

## I.

NOTE ON THE ARREST OF MR ROBERT BAILLIE OF JERVISWOOD IN 1676 FOR RESCUING HIS BROTHER-IN-LAW, MR JAMES KIRKTON, THE OUTED MINISTER OF MERTON, FROM THE HANDS OF CAPTAIN CARSTAIRS, AN INFORMER IN THE PAY OF ARCHBISHOP SHARP. BY ROBERT SCOTT-MONCRIEFF, SECRETARY.

This paper deals with the arrest and conviction in 1676 of Mr Robert Baillie of Jerviswood for rescuing his brother-in-law, Mr James Kirkton, the outed Minister of the parish of Merton, from the hands of one Captain Carstairs, an informer in the pay of Archbishop Sharp. The incident, in itself of comparatively little importance as these things then went, created a considerable sensation both at the time and after, for the following reasons: (1) Because Baillie of Jerviswood was a man well known socially and of marked abilities; (2) Because his conviction on the case, even as libelled, was so open to objection as to draw a strong protest from several of the not over-sensitive members of the Privy Council before whom it was tried; (3) Because, as a result of their action, the protesting gentlemen were shortly afterwards dismissed from the Privy Council and relieved of their Militia commands; and (4) Because it was affirmed that the Government had only been able to libel the case as stated by them by issuing a document bearing a false date.

In regard to what took place between Kirkton, Carstairs, and Baillie we have a considerable quantity of contemporary evidence of a more or less hearsay kind, but, so far as I am aware, we have had up to the present time only one statement of direct evidence, viz. the narrative of the occurrence as set forth by Mr Kirkton in his *True and Secret History of the Church of Scotland*. The purpose of this paper is to bring before the Society another statement of direct evidence, viz. that of Mr Robert Baillie himself, as contained in his "Answers to the Complaint perseed against him." This document has been found amongst the Baillie papers

preserved at Mellerstain House (which belonged to Robert Baillie, and after his death became the residence of the Baillie family instead of Jerviswood Tower), and has not, so far as I am aware, heretofore been published. It is a carefully written document, but unsigned, and is probably the copy kept by Baillie of his "Answers" as lodged with the Privy Council. I may at once state that these "Answers" contain little or no new matter, but I think they have a distinct interest of their own, as setting forth Baillie's own defence, and as being, without doubt, "the confession" mentioned in the decree of the Privy Council upon which he was condemned.

As the "Answers" contain not only Baillie's statement of what took place, but also the Government's view of the case, there is nothing which I can add by way of narrative of facts which would make the case clearer. I may, however, say a few words as to the three chief actors in the drama—Baillie, Kirkton, and Carstairs.

By far the most interesting is, of course, Mr Robert Baillie of Jerviswood. He was the second son of George Baillie of Jerviswood, by his second wife, Margaret Johnston, sister of Lord Warriston, who was executed in 1664. Through the predecease of his elder brother without issue, he succeeded on his father's death to the estates of Jerviswood and Mellerstain. He married his first cousin Rachel, a daughter of Lord Warriston, and he was therefore both the nephew and son-in-law of that unfortunate gentleman. He was also first cousin of the famous Gilbert Burnet, Bishop of Salisbury, whose mother was another sister of Lord Warriston.

After having been educated in the Universities of Scotland he went abroad to study law, and being at Paris when Sir William Lockhart of Lee was Ambassador there, he was recommended by him to the Papal Nuncio then at Paris, with whom he travelled to Rome, thus getting an opportunity of becoming acquainted with many great men.<sup>1</sup> This fact is rather curious, and one which I do not think is generally known.

<sup>1</sup> Sketch of Robert Baillie's life, endorsed by Lady Grisell Baillie, "my father-in-law."

On his return to Scotland he distinguished himself in civil law, divinity, and history, and became one of the most accomplished men of his time. He refused, however, either to enter Parliament or to take office, as his principles did not permit of his taking the Declaration Test or other oaths imposed at that time. This no doubt drew on him the attention of the Government, and his devoted attendance on his father-in-law, Lord Warriston, from the day of his arrest until the day of his death, would not tend to diminish their dislike to him. Still he had always lived peaceably under the Government, acknowledged the King's authority, and given the powers that were no excuse to interfere with him. It must therefore have been a matter of considerable satisfaction to Archbishop Sharp and others of his kidney when Baillie, in June 1676, committed an act which, rightly or wrongly, gave them a chance of dealing with him.

As is well known, Baillie's after-life did nothing to lessen the suspicion with which he was regarded. He was one of those who went to London with the Duke of Hamilton in 1678 to protest against the invasion of the western counties by the Highland Host. He was one of those who in 1682 strenuously opposed the appointment of the Duke of York as Commissioner to the Scots Parliament, on the ground that it was against the law, his Royal Highness being a papist; and when he was arrested in London the following year, he himself admitted, at least by implication, that he was there intriguing politically against the Government, although he "declared in his last words that he never intended anything against the Government but to have things redressed in a parliamentary way."

When first arrested in London he was brought before the King, who "threatened him with the boots in Scotland, to which he answered His Majesty might give him spurs too, but he could say nothing but the truth."<sup>1</sup> All the same, Wodrow states that "he was much afraid of torture, and was greatly at ease when he learned he was to die a violent death." For this violent death he had long been prepared,

<sup>1</sup> Lady Grisell Baillie's sketch of her father-in-law.

for his daughter-in-law, Lady Grizel Baillie, writes, "that from the time of my Lord Warriston's death Jerriswood had an impression on his spirit that he would suffer death for the cause of his religion in the same place that my Lord Warriston did, which he told to some of his nearest friends long before his death. Also about two years before he died, having been long in the fields alone, he came in and told his lady that he would certainly suffer death at the cross of Edinburgh for his principles ere long."

"It was very remarkable, the Thursday night before he received his indictment, he had some glorious manifestation from God, and on the Friday morning he wrote out a note which he conveyed by his keeper to his sister Mrs Kirkton, in which he said: 'Sister, praise God with me, for I have got such a glorious manifestation of God this night as I would not exchange for many, many worlds. They are thirsting after my blood, which they will get, but some of the greatest of them will live short while after.'"

The details of his trial and execution are well known. His nominal crime was that he had been implicated in the Rye House Plot, of which there was no proof. His real crime was that he was a courageous and steady opponent of Popery and arbitrary power. He was borne to trial in a dying condition, and dragged to execution five hours after sentence was pronounced, for fear that his natural death would deprive the Government of the satisfaction of hanging him.

After Robert Baillie, the Rev. James Kirkton is a comparatively uninteresting character. His first charge was in Lanark, which he left in 1658 for the parish of Merton, whence he was outed in the year 1662. After the Revolution he was appointed minister of a meeting-house in the Castle Hill of Edinburgh, and then minister of the Tolbooth Church, where he preached with a "weak voice," but with "great zeal, knowledge, and learning." He was the author of *The True and Secret History of the Church of Scotland* and of

some other works. He married Robert Baillie's sister,<sup>1</sup> and died in September 1699.

Burnet describes him as an eminent preacher among them, who was as cautious as the rest were bold, and "had avoided all suspicious and dangerous meetings." He was evidently of the passive-resisting class, for, according to his own account, when seized by Carstairs, he behaved like a lamb, "until Carstairs laid his hand on his pocket pistol, which Mr Kirkton perceiving, thought it high time to appear for himself, and so clapt Carstairs close in his arms, so mastering both his hands and his pistol; they struggled awhile on the floor, but Carstairs being a feeble body, was borne back into a corner." Bishop Burnet says that when Jerviswood broke into the room and rescued Kirkton, he (Kirkton) was on the ground and Carstairs sitting on him. If so, it shows the superiority of mind over matter, for from the above it is obvious that physically Kirkton ought to have been sitting on Carstairs.

Lastly, we have Captain Carstairs, the villain of the piece. Burnet describes him as follows: "One Carstairs, a loose and vicious gentleman, who had ruined his estate, undertook to Sharp to go about in disguise, to see those conventicles, and to carry some with him to witness against such as they saw at them; in which he himself was not to appear, but he was to have a proportion of all the fines that should be set upon his evidence; and he was to have so much for every one of the teachers that he could catch. He had many different disguises, and passed by different names in every one of them." Wodrow, writing of him in 1677, says: "This fellow had been for some time very busy against presbyterians in the east parts of Fyfe, and committed many severities; he had turned out the Lady Colvil from her house and obliged her to flee and hide for some time in the mountains and fields, which very much broke her health; he had most wrongously imprisoned not a few in that country; he went about most officiously, with about a dozen of men in company, without any commission from the King, having the

<sup>1</sup> In Scott's *Fasti Ecclesiae* the Christian name of Kirkton's wife is given as Grisell; but although Robert Baillie had several sisters, none of them was called "Grisell."

alone warrant of the Archbishop's single commission, under pretext of searching for denounced and intercommuned persons, and seized gentlemen's horses and committed many disorders." Wodrow then relates an instance of how Carstairs did his work.

Carstairs came still more prominently to the front in connection with the great popish plot of Titus Oates. He happened at that time to be in London upon other business, and seized the occasion to turn his profession of informer to good account. Through his evidence Staley, the Roman Catholic banker, was convicted and executed, "the first of those who suffered on account of the plot." Through Burnet's agency he (Carstairs) was brought before the King, and his worthless character made apparent. "He died not long after under great horror, and ordered himself to be cast into some ditch as a dog, for he said he was no better" (Burnet's *History*).

The "Answers" which I shall now read give some further details as to his life.

"ANSWERS for Mr ROBERT BAILZIE of Jerveswood to the complaint persewed ags<sup>t</sup> him before the Lords of his Ma<sup>ties</sup> privie Councill at the instance of my Lord Advocat.

"WHEREAS it is lybelled that Mr James Kirkton sometyne Minister at Mertoun being for keeping and preaching at Conventicles and his contumacie in not appearing before the Lords of privie Councill denounced and declared fugitive, And Captaine Carstaires by ane order from the privie Councill or some of them haveing apprehended him though then in disguise and carried him to his quarters, and declared that he was his prisoner, and haveing sent for some of the guard to take him off his hand, The defender being his brother in law with severall other of his freinds came to the house where Mr James was kept armed with swordes and did violentlie make open the doore of the chamber and enter the same with drawne swords in their hands, and assault and invade the said Captaine, while he was in his dewtie, and did upbraid him with reproachfull wordes, and threatened to kill him and haveing fallen upon the said

Captaine and closed with him, and pulled him by the throat untill he was breathles, they did forcible and violentlie rescue Mr James who did make his escape, A great multitude of women and other disaffected persones haveing assembled be way of tumult and uproare to be assisting thereto, and thereupon concludes the defender guiltie of ane insolent ryot violence and deforcement.

“It is answered that before the defender make any particular answer to the grounds of the complaint he must beg leave to informe your Lordships of privie Councill of the true caice and matter of fact which appears to be very unjustlie misrepresented in the complaint which no doubt hes proceeded upon Captaine Carstaires his misinformation and is done of purpose to paleat and excuse the Captaine his illegall and unwarrantable behaviour who neither acted or pretended to any warrant from authority, albeit he was questioned thereanent and concurrence offered if he had any, And therefore your Lordships of privie Councill would be pleased to be informed that Mr James Kirkton haveing been a resider in Edinburgh with his familie these sex or seven yeares and haveing publictly and oppenly conversed and gone up and downe the streets, not in disguise as is pretended in the complaint and onelie inferred from that circumstance that the colour of his perriwig does differ from his haire which certainlie is verie insignificant as being ane ordinary and usuall thing, and at the tyme lybelled comeing up the streets in his ordinarie habit the said Captaine Carstaires haveing civillie accosted him, did tell him he was desyreous to speak with him, and they haveing walked together untill they came nigh the Captaines quarters where one James Scott did lay hold upon the said Mr James and carried him to the said house and thorow two or three chalmbers into a dark rouse where the Captaine did close the doore and desyded himself to be Scott of Arkiltoun and told Mr James his name was John Wardlaw and that he was owing him money, And haveing most cruellie invaded the said Mr James and pulled him by the throat and threatned to kill him, still pretending he was his debtor, Mr James did franklie tell him his name was Mr James Kirkton and that he was not Wardlaw

and the Captaine still insisting in his violence, without pretending any warrand from authoritie or discovering who he was Mr James neither did nor could looke upon him otherwayes but as a persone desyneing to have money and to force it by violence, And the Captaines outrages and violence growing still greater and greater Mr James did cry out Murther which some persones in the house haveing overheard did run downe and acquaint his wife, where the defender then accidentallie was, and haveing come up the streets haveing none with him but his boy and come to the doore of the chalmber where the Captaine and Mr James was, the defender having no armes about him but his walking sword, And haveing in all civillitie desyred that the Captaine would open the doore and that if he had any order from the Councill to apprehend Mr Kirktoun, the defender would send for a Magistrat and haveing received no answer but in the meantyme hearing a struggleing in the rounge And Mr Kirktoun crying out that he was murthered, the defender did thrust up the doore and went in and perseaveing that the Captaine did hold Mr James by the throat after the defender had entreated the Captaine to lett him goe, the defender thought he might lawfullie and warrantable so far interpose as not to suffer the Captaine to murther or strangle Mr James at his own hands, And the defender did not by word or deed offer the Captaine the least violence, And Mr James haveing gathered up his hatt, cloak and perriwig all which had been forced from him in the struggleing the defender was so little conscious that he had done any wrong or the least undutifull act to any persone cloathed with his Majestie's authoritie, As on the contrair he looked upon the Captaine as guiltie of ane high invasion and violence and as desyneing nothing but to force money from the said Mr James and for which he was resolved to prosecute him by law, And the defender did cause immediatelic one of his freinds wait upon my Lord Chancellor and advertise him what had past.

“ Which being premised and upon the truth and circumstances whereof the defender is not onelie content to depone but will appear by the depositions of any persones who were present It is now answered that the said pretended complaint and grounds and insinuations therein



mentioned have not the least colour of law to make the defender guiltie either of deforcement or violence for 1<sup>o</sup> That Mr James Kirkcaldie was denounced and declared a fugitive is not relevant seeing it was not knowne to the defender and Mr James was knowne to reside in Edinburgh with his familie and to converse and goe up and downe the streets of Edinburgh publictly and openlie these severall yeares without ever being questioned or troubled. Likeas it cannot be proven that Captaine Carstairs either did or pretended to apprehend Mr James for any such cause. But on the contrair pretended that his name was Scott of Arkilltoun and that Mr James's name was John Wardlaw and that he was owing him money And beyond all doubt that was the Captaines true designe And his zeal against Mr James upon a public interest is onlie ex post facto, and to palliate & excuse his unwarrantable attempt, And so the Captaine was so far from deserveing to be looked on as a person acting by authority As on the contrair both by his own profession and by the way of his behaviour in offering privat force and violence after he had Mr James in his power and secure The said Captaine is rather to be looked on as guiltie of a robbie and violence, And it is knowne this is not the first attempt of that nature the Captaine has done, seeing if neid beis, It is positivlie offered to be proven the Captaine did seize upon one Fleyming and carried him to his house and there thurst him and kept him in a volt untill he extorted from him ane bond of 150 lbs Scotts and upon the same bond did seize upon and carrie away goods to the value of 200-lbs St. Likeas your Lordships of privie Council may remember how the Captaine did seize upon two messengers at Musselburgh when they were in the executione of their dewtie and violentlie dragged them as malefactors and shipped them to be sent away to France for which he was justlie degraded of his imployment in the standing forces and further censured, And therefore the Captaine being a persone that had comitted the like outrages and violence and both concealeing his name and not so much as pretending any warrand from authority But designeing nothing but to get money the defender in rescuing Mr James from the hazard of privat violence & murther cannot be said to be guiltie of any deforcement,

humanitie itself, the comon law and lawes and customes of all nationes allowing and obledging all persones to interpose and give releif against the caice of privat force and violence, And it is hoped your Lordships of privie Councill will thinke a persone of the Captaines temper and by past carriage verie unfitt for the execution of publict orders, And your Lordships are seriouslie desyred to consider the danger of such preparatives that persones may be invaded and assaulted by private persones without pretending or showing any publict warrand, But on the contrair using the extremitie of outrages and violence, if none in these extremities may so much as interpose and give releif, there is no man can be secure of his lyfe or fortune and it would oppen a doore and lay a foundatione for the most villanous attempts which might be practized and putt to executione without comptroll, And certainlie privat orders or warrands cannot be of greater force then signet letters in his Majestie's name and yet if a messenger would keep up the same and not produce them resistance would be no deforcement.

“ 2<sup>o</sup> That the Captaine had a warrand from the privie Councill or some of them to apprehend Mr James is not relevant unles the persones were condescended on who did give the warrand and that the samyned had been produced and showne, Whereas in this caice the Captaine neither pretended to nor produced any warrand, Likeas though the Captaine had acted and showne his warrand, yet he haveing apprehended Mr James and had him in his chalmber should have delyvered him to a magistrat and not have invaded him by privat force & violence But the truth is the Captaine never pretended that he had any warrand and the defender haveing desyred to know if he had any from the privie Councill and offered to send for a Magistrat The Captaine first nor last never pretended he had any And the defender does most solemnlie protest and is content to depone that if the Captaine had in the least owned that what he had done was be vertew of a warrand from the privie Councill or any of their number he would not directlie or indirectlie have medled And the defender has good reason to beleive he had no warrand att the least he never showd or produced any As he aught

to have done but on the contrair was assulting and invadeing Mr James by private force and violence designeing nothing else but to force money from him and the interposeing and giveing relief against the extremitie of private force is not in law any ryot or deforcement.

“ 3<sup>o</sup> That Mr James was disguised in a dark perriwig not suteable to the colour of his haire is so light and frivolous as it merites no answer, And Mr James was in his ordinary habit wherein he was knowne to all that knew him, And had publictly conversed and gone up and downe the streets these severall yeares And with far better reason this disguise might be retorted against the Captaine, he haveing disguised himself by concealeing his name and pretending himself to be Scott of Arkilltoun and that Mr James was one John Wardlaw his debtor and was comitting great outrages and violence upon the persone of Mr James after he had secured him, Insomuch that Mr James himself nor no other could looke upon it but that he was designeing to take his lyfe, And when the defender heareing him in that extremitie though he desyred to know if the Captaine was acting be vertew of a warrand from the Lords of privie Councill yet the Captaine refused to own the same So that the caice of the Captaines invasion and violence was in law the caice of private force And against which humanitie itself did obleidge any persone to interpose and much more the defender who had relation to Mr James And though he would have been far from resisting any order from authoritie As to which no relation aught to excuse or justifie yet certainlie his relation and interest beside the comon dewtie of mankynde did obleidge to relieve from the extremitie of private force where it did arryve to that degree and height As the persone invaded had just reason to apprehend ane assassination and murther, And yet the defender did deport himself with that moderation As he did not offer the least circumstance of violence to the Captaine but resolved to prosecute the same by Law, And was so confident of his Innocence As he complained to my Lord Chancellor thereof and made his appearance before the Comittee of privie Councill which it cannot be presumed he would have done if he had been conscious of the

least guilt in deforcing of a persone acting by or cloathed with his Majesties authoritie.

"4° As to the insinuatione that the defender did come with severall persones his freinds and relationes and with a great tumult and convocatione It is answered the defender has alreadie represented the true occasion of his comeing he being in his sisters house where he lodges Mr James haveing sent one of the maids of the house where he was desyring him to speak with him, And the defender did goe up the streete without any body with him except his own servant and with no armes except a walking sword, and when he came to the doore of the chalmber the first question he asked with great sobrietie, was to know if the Captaine had any warrand and that if he had he would send for ane Majistrat, and never offered to enter the chalmber untill he heard the Captaine most furiouslie invadeing Mr James and he struggleing for his lyfe and crying out in a most deplorable condition that he was murthered, And if such a behaviour and procedure did looke lyke the executione of publict orders your Lordships are desyred to judge And therefore the defender does humblie referre himself to your Lordships consideratione and justice and hopes he demeaned himself with all great moderation As any man could possiblie have done in such ane exigencie, and in the extremitie of such force and violence, And by all which it is undenyable evident that Captaine Carstaires his invasion and violence was the caice of private and unjust force and that there is not a circumstance as to the defenders deportment that can make him guiltie of any ryot or deforcement In respect whereof."

The foregoing "Answers" agree in the main with the statement given by Mr Kirkton in his *History of the Church of Scotland*, the differences only being such as one would naturally expect in the evidence of the man on one side of the door from that of the man on the other. As, however, the Privy Council did not trouble to listen to the details of what took place, we need not trouble with the examination of these differences. All that the Privy Council demanded was proof (1) that Carstairs had seized upon Kirkton, (2) that Baillie had rescued him, and

(3) that Carstairs had a warrant. It was immaterial to them whether or not Carstairs had used the warrant for purposes of private extortion, or whether or not he had exhibited it to either Kirkton or Baillie. Baillie's own admissions, as contained in the foregoing "Answers," were ample proofs as to the first and second of these points; and as Carstairs was able to produce the necessary warrant at the meeting of the Privy Council on 4th July, the Councillors had no difficulty in coming to a decision. Sentence, therefore, was at once pronounced, the Council fining "the said Robert Baylie in the sum of £500 Stg. to be paid to the Cash Keeper for His Majesty's use and ordains him to be committed prisoner to the tolbuith of Edinburgh until he pay the said fyne and produce the person of the said Mr James Kirkton before the Council."

So much for what may be termed the unquestionable official story, and bad enough it is. It is, however, mild in comparison with the unofficial version, as related by contemporary writers, of what took place after the seizure and rescue. Kirkton himself writes: "As soon as Mr Kirkton and the gentlemen had left Carstairs alone Scot his companion came to him and they resolved not to let it go so but to turn their private violence into state service and so to Hatton they go with their complaint, and he upon the story calls all the Lords of the Council together (tho they were all at dinner) as if all Edinburgh had been in arms to resist lawful authority for so they represented it to the Council."

Continuing the narrative from a contemporary pamphlet: "The Lord Hatton and others were appointed to examine witnesses and when it was brought before the Council, the Duke of Hamilton, Earls Moreton, Dumfrize and Kincardin, the Lord Cocherin and Sir Archibald Primrose, then Lord Register, desired that the report of the examination might be read. But that not serving their (the Government) ends was denied and thereupon those Lords delivered their opinion that since Carstairs did not shew any warrant nor was clothed with any public character, it was no opposition to your Majesty's authority in Bayly so to release the said Kirkton, yet Bayly was for this fined in 6000 merks and kept long a prisoner."

“Those Lords were upon that so represented to your Majesty that by the Duke of Lauderdale’s procurement they were turned out of the Council and all command of the Militia. And it can be made appear that the Captain had at that time no warrant at all against Kirkton but procured it after the violence committed and it was antedated on design to serve a turn at that time. This matter of proceedings hath ever since put your subjects under sad apprehensions.” (From a pamphlet headed “Some Particular Matter of Fact relating to the Administration of affairs in Scotland under the Duke of Lauderdale humbly offered to His Majesty’s consideration in obedience to His Royal Commands,” undated, but apparently about 1679.)

You will observe from the last quotation that there were two further acts of injustice charged against the Government in connection with this matter, viz. (1) the dismissal of those members of the Council who in the so-called trial voted against the wishes of the Crown authorities, and (2) the deliberate fabrication by the Crown of evidence in support of their contention. The first of these accusations one has little hesitation in believing. There is doubt as to the dismissal of the members, and the cause to which they attributed dismissal must have been well known. Besides, a good deal of what took place at the Council meeting may have been overheard, for, according to Wodrow, “That day I am told the Council were in a terrible rage, so that when severals of the inhabitants of Edinburgh had got in to see what the Council would do in so odious a case, the question was stated Whether all the people in the lobby should not be imprisoned or not? They escaped confinement but by one vote.”

The second accusation is a more serious one, and one the proof of which is naturally more difficult to obtain. It was obviously the general belief, for Kirkton writes: “Carstairs producing of a warrant at the Council table did not prove he produced any warrant to Jerviswood and indeed he produced none to him because he had not warrant himself at that time. As for the warrant he produced it was write and subscribed by Bishop Sharp after the deed was done tho’ the Bishop gave it a false date long before the true day.” Wodrow writes: “The

thing stood thus : After the alleged riot was committed, and the first meeting of the Council over, the Archbishop found it convenient Carstairs should have a warrant to produce and accordingly one was provided and the date was taken care of, so as to answer the time of the facts being committed." Bishop Burnet's evidence is perhaps the strongest as he gives reason for his belief. He writes: "And he (Baillie) said he was resolved to sue Carstairs for this riot, But before the next Council day a warrant was signed by nine privy Counsellors but antadated, for the committing of Kirkton and of six or seven more of their preachers. Lord Athol told me he was one of those who signed it with that false date to it. So Baillie was cited before the Council. Carstairs produced his warrant which he pretended he had at the time that Kirkton was in his hands but did not think fit to shew since that would discover the names of others against whom he was also to make use of it. Baillie brought his witnesses to prove his behaviour. But they would not so much as examine them." Again, Burnet writes that when Carstairs came to London in 1678 "to accuse Duke Lauderdale," "he confessed the false date of that warrant upon which Baillie had been censured," and this, along with some other matters, he put in a statement which he handed to the Marquess of Athol.

One must bear in mind that both Kirkton and Wodrow were Covenanters, and that, although Bishop Burnet was a supporter of the Episcopal hierarchy and a sneerer at conventicles, still he was a first cousin of Jerviswood, and very fond of him. And it is also but fair to mention that Wodrow writes: "It was indeed true that Carstairs sometime before this had a warrant to this purpose" (that was for apprehending outed ministers and suspect persons) "granted him by the Archbishop of St Andrews; but it was well known that, I do not know from what cause, he burnt this warrant a month before this in the Earl of Kincardins house before severals."

And at that one must leave the matter.

The entry in the Privy Council records immediately succeeding the Decree of Condemnation is as follows :—

“The Lords of His Majesty’s Privy Council having thereafter considered a petition presented be Robert Baylie of Jerviswood desiring liberty to see his wife for some short time, she being presently brought to bed and in danger of her life, do grant liberty and warrant to the petitioner to the effect foresaid until the 18th of this instant. He finding caution under the payne of one thousand pounds sterling to re-enter his person prisoner in the tolbuith of Edinburgh the said day.” From this it is apparent that the Privy Council were not without some feelings of humanity.

Jerviswood was confined first in Edinburgh, then sent to Stirling, being in all some four months in close prison. According to Wodrow, “He paid three thousand Merks of his fine to Carstairs as a reward of his zeal against presbyterians and because he was an active agent to the Archbishop in his persecution. It was with no small difficulty this gentleman was at length liberated and passed as to the rest of his fine, and not till the Court under better information had discovered some dislike at this unrighteous procedure.”

As to the remission of the fine, Lord Fountainhall, in his *Historical Notes* writes: “My Lo Lauderdale to engratiate himself caused Jerviswood’s fine to be remitted to him in September 1677.”

Perhaps the ambiguity which exists amongst the chroniclers of this affair as to the amount of the fine imposed, some giving the figure at £500, or 9000 merks, which is correct, and others at 6000 merks, arises from the fact that, assuming Baillie paid 3000 merks to Carstairs, the sum remitted by the Crown only amounted to 6000 merks.

In conclusion, I beg to thank Robert Baillie’s descendant, Lord Binning, to whom the document belongs, for so kindly allowing me to use it, and the Scottish History Society, through whose good offices it came into my hands.