bishop of Brechin. (See him advanced to Glasgow, infra page 71.)

In October 1683, the French King, who had his army ready to have fallen in on Germany, to depose the Emperor, if the Turks had gained Vienna, being disappointed, he made a feint in upon Flanders, and under the pretence the Spainards had tane a village of his, he seized upon the town of Courtray, a very disproportionat reprisals ; and though ther was no war declared, yet committed many acts of hostility, only forboor burning, and treated the Spanish prisoners as robbers, not as captives of war ; so that the Spaniard, in December, declared war, rather then ly at such uncertainty. (Vide supra page 56.)

In November 1683, ther came a warrant from his Majesty to torture Earleston, but he falling apparently mad it was forborn. Then 3 fellows for disowning the King's authority, ware hanged at Edinburgh. (See thir

at large alibi, in my law manuscripts.) Item, the Commission from the King to 7 of his Ministers of State, to manadge all, and prepare things P. 60. for the Counsell, and give him an account of affairs, like the junto of the Octavians. This increased the animosities and mistakes between our Chancellor and Treasurer. (See it alibi.) A great attempt was made with the King, in September last, to get the Chancellor put off. See the accusation charged on him by the caballe, in another paper beynde me, alibi.

On the 3rd December 1683, some phanaticks at Glasgow make the attempt to kill Major Balfour and some of the officers of the army lying ther. They are apprehended, and wildlie condemne all other churches, even the Scots on of fugitives at Rotterdam, as not pure enough. The Privy Counsell sends a commission to 4, at Glasgow, to judge them their; viz. the Lord Rofs, Lieutenant Collonell Winrahame, &c.

Collonell Leg, now created Lord Dartmouth, being sent away some moneths ago, by the King, with 16 ships, none then knowing his errand, he came to Tangier, and signified the King's pleasure to the garrison and burgers that both the forts, mole, and city, should be deserted, razed, and demolished; and they, their families, and goods, he was to transport to England;—And that because it was expensive to the King, and the Parliament in 1680, when he was feiking money to maintain it, they advised him to flight it as useless, (which they did to render him odious); and tho' London offered to the King to defray the charge of it, for securing their Levant trade in the Straits, yet it was judged unfit to put it in their hands, they being too rich, proud, and powerfull already, and deserved rather to be humbled and chastised. The French or the Moors will seize upon it, as left *pro derelicto*, and so *primi occupantis*, and will infest that coast. They speak of getting from the Spaniards a more commodious port on the other side of Gibraltar, but the English have not got it yet.— Thus ended Tangier, *urbs Tingitana*, the tocher and doury of our Queen

Catharen, whoſſe brother, Dom Alphonſo, King of Portugall dyed in September 1683, and Dom Piedro, his [brother,] ſucceded to the crown. Many wiſhed his ſiſter Catharen, *ob ſterilitatem*, had filled his grave. Many wondered at the politique of deſerting Tangier, but *concordia principum ſunt myſteria populorum*; and the Moors are ſeizing on the ground, and fortifying it, and will be troublſome to the Engliſh ſhips their, and reſuſe them freſch water.

In the end of this ſame year, dyed the Quean of Portugall, and the Duke of Veniſe, who had been Doge 8 years; and in his place was elected by the Senate ſeignieur Paulo Manco Antonio Juſtiniano, who in great ſolemnity, in ther Bucentoro, marries the Sea with a ring.

In November, we heard that Brandeburg, Saxony, Lunenberg, and ſeverall of the Proteſtant Princes of Germany, ware entring unto ane aſſociation and confæderacy for the defence of the reformed religion, fearing the Emperor, Pope, &c. inclined to extirpate it; and they ware to invite Holland, Sueden, and Denmark, unto the Bond of Union.

The reſt of the States of Holland having paſſed a vote for raiſing 16,000 men to defend the Spaniſh Netherlands, and the Deputies of Amſterdam reſuſing to conſent, in pique and jealouſie of the Prince of Orange, much pains was taen to bring them over; and they ware threatned, if they continue obſtinat, the reſt would proceed without them, which they ſay would be a violation of the fundamentall conſtitution and eſtabliſhment of that Commonwealth, each of them, in leavieing of men and money, having a negative, and eſpecially Amſterdam, which was richer then the half of them; and they ſhould not have ane equall vote and ſhare in the government with thoſſe that contribut much more than they can doe to the war, ſeing they who have *major fundamentum in re*, ſhould have alſo the greateſt intereſt in the government, according to the rule of æquity in all ſocieties and copairtenaries: and in ſuch caſes, the plurality of votes could not bind the reſt diſſenting; therfor, the tax and levie was only

made offering to the proportions of the confenters, and no farther. At laft, on the Spaniards declaring war, Amfterdam confented to the levy, at leift to a recruit.

Theffe of Amfterdam are of the Louvftein or De Witte's faction, and are afraid of the Princes' ufurpation, and would rather fubmit themfelves to the French King's protection; and pretended that 16,000 additional men was not a competent and fufficient ftrenth againft him, but required more.

Some fpoke of agrieing France and Spain by ane excambion of the Spanifh Netherlands, and France to give them in exchange Catalonia and fome part of Navarre, about the Pyrinean hills. (Vide infra, page 65.)

There was, in November 1683, great ftorms and fhipwracks on the coaft of Holland and Norroway; and 1500 dead bodies ware caft furth at the Texel, befyde Amfterdam, and ther ware many fhips broken and drowned. And in the end of November, ther began with us a great froft, which continued till the end of Februar 1684, and longér, for three moneths and a halfe, with fome ftormes and fnow now and then; fo that the rivers at Dundee, Borrowftounneffe, and other places wheir the fea ebbs and flows, did freeze, which hath not been obferved in the memory of any man before; and theirby the cattell, efpecially the fheip, ware reduced to great want of meat, that the like had not been fince the winter 1674. The River of Thames was frozen, and fairs, mercats, and bulbaitings held thereon. P. 61.

About this tyme, ther was a report that the Grand Seignieur, at the requeft of 12 of his Baffas, had ftrangled Achmet, the Grand Vifier, and fet up Puteoli the Vifier's brother, to be his minifter of ftate in his roume;—but this was not confirmed till Februar 1684, which boor, that the Aga of the Janizaries executed it at Buda.

In this moneth of December 1683, broke furth a fcandal againft Mr. John Macquean, on of the minifters of Edinburgh, of unmodeft and un-decent carriage towards Miftris Euphame Scot, with whom he was befot-

tedly in love, and ſhee deſpifed him; and he, by a trepane, obtained hir petticoat, and made it in a waſtcoat and drawers. He was ſuſpended for thir fooleries; but in the beginning of Februar 1684, the Biſhop reponed him again to his Church.

On the 26 of December 1683, Mr. William Home, brother to the Earle of Home, at the caſtle of Hirfell, in the Merſe, did proditoriouſly murder Joſeph Johnſton of Hilton, and wound Home of Nynewalls. It was reported, that Hilton (who was of a haughty quarrellſome temper), befydes opprobrious words he had uſed to Mr. William, he gave him alſo a box on the face: however, he eame and ſtabbed him as he was going to his bed. It was that ſame day 12 moneth, that Alexander Home was hanged, whom the ſaid Mr. William had apprehended, as on of the Shireffs of the Merſe. He fled to England on Hilton's horſe.

ANNUS 1684.

THIS yeir began with the report of a Parliament to be called in England, in regard the 3 years was near expiring since the last at Oxford, within which space the King had formerly ingadged himselfe to call a Parliament, viz. once every 3 years; but the Duke of York, did not find it convenient that it should meit.

In the beginning of Januar 1683, dyed the Lord Peters in the Tower of London, being on of the 4 popish Lords who ware imprisoned in the end of 1678, on the breaking furth of Oats's plot, and who have ever lyne ther since. A printed declaration came furth immediately as done by him, and directed to the King, attesting his innoceny of that plot, &c.; but many thought it was penned by some papist after his death.

At this fame tyme, dyed Henry Jermyns, Earl of St. Albans, who had been the Quean Mother's fervant and favorite. He having no ishue, the King presently created on of his naturall sons, by [Mrs. Gwynne,] Duke of St. Albans.

About this fame tyme, dyed Howard Duke of Norfolk, father in law to our Marquis of Huntly. He was a great support to the popish interest, next to _____; and that family ever since the Reformation have been so inclined. Yet his sone, who is now Duke, being sequestrat young, and educat by the bishops, is a good protestant, which is a considerable providence to our reformed religion; but such is the restless subtilty of popish malice, that they give out this Duke is a bastard, and incapable to succed, his father when Earle of Arundell not being

lawfully married to his mother; his 2^d lady, or rather concubine, was on Bessie Biccarton, a Scotswoman. Death entring at this new year on the English nobility, did also sweip away with his feeth the Lord Montague of Boughton, in [Northampton-shire.]

P. 62. On the 24 of Januar 1684, the Earl of Perth is sent post by our juncto and our Privie Counsell to the King. See conjectures of his embassie in my law MS. at that day, page . He met with stormy weather of snow and frost; and came back again, in March, *re infecta*.

18 Januarij 1684. The Lords of Session, by ther a&t of Sederunt, ratify and confirme the a&t of the Faculty of the Advocats, imposing 500 merks on the advocats entring by examination, and 1000 merks on them who come in *per saltum*. (See it alibi in my Session MS. in 8vo., page 86, and the place ther cited.)

In this fame moneth, the King makes a call of 16 fergeants at law, all choisen out of the ablest barristers; who ware sworn and received with great solemnity (ther not having been such a number pitched on for some tyme) in ther robes, and each of them gifted with a ring containing this emphatick motto, *A Deo Rex, a Rege Lex*, denying the peeple a share athir in establisshing kings or laws.

In the terme that sat in the beginning of Februar 1684, at London, the Earle of Denby, late treasurer of England, and the Lords Powis, Arundell, Bellasis, and Tirowen, which 4 ware imprisoned in the Tower of London, on the account of Titus Oats's discovery of the Popish Plot in 1678, are, by Sir George Jeffries, Lord Cheiff Justice, (the other Judges, as Wallop, &c. dissenting, at leif demurring,) fet at liberty upon bayle, to appear at the nixt Parliament that shall fit. They had attempted oft before on a Habeas Corpus to have been freed; but it was alwayes refused them by the former Cheiff Justices, viz. Scrogs, Pemberton, and Saunders, on this ground of law, that being imprisoned by authority of Parliament, none else could liberat them but they; however, Jefferies did, and it

took his hazard of the Parliament. The caution each of them found ware of the greatest men in England, almost all Earles. The King creates Danby Marquis of Carnarvan, tho' the Parliament's impeachment of him for treason yet depends; but the King had given him a remission, which they controverted, because before conviction:—but this patent was afterwards stopt.

At the same tyme, Mr. Hampden, one of the conspirators in the late plot, and of the counsell of six, (as was given out, vide supra page 52,) is tryed for hy treason. But finding they could only prove it against him by on witnesse, viz. the Lord Howard of Escrick, in regard the Duke of Monmouth, the other witnesse, disobeyed the subpœnas served against him to appear, and withdrew; therfor, they only infisted against him upon hy misdemeanors, such as his reflecting on the Governement as inclining to Poperie, &c.; and fyned him for thesse in £40,000 sterling, and bound him to his good behaviour during his lifytyme;—so some people concluded from this, that the phanatick plot was decaying when so eminent a man as Hampden escaped with his life for want of probation.

Eodem tempore, the Cossacks and Tartars give the Turk a great defeat, so that all Walachia, Moldavia, revolt from the Turkish slavery to the Emperor of Germany, and kill 30,000 Turks. Ægypt and some places in Asia, revolt from him lykewayes. (Vide supra pag. 56.)

In Februar 1684, the Deputies of Amsterdam protesting against the rest of the States Generall, for imposing a leavy by plurality without ther consent. (Vide supra p. 60.) And the Prince of Orange having raised a summons of treason against Van Benningham, ther representative, for corresponding with the French; and he fearing his head, did, at 3 a cloack in the morning, flee out of the Hague to Amsterdam.

22 Februarij 1684, Colinton is installed Justice Clerk in place of my P. 63. Lord Maitland. Item, 3 men hanged for disouning the King's authority. (See both thir at large in my Sessjon MSS. alibi.) And Mr. John Dick,

formerly sentenced for theſe dangerous principles, and who had fled, is apprehended and hanged.

In March 1684, the King iſſues out a Quo Warranto againſt 14 of the Companies of London, as having loſt their charters, viz. Mercers, Groffers, Taylors, &c. The Goldſmiths and Vinteners ware the firſt tuo who came in and delivered up their charter of erection and priviledges to his Majeſty.

At the ſame tyme, 3 ſuns are ſeen in the morning by many in the town of Dale, in England, and 3 rainbows like creffents and halfe moons, to the great wonder and aſtoniſhment of the beholders, none of them having ever ſeen the like before.—In Scotland in the fourth, it was reported, that graves ware found cut out of the wholle earth, of the uſual breidth and deepneſſe, and the wholle lump laid inteer beſyde it, as if it had been cut out with a knife; this prodigy was called the ominous forerunner of ſome peſtilence or great mortality.

The ſtorme being broken which had deſtroyed many bridges, milnes, and coall ſinks, up and doune the country, to a great value; many fiſhes ware caſten furth upon the ſhoar and ſands dead, by the rigidity of the winter, which certainly ware very unwholeſome food, tho' they ware fold amongſt other fiſhes.

24 Martij, et diebus ſequentibus, was the criminall tryall of Sir Hew Campbell of Cefnock, for treaſon, who was clogged for laik of probation. See this ſtrange affair at large in my folio law MS., marked , at theſe dayes, page .

In March 1684, dyes Lieutenant-generall John Lambert, ane a&ive man, nixt to Oliver Cromwell, in the late troubles, and imprifoned in the Tower in 1678, upon the diſcovery of Oats's Plot, as a papift in maſcaraade; and not only kept alive on the King's reſtitution, but even eſcaped the hands of juſtice ſince, upon ſome ſecret politique of ſtate.

In April 1684, Sir Lionel Jenkins, on of the Secretaries of England, begged of his Majeſty, in regard of his age and infirmities, to accept a di-

mission and retirement of his hand; which the King did grant, and put Sidney Godolphin in his place.

About this tyme, dyed the Lord Halkerton, Lord Semple, and Ladie Napeir. And the Earle of Wigton's houfe of Cummernauld, and a great part of the toun of Kelfo, by accidentall fyres, ware brunt down and confumed; and this winter, ther ware 2 fyres broke out in Edenbrugh, and on at the West Port their of; as also, Sir John Cochrane's houfe of Ochiltrey was brunt, by the negligence of on that was making confectiions to his Lady in it:—The fervants fhould by a law or acts of counsell, be examplarily and publickly ftigmatized by whipping, &c., that others may learn to be more carefull. In fome places the mafters in whoffe houfes the fyre begins are made lyable to refund the dammages fustained by the neihbours, whither heritors or inhabitants, fo far as they are able to make up the loffe. (See Lublerus, *Tractat. de Incendio*, Vinnij *Selectæ Quæstiones, lib. cap.* and Gayl, *lib. Observationum, cap.*). About this tyme also, the Castle of Dublin in Ireland was brunt doune.

In the same moneth of April 1684, we had ane account from Vien- P. 64.
na, that the Grand Seigneur Mahomet, 4th Emperor of the Turks, was strangled and put to death, in a sedition and tumult raifed among his people, at Constantinople, by the Janizaries and thoffe who favored the lait Grand Vizier, whom he had caufed head; (vide supra, pages 56, 57, & 62,) and did fet up his brother, called _____, to be Emperor. Ther was, certainly, a great confusion and confternation in that Empire, and if Christendome would joyne unanimously with Germany and Pole, in all probability they might, with God's blessing, humble ther pride, and chafe them out of Constantinople and Europe, over the Hellepont to Asia, wher the Cham of Tartary is like to chastise him; and the Sophy, or King of Persia, is raising ane army againft him, to befidge Bagdet or Babylon: for kingdomes have ther growths and increafes, and then ther difeafes, mutations, and periods, tho longer lived, commonlie, than any fingle

man is.—Tho this storie of the killing the Emperor of the Turks was afferted tuice in the printed Gazets, yet it was afterwards found to be but a miftake and a falfe report.

In the end of this moneth of Aprill, dyed at Edinburgh the Marquis of Montrofe, to the regrate of all good men, and was buried at ther buriall place of Aberuthven, a chapell in Perthshire: he had much of his grandfather and father's good parts. His place as Captain of the King's guards was beftowed on the Lord Levifton, lieutenant to that troupe, on this pretence, that the Duke of York had declared that he would inviolably obferve that rule in all offices, but efpecially in military ones, that, when the Captain dyed, the Lieutenant fhould fucceed; but fome thought, that he was but trusted with it as a fidei commiffary, for the ufe and behoof of the infant Marquis of Montrofe, Levifton's brother being married on the laft Montrofe's fifter; but this was doubted of. However, many ware difappointed and difcontented who ftood in competition for it, as the Trefurer, who was feiking it for his fone; the Marquis of Atholl, who had a fair claime, being once Captain, but difpoffeffed by the Dutcheffe of Lauderdale's caprice, becaufe his fone refused to marry hir daughter; the Earle of Airly, whoffe sufferings and loyalty pleaded a recompence; and fundry others. Mr. David Hay, Tuedale's fone, cornet of the troupe, fucceeds Levifton as conjunct lieutenant with Mr. Murray, Spot's brother, and Captain Home of Ford (who formerly had a company of grenadiers,) is made cornet, and his place is given to .

On the 6^t and 8th May 1684, the Chancellor, Trefurer, and our other officers of State and juncto, parted for London to attend his Majefty at Windfor, wher he was to hear ther complaints on againft another. (See in my Seffion folio MS. marked , of this, page .) The Trefurer had mo of the nobles to oune him, partly out of pick againft a gentleman made Chancellor, and alfo becaufe they are penfioners, and forced to depend on him ere they can get payment from the Exchequer. (Vide infra, page 67.)

On the 7 of May 1684, a Fast is kept for the severity of the winter, and backwardness of the spring.

9th May, Captain Paton is hanged for being at Pentland-hills and Bothwell-bridge rebellion; and a woman for poisoning another. (See the forefaid manuscript.)

In Aprill last, on James Halloway, who had been upon the English conspiracy last summer, is hanged at Tyburne. He had fled to Barbadoes, and thence to the Ile of Mevis, and was found ther crying straw hats, and sent over to England; and confessed his accession to the plot before the King, but begged pardon, seing the King had forgiven Rumfay and other greater rogues than he. He was condemned on a former outlawry [which] had passed against him, but, in regard it was in absence, they offered him a new tryall for his life if he desired it. (Vide infra, page 66, Armstrong's case.)

About this tyme, dyed Father Cerle, le Grand vicaire of the Bischoprick of Pamiers, who, with his Bischop and others, espoused the Pope's quarrell against the French King in the controversie of the Regales: (vide supra pag. 17; and of this Pere Cerle's letters, the 4th. historick manuscript, marked , page .) On his death, the French King ordained his papers P. 65. to be sequestrate and seized on, wheirby he might expiscat what intelligences and correspondencies he kept with any within his kingdom, or others, to hold up the schisme.

In May and June 1684, the French King commanded his army, under the commands of the Marischalls de Shomberg and Crequy, (himselfe staying with his Court and another army at Valenciennes, for he keeps himselfe alwayes far from all danger, as the Jews advised ther king David to doe,) to attack and besidge the brave city of Luxembourg, in regard the Emperour and Spaniard would not imbrace the offers of peace he made them. And after they had bombarded it severall weeks, and that the Marquis de Grana, Governor of the Netherlands, and the Prince of Orange came not up in tyme to raise the seige, and the Prince of Chimay, who com-

manded the town, finding both his victualls and ammunition turning scarce, and the men of his garrison mouldering away, he was necessitate to surrender, and so upon capitulation, to march out with bag and baggage, and colours displayed. The French got this town and all the great dependences on it, which hastened the Hollanders in their Assembly of the States General, to embrace the overtures made to them by Monsieur D'Avaux, the French Embassador, of a truce with his master for 20 years, and to preserve the barrier towns betwixt them and Germany, and to inroach no farther. This was carried by the French faction in Holland, contrary to the Prince of Orange's party, who protested against it, except the King of France should also restore him to his principality of Orange. (Vide supra pag. 60.) Then the French envoys gave the Emperor and King of Spain a limited time betwixt and which they may come into the treaty; and in the mean time forbore acts of hostility. Spain was much enraged at this conduct and procedure of the Dutch. The French King and his train returned to Paris; and severall of the English nobility and gentry were disappointed, [and went] some to the one side, according as they affected, and some to the other, to be volunteers in this campaign. The Duke of Monmouth offered his service to the Spaniard, got a command, and was very honorably used.

The French forces, by a surprize, did also, at this time, make themselves masters of the city of Treves in Germany, (a key of that country, like Coloigne, and Strasburg,) belonging to the Elector of that name. As also, his fleet and galleys in the Mediterranean, under the command of his Admiralls D'Estrees and Du Quefne, came before the city of Genoa in Italy, and craved they might submit to the protection of the crown of France, and desert the assisting of Spain; (see infra, page 74 in calce and 83;) which proud message they refusing, they burnt down many of the palaces and churches of that pretty citie, with the fire bombs thrown in upon them; but, at last, that republick having raised their forces, they necessitate the French navy to retire; who in the

way hector'd the Duke of Florence, requiring the liberty of his harbors and a summe of money; which he refused. Thereafter they assaulted Gironne, a sea toune in Catalonia, and the Governor craftily suffered them to enter the toune by casting open the ports, and they, not awar of the ambuscade, ware so peppered with musket shot of the Spaniards from all the parts of the streets, that many of the French left ther carcasses their, and the rest fled in confusion to the ships: however, since [that time] they have taken some townes and castles their. As for the French King's pretensions on Luxemburg, Treves, Genoa, Catalonia, &c., see them in Mr. D'Avitie's Hy storie of France, and the Interest of France, and other wryters.—At last, the Emperor and Spain finding they had no other game, they made a vertue of necessity, and agreed to the 20 years truce; and the articles ware at last interchanged in September 1684; and the French King refused long to evacuat and give back Courtray and Dixmuyden, on the pretence of arrears of contributions owing.

In May and June 1684, at the Trinity terme, his Royall Hynesse the P. 66. Duke of York, was persuaded by some to intent a proces against Titus Oats, for reviling him upon the statute of Scandalum Magnatum; and Oats refusing to appear and give in defences, probation was led against him. Some witnesses deponed, he called the Duke a traitor, others, that he brunt London, and that it would not be weell with England till he ware banisht or hanged, but hanging was the best of the 2 for him; and tho' he got him fyned and imprisoned, yet, whenever a parliament should sit, they would liberat. It was observed, never 2 witnesses deponed as to on expression, but all on severall words: however, the Jury, without retiring from the bar, found him guilty, and the Judges fyned him in £100,000 sterling damages, for which the Duke got him imprisoned; and it was talked, they would first try him on perjurie, and if that succeeded, then they would arraigne him on hy treason. Pamphlets at this tyme came abroad disparadging the evidence he had given that ther was a Popish plot.

The Duke finding himselfe now above all hazard, he got in effect the power, if not the place of being Admirall of England again, which had been taken from him. As also, the King declared his preference was necessary in his Privy Counsell; so he was restored also to that place, where he had not appeared publicly these 6 years past; and though there was an English act of Parliament, that none shall break a place there, except he take the negative oath against Transubstantiation, which the Duke has not done.

About this same time, the King of Brittain's Envoy in Holland, (Master Chudley,) being informed by Mr. John Constable, a Scotsman there, that he knew where Sir Thomas Armstrong (who had fled out of England on the discovery, this time 12 months, of the late phanatick conspiracie,) haunted in Leyden, (in which town Armstrong was borne, his father being a groom, and dishonoured of Archie Armstrong, King James's fool, and of a Scots race in the borders, though he fell to be in great favor with the Duke of Monmouth,) they hire some of the guard there, called the Stoupis, appointed for suppressing the unruly students, and without letting them know their designe apprehends him, and carries him in to a scout, and from that to a ship, and straight afterwards sail for England. The States of Holland were displeas'd, it being contrary to that protection they give to all strangers, and though they had, by an article of the last treaty with our King, consented to deliver up to him any of his rebell subjects he should require them; yet it bore always this condition, that the party be first advertised, which, in effect, was only to put them out of their territories. However, he by this trepan was brought before Sir George Jeffries, Lord Chief Justice of the King's bench at London, and the former decree of outlawry read against him. He craved to be repone'd, as they had done Holloway; (supra p. 64.) Answered, the King had done that *ex gratia*, whereas they were not the dispensers, but behoov'd to put the sentence to execution against him, unless the King were prevail'd on in his clemency to mitigate their justice. Then he founded on the 11 statute,

5^{to}. and 6^{to}. Edward VI., wher any perſon that is beyond ſeas, being declared outlaw and fugitive for treafon, &c. hath a year allowed to him to appear and purge his contumacy, and propone his defences. But Sir Thomas was alledged not to be in the circumſtances of that a&t, becauſe its only extended to them who, within a year, ſhall render themſelves to the Cheiff Juſtice; *ita eſt*, he was taken, and did not voluntarily ſurrender P. 67. himſelfe. He urged, he did now deliver himſelfe up to the Juſtice, and the year was not yet expired; which was repelled. (Of purging contumacy within a year, ſee Titulos Dig. and Cod. *De requirendis reis et abſentibus damnandis*, for this Engliſh ſtatute.) The reaſon he got ſo hard meaſure, and the rigor of the law, was, he had been a great he&tor of the Whig cauſe, and if they had louſed that outlawry, they feared the probation they had againſt him would not be ſo convincing and full, and they reſolved he ſhould not eſcape; ſo he was hanged on a decreet in abſence. His daughter, Miſtreſſ Mathews, curſing the judges as murderers of hir father, ſhee was a while put under cuſtody. He had been a man of a profligat vicious life, and yet his ladie tendred fundry petitions to the King ather to give him a fair hearing and tryall, or a pardon, or at leiſt his body; but all was reſused hir. He ſeems by his carriage and ſpeech, (tho he denyes all guilt whatſoever,) to dy very compoſedly and Chriſtianly, and not ſo as Sidney does; (ſupra page 58 :) but reviling epitaphs ware printed on him.—Ther was in the ſame houſe the tyme Sir Thomas was tane, the Lord Gray, Ferguſſon the miniſter, and Rumbold the maſter; but they eſcaped for this bout.

Supra page 64, we ſee our great men are called up by the King, and the generality ware then of opinion that the Earle of Aberdeen, chancelor, would not be laid aſyde, but that the King and his brother the Duke would command them to unite and agree in ther ſervice. Yet when they came to Court, the Marquis of Queanſberry, treaſurer, and his party, had ſo prepoſſeſſed the King againſt him, and had got the Dutcheſſe of Ports-

mouth, and the English Bishops and clergy on their side, that it was easy to overthrow him; especially finding the Duke very luckwarm to him, and they representing, that they were both more willing and able to prosecute all his Royall Hynesses designs then he was, and that he had taken no pains, nor bestowed any cost to make the English his friends; likeas his mean retinue, (having only the Earle of Dumfermeling, and a few gentlemen, Gordonston, Rothemay, Cookston, &c. with him) and obscure way of living did him that hurt, to afford the Earle of Middleton, secretary, ane occasion to mock him, and treat him in ridicule before the King. Tho the Scots Bishops looked on him as their patron, yet the English clergy, by the instigation of Mr. Faw, (whom the Hy Treasurer had sent up a litle before him, and whom he has procured to be made Principall of the College of Glasgow, in place of the deceased Mr. Edward Wright, without the A. Bishop's suffrage,) represented him to the King as a favorer of the Papists, who gave him the convoy as he came thro Northumberland, and flocked to him at London. Mr. Faw is also made the King's historiographer for Scotland, in place of Mr. Crawford deceased. And yet, now since his fall, the Papists (who are somewhat sorer heir then they were) brag, that the cause of his outputting was because he was beginning of late to countenance the Fanatics, and to hinder them from being brought to justice, as Gordon of Earleston, the Lord Melvill, Lord Argyle and Lorne, Cefnock, Sir James Dalrymple of Stair, &c. It's true, severall of his former friends, as the C. Register, King's Advocate, &c. having deserted him, he fell in with my Lord Lauderdale, (after they had transacted the fyne of Dundie,) and Sir John Dalrymple, and other discontented persons; and used them and the 2 Lockharts for his great counsellors, with whom he advised and abstracted himself wholly from the nobility; which reservedness they took in very ill part, besides the grudge they had to see a lawyer and a gentleman step into that office which the nobility had intayled and monopolized for a long tyme among

themfelves :—(See fome obferves of this fupra pag. 36 at his entry, and from the 8vo manuscript cited their.) He hes juft but 2 years keiped his place, and many, at his furprizing advance, thought his governement would not P. 67.* be laftie. The firft year he acted very abfolutely without noticing the nobility, and carried Blaikwood's interlocutor, and other things, with a very hy hand ; and fometymes gave his opinion on debates at Privy Counfell, as the fence of the board, without ever afking ther votes. This occafioned a combination againft him about the tyme of our Circuit Court, in June 1683 and 1684, when they fent up my Lord Perth to London, to undermine him. Yet they could not obtaine it done then, which made him and others confident that the Duke of York would not part with him, being his oune creature, having no other legs to ftand on but his and Huntlie's, and whom he might truft ;—for tho ther ware miftakes betuen him and Huntly, his cheiff, as that he was affuming the fimple coat of armes as not defehended of him, and that he took to himfelfe the benefit of the tranflation made with Glenurchie of fome lands in Caitlines, which the Marquis expected fhould have been for his behooff, yet Huntly defired none fhould chaftife or punifh him but himfelfe.

To load the Earle of Aberdeen and the Bifhop of Edinburgh, it was propofed at Court, that no man fhould be put of the Privy Counfell but by a letter from the King, bearing the accufations and caufes of it ; but the Duke of York broke this defigne, and thought it more fsmooth only to lay them afyde by a new commiffion wheirin they are left out.

The King gave the parties ane audience from 9 in the morning to 12. Aberdeen craved his Majefty might ordaine them to give in ther accufation in writing, and to figne it ; which he refufed to put them to. Part of the heads they charged him with, beyde his want of a mine and deportment for fo honorable ane office, ware, 1mo. That when Claverhoufe craved a warrand from the Privy Counfell, that Sir James Dalrymple of Stair might be cited for treafon in refetting intercommoned minifters in his houfe,

and offered to afford probation, the Earl of Aberdeen, then Chancellor, did oppose and stop the same, and called it only pique in Claverhouse. 2do. He obstructed and retarded the Towne of Edinburgh's count and reckoning, and the tryall of the magistrats malversations; by which two he prejudged the King's revenue and the publick. 3tio. They laid the whole blame of the Circuit Court upon him, and all the extortions and oppression used by Mr. Thomas Gordon, the clerk, and others, in herrying the Western shires; and they did not stand to say, that he went ships with them who wrung that money from the poor people. And they gave many other instances of his covetous griping temper; as his proceedings against Sir Alexander Forbes of Tolquhon, in depriving him of a peit gate, to force him to give him a licence in his moffe; item, with on Thomas Ronald, whose means he got in 1679; and with Gray of Shivez, and with S. Alexander Seton of Pitmedden, in his clandestine inserting a clause anent his moffe of Logierniff, in a signator he was passing; in his acquiring in many considerable parcells of land in 2 years tyme, and whence the price came they knew not; it was also aggravated that he had, with much zeall and violence, carried on that affair of the mint and coinage against Halton, &c., and within a moneth after the sentence, he had obtained a gift from the King out of that fyne for £16,000 sterling, tho he transacted it for the halfe; that once he insolently commanded Neuton, President of the Session, to hold his peace, calling him—Sirra, tho he recriminated against them that Perth and his brother the treasurer-depute, had called him a Rascall; but this was meer scolding. He made severall answers, but the King was so prejudicat and ill satisfied with them, that he swore “God's Fifch, (the oath he uses when in passion) who recommended this man to me to be my Chancellor!”—and therupon commanded him to give up his commiffion; which he did, tho he and his freinds gave out, that if he would have condescended to act as Chancellor with the juncto, he might have keiped his place: but he told the King, except he exered it as freely as his prædecessor the Duke of

Roths did, he could not serve him; and the King telling him, he would be served in his own manner, and conforme to his own measures, he then voluntarily dimitted. Tho many wonders why the Duke of York deserted him so easily, and thinks this instance, and that of his forsaking the Earle of Lauderdale and the Lord Maitland, is not the way to get stout and P. 68. faithfull servants. Yet ther ware fundry prefaces of his fall, whereof the King's naming a juncto to manage all his private affairs wholly consistig of his enemies, was a great forrunner. Likeas, all this last winter they did so insignificate him in every judicatory, that they carried what they pleased by a vote against him, which made him weary of the place, and very indifferent whither he continued longer the but of ther envy or not; especially seeing, tho his tyme was short, yet he had feathered his nest well, and made hay in summer while the sun shone, and had bettered his fortune neir £1000 sterling a year, beyond the £500 sterling it was worth formerly. 3tio. It was remarked as a bad omen, that the last winter his coach horses on day refused to draw him to the Parliament House, and by no whipping would stir so long as he was in it, but walked right enough when he came furth till he offered to goe in again, and then they sat up of new. 4to. It was observed, he had contracted freindship with some unfortunate men that had, for a long tyme, been out of favor, as the Duke of Hamilton, the Earle of Home, &c. and syded with others who ware odious to the country, as the Bishop of Edinburgh, &c.

After he found that the King's affection was alienate from him, notwithstanding the Duke of York's advise to him, and the intreatie of his freinds ther, he parted privatly from London, and took post the 22 of May, the day before the King's birth day, and came to Scotland on the 2d of June, to the great surprize and amazement of all; but kept things so close that generally all flocked to him, believing that he had gained the day: till after 4 days stay in the Abbey, he retired north, and took his furniture and plenishing with him, which gave the first ground of jealousy and suspicion that his

affairs ware not right. The other party keiping the feild triumphed, and then the quaestion fell in who should fueceid him; some ware for the Marquis of Athol, named to it when my Lord Aberdeen got it; others ware for the Archbifhop of St. Andrews, or Tarbet, Clerk Regifter, to be it: but after fome animofity, the King conferred it on the Earle of Perth, and figned his Commiffion to be Chancellor; and this being fettled, they fell to the modelling and altering of feverall other offices, which we fhall fee (infra,) they got to their mind. And fo they came of in coach, in the beginning of July 1684, and arrived at Edinburgh the 10^t of that moneth; wher they got a moft magnificent reception, by fhooting of guns, and the forces drawn out, and the Magiftrats meiting them in ther robs, fo that litle more could be given ather to the King or his brother if they ware coming hither.

On Tuefday therafter, being the 15 of July, the Privy Counfell met; wher, firft, the Marquis of Queenberry, by a letter from the King, knighted George Drummond, Proveft of Edinburgh; then, 2^{do}, Perth's patent to be Chancellor was produced, and he received and fworne; then, 3^{tio}, the Earle of Linlithgow's commiffion was produced; for they had wheedled him out of his place of Collonell to the regiment of foot, and given him that moveable and variable office of being Juftice Generall, (as Sir Archbald Primrofe had been fo mocked out of the Regifter's office before him;) and this was done of purpofe to make a vacancy, that James Douglas, the Hy Treafurer's brother, might get his place of Collonell, and accordingly his commiffion to fueceed Lithgow in that regiment was red in the 3rd. place. Ther was alterecation at London to have beftowed the Juftice Generall's place, vacant by Perth's advancement, on the Earle of Strathmoir, Middleton's brother-in-law, or on Tuedale; but they at length gave it for a tyme to Lithgow, with £500 fterling penfion per annum. Lithgow fies the cheat, but cannot mend himfelfe, only he bids any who fueceids him keip it as long as he hes done, which is 22 years, and he defies them: his method was by

giving money to the Dutcheffe of Lauderdale and others in power; how-^{P. 29.} ever, Sir William Ker merrily told him he might now hang all the Whigs without endangering the King's forces, or retiring as he did shamefully at Inchbelly bridge, when they ware in armes in June 1679; only he says for himfelfe, he had a privat order to forflow the joyneing with the enemy till the Duke of Monmouth (who was then made Generall,) should arrive. Then the new commiffion of Privy Counfel, was produced and red; wheirin ther ware 7 members contained in the former commiffion of Counfell omitted and left out in this, viz. the Duke of Monmouth, the Lord Lorne, the Earle of Dundonald, Earle of Aberdeen, the Bifchop of Edenburgh, the Lord Maitland, and his brother-in-law the Lord Elphinston; and ther ware 4 new young counfellers added, viz. the Earle of Arrane, Lord Drumlanrick, Lord Yefter, and William Hay of Drumalzier his unckle, befyde the Chancelor and Treafurer of England, who for honor's sake ware made counfellers with us, becaufe our 2 Scots Secretaries ware made counfellers in England. They had given the King a very bad impreffion of the Bifchop of Edenburgh, fo that he was not only turned out of the Counfell, but his penfion he had from the King of £100 fterling, was revoeked, which he got on a falfe representation, that he payed that much out of his benefice to the prebends, wheiras he caufed the moft part of them renuncceat ere he would collate and admit them, and keiped fundry churches, wheirof he was patron, vacant, that he might lift the ftipend *medio tempore*; but the Englifh prælats thought it *mali exempli* for the King to lay afide or deprive even a vitious Bifchop, becaufe it opened the Whig's mouths and reflected on the order. In the 5^t place, Drumlanrick's commiffion was red to be Captain of a new troupe of horfe to be levied, and to be Lieutenant-collonell to Claverhoufe. And in the laft place, was red James Nafmith of Poffo's gift to be quartermaster to a regiment, and to be falconer to the King, for which he hes a penfion of £200 fterling a year.

The King having made the Earle of Perth, his Chancelor, to be

Shireff-principall of Mid-Louthian, in place of the Earle of Aberdein, the laft Chancellor, who had that office before, (fo that it feims they mind to make that Shireffhip follow the Chancellor's office, as a pendicle theirow, tho it boor not to him as Chancellor and *ſucceſſoribus in officio*;) the next day, being the 16 of July, the heritors being all invited to be preſent by letters, the ſaid Chancellor was admitted, ſworne, and received, in a fenced Shireff court, and the Hy Treafurer, William Fletcher, and Mr. Thomas Skein, the 2 Shireff-deputs theirin. Some ware diſpleaſed that Mid-Louthian ſhould be ſo treated, that nather its Sheriff-principall nor deputs, had any intereſt as heritors in the ſhire. To the fix who remained of the juncto or ſecret Committee of Counſell, (E. Aberdein being laid aſide,) the King by his letter, added tuo more, viz. the Archbiſhop of St. Andrews, and Newton, Prefident of the Seſſion; who will ſignify more now in affairs, eſpecially in Seſſion, then he did, the preſent Chancellor not being able to ecclipſe him as the laſt, who (to give him his due) was both ane ſagacious lawyer, and ane indefatigable ſpirit for ſerious buſineſſe, when he gave application of mind to it.

Thus fell the Earle of Aberdeen from this office, with as great a ſurprize to all thinking men as his advancement to it was; and tho the ſecret ſprings of this cataſtrophe and revolution ware not ſeen, nor by what ingadgments and undertakings they had recommended themſelves as more uſefull then he; yet many had ther fears that ther governement ſhould never be a white more calme and oblidging than the former ware; and the vulgar was ready to ſuſpect that a connivence at Papifts was promiſed with the introducing the Engliſh Liturgie, or ſervice books, at leiſt in the Abbey church; but ſome ſaid, the Papifts neided no more toleration then what they enjoyed already, they wanting nothing but the publick exerciſe, and ſome of our churches; but that they would verify the character of the preſervid Scots genius, they ware ſeiking to ſtage the Earle of Aberdeen, on ane act of Privy Counſell, made by himſelfe in May

1682, making shireffs lyable for any conventicles within ther bounds, if they did not diligence, ather to dissipate them or tymeously to discover them, (the making of which aēt Duke Hamilton and others did much oppose,) P. 70. and they heard ther was a conventicle in Mid-Louthian; but after a pre-cognition tane of the witnesses, it was found to have been in Tuedale-shire, onlie a penny ston cast of the March betuen it and Mid-Louthian. Its thought ther vehemence will not stop heir, for they are searching out his other malversations, and are trying if they can deprive him of the £100,000 Scots Halton was to pay him, as a part of his fyne. Befyde the conjectures of the promise of a toleration to on party, and ane uniformity in worship for all the rest; it was talked, the rigorous exacting of the oath of the Test was to be relaxed *quoad* some, and it was resolved, for a principle, that none suspected of phanaticisme should be advanced to any office or place in Scotland. This, among many former instances, may teach us how lubrick and staggering a thing the favor of Court is; and yet the disgracing the predecessor, nether deters the sucecessor from accepting, nor serves for ane beacon and admonition not to shipwrack on these rocks others had splitted on before him. But it is very just and fit ther should be such ane uncertain circulation; for beydes, that it helps to wean our thoughts of thir giddy inebriating sublunary contents, and draw up our hearts to a more noble reward, without this, vertue would starve, and its blossoming hopes and expectations would be nipped in the very bud.

This is a part of what our statfmen thought fit to discover of ther aētings above; for, as Dean Annand observed, the nation was become lately guilty of a sin which they had not been subject to of a long tyme, viz. the sin of feerecy in keeping all ther affairs very cloffe. (See thir things abridged and some farder remarks on them in my 8^{vo}. manuscript of Session occur-rents, marked I, in July 1684, page 88; and in my folio law MS. at the said tyme, page .)

While thir things ware in agitation, our country lost 2 worthy men by

death, in England, viz. holy Bifhop Leighton, and Mr. Brisbane, clerk to the Admiralty their, and it is not a fmall nation that had 2 fuch eminent men to fpare in a week's tyme.

In June and July 1684, the Imperiall forces, under the command of the Duke of Lorraine and Count Leslie our countryman, having raneountered at 2 feveral tymes, with 2 armies of the Turks, (the laft of the tuo confifting of no fewar then 35,000 men,) they did give them a fignall rout and defait, and killed 4000 janifaries, and took many prifoners; and put the reft in that fear and confternation, that they left the townes of Vacera, Virovitza, and Pefth, to the Christians; who, theirupon, to pouffe forward their victorie, befieged the city of Buda, the capitall of Hungarie, and beat them from the nather toune to the upper toune and caftle, which made great refiftance, and coft much Christian blood: (fee infra page 72.)

In August 1684, fome of Claverhoufe's troupe, bringing 16 prifoners from Dumfreis, they ware affaulted by fome Whigs at a ftrait paffe of Entirkin hill, and 2 or 3 of the King's forces ware killed. Item, Mr. Spence is, by the Counfell, tortured both with the boots and the thummikins. See thir at more lenth in my law MS. in this moneth, page , whier we have a note of the faid Mr. Spence's confeffion, with what followed theron, and how fome of theffe rebels who affaulted the King's forces at Entirkin hill ware hanged; and on Nicol of ther principles, unneceffarily and officioufly difcovered himfelfe at ther execution, and was himfelfe, for his perverfe and difloyall obftinacy, executed. Item, the new lieutenantancies, and modells of Privy Counfell into committees, to goe throw fundry fhires to inquire for the rebels. (See all this ubi fupra.)

- P. 71. On the 22 of Auguft, 1684, Mr. Alexander Burnet, Archbifhop of St. Andrews, dyed at his houfe of the Abbey of St. Andrews, having taken fickneffe 10 days before, at the confecration of Mr. Cairncroffe to be Bifhop of Brien, and was buried in St. Salvator's Church cheir on the 2^d. September theirafter. He was a man of much moderation and temper,

efpecially ſince he was laid afyde in 1669, and then again reſtored in 1675. He was ſucceeded by Mr. Arthur Roſſe, Archbiſhop of Glaſgow, not ſo much advanced for any reſpect our ſtatſmen boor him, as to remove him from Glaſgow, wheir his carriage had made him odious; and to make rounge for Mr. Cairncorfe, Biſhop of Briehen, to be Archbiſhop of Glaſgow, that he and the Hy Treafurer (whoſſe ſiſter, Jarden of Apple-girth's reliſt, he was to marry,) might governe all the Weſt Countrie at the Treafurer's pleaſure; and the Chancelor got on Doſtor Drummond, miniſter at [Muthill,] to be Biſhop of Briehen. The Biſhop of Edinburgh preached the A. Biſhop's funerall [ſermon]; and made Biſhop Sharp, his predeceſſor, a martyr for our Church, and Burnet only a confeſſor, and indireſtly præferred Sharp. He was buried beſyde Biſhop Kennedy, who ſat in King James the 2^d and 3^ds tyme, and was a good man. Some made a merry dialogue betuen them, wheirin Kennedy aſks at Biſhop Burnet, What bridges and hoſpittalls he had buildd; who bluntly anſwers, that his ſon-in-law, Rorie Mackeinzie, hindred him from aſts of charity. He was the 47^t Biſhop who ſat in that chair; his father was miniſter at Lauder.

In the end of Auguſt 1684, the King by a meſſage eaſed the Lord Roberts, Earle of Radnor, of being Prefident of his Privy Counſell, (but in teſtimony of his kindneſſ continued the penſion with him,) and put Hyde Earle of Rotcheſter in his place; and advanced Sidney Godolphin, his ſecretarie, under the title of Baron or Lord Godolphin, to Rotcheſter's office as on of the Commiſſioners of the Treafurie; and put our Scots ſecretary, the Earle of Midleton, into his place of Engliſh ſecretary, as conjunſt with Sunderland. This was the Dutcheſſe of Portſmouth's doing; and ſome thought Midleton not wiſe in changing, (tho it be worth £5,000 ſterling a year, and 3 or 4 years will inrich on,) for envy follows greatneſſe as naturally as the ſhadow does the body, and the Engliſh would ſooner bear a Mahometan for ther ſecretar then a Scot, only he hes now a good Engliſh

ally, by marrieng Brudnell Earle of Cardigan's sifter. Our office of Scots fecretary, after some debate among our statesmen, was conferred on Lundy, Treafurer depute, wheirby the Chancellor's court was somewhat more fixed and strenthened, being formerly precarious on the Hy Treafurer as of his creation; and his office of Treafurer depute was given, in the moneth of December theirafter, to Keith Earle of Kintore, who was then sworne, admitted, and received.

Supra pag. præcedenti, we see Spence tortured with the thummikins, (ane ingine but lately used with us;) now, on the 4^t September, Mr. William Carstairs is also put to the same tryall; and Comisar Monro being threatned with them, he and Carstairs discovers the bottom of this Scots plot, that ther ware fundry conferences and meetings anent debaring the Duke of York, and associating with the English for preserving our religion, and raising war, &c.; wheiron the Earle of Tarras, Murray of Philiphaugh, Sir John Dalrymple, and many others, to the number of _____, (named in my law manuscript, at the 4^t September 1684, page _____,) are apprehended and imprifoned. Polwart, and some others, escaped; and because I am full ther, I contraët it into shorter bounds heir, to avoid repetitions.

About the middle of September, 1684, his Majesty, by a letter, empowered a certain number of his Privy Counsellors, to the number of 12. with a justiciarie power, to go and hold courts in the western and fotherne shires, and divided them in 4 districts, 3 Counsellors to each court, viz. at Dunce, Dumfreis, Air, and Glasgou. The tuo principall effects ware, the P. 72. Heritors taking the Bond that themselves, ther tennents, and all on ther ground, should observe the ecclesiastick penall laws against conventicles, absence from church, resetting rebels, &c. 2^{do}, The voluntar offer of a cesse to the King: But see more of their actings, in this commission, in my folio law manuscript, in September and October 1684.

On the 27, and 28, and following days of October 1684, happened a great storme of snow and frost, with thunder and lightening and much

shipwreck of many weffells at fea; and Holland was afraid to have been drowned, ther banks was fo fattered with the fea. The fnow lay fome days at London, but had not been obferved for many years to come fo foon in the year, and thunder there is very unufuall: we fay Winter's thunder is Summer's hunger, which God prevent. This tempeft drove in alfo upon our fhoares and fand a new kind of fifch like a mackrell or herring, but with a long finout like a fnipe's beik. Doctör Sibbald fayes it is the *Acus marinus*, the fea neidle, defcribed by him in his *Naturalis Hiftoria*; they have been feen before, but are not frequent, and therfor are look't upon by the vulgar as ominous.

In November 1684, we had the fad account of the raifing the feige of Buda, (de quo fupra, page 70). This toune was perfidiously feized upon in 1541, by [Solyman] Emperor of the Turks, and the recoverie of it hes been thrice attempted fince, but unfucefffully. The beginning of this feige was promifing, for the Imperiall forces gave the Serafquier Baftha (who is generaliffimo of all the forces in Europe) a litle defait; on the news wheirof the Grand Seignieur was fo intraged, that, being in the fields, he threw himfelf on the ground, and tore the graffe with his teeth, and none, for fome fpace, durft come neir him. The Turks loft 3 Governors in the feige, but defended it with great refolution. Much of the flower of the Auftrian and Hungarian gentry ware confumed and loft heir: and the reft had much difficulty to retire, tho they had the help of the river Danube, and refolved to have converted the fiege unto a blockade during the winter, finding that provifions ware turned fo fcarce in the toune, that a pound of horfe and camell's flefh, was fold at 22 ftyvers; but their being a frefh recruit, both of men and vittualls fecretly conveyed unto the toune, the Chriftians ware forced to give over the fiege, and above 2000 of the German hórtes dyed for want of forrage and provifions. This proved a great difcouragement to the Chriftans on the on hand, fo it emboldened the Turks on the other, as repairing and compenfing the

affront and losse they suffered the former year, (supra, page 56,) in leaving the siege of Vienna, and confirmed them in their infidell argument of successe; whereon the Emperor hung out at Constantinople 3 horse taills, and Mahomet's standart, inviting all souldiers to his army nixt spring, which he resolved should consist of 300,000 men, and baited them with the promise of double pay:—so the Emperor may be swallowed up, if he get not help, and the Princes of Germany, especiallie the Protestant ones, (except Bavaria, who is Popish,) gave him no great assistance this summer, not being curious to conquer townes and countries to him. The Venetians intended to have annoyed him by sea, or some attempt to surprize the Dardanells, beside Constantinople, but that was too bold ane interprize. A Christian woman at Castelnova was taken, desiguing to fyre ther ammunition house; hir hands and feet ware cut of, and her body throwen to the dogs on the dunghill.

P. 73. In November 1684, the Duke of Ormond, as aged, desiring to be freed of the government of Ireland, the King named the Earle of Rotchefer to be Deputy ther. On Goodman, a comedian, is accused for attempting to poison the King's 2 naturall sones, the Dukes of Grafton and Northumberland, in a flask of win. Sir James Smyth is named by the King to be Lord major of London for this ensueing year. Sir William Pritchard, the late mair, porshues Du Bois and Papillion, the old sheriffs, for wrongous arresting and imprifoning him the tyme of his majoralty; and it's proven against them, that at a consultation among them, in Ruffell's house, it was so resolved on, that they might the more easly carry on ther designed conspiracy and association, and they are fyned in £1000 sterling damages for it. Titus Oats is also indyted for perjurie, in swearing that Ireland, the Jesuite, was at London the beginning of September 1678; wheras it is proven now, by many witnesses, that he was then very remote from London, over seas at Saint Omers; (vide more of Oats infra, page 84.) On Ruffell, a non-conformist minister, is accused for preaching in Sep-

tember laſt ther feditious words, “That people thronged to the King to be cured of the King’s evill, but they ſhould come to them who ware both Preiſts and Prophets, who could heall ther ſores, for we had 2 bad Kings like Jeroboam, but if they ſtood to it they ſhould overcome ther ennemies;”—tho he brought in many of his pariſhoners, who witneſſed that they ware preſent that day, but heard not theſſe 2; yet their was 2 who deponed poſitively that he uttered theſſe words. Mr. Joſeph Hayes is alſo proceſſed for having remitted £150 ſterling to Sir John Armſtrong, after he was rebell and fled to Holland, and ſo for cor- reſponding with and aſſiſting traitors. The Jury thought the probation not full, and ſo returned him not guilty.

On the 8th November 1684, was the Prefbyterian Declaration (ſo called) affixed on fundry mercat croſſes and kirk doors, by the Whigs in the weſtern ſhires, threatning, that if the curates and ſouldiers, &c. would not give over the perfeuting and ſearching of them, but brought them ſtill to publick deaths, they would not ſpare to ſhed ther blood by ther oune meafure; ſeing they could not doe it now in a legall ju- dicative way, and they diſowned Charles Stewart to be ther King. And in proſecution of this, ſome of thoſſe ruffians fell in, at Suin Abbey, beſide Blaikburne in Weſt Lothian, and murdered Thomas Kennoway and Duncan Stewart, 2 of the King’s life-guard, in a moſt barbarous manner. Some thought that Whig Declaration was but a State invention, ſet on foot by the ſouldiers, to make that party odious, and themſelves ne- ceſſar; but this convinced every on of the reality of this declared war. Three fellows called Wat, Semple, and _____ are apprehended, who reſuſing to diſoune that Declaration as unlawfull, are hanged, and carried from the bar to the gibbet, and ther bodies are ſtollen by weemen the next night.

Porterfeild of Ducholl, is alſo proceſt and condemned for treafon; 1^o. For reſetting his brother a declared traitor, for being at Pentland-

hills; 2^{do}. For concealing that Sir John Cochrane was feiking a collection and contribution for my Lord Argile, after he was forfaited. See thir at more lenth in my law manuscript, the dayes of November 1684.

In the end of that moneth, a new searck was made throw Edinburgh for thesse phanaticks and ther refetters; and any they suspected they put to difoune the Whig Declaration, and to declare they acknowledged the King's authority. Item, by a proclamation our Parliament is appointed to meit on the 10 of March nixt, wher the Duke of York was to be present; but the death of the King, his brother, interveined.

P. 74. In the end of O&tober 1684, dyed James Campbell, Earle of Loudon, at Leyden, some dayes before his denunciation to the horne as a fugitive, being cited to appear as guilty of the late conspiracie with Argile. Some alledged his death was but simulate, like my Lord Belhaven's drowning in Solway fands; but their ware clear proofs of it. And at this time, Sir James Hacket, our countreman, on of the King's best fouldiers, dyed at London of his wounds from Endymion Porter's sone.

17 Novris. 1684. Sir John Cunyghame, advocat, a person of great merit and learning, dyes at Edinburgh.

In the same November terme, at London, ther was on Dolben pershued for calling the King a Papist, and that the Duke of York had brunt the city of London. Another, called Mr. Boort of Kingston, is accused for faying Oliver Cromvell's governement was better and easier then the King's.

In December 1684, we ware troubled with the rumors of visions and apparitions, viz. a shower of blew bonnets seen in the air at Glasgou, and evanished when they came neir the ground. Item, a shower of blood at Moffet: and a litle ghoft and spectre appears at Rosneth, on of my Lord Argile's houfes, wher Athole has got his locality, and placed a garrison of 50 men; it beats the fojors sometimes, and bids them make good use of their tyme, for it shall not be long. But many of thir things are forged.

The Earle of Sunderland, on of the 2 secretaries of England, was designed to be advanced to be Hy Trefurer, so that our Earle of Middleton is at present sole Secretar of England.

Doctör Gilbert Burnet having preached at the Master of the Rolls chappell on the 5^t of November last, being the commemoration of the Gunpowder Plot, he cited ane expression of Sir Edward Cook, Lord Cheiff Justice in King James the 6^ts tyme, that he heard King James had intayled his curse upon any of his posterity who should apostatize from the Protestant religion to Popery; he being quarrelled for this, and having produced the book, licenced to be printed, and of ane famous author in great reputation, he was silenced and deprived, as not having sufficient authority and voucher for such a *scandalum magnatum*, unlesse he could shew the expression in any of King James's oune printed works. It was cited out of Judge Crook's Reports.

23 Dec^ris 1684, Mr. Rot. Bailzie of Jereswood is pannelled for hy treason, and condemned on the 24, and hanged and quartered that same day: (see the full account of this tryall in my folio law manuscript at that day, page .)

25 Dec^ris 1684, being Christmas, the Archbishops of Glasgou and St. Androis are translated, and the Bishop of Brechin consecrated: (see that also ubi supra alibi, item, supra, pagina 71.

About the same tyme, we had account that the French King, as he was hectoring the Republick of Genoa, in Italy, unlesse they would send their Doge and 4 of ther senators to Paris, to crave him pardon, (de quo supra, page 65); so he renewed his persecution against the Protestants, by cruall edicts; and particularly, he commanded thosse of the Consistorie of the church at Charenton, to give in an inventar of their revenues, and to answer by what warrand they met their; and they shewing ane act of King Henry the 4^t, he was resolved to cause demolish P. 75. that church, and send ther meeting-house to Ablon, (wher formerly the

Protestant church for Paris stood,) a great way farther off. It's reported, the learned Monsieur Claude, minister at that church of Charenton, is very sick.

In December 1684, news came by ships from the East Indies that the Tartars had of new invaded China, and overrun and conquered all that great country, and had banished the factors, and refused any commerce or trade with Europe.

ANNUS 1685.

In the beginning of this year, on James Cathcart, a pretended mathematician or astrologer, emitted a printed paper at Edinburgh, inviting any to come to him and get resolutions of any difficult questions they had to ask, such as anent their death, their marriage, what husbands or wives they would get, and if they would prosper and succeed in such projects of love or journeyes, &c., and if a woman was with child of a boy or a girl, and other such curious things; as also, professed skill to cure the French pox, and other diseases. This was a great impudence in a Christian Commonwealth to avow such an art, for if he had it by magick, then he was a forcerer, if not, he was an impostor and abuser of the people, which even is death by our 73 A& Parl. 1563; and in his paper he cited some texts of Scripture allowing an influence to the stars; as

There was also, at the same time, another printed program affixed by 2 fouldiers in Collonell Douglass's regiment, to show their skill in fencing, appealing on another at broad sword, dagger, fencion, and all the other weapons;—they wounded on another slightly:—their was a little money payed for a fight of this gladiatory joco-serious divertishment.

There fell out a great plea, at this time, betwen the Prince of Orange and the town of Dort, he claimeing the nomination of their burgomasters and magistrats, and they refuseing him the priviledge; it was managed with great animosities, but at last the Court at the Hague gave sentence in favors of the Prince, and put him in possession. What Amsterdam feared from the Prince we know not, but all ranks of people, great and small

without exception, ware employed in repairing and fortifying their out-works and bulwarks, without so much as fitting idle on the Sabbath day; and in the tyme of frost they threw water on ther ramparts, which freezing, made them so slidery that none could stand or goe theirupon, which extorted laughter from others.

The Marquis De Grána, governor of the Netherlands, his 3 years being expired, it's reported, the King of Spain, his master, resolves to continue him longer therein; tho ther bygane practise hes been for a triennial change, leif they should render themselves popular by a too long stay.

The few handfull of phanatick rebels left in the West turning very insolent, the Hy Treasurer (to put a rub on Claverhouse, who had been lately ther in December last, and could not wholly suppress them,) causes his brother, Collonell James Douglas, sele&t out of his wholle regiment 200 of his prettiest men, and by order from the Privy Counsell sends him against these rogues, that the glory of defeating them might fall to his share. And accordingly Douglas, being on day in the fields in Galloway, with a small party of 8 or 10, he meets with as many of the rebels at a house, who kill tuo of his men and Captain Urquhart, Meldrum's brother, and had very near shot Douglas himselfe dead, had not the Whig's carbine misgiven, wheron Douglas pistoled him presently. Urquhart is the only staff officer this desperat crew have yet had the honor to kill; he was brought in to Edenbrugh, and buried with much respect.

They came a company of them to Kirkeubright and killed 2 men, and caused a minister called Mr. Shaw, to swear he should never preach again in Scotland; and the Bishops offering to loose him from this oath as unlawfull, he refused ther absolution, alledging, it would have been unlawfull to have sworne never to preach again, but he had only bound up himselfe from preaching in Scotland, and tho extorted by fear of liffe, yet it was safest to keep it.

P. 76. In Januar and Februar 1684, ware held by his Majesties order, Circuit

Justiciarie courts, for voluntar offers of Cesse, and taking the Teft by heritors within the toune of Edinburgh, the 3 shires of Mid, Eift, and West, Louthians, for Fyffe, and Murray betuen Spey :—see it at lenth alibi.

On the 2d of Februar 1683, being Candlemasse day, in the morning, our King fand himfelfe ill when he rofe, and his tongue was obferved to falter when he fpoke ; and having called for his barber, a convulfion fit of ane apoplexie feized upon him, and drew his mouth afyde ; he lay fenceleffe in it ane hower and a halfe, and 12 unces of blood being drawn by a chirurgian near him, without phyfitians, for which he might be quaftioned, and couping glaffes applyed to his head, he ftarted, but relapfed again, and lay in it fome howers, and his arme at which the blood was let withered. But he revived and continued in a hopefull way of recovery to the 5^t day of Februar, being Thurfday ; and then the fits recurring, he fell fo weak that he difpaired of life, and very ftayedly compofed himfelfe to dy, called for his brother the Duke of Albany, craved him pardon if ever at any tyme he had offended him, and recommended to him the care of his Quean and children, and delivered him fome papers, and intreated him to maintain the Proteftant religion ; and took very devoutly the facrament from the hands of Do&tor Can, Bifhop of Bath and Wells, and regraited he fhould be fo troublefome to his friends as to keip them from reft waiting on him. His Quean, throw fickneffe, not being able to come to him, fent to afk his pardon and how he was ; he answered, “ Ah, poor Lady, many a tyme have I wronged hir, but fhee never did me wrong.” He dyed peaceably on Friday at 12 a cloak of the day, being the 6^t of Februar, being but 4 days ill. Immediatly the Duke of York called his counfell, and had words to this purpofe :—“ My Lords, the Croun is now defehended upon me, I doe declare I will never alter the governement as it is now eftablished, both in Church and State, and I will facrifice the laft drop of my blood to maintain the Proteftant religion, and as far as it lyes in me I will follow my late Brother’s example.” Yet his printed

speech (tho longer) is not so full and satisfactorie on the point of religion as this is. Then he took all his brother's Privy Counsellors sworn to him; and not only continued them, but by a printed Proclamation, continued all other judges and officers till he declared his farther pleasure, or considered their mismanagements. Then they with the Mair and sheriffs of London, proceeded to the proclaiming him King; and expresses were dispatched away to Scotland and Ireland with the news. It arrived at Edinburgh on the 9th at night late; and he was proclaimed King under the name of James the 7th the next morning, at the Mercat Crosse of Edinburgh, by the Chancellor, nobility, bishops, and magistrates, (see it alibi;) but peoples grief was more then their joy, having lost their dearly beloved King. He was certainly a prince (whose only weak fyde was to be carried away with the pleasure of women, which had wasted and decayed his bodie excessively, tho he was only 55 years old,) indued with many Royall qualities, and of whom the Divine providence had taken a special care by preserving him after Worcester fight in the oak, and bringing him miraculously home without a drop of blood shed; so that the Emperor of the Turks said, if he were to change his religion, he would choose to worship before any, the King of Brittain's God, who had done such wonderful things for him. A star appeared at noon day at his birth; he was a great mathematician, chemist, and mechanick, and wrought oft in the laboratories himselfe; he had a naturall mildness and command over his anger, which never transported him beyond an innocent puff and spitting, and was soon over, and yet commanded more deference from his people than if he had expressed it more severely, so great respect had all to him. His clemencie was admirable, witness his sparing of Oliver Cromwell's bones, tho one of them had usurped his throne. His firmness in religion was evident; for in his banishment he had great invitations and offers of help to restore him to his crown if he would turne Papist, but he alwayes refused it. As for his brother James, now our present King,

he is of that martiall courage and conduct, that the great Generall Turenne was heard say, if he ware to conquer the world, he would choise the Duke of York to command his army. All our 6 King James's in Scotland ware gallant men, tho somewhat unfortunat. Cauffin is impertinent, in his Holy Court, to assert that good Kings ware so rare, that the circle of a ring could hold all ther names. Many wondred to see his peceable arri-veall to the Croun of England, confidering the many attempts had been made against him by the bill of seclusion and association, wheirin the late King carried with admirable prudence and circumspection; for in April 1679, he offered to them, (if they would lay aside ther demands of debarring the lineall suceffor,) in case of a Popish King, that the Parliament should have power to reassemble and sit for six moneths, till they secured all places in Protestant hands, with many other concessions; which Shaftsberry and his party rejected. If God had in 1679, or shortly thereafter, called for the King, his brother would not have found so easie access to the throne; but that prevalent faction would then have set up Monmouth, who, in that brash the King then took, enhanced the custody of the King totally. But Divine providence hes been very favorable to him, in sparing the King till *cunctando* they had dissipat that gathering clond, and that the people ware somewhat recovered of these fears and jealousies, with which they ware tormented; besides, 2^{do}, It was a surprize throw the suddenesse of the King's death, and his Brother was put in possession, and his forces about him, ere they got leasure to think; 3^{tie}, The City of London is infinitely rich by ther long peace and trade, and so lyes quiet, leif he put forth his hand to ther treasure; 4th, Both Quean Mary and Elizabeth ware seclud by Acts of Parliament, and yet the naturall channell of suceffion was so just a plea, that they obtained peaceable possession. And the present King hath gained the reputation of a just Prince, and serious and frugall, ane enemy to all luxury and vice, addicted to trade, and ane encouradger of all seamen and souldiers, and very rich. Many address

came flocking to him from all degrees and ranks of people, congratulating his ascent to the crown, as from the Bishop of London and his clergy, from the lawyers and Innes of Court, from many burrows; as also, our Bishops and Privy Counsell, and towne of Edinburgh, sent up such addresses. He issued out a Proclamation for exacting and uplifting the tunnage and poundage with the excise, and instances that he had the opinion of his judges for it, tho some of these had only been granted during the last King's life, and had created much stir and trouble in King Charles the 1sts. reigne; but he mollified them by calling a Parliament to meet the 29th of May, which was looked on as a bold attempt, his brother, P. 78. these 4 years, not adventuring on it, thir Parliaments had turned so capricious; but he thought it as good to try them now as afterwards. See the Act continueng the tunnage and poundage, in Rushworth anno 1640, declaring it to be given by way of favor, its page 1382; see infra more p. 80. For sparing his revenues, he restricted his brother's 12 bed-chamber men to six; and in place of his brother's naturall sone, Dom Carlo, Duke of Lennox and Richmond, by the Dutchesse of Portsmouth, who was master of the horses, he puts in Collonell Leg, Earle of Dartmouth; and creates Laurence Hyde, Earle of Rotchefer, to be Hy Treasurer of England; and the Marquis of Halifax to be President of the Privy Counsell; and Hyde, Earle of Clarendon, to be Privy Scall; and Somersfet, Duke of Beaufort, formerly Marquis of Worcester, to be [Lord President of Wales.]

On the 14 of Februarij 1685, the late King is privily interred in King Henry the 7ths. Chappell at Westminster, his Royall Hynesse the Prince of Denmark (who is now created a Privie Counsellor,) being the cheiff mourner. It was alledged, to have been the King's own desire to be so interred; others said, it was unfit to make a publick solemnity, unlessse it had exceeded in splendor Cromwell's funerall, which would have been very expensive. These restless and lying phanatiques whispered, they did not

love his sudden buriall, as if it had looked like fould play. Then ther was ane order to all the churchmen, to raze out with a pen the name of Charles, in all ther service books, and infert James and Marie, and ther Royall Hynesses [Mary] Princeffe of Orange, and Anne Princeffe of Denmark. The Lord Churchhill is sent away Ambassador to the French King, to give him account he had succeded to the Croun. And the Dutcheffe of Portsmouth is desired by him not to part from England till the satisfy such of his subjects as are hir creditors. She was likewayes transporting 50,000 lb. sterling in gold and jewells privatly; but the customers seized on it: shee has a fair estate before hir already. I forbear to infert heir what passed in Scotland on this emergent and revolution, and anent the calling a new Parliament to meet with us on the 9th of Aprill, &c.; because I give a full account of them in my folio law manuscript, in this moneth of Februar 1685, and so shunns repetition heir.

Charles the 2^d. fell with few or no prognosticks or omens praeced- ing his death, unless we recur to the comet in 1680, which is remote, or to the strange fishes mentioned supra, page 72, or the vision of blew bonnets, page 74; but these are all conjecturall: vide supra Holwell's Prophecies in his Catastrophe Mundi, page 55 supra; item, the double of Sir James Galloway's prophecies beyde me; wher he sayes,

J. R. shall into saddle stryde,
And furiously to Rome shall ryde,
His principles no longer hyde, &c.

In none of which ther is anything for a rationally man to fix his belief upon. The King, the Sunday immediately following his brother's death, went openly to his Quean's popish chappell, and heard Masse, and declared, that when he was a subject, he had that respect for the laws of England, that he would not break them, but now as King, being above the executive force of the law, he owned his religion, which was judged ingenuity. Some Popish Peers and others having petitioned

him for the publick use of a church, he denyed it, and told them, they beguiled themselves if they expected greater freedom from him then they enjoyed under his brother. But in regard of his oune private perswasion, [as] he could not well exerce the ecclesiasticall authority inhaerent in his croun, he granted a full commiffion, under the broad seall of England, to the Bifchops of Canterbury, London, Chester, and Ely, who is Dr. Turner, to be his delegats in all church affairs; which was the more noticed, that London and Chester ware for the bill of seclusion against him. This was better lodged then by King Henry the 8^t, who named the Lord Cromvell, a layman, his vicar generall *in spiritualibus*, when he shoke of the Pope's supremacy. But many thought our King could not delegat any intrinsick power, or church jurisdiction, only to 4 Bifchops privative of the rest, it being competent to the wholle body. Then, to discourage debauchery, the

P. 79. King emitts a proclamation against drinking, swearing, &c., and declares he will retain no servants guilty of anie debaucherie; and to give his subjects a good example, he dismisses Madame Sidely, his Quean's waiting woman, with whom he had been familiar, allows her a pension, and discharges hir the Court; and confessed, that prophanity was the great blemish of his brother's reigne, and he would not permit it. His counsell declares, by ane act, reversions and surviveances of offices void and illegall. The Mareshall de Lorge is sent over from the French King to condole his brother's death, and Monsieur Tilly from the Marquis de Grana, governor of the Netherlands, and sundry persons of honor from the princes of the royall blood of France. But our King hearing how the French King had received Churchhill, he payes him in his oune coin, and receives Lorge sitting in his chair of state in the gallery with his hat on; which some French resented, tho it may be meer policy, to give it out that ther is a misunderstanding between the 2 kings, to please the English. The last King admitted embassadors without any pomp or ceremony, to speak him standing in his bedchamber with his hat of.

The change upon the face of the English court is very remarkable : in the last King's tyme mirth, playes, buffoonerie, &c. domineered, and was encouraged ; now, ther is litle to be seen but serioufnesse and bufinesse, for *Regis ad exemplum totus componitur orbis* : he is grave, and of much application to public affairs ; and the same imitation also holds in religion ; Jeroboam turns idolater, the wholle ten tribes of Israell fet up idolatry, and and desert God's true worship, so ane idolatrous prince is a great misfortune ; yea, Israell was punished for ther king's fault, viz. David's numbring the people ; (see Camerarij *Horas Subficivas, seu Meditationes, tomo 1, cap. 66.*)

A proclamation is isshued out, that the King designes he and his Quean should be crowned on the 23 of Aprill nixt, being St. George's day ; and ordaining all the peers and peereffes, (the peereffes most attend the Quean in scarlet robes and coronets) with the Mair, (who is to be cupbearer that day,) and aldermen of London, &c. to attend the solemnity, and all who by ther tenures and holding of lands, are bound to homages or particular services on that occasion ; as the family of Dinmocks (mentioned by our Craig, Feud. lib. 3^{to}. page 314, and Baker in his Chronicle, page 140, life of Richard 2^d., and 769 at K. Charles 2^{da}. coronation,) who, as the King's champion, appears that day on horseback, and throws doune the gauntlet, and appeals any to combat who will question the King's right to the crown. What the coronation of the Quean imports is doubted, if it will make hir regent after his death. A massie crown of gold is making for hir. Our Commons took up a jealousie that the Scots crown was to be sent up to Windsor, that he might be also crowned with it. When our Mary was espoused to the French Dauphin, it was demanded, that our matrimoniall crown might be sent over to Paris to crown hir and him *jure mariti* their, but it was refused. This vulgar fancy was as true as the other, that the King was sending doune from Westminster our fatall marble chair, wheirin our kings of old ware crowned at Scoon, and was removed hence by Edward Langthanks, King of England, in our Balioll and Bruce's tyme,

whereof the prophecy runs, hitherto verified, “*Ni fallat fatum Scoti, quocumque locatum, &c.*” The New Help to Discourse, pag. 105, says, this marble chair is the stone Jacob slept on going to Padanaram.

It was more dubious how his Majesty would behave with the Coronation Oath, obliging him to maintain the Reformed religion of the Church of England; if it would be altogether omitted, or a new general Oath framed. I know not if, when he touches to cure the kings’ evil, he admits a Protestant bishop or a Popish to read the liturgy and prayers used in his brother’s time on that occasion, or if he touches without any prayer at all.

Wrights are issued out for the meeting of the English Parliament on the 19 of May, and loyal persons in several places are chosen for members of the House of Commons, tho’ the phanatique Whig party were very busy to influence the elections; but the King came to have a great interest over the townes, by annulling their charters, and naming their Mairs.

4^{to} (2^{do}) Martii 1685. His Majesty’s indemnity to the Commons of Scotland arrived, and was proclaimed; (see it in my law M.S. at large).

Sir Harbottle Grimston, master of the Rolls, a very old man, and Speaker of the House of Commons at his late Majesty’s returne in 1660, dyes now, and is succeeded by [Sir John Churchill.]

P. 80. The Queen Dowager of Denmark, mother to Prince George, our present King’s son in law, dyes at this time.

The Prince of Orange assures our King, his father in law, that he will not converse with nor receipt the Duke of Monmouth any more; so that he, Argile, Melvill, Stairs, &c., will scarce look on themselves as secure any more in Holland. The Marquis de Grana sent to the Duke of Monmouth and the Lady Wentworth’s lodgings in Bruffells, and commanded them to remove.

Two of the Peers of England, viz. the Duke of St. Albans and Earle of Carnarvan, had a great debate at the Council board, which of them

had the beſſright to be maſter of the King's haulks; the caſe was argued by ther learnd counfell.

Many prided poems came abroad on the King's death, but Flatman and Dryden appeared to be the beſt.

Floyd, Biſhop of St. Afaph in Wales, having laſt ſummer published a book anent Church Governement in the Ile of Brittain, he, out of æmulation, curtaill our Scots hiftorie as fabulous, and will not allow us to have come from Jeland and ſettled heir till the year 500 after Chriſt. In March 1685, came furth Sir George Mackenzie, his Majeſtie's advocat's printed Anſwer to this book, full of ſmart and polite learning, ſhewing how injuriou the Biſhop is, not only to our wholle nation, but to our kings, by this calculation loping of 45 of ther royall anceſtors, and ſeims to reſuſ him with great conviction and ſatiſſaction, if a Scots teſtimonic be not *nimis amicum* in this caſe, and ſo to be ſuſpected. The King's advocat got great helps from others in the compiling this book, and amaſſing ancient hiftorians and citations.

His Majeſt having thought fit to call up our Chancellor and Treafurer to conſult wh ſhould be his Commiſſioner to our Parliament, and to give them his private inſtructions theiranent, they parted on the 7^t of March, and arrived a London on the 14 March theirefter; (ſee this at more lenth alibi.) Our Archbiſhop of St. Andrews having, in the Biſhops' addreſſe to the King, craved leave to goe up, and getting permiſſion, went away ſome days before our great men to Court.

Sir George Wakeman, phyſitian to the late Quean, and who was accused by Titus Oats (who is now keiped in irons till he be tryed the nixt terme, de quo ſupra,) as having undertaken to poiſon the late King, and eſcaped by and ignoramus jury; now, on the news of the King's death, he returns openly back to England with his lady and family.

Having red the addreſſe of the barrifters of the Inner Temple to the preſent King, they thank him for continueing the uplifting the cuſtomes,

and tunnage, and poindage, for 2 reasons; 1^o, That without them the necessities of the Government cannot well be supported. 2^{do}, That if the exacting of them were delayed till the Parliament fate to renew them, ther should, in that intervall, be more export and import then should underfell all already imported, (being custome free) and then would serve the nation for many years, which would, during all that tyme, diminish that branch of the royall revenue; and that ther kings always keiped possession theirot, and ware never questioned by the Parliament but in the rebellious year 1640; for its a maxime of the common, *The faurus regis est vinculum pacis et bellorum nervi*, a rich king keeps his peeple in peace and aw, wheiras a poor prince, &c. can nather protect them, nor is feared.

In our gallery of the Abbey their is fet up the pictures of our hundred and eleven Kings since Fergus I., 330 before Christ, which make a very
 P. 81. pretty show, and the eminenter of them are done *ad longum*. They have guesfed at the figure of ther faces before James the I. They got help by thesse pictures that ware used at Charles I's coronation in 1633, wher they all met and saluted him, wishing that as many of ther race might succeed him in the throne as had preceded him.

The King having a particular kindnesse to the Duke of Grafton, on of the late King's naturall sones by Barbara Williers, Dutcheffe of Cleveland, because he ordinarily ouned the Duke of York's interest against Monmouth, he created him governor of Suffolk, which formerly belonged to the Earle of Arlinton, his father in law; and did order North Lord Guilfoord, keiper of the Great Seall, to ishue furth a writ to call him to sit in this Parliament, tho by his age of minority, within 21 years, he was not yet capable in law.

The King erects a Court of honor wher all such questions and debates may be legally determined, and declares, if any presume by duells, or other wayes, to take reparation of injuries, they shall be punished with the greatest rigor. See Rushworth's Historiall Collections, tome 2 part 3^d, anno 1639, page 1054, anent such a Court of honor in King Charles the

1sts tyme voted a greivance, and some decifions theirin ; as also his account of the intended open duell betuen Ramfay and the Lord Rae, anno 1631, page 112 ; item, anno 1638, betuext Claxton and Lilburne ther tryall by battell, page 788.

In the end of March 1685, some of the discontented people who fled from our Western circuit to Ireland, being now pershued ther to take ane oath, they, to the number of 100, forced some boats and came back to Scotland ; (see of it in my folio law manuscript, at that tyme, page .)

The King having thought fitt to make the Duke of Queensberry, treasurer, to be his Commiffioner to this Parliament, and given him his privy instructions, he honored him and our Chancellor by making them both Privy Councillors in England ; and after a short stay they parted, and arrived at Edinburgh on the 8th of April 1685. Tho the Lords Carnwath, Aberdour, Lundoris, &c. ware feiking to carry the purse before him, yet he gave it to his 2^d sone : it hes £5 sterl. a-day of salary, and he hes £50 sterl. per diem. The King hes sent down some rich furnitor to remain in his palace of the Abbey : Mr. Auchinmooty is keiper of the wardrope with us. They say the Commiffioner hes power to creat 12 knights ; former ones had but 6.

We heard, that the Maior of the toune of Newcastle under the Line, in Staffordshire, did solemly put on a bonfire and burn therein the bill of seclusion, passed by the late House of Commons against the present King, with the black box anent the late King's being married to the Duke of Monmouth's mother, and some of the votes of the late House of Commons, which smelled of disloyaltie against the late King. On is found guilty of treason in England, for saying the Duke of Monmouth was righteous King.

On the 18 of April, being the vigil before Easter, the King washed 52 poor men's feet, according to the number of the years of his oune age, and he touches severalls for the King's evill. He emits a new severe Pro-

clamation againſt duells, and certifies, whoever intices another, or brings a ſecond with him, he will pardon none of them.

On the 23 of Aprill, being St. George's day, the King and Quean were crowned at Weſtminſter, by the Archbiſhop of Canterburie, and took the coronation Oath, and heard Turner, the proteſtant Biſhop of Elie, preach a fermon before them; (ſee the formula of his coronation, inthronization, and inauguration, in print beſyde me.) Their ware ſcattered amongſt the people about £500 ſterling's worth of coronation medalls, made of purpoſe, with fundry emblems, of ane eagle trying hir young ones by the fun, &c.

- P. 82. It is very far ſhort of the ſplendor of his Brother's coronation in 1660, for it wanted the ſolemne cavalcade from the Tower through the city (which I believe would have been peaceable enough,) to Weſtminſter, with the many triumphall arches by the way, (the deſcription wheirof ſee in print beſyde me, as alſo in Baker's Chronicle, page 769.) Its like it was to ſhun expence to himſelfe and the nobility, whoſe fortunes are low. See the ancient forms of the Engliſh coronations in the life of Richard the 2^d, in Hollinſheed, and Baker page 140; and alſo anent the challenge given by Dinmock, the King's champion, ſee Craig, Feudorum libro 3, cap. 1^o pag. 314. It hes not been ordinar to crown Queans, unleſſe wheir they ſuceid failzing of male iſhue; yet I find Henry the 8^t complimented Anna Bullen, his lemman, and cauſed her be crowned. By ane aſt, the King declared that the Quean, on hir coronation day, would releaſe all priſoners for debts within £5 ſterling, by paying them, wheirby 80 ware liberat in Newgate. Shee was not crowned with the imperiall croun of the kingdome of England, but by a golden croun, made of purpoſe, worth 300,000 lb. ſterling; the jewells ſhee had on hir ware reckoned worth a million, which made her ſhine like ane angell. All the peereſſes ware richly attired, and with ther coronets on ther heads. The King intended to have publiſhed a pardon, (as is uſuall at coronations,) but he forboor it till he ſhould doe it in Parliament. See the forme of our Scots corona-

tion, how it was performed at Scoon in 1650 to King Charles the 2^d, with Mr. Ro^t. Douglass his fermon, all in print beyde me. Item, King Charles I. coronation at Halirudhoufe in 1633, in Rushworth's Collections at that year. They say, our present croun is not the ancient croun of Scotland, but was casten and formed of new by King James the 5^t, and that, at our coronation in Scotland, (when our present King's affairs will allow him to come and receive our croun,) he intends to revive our ancient order of the Knights of St. Andrews or the Thriftle, which hes sleeped in defuétude since the said K. James the 5^t's death: see it mentioned in Monsieur d'Avitie's World, tome 1, page 331, et seq.

The English coronation oath is not verie special as to the Protestant or Popish religion, but runs in somewhat general termes. Of the antiquity of coronation oaths, see remarks made by me alibi, from J. Taylor's Ductor Dubitantium, and others. Ther was above 1000 dishes of meat at the feast, which followed the coronation, and many curious fyreworks; and in many tounes of England the magistrats used a solemnitie and publick expressions of ther joy that day. At the coronation, the Te Deum and Veni Creator ware sung; but the narrative does not tell whither thir anthems ware sung in English or Latin, after the popish manner. Among other verses made on this coronation, (to see which shew many crouded from France and Flanders,) Elcana Setle, once the Whigs' poet, now fallen of, made a heroick poem, wher he brings in Shaftburry, Effex, and Ruffell, (whom he calls G. Burnet's reforming pupill,) gnashing ther teeth and shaking ther snakes in hell, at the news of the Duke of York's coronation as King, and calls Monmouth,—that skulking, litle, wou'd-be-King.

Eodem 23 Aprilis 1685, did our Scots Parliament begin and ryde; but because I have sequestrat a 4to. MS. apart for the passages and occurrents of this our Parliament, (wher they may be red at great lenth,) with a litle abbreviat of them in my folio law MS. in April 1685, theirfoir, to avoid repetitions, I shall forbear to say anything more heir.

P. 83. A rumor coming from Holland, that some ships were preparing their with powder and armes to land in Scotland;—this put our statfmen in ane apprehension from Argile, and to put the country in a posture of defence. See it in my law MS. page ; see infra more of this, p. 85.

John Inglis, captain of a troupe of dragouns, lying in garrison at Newmills in the West, a house belonging to the Earle of Loudon, having tane some of these phanatiques prisoners, and tho he had power to execute them, yet keeping them alive, some of ther desperat comerads breaks in upon the garrison, and rescues them to ther great shame; for which Inglis was degraded, and his place was given to Mr. George Winrahame, a bigot papist.

In April 1685, the Doge of Genoa and 4 of the Senators arrive at Paris, to complement that King, and crave him pardon for assisting Spain against him. (See of it supra pages 65 and 74, and the next page.) His Embassador also gives in a memoriall to the Spanish King; bearing, that he hears that the Duke of Bavaria is going to marry the Archdutchesse, one of the Emperor's daughters; and that his Catholique Majesty of Spain resolves to bestow the Spanish Netherlands on Bavaria, at least to make him Governor thereof; which, if he doe, he will esteem it a contravention of the 20 years' truce made betwixt them, seeing the state of the Netherlands has not to be innovated during that tyme, especially by transferring them *in potentiorum adversarium*; and that he would esteem it ane invasion on his sone, the Dauphin's right of succession to the Netherlands by his mother, and of his grandchild the Duke of Burgundie's right, in case the King of Spain should happen to deceasse without children; and therefore he would resent it to that degree, that tho he would keep the truce in Flanders, yet he would carry the war into the bosom of Spain. The Spanish King having advised with his counsell, returned this answer, that what he heard was news to him, and he resolved firmly to keep the peace. The French Embassador took it for a tacite allowance, and concession of the Dauphin's right, that

the Spaniard took no particular notice thereof in his answer, which is catching at shadows. The whole 17 Provinces, if in one hands, as they were in the tyme of the old Dukes of Burgundie, wold make a great kingdom, if the Emperor bestowed the tittle of it on Bavaria, or any other.

The Princes De Conti and Roche-fur-Jon, and fundry other of their nobleffe, from a principle of gallantry, contrare to ther King's prohibition, have stollen out of France, and gone to Hungarie, to assist the Emperor against the Turk.

The dyet of the Estates in Poland meet at this tyme, and are divided. Some moved for ane act of exelusion of any from their crow who marries with a forrain prince, becaufe it gives other kingdomes a great interest and influence among them; as they find by ther present king Sobietzkies being married to a French ladie.

A Scots minister called Mr. Alexander Taylor, [Tyler] curat at Kinetles, in Angus, hes printed at this tyme a large poem in English, of all the memorable acts of John Sobietzki, King of Poland, and particularly his relieving the siege of Vienna, supra, in 1683; with a Latin præface to him, and Prince Alexander, his sone.

In April 1685, a shoemaker's wife in the toune of Selkirk, in the fouth of Scotland, brings furth a monstrous child with 2 heads, 2 hands, 2 feminine privities, and under that had the shape of any other child:—see Buchanan, in our chronicle, anent the extraordinar monfter born in King James the 4th tyme, which lived till it was 28 years old; likewise remembered by Philip Camerarius in his *Meditationes Historicae*, or *Horæ Subcivica*, tomo . . . , page . . .

In April 1685, the Secretary Lundy, and Tarbet Clerk Register, were p. 84. created Vicounts by the King; (of which see more alibi, in my folio law manuscript.)

16 Aprilis 1685. Our late King's statue was erected on horseback in the Parliament Cloffe at Edinburgh; (see notes on it, in my folio law manuscript, at that day.)

The Dutch embassadors who ware sent over to England, to congratulate the King's arriveall at the croun, when they shipp came by the fort at Gravefend they freiked their fail, but after they had passed they put it up again; wheirat the Governor of the fort being offended, he shot at them, that they might lower both fail and flag; this they took as an affront and indignity, and would not come up the river till they had acquainted ther masters the Stats theirwith. It was alledged, within the King's river they could not carry ther flag. However, being to treat about the affair of Bantam, (wheir the English suspected the Dutch had stirred up the native Indians to dispossesse them,) this difference was composed.

When the Duke of Genoa, &c. (de quo supra, pag. praeced.) ware ready to make ther appearance, and get audience, the King of France had notice from letters intercepted by the Duke D'Estrees, that ware directed thus, To the Most Serene Doeg and Senate of Genoa; wheirat he stormed, and said, If they had 2 Dukes, one at Genoa, and another at Paris, he would have both come and submit to him. The Duke answered, that, by the constitution of ther Governement, when the Duke was absent, the power of the Republick devolved on the Senate, who choised a preses. He being at last appeased by the mediation of the Pope's nuncio, and others, they ware admitted, and made a very splendid appearance, the Duke having 5 coaches of his owne, and being in a crimson velvet gown, and was looked on as a man of fence and good parts. The French King having satisfied his ambitious humor, gifted each of them a gold chain and some tapestrie.

The terme being set down at London after Easter, Titus Oats is tried for perjurie before the Lord Cheiff Justice, Sir George Jeffries, who is now made by the King a Lord Baron of Parliament; (see a litle of this supra, page 73.) His tryall began on the 8^t of May 1685. Ther was 47 witnesses led against him, wheirof only ten ware Protestants; they

swore, that from August 1677, till July 1678, Titus Oats was all that tyme at St. Omers in Flanders, and they saw him their, and consequently he had perjured himselfe, and falsely taken away the lives of Ireland, jesuite, Grove, Pickering, and many others, by swearing he was present with them at London these moneths, and at their consults, wher they devised the death of the late King, and the destruction of our religion, and carried them from chamber to chamber to get ther hands and subscriptions theirto; as also, they bound another perjurie on him. He subpoena'd sundrie witnesses, members of the last Parliament, to prove that both the Houses of Peers and Commons had found the said Popish Plot proven, and that it depended not single on his evidence, but many others had concurred with him in ther depositions. Yet this proceedor with Oats (whatever willian he is) seemed strange to some; for, 1^{mo}, That ther was such a plot as he discovered is evident beyond all contradiction, (tho some of his circumstances might be added,) by Coleman's letters, Edmondbury Godfree's murder, the notes of Parliament, the late English Chancellor's confession, &c.; and that being never yet disproved, why the author of the discovery P. 85. should be thus triumphed over by the Papists. 2^{do}, 37 of the witnesses are Papists, his inveterat mortall enemies. 3^{tie}, How could they positively depone, that, for the space of a year, he was constantly at St. Omers, and never in London, for the distance betuixt the 2 is not so great, but in a very few days, yea, in on week, he might be in both.

His sentence, on the 16 of May, was, first, to be degraded from his doctorall and priestly office and vestments; 2^{do}, to be 2 severall days scourged; 3^{tie}, to stand 3 severall dayes on the pillory; 4^{to}, to pay 1,000 merks sterling fyne for each perjurie; 5^{to}, to suffer perpetual imprisonment; 6^{to}, to be pillorized annually 3 tymes a year. This great severity was execute on him because ther law does not punish perjurie with death, (tho this ignominious sentence to ane ingenuous spirit is worse then hanging;) of old it was capital; then, the cutting the tongue; at last, they mitigated it to whip-

ping and pillory. This rigor was tryfted with the fitting doune of the Parliament of England. He boor this with ane impudent courage, and mocked the court, and boldly told, he was fuffering all this for the truth, ouning all he faid was true. Our printed relations boor, that the common people ware furiously intraged againft him, calling him 100 bloody rogues and villians; which, if reall, is a true charaeter of that beaft the populace, for within theffe few years they ware crying him with Hofanna's as the great favior and preferver of the nation; now the mobilee cryes Crucify, &c. However, it appears all the vulgar did not take pleafure in his fuffering, for fome of them brook the pillorie wheir he had ftood; for which feveralls ware apprehended and punished. It was alledged, the hangman favored him in the 1st whipping. His fifter gave in a petition to the Court of King's Bench, to remit the 2d fcourging; but the anfwer fhee got was, he deferved to be hanged, and he fould have no favor. (Vide infra, page 104, ane aet againft perjurie, and Dangerfield's cafe.)

On the 15 May 1685, we had ane account from Orkney, by Mr. Murdoch Mackeinzie, bifchop ther, and others, that the late Earle of Argyle had touched their with 3 fhips, (de quo fupra, page 83;) and having fent Mr. William Spence, who lately was tortured by the Privy Counfell, and on Mr. Blacketer, ane outed minifter's fone, on land to try the pulfe of the people, and they being apprehended and brought in prifoners to the Caftle of Kirkwall, he fhoot of a long boat with 50 men, and they feized on 7 perfons, 3 gentlemen of the name of Grahame, and brought them prifoners to his fhips. Then he wrote a letter to the Bifchop craving back his tuo men, otherwayes whatever ufage they met with, the hoftages he had tane by way of reprifeall fhould meit with the fame. But the Bifchop refufed; wheiron, he took a vefsell lying ther with meall and money, and fayled about the North Iles; and within a few dayes we heard he was come towards his oune country, in theffe Western Seas, betuen Scotland and Ireland, and had firft landed at the Caftle of Dunftafnage, (wher our marble

chair long flood;) then he entred Kintyre, and Campbeltoun, and the Ile of Bute, and plundered meall and cattell and all that he judged for his use. It was reported, he had about 500 weill appointed men with him in armes, and about 20,000 stand of armes for horse and foot, for he expected many both in England and Scotland would run in and joyne with him; and he emitted 2 Proclamations and Declarations; on, a very long deduction of all the grievances thir nations hes groaned under thesse 20 years, with a specious pretence of religion, now made threadbare by all rebells. The shorter on shews, he is only come to recover his estate unjustly tane from him, and to vindicat them from the usurpation and tyranny of the present King; and in the long on he insinuates, his brother the late King was dispatched P. 86. to the other world by unlawfull means, and that he is restored to his estate by the righteous air, meaning Monmouth, and therfor requires all his waffalls to come in to his assistance. Campbell of Auchinbreek (who holds his lands to be Lieutenant Generall to Argile, but this will not allow him to help Argile against his King,) came in to him with 200 men; for which a summons of treason is raised against him in order to his forfaitor. Argile, minding the former animosities and discontents in the country, thought to have found us all alike combustible tinder, that he had no more adoe then to hold the match to us, and we would all blow up in a rebellion: but the tymes are altered, and the people are scalded so severely with the former insurrections, that they are frightened to adventure on a new on. The Privy Counsell, tho they despised this invasion, yet by proclamations they called furth the wholle heritors of Scotland, as weell above 100 lb. Scots of valued year as below it, with the militia and standing forces, which will make a great army, upwards of 60,000 men; but are to be divided in 3 camps, on at Selkirk with Claverhouse, to secure against any insurrection in the borders of England, another at Stirling for the Hylanders, and a 3^d. at Glasgow. The Marquis of Atholl was commanded away to Innerarie to assist Ballachan, who had 500 men theirabouts, and the Duke of Gordon was

to joyne him with his men ; and by a speciall commiffion from the King, the Earle of Dumbarton, brother to Duke Hamilton, a ftri&t papift, was employed (without taking the Teft,) to command his cheiff with Dalzeel by a cumulative power ; for in a civill combuftion, all hands may be fett a work to extinguifh the fyre, whither Papift or Proteftant, tho it armes our old enemies the Popifh faction. This hoft and expedition puts the country to a waft expence, more then 2 year's ceffe, and all againft ane inconfiderable enemy ; but our ftatemen's fear was not fo much, what Argile could doe himfelfe, (tho many country people flocked into him,) as the apprehenfion of the difcontented party in England fhould rife with him under the Duke of Monmouth and Lord Gray, to his affiftance. But the English Parliament complying with the King's demands, and the accord betuixt them, feimed to cut of much of his hope this way, to his no finall difappointment. It was much debated, who had contributed to the outreiking Argile in this desperate interprize ; for the 30,000 lb. fterling he had been long feiking from England, and which, by the difcovery of the plot ther in June 1683, ceafed, would not have done it. Some fufpected the Count D'Avaux, the French ambaffador at the Hague, whoffe mafter finds this King of a harder metall then his brother, and is willing (tho they be both of on religion,) to cut him out work at home. Others blamed the Eaft India Companies in Amfterdam, becaufe of our King's demands for Bantan. Some named the Duke of Brandenburg. Whowever, ere any rationally men would trust him with fo much money, armes, and ammunition, and before fouldiers would follow him, he behooved to lay a probable plan of his defigne, and convince them it was feafable, elfe they would not part with ther money, nor venture ther lives and fortunes ; and Argile had alwayes the reputation of fence and reafon : and if the Whigs at Bothuel-bridge in 1679, had got fuch a commander as he, it's like the rebellion had been more durable and fanguinarie. But now the country is fo frighted and wearied, that it is no wonder they have no propenfit to

join with him; and theſe wild phanatiques in Galloway do even ſtill rail on him, as on who had brok ther Covenant and joynd with the late King and his governors to oppreſſe them, and would have him firſt giving ſignes of his repentance, ere they concur with him; but the truth is, they are inclinable enough to run in to him, but the forces lying amongſt them ſtops and interecepts ther paſſage. Argile did indeid ſend the fierie croſſe (which is a long ſtick fyred at the end, ſet upright in ſome hy conſpicious place, to raiſe the country according to ther cuſtome,) throw his hylands; but ther came not in above 2000 men to him, and many of them joynd throw fear. His lady, and my Lord Neill his brother, and his ſone James, ware ſecured priſoners in Edinburgh, and they ware threatned, that as he uſed the Orkney priſoners, ſo ſhould they be uſed: he had with him 2 of P. 87. his ſones, Charles and John. They report a pleaſant ſtory of on of the Orknay captives, called James Stewart; that he told Argile,—‘I know you have a reſponce that you ſhould have in your company James Stewart, of the blood royall, which you thought would be James Duke of York, the preſent King; but your vizard hes deceaved you, for I am of that name, and deſcended of the Earle of Orknay, who was King James the 5th. baſtard ſone.’ Spence and Blackater ware brought to Edinburgh from Orknay by ſea, on the 6th of June.

At the firſt rumor of Argile’s coming, it was generally concluded to be but a politique ſtratagem of our ſtatſmen, made to give a cullor to raiſe our forces at the ſame nick of tyme with the doune fitting of the Engliſh Parliament; but when it proved reall, our poſture of readineſſe was thought weill tryſted to overaw the Engliſh Parliament. Argile’s firſt cryme was look’t on by all as a very ſlender ground of forfaitor; but hiſ conspiracy and rebellion ſince hath expounded what he meant by his Explanation of the Teſt too weill. And this invaſion of his hes cauſed the pannells before the Parliament, eſpecially the Ceſnocks, to be the more violently infiſted againſt, and ſtopped the mouths

of fuch as otherwayes would have ouned them. Captain Mackeinzie of Siddy, having notice of a rendevouz Mr. Charles Campbell was making in Kintyre, he laid himfelfe in ambuscade, but being difcovered, he only killed 2 or 3 of them, and took as many prifoners.

About the 4^t of June, Argile hearing fome of the King's men of war had come to the West Seas, over againft Air, he drew in his fhips, to evite drowning or burning, into Iland Greg, a narrow creik in Cowell, near Lochfin, and fortified it, fo that it would be eafie with his cannon to ftop all acceffe. But the news of this coming to Edinburgh, the ftatfmen thought he had deferted the fea, and now would fudy to furprize fome ftrenth at land, as Dumbarton or Stirling; wheiron the militia of Edinburgh was instantly commanded to march to Stirling, tho it was Sunday. Sir John Cochrane with fome of his men landed at Greinock, and being charged by Houfeton, Carfeburn and his nephew, my Lord Cochrane, and the gentry of that country, he retired, and they fhot ther piftolls after him; but he difcharging a canon amongft them, they fled in great haft and diforder, for it is not to be expected that our heritors and militia (the moft part of whom are dropping away already, and refufe to fwear to ther cullors,) will engage in any action farder then as a referve, and to make a show, for the brunt of the battle moft ly on the Hylanders and the ftanding forces; but they being few, not 3000 men, and difperfed, cannot be in all places, nor weill fpared from the pofts they are in, which, if they ware evacuated, the difcontented people ther might rife in armes upon ther back. On of Argile's fhips chafed up a yaught of the King's (for they cannot indure fhot) up Clyde, till it got fhelter under Dumbarton Caftle, and yet it was in fuch diforder it had few or none of its guns mounted and litle amunition, of which and of armes ther was fearcity enugh; but the King, in the Tygar frigate, with Weft and Bourn the two Englifh witneffes, hath fent doune a great quantity of powder and armes to Edinburgh Caftle, to the value of 6000 lb. Sterling. We had likewayes ane exprefse

from England bearing, that the King's ships had taken at Harpoole, in the West of England, a ship going to joyne with Argile, with 5000 stand of mo armes in it, (but Argile had already mo armes then he had men to give them to, unlesse they be designed for some infurrection in Wales, or some other place in the West of England, wher they are much addicted to Monmouth, and disaffected to this King,) and some Dutch officers. This may give great light (if true) to discover who furnishes this rebellion abroad. Some maliciously said, it was one of the King's owne ships that was taken, and he only gave it out to be a ship going to the rebels, that he might discourage any infurrection in England, (seeing the King's good success,) or any mo to joyne with Argile. Ther was a warrand of our Privie Counsell, that such a number of the militia should be picked out as p. 88. ware the prettiest men, and best armed, and to take the 20 dayes pay or loan money from the rest and dismiss and send them home bare. But Erroll's men at Aberdein made an uproar and mutinie, and said, they had hearts to fight as well as they that ware choisen, and would nather returne nor quite ther pay; and being commanded by Boyne to lay doune ther armes, they refused, and discharged ther fuses and killed some of ther neihbours. These northern shires come hither so willingly, in hope of robbing and spoiling; but our southern militia men hardly waited on this reforme, but many of them threw away ther armes and ran home, and they will never be got obedient to discipline, and orderly, till some of them be hanged, for fleeing from ther cullors, and be a terror and example to others. By a Proclamation the exportation of oats and meall was discharged with us, that our armie might be the better served; yet Kelburne, and the other comissars of the army, did cruely exact 12 and 13 lb. for the boll of meall. (See more of Argile's affair infra, pag. 91.)

In May 1685, dyed with us the Earle of Hadington, a worthy gentleman of much hopes, to the greiff of all honest men. The Prince Palatine of the Rhyne dyed also at this tyme, a young man, our King James's great

grandchild by his daughter. They say, the Duke of Newbrugh, as nearest agnat, (but is a papist, which is sad in a protestant country,) takes possession of his dignity and estate; but his sister, the Dutchesse of Orleans, expects the moveables. Princess Anne of Denmark, our King's 2d daughter, is a little after this brought to bed of a daughter, baptized Mary after the Queen's name.

On the 19 of May 1685, fate doune the English Parliament. In preparation theirt, the King sent away to Scotland any popish officers he had about him, (lest the English Parliament should take offence at their being employed in England,) as the Earle of Dumbarton, Major George Winrame, Captain Maxuell, on Barelay, &c.; and they got all places heir, tho our Test be stricter against them than the English. Then the King created 8 or 9 peers; as Sir George Jeffries, Cheif-justice, (of obscure birth, but bold,) Mr. Jermayns, &c. are made Lord Barons; some said, he feared a faction against him in the House of Peers, and this was to poise and ballance them. The former Kings of England, the very first day of the doune fitting of their Parliaments, used to declare in a Speech by themselves and their Chancellor, the causes of his conveying them; the King did not follow this method, but by Guildford, Lord Keeper, desired the House of Commons to returne and take the accustomed Parliament oaths, viz. their negative Test against transubstantiation, &c., and to choise a Speaker, and then he would call them and impart unto them his mind. And accordingly, they having been 2 dayes in taking the oaths and choifing a Speaker, (viz. Sir John Trevor, whom the King had recommended to them, a lawyer, and who had formerly been on the country side, but was now converted,) they presented him to his Majesty on the 22^d of May, who approved of their nomination, and he modestly declined it; wheron he craved of his Majesty the 3 usual preliminaries; 1^o, That the House of Commons might have free access to his Majesty when their affairs required. 5^{do}, That what should be uttered in the House might

not be misinterpreted, but the freedom of speech construed to the best and most charitable sense. 3th, That their persons, servants, and goods might be free from arrests, and legal distresses during the Parliament; all which his Majesty, according to custom, granted. Then the King delivered to both Houses his Speech, we have printed; wherein he differs much from his brother's style, and signifies his pleasure in very peremptory terms, that it will not be their best way to feed him from time to time with supplies, for that will not prevail with him to gather them the oftner together; then he acquaints them with Argyle's rebellion in Scotland, and hopes they will give him a suitable supply against the same. And they having on the 23 of May signified to his Majesty, that by an act they would settle all the revenue of tonnage and poundage on goods exported and imported, (nota, tho this expired with his brother, yet, supra page 77, we see he exacted it still,) with the imposition and excise on beer and ale, given to his late Majesty for his life, that it should be also due and payable to his present Majesty during his lifetime, for they are not so rash in annexing it to the crown, as we, to be a good example, did with our excise; and that they would stand by him with their lives and fortunes against Argyle and all other conspirators; he, (without giving them thanks, as his brother used to do,) with a very dry complement, tells them, they could do no less in consulting their own security. And in his Speech of the 30 of May, he craves a farther supply; and to flatter the genius of the nation, he tells them in a style vain enough, that he hopes to raise the reputation of England beyond what any of his predecessors; and what they shall give him, he promises to employ to no other use than what it is given him for. Whereupon the House of Commons vote him a farther supply upon wines, vinegar, tobacco, and sugar, for carrying on the Scots war, and his other extraordinary expences of the navy, ordnance, &c. Some ascribed this compliance of the House of Commons with the King more to fear than love, and that he took the

true way of treating Englishmen, in King Henry the 8th minatory forme, that as he would invade no man's properties, so he would quite none of his owne rights and prerogatives; and that he began with them as he intended to end: for the old distich holds true, *Anglica gens, optima flens, pessima ridens*; with too much prosperity they turne unupportably insolent, so that it is not safe to flatter or cajole them; for fundry of the Members of this House of Commons are disaffected, but are borne doune by the major part, who fyde with the King, the elections in counties and burrows being so manag'd, that by the limitations of the new charters gevin them, and excommunications and other methods used to debar such as they doubted, they got many of them to the King's owne mind; which was a point his late brother could never of late compasse, tho he had as much of his people's love as the present King hes, only he was not so much feared by them. It being moved by some of the members of the Lower-house, that a diferiminating mark might be set on such of them as had been for passing the Bill of Seclusion of his present Majesty when Duke of York, the Earle of Middleton, who sits in that house as representing the county [town] of [Winchelsea], signified, that he had his Majesties warrand to tell them he would not suffer any notice to be taken of that affair, for he had both forgiven and forgotten what injuries ware done him when Duke of York, and hoped they would doe nothing to make him remember them, which was very generous; but these votes are to be expunged out of the Journals of the house. On motioned, that an Adresse should be made to his Majesty, for securing the Protestant religion, and to put the A&S in execution against Popish dissenters and others: which being voted, it carried in the negative, that no such Adresse nor A& be made; but that they rely and acquiesce upon his Majesties royall word and solemne promise for ther religion, dearer to them then ther lives: wheiron they are more complaisant and tame then our Parliament is yet, for we have past ane A& for religion, such as it is.

The King has advanced on Collonell Talbot, (a papift, againft whom the former Parliaments made many addreffes to have him removed from his Majefty,) to be ane Irifh Earle; but withall, he hes made the prefent Duke of Northfolk, tho a proteftant, on of the Knights of the Garter.

It was obferved, that the Marquis of Worcefter, -eldefst fone of the Duke of Beaufort, was elected by 4 feveral burrows: In the Upper-houfe on may vote by his proxie, fo that a lord having 5 proxies from abfent peers, he hath ther 5 votes befyde his oune; but in the Lower-houfe, it was thought ther could be no voting by proxies; but being chofen for mo places, he behooved to elect which of them he would represent, (which certainly he behoved to doe with us, tho we P. 90. allowed it to the Lords fpiritual and temporall, by the 7^t a& in 1617; but refchinded by the 20 a& in 1640,) and he could not vote for all theffe 4 places who had chofen him. I find 2 of our firname members of this Parliament, the on Sir John Lauder of Louthhall, for Weftermuirland, the other Sir John Louth of Whytehaven, for Cumberland.

Argile's invafion and infurre&tion having occafioned Scotland to be all in armes and a pofture of defence, at the very tyme of the doune fitting of the Englifh Parliament, with the feverity ufed (fupra pag. 84,) againft Titus Oats, contributed very much to induce the Englifh Parliament to a compliance with the King, which difappointed Argile's defigne exceedingly;— yet it feims he promifed himfelfe [little] from the Commons houfe, as it was elected and constitute; for in his large Declaration he exclaims againft them as packit, and caballed, and elected by fraud and injuftice. Some expected that the Englifh Parliament fhould have ifhued out a commiffion of array, that the King might raife ane army for fecuring England, while ther neighbour's houfe is in a flame, *Tunc tua res agitur, paries cum proximus ardet*; for the King, by ther law, cannot preffe all betuixt 60 and 16, to rife in defence of ther country, with 40 dayes provifion, as he can doe in Scotland. (See Rufhworth and other Englifh wryters of theffe com-

miffions of array.) If the King had ane army up, it's like he would not difband it fo eafily as his brother did his. In choifing ther members of the Houfe of Commons, they are not tyed up (as we are) to elect only fuch as have ane intereft in the fhire or burrow which they are to repreſent; but with them, on who hes no land in the county, and is not yet fo much as ane honorarie burgeffe, may be choifed to fit in Parliament for them, and commonly they employ lawyers; but a bill muft be red three Parliament dayes ere it can paffe, in which praëtife they have a great advantage of our præcipation in hurrying it instantly throw.

Some bills were given in to the Houfe of Commons, craving leive to cut of ane intayll of lands, and to fell for paying debts or to contraët debts; fome were granted, others of thame refused. Licence is craved for the Earle of Offory, to give him a power to grant a joynture to his Lady. A bill moved, that feing St. Martin's in the feilds in London, is too fpacious a pariſh, that the pariſhoners, upon ther oune charges, be allowed to erect a new parochiall church their, to be called St. James's. Item, another called St. Anne's Church. Item, ane aët to reedifie St. Paul's ſteeple and ſpire. Ane aët is paft for the exportation of leather, and the ſhoemaker's petition againft it was rejected. A bill ſent doune from the Houfe of Peers to the Commons, to reverſe the forfaitor and attainder of the Vicount Stafford for the Popiſh plot, paft in December 1680, ſupra; and to reſtore his airs. 2^{do}, That ane aët be made, hindring minors to marry without ther parent's conſent, and even refraining them for ſome competent ſpace after ther father's death. 3^{to}, Ane aët allowing his Majeſtie to require carriages (Angaria) when he travells or marches throw the cuntry, or his navies by ſea, and his armies by land. A committee is named to inſpeët the expired laws, and to conſider how far they deſerve to be renewed. Sir John Talbot brings in a liſt of 21 of them. A motion is brought in, that beſide the Court of aequity and conſcience, for curbing the rigor of the common law, kept at Weſtminſter, (which was fo crouded as could not diſpatch all,

3 other might be erected, viz. at Southwark, Saint Martin's, and the Liberties of the Tower. For encouradging the woolen manufa&cture, as they had formerly enacted, that all should be buried and wrapped in woolen: fo now they ordaine, that all gentleweemen, shall, at least for six months each year, wear clothes of woolen, and all coaches be lined theirwith, and that all Scots' pedlars, called Haukers, be discharged; our late prohibition of wearing wooll is on another politique, *de quo alibi*; and that all weemen below the degree of gentleweemen, be ordained to wear hats of woollen. (See more of the English Parliament's actings, *infra* page 103.)

In the end of May 1685, dyed the Marquis De Grana, Governor of the P. 91. Spanish Netherlands. They speak of the Duke D'Uzeda to succeid him; but the dormant commiffion being broke open, it was found that Dom Francisco D'Aguirto, the Marquis del Pico de Velasco, maistre-de-camp generall, governe for the interim, till the King of Spain thought upon another.

At this tyme, the fenate and republick of Venice raised waft fummes of money from fundry roturier and plebeian families, who ware become very rich, such as Seigneur Sandi, &c., and desired to be incorporat and immatriculat unto the number and rank of the noble Venetians and Senatorian order; which was granted some of them on the payment of one hundred thousand ducats for each person.

The Despote, (Prince,) of Moldavia, called the Hospadar Duca, taken the last summer by the Poles, and who offered a waft summe, 100,000 crowns. for his ran&son, he dyes at this tyme at Leopold ther prifoner: fo they lost the money.

Supra pag. 85 et seq., we have given some account of Argile's rebellion; to bring it now to its period we shall heir joyne it all together. Argile finding his party was loosing their courage, having left ther ships, (yet Julius Caesar, and W^m. of Normandie called the Conqueror, when they invaded England, they brunt ther ships to præclud and cut of all

hopes from their men of flying that way,) and finding he did not performe his wain promises to them, that all the country would rise with him as fo much combustible tinder, and that he would get 20,000 men to give his 20,000 stand of armes to, he now feids them with the milk of a letter he sayes he had received from the Duke of Monmouth, that he was in armes in England, and, to infuse spirits in them, he added, he was victorious; and this he insinuat in his letter, wherby he invites Maccallaster of Louip to come in to him. (See it in print.) Our King having complained to the Dutch Embassador that Argile was furnished by their connivence, the Hollanders, to please him, offered to emit ane edict, discharging the exportation of armes for 3 moneths, that no more assistance might goe to Argile; and the Prince of Orange, on a letter from the King of Brittain his father in law, orders the 3 Scots regiments lying their to be immediatly shipped for Scotland, to aide us against Argile; but when they ware at sea, Argile being taken, the P. Counsell employed on Captain Bird in his ship, to goe and acquaint them that they might returne; and he did so, finding them at St. Ebbe's head. The late King, in regard of the mistakes between him and his Parliaments, had left the brazen (wooden) walls of England, their shipping, in a very bad case.

It was thought very od, that in the Duke of Gordon's march to Innerairey, on night, his horses and theesse of all the heritors with him, did take such a madnesse as some to break their necks, others to wound themselves, many ran 20 miles, fundrie ware never got again, and no cause can be given for it.

The King's forces could not agree among themselves, for Captain J. McKeinzie, sone to the Bishop of Orknay, having been designed to be adjutant to the Proveft of Edinburgh, as Collonell of the militia regiment of that toune, Lieutenant Collonell Adam Rae taking this as a reflection on his military skill, offered to supply the Proveft's part, which C. McKeinzie refused, and was made to train the Fyffe militia regiment;

and the 2 regiments meeting at Stirling, and striving who should march on the right hand, M^cKeinzie did batton Rae with a kaine, on the head of the 2 regiments, and Rae drawing, he retired into the mids of his oun pick; but Generall Dalzeill coming upon them, kepted the 2 regiments from ingadging, yet put C. M^cKeinzie fo far in the wrong, that he affirmed, he deserved deprivation and a counfell of war.

The 2^d. accident was more lamentabill, becaufe more sanguinary. Sir Ewen Camron of Lochyell's men, throw mistake in not understanding the word, being Irishes, at leift Hylandmen, fall upon a party of the Perth-shyre gentlemen, to the number of 12, commanded by John Grame, postmaster, and, under pretence of being Argyle's men, (whither the P. 92. mistake was innocent or wilful, to get their spoill,) they kill 5 of them, viz. Pearson of Kippencroffe, Paul Dog of Ballingrue, Linton of Pittendreich, Naper of Balquhale, and . This was a very sad and unwarrantable mistake, and deserved a severe rebuke.

Then the news came, that, on the 17th of June 1685, the King's ships had ventured in upon Argile's ships, and taken them with all his canon, arms, and ammunition, and the fort of Ellangreig, with his standart, which was sent away immediately to the King at London, its motto was engraven on it, 'For God and Religion against Poperie, Tyranny, Arbitrary Governement, and Eraftianisme.' Argile finding he could keep his ships no longer, he resolved to make them uselesse, and doe all the mischeif imaginable with them; he considered how many howers it would take ere the King's ships, with the help of the tyde and wind, could reach his, accordingly, he plants a train of powder, and contrives it fo, by the lenth of the match which was to burne ere it came to the train, that the match should last ay till the King's ships had buirded them, and then the train should fyre, and blow them all up. This was a mischievous project, and had near taken effect, but the few marinells he had left aboard tyed, discovered it; and it was so near, that the match was within

a few inches of the train and whole magazin of powder, when the Captain of the King's ship came aboard, who instantly extinguished that match; but, lest that should only be a blind to beguile them, and ther might be other secret trains laid in the ship, he very prudently caused cover the whole powder with water, so it would not kindle. Then he seized on all the arms, and other provisions left. Being thus deprived of his ships, it was wondrous how he subsisted so long; but this may be ascribed to the unaccessable starting holes this Hyland country affords, for Heylin, in his Cosmography, in the Description of Scotland, page , tells, from a Speech of King James the 6th to the Parliament of England in 1607, that our old Kings ware beholden to the bogs, and other fastnesses of that country about Argile and Dunstaffnage, whither they commonly fled, and drove all the cattell before them, so that the English, being destitute of all necessaries, ware forced to give over the conquest. It is hoped this rebellion in both his kingdoms, in the beginning of his reign, will make the King more attentive and moderate in his government, and not to follow any counsell to alter our religion; for, if our phanatiques find themselves obliged in conscience to fight against Episcopacy, *multo magis* will they rise against the introduction of Poperie. On the 19th of June, in the morning, we got the news at Edinburgh, that Argile was apprehended running away from his men, and leaving them; not dying upon their head as Catiline (*teste Sallustio*) did; as also, his printer is taken, who had printed his long and short declarations, and many of the common people. Some said that the King complained, that, if his statesmen had allowed and advised him to have made his Indemnity *in regiminis initio* larger, these poor people would not have so flocked in to him; and their dispersion will make a new fleece of guilt on the refusers, whereby many innocent heritors shall again be brought under the statesmen's reverence. That morning the

P. 93. news of Argile's taking came to Edinburgh, the Colledge of Justice, by order of the Privy Counsell, ware to be modelled in a troupe, but the news

made it needlesse. The night before Argile's taking, and the disperſion of his forces, he had a Counſell of war, wher he propoſed, firſt, that, ſeeing the King's forces under the command of the Earle of Dumbarton was come within a mile of them, it was fitt immediatly to fall upon them, and fight them whille they ware weary; this was rejected by Sir John Cochrane, and Sir Patrick Home of Polwart, (who had ane accumulation of reaſons againſt every thing that was propoſed, being never ſatiſfied with anything he met with.) Then Argile moved, that they ſhould march ſtraight forward to Glaſgow, and he doubted not but they might eaſily ſurprize it, ther being nothing to guard it but Winton's Militia regiment of Eaſt Louthian, and by it they would both get proviſions and breathing to look about them; in this he was alſo outvoted as a dangerous attempt. So ther nixt reſolve was, to croſſe over to the ſouth ſide of the river of Clyde to Renfrew, at that fuid called Kirkpatrick fuid; by which they had this advantage, that, the ſea being out, they paſſed over eaſily, whereas, in the morning, my Lord Dumbarton and his forces miſſing the rebels, and hearing they had croſſed the river, and attempting to doe the like, ther was no riding it, the ſea being in, ſo that he behooed ather to ſtay till the ebbe tyde, or goe to Glaſgow bridge, which laſt he choiſed. But this ſtratageme did caſt him half a day behind; however, Providence infatuated the rebels, ſo that this advantage of marching ſignified them nothing, for Sir John Cochrane, thinking himſelfe in his oune ground, undertook, with the help of guides, to condu&t them ſafe in to Galloway, and ſo jank their ennemy; and if they fand ther reception ther not ſecure, then to march ſtraight to the Engliſh border. But, on the 18^t of June, in the morning, being Thurſday, they fall into a bog, wher all their horſe and baggage is myred; and during the tyme they are diſimboгуing themſelves, a detached party of dragouns, under the command of the Lord Roffe and Captain Clelland, comes upon them. Before this tyme, Argile had left them, and deſired every on to ſhift for himſelfe. Sir John Cochrane for-

told him his destiny, that the country people would seize on him as a stranger, and he would be carried in Dundonald, his father's coach, to Edinburgh, which came to pass, only Sir John Cochrane did not forfeit his own fatality. Sir John Cochrane seeing that party of the King's forces approaching, he took up his ground within a fault dyke, so by that nothing was seen but their head pieces: though he, with some 300 men, were so advantageously posted, yet Captain Clelland, with more zeal than discretion, charged them and was killed on the spot. A bullet grazed on my Lord Ross's breast plate, (to which, next to God, he was beholden for his life,) and from that rebounded on his face, but did him little or no hurt. Sir Adam Blair younger of Carberry was shot in the neck, and Sir William Wallace of Craigie, in the thigh, but none of them dangerously wounded; on Dundas, a lieutenant, had his arm shot away with a blunderbuss. The service was so hot, and the ground so well defended by Sir John Cochrane and the rebels, that the dragoons seeing Clelland, their Captain, killed, would not come up, so the rebels escaped to Blackfou, beyond Paisley, and in the night time, dissipated and escaped by the help P. 94. of the darkness; though the next day, many of the Highlanders and other common bodies were apprehended stealing away home.

As to the singular and providential way of Argyle's taking, it was this: seeing their affairs marred, and their march retarded by falling in that bog, and having caused Seton fire a heathery moor, to impede, by the mist, the enemies pursuit of them; he withdraws from the body of his forces with 2 men, and thinking he would be less suspect alone, he dismisses them, and trusts them to meet him at night at such a place in Galloway. Thus, riding all alone on a little horse, he comes to cross the water at Inshinnan, beside Paisley, their 2 serving men to Sir John Shaw of Greinock, are riding behind him, driving their master's baggage horse, and it being weary, they resolve to take that countryman's horse, (for he was disguised, and had a bonnet on,) from him, and set him to his foot:

they defigned no more, fo that if he had quite his horfe, he had efcaped that bout ; but he not knowing ther defigne, did, on ther crying and perflueing him, turne about and fyre a piftoll or 2 at them, (for he had 3 on him,) and then took the water ; but a webfter dwelling ther, under Semple of Beltries, being awakned with the noice, came furth with a broad fword, and while the other 2 ware capitulating with him, for to let him goe for fome gold he offered them, the weaver being in drink, and fo flouter than the reft, fwore he would not part with him, for he was on of Argile's men ; wheron Argile attempst to fyre at him, but the morfe being wet with the river water, it would not goe of : wheron the weaver had leifure to draw his fword, and it was fo rufty it cracked in the coming out, and with it he gave Argile a great fkelp over the head, and fo ftunned him that he fell in the water, and in the fall cryed, Ah ! unfortunate Argile ; wheron they lifted him up, and being recovered, carried him away prifoner to Sir John Shaw, ther mafter, faying, that he lyed in calling himfelfe Argile, for he was but on of his men. When Greinock faw him, he prefently knew him, tho he had a long baird, for he had fuffered it to grow ever fince his efcape, and had refolved never to take it of till he ware redreffed ; however, when prifoner, they caufed him lett fhave it. He offered immediatly his purfe to Sir John Shaw, wherin was 130 guinees, according to the laws of war, and was conveyed in to Glafgow tolbuith. On which the Earle of Winton, governor of that place for the tyme, wrote in a letter to the Chancelor, telling him he had now the great traitor Argile in his cuftody ; which was fo acceptable news to our great men, that they immediatly difpatched ane account of it to London, by ane exprefse, with Winton's letter to the King, becaufe it would contribute and influence much to difcourage Monmouth, and any more from joyning with him. Argile was extreimly damped all that night after his taking ; but getting leafure to recolle& his thoughts, he refolved to make a vertue of neceffity, and put the beft face on his miffortune he could, fo he did not ap-

pear fo confused and embarassed the nixt morning; but Dumbarton being come in to see him, and he taking out his snuff-box, and Dumbarton craving a sight of it, and looking to the sculptures and figures cut on it, he in railerie (for he cannot want his sports) told him, he would not find any crucifixes nor crosses on it, jearing his religion. Immediatly the Privy Counsell sends orders to bring him in with a safe guard to the Castle of Edinburgh.

Ther was also tane at the same tyme, on Collonell John Ayliff, who
 P. 95. had associat himselfe with my Lord Argile, on this discontent, that his father being a wealthy man, worth 2000 lb a-year, he had mortgaged and lost it all in the King's father's service; and yet, on the late King's restitution, in 1660, notice was not taken of him, which provoked him to draw up with the republicans in England, and when the conspiracie broke furth in June 1683, he fled to Holland, and is named on of them in the King's printed proclamation then red in the churches; and being a gallant sojor, was induced by Argile to come over with him, who payed him so great respect that he was content to let him command above him, and to receive orders from him, and my Lord Dumbarton had a great deference to him. This man being rudely used, and beat by Grahame of Dougaldston's men, who took him, it provoked his spirits so that, not being searched, he in the night tyme endeavored to murder himselfe by ripping his belly with a pen-knife, and giving himselfe 2 wounds; nixt morning Dumbarton expostulating with him for attempting so unchristian ane action, he acknowledged it to be the most base and cowardly thing he had ever done in his life, but he was wearied of living; the 2 wounds being dressed ware judged not to be mortall. Our historie tells us, that it was suspected, that our Secretary Maitland or Leidington poisoned himselfe at Leith in 1570, to shun a violent death. And the Earle of Effex was reported, in 1683, to have cut his oune throat in the Tower of London on that same ground. Some had indifereitly told Ayliff he would be cruelly tortured, which tempted him to offer to be *felo de se*. (See Ayliff execute, infra p. 117, at London.)

Collonell Richard Rumbold, another Englishman, was also taken at Lefmahaigo, by Hamilton of Raploch younger, and his militia men; (vide infra a reward for it, pag. 106.) He was flying into England, being conducted by on Turnbull, a man of Polwart's (for Polwart had secured himselfe by flight sooner then the rest had done.) He was bold, answerable to his name, and killed on and wounded 2 in the taking, and if on had not been some wiser than the rest by causing shoot his horse under him, he might have escaped them all; however he undervalued much our Scots souldiers as wanting both courage and skill. What had unfortunately ingadged him in this interprize was, that he had been from his infancy bred up in the republican and anti-monarchick principles; and he owned he had been fighting against these idols of Monarchy and Prælacy since he was 19 years of age, (for he was now past 63,) and was a Lieutenant in Oliver Cromwell's army, and at Dundy and fundry of the Scots battells; and by the discovery of the English phanatique plot in 1683, it was proven and deponed against him, that this Rumbold had undertaken to kill the late King in Aprill 1683, as he should returne from Newmarket to London, at his owne house at the Ry in Hogfdone, in the county of Hartford, wher he had married a maultster's reliç, and so was designed the maultster, and intended to have a cart overturned in that narrow place to facilitate ther assassination; but God disappointed them by sending the accidentall fyre at Newmarket, which forced the King to return a weik sooner to London then he designed, (see all this in the King's printed Declaration); but Rumbold absolutely denied any knowledge of that designed murder, tho on the breaking out of that plot he fled with others to Holland, and ther made acquaintance with Argile. It is certainly a reflection and leaves a mark of baseness on my Lord Argile, that he should have assumed such willians and miscreants into his company as this Rumbold and 2 of the murders of the late Archbishop of St. Andrews, viz. J. Balfour of Kinloch, alias Captain Burlie, and on Fleiming in King's-Kettle in Fyffe; and it

was also rumored that he had on Collonell Ludlo with him also, who, I find by Baker, in the death of King Charles the I., was a juryman on the murder of that King, and on his sone's restitution did fly to Switzerland, P. 96. and live ther: all Argile's excuse was, that any who undertook such a desperat game as his, had not the choise of ther company; yet I find, 2 Chronicles, cap. 25 and [7th] v., King Amaziah reprooved by the prophet only for taking the ayde of the idolatrous Ifraelites; and tho ane army of faints cannot be got, yet Argile had looked more to his oune credit to have dismissed such infamous perfonas as thesse.

Tho the King hes reason to thank God for this successe over his enemies, yet ther cannot be much joy after a victorie in a civill war: the Romans used scaree ovations, but no triumphs in such cases. Lucan tells us, *Bella geri placuit nullos habitura triumphos.* (See Valerius Maximus, lib. 2, cap. 8., Anto. Mathæus de Criminibus, p. 320 and 591; and the same Matthæus, p. 586, sayes, *Nihil vetat, but cum publica læticia privatus dolor ob vicem mortuorum in prælio civili sit mixtus.*)

Whatever was in Argile's first transgression in glossing the Test (which appeared slender) yet God's wonderfull judgements are visible, pleading a controverfie against him, and his family, for the cruall oppression he used not only to his father's, but even to his oune creditors. It was remembered, that he beat Miftris Brisbane done his stairs for craving hir annuelrents, tho he would have bestowed as much money on a staff or some like curiosity; 2^{do}. They alledge, he was the author of causing his father the Marquis goe to London, (for he hoped to procure him a pardon,) wher he was tane and sent home a prisoner, and headed. Polwart's differing with Argile in the counsell of war, minds me, that our story affords us many instances wher diffentions among our generall officers, (as at Bannockburne in Wallace's tyme, at Soloway Mofse in K. James the 5ths reigne, &c.) our animosities and pride, hath oft fatally chattered our forces, and occasioned the losse of many battells.

Argile was brought from Glasgow to Edinburgh, prisoner, on the 20 of June, and he lingred so by the way that it was neir ten a cloak at night ere he arrived at the Watergate, so that his ignominious reception ther, and deduction up the street to the Castle was not so discernible. At first our rulers ware so irritate, that they resolved to put all the marks of contumely on him they could ; such as, a cart was provided at the Watergate, with a chair in it to bind him on, and so hurdle him up the way, the hangman leading him, or else to fet him on a coall horse, allso ready ther ; for it was reported, that in 1650, when the Marquis of Montrose was brought up prisoner from the Watergate in a cart, this Argile was feeding his eyes with the sight in the Lady Murrayes balcony, in the Canongate, with hir daughter, his lady, to whom he was new married, and that he was seen playing and smiling with hir. Montrose had the King's commission for what he did, and therfor the injurys offered him ware the greater ; and our statfmen's anger being somewhat abaited, they did not trait Argile so ignominiously as was first intended, which was to have carted him up the way, and laid him in the dungeon of the Castle with great heavy irons upon him ; but feing we condemne thesse rebellious tymes for ther rigor, our great men (not knowing, ther oune destinies), thought it no fit copy to imitate, so all that was done to him was, that he was met at the Watergate by Captain Grahame's company and the hangman, who tyed his hands behind his back, and so the hangman going before him, he came up on his feet to the Castle, but it was casten to be so late that he was litle seen. That day he was coming in, Sir Duncan Campbell of Auchinbreck, who had been in the Rebellion, and his sone Mr. Charles Campbell, ware observed to light in the Canongate by some P. 97. who knew them, but notwithstanding all the searck was made for them, yet they escaped.

Now, to defcant a litle on this reverse of fortune. Ther was ane English prophecie, called Catastrophe Mundi, (de quo supra, p. 55.)

where great things were expounded of a little Hylander, which the phanticks applied to Argile; but we see by this fatal end the vanity of such expositions. The dullness and silliness of the manner of his taking is very odd; Providence confounding our common opinion of things: every one reputed Argile valiant and witty, and Sir John Cochrane neither, and yet Argile sneaks away from the hazard, and Sir John fights stoutly like a man; only, the greatest coward when straitened (like a cat pursued in a cupboard) will fight desperately enough. For parallels of Argile's taking, I find Richard the 2^d of England returning from the wars of the Holy Land throw Austria, in Germany taken by a peasant, and brought to the Emperor, then his enemy; (see Munster in Cosmographia, pag. .) Some alledges, Charles Duke of Burgundy at the battle of Nancy, and our King James the 4^t at Flodden, escaped. Abimelech (cap. ix, of the Judges, v. 53,) is killed by a woman's throwing down a piece of a millstone on his head; and Pyrrhus King of Epirus (as Plutarch relates in his life) dyed by the same fate in the siege of Argos. But this was yet more surprising and improbable, that the general of an army should be apprehended by country people, he stragling and stealing away before the fight; and every one thought him so gallant and generous, that, rather than be so taken and brought to a scaffold, he would much more chuse to fight and be killed on the field, as Rumbold answered, when he was bid render himself, "That he came there to fight for death, not for life." Argile had miserably deceived both himself and those he had persuaded to joyn with him; for, 1^o, The kingdom was not disposed to ryse so numerously as he expected; 2^{do}, Monmouth partly throw sickness, and partly by unreadiness, (tho it was concerted and agreed between them in Holland, that he should follow him, so that both their invasions should be at once,) was so long of landing in England. The phantick discontented people in Edinburgh, were long ere they were disabused or brought into the belief that it was Argile that was taken; and Mr. Spence having been

brought before the Privy Counsell, and intimate to him that Argile was tane, and he neided no more be disingenuous, now seing all would come furth, he laugh't at them, and with a very obstinate and unbelieving carriage said, "If ye have the principall what neids ye ask thesse quaestions at me." Ther was a search made throw the trained bands of Edinburgh to see if any had gone furth and joyned with Argile. His attempt is now cryed out upon as treason, and deservedly, like Cataline's conspiracy; but if he had prospered (as Julius Cæsar did), then the vulgar opinion would have magnified the enterprize as heroick, for Seneca tells us, that *Fælix scelus virtus vocatur, et e contra infelix virtus scelus, nam totus mundus regitur opinionibus*. Yea, for on fact the judgement hes been contrare, *præitium ille sceleris crucem tulit at hic diadema; but caret successibus opto quisquis ab eventu facta notanda putet*. Many condemned Argile's conduct,

1^o, In touching at Orkney as he past by the North Iles, wherby he ruined his bufineffe in allaruming all the country ere he came to his oune Hylands, so that Scotland, ere he landed, was in a military posture to receive him, tho he hoped this advertisement would have moved people to have come in and joyned with him; but he mistook our temper, for whatever secreet favorers and weilwishers he had, they durst not openly appear;

2^{do}, Others blamed him for not fighting Atholl before the Duke of Gordon and the other forces came up to him; and in not keiping himsele in his fast ground, but coming to the champaigne country. Argile reflected on Athol as slunning to fight him; but wherever on is defeat ather every P. 98. accident is blamed, or else *quos perdere vult Jupiter hos dementat*. O the ludibrium of humane fortune! Argile in pomp and glory carried our imperiall croun before this King when Duke of York in his Parliament 1681; and now, in 4 years tyme, he is ignominiously led up that same very fstreet by the hangman, *Quem dies videt veniens superbum, (inquit Seneca Poeta Tragicas in Thyeste) Hunc dies videt fugiens jacentem*, which makes Cicero de Oratore, lib. [3.], cry out, *O fallacem hominum spem, fragilemque*

fortunam, quae in ipso portu saepe obruitur; see it at large in my little 8vo. manuscript History, page 83. Let all men, but especially great ones, take example at this instability of fortune's wheel, let them learn to fear God, honor their King, walk uprightly, and use their power while they have it moderately; but no beacons will direct them to hold of their shelves, which pride, ambition, malice, avarice, revenge, &c. drives them headlong upon. O but a serene conscience under suffering is the best support; *Hic murus ahaeneus esto, nil conscire sibi, nulla pallescere culpa*, says Horace. Let us hate and oppose the treason, but pity and pray for the guilty person their æternall state, whatever come of their body left as a sacrifice to justice. Montrose with a small handful of men gave this country work enough, and gained sundry battells; and it was once feared Argyle might have done the like. If God had a mind, he might have made his handful to scourge us like Gideon's 300 leaping men, and like the 300 Lacedemonians at the Thermopylae who stoped Zerxes' vast army; we are at a great height in sin and impiety; its like punishment is near, whoever shall be God's hand or instrument; for Horace, libro 3, ode 2, tells us, *Raro antecedentem scelestum Deseruit pede poena claudo*; tho it come *tardo*, yet it comes *certo pede*, unless we prevent it, with Niniveh, by a serious and timely repentance. This invasion of Argyle's exactly quadrates with what he proposes in his letters to Major Holmes, deciphered in the printed narrative and account of his plot, page ; wher, calculating the opposition he would meet with, he calls our standing forces 3,200 men, but they are short of that by 500 men, our militia 22,000, and our heritors and their servants and attendants 50,000 men; but he lays not much stress of the war upon any of their 2 last. It was a very craftie way of writing, and speaks Gray of Creichies skill in reading and deciphering them, which perfectly aggries with the depositions taken in England, and the tryalls of the Lord Russell, of Walcot, Hone, Rouse, and the King's Declaration of that plot in July 1683; so that Argyle has been hatching this rebellion

ever ſince his eſcape on the 23 of December 1682; but more cloſely ſince E. Shaftsberry fled alſo over to Holland in November 1682. He then beguiled Lundy, former governor of the Caſtle of Edinburgh, by Lady Sophia Lindfayes help, (who is now for his cauſe kept priſoner in Edinburgh Tolbuith); this will cauſe Major Whyte look better to his priſoner now. The wind Argile got from Holland (whence he ſet out on the 2^d of May laſt,) was ſo favorable that it brought him in a very few dayes to Orkney, and from that about to the North and Weſt Iles, which made ſome think his witches had ſold him a wind; but he has got no good wind to carry him away. By this infurrection the King may ſee his Proteſtant ſubjects owe him, and the Duke Gordon, Dumbarton, nor the other Papifts had no hand in this victory, but the forces with my Lord Roſſe, and they little other, meir Providence has done all; ſo that no party can much brag of defeat, but only the wiſe and overruling hand of Heaven. P. 99.

I think the Webſter who took him ſhould be rewarded with a little heritage, (in ſuch a place wher Argile's death will not be repented,) and his charter ſhould bear the cauſe, and he ſhould get a coat of armes as a gentleman, to encourage others hereafter. Argile regrets much the common people that were with him, for they are ready to take any bonds or teſts, and it was not religion that moved them to riſe, but other affection to their late maſter and cheiff, or elſe they were compelled, and others trepanned with fair promiſes; and the Dutch ſeamen were not acquainted with his deſigne till he had them at ſea. In March and April this year, when Argile was preparing his rebellion, we had very boiſterous winds, which verifies the French proverb, 'Grand vent, grand trahiſon.' The beginning of our King's reign is turbulent, like King Henry the 7th, (whoſe life is well write by Sir Francis Bacon, Lord Verulam,) he had a controverted title to the crown: this is but a guſt *Nubecula eſt cito tranſitura*. Argile, in diſcourſe, being challenged for calling this King a tyrant, he confeſſed, they behoved to load him in their printed declarations as an uſurper, and only

call him Duke of York, (tho he knew him to be lawfull King,) to amufe, gull, incense, and draw in the people, (which method John a Leyden, and Knipperdoling confesse, in Sleidan's Commentaries, they followed,) because the vulgar love alwayes to be of a quærulous temper, against all government whatsoever, (ther being no perfection from errors attainable in any,) and ther most be blinds of the losse of liberty and religion used to deceive them. Yet we see God sometymes bring his works about, even of reformation, by none of the devoteest or best instruments. God knows what brave protectors of our religion his Hylanders would have been, who nather regard nor know any religion at all. Some victories have been in the report anticipate, and heard by the information of some spirits before the news of it could come, as Livy and other historians tell us.

Mr. Rumbold was brought in to Edinburgh on the 22 June, (that same day of the moneth on which Bothwellbridge was foughten,) and, at the Watergate, was put upon a sled or hurdle, with a rope about his neck, and so drawn up to the Castle; he looked alwayes for the gibbet, thinking he was going instantly to be hanged; but he, on the 26 of June, being Friday, got a fair tryall and was execute that day; (see in my folio law MS. at that day, page .) Being told, in the Court, that Monmouth, in England, was assuming the title of King, Rumbold sayd, James Stewart had indeed advised him to assume that title, but that his best men were republicans, who would never fight for him in that quarrell; and that James Stewart had cast the horoscope of Argyle's affair, (which he said he might easily foresee, without either the spirit of prophecy or divination,) viz.: that he would ruin all by lingering in the Isles, and not marching into the Inne country and landing in Galloway, and he believed that might be the reason why James S. would not come alongs. As to the stock with which Argyle furnished his ships and armes, Rumbold said, he thought it did not exceed 12,000 lb. sterling: how he got it, some said, ane English widow in Amsterdam, called Mistris Smith, advanced him considerably; others say,

that Polwart, Torwoodly, Mr. Gilbert Elliot, &c., went to Geneva, and to the Protestant churches of Germany, begging supply to the poor afflicted Protestants of Brittain, and thus raised a great summe; but I think it was not understood by the givers that it was to be employed in a rebellion or invasion. When Argile fled out of the castle of Edinburgh, on the 23^d of December 1681, sentence was pronounced against him the next day in absence, and the manner of his execution was referred to his late Majesty. Upon his being taken, our Secret Committee does instantly write to this P. 100. King to know his mind anent the prisoner; he, by a letter, ordains him to be execute within 3 dayes after ther receipt of his, but leaves the manner to themselves: whereon they deliberate long, and at last the Privy Counsell (who are recovering somewhat of ther power now, the Secret Committee beginning to divide in factions, betuen the Treasurer and the Chancellor's mistakes, amongst themselves,) gives instructions to the Lords of Justiciary, and they call Argile before them on the 29 of June, and intimates his old sentence to him, and ordains him to be headed the next day, and his head to be fet upon the tolbuith, fixed on a hy pole. It was long debated at Privy Counsell, whither he should be hanged or headed, and the last carried it, (my Lord Kinnaird craving his vote for hanging him, might be marked,) the nobility stood upon ther priviledge of peerage, not loving to lay doune a preparative against themselves, for great men are most subje& to these blasts and reverses of fortune; *Summos feriunt fulmina montes*: yet I find in King James the 5th tyme, in 1537, both my Lord Glammes and the Master of Forbes hanged, if Sir G. McKeinzie hath observed aright in his Criminalls, (Title of treason, page . . .) for Drummond in his story of that King's life differs: the Earle of Atholl and on Grame were cruallly tortured for murdering King James the 1; (see it in Buchanan, Drummond, &c.) Regent Morton in 1581, was only headed, (as Spotswood in his Church History, page . . ., tells,) but such was the spite that his body lay some howers on the stage, none daring

oune it till piners carried it of. Our old Scots way of quartering, was only the cutting of the legs and the armes, (as was done with the great Montrose,) but did not divide the body, which severe practise we have only of late, since Rathillet's case, borrowed from the customes of England, whom we doe not imitate in manie better things. Some urged, that he was not to be looked on as a nobleman now, after sentence of forfaitor; yet Tiraquellus, cap. 20, de Nobilitate, and others, think ther remains fo much of the *jus sanguinis*, and the character *indelibilis*, (so to speak,) as gets them that priviledge of coming to the place of execution with ther hat on, and of being *Decapitati et non in furca seu patibulo per collum suspensi*. They say Argile told the King's Advocat, he deserved rather to be in his circumstances; for by serving the statemen to serve up his Explication of the Test to be treason, he had subverted and wrested the laws of the land. Argile did not deny but the present King's title to the crown was better then Monmouth's, (he was heard say, he was not so mean as to draw a sword for his title; and yet, if they ware fighting for a republick, they ware digging a grave to ther oune nobility, for levellers to triumph over them, but men in passionat revenge doe nothing with mediocrity;) onlie to vindicat, at leift palliat, his oune resistance, he contended he had usurped and intruded, because being a Papist he had not satisfiied nor obeyed the *leges* nor *conditiones regnandi*, by taking the Coronation oath before his entry, conforme to the 8th A& of Parliament in 1567, and so he was not bound to obey him yet as his Sovereigne; but that Coronation oath is no suspensive condition nor limitation of our allegiance, tho Argile would have had the world believing it suspended him from the exercise of that power till he had secured his subjects by taking that oath. Argile (for so I have and may call him, tho some named him only Mr. Campbell, but

P. 101. the great men called him My Lord, before the intimating of his sentence to him, expressed himselfe thus, that it was litle he had to say, and he thought it not materiall whither he spoke it before or after the

sentence; (*Etiam post sententiam reus innocentiam suam probare potest modo statim sine dilatione id faciat ita.* Ant. Matthæus de Criminibus, pag. 708, 746, 767, *et seq.* & 806;) that he had made his escape without violence or breaking of prison; that he was condemned the next day without citation, or hearing; that he was informed the Parliament without citation, had also forfaulted him of new; he knew that in *criminalibus nunquam concluditur contra reum*, (this maxime holds only *ante sententiam nunquam concluditur*), yet he would give them no farder trouble, but that he was in God's hands and ther Lordships. Some thought this doome of forfaultor scarce weil founded, being only on his Explication of the Test, wheiras he had committed crimes 1000 tymes more important since; but to give him a new indytmnt on thesse was to loufe the first sentence, to reflect on the Judges who had condemned him, and the Parliament who had ratified it, and his new treasons ware open, awowed, and notorious, tho his sentence on record bears nothing of it. The Roman law prohibits *luctum publicum in morte patriæ proditorum*.

And thus was Argile headed on the 30 of June 1685, as his father had been in 1661. He had all the civility imaginable put upon him; he was allowed 8 freinds to be in mourning with him on the scaffold, viz. the Lord Maitland, his sone in law, (to whom he gave a paper of advices to give his daughter,) Montgomery of Skelmuirly, Campbells of Skipnage, Dunstafnage, Carrick, Ellangreig, &c.; he came in coach to the Toune Counsell, and from that on foot to the scaffold with his hat on, betuixt Mr. Annand, Dean of Edinburgh, on his right hand, (to whom he gave his paper on the scaffold,) and Mr. Laurence Charteris, late Professor of Divinity in the College of Edinburgh, whom he particularly called for. He was somewhat appaled at the sight of the Maiden, (present death will danton the most resolute courage,) therfor he caused bind the napkin upon his face ere he approached, and then was led to it. His body, after the separation of his head, by the great commotion and agita-

tion of the animall and vitall fpirits, flarted upright to his feet till it was held doune, and the blood from the jugular weins of the neck fprung moft brifkly like a cafeade or jette d'eau. Thus fell that tall and mighty cedar in our Lebanon, the laft of ane ancient and honorable family, who rofe to ther greatneffe in King Robert the Bruce's tyme, by ther conftant adhaerance to the king, being then Knights of Loehow, with his other 3 companions, the Seton, Lylle, and the Lauder; and continued doing good fervices to ther king and country till this man's father proved difloyall; and ever fince, ftate policy required the humbling of it, being turned too formidable in the Hylands, with ther waft jurifdictions and regalities. As a great man fell in Ifrael, fo he had been all his life the ludibrium and tennis ball of fortune; his firft fervice was for the late King (who ever retained fome kindneffe for him) in the hills in 1651, and, after being tane prifoner in 1653, he remembred when he was brought to the caftle of Edinburgh, and turned up his bible, the 14th chapter of Job fell up to him 3 feverall times, which he reckoned providential becaufe of the 1 v. "Man that is born of a woman is of few days and full of trouble:" If ever this text was verified in any, it hes been (faid he) fulfilled in me; for, after his fufferings by the Ufurper, his father was fcarce forfault and execute, when he was pannelled and forfault himfelfe; and, having difpelled that cloud, then he fell into ane embarraffe with the Macleans for the ifle of Mule; then the Teft proved to him ane abyffe of troubles: However, let us juftify and vindicat the Divine juftice in annihilating this family (which, in the long courfe it hes run, could not but contract much

P. 102. filth) for ther oppreffions by which they ftudied to enlarge and aggrandize ther borders, and now God hath faid, what you have unjuftly feraped together, ftrangers fhall enjoy it. What Argile fpoke was moft in the Toune Counfell houfe, and litle in the feaffold: in his difcourfe he had few reflections, he did not pray for the King, but infifted much againft Poperie, which the atheifme and profanity of the age would infenfibly in-

introduce; he hoped no good Protestant doubted but the Pope was Antichrist (yet many Protestants doe now laugh at this); that he thought little once a day to be brought to a scaffold; that great men would doe weill to take example to rule in the fear of God, for they knew not but they might come to as publick a death as he; this was a warning to our present governors; he shunned to speak of his last invasion, (for certainly he knew it was against the laws of the land,) but dwelt much on the smallness of that first crime for which he was forfault, in the explaining the Test, and that he had peace in his owne breift, nather checking him, nor attesting any guilt on that head; and, tho he saw a door for deliverance, he was so willing to dy he would not accept of it:—see his speech. He pled much for favor to his children, but particularly for John, who, he said, only followed him without armes, not being able to fight throw a debility in his hands; he also recommended the poor people had been with him as deserving mercy and compassion, for the most part of them ware forced.

Tho Argile was very witty in knacks, yet it was observed, he hes never been very solid sen his trepaning of his skull in 1653; he was so conceitty he had neir 20 severall pockets, some of them very secret, in his coat and breeches, and brought a printing presse with him, and artificiall bullets and pistolls. Tho Argile judged he got hard measure in his first forfaultor, yet he had done more like a Christian and a good countryman to have imitat the heathen Rutilius, (in Seneca, *libro sexto de Beneficiis*, cap. 37,) who, being unjustly proscribed and banished, it was proposed he would be restored again by the civill wars, God forbid, (saves he) I had rather my country ware still ashamed of ther injustice in forfaulting me, then that they should have cause to mourne by my bringing alongs with me a publick calamitie on them, in my violent returning, by the remedy of armes and a civill war: Christians should blush to be so out done by heathens in ther moralls; we most not doe evill that good may come of it: we may say, Argile hes followed Juvenal's counsell, *Aude aliquid*

brevibus Gyaris, et carcere dignum, si vis esse aliquis; for in magnis voluisse sat est, et magnis excidit aufis. Argile had a response that he should live to 80, which might be true, excepting a violent death; some *malunt Rempublicam quam Romam suam turbari*, as Seneca speaks; and *stulte putant everfa Republica piscinas suas salvas fore*, ex Cicerone. See this alibi, in my 8^{vo}. MS. A. 5, p. 89.

About the tyme of Argile's execution, on of his grandchildren, a son of Lorne's, threw himselfe, being 6 or 7 years old, over a window in Leidington, 3 stories hy, and was not the worse; from which miracle this inference was made, that the said family and estate would yet again recover, and overcome this four blast.

Some look on this invasion as a small matter; but, beside the expence and trouble it has put the country to, if we ponder the fatal consequences of such commotions, we'll change our opinions: for, when the ramparts of government are once broke downe, and the deluge follows, men have no assurance that the water will take a flowing towards their meadows to fructify them; no, no, just in the contrary, we have seen them who began the rebellion very oft ruined or laid asyde as unfit cards by another prevailing faction getting into the saddle; thus, the Independents and Sectareis in England used the Presbyterians in King Charles the 1sts wars, which the Presbyterians began, hoping to rule all: *Sic vos non vobis fertis aratra boves, &c.* Fools begin the stir, and knaves, not seen at first, doe commonly reap the sweat of such disturbances, and mock at these who only hunted the game, but are so far from getting any share, that they become a prey themselves, and are accabed and ruined under the load of that government they had undermined, like the usuall fate of those who pull downe a wall, or kill an elephant, *mole obtruitur*. If the beginners of rebellions considered this in cool blood, it wold allay much of their indifereit heat.

Its reported, when Argile's corps were carrieng away of the scaffold,

a woman of the Popish religion followed the bearers with railing, and wished shee could wash hir hands in his heart's blood; some other weemen hearing this, it did so far provock ther choler, that they seized on hir, and dragged hir to a cloffe foot neir the North Loch fyde, and ther beat hir foundly, and tore hir cloaths, and robbed hir of hir crucifix and beids. They say, Collonell Wytfuird and other papists spoke very broad and open things as to ther inclination to avenge themselves on ther enemies.

On the 1 of July, we had account of Stewart younger of Coltnesses taking, (for he is in the Proclamation, putting a price on the rebels heads) but particularly of the apprehending Sir John Cochrane, and his 2^d son Waterfyde, and on Dumbar, furgeon with him. He had fled into ane P. 103. old tower house of his father's in Renfrew, called Cochrane, wher his unckle Gawin lived, his wife being sister to Captain Clelland, who was killed by Sir John Cochrane and his party; shee receives him courteously, (in this like Jael to Sifera, Judges [ch. 4. v. 18]) but hir husband not being at home, (so this will liberate him from the cryme of refet, tho it creat a bad understanding between the man and his wife,) shee sent privy advertifement to some dragouns neir hand, who came and seized him. Quæritur, Whither the dragouns or shee deserve the 1800 merks reward for apprehending him? it seems to be due to the discoverer. Supra we have seen Abimelech and Pyrrhus dy by the hands of weemen, who are superlative vindictive; but that French gentleman was more generous, who sheltred a neihbour who had killed his oune nephew (which he knew not then, but the officers coming to seareh for him and finding his guilt,) he came to him and privily dismissed him, seing he had given him his word of honor, he would not violat the *jura hospitalitatis* by delivering him up to justice, but thought he was not bound to keep him any longer, but bade him shift for himselfe.

Supra page 88, et seq. we have some passages and occurrents of the

English Parliament ;—to prosecute some mo of the occurrences happened then, and ther acts and bills : Ther was a motion in the Houfe of Commons for erecting and keeping a register in every market toune for discovering titles and incumbrances upon lands ; the want of this makes ther rights very infecure, and in 1670, and at other tymes, it hes been attempted to introduce the practife of our registers among them ; but it was always opposed by the lawyers as spoiling part of ther trade, and out of envy to us, that they feorne to borrow our customes ; (see mention of a pamphlet against it called Registering Reformation, in ane answer to it by Sir G. Mackenzie in the end of his Pleadings, in 4to.) A bill for keeping a register of all births, burials, marriages, &c. Upon the Duke of Monmouth's landing at Lynne and invading England, the Parliament brought in fundry acts against him, as a bill of attaindor of him as guilty of hy treason ; item, a bill declaring his illegittimateneffe, and that it should be treason in any to give him the style or title of King, or to refet or spread his traiterous Declaration ; with ane addresse to his Majesty, that he might not venture his oune royall person, but might offer £5000 sterl. of reward to any who should bring in the said Duke of Monmouth dead or alive ; (of this see afterwards page 105.) Beside the former subsidy, they, in respect of the war, vote the King a farder supply beside what is, supra page 89, and a motion was made, that it should be a year and a halfe full rent of all the houses in London built since 1661, ther being a prohibition then in respect the city swelled too big ; but the citizens exclaiming, they ware forced to alter the funds out of which it should be raised, and to lay it on brandee, callicoes, coco nuts, wrought and unwrought silks, &c. ; and in regard this imposition was for 5 years till 1690, and the King's affairs required a present stock, they passed ane act to raise and advance 400,000 lb. sterl. theirol, upon credit by anticipation presently. Thir cesses the English Parliament have granted the King are not considerable, and are laid on the merchand, which makes ane outcry ;

but they grant the King no land cefle fince May 1678, at which time alfo they gave him pole money *per capita*; the chimley money is annexed to the croun in the laft King's tyme, in compenfation of the waired holdings and liveries, which he then quate to the people. Item, a bill to incorporate a part of the poft office to the croun for augmenting its revenue. P. 104. Item, a bill for refchinding a claufe in ane aët anno 29 and 30 of the laft King, and now allowing the importation of French commodities in regard thefe goods ware ftollen in uncuftomed, and fo none but the King was prejudged. Ane aët for releiff of poor debtors and prifoners. A bill brought in to naturalize all the French Proteftants already come over, or who fhall come betuixt and a day to be defined, providing they tranflate the Englifh Liturgie into French, and ufe it in ther congregations, and acknowledge the government in Church and State;—this is a politique aët in the King, and commendable for him to affent theirto. The common counfell of London caufe raze out and deface the infcription Sir Patience Waired had caufed put upon the London Monument, the tyme of his majorality, anent the cities being brunt in 1666 by the Papifts, and ther murdering of Sir Edmondbury Godfrey: the Englifh Parliament ware difpleafed at this; as alfo at a motion made, that French forces might be invited over to affift the King againft Monmouth. A bill in favors of the trade of filk weavers. Ane aët for fetling and fecuring the Quean in hir doury or joynture. Ane aët to enable the King to fet a leife of his croun lands in his Dutchy of Cornwall. A bill againft importing gun powder and fmall arms, for incuradging artificers at home. A bill againft fimony. Another for repreffing perjurie, in regard they found the punifhment of it too fmall in Titus Oats' cafe. And Thomas Dangerfeild alias Wilhonby, being arraigned at the King Bench bar for publifhing a fcandalous and infamous narrative reflecting on the King, then Duke of York, as acceffory to the Popifh Plot, (fee a note of it alibi,) and being conviët, he is fyned in 500 lb. fterl., fet on the pillory, and fcourged

first from Auldgate to Newgate, and the next day from that to Tyburne; (vide supra pag. 84 et seq.) Item, Richard Baxter, the famous non-conformist minister, is convicted for writing and printing some seditious annotations on the New Testament, and for it is fined in 500 merks sterl., and imprisoned till he pay it, and find bail for his good behaviour for 7 years coming, for he is very old. Some of the House of Commons made likewise a proposal that some late printed books should be censured, such as the works of on Petit a lawyer, of on Thomas Hunts, also an Innes-of-court man, for London's charter, and against this King when Duke, Mr. Gilbert Burnet's History of the English Reformation, &c.:—Some thought their propositions and proceedings odd. An act that seamen may be hereafter pressed to serve in the King's ships, which was not lawful before. Leave is given to bring in a bill for the building of ships; another for improvement of tillage and breeding of cattle. The King in his robes and crown in the House of Peers having touched the supplies, and sundry of their acts that were ready, he adjourned the Parliament, on the 1 of July, to the 4th of August, in respect of the present expedition against Monmouth.

Before I come to Monmouth's invasion, I'll step a little over seas, where the Greek Mainots revolt from the Turk, who suspecting an religious P. 105. Abbot in the Golf of Trevesa, as accessory theirto, they impale him alive by drying a stake thorow his fundament to his mouth. The Christians, under the command of Colonel Heusler, besiege and straiten the Turks in the town of Neuhauffell, which they defend with courage enough. From Madrid, in June, we hear that the King of Spain commanded the Duke de Medina Celi, to retire from Court to his campaign house, 18 miles distant, called Collolludo; he was first gentleman of his chamber, and master of his horses; the cause of his disgrace was not then known, but on of the Queen's waiting maids discovers a conspiracy against the King. The Duke de Willa Hermosa declines to accept the government of the Spanish Netherlands. See infra page 113.

Supra, page 91 et seq., we have seen the fatal end of Argile's bold attempt: in prosecution of the same designe, did the Duke of Monmouth, in 3 ships, land on the 10th of June 1685, with 150 choise men at Lyme, in Dorsetshire, near the Ile of Wight, wher he knew the people ware most inclined to him, and much disaffected to the present King. Immediately the King emits a proclamation against him, the Lord Gray, and his other associates, declaring them traitors, condemning ther villanous proclamation, and offering the summe of 5000 lb. sterling, to any who shall bring in Monmouth dead or alive; and the Parliament passe a bill of attaindor against Monmouth, and for preservation of his Majesties person and government. See more of the Parliament's actions in this, supra page 103, and that they will stand by the King with ther lives and fortunes. Major Wildman, Captain Mathews, Charleton Speak, John Trenchard, Collonell Danvers, and others, absconding themselves, and it being suspected they had run in to Monmouth, ther was warrands issued out to arreist them; but the birds ware flown. From Lyme the Duke of Monmouth marched to Taunton, (wher the famous Mr. Joseph Allane had been minister,) both which tounes boor long seidges in King Charles the 1st's tyme, in behalfe of the Parliament, and the King was forced to raise and leave the last, viz. :—Taunton in Somersetsshire, which, in commemoration of that long seige, wheirin they ware redacted to eat horses' flesh, they keiped ane anniversary thanksgiving for ther deliverance, even after the late King's restitution, which he studied to abolish as a most absurd reflection, and yet was not able wholly to accomplish it. Thir western shires of Wales, &c., are very anti-monarchieall, and much enamoured to be at a Commonwealth and Democraey, which made Rumbold, (supra page 99,) say, that Monmouth was not weill advised to assume the title of King, seing his best men ware Republicans.

The King was somewhat straitned with this invasion, for he had not many standing forces, and he durst not empty nor evacuat his garrisons,

nor the militia of London, nor will leive the city, leift the il-affected ther should rife for Monmouth. Whowever, his fate begins as Argile's, for as his ships ware tane at Ellangreig, fo are fome of Monmouth's tane at Lyme, and 5000 ftand of armes, in regard he wanted carriages to transport them.

The Duke of Albemarle meits a party of the rebels neir Taunton, and defaits them, killing on Buffat, the fon of ane old rebell in that toune; on Lieutenant Monaux, on the King's party, is alfo killed in that rencounter. Monmouth cuts and breaks doune the bridge at Bridgewater, which cafts the King's army a confiderable march about; and then he goes to Philips Norton and Frome, defending himfelfe with the lanes and thick
 P. 106. hedges their: notwithstanding wherof, a party of the rebels is attacked behind theffe hedges, by Lewis de Duraz, a Frenchman, created the Earle of Feverfham, and the Earle of Pembrock, and the Lord Churchhill, and 200 of them defait, and ther leader Captain Mathews, fon-in-law to the late traitor Sir Thomas Armftrong, is killed; and on the King's fyde, the Lord Newport's fone is shot in the belly. Monmouth was judged to have about 7000 of the ill-armed rabble with him. He was faluted as King by the rabble, and fo praycd for by ther minifters, and he touched fuch as had the King's evill as King. William Dinfie efquire, and printer of Monmouth's traitorous Declaration, being taken, was arraigned and convicft theirol, and is hanged, drawn, and quartered at London. The news of Argile's totall rout did weaken Monmouth's party exceid-ingly. He affumed the title of King, by Ferguffon's advice, thinking the nobility and gentry would then come in to him; and in that ftyle wrot to the Duke of Albemarle, commanding him on his allegiance to defert the fervice of that ufurper, who had poifoned his brother, and come in to him, the late King having been lawfully married to his mother. He alfo created the Lord Gray (as was reported) Duke of Monmouth, and a knight of the Garter, (becaufe our King had lately made the Earles of Peterborough and Rocheftcr, knights of that order.)

thinking he had no more use now for that title of Monmouth, having assumed a hyer; he also made our Mr. Rot. Ferguffon, his Secretary of State, and on Mr. Richard Goodeneuch, his Hy Treaferur; and on a Sunday he attempted (like Oliver Cromwell's trick) formally to preach to his army. The King beside his suadadoes, called over from Holland his 3 Scots regiments, and his 3 English ones; and to encourage his fouldiers, he declares, he will give the 5 militia men of Arran's regiment, in Cliddifdale, who (supra page 95,) took Rumbold prisoner, the 500 lb. sterling he had promised, by his English declaration, for any to take him, and if they were dead, ther wives, children, or nearest of kin, should get it equally amongs them. Some wondred that the King of France did not concerne himselfe in this plea; for no doubt he is content to see England humbled and debilitate by intestine commotions; but as for Monmouth's designe, that King loves not to conquer crowns for others. The King emitted a proclamation offering a pardon to all the rebels with Monmouth, under the degree of officers, that should lay donne ther armes immediatly and come in; which had such good effect, that some 100^s. left Monmouth; who commanded all the carpenters, maiffons, bricklayers, &c. to attend, which made us beleive he intended to fortify himselfe in a camp. Our King having sent for his 3 Scots regiments, and his 3 English ones, that were in the Dutch service, the 3 Scots regiments are immediatly shipped, and the King sees them rendezvous at Blackheath, to his great content. The Prince of Orange sent and offered his personal service to his father-in-law, and ordered ten ships to scour the Maife and the Uly, that no more ships might come furth to Monmouth's ayde; and not knowing the printer was taken, put the price of 500 lb. upon his head, and the States were so civill as to offer the King the 6000 men they are obliged to send him when he needs them. The King's forces lying in a plain near to Bridgewater, the Duke of Monmouth, with great secrecy, marched on the head of his army, being then 6000 foot, and the Lord Gray, on the head of 1200

horſe, and thought to have ſurprized the King's army on Moonday morning, being the 6^t of July; but they ſtood ſo obſtinately to it, that, for all ther ſilent march, they found them on ther guard, ready to receive ther ſhot; ſo that at laſt Monmouth's men ware forced to give back and yeild, P. 107. and, being once diſordered, they could never be got to rally again, notwithstanding all Monmouth's courage, and payns he took to doe it; wheirupon, his army being totally routed and brokè, he was forced to flee of with ſome 50 horſe, and ſuccumb to his hard fortune. Thoſſe who boor the brunt of this battell, and had the honor of the victory, was my Lord Dumbarton's Scots regi^ment, to the credit of our nation (tho Dumbarton himſelfe was in Scotland.) Captain Robert Hacket took Monmouth's oune ſtandart or cullors, with this motto in gold letters on it, "Fear none but God." Captain Moncreiff, with 5 lieutenants, and 4 of ther enſignes, ware wounded, and ſome of them mortally, and about 30 ſouldiers killed; ſo that the fate of this day the Engliſh and the King ow it to the Scots.

On the 7^t of July, the day after the battell, my Lord Lumley's men found the Lord Gray in a diſguiſe at Ringwood in Dorſetſhire, and aſking at him for Monmouth, and he anſwering timerouſly, they apprehended him, and brought him to Lumley, who knew him; and, being enquired anent Monmouth, he ſaid, he fled that ſame way; wheiron they got on of the forreſter of the woods' ſlough or blood hounds (who follow theives, but ther race is much worne out in our Scots borders,) who ſmelled Monmouth out in a dry ditch, wheir he had creipt in all covered over with bryars and buſhes, braiks or ferns, and was ſo faſt aſleip (having never been in bed nor his cloaths of ſince he landed at Lyme 4 weiks before), that when they pulled him up he could not ſtand nor ſpeak ſenſibly; he was ſo drunk with ſleip that he nather knew wher he was, nor that he was in his enemies hands: he was in a gray freize coat, and a leather girdle about him; he had his George, the badge of the Garter in his pocket, with 200 guinees.

Some of the principall rebels fled from Barstable to Elford, and leiving ther horses ther, about 60 of them forced a boat and thought to escape, but ware tuyse driven back, once by the wind and the second time by on of the King's weshells; wheiron they took shelter in some of the cliffs and rocks in that coast, wher they most ather be taken, or leap into the fea and droun, or starve and dy; amongst whom are said to be Mr. Rot. Ferguffon, our countryman, with Melthorp, and Richard Goodeneugh, once under sheriff of Middlesex. Of Monmouth's party ther ware about 1500 killed, and 300 taken prifoners, wheirof fundry ware immediatly hanged on the place at Taunton and elfewheir.

On Moonday the 13 of July, the Duke of Monmouth, the Lord Gray, and on Brandenbrugh a German, ware brought prifoners to London. Monmouth wrote most submissive letters to the King, Quean, Quean Dowager, and Lord Treafurer, and desired leive to see the King's face; which was allowed him, the King conferring with him for halfe ane hower in presence of Midleton and Sunderland, his two Secretaries of State. But as soon as it made tyde they ware put in on of the King's barges, manned and lined with fuziers, and carried thorou London bridge away to the Tower, in at Traitors' gate, (which is ominous to all who enter that way,) wheir his lady and children ware allowed acesse to him. The next day, being the 14 of July, the 2 shireffs of London came to him from the King, and acquainted him to prepare for death against the morrow, seing he stood condemned guilty of treason by Act of Parliament; and accordingly, nixt morning at 9 a cloak, he was brought out to a scaffold erected on Tower-hill, strongly guarded with foot and horse souldiers, accompanied with the Bishop of Bath and Wells, and the Bishop of Elie: he had on a dark gray coat lyned with black; he had litle discourse, but studied a while on the block and prayed, and gave some guinees to the executioner, and desired he might put him to as litle P. 108. payne as could be; yet he mangled him extreimly with 5 stroaks ere he

got of his head: (*Est error vulgaris quod liberetur cujus cervix uno icu rejecta non est*; A. Mathæus de Criminibus, p. 907.) Some thought this torture (the first hack made him lift up his face and look to the bourreau) nather injoynd nor design'd; but that the executioner's eyes and courage fail'd him, (confidering the person he was killing,) that the ax was ready to drop out of his hand, and he offer'd to give it over had not the Shireffs of London threatnd him to perfyte it. And so ended this stout and unfortunate Prince, the nobility of whoffe birth procur'd him the favor to be headed, and not to be demamed, hanged, drawn and quartered, as other traitors use to be. It was reported, that Do&tor Turner, bishop of Elie, brought a letter from Monmouth to the King, begging his pardon for taking his title to the croun of England, &c. on him, and that he had not done it had he not been forced to it by some of his party, (tho all the republican faction would be against it,) and that he had no pretence to it, being oft told by the late King, his father, (who would have been very loath to have execute a capitall sentence on him, no more than David intended that his rebellious sone Absolon should have been killed,) that he was not married to his mother; and begged his Majesty would be kind to his children, for the King had imprisoned both them and their mother the Dutcheffe, on the account it was reported shee was with child, and so had conversed with him, (how far this correspondence of a wife with hir husband is criminall may be doubted); but Monmouth's claiming the croun, tho' on a title never so slender, will intayll a jealousy against all his children, who may set up the same pretence when giddy rebellion gets an opportunity, so that the King will never think himselfe secure without detaining them in perpetuall imprisonment; wheiras if he had not put in his clame, it's like the King would have restor'd his posterity. Among other prisoners tane with Monmouth, ther was his servant Mr. Williams, Collonell Holmes, and Perrot his major, and the constable of Crookhorne, and Mr. Goodeneugh.

The King, by his proclamation on the 11^t of July 1685, immediatly ordered a thanksgiving to be keiped in all the churches of England on the 26^t of July for his deliverance. We prevented them, and keiped our's, on the fourth side of Forth, on the 23^d of July. By this suceesse, (tho more redevable to the divine providence then any humane aid,) some termed the king James the Hardy, as they denominated his brother Charles the Clement or Mercifull. Some talked of projects to spare Monmouth's life, and to keip him in perpetuall restraint; but confidering the King's humour, and his rivalling the croun, that could never be expected. His scafold stood in the same place wher the popish Lord Stafford's, and Collonell Sidney's had formerly been erected. Thus ended this storme, which I find fortold by Mr. Spence, in his deposition tane in August 1684, (as it is recorded in our printed account of our plot, page 33,) that he thought on the late King Charles's death troubles would probably arise becaufe of the Duke's religion, which was a sort of prophecie; and as the throwing Sheba's head over the wall of Abell appeafed Joab, so Monmouth's head fell a sacrifice to his unckle. All wished this victory might make the King thankfull and humble, and tender of his people in ther religion especially, for some feared it would puff up P. 109. the Papists exceidingly, and that it might occasion many to apostatize and fall away from the Protestant faith; confidering the attachement and inclination many of us have to the Reformed religion, is only the product of education, not conviction, and only becaufe it was the religion of our country, and we ware bred up in it; and a religion bottomed on such a foundation as this, will easly be deserted on the hope and prospect of some wordly advantage. Some said, that Sir William Waller had yet a reserve behind of assistance from the Duke of Brandebourg, and the other Protestant princes of Germany; but a new attempt against the King was judged by all ane impracticable folly, ther bad suceesse being so recent still in ther memory.

To mingle in a title of Scots affairs heir, becaufe of ther contingencie; in my Juridick or folio law manufcript, in the moneth of July, (page 15,) I have the account of the forfaultor of Denholme of Wafttheills, and Mr. Gilbert Elliot, abfent fugitive traitors; and the condemning of Mr. William Spence and Stuart younger of Coltneffe to be hanged, for being in Argile's rebellion, and ther reprieveall; with the taking and continuation of Meffrs. Charles and John Campbells, fones to Argile; and the apprehending Mr. Archer, on of Argile's minifters, and of Griffiffs, a non-conformift minifter's fone in England, who alfo came with Argile; and the tuife robbing of the Englifh packet coming to Scotland, and the 2 conjectures theirupon; item, the fending ane yaucht for Sir John Cochrane and Collonell Ayloff, to bring them to London, to difcover the plotters more fully to the King, and the bad principles of Sir John's fon, Waterlyde, &c. It was reported, that ther ware found on the Duke of Monmouth, at his taking, fundry books and manufcrips, and particularly on all written with his oune hand, full of fpells, charms, and conjurations, with fundry fongs, receipts, and prayers; item, 2 manufcrips of fortification and the military art, with another computing the yearly expence of the King's navy and land forces.

It was found, after examination of the prifoners, that our countryman Andrew Fletcher of Salton came over with Monmouth, but when they ware mounting themfelves with robbed horfes, he and Mafter Dare, a goldfmith and alderman of Taunton, difcording who fhould have a horfe, he piftoled the faid Mr. Dair dead; wheiron fuch ane uproar happened, that the Duke of Monmouth could not undertake to fecure him, (for the faid Dair was of the firft who brought in men to Monmouth,) wheiron he was forced to retire to Holland or Spain; which accident tends to the prefervation of his life at this tyme, yet it makes his proceffe of forfaultor very clear, which was dubious before, Argile having fo far vindicat him, that he declared he wrote feverall tymes to

Salton, and he was so ill-mannered he would never once returne him an answer; tho he was guilty in not sending over Argile's letters (if so be he received them) to the King or his officers of state, but his coming with Monmouth puts his guilt beyond all contradiction. Salton was always observed to be turbulent and factious. I heard, in the Parliament 1681, he sent sundry unfubferyved letters to the Laird of Maccairfton and other members, desiring them to oppose the act of the Duke of York's succession. See *infra*, pag. 112. By Monmouth's printed letter to the King, it appears he would have redeemed his life with the lowest submissions and acknowledgements of guilt, and that he had that to discover which would give the King a happy reigne; but, finding the King inexorable as to sparing him, he turned obstinate, and would not confesse he thought his rising in armes a sin. The clergie, who assisted him at his execution, pressed him much; but he shifted alwayes to give them any direct or categoricall answer, as ther printed discourse bears. They also urged him anent his keeping of Lady Henrietta Wentworth, who had born him children: he could not be convinced his converse with hir was any sin, for both he and shee had oft prayed to God to reveill it to them, and they had still peace; that his father had choised the Lady Buceleuch to P. 110. be his wife in his younger years, but Lady Henrietta was the wife of his affections; and all the lenth they could get him, was to say, if it was a sin to keep hir, then he prayed God's pardon for it; wherthrow they ware forced to deny him absolution, or the sacrament of the Lord's Supper, only they intreat God to accept of his generall and imperfit repentance, and to forgive him that grosse error in his judgement, that he might keip 2 weemen at once. Others denied he had any carnall dealing at all with the said Lady Henrietta; and his apologie on the scaffold seimes to make for this. His Lady, at hir first visit to him at the Tower, throwing hirselfe at his feet, fell a fword and being recovered, obtested him to declare, if ever shee had been uneasy to him, except in the matter of his weemen and

disobeying his father, and if shee knew any thing of his designs: he did with a groan purge hir. But his assuming the title of King unsecures his children; he had a very pretty boy whom the late King made much of, and was reported to have the mark of a lyon on his fyde, and to have dyed suddenly within these 5 or 6 moneths, which awakened the suspicious tongues of ill men.

The Under-sheriff Mr. Goodenough (who was he that arreifted the Mair of London in 1682, supra page 51) being brought in prisoner, confirmed that Keeling (the first discoverer of the Protestant plot in 1683) had said and affirmed, that it was Shaftsberrie's faction who, in 1678, murdered Sir Edmundbury Godfrey, the justice of peace, and yet laid it on the Papists. On his examination Alderman Cornish and Captain Rumfay, (who had got a remission, and yet had remitted money to the rebels with Monmouth,) are again apprehended. As also, there are imprisoned in the Tower, Gray, Earle of Stamford, the Lord Brandon Gerard, and Booth, Lord de la Mere, as on the forknowledge of Monmouth's treasonable invasion.

So, as I have observed supra, our present King's reigne resembles somewhat that of Henry the 7th. which was turbulent and factious; but, to prevent future events, the King has taken advantage of this juncture to raise ane army (I know not how England will like it) of 20,000 standing forces in England, whereof the Earle of Feverham (now made a knight of the Garter) and our popish Earle of Dumbarton, are made Lieutenant generalls, (some said it was Leg, Earle of Dartmouth, also a papist,) and it is calculate, that it will take 500,000 lb sterling yearly to pay them; and he is to have 15,000 men up in Ireland, and our standing forces are to be made up 5000; in all ane army of 40,000 men, which will danton and quash any attempts in the bud; (see infra, page 112.) On this discontent, that others were preferred above him, the Duke of Albemarle, Monek's sone, valueing himselfe on his father's services, demitted his

Captainship of the King's guards, and other offices, which were accepted of his hand, and bestowed on Feverham.

The King was so well pleased with the loyall carriage of [Peter Mews,] Bishop of Winchester, because he could not create a churchman knight of the Garter, yet he gave him a George to wear about his neck as a badge of his favor. Bennet the Earle of Arlinton, once Secretary of England, and then Lord Chamberlayne of the King's household, dying at this tyme, the King bestowed his place of Chamberlayn on Bruce, Earle of Ailesberry in England, and Elgin in Scotland. At this tyme also, dyed Sir Lionell Jenkins, late Secretary of State, who had done the late King good service, and begged leave to retire a while from the world before his death.

It was reported, the King had got so full information from the English prisoners of all the designe both of Monmouth and Argile, and that some Anabaptists from Holland, &c. advanced them money, that he was not P. 111 resolved to call for Sir John Cochrane at all; and truly it were generous in our King to stop the torrent of any farther delations and discoveries, lest men throw love to their owne life, draw others in hazard, and let him do as Julius Caesar did when Pompey's cabinet, papers, and letters fell in his hands, he would read none of them, but threw them all in the fyre; and it might tend much to quiet, unite, and secure the minds of his people that he would grant a generall full indemnity and pardon.

Dangerfield, on of the witnesses of the Popish plot, having been convicted of perjury and falsehood in the Narrative thereof he published, he was ordained to be scourged and pillorized; and in the going to Tyburne on Francis, a counsellor at law, came and thrust the point of his staff so far unto his ear that he dyed. (*Quæritur*, If it would have been homicide if Dangerfield had been a malefactor sentenced to dy? for then he only anticipated the time: see notes on this question alibi.) See for this Ant. Matthæus de Criminibus, p. 909, et seq. Francis is found

guilty, by a verdi&ct of wilful murder, and the King is so juft as to fuffer him to be hanged.

On Captain Culpeper having ftruck Cavendifh Earle of Devonfhire, in the King's prefence chamber, ther is a Court of Verge held on him, confifting of all the officers and fervants of the King's houfe ; who, conforme to ther law in fuch a cafe, adjudge his right hand to be cut of, (fee our 173 a&t of Parl. 1593, in that cafe,) and fyne him 1600 lb., and imprifonment during the King's will. Cutting of the hand, at leift boring it, is enjoyned by the 6^t chapter Statuta Wilhelmi apud nos, in fuch a cafe.

The Spanifh Embaffador complains to our King that the Englifh bucaniers, robbers, on the coaft of Jamaica had plundered Vera-Cruiz ; the King promifes to fuppreffe thefe pirats. The Englifh Eaft India fhips bring home fundry ftrange creatures, and particularly a man with a monftrous child growing out of his breaft, that eats, drinks, and evacuates by urine ; they are bid 500 lb. fterl. for him.

And to ftep a litle over feas, Amfterdam becomes fo ftubborne and elevat againft the Prince of Orange, by the protection of France, that they refufe to pay ther proportion of the late tax impofed by the States-Generall, and threatens, if they be preffed, they will declare themfelves a free port, and defert the union. At the court of France, with great folemnity, ware keiped the nuptialls of the Duke of Burbon, fon to Enghien, and grandchild to the Prince of Conde, with Madamoiffelle de Nantes, that King's naturall daughter by on Madam Montaigne ; he gets in tócher 400,000 livres, and the reverfion of all his father and grand-father's places. Vienna will not be behind in joy, for their is folemnized the marriage of the Ele&tor Duke of Bavaria, with the Archdutcheffe of Auftria, the Emperor's daughter ; but ballances him againft France, the Dauphin being married to his fifter. Some whifper, that the Prince of Orange knew of Monmouth's coming over to invade his father in law in

England, which is very improbable; however, it seems the King thinks fit to pass over all the provocations given him by the Hollanders, seeing he has renewed his brother's treaty with them, and signed a defensive league, leaving room for the Emperor, the Spanish King, the Duke of Saxony, and others who please to come in: for this is looked upon as a bar as strong to humble France as the triple league of Aix-la-Chapelle was, and though there was fear of a rupture with Holland about Bantam, yet it proved a very acceptable union as any thing the King could have done to England; for their princes are ambitious, their being of one religion does not hinder them. And it was reported, that France had the Duke of Crequy ready with an army to fall in and take Namur, in case the Turk had prevailed over the Imperial forces, and that it was Montmorency Duke of Luxembourg, who commanded Buda the last year, and passed as Serasquier Bassa this year, and was privately sent by the French King his master to assist the Turk, and that he was unknown to the generality of the Turk. It was alleged by some, that Lord Gray betrayed the Duke of Monmouth, and discovered his designs to the King's forces before he came, and stood off without fighting, having the King's remission in his pocket, secretly sent him 3 days before; otherways there was probability enough that Monmouth being stronger, might have surprized and defeated that part of the King's forces he fell upon.

On the 15th of August 1685, one of the King's yachts arrive at Leith with two prisoners, viz. Mr. Bruce and Brandenburg the German, both taken with Monmouth, sent down to Scotland to bear witness in the forfeiting of Monmouth, (by which his *Jus Mariti* and moveables, which will be 20,000 lb. sterl. of bygone rents, will fall,) and Andrew Fletcher of Saltoun; but in regard their former libels bore not this late crime of invading England, there was new indictments raised against Saltoun in 60 days, and Monmouth's airs sicklike, (whose daughter, Lady Anne, dyed at this time of the small pox in the Tower of London). Saltoun, before this attempt of

his in joyning with Monmouth, was in a fair way of being absolved, for Argile purged him. They say, what irritated him was, that the present King hearing he was at Bruffells, sent over privily to the Marquis de Grana to cause apprehend him; whereof Salton getting account, it forced him to flee in to London, where he met with Monmouth's unfortunate company, and associated to him. Supra, page 109, we see how he leaves England; it was said that ship landed at Bilbo in Spain, where he lurked incognito. The yacht which brought down his witnesses, did, by his Majesty's order (tho supra, page 111, that was demurred on a while) carry up Sir John Cochrane, and his sone, and Collonell Ayloff, to make what farther discoveries they could.

Supra, page 110, we see the King raises no forces, yet he disbanded some, whereof the reason was said to be, that by this means he might get out some officers, and put Roman Catholics in their place. However, to humor the English, he wisely published a very strict proclamation regulating the soldiers, that they should exact nothing but what they payed for, nor quarter in any man's house without his consent, nor threaten nor extort from any, under the pain of cashiering and farther punishment. The King forbears some time to lift the imposition the Parliament had granted him on tobacco and sugar, because the merchants of Bristol, by a remonstrance given to him, undertook to make it appear that the said tax would doe his forrain plantations in America, and his customs at home, more hurt then all the profit he could have by it. Among other prisoners brought in from the west of England, Mr. Wade is one who was at first reported to have been dead of his wounds: he is declared fugitive in the King's proclamation in 1683, as being then fled for the plot. Nelthorp is also tane, and Spek, father-in-law to Trenchard, surrenders himselfe; and Sir Gilbert Gerard, and the Earle of Meeceffeild, are, upon suspicion of their accession, sent to the Tower. Nine of the rebels (amongst whom our

Ferguffon was fuppofed to be on) fled in ane open boat to Amfterdam; but the States have promifed to apprehend them if they can, which is intimation enough to them to flee out of ther territories. The Bifhop of Bristoll being removed to Chiefter, the King named Sir Jonathon Trelawny (who having bein in orders before his brother's death, fell into his eftate and honor) to be Bifhop of Bristoll, and Do&tor Whyte is created P. 113. Bifhop of Peterborough.

Supra, page 105, we fee a confpiracy againft the King of Spain, by a Frenchman and his wife, whom he had turned out from being mafter of the horfes to the Quean, (who is the Duke of Orleans's daughter,) which did fo intrage them at the French, that not only did the conftable of Caftile, feize on them, and execute them, but alfo all the French ware banifht the court, but only the Qucan's confeffor, hir cook, and on maid of honor. At the fame tyme, Francis Garlandyne, Secretary to Sir William Sidney Godolphine, the King of Brittain's Envoy at Madrid in Spain, is killed in a quarrell by fome Spaniards, who immediatly took fan&tuary in a church: the Embaffador demanded juftice and fatiffa&tion. The Duke of Bowillon and others, are alfo banifht the Court of France, for writing defamatory letters againft the King and his governement, to the Princes de Roche-fur-Ion, and Conty, who are affifting the Imperialifts againft the Turk. Letters from the Eaft Indies boor, that the Hollanders ther had tane care to convert of the infidels their, to the Proteftant chriitian religion, near 50,000, and had baptized them, and that they had 3 minifters, and ware fending more: fo what the reformed religion lofes of ground in Europe, it gains in Afia.

About this tyme, dyes the Lord Roberts, Earle of Radnor, a moderat prefbyterian, who had been Deputy of Ireland, and prefident of the Englifh counfell in the laft King's tyme; and with us dyes Levifton, Earle of Calander, and Gencrall Thomas Dalzeell, very fuddenly, who got a very fplendid buriall after the military forme, being attended by the ftanding

forces, horfe and foot, prefent at Edinburgh, and 6 peices of canon drawn before his herfe, with his led horfe and generall's batton, &c. Some ware observing that few of our generall perfons in Scotland had come to ther grave, without fome tach or note of difgrace, which Dalzeell had not incurred, and infanced in Lefly, Earle of Leven, Lefly, Lord Newark, Generall Hamilton, Houburne, Montgomerie, Monro, Monmouth, &c.

In the end of Auguft 1685, we had the grateful news that the Duke of Lorrain having left the fiege of Newhauffell, to relieve Gran, before which the Serafquier Bafha had lyen doune to make a diverfion, he had ther given the Turkish army, confifting of 40,000 men, a confiderable defeat, and had flain 4000 of ther janizaries, and fo releived Gran. And at the fame tyme, the Count de Caprara, and Duke de Croy, (whom Lorrain had left with 20,000 men, before Newhauffell) stormed it, and took it by force, committing a great flaugther and fpoill, wheirby this toun of Newhauffell, which had groaned 22 years under the Turkish yোক, is now reduced to the Emperor's obedience. The French King fent over the Marefchalls de Humieres, (Feverfham's uterine brother,) and La Ferte with the Prince d'Ifingen, to complement our own King on his victorie, (*an ex animo problema efto.*) The King put all the demonftrations of honor imaginable upon Humieres, becaufe, he faid, the Marefchall de Turenne had affigned him to be tutor governor and mafter in the French wars, and had been very kind to him in breiding him: at his parture the King gave him a medall, fet with many jewells.

The Portugall Embaffador being to part from London, did very honeftly infer a printed advertifhment in the Gazettes, that if any had ought to claime of him or his retinue, of debt, &c., they coming to fuch a place fhould be fatiffyed.

P. 114. About the 18th of Auguft, the Duke of Queanberry, Hy Treafurer, by a call from his Majefty, goes to Court, the Chancelor being diffatiffyed that he was not called alfo. This drew many of our countrymen to London.

some before him and others after him; as the Earle of Tuedale, Lord Maitland, Lieutenant-generall Drummond, Lord Braedalban, Lord Balcaffie, Lord Boyne, Lord Castlehill, Sir George Lockhart, Sir John Falconer, Hew Wallace, cash-keeper, Sir David Thoirs, and Mr. James Grame, advocats, Mr. William Moir, clerk, Mr. Sletzer, ingeneer, Captain Straiton, &c. The Chancelor followed to Court in September; (see ther animosities, infra p. 124.) The Chancelor, Duke Hamilton, and Duke of Gordon, (which tuo last ware also at London with Secretary Melfort,) aimed to have the Trefurer's office put in a commiffion to 5 or 6. The Trefurer thought to ftop Generall Drummond's going up, by calling for his counts; but he had ane expresse letter.

At this tyme, we had ane account of a barbarous murder committed by the phanatique Whigs at Lefmahaigo, on Mark Ker, bailzie their, for affisting to take Rumbold: it was said a sone, freind, or servant of Rumbold's was with th^m, they called for his pistoll and whinger which he had tane at his difarming, and with the whinger rip't up his belly, and took out his heart, as Rumbold was used. See my law manufcript, anent the banishing my Lord Argile's 2 sones, the liberating the Cefnocks, Park Hay, Blarquhan; the executing of Mr. Archer the minifter, and others, who had been in the rebellion; the continueing Mr. Spence, &c. On Mittris Lifle having refett Nelthorp and Wade, rebels, who came in with Monmouth, and fled to hir houfe after the defeat, and lurked ther till they ware detected by hir steward, who told hir of hir hazard, she is proccessed before Sir George Jeffries, Lord Cheiff Justice, in his western circuit, and found guilty of treason, and ordained to be brunt, (I think not alive, but after strangling,) becaufe the quartering of men traitors could not with modesty be exercifed on a woman's body, and hanging or heading is too gentle. Hir husband was on of King Charles the 1st's jury, and on his sones returne in 1660, fled to Suintzerland, and was killed and affafinate ther at Laufanne, by 3 Irish men, who expected a great reward

from the King for this service, but he gave them none. Shee was a woman very disaffe&ed to monarchy. On Beatman, a chirurgian, for forgetting Sir Patience Ward, is like to run the risque of his life: fo this cryme of refetting and concealling is like to prove as dangerous in England as it is with us; only they are securer, because they require it be wilfull and witting, which our judges of late take not so much notice to. At last the Earle of Rotchefer praevailed with the King, that his sentence of burning should be remitted, and commuted into heading at Winchefer. The Bishop of Bath and Wells did attend him, moving shee might discover what she knew of the plot: but shee dyed obstinate, and would not accuse others.

Their was at this tyme a talk of a great designe in making our King Protector of the Spanish Netherlands, and that the King of Spain, as a pledge and security theirow, should give him Newport and Ostend, as cautionerie townes. The United Provinces made such a stipulation with Queen Elizabeth, and King James was blamed as too honest in giving back the townes he had in guaranty, and our King is to supply them with men; this, with the league betuen him and Holland, into which the Emperor, Spain, and Brandenbourg enters, will be a check to France's swelling. Morofini, generall for the republique of Venice, with Seignieurs Delphino and Molino, give at this tyme a great defeat to the Turks, killing Mehemet Baffa, and the Visier, Calil Baffa, and taking the city of Coron from them, the capital of Morea, which has been now 200 years in the Turk's possession, and put 4000 Turks within the town to the sword; because, having hung out a white flag to capitulat and parley, and the Venetians sending of some, they sprung some countermines, and discharged 2 canons, and thereby killed fundry Christians, which treachery so irritated them, that they spared few or none of the Turks.

Heir the Prince of Savoy, the Duke's brother, was killed. And to prove

P. 115. this summer to be fatal to the Ottomans, our valiant countryman, Count

Lelly, (of the houfe of Boquhayne,) does beat the Turks at the bridge of Effeck; fo that the Serafquier Bafha, by a letter clofed up in fatin (conforme to the Turkish manner,) to the Duke of Lorraine, very humbly feiks peace, and conjures him in the name of God, to be content with the glory he hes got already, and to spare the effufion of any more blood, and the ruine of fo many poor peepel, and offers to abandon Tekely, and to redeliver the Emperor's 3 hoftages, and he ftrangles the Baffa of Buda, and fome others, for firft running away at the battell of Gran. He answered, a victorious army was not to be amufed with fuch overtures as theffe, and that he would remember how he had ufed the Emperor. Count Tekely alfo fent to capitulat, but was difmiffed without any hopes. Then Generall Shulzts affaulted Eſperies, a ftrong toune, and having fent in aue officer to move them to furrender, they fhot him to death, and the governor put up 3 gibbets to hang theffe magiftrats, burgers, or fouldiers, who fould move a yeilding; this irritated fo, that Lorraine fent a detachment of 8^t regiments, wheron they furrendered. Then Poſſega, the capitall of Sclavonia, and Agria, was befeidged and blocked up by the Chriftians, and Caſhaw furrendered to them.

At this tyme, the perfeutions of the French proteftants, in Bordeaux and Guyenne, became very cruell; for troups of horſe ware put on all thoſſe who refused to goe to Maſſe, who eated up all they had, fold ther wholle goods and furniture, and ufed all manner of tortures on them, except death: and if they be tane, ather concealling away ther goods or perfons, ther is nothing but preſent death. The Hollanders, hearing that ſome of ther natives ware fo ufed, made a remonſtrance to the French King, that they might not be treated as his other ſubjects, feing by the 10 article of the Marine treaty betuixt them, the Dutch ware to have liberty to goe or ſtay with ther wives, goods, &c.; 2^{do}, They required him to give back the Prince his Principality of Orange. It may be God in this extremity (ther being only 6 families in Bourdeaux

not turned popish) may appear in behalf of theſe poor people;—yet, at the ſame tyme, the ſaid tyrannous King is heſtoring the Pope, and cauſed affix thir 4 theſes on the Pope's Nuncio's door at Paris, 1^o, That the Pope's authority only extended to Spiritualls; 2^{do}. That he had no power over the Temporalities of princes; 3^{do}, That he is ſubject to Generall Counſells; 4^{to}, That his declarations are not to be received unleſſe they be approved by the Univerſall church; and which ware defended the next day, all the Archbiſhops and Clergie, at the King's command, being preſent. And for all this, ther are few Popes who have ſittin in that chair better men then the preſent; who, for peace, hes offered Germany back the cup, and to think of Tranſſubſtantiation as they pleaſe, &c.

The Judges in the Engliſh Circuit Court goe on rigorouſlie againſt thoſe who roſe in rebellion with Monmouth; and they proceed with far greater ſeverity then we; for not 6 have ſuffered on Argile's rebellion, but of the 1300 priſoners in England, ther is 331 of them hanged and quartered, 46 pardoned, as worthy of mercy, and 800 and mo ſent to the plantations.

At this tyme, in September 1685, dyed North Lord Guilford, Keiper of the Great Seall of England, and 3 ware candidats for it, the Marquiſſe of Halifax, Turner, Biſhop of Ely, and Lord Jeffries of Wem, Cheiff juſtice; which laſt got it with the title of Lord Chancellor, and ſo hes riſen from being Recorder of London to this eminence. Sir Edward Herbert gets Jeffries' place of Lord Cheiff juſtice, and Sir John Trevor ſucceeds him as Cheiff judge of the principality of Cheſter.

Count Tekely in his negotiation cauſed offer to renunce the title of Soverain Prince which he had hitherto aſſumed, and that he would be content of a Generall's place under the Emperour by his commiſſion, as was granted to the Governor of Eſperies; but it was reſuſed him.

P. 116. In September 1685, ther was a great outery at Edinburgh againſt Sir Robert Sibbald, doctour of medicine, who had carried over Popiſh prieſts

to the Countesse of Perth, the Chancelor's lady, and persuaded hir to dy in that communion; but also had openly deserted the Protestant religion himselfe, and abjured it in a Popish meiting, tho he had many tymes taken the Test, and so was perjured, and had made steps first from phantasticisme and conventicles, to be ane hy flowen Church of England man, and now had landed in Popery:—whether this apostacy and desertion flowed from conviction or no, I shall not judge; but ther is too much ground to suspect any who turns now, does it with a designe to gratify the King and get præferments; and his manner of doing it was blameworthy in turning with so much pomp and ostentation, tho *Religio Medici* uses not to be very troublesome in the world. We ware also much stumbled with a litle book, then printed at Edinburgh, ather published by the said Do&tor Sibbald, Robert Barclay quaker, or David Fairfoull the jesuite, or some priest, called, “Pax Vobis, or Gospell Liberty;” the wholle strain of it drying at this, that, by the principles of the Protestant reformation, a man might beleive, without any challenge, what he pleased, for our rule of faith was the Scriptures not interpreted by the Pope and counsells, (as the Papists take them), but by every private man of sound judgement, so that if any think the Scripture inclines to Arrianisme, he may safely beleive, and whenever he changes his view of the Scriptures, he may as oft change his religion. The designe of the book is very knavishly contrived to baffle, disgrace and affront our reformation; alledging Melancton maintained bigamy; Calvin, that Christ despaired on the crosse; Beza, that the Sacrament may be adhibite in other elements then bread and win; but his citations out of them are false and distorted. Being write dialogue wayes, it's easie to put no argument in his antagonist's mouth but what he can easly answer. Tho the Protestants doe not teach implicit obedience to the Churches fence of the Scriptures, so as to impose approbation and positive consent to all its dictates, yet this far we require union and communion, that wher we cannot give our assent, we are, for

peace's sake, to avoid schisme, to submit, comply, and be silent; so that there is a vast difference betwixt approbation and a naked submission, which is our duty in all cases where the error is not fundamental, for then and there we are to separate. This is a submission of practice as to circumstances, but not of judgement, for without previous information and conviction, one cannot surrender, abandon, and give up that; let all other contentions between us and the Papists cease, let all resolve and end in striving who shall be most holy, humble, and most obedient to God's revealed will. But though we do not maintain infallibility, yet we have God's promise that the universal church shall never totally erre in fundamentals; (see more of this alibi.) Though the author would pass for ane Protestant, yet it's most evident his designe is to shake and unsettle us in our foundation, hoping that our reeling will at last land us at Rome.

The Marquiss of Halifax (for speaking somewhat against the introduction of Popery, as was furnished,) is dismissed from the English Privy Counsell, and laid asyde; which was the more noticed, that he was almost the sole person, in the House of Peers, who first choaked and opposed the Bill of Seclusion of the present King.

Mr. Cornish, late Sheriff of London, and a great follower of Shaftsburie, on the testimonies of Rumsfy and Goodeneuch, that he was present in Shepherd's house with Monmouth, Russell, &c. at Fergusson's reading the treasonable Declaration, is found guilty, and hanged, drawn, and quartered on the 25 day of October 1685; he dyed firmly denying the truth of the things sworn against him. On Mistress Gaunt is condemned to death, and burnt at Tyburne, for assisting on of the Western rebels with Monmouth to escape, and giving him money: though this was Lady P. 117. Sophia Lindfeye's guilt in conveying away Argyle, yet all her punishment with us was only some tymes imprisonment.

The Lord Jeffries Chancellor, among other good rules he made at his entry this was on, which the lawyers condemned much, that where any brings in a

bill in Chancery to difmiffe proceedings at common law, that he who paffes from the action, or tranffers it from the one court to the other as *temere litigans*, fhall pay the dammages and expences the other on oath fhall declare he has been at. The Earles of Devonfhire, Dover, and Thanet, lay doune ther commiffions as Collonells to 2 regiments, becaufe, it was faid, they fav Popifh officers mainly trusted in the army. The Earle of Aylef-berry, but lately made chamberlayn of the King's houfe, (fupra page 110,) dyes, and the golden key and white ftaff is given to Lord Mulgrave, who fucceeds him in that place. John Ayloff, tane with Argile in Scotland, (fupra page 95,) being tranfmittted to London, was, in ther O&tober feffions, brought before the Lord Cheiff juftice Herbert, and, on the old outlawry againft him, is condemned to be hanged, drawen, and quartered. Richard Nelthorp, alfo ane Innes-of-Court man, as weill as Ayloff, and bred up in the laws, being tane with Monmouth, was alfo execute that fame day. Ayloff, if he had forfeen this, might have efeaped in Scotland, being keeped ther very laxly prifoner by Dumbarton's favor; he dyed compofedly, praying for the King and the Proteftant religion. Nelthorp was more fullen and quiet. Ayloff would have got his life if he would have difcovered and delated others, (as our S. J. Cochrane does,) but he refused to indanger any for preferving his oune life.

In O&ober 1685, the Englifh Seffions fitting doune, the new Lord Cheif juftice Herbert, in his charge to the grand juries, pitched upon 4 particulars: 1^o, That perjury was turned very frequent, the nature whereof he opened up, that it not only confifted in fwearing to much, as Oats had falſely done, but alfo in fwearing to litle, and leffe than the truth, as Shepherd had done at Cornifhe's tryal, (page 116,) in firft denying that he held the candle when Cornifh red the Declaration, till Rumsfy fixed it on him; fo this touches the conceallers of the truth when the are upon oath. 2^{do}, He repreſented that ther was ane account of 6000 rebels in armes with Monmouth in the weft at the laft ryfing, and all they had yet

apprehended, hanged, or banished, was only 2,500; that it was not likely that many of the other 3,500 resting had escaped out of the kingdom, and that they were but a few yet who had been convicted of resetting, tho certainly they were harbored; and especially, he doubted the city of London, and therefore he craved the constables might take up lifts of any new intrants, or of any who were absent from their houses at that tyme, and so may be presumed to have gone into Monmouth then: this is taken of our acts of Privy Counsell and searches, whereof the King and those about him are much enamoured, as the readie and most expedite way to discover lurking fugitives. 3^{tho}, He recommended the putting the acts against separation from the Church in execution, and he looked upon it as remarkable, that since it was done their churches were beginning to fill much better then they did. 4^{tho}, He reprooved them for the increase of beggars; that a man could not stand on the street for them; and yet they robbed and broke houses in the night.

In the same month of October came forth that cruall Edict of the French King's against his Protestant subjects, whereof I have the double both in French and English; shewing his father and grandfather Henry, had given them priviledges by the Edict and Pacification of Nantes in 1598, (see this Edict of Nantes at great length in Du Serre's Historie of France, anno 1599,) and of Nismes in 1629, because they were imbroiled in civill wars; but he now enjoying a profound peace resolved to have all
 P. 118. his subjects of on religion; and therefore he called, annulled, rescinded, and revoked all these edicts and their priviledges, and discharged all publick or private exercise of that religion, pretended reformed, under the pains of death, (which is borrowed of our acts of Parliament against conventicles as one would think); and that all the ministers void the kingdom within 15 dayes, otherways to be put in the galleys; but if they turne Catholicks, then they are to get a third more then their former stipends, and their reliets to enjoy it during their viduities; and if they will turne

advocats, then they shall be admitted for the halfe dues that others pay. Therafter he declared this did not extend to strangers Protestant, but only his oune subjects; at which restriction the Popish clergie ware displeas'd. For a tyme, onlie, he hes excepted from this rigor the Duke de La Force, the Mareſhall de Schomberg, Mr. Rubignie, Mr. Du Queſne, and 2 or 3 moe of the nobility whom he hes use for in the war. He caus'd search the English packet boat, *contra jus gentium*, and some of ther merchand ships, and took out of his Protestant subjects who ware fleing from his cruallty: hee'l nather let them goe nor stay, as Pharaoh did with the Ifraelites; and the fugitives he charges to returne, and they not daring to obey he confiscats all they have left; he declares whatever Roman Catholick shall refet or harbor any of them they shall be condemned to the gallies; this is like our Intercommoning. (Vide infra, more, p. 123.) This was look't on by all sober Christians as a proud decree, like Senacherib and Rabſheka's boasting the living God; and that the steps by which his persecution had advanced ware very remarkable, he having at first promised that he would use no force nor severity, but only moral suasion to convince ther consciences of ther errors; but now he hes broke his word, and fallen to doune-right violence, tho they ware in no armes nor rebellion against him: this makes some hope that ther extremity may prove God's opportunity of stepping in and rescuing the litle remnant left as a firebrand out of the flame, tho near 200,000 people throw fear and compulsion, have apostatized and deserted. Above 700 waggons full of thir miserable Christians escaped in to Geneve, and many fled in to the Pope's toune of Avignon; and the French King redemanding his subjects, the Pope's Legat ther answered, he had orders from his Holinesse to prote&t them, and that such cruall usage was not the way to bring them back to the bosom of the visible Roman Church. Tho the present Pope, Innocent the 11th, (Udescalchi,) be a good man, yet his espousing the Protestants was thought to be in humeur against the

French King, who opposed him in other things: yet the French Embassador tells the Pope, his master had now wrought that glorious work of having but on religion in France, at least onlie on publickly professed and exercised; so the Pope's protecting them seems only to be a feint and a sham.

Supra, page 116, we see Hallifax removed from the Privy Counsell; ther are other 4 who ware of his opinion, viz. the Duke of Ormond, the Earle of Bridgewater, the Vicount Falconbridge, and the Bishop of London; thinking ther presence was not very gracious to the King, nor to Rochester the Treasurer, nor to the Popish party, they retired and absented themselves likewayes, which produced bad effects in the following session of Parliament; infra, page seq. The Bishop's name the King cancelled and razed out with his owne hand.

About this tyme, we had account of the taking of Count Tekely, who, finding the Imperiall forces prevaill, he sent to the Bassa of Great Waradin for assistance; who invited him very humanly to come under his protection, and he, doubting nothing, came with 500 horse, he and some few is let in within the garrison; but Tekely is that same night bound in chains, and sent away prisoner to the Grand Seigneur to Adrianople as the occasion of the war, and to be a sacrifice to ther offended Mahomet, who had suffered them to be bet thesse 2 or 3 campaigns. Then he offered the command of the forces to [Petrozzi,] who was with Tekely; who feimed to accept it, but, as soon as he was out, told what had happened, and went straight to Cashaw, and persuaded them to enter themselves in the Emperor's service, which they did. The Princeesse Ragotzi, Tekelie's lady, was much affected with this disaster. It was reported, Tekely ather dyed by the way, or was strangled, and his skin flead of and stufft with straw, and sent to Constantinople, to be showen to the people as the origine of ther trouble, who condemne and approve only *ab eventu*; but this proved false, and the Turks keiped him alive then, and gave him 7000

men, but a bathaw waited on him as a spy, and, if the Emperor would make peace, they ware content to sacrifice Tekely.

With us the obfervation of the 5^t of November was altogether forgot, P. 119. (fee the steps of it in my Law manuscript,) but at London it was never kept with fuch solemnity as this year; which irritated the Papifts fo, that the very nixt day they obtained ane aët of the King's Privy Counfell, that no bonfires should be put on heirafter upon any solemnity whatsoever, without the King's speciall licence and allowance, (which will not be granted to the 5^t of November,) becaufe under that pretence ther may be ryots, convocations and tumults, and the city is endangered in the strait lanes, with the multitude of ther fyreworks. About the fame tyme, the King directs a letter to his Privy Counfell in Scotland, (fee it at the 12 of Nov^r in my Law manuscript) allowing Papifts to be Commiffioners of his fupply without taking the Teft.

The English Parliament met again on the 9^t of November 1685, by his Majestie's speciall call; wher the King tells them that, in this late invasion, ther was a great difcovery of the insufficiency of the militia to fuppreffe rifings, which had moved him to double the ftanding forces had been in his brother's tyme, (for he will now have upwards of 22,000 men in armes;) and that this, with the defignes of ill men yet working, required a great charge, and therfor he hoped they would grant him a fuitable fupply to defray it; and that he had made ufe of fome to be officers in his army who ware not qualified according to the laws (being popifh,) but to deall plainly with them, he would nather expofe nor desert them, having had experience of ther loyalty, &c. The 2 Houfes having retired, the Peers ware induced to thank the King for his Speech; but the Commons demurred on it, they liked nather the on part of the Speech nor the other: a ftanding army they ware not for, but ware content to fall upon expedients to render the militia more ferviceable and ufefull; and, as to Popifh officers, they ware willing to paffe them a pardon by aët of Parliament for

ther bygane actings, but would have them removed in tyme coming. It was put to the vote, whither a Supply, or ane Addresse against Popish officers should goe first, and ther was 184 for the Supplyes being first tane in consideration, and 185 for the last, so it carried only by on vote. The Addresse was formed in thir terms, and passed almost unanimously, thanking his Majesty for the great care he took in suppressing the late rebellion, and that he would be pleased to remove thesse fears and jealousies his people had of the growth of Poperie by laying aside thesse Popish officers. Then they past a supply of 700,000 lb sterling, to be collected of the East India wares, the win and brandee, (for they doe not willingly burden ther lands with cesse;) this the King did not value much, he being a great trader, and so his oune stock was to pay much of it himselfe: they also voted, that the title of this bill of supply should not be for paying ane army, but only for the King's affairs.

The Lord Jeffries, Chancelor, brought in a bill to the House of Peers for resehinding the Test made in 1678 against transubstantiation, and for allowing the Popish lords (who are 17 in England) to come and sit in the House of Peers, which they alledge is ther birthright, and cannot be taken from them; and, seing our protestant Westminster Confession of Faith declares diversity of religion does not annull the Magistrat's right, nather should thesse laws and bars be put to feelude them from ther priviledge of sitting in Parliament, (tho, if they had once the power, they would debar and incapacitat the Protestants.) The King argues thus: the English Test was made against the Papiests by the Parliament in 1678, in the tyme of Titus Oats's plot; and that being now found to be a forgery invented by his enemies, to feelude him from the croun, he thinks the Papiests should be so far redressed as to be put in the same very freedome they ware in before that tyme, for *sublata causa tollitur effectus*. Upon this motion of the Chancelor's, many of the nobility and bishops got up and shewed great resentment and indignation, clouds of them speaking at once; and he reprooving them, as

violating the order and forme of Parliament, on told him they knew what decency became a Parliament, as weell as he knew the King's Bench, reflecting on his rife. The peers, who used alwayes to be most tame and obsequious to ther Kings, turned very giddy and discontent in this Parliament; what had offended and allarumed them was the King's turning the Marquis of Hallifax, Bifchop of London, &c., (de quo supra p. 118,) of his Privy Counsell. Those who managed the Protestant cause most, ware Annesly, Earle of Anglesea, Cavendish, Earle of Devonshire, with Hallifax, Bridgewater, Falconbridge, Mordant, Bifchop of London, (who declared his adhaerance to the Protestant religion, in name of the wholle clergie,) and Doctour Turner, Bifchop of Ely, (tho' of this King's oune inputting;) only the A. Bifchop of Canterbury and Durhame ware looked upon as lukewarme, and such as might be induced to comply with the King's desire. The Presbyterians took this honesty of the Bifchops in so good part, that many of them went and communicated with them. What displeased the Peers is, 1^o, That it's the temper and genius of English Parliaments to begin fair, and to be fond and kind to ther new Princes, but ther concord uses not to last long. 2^{do}, It was publickly knowen in London, that a Nuncio or Vicar generall was come from the Pope to the King at London; and that our King again was sending the Earle of Castlemain as his Embassador to the Pope, and allowed him a noble retinue of 60 persons, wheiras ther [had] not been such Embassies passing betuen Rome and England, never since the reigne of Quean Mary thesse 130 years; and having seen the French Gazette printed at Paris, in the end of October 1685, I found it boor this particular from Rome, that his Holinessse was displeased with Cardinall Howard's conduct, who had divulged that the British Isles would presently retorne back to the bosome and obedience of the Roman Church, and that the Pope had sent a Legate to London; and he was dissatisfied this should have been spread abroad so soon, till once the King had got his Parliament to consent to it. In the house of Peers

ther ware od fpeaches: ther religion (on faid) was like the banks in Holland which bridled the fea; once make a breach in them, all ther hands would not be able to ftop the breach and inundation. Some faid, the French King would not have ventured to ufe his Proteftant fubjects fo ill, had he not feen that England had a Popifh King for ther head, who would not refent it. A 3^d. took the boldneffe to fay, that the King's promife for ther religion was not fufficient to rely upon, and that he had not renewed it to them in his Speach at ther laft doune fitting. But it's obfervable that the King's declaration, emitted on his brother's death, (which is all the promife founded on,) only promifes to preferve the governement of the Church of England, becaufe he had found ther bifhops of loyall principles, (now that fame governement is alfo under Popery;) but ther is P. 121. never a word of his giving fecurity to prote&t the do&trine of the Church of England, which is the mayne point. The Bifhop of London went to the King, and fell on his knees, intreating him to quiet and fecure the minds of his peeple, in relation to ther apprehenfions anent the danger of ther religion; and they fay, the King turned on his heel, and answered, if they would not be content with what he had promifed, he would fatisfy them no farder.

As for the Commons, the King can never expe&t to get a better conftituted Houfe of Commons, for greit pains was taken in the electing them, and they are all men almoft prieked down by the King himfelfe as his freinds, and ther are about 150 of them, his defenders and penfioners: fo that it behooved to be [a] very extraordinary demand of the King's that ftartled them; and the truth was, many loyall fubjects wifhed he had not ferued the pine fo hy in his Speach, as he left no honorable roume for a retrait to himfelfe, if the Parliament fould not grant his defire; and the Quean, and his Italian counfell, with his priests, and Chancellor Jeffries, ware blamed for it. The Commons having brought up ther addrefse againft the Popifh officers, he gave them a fevere check and re-

buke for it, that he did not expect so unduetifull ane addresse from them; but, however, they should not provoke him to be ane ill King. His brother, in 1672, granted a generall Indulgence, including even the Papists, and told his Parliament, at ther doune fitting, he had found the good effects, and would not part with it, yet they forced him to recall it;—this King is of harder metall then Charles the 2^d. was, but it would not do with him. On ther returne back to ther houle, on Mr. Cook, a lawyer and captain, one of ther members, had this expreffion, that they ware free borne English men, they ware not to be hectored and frighted out of ther laws, liberties, and religion, with big words: thir ware refented as a reflection on the King, for which misdemeanor, the Houfe ware so loyall, that they, by ther oune authority, committed him to the Tower; but his way of liberation was remarkable. The nixt day, the Parliament being prorogued by the King, and Cook hearing of it, he called for the lieutenant of the Tower, and craved to be fet at liberty, in regard, by the King's prorogation of the Parliament, all that they had done was absolutly null, and consequently his imprifonment was so; and in regard he delayed to fet him at liberty, he took a notary and protested against him, that he might be liable to him at the rate of 5 lb. sterling each hower after that, for false and wrongous imprifonment, conforme to ther law; wheron the lieutenant having taken advife, he was forced to let him goe free.

The benches ware setting up in Westminster Hall, wher the Peers sit, for trying Grey, Earle of Stamford, and the Lord De la Mer, Booth, for being upon the treasonable conspiracy with the Lord Ruffell, &c.; and the King had given a commiffion to the Lord Rotcheſter, Hy Treasurer, to be Hy Stewart in his tryall before the Houfe of Peers, and the 21 of November was fet as the day. But the King was so irritated with ther free discourfes on the 18, that he took resolution that same night to prorogue them; which he did on the 19th in the morning, (which was knowen to few,) having come to the Houfe of Peers in his robes, and the croun on his head, and called

up the Houfe of Commons and ther Speaker, and fo prorogued them himfelfe, to the 10 of Februar nixt : for he fpeaks all himfelfe, and delivers his anfwers, to take of the odium from his Chancellor. This prorogation took all of the fyle, to the very a&t of the fupply of 700,000 lb., which did not fo much as paffe. The members of the Englifh Parliament are obferved to be very calme when out of Parliament, but feldome doe they return better natured then when they parted, but rather with 7 devills. On the prorogation, the benches were tane doune, and Stamford remanded to the Tower, wher he moft ly till the nixt feffion of Parliament, for he cannot be tryed now at the King's Bench, being once tabled before the Parliament. The rich men in the city of London are very difcontented, and fo renders trade very dead. for the men of moft wealth and money ther, being il affected

P. 122. to the prefent governement, keep up ther money, and will not let it circulate in trade, and care not for a while to lofe ther intereft and profite. It's hard to know what meafures the King will follow now: ther is but on of 2, ather to yeeld to his people, (which the Papifts will never fuffer him to doe with ther confent,) or elfe to rule at his oune hand, and ufe what perfons he pleafes in publick trufts, efpecially in his army, tho they be incapable by law, and in fo far to difpence with the ftanding laws : or being now difappointed, if he will profecute fome of the heads of his oppofers, and convi&t them as guilty of the plot, and by executing them before the 10^t of Februar come, make the reft the calmer. However, it is our duty to pray God to dire&t him to obferve the laws and gain the hearts of his people. Before the Parliament fate he acquainted Hallifax with his defigne of taking away the penall laws againft Popery, who diffnaded his Majefty and told him it would not frame, wheron he was difcarded. It cannot be denyed but Hallifax did great fervices to the King, for by his reafon and policy, he broke the neck of the Bill of Seclufion againft the prefent King in the Houfe of Peers, and buckled with Shaftsberry theirin : but princes deall not with ther fubje&ts as on man does with another :

subjects most not pretend nor clame to merit at ther princes' hands, for when you have done all you can for them, they think it but your duety, and that they are not obliged to you for it, and if he make on wrong step, all ther former righteoufneffe is forgot. And heir they railled on Hallifax, as on who was of phanaticall principles, and on who had writ a pamphlet in favors of the Trimmers; and yet the Earle of Sunderland, at the same tyme, is advanced to be president of the Privy Counsell, and continues secretary beside, becaufe he is now declaring himselfe popish, tho he was, the tyme of the Bill of Seclusion, this King's enemy, and a promoter of that bill. *Ille crucem tulit praetium, at hic diadema.*

On the rising of the Parliament, it was reported, that the Earle of Devonshire had indyted Philip Howard and other popish officers of the army for breaking ther acts of Parliament, and accepting a public trust without the Test; and, for securing them, the King had ordained ane indemnity to passe his broad Seall, not only for bygane transgressions, but a remission and allowance to act in all tyme coming, notwithstanding the laws with which he dispences as to this point. If the King ware left to his oune temper, he is very moderat and generous; for they tell, that his preists and confessors and seminaries, come from over seas, ware going to confederate Windfor chappell, and to introduce some new modes and ceremonies therein, which the King refused to allow, saying, the Protestants who used it last ware not Pagans, but Christians as well as they, differing only in some modes of religion; but they, maintaining us to be haereticks, esteime our temples as ill as Mahometan or Turkish mosquos, and so to neid new confederation. The King, speaking of our Scots Test, said, he saw a reason why the Roman Catholicks refused it; but he could not understand what name to give thesse men who called themselves Protestants, and yet refused it, or in what classe to rank them, for such seemed to reserve a tacite power to themselves to rise in armes when they should find themselves in a posture.

There was once a resolve at Court, that our Scots Parliament should be called, by anticipation, to sit before the English dyet of the 10th of Februar, to abrogate the laws against Popery, and so to cast England a good copie and example, as we had done in 1681, in declaring the right of succession; but this thought was afterwards laid asyde.

P. 123. Grame, Lord Preston, is made master of the King's wardrobe. Item, the Lord Brandon Gerard, eldest son to the Earle of Meckelsfeld, (his father being declared outlaw and fugitive for not appearing for treason,) is brought to his tryall, and found guilty of accession to the conspiracy, on the oaths of Rumpfey, Gray, Keeling, &c.: he excepted against Rumpfey and Gray that they were infamous, and that Rumpfey had perjured himselfe in 2 contrary oaths in the tryals of Ruffell and Cornish: (supra p. 116.) He is found guilty, and sentenced to be hanged, drawn, and quartered; but was first reprieved, *sine die*, and then is pardoned by the King, because of a promise he had made, that he would forgive him all preceeding Monmouth's rebellion, if he was not in it; for the King is a severe observer of his word. So that report did not hold true, that he was convicted on a letter wrote by him, and now produced by Gray, inviting the Duke of Monmouth over. The King was resolved, in this last Parliament, to have passed an act that ther Habeas Corpus writ should not liberate in treason, that the King might not be forced to insist or divulge his proofs ther, in cases of treason, before he were ready, which in experience he had found to be prejudiciall. The Dutcheffe of Portsmouth hath caused hir sone, the Duke of Richmond, and Lennox, on of our late King's naturall sones, recant the Protestant religion, and embrace Popery openly in on of the head churches at Paris.

In November 1685, dyed William Cochrane, Earle of Dundonald, aged 80; who, from small beginnings, had raised himselfe to great wealth and eminence, and yet saw misfortunes come double on his family by his eldest sone's death, and his 2^d son Sir John invading his country, tho the

King hes pardoned him. He was under a bad report, as a corrupt man, and otherwayes.

On the 4th of December 1685, dyed Mr. Andrew Cant, minister at Edinburgh, and Principall of the Colledge theirop; a stout ennemy of the Papists and Arminians, whom he confuted with much learning and acute-ness, and was therfor litle or nothing regrated by the Papists, who rejoyced at his death. The toune counfell of Edinburgh called in his place Doctour Monro, Professer of Divinity at St. Andrews. The Bifchop of Edinburgh delt for his brother, Mr. Robert; but it was answered, he was a layman, and, since the fundation of the Colledge of Edinburgh, ther primars have alwayes been churchmen. Some propofed to call Monsieur Alix, the French minister at Charenton, who was fled to London; but it was objected he wanted our language, and they resolved to have on who could also preach in the Hy Church. The Bifchop objected, that he would not give him collation to be a minister of Edinburgh, for that was plurality of benefices; they told him, he needed no collation from him as Principall, and so he collated him only to on benefice. However, they delayed his entry till the Chancelor came home, in the end of December; and having taken his consent, they admitted him then into both the offices.

On the 15 of December 1685, dyed Sir David Falconer of Newton, Lord President of the Session, of 5 days sicknesse: see the passages of it in my 8vo. MS. of Session Occurrents, page 94, et seq. The King nominats Sir George Lockhart of Carnwath, advocat, to succceed him: see my folio Law MS. anent this and the candidats.

At this tyme, we heard the persecution in Fraunce was grown to a great height, (vide supra, p. 117 & seq.):—On of the converts from Protestantisme taking the sacrament from the priest, demanded the eup, which he refused as having no warrand from his ordinar to grant it, the convert profanely takes the hostie out of his mouth and throws it on the ground. saying, that should not goe in his belly, feing they refused him the win; P. 124.

he is seized upon and sentenced by some delegates commissioned from the King to have his lips pared with a razor, his gums, and all such parts as had touched the body of Christ, should be flitted off, with his fingers and nose that touched and smelled it; a barbarity more cruel than any standing upon record in the martyrologies of the heathen persecutions. There was also a person of quality, who had changed his religion, when he was dying the priest offered him the communion, he refused it, telling, he had obeyed the King and quite his religion to save himself from banishment, but he was not bound to follow him in things he knew were of no worth. After he is buried, being delated to the King as a relapse into heresy, he caused deterrè his corps and thrown them to be eaten, and what the irrational beasts refused to eat he burnt it. That he may not stumble them altogether, he has caused on Father Anelot [Amelotte] to translate the Bible into French; and it being printed, he has distributed many 1000's of them amongs his converts, in place of the Geneva version. We were allarmed with an apparition seen above Paris of men and women incircled with fyre, singing audibly that vindictive 94 Psalm. By this persecution France is much depopulated, many officers leave his army, and trade and commerce decays as it was.

Our countryman Dr. Gilbert Burnet having, out of curiosity, stepped out of France over the Alps into Italy, and visited Rome and the Pope, and viewed Naples, they give out that he has declared himselfe Papist; which, if true, is a great scandal to our religion, he having writ so much for it; others think that he may dissemble a change while he is there, to preserve himselfe from stobbing or poisoning. But it's a great injury to raise this report, if it be false; as it is now found to be.—The report of Dr. Burnet's being popish was most false.

Mr. Bateman the chirurgian is hanged, in December, for being with Monmouth.

On the 24 of December 1685, and the 28 of the same month, arrived

our Chancelor and Hy Treafurer from Court; fo I fhall fhut up this year with the traverfes of ther negotiations and accufations on againft another. Having united ther forces to defeat the Earle of Aberdeen when Chancelor, they no fooner prevaiil but in a few moneths they fall into jealoufies and mifunderftandings amongs themfelves; which took principally rife from the Treafurer's proud and hauty carriage, that would have all depend on him, tho the Chancelor was the firft minifter of ftate; yet he commanding the purfe drew more followers than the Chancelor, who had only ane empty purfe carried before him. The Chancelor crouched long, and willingly acknowledged he owed his place and all to my Lord Treafurer's favour; but his brother, fecretary Melfort, having gained much both on his prince's ear and humor, he fet up for himfelfe, and would not receive inftructions from the Treafurer, faying, he was long enough under pædagogic and fubjection when he was his Treafurer depute. And fo he infused, by his oune brifknes, fome fpirits and courage into his brother, and they began to act independent and neglect the Treafurer; which he, not able to indure, *hinc illæ lacrymæ*, each of them falls a cenfuring, ripping up, and accufing the actings of another, and obtains leave in Auguft laft to goe up to Court; which drew up fuch a troupe on the 2 fydes, that ther was above 200 Scots noblemen or gentlemen ther upon the one faction or other, which difpleafed the King exceedingly, befide the waft fumme, calculated to more then 60,000 lb. fterl., that they drained Scotland of, and the bad copie they did caft the Englifh by ther difcording amongs themfelves: it began in the naming a commiffioner to our Parliament, wher (if Middleton had not preveined) Melfort had difappointed Queanberry of that ayme; but yet, fearing the bigarre uncertainty of fortune, it was fo contrived. that his commiffion lafted only for the firft feffion of Parliament. Then Queanberry, to tach and affront Melfort, as if he and his fervant David P. 125. Lindfay ware unfit and underftood not what belonged to a fecretary, all the fignators and wryts paffed in Melfort's weik, he quarrelled them as

ather informall in ftyle, or prejudiciall to the King's intereft, and returned fome of them back again. This picked Melfort exceedingly, and put him and the Chancelor to feik out quarrels againft him. They charged Queanfberry that he ftarved the King's affairs; and beftowed nothing on intelligence in Argile's invafion; and that he refufed or delayed to advance money to my Lord Dumbarton, then generall, on his præcepts from the Weft Country, in that exigent; and that fundrie rebels ware harbored on his ground; but I think they lurked ther ather out of malice to draw him in a Premunire, or elfe thinking they would be fecure ther, becaufe none durft challenge them for fear of bringing him as mafter of the ground upon the ftage, and in hazard. 3th, That he keiped the laft Parliament in June 1685, a weik current after he had got his Majeftie's order to raife it; and that he had difuaded ane Indemnity. 4th, That he under hand had given advertifment to on Mr. William Weitch, a declared traitor, to flee out of the way. The Clerk Register, after the Chancelor was gone to London, and had given ftriçt orders that none fhould have acces to Mr. John Weitch, his brother, without the King's order, caufed examine Mr. John, and he purged the Trefurer; wheron a letter was fent by Athol from the Privy Counfell to the King, drawn by Tarbet, fhewing what hard cafe his Majeftie's officers of ftate would be in, if they ware fuffered to be libelled and arraigned: (for Sir John Cochrane had touched Tarbet himfelfe, and accused him with correſpondence with Melvill and Monmouth). This was refented by the Chancelor and Melfort, and they obtained a rebuking letter from the King: (fee all this at lenth in my folio Law MS., Sept. and Oct. 1685.) Item, the Trefurer had fuffered the Toune of Edinburgh's count and reckoning for ther common good to fleip. Queanfberry charged Melfort that he had tane a bribe from Rot. Milne and the other cuftomers, to get them a precept on the Exchequer for £20,000 Scots, as pretended loſſe they had by the fyre at Leith, in Auguft 1682, which confumed ther cuſtome office, ther pretending many

of ther tickets and bonds ware brunt ; wheras Charles Murray, on of the faid cufomers, difcovered to the Hy Treafurer that they had no loffe at all, but got that 20,000 lb. of profit from the King, and that his part of it was 5,000 merks., and which he was willing to give back again. The Treafurer faid, he was a knave fomewhat honefter then the reft. The Treafurer had upon his fyde the Earle of Rotchefter, the King's brother in law, and Treafurer of England, and Midleton and Hallifax ; fo that the Chancelor, fearing he might be at a loffe, did pull of the mafk and difcovered and avowedly owned himfelfe to be Popifh, from which tyme his favor and court increafed, fo that he croffed and contradicted the Treafurer in all things he propofed, and particularly in the Proveftry of Edinburgh ; for the Chancelor and Melfort oppofed Abbotthall's nomination to that place on no other head fo much as that he was propofed by him ; however Abotthall had the good wifhes and inclinations of the people, that he might be ther Proveft. It gained Queanberry fome reputation with the Englifh, that on day, having carried the fword before the King to the Popifh chappell, after he had laid it doune, he came furth and went to the Proteftant chappell ; and, to weary the Chancelor, he entred in a long winded treatie of marriage for his fone the Lord Drumlanrick, with a niece of E. Clarendon's, and a relation of the Lord Clifford's, and delayed it very long to get the pretence of ane earand to ftay even to the 2^d of Decr, which was his oune marriage day. And during all this time, our great men ware not in fpeaking termes, and it was probably thought that the Chancelor (whoffe faith had faved him, as Hallifax wittily fported,) P. 126. and the Popifh party would have totally eclipfed Queanberry, had it not been for the rub the King met with in his demand from the Parliament of England, refufing to difpenfe with the laws againft Popery, (de quo fupra, page 121.) But when this Remora happened, it moved that party to new meafures, fo as not abfolutely to difoblidge Queanberry and the Proteftants who owned him ; yet they prevailed fo far with the King, as that he

told him he had done very ill things, tho he gave him a pardon and exoneration for all. The Dukes of Hamilton and Gordon ware also great profecutors of it, the laft on the head of religion, and the firft for his interrogating Tarras anent him, (de quo alibi.) Tarbet also, for adhering to him, got his large fhare in the mifrepresentations paffing; for, tho he was mainly instrumental in the feeret committee, to get Sir John Cochrane repreived, from ane itching curiofity to hear his difcoveries, yet he was one of the firft whom Sir John branded. To load the Hy Trefurer, Claverhoufe and Balcarhoufe ware fent for to London, and the King was fo ill fatisfied with what the Trefurer had exacted of Claveris, that he ordained the Trefurer to repay it. For ingratiating with the King, who loves money, the Hy Trefurer propofed 16 artieles for raifing money of Scotland, as; 1^o. That he might get 10,000 lb. fterling of Edinburgh, for giving them baek ther fummer feffion. 2^d. Greit fummis from the other Burrows for ther malverfing in the common good, and for ther impofitions on ale and bear; and fuchlike methods, as Rufhworth, in the end of his 1 tome of Historical Collections, tells, ware propofed to King Charles the I. for bridling the impertineny of Parliaments. Melfort oppofed this, and faid, this ware to put Scotland fo in his reverence, that he wanted nothing but the croun; and that it was like the counfell of Rhehoboam's young men to get his people's purfes, but lofe ther hearts and affections. Theffe who would excufe the Chancelor's apoftacy at this tyme, (a change now being fo grofely impudent) they fay, he was long ago a Papift, to fhun the reproach; but this is a very bad excufe, to make him ane Atheift all the tyme he was fwearing the Teft, and yet believed the contrare religion to be truer: but this is a forgerie, it being nottor that none was a greater mocker of the Pope and that religion on all occafions, yet now he is fo bigot on it, as Collonell Whytfoord a papift obferved, ther new convert would jade the Maffe, he caufed fay it fo oft; but *omnis apoftata eſt ſuae ſectae ofor*; and, to expiate and take off fufpicion, he moſt be a flave to

the new on: some thought, without a remission from the King, he might run the hazard of forfaitor, for the hearing of Masse and resetting Preists is declared such, A& 120 in 1592, A& 164 in 1593, A& 193 in 1594, A& 5^t in 1609, and A& 106 in 1581 *in fine*, wher the King may not dispense with ther laws. But the Chancelor and the rest of them expect the rescission and annulation of thesse A&s. They ware so childishly fond, that, on Christmas day, the Chancelor rocked a child in the cradle, in memorie of our Savior: this ceremony is not used by the French Romanists. See more of thir fopperies, *infra*, page 130. He got from the King 8,000 lb sterling, with which he bought altars, candlesticks, preists garments, and other ornaments and popish gauds for erecting the Chappell in the Abbey, and brought them home; and, tho ther be A&s of Parliament for seizing such trash, yet our customers pass them.

On the 15^t of Dec^r, Prefident Neuton dyes, and Sir George Lockhart succedeis him. See it *alibi*.

ANNUS 1686.

IN the beginning of this year, our Chancelor having made his first appearance in our Privy Counsell, after his declaring himselfe popish, it was expected that our Bishops or other statfmen should have entred a modest protestation; but it was not done: see of it in my law MS.; for the King, to secure him, had given him a letter, dispensing with his taking any more the Test. Likeas, he had prevailed with the English judges to give ane opinion, that the King could dispense with the pænal laws against papists; wherupon the King issued out his proclamation, dispensing with these laws, as to these named with a *non obstante* to the statuts. And did, by another act, declare, he prorogated the Parliament from the 10 of Februar to the 10 of May, and with this proviso, that they were not to meet then ather unless his affairs were pressing: this was because they were yet in no better temper than before; but the statfmen gave out that it was to shun the Venetian Embassador's memoriall, craving that the King, with the advise of his Parliament, might break of the trade he had at Constantinople with the Turk; which he shunned as prejudiciall to himselfe. By the taking the Lord Gray, ther being now another witnesse beside the Lord Howard to depone against Mr. Hampden, formerly fyned and incarcerated for 40,000 lb. sterl. for a misdemeanor, he is pannelled for the treasonable conspiracy with Shaftsbury, and carries himselfe so modestly, that throwing himselfe in the King's will he obtains his pardon. Then Booth Lord de la Mer, the loyall Booth's

fone, is brought to the pannell, and many witneffes depone againft him; yet he leads others who clearly prove alibi, that he was not at London the tyme of that treasonable confult, for joyning with Monmouth, they make him prefent at, but that he was in the country; wheiron the Jury affoilzies him; and Saxon, on of the witneffes, is proceft for perjury and *ſcandalum magnatum*; but he offered to verify what he had deponed. The King was difatiffyed he efeaped, and Leg, Lord Dartmouth, being on of the inqueft, and having faid, the Quean mifgoverned the King and the nation by Italian counfellers, he was difcourted. And it's very remarkable that fcarce a footman, now this 12 moneths, ſince the King's aſcent to the throne, hes turned Popiſh in England, which gives them a very bad impreffion of our forwardnefs; and it ſcandalized them mightily that our Chancelor had avowedly turned Popiſh, and yet kept his place. Yea, our miniſters of Edinburgh ware difeharged to medle with applications in ther fermons; and becauſe Mr. Alexander Ramſay faid, in a preaching their, that we had fallen ftars amongs us, and yet they kept their ftation, meaning the Chancelor, and that the pillars of Church and State ware fhaking, he was ſilenced by the biſchops to terrify others: but he was at laſt reponed again; which made ſome obferve, that as, in the beginning of the Britiſh reformation, the Engliſh biſchops carried it on, ſo the Scots biſchops oppoſed it, even ſo now, when we are ſtruggling againft Popery, our biſchops comply to let it in, and the Engliſh biſchops keep ther ground firme to hold it out.

At this tyme, dyed with us George Mauld, Earle of Panmuire, who P. 128. regrated nothing ſo much as that he was leiving his eſtate to his brothers, who, as he was informed, ware turned Popiſh, and on death-bed he could not put it by them, but it was not true.

On the 31 of Januar, being Sunday, happened a tumult in Edinburgh, of the rabble againft the maſſe preiſts, who ware beginning openly to keep ther meetings. They got on of them, and cauſed him, on his knees,

fwear the oath of the Test, and renunce Poperie, and held a whinger at his breift till he did it. Ther was 3 killed in this quarrell: fie the particulars in my folio law manuscript, at that tyme. And for this tumult, the Chancelor caused a drummer to be shot to death, and on Keith, a fencing master, to be hanged; of which see the particulars in my law manuscript cited, in February 1686. The printing and publishing books against Poperie, was also at this tyme tacitly discharged, by prohibiting any books to be vented or sold without a licence from the Chancelor; for they observed these books stirred up the people to a jealousie and dissatisfaction against that religion which the King had embraced.

About this tyme, the Chancelor married Lady Mary Gordon, the Duke of Gordon's sister, and reli&t of Urquhart of Meldrum, (for he had sent Doctor Sibbald, and Fotheringhame, a preist, to his former Lady in September last, and dealt with hir to dy Popish;) this marriage gave rise to a satyricall reflection of Middleton's, on the 2 brether, that they ware the truest brether ever he knew to ther whores, and the falsest to ther God. Another observed, Perth's armes being waves, spoke out his infetled inconstant temper.

The Papists also, at this tyme, printed a paper, bearing that the late King dyed Popish; but it was looked upon as on of the *piec fraudes* of that Church, who thinks the advancement of ther cause hallows and consecrats the greatest lyes; for, besyde many other famous witnesses, the Lady Ogilthorp, servant to the Dutchess of Portsmouth, was in bed with him all the time of his sicknes, and declares, he dyed in the faith of the Church of England. This King, tho not so open, yet still countenances his mistriffes, (as his brother did, *se non caste saltem caute,*) and hes created Mistres Sidely, Countes of Berkshire; but the Quean is so dissatisfied, that she hes obtained hir removeall over seas. The Earle of Stamford, who was pannelled before the Parliament, is liberat from the Tower upon bayll; and the Lord Gray is pardoned for his rebellion with Monmouth,

and reftored by the King to his honors and eftate ; as alfo Stamford is pardoned and received into favor.

In the end of Februar 1686, 2 of our Bifchops goe up to Court, to adjuft religious matters with his Majefty, viz. St. Androis and Edinburgh ; and my Lord Tarbet comes home, and ather with him or after him, follows the news, that the King will have our Scots Parliament to meit for taking of the pænall laws againft Poperie, and had nominate the Earle of Murray, Secrétary, to be his Commiffioner therein, that as Regent Murray had made theffe good Aëts, in 1567, fo his great-grandchild fhould expiate the cryme by cancelling them. The King's letters alfo come refolving the Duke of Queanberry Hy Treafurer his place into a commiffion of 5 ; fee them in my folio law MS. p. , and in my 8vo. MS. of Seflion occurrents at the 2d March 1686. Item, nominating the Duke of Gordon to be Captain of the Caffle of Edinburgh, in Queanberie's place.

The French King's ftatue is erected with great magnificence, folem-P. 129. nity, and pomp, within Paris, tho himfelf was lying fick of a fiftnla in his fundament ; it had many inferiptions, fee infra, this page.

In March 1686, we had account that the Duke of Savoy was beginning to perfecute his Proteftant fubjects in the wallyes of Piedmont, &c. in the fame manner as the French King, and had fent for fome of his troupes to affift him ; wheron Geneva, and both the Proteftant and Popifh Cantons of Switzerland, had confederat together to oppofe them.

The King emits a proclamation in England regulating the manner of preaching, conforme to fome canons and inftructions given by his brother in 1662, as not to medle with the abftrufe points of prædeftination, election, reprobation, and the confiftence between God's decree and man's free will, or to limit the power of kings ; or in preaching againft difsentors, (this is meant of Papifts) to ufe any bitternes or reflection ; and inftead of the afternoon's fermon, to ufe catechetical doctrine, and the prayers, &c. ;

(See Rushworth's Historick Colle&ions, anno 1622, p. 64, the like injunctions.) The King also then granted his generall pardon and indemnity to all who had been with the Duke of Monmouth in rebellion, excepting officers, and a great many men and weemen named, as Titus Oats, Bethell, Ferguffon, &c.; and excepting murders, rapt, and such crymes as use not to be comprehended under generall amnesties.

In the end of March 1686, the King called up Duke Hamilton, Sir George Lockhart, president of the Session, and Generall Drummond, to convince them that they must lay aside ther averfion to the resebinding the pænall laws againft Poperie: see my law MS. at that tyme. And the King, to shew his hatred at pænall laws, he liberats 400 Quakers out of prisons up and down England; but the Presbyterians ware not freed of the laws againft them as yet.

This winter 1686, ther happened 3 fyres at Edinburgh and all on the Sabbath day, to signify God's displeasure at the profanation of his day: tho ther is no certain conclusion can be drawn from thesse providentiall accidents, for a Jew would draw just the contrare conclusion, that God was dissatisfyed with our worshipping him on that day; so thesse providences may be variously interpreted.

Supra in margine, we see the King of France's statue erected by the Duke of Feuillade: the mottos and inscriptions theiron ware vain and bombaftick, as that he had restored peace to Europe, which he had deprived them of; and then ther is a headlesse hydra lying with this *dicho*, '*Nec tantum Alcides potuit*;' that he hes rooted out the Protestant herefy, which 7 Kings before him could not doe, viz. beginning at Francis the I.; then follows the emblems of his releiving the French prisoners from the Moors of Barbary and Algiers; and his triumphing over Genoa by his bombs, and forcing them to submit.

The Duke of Newburg, now Palatine of the Rhyne, and popish, offering to build ane oratory for his fervants' devotion in London, the Mair and

Aldermen opposed the work ; for which they were called before the King and his Counsell and severely rebuked. The Papists turn very insolent in Scotland, and publish a book called *The Papist Represented and Misrepresented*; in the one columnne they set doune what they now would have passe for the doctrine of the Romish Church as it's varnished sweetened and disguised by the Bishhop of Condom, now Meaux ; and the other columnne bears what the Protestant wryters alledge they maintain on that subject, which he sayes are all calumnies, and falsely affixed on the religion ; P. 130. the Tillotson and Mr. Wake, who answers this pamphlet, does prove that these are the opinions of ther Popes, counsell, doctors, and theologues, tho at present they would renounce them to cheat the Protestants. I find not only the method but very substance of this book is stolen by the priest, it's author, from the act of the Generall Assembly of the Clergy of France in July last 1685 ; wherby they give in a complaint to ther King of the calumnies, injuries, and reproaches which the pretended reformed load them with, both in ther books and sermons. In one halfe page they set doune the doctrine of ther Church ; in the other, the false opinions they say, are charged on them by the Protestant, which I have red with animadversions theiron.

Supra, page 126, we see the Popish foppery in rocking a child on Christmas ; now, we hear farther, they have another ridiculous cheat of living crab fish shewed up in laun or tiffany lying about ther altar, which they give out to be the soulls lately rubbed, seoured, and then refined out of Purgatory by the help of soull masses, which in the Revelation are said to ly under the altar, and to cry, ' Lord how long ? ' such as are recently delivered are so pained and benumbed yet, that they can scarce stir, after some days they recover their limbs and begin to craull. This seemed so foolish that I could give it no beleiff till I saw Oldham, parson of Croyden, in his 3rd satyre against the Jesuits, page 55, have an allusion to it. And this leads me to ther fond severity they used on them-

felves on Good Friday, Chrif's paffion day, in whipping ther naked backs, which fome mad zealots in Rome will doe from a principle of merit, till the blood fpring again ; which minds me of the preifts of Baal in Elijah's tyme who cut themfelves, and the Turkiſh Dervis doe the fame.

In Aprill 1686, came to Edinburgh 2 charlatans with recommendations from his Majeſty (fo that the Colledge of Phyſitians could not ſtop them,) called Doct̄or Reid and Salvator Moſcow, from Sicily ; who erected ſtages, and in ther printed papers did brag of admirable cures, as 64 blind perſons reſtored to fight who had never ſeen from ther birth, (which blaſphemie out did our Savior's reall miracles, for we read not that he cured ſo many borne blind,) with many other extravagant undertakings.

At that tyme, we had account from London, that Doct̄or Tongues' fon had come in to the King and diſcovered that he found notes lying beſide his father, (who was on of the firſt diſcoverers of the popiſh plot with Titus Oats) wheirin he had laid doune to Oats, and taught him the wholle method of his narrative. As alſo, Miles Prince (another witneſſe in that plot) came and furrendered himſelfe on the King's Indemnity, and confeſſed he knew nothing anent the murder of Sir Edmondbury Godfrey, and what he had ſaid theirin was falſe.

Mongatz Caſtle, wheirin the Princeſſe Ragotzi, Count Tekelie's lady was, holds out a great ſeige from the Imperiall army. The Emperor and King of Pole, by ane Embaſſie, ſtirred up the Sophi of Perſia againſt the Turk on that ſyde of Aſia, but, tho he had loſt Bagdet, &c., yet he was
 P. 131. unwilling to ſtir. It is a ſtrange dulneſs and want of curioſity that he is ſo long ere he get ane account of the affairs of Europe, for it was a full year after the ſiege of Vienna was raifed ere he heard of it: They only travell in caravannes and troupes out of Turky to Perſia for fear of robbers, and they goe but once a year.

Dolben, A. Biſhop of York, dyes in Aprill 1686, in a very unuſuall manner: he lyes lethargick 46 howers as dead, then revives, and the

finall pox breaks out on him, and dyes. The vulgar talked ther ware fymptoms of poifon; he was old: with us we are fo rafh that we bury in leffe then 46 howers. He was fuceeided by [Dr. Thomas Lamplugh, Bifhop of Exeter, in December 1688.]

The King grants his breiff for releiff of the French Proteftants fled to England by the perfecution; and he gives himfelfe 500 lb. fterling, and every on about the Court give very liberally, which is moft commendable in our King. In regard the Duke of Brandenburgh and States of Holland have not roume in ther countries for all the fugitive Proteftants, they are treating with Pen, and other owners of theffe countries of Penfylvania, Carolina, &c., to fend over colonies ther; fo that the purity of the Gofpell decaying heir, will, in all probability, paffe over to America.

The Earle of Anglefea, who, deferting the country party, had fallen in with the King, dyes at this tyme. His collektion of books, on of the beft in England, was fold by printed catalogue and auktion; wheirot I have a copie.

In April 1686, my 2 fervants being imprifoned, and I threatned therwith, as alfo, that they would feize upon my papers, and fearch if they contained anything offensive to the party then prevailling, I was neceffitit to hide this Manufeript and many others, and intermit my Historick Remarks till the Revolution in the end of 1688; after which I began fome Obferves of our Meiting of Eftates and Parliaments held in 1690, 93, and 95, and other occurrents, forrane and domeflick, breiffly fummmed up and drawn together yeirly, (but not with fuch inlargements as I have ufed heir,) and are to be found difperft up and doune in feverall manuferipts befide me, to be reviewed *cum dabit otium Deus*. (Vid. Hiftory of Convention of Eftates, MS. A.)

APPENDIX.

APPENDIX—No. 1.

SOME REMARKS ANENT MARITTIME AFFAIRS,
AND SOME PROCESSES OF CAPERS BEFORE THE
ADMIRALL OR LORDS OF SESSION FOR ADJUDGING
OR RECLAMEING PRIZE SHIPS.¹

The feveral Proceffes about Capers,² and the feveral debats, interloqui- Fol. 11^a.
tors, and turnings, &c. theiranent, are of that lenth, difficulty, and fingularity, as they deserve a treatife apart, which, God willing, fhall be done at conveniency. As particularly, the cafe betuixt Parkman and Allan, (fee Mackeinzie's Pleadings, pag. 120,) who, being a Suedifh vefsell, but loaden with fome counterband goods, as tar, for France, and the returnes of counterband caried their;—the quæftion was, not anent the quality of the goods, but the quantity, whither or no that was relevant in law to make hir lawfull prize.

2^{do}. The cafe betuixt a Dantifzer and the Laird of Pittarro, whier the Mafter having, throw fear and allurements, deponed that their war Dutchmen copartneris in the fhip and goods, If a contrare probation might be led? fo as to redarque the Mafteris oath.

3^{tio}. The cafe betuixt the Caftle of Riga and Sir William Bruce. Heir the King's declaration anent the number of feamen, *per fe*, was found a relevant ground in law to declare the Riga prize.

¹ From Folio Law MS. [A?], fol. 11 to 15. The above title is copied from the table of Contents at the beginning of the MS. At fol. 11 the title is fimpli, "OF SOME MARITTIME CASES BEFORE THE ADMIRALL AND THE LORDS."

² Caper, a privateer, one who takes a prize; alfo a vefsel employed as a privateer.

4^{to}. The case of Hoy and Simonfon against the town of Dundie; where the Lords find both parties *in bona fide*, vid. the Admiral to adjudge because of the commission granted to the Capitane, and Symonfone the Hamburgher, *in bona fide*, to trade to Holland with counterband, the war betwixt Denmark and us not being then declared, till a moneth or 2 after Symonfone loufed fra Hamburg. The Lords find acts of hostility betwixt our King and Denmark not relevant to put strangers *in mala fide*, but onlie a solemne proclamation of war. Prizes that were reclaimed, as they were few, the reclamer for the most part past fra the King's and the Admirall's part, that the advocat might be layed aside. If their was any quæstion in law anent the grounds of the adjudication, the Captain and his owner were freed of damage and intres, and, except in the case of the Lubeker and Captain Logan, I know none decerned in damage and intres.

5^o. In the case of Boigils, ane Ostender, and Kinloch, burges tickets were not regarded where their residence before the war was elsewhere, being commonly contrived by merchands to evit captures.

Their were many proecesses and singlar cases before the Admirall amongst the privateers themselves, in the War waged in 1666, in the seizure of ships where both did attack, invade, and possess, to whom the prize should belong; What rule should be kept in dividing of hir, where ship and men were very small in number of gunes and other force, and, if their were totall losse of on of the attackers, whow it should divide? Whether a Captain's paction at sea with another anent comfortship, does, in law, bind the owners? with severall other onerous quæstions, which I intend to speak of apart, with some other observations on that kind of gaine.

After that it pleased God to restore the King, in anno 1660, their fell out some quæstions betwixt the United Provinces and England, in points of compt and reckoning about losses sustained by the English in the East and West Indies in King James, King Charles the I., and in this King's tyme, and about some deids of rapine, oppression, and murder, committed

by the Dutch on the King's subjects in these parts; wherein the Dutch seemed very willing to satisfy the King in reason, and to give up the bodies of the delinquents to the King for punishment, and were content to pay any damage and intres sustained by the King's subjects, and done by the States' special order, after mutuall reparations of that kind made by one to others; whereon papers past betuixt them, and persons were named on both sides to take notice of the mutuall clames, wherein, it's thought, the Dutch came a greit lenth in point of reason, and whoever they contended that any injury done in these places could be no ground of a quarrell heir, when princes amongs themself having condescended thereto, so observed ever since the discovery of America.

, privat men knew these transactions betuixt our King and them, and which of them were most in the wrong to other in point of reason, or the debates which preceeded the war; whoever, it was thought England's intrest to have war with Holland on any termes, (which is a wicked opinion) and thir old injuries were but the pretext of it, and, to justify the way of procedor of revenging injuries done in America heir in Europe, (look't on as a novelty by the world) it was alledged, and not without reason, that wrongs may be repaired in other places than the place where the wrong is done.

In anno 1664, a War was formallie proclaimed betuixt them, wherein we in Scotland were included and drawn to be sharers of the good and Fol. 11b. ill which follows war, contrare to our intrest. And, because the King of France did aid the Dutch, we were forced to proclame war against France, which was never heirtofor done by us in any King's reigne; albeit France did not speciallie denunce war to us. In consequence whereof, commiffions were given out to privateers, to seaze on all ships or goods belonging to them or the King of Denmark, who had declared for the States. Thus, merchands being shaken, loufe of trading, seamen falling in poverty, and ships rotting in the harbors, and multi-

tudes of perſones being deſtitut of all means of ſubſiſtance, many merchants and ſeamen ingadged in a trade of Caping, and did outreik ſhips to that end, and ſwarms of frigats, weill manned, went from the greateſt part of the ſea ports in Scotland in that employment; wheirin all of them did ſo weill ſuceid and thrive, that they damnified the Hollanders more then Engliſh. How far Caping is lawfull in a lawfull War, I will not determine, ſince it's generallie holden and believed as ſuch; I had no friedom for it my ſelfe, tho many gentlemen and noblemen ware not aſhamed to be ſharers in it, and got great fortunes by it. But, lawfull or no lawfull, I am ſure it was unlawfull on ſome mens part, who propoſed no other end to themſelves but gaine, and to beggar ſome honeſt fiſcher men and merchants, who ware not concerned in the War, and who wiſhed the King and his family weill. Their was a greit error committed in iſſueing out commiſſions for ſeazing promiſeuouſlie to all that fought them, without any previous triall of their courage, conduct, or diſcretion; and ſome of the Captains ware ſo barbarous and inhumane, that, to the reproach of this kingdome, they landed in ſome parts of Norroway, and robbed willages and poor boors, ſpoiled churches, took away bells, calices, and preiſts' weſts, and all ſhips they ſtopped, enemies or no, on the pretence of earieing counterband goods to the enemy; which gave ground to the Lords to cauſe reſtore verie many of the ſhips declared prize by the High Admirall and his deputs, who is the only judge in the firſt inſtance to all actions for adjudication of prizes. During the tyme this War laſted, which was about 3 yeers and a halfe, the Admirall and his deputs ware almoſt in continuall exerciſe; then all ſhips taken ware, by a ſpeciall order, appointed to be adjudged in Leith by Mr. Jolm Stewart of Kettleſtoun, as the Duck of Lennox his depute, to whom John Cunyghane of Entraquen was clerk; for, before that order, ſome ware adjudged by other Admirall deputs, over whom the Hy Admirall's deputs pretend a powar of juriſdiction even to reduce decreits given by theſe deputs.

1st Cafe. What the power of the Admirall is, and its extent, deserves to be spoke to in another place. The 1st cafe I know before them was that of Captain Ged against Orrock. Orrock and Ged having rencountred *super alto mari*, in order to a quest after prizes, did enter into a confortship to communicat losses and advantages for that voyage; and Orrock being somewhat fould, and having lost a fail, came into Sheitland to beit, and that in the dayes of the confortship. Ged, finding no advantage by this society, declared openly to Orrock in Shetland, that he would not adhere to the confortship, and that his company would not suffer him to keip it; and theiron Ged tore his part of the confortship; at which tyme Orrock alledges he told him he wold not quite him. Theirafter Ged takes a ritche prize of wines; and both meits at sea againe a ship; both runs at hir, buirds hir, and possesses hir. The question before the Admirall was, first, If 2 captains meiting at sea might enter in a confortship of that nature without consent of the ouners, outreikers of the frigate; and if that society, so contracted, could oblige the ouners. The reasones of the question for both the parts theiron, I have at lenth elseweir. The Admirall fand this contract did oblige the ouners. The 2^d question was, If Ged might, on the ground forsaid, refuse fra the confortship, his ship being a better sailer and better manned nor Orrock's frigate; which the Admirall fand he could not do without Orrock's consent. This, in my judgement, was ill decided, (tho I was for Orrock,) for a contract of society in law is not like another contract, because the trust, fidelity, and diligence of the confort is elected, and men are free to refuse when they pleas, if they be not limited to a tyme. Fol. 12^a.

2^d Cafe. Was of Grot contra Broun, who both having met at sea, but without any confortship, they jointly assault a wessell, louses guns at hir, and fought; wherein Broun lost his wessell, but his men were safe, and by their helps the prize was seized on and possessed. The questions heir were, 1^{mo}, Quither their ought to be a division or no, their being no confort-

ship. 2^{do}, If the captain who first possesseth hir, or the captaine who by his guns made hir streick, tho with the losse of his weffell, should cary the prize. 3^{tio}, If, in caise of division, the seamen ought to be regulat according to the number of guns and men, or force of the frigate; or if the division ought to be geometrick or arithmetick. 4^{to}, If the losse of the frigate that was sunk in the fight, ought to be made up in the one place, and then divide *pro reliquo*. In the 1 question, the Admirall fand, that without a confortship their ought to be a sharing amongst the captains. In the 2^d, That nather of them ought to carie hir folie, being tane by their joint endeavors. In the 3^d, That the division ought not to be equall, but with respect to the inequality of the frigatts. And to the 4^t, That consideration ought to be had of the frigate lost.

The 3^d Cafe was betuixt Captaine Bennett and Henric, who having entred into a confortship for 12 dayes onlie, and Henric having gone to land to carine his frigate, wher he stayed 3 of the 12 dayes of confortship, and Bennet having tane a ritche prize on the 13 day. The quæstion was, If thesse 3 dayes Captain Henric was not at sea ought to be counted 3 dayes of the 12; and he contended they ought to be failing dayes, and on that ground craved a share in the prize. Bennett contended that the 12 dayes ought to be counted *tempus continuum*, and not *utile*. Item, Bennet deponed, it was only to last till the 12 day of March, which eased the Admirall of the decision, for their was heir no written confortship.

A 4^t cafe was betuixt Captaine Seaton and Bothuick, who both entring amongst a fleit of Dutchmen, ou whom none of them durst singly hazard; Seaton falls by accident on the richest ship of the fleit; and Bothuick, who was the prettiest man, and had the best frigate, fell on some small vessels. The question was, their being no confortship, nather by word nor writ, but that which was for 6 dayes, which ware expired, if their ought, in that case, to be a division. The Admirall

and Seaton was not bound to divide the prize tane by him, it being *primi occupantis*.

Their ware severall repetitions of weffells made by strangers against Capers, which was done before the Lords by way of reduction of the Admirall's decreits of adjudication pronounced in favours of Capers. Reason of reduction, in generall, was iniquity committed by the Admirall in adjudging their weffells prizes; and it was strange, that on of 20 decrets given by the Admirall against strangers, ware sustained, but all of them ware reclaimed. It's true, the lawfullnesse of adjudication of Dutch weffells prizes, nather was nor could be called in quæstion, they being declared enemies. But the Dutches being masters of the hail commerce of Europe, (which, by their diligence and frugalitie, they had enhansed to themselves,) what they could not safely do by themselves, (because of their war with Britan,) they did by the means of other strangers, who ware their's or our allies, especially the Suedish and Flamands in the Netherlands, and other frie nations; and in order to this policy of trading, many wayes ware found out to evit the hazard of Capers, and yet to preserve their commerce; as, *Primo*, they made many of their seamen and merchands procure burgesse tickets fra Ostend, and other parts in Flanders; *2^{do}*, They made them stimulat a mutation of their domicil fra Holland to thesse parts by a temporarie residence ather their, or at Stockholme, or Riga, or some Fol. 12^b. of thosse Hants tounes on the Belt. *3^{to}*, They made simulat cockets fra this to that port, and made the bills of loading run in allies names, wheiras they reallie belonged to themselves. *4^{to}*, They throw money purchased passès fra the Admirall of England, vidilicet, the Duc of York ather to France or Denmark, and to returne to Holland; and by thir means and others, they caried on some kind of trade the time of the war, tho no part short of what they had the tyme of peace. This they studied, that since they could not friely and commodioufflie carie on their wonted trade, they cunningly confounded the hail trade of the world, that others might

not come at the knowledge of their gaine, and by custome, fish in their waters, and eat their meat out of their mouths, and so make that misterie known which no man unfold but themselves.

It might seeme a doubt in the entry of their proecesses, whow the Lords could reduce the Hygh Admirall's decreits, he not being a judge subalterne to the Lords, but supreme and independent from them. (It's called a Sovereain Court in the Act 15 Parl. 1609.) But this quæstion was never started by any; and it seimes altogether uncontroverted that the Lords, in all civill causes, are soverain to all civil judges in Scotland, in the 2d instance. It's true the Admirall, in the 1 instance, seimes to be Sovereain, so as all Marittime businesse ought to be commenced before him, as the onlie competent judge; but if ather he err or commit iniquitie, causes may be advocat fra him (their is a clause to this purpose something in the 12 Act of Parl. in 1661,) before the sentence, or after sentence may be suspendit or reduced, just as the Shireff's decreit in perambulations may be suspended, tho, by Act of Parliament, they be sole judges in the 1 instance; and sometymes decreits of Parliament are subject to the Lords' jurisdiction in some cases.

Another quæstion might have been in thir cases, If the Admirall, committing iniquity in adjudging prizes unjustly, ought to contribut for the parties dammage and intres. For it's a heavy losse to a skipper to be hindred in his voyage, and to be brought up unjustlie, and detained halfe a year needleslie, and so losse in effect his voyage; for being brought up on a probable ground, the Capers are frie of dammage and intres; and since the Hygh Admirall is praesumed to understand best what in law is revelant to infer confiscation, if he erre, and by his ignorance bring many strangers to beggerie, it seimes just he ought suffer theirfor. This has ground, in the Civill law, L. 13, D. *de Judiciis: Judex male judicando litem facit suam*. But this quæstion was never moved yet, and anie dammage and intrest that the Lords, in the case of a vessell, reclaimed, was onlie against the Capitaine and owners.

It was pittifull to fie whow many feamen and ftrangers were redacted to poverty and mad beggars, even tho they won the caufe, by not fetting doune fome rules in their behalfe. It's granted, the High Admirall had no rule or example for direction in his procedure, but what his oune pate fuggefied him, and what he learned by the praëtife of forrein nations, who ware better accuftomed with this kind of trade then we; for it was reallie but a ftranger in this country before this War. Some Caping their was in King James his minority, and Queen Marie's Regencie, when war was betuixt us, and France, and Spain; but nothing like this which began in 1664; which grew to that incredible height of advantage to the owner's outreikers, that never nation heirtofor took richer pryzes, nor mo of them, then the Scots Capers, who became famous for their activity and cunning diligence in the trade, (a great commendation fure.) Theirfor, it was no wonder the Admirall erred in many things, confidering the great heat of the War, and that it was knowne the Hollanders took the forfaid fingular courfes to cary on both war and trade togither; wheiras, in Scotland, we had no kind of comerce to fpeak of; albeit in tyme we began to trace the Hollander's way of trading and warring togither. It will not be beleived what wayes they took to circumveine the Admirall, and to difappoint the grounds laid doune by the King and his allies, to drive a trade without hazard, fo they might not correpond with Holland nor cary contraband; and particularly, their ware articles agried on betuixt the King and the Fol. 13^a. Suedes, and a colledge of comerce eftablifhed in Stockholme to that effect; with whom the Dutch got favour, and made fimulat vendition of fhips to Suedes, that they might the more fafely fwear that they did not belong to Hollanders; and it's lamentable to think upon the wayes tane to æquivocat and fwear with a referve, and what a weak paffe on is redacted in law, when he hes no other ground to feek his oune or to retaine what is in his poffeffion, but an oath; which was and yet ought to be the

greatest cement of humane society imaginable. But if ever that trade come in fashion againe, (as I wish fra my heart it may never,) the Admirall and all Judges in the land will be better instructed whow to carie heirafter, both for preservation of peace amongs Capers themselves, (who ware like in every thing to go by the ears with their owners and fouldiers,) and for indemnificing of strangers, upon whosse cost we have learned more marittime law and cases arising theirfrom, nor ever our prædecessors.

The rule præferyved by the Admirall, for peace amongs the fouldiers and merchands outreikers, was, that in all pryzes the King had a 10 part, and the Admirall a 15 part of the hail. This being deducted, the 3d of the rest did belong to the Captaine and his companie, and the 2 part to the owners:—whatever was found in the cabine belonged to the Captaine solelie.

In the War that happened betuixt the English and Dutch in 1672, it's weill known that sundry of our Capers, particularlie B. Baird, having got free ships of our allies, adjudged prize upon this sole head, that they ware carrying cornes in to Holland; yet they sent that same very wictuall thither themselves; which Sir G. Lockhart said, was as much as their necks was worth, and he wondred that B. could sleip till he had a remission for it. B.'s great argument, why none of thesse ships should be absolved, was this, Thair is a hundred thousand pound sterling within the kingdome of unclear pryzes, and he desires gladly to know if it be the entrest of Scotland to let soe much money out of the countrie againe. But infallible the curse of God will follow such ravenous and unconscientious acquests.

The Ministers of state of Forrain princes at London, make such ane allarum and clamor upon our Scots Pirats, (so they call them,) that if they get not redresse and their interests be not more tenderly considered, they threaten a war in name of their masters. Yea, it was credibly averred

by many, that a frie Suedifh fhifp, being brought up richly loaden, and which would undoubtedly have bein abfolved, B. Baird, who had a fhare in the Caper, caufed privily convey fome barrells of powder unto hir, only to be a ground of adjudication, and which was ufed as fuch: a villany fo groffe, that he deferves to be thruft out of all fociety for it, if true, feing charity can fcarce beleive on would be guilty of fuch wicked thift.

No. II.

 ACCOMPT OF THE CONVENTION OF THE ESTATES IN
 JUNE 1678, WITH THE REMARKABLE OCCURRENTS THAT
 HAPPENED THEREIN.

28 May 1678. AT SECRET COUNCELL, his Majesties letter for holding ane Convention of Estates at Edinburgh, on the 26 of June nixt, was red, and proclaimed at the Mercat Croce of Edinburgh; see the printed proclamation: as also, the double of the commiffion to the Duke of Lauderdale, to be his Commiffioner therein, with this extraordinary clause, that he should continue in that character after the ending of the Convention, ay and while [till] he should see his Majesties face, and come in his presence. It's true, Rothes, after the Parliament was dissolved in 1663, continued Commiffioner for two or three years, but it was not by vertue of any clause in his first commiffion. It was questioned by some whow it came to be indi&ed only upon 29 dayes, wheiras it was ever understood, that all fummonitions to Parliaments, or Conventions of the States, used ever to run on forty dayes citation and præmonition. [A&ts of Parliament should be proclaimed on 40 dayes, and till then they are not obligatory nor binding, A& 128, Parliament 1581.] It was answered, 1^o. That Conventions might be, by the laws and customes, called on 20 dayes. 2^{do}. In emergencies and urging and preffing affairs, the tyme might be abridged *pro re nata ubi periculum in mora*; and their was no statute requiring 40 dayes promulgation. 3^{tio}. If their was any anticipation, it was supplied by writing particular letters, and sending them with expreffes to

¹ From Folio MS. marked A. fol. 322-326.

each shire and borrow; to give them tymeous notice, which is all the intent of the 40 dayes intimation.

See what hes been Craig's opinion of Conventions of Eftates, pag. 38 of his books de Feudis. See a little touch of the power of fuch Conventions in that paper befyde me, called "Reasons why Taxations fhould be raifed, after the old way, upon the Pound Land:" it's folio 73 of the book wher it's engroft. See A& 13, Parl. 1661, wher the King hes promifed to raife no more Ceffe. Item, A& 49, the fame Parliament, wher annuel-rents at 6 per cent. are declared free of all retention fees, or other burden. See reasons at large, alibi, why money, being allodiall, cannot be burdened as land is.

As for the extraordinar favors the King hes fhown to the Duke of Lauderdale, in refusing to hear all his enemies, cloathing him in purple royall robes, making him a Duke, and partaker of his dominions, and his cheiff freind, fome think it a parallell cafe what Alexander did to Jonathan the Hy Preift, in the 1 book of the Maccabees, 10 chapter, verfe 61, et fequentibus.

In choifing the Commiffioners for fhires and borrows their was great heat and contention, and much briguing to mould them to the Duc of Lauderdale's ftamp. In fundry fhires the elections ware double, as in the Merfe, Air, Renfrew, &c. In Renfrew, 4 gentlemen made a feceffion from the reft, and choiced 2 of themfelves, viz. Colin Campbell of Blythwood, my brother in law, and Bannatyne of Kellie; which election could not fubfift in law, becaufe, by the 113 A& of the Parliament in 1587 all fuch comiffions ought to be fealled and fubferyved with 6, at leift, of the Barrons and Freeholders of the fhire from which they are fent;—this number they will not get in Clackmannan, and fome fhires, as Cromartie; and the 272 A& Parliament 1597, requires the commiffions be granted in a full Convention of the hail Barrons, and fubferyved by a great number of them.

It was ftarted as a quæftion, whither the late bond againft Conventicles,

that hes bred fo much disturbance, could be put to the members of the Convention of Estates, theirby to purge of and feclude some difaffected members; and it was thought no ty could be imposed upon them, but what was prærequired by some law, and their was no law incapacitating the refusers of the bond from being members of Parliament. Their was, indeed, the 5^t A&t of the Parliament in 1662, ordaining the Declaration to be tane by all members of Parliament, but, the A&t not mentioning Conventions of Estates, it may seeme their is no warrand in law for imposing the Declaration on the members of a Convention, since they are *jura difparata*. Yet this A&t of Parliament 1662 hes a generall in it, and custome since hes extended it to all our Conventions; and, accordingly, the Declaration was tane by all the members of this Convention 1678.

Conventions use not to be riden at their fitting doune or rifings; nor the crown, fword, and other honors, brought to it. According to the indiction, the Convention fate doune on the 26 of June 1678, and the Comissioner came to the Secret Councell chamber, wher they did meet, accompanied with 30 coaches. The prayers ware said by Dr. Bruce, Archdeacon of St. Androis; the rolls called, and the Declaration subferyved, and his Majesties letter red. The Comissioner propofed that the Houfe behooved to be first constitute, and the controverted elections cleared and difcussd, before they could fall to any busines; and that the easiest and speediest way of doing that, was for him to name a Committee to report. First, it was pressed, things might be done in plain Convention. This being rejected, then it was fought the Committee might be open, that every member might have acces if he pleased. It was condescended to, that if any member had ane objection againt a commiffion, he should be admitted to give it in to the Committee; then the debate arose, How, and by whom the Committee should be named? Duke Hamilton took the speach, and told, that no man payed greater respekt and deference to the Royall Praerogative then himfelfe; yet he conceived it was the privi-

ledge of Conventions and Parliaments, that they should nominat and appoint their oune Committees, and that it was done so in the Parliament 1661. The Earle of Argile answer'd, that was but a late instance. The Duke mistaking it, as if he had called it a lame instance, said, that it was the Parliament that had most largely explained his Majesties right and praerogative. St. Androis replyed, it was but a lame Parliament in 1661, for it wanted the Spirituall Estate; and Parliaments since, (meaning the 1 A & in 1669,) had asserted the King's supremacy more then it; at which [the] Archbifhop of Glasgou, they say, took privatly exception. The Earle of Perth, and Laird of Broomhall spoke a litle. Then the Comiffioner stopped the debate, and told, Whither the nomination ware a branch of the praerogative or not, he hoped the Convention would not refuse him the power to name the members. Wheirupon the most part of them stood up, and without voting it, desired he might name the Committee, which accordingly he did, 6 bishops, 10 noblemen, 10 gentlemen, and 10 borrows, beyde the officers of state. Then the Earle of Drumfreis produced a decreet of improbation against Richard Moray of Brughton, elected Comiffioner for the Stewartry of Galloway, finding a wryt to have been forged by him, in a matter betuen him and on Thomas Lennox, a glover, and declaring him infamous, and incapable to bear honor or dignity for the fame, and desired to know if it was credit or interest of the Court to have such a member. The defences proponed for Brughton, are, 1^o He was only denounced fugitive for not underlying the law, which is no probation of his guilt. 2^{do}. *Efto*, he has a remiffion which redintegrats his fame. Yet *Lex 3 C. de Generali Abolitione: Indulgentia quos liberat, notat, &c.* Vide supra folio 234; see more of Brughton's case, folio 324, infra. It was referred to the Committee to be considered likewayes, who ware appointed to meet Thursday the 27 of June, both fornoon and afternoon, and on Friday the 28 in the fornoon, that they might be ready with their report against Friday, in the afternoon.

At which time the 2d meeting of the Convention was kept, but fate very short while; on this pretence, that the affair was not fully digested nor ripened by the Committee, for a report. But the true cause was, the two Dukes were capitulating, to see if they could be drawn to an understanding, to go on in a joint course; whereon it was adjourned to Saturday the 29 of June, in the afternoon, which was thought a very unsuccessfull tyme.

The report of the toun was, that the Commiffioner had, to enfore the
 Fol. 323^a. Borrowers to himselfe, promised their should be no retention of the annuall-rents. Many were of the opinion, that it exceeded the limits of the Convention's power to retaine, since, by the 49 A&T, Parliament 1661, annualls being reduced to 6 per cent, it's declared they shall be free of all retention, or other public burden. Now, this being security given by a Parliament, it could not be infringed nor altered by any thing lesse then a Parliament. It was rumored, tho they did it not by way of retention, yet they might doe it by taxing and assessing money, and the personall estates, and for discovery thereof, cause the persones depone, as was practised by the A&T of the Taxation in 1633. But this burden of retention, or cessing personall estates, is a most unequall greivance; for lands pay according to their valued rents; now, the valuations are oftymes a 3^d within the true rent; wheiras money *valet seipsum*, and the full extent of its interest and annuall-rent is knowen to be 6 for each hundred, and the creditor nather gets, nor may take any more; so that retention of on of 6 from a monied man, is the 6^t part of his full rent; wheiras the tax on landed men will seldom be the 16 part of their reall true rent, which is concealed and not knowen by the valuations; and the true proportion of retention of annuall-rents for adjusting it with the cesse on land rent, and making an equality in the burden, is, that the annualls for a yeir be only 5 and a halfe per cent., and the other halfe be retained or payed in to the publick; which answers as if the annualls were at 12 in the hundred, and on of that 12 were payed. Befydes, it were a greivous burden to make retention, which mainly falls

on the borrows in whoffe hands the greateft part of the money is, (their eftates confifting in money) and to pay the 6^t part of the taxation as to the totall over and above, which is moft unæquall.

It's contended by fome, that the clerks of Secret Councell are the only clerks to Conventions of the Eftates; becaufe the aëts of Convention have alwayes been in ufe to be recorded in the register books of the Secret Councell; and James Primrofe, when clerk to the Secret Councell, did officiat as clerk to the Conventions. Yet Sir Archbald Primrofe, clerk of Register, in the two Conventions held in 1665 and 1667, caufed Mr. Thomas Young (who was nather a clerk of Seffion nor [of] Secret Councell) exerce as clerk. In this Convention Mr. Alexander Gibfone performed the office; but whither as on of the clerks of Seffion, or on of the clerks of Secret Councell, was not drawn under quæftion.

To returne, then, to the meeting held on the 29 of June. The Commiffioner told, the Committee had prepared a report of their tryall and examination they had made of the comiffions quæftioned, and defired the report might be red. Duke Hamilton told, their ware fundry perfones, members of the Convention, concerning whoffe comiffions ther was no doubt, yet their ware legall and relevant objections againft themfelfes, why they could not fitt their; and he judged it the moft proper and rationally method, to difcuffe thefe objections before the meeting fhould take in the Committee's report of their judgment and opinion of the controverted comiffions. The rumor was, that Duke Hamilton meant fome of them that ware upon the Committee, as the Prefident, who albeit he was choicen on of the Commiffioners for the fhire of Galloway, yet he had not a 40 fhilling land holden of the King, lying within that fhire; and they prevailed with the Lord Blantyre to goe doune to the Abbey and give in this objection to the Committee. They fay the Prefident took it of, by producing charters and feafines of lands their, of a value far above that. Fol. 323^b. Some thought Duke Hamilton alfo aimed at the King's Advocat, of

whoffe letters they had, written during the tyme of the late fhifme between the Bench and Bar, founding litle from treason, and reflecting not only on the Judicatories, but on the King's conduct; only their was ane amnefty for all theffe boutades, and the King had advanced him fince to be his advocat. The Commiffioner contradicted this motion of Duke Hamilton's, and told, It was the more naturall way to take in the Committee's report firft, and if, theyrafter, they had any farder objections to make, they fhould be heard. So they proceeded to the report. The firft article of it was anent the election of the Laird of Philphauch for Forres, wheirof he was Shireff, which election the Committee conceaved was legall and orderly made, notwithstanding the objections made againft it, which ware, the great præcipation and haft with which it was hurried throw, the gentlemen not having had fufficient advertifhment for being prefent. Theirfor, the Earle of Tuedale, who appeared vehemently againft this election, craved the fhire might be ordained to elect of new, and he alledged the proclamation at Selkirk for their meeting was but ane hower before they met and elected. Anfwered, their was competent enough tyme given, and the proclamation was not *de effentiali*, and their was letters writ to all the heritors; and fuch as came not, their answers, containing excufes, ware come before they proceeded to meet; fo they had as much tyme as to have been prefent themfelfes, if they had pleafed, and the gentry ware frequently enough convened, and the informalities objected ware not of moment. Then it was put to the vote, Approve of the Committee's report as to the election of Forres, or Not; and Approve carried it, upwards of 50 or 60 votes; which was the ods wheirin the Duc of Lauderdale and his party was fuperior to Duke Hamilton's, all alongft, in the Convention, in the following votes; for the moft that fyded with Duke Hamilton ware about 39 in number, and about 100 went with the Commiffioner. With Duke Hamilton ware the Earles of Buchan, Dumfreis, Perth, Roxbrugh, Southesk; among the Bifchops not on; the Lords Bargeny, Blantyre, &c., Androw

Fletcher of Salton and Adam Cockburn of Ormiston, the two Commiffioners for East Lothian, Generall Major Drummond for Perth, Blackbarronie for Tuedalefhire, Cromvel Lockhart of Lee, and Hamilton of Silvertonhill for Cliddisdale, with fundry other barrons. Duke Hamilton had only 3 of the burrows joyned with him; Patrick Hay for Perth, John Anderfone for Dumferling, and Sir Alexander Bruce of Broomhall for Culros. In the voting, the Earle of Mar rose up, and offered to prove that the Earle of Buchan had no priviledge to sit and vote their, because he was not yet full 21. Buchan answered in a passion, that upon his honor he was major, wheiron he was permitted to vote. Yet, nixt day, Mar produced a testificate, bearing the tyme of Buchan's age, by comparing wheirof it appeared he was not yet 21. But this afforded only matter of laughter. The Lord Blantyre, finding himselfe omitted to be called on in the rolls, he craved he might be called, which was done. Broomhall being passed by, he told the Chancellor that it was promised to him, that, during the dependence of the discussing of his commiffion, he should have liberty to Pol. 324. vote (which was not granted to the other controverted commiffions). The Commiffioner desired by all means that Sir Alexander Bruce's vote might be received. Then Bromhall cryed in a very rude way, "My vote is No! viz. I disapprove." The Commiffioner answered in a great passion, "Weel then, fir, your No! does not præponder; but I pray you, my Lord Register, mark heirafter that Sir Alexander's vote be not forgot to be asked, but wryt doune his name in capitall letters." Some ware for reading the hail report over, and then by on vote have approven it, which would have made short work, and hudled up all; but the Commiffioner was content to give them so much fair play, as to allow them to reason and debate every controverted election apart.

The 2d controverted election determined by the Report of the Committee, was anent the election in Perth shire; as to Generall Major Drummond, their was no question; but as to the other, their was double

elections, viz. Grahame of Fintrey and Morray of Strowan. Grahame of Fintrey had been choicen at the Michaelmas head Court, 1677. When the proclamation for the Convention is, the gentry mets again and choiced Morray of Strowan. The Committee's opinion as to Strowan was, that his election was illegall and null, their being no vacancy; and becaufe, by the proclamation calling the Convention, their ware no shires permitted to meet and elect, but only such as had made no election at the Michaelmas preceeding; and so when they met and choiced Strowan, it was without a warrant. It was answered, at the Michaelmas, when they choiced Fintrey, they had no prospect nor forficht of a Convention, and at that tyme they thought Fintry capable; but since, being informed of his condition, that he is not heritor of a fur of land within the shire, but that all was appryfed, and gone from him, and he was a meer bankrupt, and who refuged in the Abbey; they being sensible of their misttake, and that such a man was no more capable to represent them theirfor; they met and elected of new; and the proclamation hindred them not, unlesse their Michaelmas election had been of a person capable, which was not; and so they conceived it to be a null election. Alledged, Fintrey was as capable now, as he had been for 7 years before. The vote of the Convention found Strowan's election unwarrantable and illegall.

The 3d controverted election was Richard Murray of Brughton's, for the Stewartry of Galloway. The Earle of Dumfreis produced a decision of the Lords of Session, wheirby they repelled John Frazer, wryter, from being a witnesse in a civill action betuixt tuo parties, (of which see a remark made by me, supra folio 314, num. 702,) becaufe he had been declared infamous for bigamy; and that, notwithstanding he had the King's remission for the said cryme. And if Brughton could not be received a witnesse, notwithstanding of the King's remission, *ergo* much lesse he could not be a member of the Convention. It was answered by the President and King's Advocat, that in civill actions, especially wheir their was not

penuria testium, the Lords were tender to receive persons on whom their had once been a stain. That the falsehood contained in the sentence against Broughton, was but a childish kind of a slip in the execution of a horning, and wherein scarce any advantage redounded to Broughton, and so it was not presumable he had done it *ex proposito et animo falsum committendi*, but of perfect ignorance. That the King might make use of such persons notwithstanding, and that their was a difference betwixt the being a witness, and being a member of a Convention. This was a point of the publick government of the kingdom, wherein dispensation might be made; that his remission was not in the common forme, but restored him as fully and intirely to his fame, dignity, and honor, and to all his capacities, as he enjoyed the same before the said sentence of falsehood, as if it had never been given nor pronounced; and discharged any under the paine of death to object the said cryme to him. General Major Drummond, that he might be the better hard, stood up upon the furme, and alledged, that he pretended not to be a lawyer, and so knew not what these words might import, beyond the exuberance of style, which uses sometimes to be enlarged, and yet, without these clauses, the remission be ample enough as to all the designs his Majesty has before him, which is only sparing their life and fortune. Only he behoved to say this much, that abroad, in all the places where he had been, no gentleman would admit a person guilty of such villainies into his company; and that it was a part of his Majesties royall elemency, that his ears were not cropt, and the halfe of his estate seized on. Dumfries urged, the learned judges of the law might give him a reason why he might sit their, and yet not be a witness. Duke Hamilton contended the remission was but an extension of style. The Commissioner put on a great seeming huff against Drummond, as if he would have controverted the efficacy, validity, and extent of his Majesties grace and remission; and told he would gladly see the man that would affirme the King could not rehabilitat.

to the effect of rendering them capable of brooking the same honors and dignities they could have done before; and if any denied his Majesty's prerogative royall in that particular, he would acquaint his master theirwith. The vote was, whither Broughton's remission capacitated him to be a member of the Convention or not? and the Commissioner's boast did so overaw the members that not a man voted in the negative. Thus he got his legality declared by a vote of the Convention, as Sir William Purves had got his honesty asserted by an Act of Parliament. Many admired why the Duke of Lauderdale and the President concerned themselves so passionately in this man, since they would have had a great deal more credit in letting him slip; and it had been [more] for Broughton's own advantage to have done so, then to have suffered his name to have tossed, and that odious cryme to have been ript up as it was. Some expected he should have appealed Drummond for his discourse; but he was more wise then stout.

The 4^t controverted election was that of the Merse or Berwickshire,² betwixt Sir Patrick Home of Polwart and Sir Roger Hog, Lord Harcours. Polwart craved, since he had to doe with a lawyer, that his counsell at law might be heard to plead for him. This desire was called a novelty. Duke Hamilton told it was a mistake; for, in the Parl. 1661, he instanced a case in a controverted election in the shire of Nithisdale, where the Parliament allowed advocats to plead. Some controverted if any such thing could be made appear from the Registers. Duke Hamilton told, he knew not what they insert in the Registers; but sure he was it ought to have been marked, if it was not. Harcours, in the heat of the debate, not with that respect that was fit, contradicted Duke Hamilton, and cryed to him, "There was

² In the margin, the Author adds, "Vide supra of this Merse election folio 323, in margine 2dae paginae." This refers to the paragraph which is inserted, at page 276, as part of the text.

no such thing." This was put to the vote and refused. Then Polwart desired he might be heard himselfe, and, because his voice was low and he was at a distance, he was desired to come neir the throne; which he did, and alledged, that tho he had only 20 subscriptions to his election and Harcours had 39, yet his was the more valid in law, because he offered him to prove that 25 of these who voted and signed for Harcours, were either not infest, or had not a full 40 shilling land, or were denuded by compryngs, or the gift of their life-rent escheat, &c. Harcours and the President answered, that, *esto*, this was true (as it was denied), yet the Convention was not the court, *in prima instantia*, to try such objections, but the Shireff Court was the only proper and competent judicator where they were to have been objected against the fundry heritors, the time of their voting; and if the Shireff or his Depute had either unjustly repelled them, or, without any notice or regard thereto, had allowed them to vote, then the Convention, upon a representation made to them, were judges of the objections. But, since Polwart had only in the Sheriff Court, the time of the voting and electing, protested against these feuars as incapable, and had not craved the judgement of the Shireff and the Court upon the relevancy of the objections he gave in against them, as he should have done, he cannot now quarrell that election upon any such pretence, else all the Barrons of Scotland shall be forced to bring in their charters and evidents to Edinburgh to the Convention; and the Convention shall never fall to their business, but shall consume their hail tyme in perusing men's evidents. Argyle added, by this rule they might force the Nobility to produce their patents of honor ere they voted. The Commissioner cried, "When shall we show our zeal for his Majestie's service! when shall we fall to the work for which we met! shall we spend all our tyme in constituting the Court? Let it not be said that it shall be in the power of some few men to delay and hinder so good and so loyall ane intention."

Then a vote determined Polwart's election void, (as the Committee had found,) since he had not difcuff his objections in the Shireff Court.

Fol. 323^b. [The election of the Merfe³ was likeways controverted between Polwart and my Lord Harcous. Objected againft Harcous commiffion, that many of the voters and fufcryvers to it ware but petty fewars, and had not a 40 fhilling land holden of the King; and which was objected againft them at the tyme, and is now offered to be proven. Anfwered, feing it was not proven before the Barons in ther meeting, the tyme of the election, Harcous commiffion, who is now chofen, cannot be quarrelled theiron, and it's not tyme to prove it now. Replyed, they could not be ready to inftrutt it their, not knowing theffe unfree perfons would prafume to vote, and they could not carry along with them all the Retours of the fhire, and, wher a Barrony is difmembred and divided to fundrie heritors, without proportioning and retouring each part this was impoffible. Yet the Convention fand the faid commiffion could not be quarrelled on that head now; which was very hard.

The King, by a contract in 1633 (fee the unprinted A&ts) betuen him and the Earle of Sutherland, becaufe of the paucity of freeholders of the King in that fhire, allowed the Earle's ounce waffalls to elect and be elected; and fo Gordonfton and Rorat, though not the King's waffall, ware sent. The King's Advocat then alledged, that it had been decided that a nobleman's eldeft fone and appearand air, though he have a 40 fhilling land in the fhire, yet he cannot be choifen, becaufe he is of the Eftate of the nobility, and not of the fmall barrons, and on man, by the A& of Parl. cited in f. 325 *in fine*, in Mr. George Dickfon's cafe, cannot be of 2 Eftates.]

Fol. 325^b. The 5^t controverted election was of on Thomas Urquhart from Crom-

³ This and the following paragraph were added by the Author on the margin of the MS. at fol. 323^b.

arty. The comiffion being red, was found fo ridiculous, that it was re-
jected without a vote.

By this tyme it was neir 9 at night, they having fit more then 4 howers.
The Comiffioner told, their rested some few more controverted elections;
but he would refer them, being now late, to another dyet, which was
Tuesday the 2^d of July 1678. And in regard their had been a great
throng on the 29, a strict order was ifhued out, that none but members
fould adventure in heirafter, the roume being ftrait.

Yet, on the 2^d of July, (which was the 4^t meeting), Henry Fletcher,
brother to Salton on of the Comiffioners, having got in, was observed, and
fent to the Tolbooth, and fined in 20 dollars; wheiron Salton, the meet-
ing theirafter, pitched on litle William Talmuff as no member, fo that
the Comiffioner was forced to oune him as on of his fervants, whom he
had priviledge to bring in. This day they fell on the controverted elec-
tion of Air, and by the report of the Committee, the election of Sir John
Cochrane, and Sir John Cunyghame advocat, was found null on this
fubtilty, that by the 272 A& [of] Parliament, 15 James 6, in 1597, the
barons' comiffions ought to be fubferyved by the Clerk of the Convention
which theirs was not, tho ther was three tymes moe heritors fubfcrived
ther comiffion then the others, wheiras the President's and the Laird
of Blair's was fo fubferyved. It was answered, 1^o That act was then
made when fcarce any of the barons could fubferyve for themfelfes,
which reafon now ceafes. 2^{do}. It was utterly in defuetude; and if they
would examine ather the comiffions to this Convention, or any of the
preceeding Conventions or Parliaments, theffe 40 years bygane, they would
not find on of 20 of them who observed that formality. However, the
Convention voted their comiffion null for want of it, though the com-
iffions of many of their oune fa^{ct}ion, *eodem laborabant vitio*; but this
fpoke their partiality.

The nixt comiffion was that of Mr. George Dickfone of Boutchrigs,

for the Brugh of New Galloway, which first the Convention of Borrows, and then the Convention of Estates, repelled and rejected, on this ground, that he was elected against the King's letter, and the acts of the Convention of Borrows, declaring their should be none choicen to represent borrows but merchands within that brugh, actual traffiquers and residents, bearing scott and lot with the rest of the citizens, which did not agree to him. And farther, the King's Advocat and President urged against him the 33 Act of the Parliament in 1587, discharging that their be any confusion of the persons of the 3 Estates; and that every man shall only occupy the place of that selfe Estate, wherein he commonly professed himselfe to live, and wherof he took his stile. Now, Mr. George professed himselfe commonly among the barons, and not the burgeses. His answer was, in this capacitie he owned himselfe as a burges of New Gallo-

Fol. 326^a. way. [Vide supra a note as to this folio 323* *in margine et ipso fine.*]

They voted his commission null. They could not reach Broomhall's commission from Culros; for by receipts of stent, and other documents, he instructed he had trade their, and boor his proportionall share of all burdens with the other inhabitants.

Thus ware all the commissions adjusted and discussed, as the Duke of Lauderdale pleased to order them.

The 5^t meeting was on the 4^t of July, wher his Majesty's letter (the Court now being constitute,) was read, and the Commissioner delivered of his harangue; both which see in print. The same Committee which was formerly named are desired to prepare the draught of the Act anent the Supply, against the 8^t of July; being Moonday, which they doe, and carries 25 moneths cesse for 5 years, 5 moneths each year, at 6000 £ sterling per moneth: most ware expecting but 20 moneths. This, at the 6^t meeting, on the 8^t, was brought in, voted, and carried, some being only for 20 moneths. The matter of the next meeting was the method and way of imposing it; by taxation, pol-money, or assessment of land rent,

according to their severall valuations. The last way of assessment carried it. Argyle, Duke Hamilton, and many were for money, that the tenantry might have paid a part of it. Some would gladly have understood the Clergie their proportion of this subsidy, in regard they always boasted, and made the country believe that, in the taxations, and other publick burdens imposed upon the country, they always paid their proportionall share for their rents and benefices possessed by them. And yet I heard knowing men aver, this was a meer blind, and the country had no ease nor relieff by any payment they made; nor ever would till they told and undertook to definit part as the burrows did, who paid the fixt of all that was imposed. Sir George Mackenzie of Tarbet, and Sir George Gordon of Haddow, appeared very zealously for the Commissioner's interest throw out all this Convention; but was thought a remarkable change of the lubricity and inconstancy of humane affairs.

The last meeting, on the 11 of July, did only approve the draught of the Convention's letter to his Majesty, sent up and carried by the Laird of Lundy. But, because both this Letter, the Act of the Convention, and many of the other papers mentioned by me, are in print, therefore I forbear to repeat the contents thereof. Vide the next page.

Thus ended this Convention of Estates, wherein the Duke of Lauderdale conceived he had recovered any thing he lost in the Parliament 1673; and he triumphed mightily in his success, and Whythall was made to refund with it, and the service he had done to his Majesty by this subsidy, and in casting England a copie, and in showing the malecontents their how impotent their faction was in Scotland, and not to be trusted Fol. 326^b. to. Duke Hamilton went away from the penult meeting in a passion; yet it cannot be denied but the Duke of Hamilton all along behaved himselfe very well, and showed much acutenesse and readiness of wit in his reasonings, and very prudently did take the advantage to retort his adversaries' arguments against themselves.

Halton, to make his sone, Mr. Richard Maitland, capable of being elected on of the Comissioners for the shire of Mid Lothian to this Convention, he disponed to him 14 chalders of victuall, with this quality, that it should be lawfull for the disponer to alter it at his pleasure, or to alienate the saids lands without his sone's consent, which was a rare clause.

In the Letter sent by the Convention to the King, some blamed that expression as mean, where they say they will not pry unto forraine mysteries; and then, where they flatter the Duke of Lauderdale; and then, within 4 lines of the end, where they compare the King to God, because both of them never makes use of their power, but to doe good; which some thought, if properly tane, wanted not much of blasphemy. Again, where Sir George Mackenzie says, (for he and the Bishop of Galloway, Mr. John Paterfon, is thought to be the penman of it,) that from God alone our King derives his power. 1^o. Some denies that. 2^{do}. Does not other princes derive their lawfull authority from the same fountain as much as he? 3^{do}. This hinders not but the people are God's instrument in conveying the said power, where it comes not by conquest and immemoriall descent. Where no compact can be shewn, *quæritur* if it is to be presumed?

No. III.

THE DEBATE IN THE CRIMINALL ACTION PERSHUED BE HIS MATIES ADVOCAT AGAINST VMQUHILL MR. JAMES MITCHELL, FOR ATTEMPTING TO KILL THE ARCHBISHOP OF ST. ANDREWS, EXTRACTED AS THE SAID DISPUTE STANDS RECORDED IN THE BOOKES OF ADJOURNALL, 7TH, 8TH, AND 9TH DAYES OF JANUARIE 1678.¹

DEFENCES.—The lybell or indytement havinge been read, Mr. Johne Eleis, for the pannell, alledged, That he cannot passe to the knowledge of ane asseye, and that conclusion, that the pannell hes committed murder, cannot be inferred from the subsumption of the lybell; because, be the lawes of this Kingdome, the Civill law, the common opinion of the Doctors, the law and generall custome of all nations, *Nudus conatus et affectus sine effectu*, even in the most atrocious crymes, except trefone, parricide, and other excepted crymes, is not punisheable be death; and it wer against all reasone, sieng punishment ought to be proportioned to the crymes, that a naked and simple designe of murder should be punished as murder that had taken effect; *et in criminibus gravioribus et gravissimis, viz. adulterium, furtum, sodomia*, the naked designe is not punished *pœna ordinaria*, even by the civill law; and tho *Lex Cornelia de sicariis*, by ane extraordinarie streache, does declare one liable, *si quis cum telo ambulaverit*,

¹ From Lord Fountainhall's Manuscript marked C., p. 53.

yet it is but a statutorie law, and derogat to, by the law of nations, and the speciall law of our nation, in so farre as murder in our law is defyned to be, and hes only place *in interfectis per feloniam*, and these who wer killed upon forethought felonie. 2^{do}, In so farre as the lybell concludes him guiltie of affassinatione, the same is no wayes relevant, it being both a terme and a cryme unknowen in our law; and be the Lawes and Acts of Parliament of this nation, the subjects of Scotland are to be governed by the lawes of Scotland; and though the cryme of affassinatione wer a poynt of dittay by our law, as it is not, yet it is not nor cannot be pretended that he wes hyred for that effect, neyther is it lybelled. In sua farre as the lybell concludes the pain of death for mutilatione of the Bishop of Orkney, it is answered, The same is no wayes relevant, and the said conclusion cannot be inferred from the subsumption; because the A& of Parliament does only declare dismembratione to be punished as slaughter. 2^{do}, The said A& declares dismembratione to be only punished as slaughter, when it proceeds upon forethought felonie. 3^o, The said A& requyres another qualificatione, viz. that it be pershued be the partie, non of which can be subsumed upon in this case, because it is not lybelled that the Bishop wes dismembred, or had his hand cutt off, but only had a wound in the hand; and the lybell does expressly beare that the Bishop of Orkney gott the shott in the hand accidentally, when the designe wes against the Bishop of St. Andrews, and so wes not upon forethought felonie as to him; and lastlie, the Bishop's nearest of kin doe not concurre nor pershue, which is a speciall requisite in the said A& of Parliament. Likeas, the said A& is exolet, and in no Register can it be made appeare, that any person wes capitallie punished for dismembratione, but, upon the contrare, many accused and condemned in arbitrarie punishments; so that the lybell is no wayes relevant as to that article, for the reasones foresaid, specially sieng dismembratione is not so much heirin as lybelled or pretended; and wheras it is insinuat that the Bishop did languish and die of

the said wound, it is answered, That the lybell is no wayes relevantly conceived, because it is not lybelled that the wound wes *ex sua natura*, lethall or mortall, and it is offered to be proven that the Bishop did live severall yeirs thereafter, did goe about his ordinarie function as a Bishop by preaching, which is a sufficient ground of exculpatione and defence.

In sua farre as the lybell is founded vpon the A& of Parliament anent invadeing of Councillers; it is answered, this present case does not fall under the compafs of the A& of Parliament, because it is not lybelled that the cause of the said pretended invafion of the Archbishop wes upon the accompt he wes in the profecutione of his Majesties service, but upon the contrare, it may appeare strange to any rational man, *Quorsum et cui bono* he could have done it.

As to the A&ts anent invadeing of Ministers, they import no capitall punishment, but only confiscatione of moveables, and as to which the saids A&ts are opponed, and as to the A& 1670, it is posterior to the fact lybelled.

In sua farre as the lybell seemes to be founded on a confession, in sua farre as the confession may be made use of as a sole or conjunct probatione, the pannell objects against the sament upon the grounds and reasons following. 1^o. If any such confession wes emitted be the pannell, which he hes absolutely denied in the Lords own presence, nowayes acknowledging the sament, no respect can be had therto, and it is not probatorie, because the sament is extrajudiciall, *et extra bancum*, in regarde it is not made in presence of the assyse, who are judges to the probatione, which is expressly required by the 90 A& xj. Par. K. J. 6, which requyres the probatione to be led in presence of the assyse and partie; and which A& of Parliament wes not only made for securitie of pannells as to a just and legall procedour against them, but also that the assysers to whom the trust of the lyves of the subjects of this Kingdome is committed, as to the poynt of probatione might not proceed upon fame and report, but upon

a cleare probatione before them; so that if that wer not, the assyse wold be altogether depryved to know how the confession wes emitted, if spontaneously or *ex constantia, vel trepidatione*, or *spe venie*; and the use that ever wes sustained in this Court wes, that the assyse did find a partie guiltie on a confession emitted before a quorum of the Justices in a fenced Court: *Ejlo*, the said pretended confession should be sustained probative, for the reasons above represented, as the pannell, with all submission to your Lordship's justice, humbly conceaves it cannot; yet, if any such confession wes, it is null, becaus it wes elicite *spe venie et immunitatis*; and for proving therof, the pannell does repeat his exculpatione, which he conceaves is relevant in law, and craves the witnesses therein to be examined upon the contents therein. 2^{do}, The said confession being emitted, *extra judicium et spe venie*, as said is, *est in se nulla*, and cannot be confirmed nor validat by the testimonie of anie witnesses whatsover; and to evidence that the pannell's lyfe wes never intended to be taken upon the said pretended confession, the sament, if any wes, is opponed, by which it evidently appeares, that he wes examined upon oathe, as to the most materiall part of the cryme, viz. his complices, which makes it more then evident, that it being *in materia criminali et capitali*, in which oathes cannot be taken by law, renders the confession null and invalid, at least makes it evident that the lybell hes been restricted *ad civiles effectus*.

REPLY.—MY LORD ADVOCAT insists, in the first place, upon the 4 Act, 16th Parliament, James 6th, by which *nudus conatus*, attempting and invadeing, tho nothing follow, is found relevant to inferre the pain of death. But so it is, that the said Mr. James Mitchell did attempt the killing of the Bishop of St. Andrews, which attempt *devenit ad actum proximum*, the said Mr. James haveing done all that wes in his power; and as to the qualitie adjected in the Act innuateing the defence that it must be proven that it wes for doeing of his Majesty's service, it is replied, That this qualitie is inferred, and cannot nor requyres to be utherwayes proven

then by a presumed inference. For the designe of the attempter being ane a&t of the mynd and the secret of the heart, it cannot be urtherwayes proven, but simplie be the attempting a Secret Councillor, or ane of his Majetie's officers, against whom the pannell could have no quarrell, but for doeing of his dewtie; and therfor the law still concludes the same, except the pannell will offer to condescend upon another relevant reafone, viz. ane privat feade; for if it wer urtherwayes, the A&t wold be absolutely ufelesse, since any perfon might attempt or kill a Privie Councillor, it being impossible to prove what wes the designe, and this A&t wes designed meerly to make all attempts against Privie Councillors punishheable by death; for otherwayes it could be no fence nor protection to Privie Councillors, if it wer only granted to them under a qualitie which wer impossible to be proven; nor can this seem hard, since the subjects have only themselves to blame who attempt against the lyves of Privie Councillors, and it wer very ridiculous to thinke that if the brother of a pannell should kill the Judge or King's Advocat, immediatly after proces, that it wer necessar to prove the designe otherwayes then by the naturall contingencie which obvionslie aryfes from the qualities and circumstances of the perpetratione; but in this case, as Mr. Mitchell is a persone who can condescend upon no privie offence betwixt the said Archbishop and him, they being absolute strangers to on another; so, beyde the presumption of law above specified, it is offered in fortificatione of the A&t, that the said Mr. James ownes himselfe to be of a professione who hates and exerats that hierarchie, and of which sect the unhallowed penmen of Nephtali declare it is lawful to kill thesse of that character. 2^{do}. It is not-tour, and offered to be proven, that Mr. James himselfe defended that it wes lawfull to kill such, and endeavoured by wrested places of Scripture to defend himselfe, to gain profelytes therby; and if need wer, as there is non, it is specifickly and distinctly offered to be proven, that he acknowledged the reafone why he shott att the Archbishop wes, because he

thought him a persecuter of these nefarious and execrable rebels who appeared at Pentland Hills, nor can designs and acts of the mynd be otherways proven, then by such emitted declarations, argueings, and acknowledgements.

Likeas, in the heall course of our law, the invadeing and attempting any of that sacred function, is still declared æquivalent to killing, and tho the last Act be posterior, still it is sufficient to demonstrate and declare the mynd of the Parliament aent such attempts. 2^{do}, By the Common Law, *conatus* and endeavours *in criminibus atrocissimis* are punishable by death. *ubi reus devenit ad actum proximum et omne quod in se erat fecit*, which is in itself most reasonable, since the atrocitie of the cryme should put the same even beyond ane attempt, and there can be nothing more just then that the extraordinariness of a cryme, should have ane extraordinarie atrocitie; and guilt attempted in atrocious crymes, such as sacrilegious assassination is in the eye of the law als great, and greater then the stealling of a horse or cow, specially where securitie from the effect proceeded from no innocence in the committer, who did all that he could, but from the special providence of God, disappointing the effect of a cause he so much hated; and Carpzovius requyres only 3 qualifications to make endeavours punishable by death. 1^{mo}, *Quod eventum erat ad actum morti proximum*. 2^{do}, *Quod non steterit per assassinum quin consummaretur delictum*. 3^o, *Quod occidendus fortuito casu capturan evaserit*: all which concur but too weell heir, and that *in omnibus criminibus atrocissimis, conatus* is punishable is clear from Gothofred, *et de conatu* from Cavorannus, and particularlie in the case of assassination, *totidem verbis assassinus tamen nihil prodesse debet solusque conatus capite puniendus*: a great instance wherof is given in a decision by Gothofred in the Senate of Savoy, wher deathe wes inflicted upon a person who but struck with a batton. And wheras, it is pretended that assassination is no cryme in our law, and that it is only inferred where the designe of murder proceeds from the committer's takeing money; it

is answered, That that part of the defence is most groundlesse, and our nation will be more barbarous then the Laplands and Tartars, if the lyeing in wait with a constant designe to kill clandestinely, *per infidias*, any person who had never offended, should not be raised to a higher degree of detestatione then ordinarie murder; for tho the law does not alwayes punish a meer endeavour when designed such who lesse offended wher nature pleadeth some excuse from the greatnes of passion and recentment, or wher the party gaines some occasion by doeing the wrong when the suddennes of the designe allowed of no tyme to consider or repent; yet when a person, after mature deliberatione, ripens his own villany, and resists the motions of reason and inspiratione of Almighty God, by lyeing in wait to kill a person who never offended, the law thinks the Commonwealth can never be secured so longe as such a viper is alive, who wanted nothinge but opportunity to kill mankinde on by on; and the specialitie of takeing money, is only demonstrative and not restrictive, since the guilt in this and such lyke cases is greater and much more dangerous then that of takeing money, for he who takes money will not kill but in darknes, and wher he may escape; but the sunne, and the croce, and the confluence of the world cannot secure against murder, wher the partie thinks the act merits Heaven, or att least wher he thinks that thesse of his persuasione will ryse in a tumult in the streets for his defence; lykeas the law has inferred death *ob conatum* in the case of *raptus*, robbrie, much more should it inferre death in this unparalleled and execrable cryme.

And as to what is alledged against the Act of invadeing of Ministers, it is answered, That the first Act appoynts that it shall be punished with all rigour: and the 7th Act Charles I. and the last Act is sufficient, tho posterior to the cryme, to declare what was the meaning of that generall, viz. punished with all rigour; and since our law makes the attempting of such as are doeing his Majesty service capitall, that generall ought to be extended to death, since lesser crymes and other crymes are for the same

reaſone puniſhable with death; nor can ther be any hazard in this, ſince ther is a law for the future, and no man ſhall ever die for ſo greate a cryme in our nation.

Wheiras it is alledged, That heir the pannell only did confeſſe upon hopes of lyfe; it is replyed, 1^o, A promiſe of lyfe from a Judge who could not grant the ſame cannot defend, eſpecially wher no threatning preceeded, and wher it is cleare that what wes confeſſed, wes founded on uther preſumptions *et indicia*; nor is this relevant except the pannell could offer to prove firſt threatneing to the fear wherof he yeilded. 2^{do}, That he expreſſie pactioned that his confeſſion ſhould not operat againſt him, which is verie cleare from Boſſius *tit. de Confeſs. per tortur. num. 12*, wher he ſtates the caſe, and concludes that a ſpontaneous confeſſione, tho lyfe wer promiſed, does not defend; and is the guilt the leſſe that a Judge promiſes, and if this wer ſufficient, everie Judge might make himſelſe a Kinge, and grant remiſſions att his pleaſure; and tho this may weigh with the Judge who promiſed, yet the law conſiders the partie confeſſing ſtill guiltie, and ſo does never ſecure him; *et quod poteſt condemnari tenent omnes. Cod. de iis qui ad Eccleſiam effugiunt*. Alciatus *lege de verborum ſignificatione*, and Clarus himſelſe ſayes, *Ego ſuſpicor opinionem Caij eſſe magis communem*, but givinge his own opinion rather as a privat man then a lawier, ſayes, *Ego tamen non condemnarem ad mortem niſi alijs indicijs fuerit gravatus. Ergo reus indicijs gravatus eſt morte plecſtendus*, which is moſt juſt and reaſonable, for tho the law be jealous wher a meer ſillie innocent confeſſes to a Judge who may terrifie him, or have any intereſt in cauſeing him confeſſe, and lay the blame on his friends; yet wher the pannell's own confeſſione proceeded from a perſon ſuſpected be all the world, by a perſone who publickly in all places ſince hes owned the deed, who fled upon that accompt, who being taken with unlawfull weapons unfit for his profeſſione, and the ſpecifick weapons which committed the attempt; who condeſcends upon all the circumſtances, and

declared that he gloried in being a martyre upon that accompt, in being feen runne away with a piftoll in his hand, in being found out in a thoufand lies and prevaricationes when he wes examined, and had renewed his confeffione publicklye; it wer but to feorn the law and maffacre mankynd to think that a confeffion fo adminiculat fhould not hold the confeller guiltie, who can alleadge nothinge of any threatneing ufed againft him by the Judge, as fevere, rigid, unjuft, or partiall. But the confeffion is alleadged to be made upon promife of lyfe given by my Lord Chancellor, whofe benigne and gentle temper frees him from all fufpicion; and by the proponing of this exculpatione acknowledges *verifimilis*, wheras heir this confeffion is adminiculat by many other circumftances—fuch as perfons who faw him run away—by his owning of the principle fince his fleeing; and fo that heir neither can he inftreft why he retractts, and the thinge confefled is adminiculat by many other circumftances *et indiciiis*. As to the objection founded upon the Act of Parliament, that all probatione muft be in prefence of the affyfe; it is replyed, That the heall force of that Act is greatly miftaken, for the defigne of the Act was to correft a barbarous cuftome, wherby accufers wer allowed to folift and to produce to them fuch wrytts and witneffes as they pleaft for probatione, to preclude the pannell of what he could fay againft the fame, fince falfe papers might be throwen in as confeffions and prooffes; but that cannot reache this cafe, wher a confeffion is produced before a pannell and his procurators, and they heard to object againft the fame; nor can it be urged from this Act that no paper can be relevant but what is owned be the pannell in prefence of the affyfe; for we daily fee that letters produced under the pannell's oun hand, tho he fhould denye his fubfcription, will be fustained, and it will be fufficient to prove be witneffes, or by comparifon of letters that he did fubfcrbye. Likeas, that Act of Parliament does not exclude that confeffion before the Lords in matters of falfehood, and decreits therupon may not be probative before the Juftices.

Likeas, confeffions taken before the Juftices—tho no affyfe be prefent—doe, without all controverfie and debate, prove the cryme; and yet neither can the Juftices condemne without ane affyfe, nor does that Aët of Parliament militat more againft that cafe, nor this: and in the cafe of Findley M'Nabbe, a confeffion taken in the Tolbuith without a fenced Court, and before ane Judge, wes fufficient to inferre the cryme of death, both by the Councell and Juftices; and it is admired, how it can be thought that prefumption can be fuffained as the foundatione of a criminal fentence as wee dayly fee, and that witneffes which in effeët are but prefumptive; and yet a man's own confeffion, emitted ferioufly and in cold blood, fhould not be fufficient, and as ther could be nothinge more dangerous to the Commonwealth [than] that crymes fhould be rendered thus unfearecheable; fo what hazard can there be to the people on the other hand, or the pannell, when they are made their own judges, and to take off all poffibilitie of danger, it fhall be allowed to them to prove terror, force, innocence, or miftake; and this probatione hes been in all ages and nations fuffained as uncontroverted, as David ordained the perfon who faid he killed Saul, immediatly to be execute without further inquire, giving as the undoubted reafone, that he had condemned himfelfe out of his own mouth, and which is regiftrat in Scripture to fecure the image of God againft thofe who would deface it; and if fuch confeffions fhould be fuffained in anie cafe, much more in this, wher the nature of the cryme is atrocious, and the manner of the difcoverie is extraordinarie difficult; and if either atrocitie or difficultie prevails with lawiers to remitt fomewhat of its extraordinarie rigour in exaëting cleare probatione, as wee fee *in criminibus exceptis et criminibus domefticis*, much more when both thefe concurre, ought a man's own confeffion be admitted; and wheras, ordinarie pannells are penitent firft when examined, the horrour of the crymes foftneing their hearts, their confeffions then fhould not prove, it wer impoffible and fruitlefs to expeët that after they are imprifoned among

a companie of other malefactors, and after they have the aid of lawiers to wait upon them to teach them the arte of retractation, and that their confcience growes callous and acquainted with the idea of their own cryme, what sincere confession may be then expected from them.

MY LORD ADVOCATE declares he does not insist against the pannell for conversing with rebels att this tyme, and insists upon the shooting att a Bishop or Minister, being before the late Act of Parliament 1670, to inferre ane arbitrary punishment, and insists upon mutilatione as capitall, upon the Act of Parliament anent demembratione, which is *reddere membrum inutile*; and a man is alfe much dismembred when he hes ane useles hand, as if he had no hand; and insists upon the 28th Act, Parliament 3^d, James IV., wherein slaughter, and mutilatione upon forethought felony, are equiparatt, and the pannell declared to be punished be death in both thesse cafes; but referres the punishment of mutilatione to be qualified by the Justices according to what shall be found heir proven, and to what hes been the custome of the Justice Court formerly in such cafes.

DUPLY.—SIR GEORGE LOCKHART duplyes, as to the defence founded upon the 4th Act 16th Parliament, King James VI. That the lybell is not relevant, not condescending upon the expresse qualificatione which the Act of Parliament requyres, is nowayes eleided by the alledgeances contained in the reply; for 1^o, The Lords of Justiciarie wold be pleased to take notice that ther is no specialitie in the case of this Act of Parliament as to Privie Counsellors, but that it extends to all his Majesty's officers, and, consequently, the meanest officer being invaded in the termes and under the qualificatione contained in the Act of Parliament, might pleade the benefite theirow; and if the lybell should be sustained in generall termes, without the expresse qualificatione, the simple act of invasion of a Lyon Herald, tho neither death nor wound followed on it, would inferre the pain of deathe; but that no such thinge is the meaning, nor can subsist with the Act of Parliament, is so cleare and evident, that it wes impossible for

the witt of man to expresse the qualificatione to be lybelled, and positively proven, in more plain and direct termes then is sett down in the said Act; in sua farre as the Act of Parliament requyres, be way of provision and conditione, in the statutorie part therof in thir termes, "It being verified and proven, that any of the saidis Councillors, seffioners, and officers, wes pershued and invaded for doeing his Majesty's service, shall be punished to the death;" and ther is greate reason and necessitie for this qualificatione, becaus the Act of Parliament intending, contrare to the generall custome of nations, and of this Kingdom in all other crymes, that *conatus et attentatum*, which is only relevant in the cryme of treason, should be reputed *crimen consummatum* in case of invasion of any of his Majesty's officers, therfor the law requyres this qualificatione in matter of fact; farther, that it should be verified, that the person invaded wes doeing his Majesty's service, in which case the cryme had a respect, and in construction of law as done against his Majesty's authority, which he wes then executeing; and heir this qualificatione, in matter of fact, that it wes for doeing his Majesty's service, is not so much as lybelled, and in the opinion of all lawiers, as may appeare by Jul. Clarus, § *assassinium*, 2, *ubi agitur de imponenda pœna alicujus constitutionis oportet quod in illo casu verificentur omnes qualitates in ipsa constitutione expressæ, alias pœna non committitur, et hæc (sayes he) est doctrina communiter ab omnibus recepta*, and most especially when it is an extrinseck qualitie and aggravatione. But when it is a qualificatione requyred by law itfelfe, as *integrans delicti*, and as Gomes hes it, *alterutrum pœnæ*; and therfor it most be *totidem verbis* lybelled and positively proven.¹

And as to that pretence that it is to be presumed and inferred from the circumstances, and the way and manner of committing the fact itfelfe, and that *propositum* and designe cannot be otherwayes proven *nisi per indicia et*

¹ [Marg.]—See *Lanfrancus Balbus, Decisi. 223, Andreas Gayll, de pace publica, cap. 13, numero 6.*

conjecturas, It is duplyed, The qualificatione requyred by the A& of Parliament is *toto cælo* different from the designe; for if a person did invade ane of his Majesty's officers, doeing his Majesty's service, and wold pretend that he had no designe to invade, certainly the pretence wer absurd, and in that case the designe *præsumitur ex natura attentati*; but the discharginge of his Majesty's service is not a designe, but a matter of fact, which consists in ane extrinseck action, and most be proven, and may and does often occurre; as, for instance, if a magistrat should be invaded in the actual execution of his Majesty's authoritie; or if the invader should be transported so with rage, as when he invades a Judge to tell him that it wes becaus he hes unjustly decerned, thesse and the like cases, are indeed in the termes of the A& of Parliament, and the simple invasion, tho no wounds followed, being directly levelled against his Majesty's authoritie, *nudus conatus et affectus delinquendi reputantur pro effectu*; and as this is cleare from the exprefs words of the A& of Parliament, and which being *in materia correctoria et criminali* is strictlie to be interpret, so it is also unanswerable evinced from the A& of Parliament, King Charles I. of blessed memorie, by which it is proven that the invasion and violence done to ministers is punishable conforme to the A& of Parliament 1587, to which it relates, which is confiscatione of moveables; and declares, that the said A& is to be extended to Archbishops and Bishops, from which the pannell's procurator argues thus: If by the posterior A& of Parliament *in anno* 1633, the invasion and violence done to Bishops is not punishable with the pain of death, but only ane arbitrarie punishment, how is it possible, that the 4th A&, Parliament 16th, James VI., should inferre the pain of death upon the invasion as it is circumstantiat and lybelled, wher nothinge is lybelled but that the Archbishop was invaded, who wes a Privie Counsellor, and not the qualificatione that is requyred by the said A& of Parliament, that it wes for doeing of his Majesty's service.

And as to that alledgeance that the pannell cannot condescend vpon

any private ground of quarrell, or other reafone why he did invade the Archbifhop. It is answered,—If this alledgeance wer fuftained, it wer contrare to the A&t of Parliament lybelled upon, which does not requyre the pannell to prove, but that it muft be tryed and verified that the invafion wes for doeing of his Majefty's fervice; and fo his Majefty's Advocat muft prove the famen by a cleare and pofitive probatione as a poynt in matter of fa&t. And as to that pretence that the pannell did glorie that he had committed the fa&t and invafion lybelled, and endeavoured to infufe the fame and perfwade others that it wes lawfull; it is duplied, That as the faids qualifications are altogether difowned, fo they are no wayes the qualificationes in matter of fa&t requyred be the A&t of Parliament, viz. That the invafion and violence wes for doeing of his Majefty fervice, which is indifpenfible requyred upon the reafones above mentioned; otherwayes the A&t of Parliament fould have faid no more; but that all invafion of his Majefty's Privie Counfellors, or other officers, fould be punifhed with death; wheras, the A&t of Parliament thought it juft and neceffar, and fitt for all men's fecuritie, that ane fingle a&t of invafione of ane of his Majefty's officers, however it might be punifhed *pœna arbitraria*, yet fould not import or inferre the pain of death.

In fua farre as the dittay is founded upon the common law, and its *affinium* in which *conatus et attentatum habentur pro crimine confummato*; it is answered, The dittay is nowayes relevant, becaus it is not founded upon any Law or A&t of Parliament of this Kingdome, and the common Roman Law cannot be the foundatione of criminall dittayes, wherby to draw in hazarde the lyves of any of his Majefty's fubjects; likeas there is cleare, exprefse, and pofitive A&ts of Parliament to the contrare, as the 48 A&t Parl. 3, Ja. 2, Act 79, Par. 9, Ja. 4, declaring that the lawes of no other realme are to be regarded, efpeciallie wherupon to found criminall indytement. And albeit be the common law, *conatus in homicidio*, efpeciallie wher it wes *homicidium dolofum*, and defigned to be committed *pro-*

ditorie et per infidias, wes punished as *crimen consummatum*; yet all lawiers aggrie, as may appeare by Jul. Clar. Quest. 102. Farinatus, Q. 80, and by the authorities by them cited, that by the generall custome of all nations *in omni genere homicidii, affectus, conatus et attentatum*, is not punishible *pœna ordinaria delicti*, and so cannot inferre the pain of death, as is concluded in this indytement. And as to that pretence that the cryme lybelled is the cryme of assassinatione, in which *nudus conatus* is sufficient, especiaillie *si devenerit ad actum proximum*; it is answered, 1^o, That all lawiers doe aggrie in this, that *crimen assassinii* is only wher a person does hyre, and conduce another to commit the same *interveniente pretio*; and for which Jul. Clar. § *assassin.* wher he so descryves the cryme and Math. *de Criminibus* does so descryve the same, and does expressly asert that unlesse money or rewarde intervein, the cryme of assassinatione cannot be committed, where the words are *crediderim tamen nisi merces certa sceleri propofita et constituta fuerit, sive in specie seu corpore, sive in pecunia numerata non posse eum videri assassinum*, and there is no lawier extant that did ever otherwayes descryve that cryme; and ther is greate reafone why money or rewarde should be considered in the constitution of this cryme, becaus the law did consider the cryme with respect to the hazard, and the hazard lay wher persons wer hyred and conduced by infidels, by giveing of money or other rewarde to kill Christians; and albeit even in the proper cryme of assassinatione itselfe, in some particular nations wher the said cryme wes too frequent, as in Italie, *conatus* is punishible, and Jul. Clar. in the same, and others, doe maintain that by the generall custome of most nations, in that precise cryme of assassinatione, *conatus seu attentatum* is not punishible with the pain of death. But the pannel hes no reafone to insist upon this, this matter of fact lybelled being no wayes the cryme of assassinatione, but only that which lawiers call a designe to committ murder, *proditorie et per infidias* in which

all aggrie that by the custome of all nations, *conatus faciendi non reputatur pro facto*.

As to that poynnt of the dittay founded upon the mutilatione of the deceast Bifchop of Orkney, conforme to the 28 A&t, Parl. 3, Ja. 4th; it is answered, That denyeing that the deceast Bifchop of Orkney wes mutilat fo, albeit it could be proven, it cannot inferre the pain of death; firft, becaus it is cleared by the faid A&t of Parliament, that it is not in the cafe of mutilatione but difmembratione, and it wer a strange imaginatione to thinke that if a partie wer mutilat, or loft a finger, that the pain of death could be inferred, and ther is a great difference betuixt demembratione and mutilatione; mutilatione being only ane inabilitytie or privatione of the ufe, whereas demembratione is the inteir losse of the member, and it is a principall in law, that A&ts of Parliament, especiallie *in caufa criminali et capitali* cannot be extended, *de caufa in caufam etiam ex identitate vel paritate rationis*, and that *cortici verborum adhærendum est et casus amiffus habetur pro omiffio*, and heir ther is not paritie of reafone, both the prejudice and deformitie being farre greater in the cafe of demembratione then mutilatione.

And wheras it is pretended, that tho the pannell's confeffione had been elicite *sub spe impunitatis*, that yet it is not fufficient wherupon to liberat from capitall punifhment, becaus ane judge cannot remitt ane cryme; and that Boffius and others are cleare that notwithstanding of fuch a confeffione upon promife of immunitie, yet a judge may and ought to condemne *ad penam ordinariam delicti*; it is answered, The pretence does not elide the defence, becaus fuppofeing it fhall be proven that the confeffion wes elicite *sub spe veniæ*, and upon affurance of lyfe, fuch a confeffion fo elicit cannot be a ground wherupon to violate the faith and impunitie given, and farre leffe can fuch a confeffion, tho any could be proven, being retracted, be confidered as a confeffion, and as to which, law

and lawiers are very cleare and positive: The law is *Lex 3, Cod. de custodia reorum*, and lawiers, as may appeare in *Math. de Criminibus, quæst. 16*, wher his expresse words are, *Querunt, an confessio promissa impunitate, et spe cencie elicita sufficiat ad condemnandum? Respondendum non sufficere: tametsi enim in iudicis potestate non sit, promittere cuidam impunitatem, adeoque ex promissione non obligetur, tamen dolo extorta est, et per hanc fraudem etiam innocentes illaqueari possent.* And Boff. in that title *de Confess.*, after he hes stated the case, resolves it thus, *Tutius tamen est ut dicamus requiri perseverantiam, et est ex mente doctorum et cum ratione quin negari non potest quin talis confessio sit obumbrata*, and sayes it wer against humanitie it selfe to condemne *ad penam ordinariam delicti* in such a case; and Jul. Clar., cited be his Majesty's Advocate, *ego non condemnarem ad mortem*: and which indeed is the constant and irrefragable opinion of all lawiers, and practize of all criminall tribunalls. And whereas it is pretended, that Jul. Clar. subjoynes thesse words, *Nisi aliis indiciis sit gravatus*, and his Majesty's Advocat condescends upon severall presumptions. It is answered, If his Majesty's Advocat will lay asyde the confessione, and adduce such a presumptive probatione, wherupon the pannell may be condemned, then he may plead the benefite of that qualificatione. But the presumptions condescended upon are remote conjectures, and no wayes concludeing, and the pannell, after the alleged committing of the fact, did returne and live peaceable for severall yeirs, and denyes the fact, and cannot be otherwayes convict therof; and if any pretended confession should be made use of, either *per se*, or *per modum adminiculi*, it cannot be divyded from the qualitie under which it wes granted, which the pannell offers to prove wes upon expresse assurance;—And wheras it is pretended that the granting of ane assurance or impunitie is upon the matter a remission which no inferior judge can doe, but that, notwithstanding, he may and ought to condemne,—it is answered, (1^o) It will appeare by the probatione of what character and qualitie the granter of the assurance wes. (2^{do}.) Lawiers do not confi-

der whither a judge *poteſt veniam concedere* or remitt a cryme, but a confeſſion being elicite *ſub ſpe veniæ* is not a full and abſolute confeſſion, but a qualified, and cannot be made uſe of, and the qualitie not performed and made good; and it wer a prejudice to publick intereſt, and a way to preclude the ingenuitie of all confeſſions, if, notwithstanding of the interpoſitione of publick faith, and the granting of aſſurances, and the eliciting of confeſſions *ſub ſpe veniæ*, the confeſſion might be made uſe [of] and the qualitie and condition upon which it wes emitted altogether neglected, which is downright inconſiſtent with the opinion of lawiers and the practice and cuſtomes of criminall judicatories. And as to what is alledged, that tho this confeſſion had not been emitted before the Lords of Juſticiarie, yet it wes not extrajudiciall or revockable, becauſe it wes deliberately given, and before a committee who had authoritie from the Lords of his Maजेſty's Privie Councell, it is answered, That that poynt is of extraordinarie importance and conſequence as to the lyves and fortunes of his Maजेſty's ſubjects, and as to the Lords of Juſticiarie and procedour of the inqueiſt, who are judges of the probatione. And, therfor, it is represented in behalfe of the pannell, that admitting any pretended confeſſion ſhould be produced, yet, if it wes not emitted before the Lords of Juſticiarie, it is not a judiciall but extrajudiciall confeſſion, *et fidem non facit*, as to the probation. And as to which (1^o) their is ane univerſall concord in the opinion of all lawiers, and in the practice and cuſtomes of criminall judicatories, and as to which the Lords of Juſticiarie are deſyred to caſt ther eye upon all who have written upon this poynt, and, as Clarus ſayes, *non invenies diffidentem in mundo*; and it is a ſtrange cuſtome if all lawiers and the cuſtome of all nations ſhould have been halucinat in this poynt, for which the pannell's procurators cite Jul. Clarus, queſt. 55, Farinatus, Q. 81, and many other lawiers are lykewayes cleare that confeſſions emitted *coram juſdice competente, ſed non ſedente pro tribunali*, is but ane extrajudiciall confeſſion, and much more wher it is *confeſſio emiſſa coram*

judice incompetente, and when the question is who is to be reputed *judex incompetens*, it is positively resolved that *omnis judex est incompetens* who could not proceed *ad condemnationem* as to the crime as to which the confession is emitted; and certainly tho any confession wer produced, emitted before the Lords of Privie Council, they have no criminall jurisdiction, so as to proceed *ad condemnandum in crimine capitali*, that being cleare by Craige, *lib. 1, dieg. 8*, that *ex eorum statutis nec periculum vite, hereditatis, aut omnium fortunarum subire posse*. And wheras it is urged that the Lords of Privie Council have a mixed jurisdiction, and may proceed be way of precognition, *et per modum inquisitionis*, and may resolve doubtfull cases and qualifie sentences,—it is answered, That it is not denied that the Lords of Privie Council have and doe verie weel deserve that jurisdiction; but as to criminal jurisdiction in capitall cases, it is only competent before the Lords of the Justiciarie, and the precognitions or prævious inquisitions tend not *ad condemnationem*, but only as to this, whither to stoppe or remitt to the Lords of the Justiciarie; and nothing is considered as a judiciall confession but wher ther is *formatus processus*, and wher a partie is called *coram judice competente*, and he is *sub instante periculo vite*, and knowes that the infallible import of his confession is to that verie effect for his condemnation, non of which can be pretended wher the confession is emitted *coram judice incompetente ad condemnandum*.

And wheras it is alledged, That a confession in the opinion of Lawiers cannot be retracted unlesse the partie could *docere de errore*, and purge his innocence, and did it *ex incontinente*,—it is answered The alledgeance is groundles; for tho a confession wer emitted *coram judice competente pro tribunali*, it might be retracted *ex incontinenti*, if he wer able *docere de errore*; and ther is no lawier ever requyred it in other termes. But wher the confession is emitted *coram judice incompetente fidem non facit quoad probationem delicti*, and may be retracted eyther *ex incontinenti*, or

Omnino, vide
Lanfrancum
Balbum de-
cisione 104
& 462.

ex intervallo, and without shueing of any error or purgeing of innocence such confessions in law not amounting to any probatione, no more then as lawiers argue if the depositions of witneses should be taken *in uno judicio*, wold *fidem facere* either *in causa civili aut criminali in alio judicio*; and certainly ther is lesse reasone for confessions wher parties disoune the same and retracts them if emitted, and much more heir, wher the pretended confession wes elicited *sub spe veniæ*; so farre wes the pannell from thinking that the emitting of his confession wes in order to his condemnatione, speciallic feing it neither is nor can be proven that the said pretended confession wes so much as judiciallic given in face of the Councill, wher his Grace the D. of Lauderdale, being then Commiſſioner, wes present, and the pannells procurators will not debate the import of the same, but remitt it to the Commiſſion itſelfe in case it be offered to be proven that the confession wes emitted judicially before the P. Councill: And wheras it is alledged, that the A&t of Parliament, A&t 91, Par. ij J. 6, ordaining all probatione to be led in prefence of the assyſe, does not concern the case, and is miſunderſtood, feing heir the confession will be produced in prefence of the assyſe,—it is answered, The A&t of Parliament is cleare to the contrare, and can admit of no such interpretatione; for albeit the narrative of the A&t of Parliament wes only *causa impulsiva*, and the statutorie part of that A&t of Parliament is cleare and positive, that all probatione should be deduced in prefence of the assyſe, and of all uther probatione ther is the greateſt reasone that the verie act of confessione should be in prefence of the assyſe, who are judges to the probatione, and who are to proceed upon oathe, and whose consciences are to be satified and instructed as to the way, and manner, and conditions, and termes wherupon such confessions wer emitted, all which are concealed wher ther is nothing produced to them but a confession taken without ther prefence, especiallic feing the pannell alleadges and offers to prove, that severall poynts of fact and other particulars wer condescended vpon

and declared, non of which are mentioned in this pretended confession, all which should have been insert, and could not be divided as being *in articulo conexo*.

And whereas it is pretended that a decreit pronounced by the Lords of the Session is *probatio probata*, and wherupon assyfers may and ought to condemne,—it is answered, The argument is *in materia disparata*, and does not concerne the matter of confession, and is only in a speciall case of falshood, and that upon a speciall reason. Because the investigatione of falshood depended upon a tryall and concurse of many and violent presumptions, which may requyre a longe tract of tyme and examination of parties and witnesses, it wer impossible that such tryalls could be deduced before ane inqueist, thesse depending severall yeirs many tymes before the Session before they can be brought to a close. And therfor law and custome in that case hes sustained a decreit before the Lords of the Session as a probatione *in judicio criminali*. But it is absolutely denyed that it wold hold in any other cryme, and certainly if the cryme of theft wer pershued civilly before the Lords of Sessione, *ad damnum et interesse*, tho the theft should be proven or confessed before the Lords of Session, it wold not *fidem facere in judicio criminali*, as is evident by the authoritie of lawiers, who agree, that *Acta probatoria in uno judicio fidem non faciunt in alio*; nay, which is more *acta probatoria in uno processu fidem non faciunt in alio processu coram eodem iudice*; and as to the instance of the practise of M^cNabbe, the pannell oppones the same as not probative, but, on the contrare, it does appeare in the case of Frazer, in the yeir 1641, that Sir Thomas Hope, being then his Majesty's Advocat, declared, that a confession emitted before a shireff-depute, who hes a criminall jurisdiction in some cases in the fines allowed be law, and who, beyond all doubt, is judge competent *per modum inquisitionis*; yet so convinced wes he that it wes an extrajudiciall confession, that he only infist theron *per modum administrandi*, and joynd it with the other probatione mentioned in that practise

which wes *per se* convincing and sufficient. As also since his Majesty's happy restitution, in the case of on Robertson, altho the confession wes emitted before on of the Lords of Justiciarie and his Majesty's Advocat for the tyme; yet he wes so convinced of the insufficiency of the same, that after it wes produced *per modum probationis*, he took up the samen even in that estate of the process when the assyse wes sworne. And as to the instance of divinitie in David's practise, it does not concerne the poynt of law, and cannot be made appear that the partie retracted his confession, and it is a practise that eyther *nimum* or *nihil probat*. In respect whereof, &c.

Followes the Interlocutor.

The Lords Commissioners of Justiciary having considered the dittay and debate relating therto, find that article of the dittay founded upon the 4th A& in 1600, bearing the pannell's invadeing of St. Andrews ane Privie Counsellor, for doeing of his Majesty's service, relevantly lybelled; his Majesty's Advocat proving the presumption that it wes for St. Andrews persecuting thesse at Pentland Hills, or some words to that purpose, relevant to inferre the pain contained in the said A& of Parliament, and remitts the same to the knowledge of ane Assyse. And lykewayes, that part of the dittay anent invadeing Bischops and Ministers, to inferre ane arbitrarie punishment, and the wounding of the Bischop of Orkney lykewayes to inferre ane arbitrarie punishment, and such lyke finds the confession emitted before the Committee of the Counsell, and renewed in presence of the Commiffionar and Lords of his Majesty's Privie Council, judiciall, and cannot be retracted; and lykewayes, that the same wes emitted from promise of lyfe, finds the same relevant to secure the pannell as to lyfe and limb, in case the defence shall be proven, reserving to the said Lords to inflie ane arbitrarie punishment upon the pannell, and remitt all to the knowledge of ane Assyse.

No. IV.

AN ACCOUNT OF THE ARRAIGNMENT, TRYAL, ESCAPE, AND CONDEMNATION OF THE DOG OF HERIOT'S HOSPITAL IN SCOTLAND, THAT WAS SUPPOSED TO HAVE BEEN HANGED, BUT DID AT LAST SLIP THE HALTER.⁽¹⁾

SIR,

Knowing that you are desirous to hear newes from *Scotland*, I thought fitt to shew you that that A& whereby all publick officers are obleadged to take the Test, is rigorously put in executione, and thereby many persons, baith in kirk and state, throughout the hail kingdome, by reasone they are not free to take the said Test, are incontinently turned out of their places; whilk feveritie gave occasione to a wheen loun ladds, belonging to the hospital of Hariot's Buildings in *Edinbrough*, to divert themselves with somewhat like the following tragi-commedy.

The lounes it seems fell intil a debate amongst themselves, whither or no, ane Mastiffe Tyke, who kept the outmost gate, might not, by reasone of his office of trust, come within the compasse of the A&, and swa be obleadged to take the Test, or be turned out of his place.

⁽¹⁾ See page 55 of the present volume for Lord Fountainhall's allusion to this incident, intended as a burlesque on the Test Act, in 1681. It is given from the original broadside, printed probably at Edinburgh, although, for the sake of concealment, it has London on the imprint.

The Tyke therupon was called and interrogat, Whither he wold take the Test, or run the hazard of forfaiting his office, whilk was asked again, and again.

The filly Curr boding no ill, answered all their queries with silence, whilk had been registrat as a flat refusall, had not on of the lounes, mair bald then the rest, taken upon him to be his advocat, who standing up, pleaded that silence might as wel be interpreted assent as refusal, and therupon insifted, that it might be tendered to him in a way maist plausible, and in a poustar maist agreeable to his stomach.

This debat lasted not long, until all agreed that ane Printed Copy should be thrumbled, of as little boulke as it could, and thereafter sinured over with tallow, butter, or what else might make maist tempting to his appetit; this done, he readiely took it, and after he had made a shift, by rowing it up and down his mouth, to separat what was pleasant to his pallat; and when all seemed to be over, on a sudden they observed some what (ilke piece after another) dropped out of his mouth, quhilk the advocats on the other side said it was the Test, and that all his irksome champing and chowing of it, was only, if possible, to separat the concomitant nutriment, and that this was mikel worse then an flat refusal, and gif it were rightly examined, would, upon tryal, be found no less than leifeing-making.

To this his advocat opposed, That his enemies having the rowing of it up, might perhaps (through deadly spite) have put some crooked prin intil it, and that all the fumbling and rowing of it up and down his mouth, might be by reason of the prin, and not through any scunnering at the Test it self, and that ther was nought in the hail matter that looked like leifeing-making, except by interpretation, and his adversaries allowed to be the only interpreters. Yea, what was mair offered, that his client should have a fair tryal before competent judges, quhilk was unanimously granted.

A Court therupon being convocat, ane affize constitut, the indictment being read, ther fell out warm pleading upon baith sides amongst the Advocats; those against him pleaded, that he was ou'r malapert to take so mikel upon him, and that the chaming and cherking of the Test belonged nought to him, nor to none like him, who served only in inferior offices, and that his trust and power reached nought so far, and by what he had done, he had made himself guilty of mair nor a bare refusal, according as was libelled. Those for him pleaded, That he could be guilty of nather, since he had freely taken it in his mouth, willing to have swallowed it down, and that ther was no fault in him, bot in its self, that it passed not, since it fell a sqwabeling, one part of it hindering another, fighting in his haffe, and if [it] wold have agreed in its self, to have gone down all one way, he wold blaitly swallowed it, as he had done many untouthsome morsel before, as is well known to all the Court; ane other pleaded, that he had officiat very dutifully, and was niver known to balk his trust: bot that was answered with this, all his former good service could not excuse his present guilt: guilt, qwoth an other, if that be guilt he hath many marrows, and why should he be worse handled then all the rest? Bot whatever could be said in his favors, when the business came to the Jury, they found that he had so mangled the Test with his explanatory tongue and teeth, and swa misleardly abused it with his flaver, that it was right soon agreed upon to be at least Interpretative Treason; and, consequently, brought him in guilty of Leifeing-making. Wherupon he was ordered to close prison, till ane other time that the Court call him forth to receive his doom, to be hanged like a Dog.

(As the lounes was removing him from Court to Prison, ther chanced a Curat to be present, who asked what was the matter,—what ailed them at the Dog? one of the limmers answered, That he being in publick trust, was required to take the Test, and had both refused it and abused it, wherupon he was to be hanged. The Curat storming, said, They de-

serve all to be hanged for such presumptuous mockery. The lounes laughing aloud, cried out, with one consent, That he and his brethren deserved better to be hanged then any of them, or the Tyke eather, since they had swallowed that which the Tyke had refused.)

This surprisefing verdi&t, you may be sure, created no small grumbling of the gufforne, with the advocats and others, who spared not to utter ther privat sentiments, and blaze abroad the arguments *pro* and *con*, and what further might have been homologating, had not the Court haisted to have the Tyke's life; take a few of them as they come to hand.

Some suspected deadly fewd in the Chanfelor of the jury, alleading that ane enemy was not fit to be a judg; this was answered with, that he was of more noble extra&t then to stain his honor with so base an a&t, and that his own reputation wold make him favored; an other objected, that a Tyke's refusing so good a Test, might be of ill example to creatures of better reason; to this a pakie loun answered, that it could not be good, since Lyon Rampant, King of Tykes, nor none of his royal kine, wold not so much as lay ther lips to it, far less to swallow it, and therefore—this was interrupted by on who was a principal limmer among them, (a contradiction reconciler,) who wold needs help him with a logical distinction, wherby he, like ane Aberdeen's man, might cant and recant again.

But he was soon snibed by another, who said, that the Tyke wold nather sup kail with the Divel, nor the Pope, and therefore needed not his long spoon; well, said ane other, this is mair nor needs, since we are all sure that the Tyke cold not have kept his office so long, bot he most needs have swallowed many a buttered bur before this time, and it was bot gaping a little wider, and the hazard was over. Nay, qwoth his nighbour, the hazard wes greater then ye imagine, for the Test, as it was rowed up, had many pyles and implications in it, ane contrary to another, and swa the Tyke might have been queikened ere it had been all over, ilk ply as it were rancountering another wrestling and fighting in his hafs.

Prait, quoth another, this laft apologie is needlefs, fince the Tyke hath (in my opinion) fwallowed the better part, if not the hail Teft, though I moft confefs he hath vomited it up again, let us therefore try him, if, like a Dog, he will liek up his own vomit, bot this project was univerfally rejected, baith by the maift charitable, as bootlefs, and by the mair fevere, as to great a favor.

Favor, (qwoth a chield, who had been [fleeping] all the while, and only heard the word favor,) what, fhow favor to fuch a loun as he? na, rather let him who hath the longeft arm, thruft it fo far down his throat, fo that another may pull it out at his tail, then be thus faft with him, though he were my own brother, and then we may be fure he hath taken it, and all the parts of it, bot this only moved laughter, for none was found that wold undergo fo foulfome a hazard.

But to return to the Tyke, for fome will be curious to hear what came of him, matters being thus præcipitat, and all hopes of reprieve uncertain, a wylie loun advifed him to lay by the fheep's (which had done him fo little good,) and put on the foxe's fkin, who covertly, through fear, hiding his own tail between his legs, and griping another's train, paffed through all the gates undifcovered, and fwa is a-miffing.

This he was forced, when right did fail,
To give them a flap with a foxe's tail.

Now, what is become of him fine fyne, and what proclamations was iffued out after him, you may probably hear hereafter.

Mean while, becaufe the contradiction reconciler was fofoon (contrary to the laws of difputation,) interrupted, before he could bring forth his logical diftinction; and fince the curious have forely tortured ther ingines, fearching which of the fchoal nicities that might [be], I fhall only trouble you with a few of ther conjectures, and leave it to the judgment of the learn'd to determine which had been maift fuitable.

One fancied that it was this that the Tyke might take the Test, *secundum quid*, though not *simpliciter*; another, *in sensu diviso*, though not *in sensu composito*; a third, that though it was deadly to take it with *verbal interpretations*, yet it might be safe enough with *mental reservations*; a fourth bethought him on this, that though his stomach did stand at it, *in sensu univoco*, yet might easily digest it *in sensu æquivoco*; a fifth, (gerning the while,) was for this, that it might take it, though not *formaliter* in at his mouth by way of potion or bolus, yet, *fundamentaliter*, in at this bottome, by way of glister or suppository; a sixth brought forth this blind whely, that it might be safely taken, *in vehiculo cæcæ obedientiæ*, but could not think on the other member of the distinction, and some said it had none, the times when it was used being so ignorant and unintentive; a seventh, who thought all the former distinctions too subtil and airie, and that which was bred in the bone went never out of the flesh, except by more severe medicine then was yet tried, proponed an admirable compound to be used as an excellent preparative to the Test, alleading that all those needless scrupulosities did proceed from these ill humors which could not be expelled, without the total evacuation of Christianity; the Receipt, as it was transcribed out of the packet of advice from *Rome*, take as follows, from the laboratory of the Inquisition, *June 22*.

“ After many years pains and study, a never-failing medicine, called a Catholique Pill, to purge out Christianity, approved by the most learned Fathers in *Spain, Italy*, and other places, the true Receipt is as follows:— Receipt, Take five pound weight of lay-ignorance, as many drhames of Monckish devotion as you can get, half a score of planary indulgences, and a doufon of well-conceived equivocations, venial-sins as many as you please, and a pocket full of dispensations, boil all these in a Jesuit’s brainpan, and add thirto, of the doctrine of probable opinions, and of feminary Priest’s loyalty, *quantum sufficit*, after fermentation elape in nine miraeles prepared *secundum artem* by the assigns of Father Creffy, to give it a

tin&ture, ſprinkle a ſmall daſh of pennance, and wrap up the whole maſs in the Pope's infallibility, and take it blindfold in a cup of abſolution, at any time of life, bot eſpecially at the hour of death, and it will do your buſineſs. The operation is downward or infernal, carying all humors that way. It is alſo opiat or ſtupifying, becauſe, after a ſufficient doſe of it, you may ſwallow any malignity whatſomever, without any hazard of griping. *Probatum eſt.*"

— *Ridendo dicere verum,*

Quid vetat—Juven. [Horat.]

Now, Sir, the news of the Tyke's eſcape being blazed abroad, the Court aſſembleth to conſult what was then anent to be done, ſeveral overtures was proponed; one ſaid, That the affronting eſcape, and other miſdemeanors of that Tyke, was ſo great, that the higheſt ſeverity was too little; an other ſaid, Sine he is gone, let him go, what have we more to do bot put another in his place; a third ſaid, That his preſumptuous and treaſonable carriage wold be of ill example to others, unleſs due puniſhment followed therupon; a fourth ſaid, Had he not been confident of his own innocency, he wold niver have byden a tryal, and ſine he met with ſuch a ſurprizing verdi&t, what could he do leſs then flee for his life? wold not the beſt in the Court, if he had been in his circumſtances, done the like; a fifth ſaid, If he had been condemned and hanged in time, he had not played us this prank, bot ſeeing we have miſſed himſelf, let us feaze well on what he hath left behind him. After debating, they came to a concluſion, and ordered the ſaim to be publiſhed; the tenor whereof follows:—

“Whereas, ane cutt lugged, brouniſh coloured Maſtiff Tyke, called Watch, ſhort leged, and of low ſtature, who being in office of Publick Truſt, was required to take the Teſt, and when it was lawfully tendered to him, he ſo abuſed it and mangled it, wherupon he, after due tryal for his preſumption, was convi&t of Treafon, and ſinceſyn hath broken priſon;

wherupon the Court adjudges him to be hanged like a Dog, whenever he shall be apprehended; and in the meantime, declares his office, his hail estat, heiratable and movcable, and all casualties belonging to him, to be echeated and forfaulted, and ordeans the colectors of the Court to uplift his rents and casualties, and to be countable to the Court, both for diligence and intermission, and also discharges all persons to refet or harbor the Fugitive Trator; and likeways gives assurance to all persons, who shall eather apprehend him or give true information of him, swa that therupon he bees apprehended, the person swa doing shall have 500l. for his pains. Given at our Court, &c.”

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