Hume Brown Essay

The Privy Council of Scotland, 1660-1685.

"Sacred freedom too was there, if thou'rt a slave indulge a sneer..."

By Hector Ross, M.A.

Prize awarded to Jim 11 May, 1933.
Baillie: Letters and Journals (Bennatype Club)  
Historical MSS. Commission Reports.  
Wodrow: History of the Sufferings of Church of Scotland  
Highland Papers  
Justiciary Records  
Scotland and the Commonwealth  
Scotland and the Protectorate  
Harlaw MSS. Fraser Chronicles  
Cambden Society Miscellany  
Claverhouse Letters (Bennatype Club).

Subsidiary Sources.  
Lang.: History: Life of Sir George Melgundie.  
Home Brown: History: Survey's.  
Burton: History Vol VII  
Green, J.R.: Short History of English People.  
Rait: Making of Scotland.  
Domestic Annals of Scotland.  
Dalton: Scots Army (1661-88).  
Willoch: A Scots Earl.  
Elder: The Highland Host.
The Register of the Privy Council of Scotland
Vols 1-11 (Third Series) has been the main
authority consulted in the composition of the
enclosed essay. + Acts of Parliament (Scotland) (Vols VII-VIII)
Other authorities consulted:
Maclenpie, Sir George, - Memoirs of the Affairs of Scotland.
Burnet: History of My Own Times.
Edited by Osmond Anny.

Fountaynehall: Historical Observes: Historical Notices.
Decisions: Chronological Notices: Journals.
Clarendon: History. "Life" and "Continuation."
Turner: Memoirs of His Own Time.

Nisell: Diary.
Leamont: Diary.

Tuomo: Narrative.

Law: Memorials.
Letters to the Earl of Aberdeen. (Spalding Club)
Dalynmple: Memoirs of Great Britain and Ireland.
Cunningham, Andrew: The Loyal Clans.
Keith: Commercial Relations of England and Scotland.
Scott, W.R.: Joint Stock Companies.
Scottish Historical Review.
Social and Economic Development of Scotland before 1603.

I. F. Grant.

N.B. In some instances quotations are given in modern spelling. The letters of Rother are wholly so quoted.
In May 1660, a distracted nation put an end to the exile of Charles the Second by calling him home to be its king. He came to the throne with the thought "that a king who might be checked, or have his ministers called to an account, was but a king in name." But rather than return to the wilderness where he had suffered so much poverty and humiliation, he was prepared to accommodate himself to the will of his people. At the same time he was ready to take advantage of any current which promised to carry him in the direction of unfettered power. Of the flow of such favouring currents in England, there was no immediate prospect. England gave him an enthusiastic welcome, but she did not throw herself slavishly at his feet. There was that in her aspect which made him aware that he had to treat her with respect, if he was not to run the risk of...
of having to set out on his travels again. He was soon given to understand that she was in no obsequious mood. At Canterbury, monks handed to him a list of those whom he was expected to make his English Privy Councillors, and though he demurred at such a limitation of his prerogative, and still more because the list contained the names of twelve who had borne arms against him, he realized that there was no alternative but to submit to the imposition. The Convention Parliament which gave him his crown did not defer to his will. It resisted his demand for vengeance on his father's murderers, and it was due to its resistance that only thirteen of the twenty-eight of them arraigned at the bar, were executed. It deprived him of considerable power by abolishing the claims of the crown to liberties, and wardship, vengeance, and for empires, and by the conversion of lands held by them in chivalry.
...into hands held in common usage... throughout his reign, Charles found in England no freedom to be a king in more than name. "Parliament was continually summoned. In spite of its frequent refusal of supplies, no attempt was ever made to raise money by unconstitutional means. The few illegal proclamations issued by Clarendon ceased with his fall. No effort was made to revive the Star Chamber and the Court of High Commission... there was no open interference with the course of justice... falling to the Brown as the freedom of the press and the habeas corpus act were... found to be, Charles made no attempt to curtail the one or to infringe the other." 2 Even after 1680, when the temper of the nation enabled him to treat the Commons with a free hand, he knew that he had to walk cautiously. Hence "he was careful... during the few years which remained to him to avoid the appearance of any open violation of

2. " " 
of public law. He suspended no statute. He imposed no tax by Royal authority. He generally enforced the Test Act.

But in Scotland there was given to him the freedom which in England he was denied. From the very beginning of his reign he was at liberty to become absolute master in his Scottish household. A radical change had taken place in Scotland since he was there in 1650-51. Then she had the will to dictate to him, and constitutional organs through which to express it. Through her Parliament and Assembly she was able to enforce his submission to the demands of her Covenant ideal. But now she had neither Parliament nor Assembly. The rough hand of Cromwell had swept them out of the way. Nor was her Covenanting will the force he had known in the old. It had been considerably weakened during the past ten years. The ideal which had inspired its strength had
lost its appeal for all, save a scattered minority, within her bounds. Both as a moral and political discipline, it was generally viewed with disfavor. Its moral demands were more than ordinary human nature could endure. Its political demands had thrown the nation into party confusion. It was blamed for all the sore trouble which had befallen the national life in recent years, especially the oppressive and humiliating experience of the English occupation. It was therefore a weak and weary Scotland with which Charles had to reckon at his Restoration. Her dominant desire was for rest and freedom to resume her normal life. She hoped to find both through the return of her king. She was neither in the mood, nor in a position to discuss with him how she wanted to be governed. Her interests were in the hands of her aristocracy, and as he found her represented in them, he had no reason to treat her with caution and respect.
Among them there was not one prepared to make a strong effort to protect her in her weakness, and helplessness. Charles had no need to sweep them aside in order that he might recover the liberties which had been taken from his father. They made no attempt to stand in his way. They were eager to assist him in undoing all that had been done under the banner of the Covenanters. Charles is not to be blamed for the policy of government which he adopted for Scotland. The blame largely lies at the door of the Scots who crowded round him at his home-coming. "We hoped well to be noticed as his friends or to receive not only a compensation from his justice, but a gratuity from his bounty." Their supreme concern was their own advancement, and the way in that direction, lay along the line of servile obedience to the king. Hence they were ready to give him all he wanted without his having to ask for it. The sceptre which he wielded over Scottish life was thrust into his hands.

At his Restoration therefore Charles was given a perfectly free hand in settling the government of Scotland, and he laid its foundation by choosing his officers of state, Privy Councillors, and Lords of the sessions. Such a procedure was forbidden him by an Act on the Scottish statute book, passed in 1641, which had taken from the Crown and given to Parliament the right to choose those officials. But there existed no Parliament to prevent him from violating the Act, and he was in no danger, in the event of a Parliament being constituted, of having his action repudiated. For it was within his power to influence the election of Parliamentary Commissioners, that when they met they would be willing to remove from the statute book, not only the Act mentioned, but any other Act which limited his prerogative. He had already indeed a strong nucleus of such a Parliament in his chosen Ministers and Councillors on whose support and influence he dared rely.
In the meantime a temporary government had to be found for Scotland, and Charles "commenced such of the nobility and others as were at Court to meet and deliberate" as to what form it was to take. There was available the Committee of Estates which had been appointed in 1651, and it was proposed that this Committee should be summoned to act until Parliament met. The proposal was adopted, but not without dissent, which was voiced by Sir George McKenzie of Falcarragh. He contended that the Parliament from which that Committee derived their authority was no free and legal Parliament, are such as had served under Montrose being deprived from appearing in it ... and therefore after his Majesty's restoration, none authorised by them should be entrusted with the government. 2. The minority held weight enough to compel Glencarn to convene another meeting of "all the nobility and gentry in town" to reconsider the matter. The opinion of the second meeting was equally divided, and "thereupon seven of both premiscions were sent to the king: and though

2. ibid. p. 11.
his majesty had promised to Tarbet that he would own his opinion... yet he was thereafter prevailed upon by Lauderdale and Bradfurd to allow the Committee of Estates to meet: they having represented to the King, that if he disowned that authority, those who had opposed Montrose, who were the far greater part of Scotland, would imagine that they were all to be destroyed.

In August the Committee began its work, nine nobles, ten barons, and ten burgesses meeting under the presidency of Glencairn, the Lord Chancellor, in the Exchequer House on August 23, "convened by his majesty's special warrant and authority, and "enlisted and empowered with caring, ordering, and providing for what may conduce for the peace of his majesty's ancient kingdom, and the support of his power and authority therein". On the first day of its meeting, it gave proof of its devotion to its new master, and of its understanding of what he expected it to do. Its members were all of one kidney and hearty in prosecuting the designs

now on foot'. There met in Edinburgh, when the Committee began its proceedings, a small body of clergyman and elders, with the purpose of expressing in an address to Charles, their hope, that he would remember his obligations as a Covenanted King. They represented the Remonstrants in whom there existed an uncompromising loyalty to the Covenant ideal, and who in their quarrel with the more tolerant Resolutioners had received the sympathy of the sufferers. If they had understood the mind of the majority of their fellow countrymen and the mind of Charles, they would have known how futile was the intention of their meeting. For "whatever remnant of the old frenzy remained with these zealots of the west, the country at large ... had little sympathy with it," and far less sympathy with it had Charles who had viewed and painful memories of what he had suffered at its hands. But so blinded were they by their zeal that they regarded as "innocent" their

1 Woodm. I 66

2 Burke, W. II 30
supplication "that his majesty might mind the oath of God... oppose these abjured corruptions of policy and ceremonies that are coming in, and that he might for advancing of reformation, employ fit instruments in places of power and trust who are friends thereto"... The Committee however who were better informed soon disillusioned them. They were not allowed to make themselves heard at court. Their meeting was broken up, and most of them were imprisoned, on the ground that their supplication so far from being innocent, "contained many particulars reflecting on his sacred majesty, the government of our neighbouring Church and kingdom of England, and constitution of this present Committee, and many other things directly tending to seditions, and raising of new tumults and if possible rekindling a civil war amongst his majesty's good subjects."

Wodrow I

2. ibid. I. 71. loci.
The action of the Committee clearly reflected how Charles intended to govern Scotland. His will there, expressing itself through a servile government, was to be supreme; and in the interests of its supremacy all opposition was to be rigorously suppressed. He had no intention of recognising the Covenant ideal, of fulfilling the obligations which he had incurred by swearing allegiance to it in 1650, or of allowing its loyal adherents to assert themselves in its defence. The laws inspired by it which limited his prerogative had to be erased from the statute book, and if that was to be done, the Scottish Parliament, when it met, had to be thrilled to his will. To secure such a Parliament was the prime business of the Committee. The elections had to be so supervised, that the parliamentary members elected would support the policy of the Crown. The Committee did its work well. "The elections went pretty smoothly on according to the desire of the managers."
The Convention of Burgesses was warned that only "such as are of known fidelity and loyalty towards his majesty must he appointed magistrates and Councillors", so that the support of the Burgesses Commissioners might be secured; and according to Wodrow, the Committee brought pressure in the form of threats to bear on those who "being heartily against arbitrary power and from principle attached to the constitution of the Church", had great influence in the Shires, and who might either be returned themselves or use their influence to secure the return of men who shared their principles. The work of the Committee was one of the reasons why, when Parliament did meet, "never any parliament was so obsequious to all that was proposed to them".

The Parliament which began its first session on January 1, 1661, did thoroughly what was expected of it. Before the session ended, Charles had restored to him all the liberties which the Covenanters had taken away from the Crown.

1. Convention Records III 522-3
2. Wodrow, I, 78.
The Act of 1641 which gave to Parliament the right of choosing the ministers of State, Privy Councillors, and Lords of Session, and which Charles had already violated, was annulled, the Estates declaring "that it is an inherent privilege of the Crown, and an undoubted part of the royal prerogative of the King of this kingdom, to have the sole choice and appointment of the officers of State, and Privy Councillors, and the nomination of the Lords of Session in the former times preceding the year 1637, and that the King's most sacred majesty and his heirs and successors are forever by virtue of that royal power which they hold from Almighty God over this kingdom to enjoy and have full exercise of that right."

By the Recisive Act every other Covenanting Act was cancelled, and thus Charles was left free to make his will in Scotland supreme; and the instrument through which his will was to be chiefly expressed was his Privy Council.

In Parliament was destined to play a very subsidiary part during his reign in the government of Scotland. In its first three sessions it had in the opinion of Lauderdale, done all that in the meantime required to be done, and at the close of its third session, Charles was advised by Lauderdale to "return to the good old form of government by his Majesties privie Council." Being what it was, the servant of the Crown, there was no reason why it should not be dispensed with. Its work could be done just as well by the Council, which shared its authority and power: and even if expediency necessitated the calling together of the Estates, "there is no manner of doubt," wrote Lauderdale, "but the next Parliament would be entirely at his Majesties devotion as he can desire. For the Lords Spiritual and Temporall are the same, and they sitting in the same house the King knows what influence they have ... not only hath the king undoubted his negative vote, but God be thanked by this".

1 Lauderdale Papers 169-174.
constitutions of the Articles his majesty hath the affirmative vote also, for nothing can come to the Parliament but through the Articles but what is warrant by his majesty, so that the king is absolute master in Parliament, both of the negative and the affirmative.

The advice was accepted, with the result that except from three occasions on which they were summoned to consent to financial levies demanded by Charles for military purposes, the Estates spent only five short sessions from 1663 to the end of the reign in transacting the business of the nation. Even then a good deal of their time was taken up with verifying acts passed by the Council during their absence. For the Council exercised in the long intervals between these infrequent sessions not only executive but legislative power. "The Council in this period assume a Parliamentary power and either enlarge or go beyond the penalties
influenced by the Parliament or anticipate most of the Acts to be made and make an experiment as to how they will take before they are enacted by Parliament. In the circumstances the Council could do no other, and in doing so it was acting quite constitutionally according to the powers now assumed and exercised by the Crown. So the Council passed no Act without the Royal sanction, and the Royal sanction alone was necessary to give validity to its Acts. The ratification of them by Parliament was only a matter of form, and amounted to no more than a duplication of the royal signature.

The Council personnel.

When Parliament rose on July 12, 1661, the

Privy Council set immediately to work. Its personnel consisted of the following:

Earl: Lauderdale (Secretary of State); Middeton (Lord
High Commissioner); Glencarn (Chancellor);
Crawford (Treasurer); Ruther (President of Council)
Lennon and Lindsay: Token: Morton: Eglinton:
Soulsby: Cassilis: Kennedy: Caikness: Murray,
Leith: Perth: Dunfermline: Higton: Tullibardine:
Roxburgh: Haddington: Dundee: Tullibardine:
Wemyss: Annandale: Callander: Tweeddale.

Lords: Hewburn (Captain of his Majesty's Guard): Sinclair: Nalkerton: Buffus: Bellenbank

(Trustee: Depute)


Robert Murray: John Fleming.

Lords: Alexander Bruce: William Scott:

John Cockburn.

The Commission also included the names of four Englishmen: Earl of Clarendon: Duke of Albemarle: Marquis of Ormond: Earl of Manchester who were to act with Lauderdale as an advisory committee on Scottish affairs, in immediate touch with the King. This arrangement, says Burnett, Lauderdale opposed "with all his strength". The King "did not much like it: but the Earl of Clarendon told him, Scotland, by a secret and ill management, had begun the embroilment of his father's affairs, which

could never have happened if the affairs of that kingdom had been under a more equal inspection: if Scotland should again fall into new disorders, he must have the help of England to quiet them: and that could not be expected if the English had no share in the conduct of matters there. The king yielded to it: and this method was followed for two or three years: but was afterwards broke by the Earl of Lauderdale, when he got into the chief management.

With one or two exceptions, all the Scots appointed as councillors, were prepared to further the interests of the Crown. Many of them had been Covenanters, but their Covenanting loyalty had long since worn away. It lingered still in Lauderdale, and made him at times uneasy, but it was soon trampled under the foot of his ambition. It was alive in Lauderdale, and made itself heard at the trial of the Remonstrant James Guthrie, but a few weeks in Edinburgh Castle sufficed to silence it for a considerable time to come. Dr. Cassilis and Crawford alone did it attain to victorious strength.

It's triumph in crownjoy was not achieved without a struggle. He tried hard to reconcile the conflict between his loyalty to the crown, and his loyalty to the Covenant ideal, but in 1663, when he was faced with the Declaration, his religious loyalty prevailed. He refused to sign the Declaration, and resigned from the Council. Cassileth made no attempt to accommodate his covenanting conscience to the policy of the crown. Though his name was in the Council Commission, he had, since the Commission was drafted, been declared incapable of holding office under the crown. On January 1, he had written to Lauderdale, "I differ from upon the proposed oath (i.e., the oaths of allegiance which members of Parliament had to swear before being admitted as such) and whatsoever their determination be, except I see a more clear ground for it than I judge possible to show, ere I take it, I shall resolve to leave his majesty's dominions and councils, which is as ill as an
thing that even Oliver threatened me with, the he knew I would him and his way." He was asked to reconsider his decision on April 9 and April 10, but he refused to alter it, and both his Parliamentary and Council Commissions were consequently annulled.

The conscience of the rest of the Councillors gave Charles no trouble. Many changes took place in the personnel of his Council during his reign, but apart from those occasioned by the death of Bassilius and Crawford, none of them was due to the compulsion of the Covenanting Conscience. The key to most, from 1663 to 1680 is to be found in Lauderdale. Throughout this period he was the Council Master. He had the ear of the King as no other member of the Council had it. So he his friend was the best security of those who were in the Council Chamber, and the same way in for those who wanted to enter it: but to be his enemy was to find it impossible to get into the Chamber; and if so, to remain long there. Middletown was
The first I found that out this cost. His exit from the Council in 1664 was the culmination of the intrigues of a party within the Council against Lauderdale, which began soon after the Restoration. The party in which Middleton took an active part, objected to Lauderdale's appointment as Secretary, on the ground of his alleged sympathy with Presbyterian Scotland. Nay, at any rate, was the ostensible reason for their opposition, though, probably jealousy was at the root of it. They tried to prevent him from being made Secretary, and to secure the post for their partisan Newburgh. They opposed him, as we have seen, when he supported the proposal, that the Committee of Estates should be appointed back as a temporary government. They were worried in both instances; but their defeat made them all the more keen to bring about his fall. They were busy plotting against him in Edinburgh, while Parliament was sitting in 1661. On May 1, Bellenden wrote them: "...you have many enemies here who are enterprizing themselves with a full expectation of your fall."

'Lauderdale Papers. Vol 1. 23116 f.51.'
They passed the Declaration Act in the hope that what remained in him of loyalty to the Covenant would assert itself in a refusal to submit to the Act. But "Lauderdale laughed at this contrivance, and told them he would sign a cart full of such oaths before he would lose his place." The snare was too obvious, as was also the one set to entrap him, as the friend of Lord Home, in the Act which made it a punishable offence for any subject "to sollicit or intercede for favour" on behalf of the heirs of those whom the deacon parliament forsook. The influence of their opposition, however, almost succeeded in destroying the friendly feeling of Charles toward Lauderdale: so precarious did his place in the royal favour become that "if prosperity had not betrayed Middleton and his friends to too much arbitrariness, and want of circumspection, Lauderdale had sunk under the weight of his own misfortune." That "want of circumspection was his salvation and their undoing. In their last desperate effort to break him they overreached themselves, and instead of breaking him they were

"McKenzie's Memoirs pp. 644-65"
themselves broken, and he was established firmly in the royal confidence.

In drafting the indemnity Act for Scotland, the Middleton party schemed to add to it a clause by which twelve, to be named by Parliament, were to be excluded from public trust. Tarbet, who was made a Councillor in order that he might assist in furthering the design, was sent to Charles with the Act, and with the purpose of obtaining the royal consent to the proposal that the limiting clause should be added to it. Charles was led to believe that the clause had the support of Parliament, though Parliament had not discussed it, and in that belief permitted it to be included in the Act. The question then had to be decided as to how the twelve were to be named, that Lauderdale for whom the Act was specially prepared, should be one of them. The opposition resorted to the old Athenian device of ostracism. Each member of Parliament was to write his 'twelve' on a paper billlet, and the list of the twelve having a majority
of votes cast against them, was to be sent to the king. By soliciting, threatening, and bribing, the voting was so influenced that Lauderdale was one of the excluded twelve, and the list was sent to Charles in the custody of Serres. Lauderdale however had been kept well informed by his friends in Edinburgh of what was taking place—especially by his secretary, William Sharp, who was in close touch with his brother James Sharp now a member of the Council. As soon as Lauderdale knew that the fateful list was on its way to London, he went to the king, told him of the duplicity of the party in cheating both king and Parliament, and pointed out the risible and challenge to the royal authority involved in his (Lauderdale) being ostracised. Parliament had dared to depose a minister whom Charles had appointed. "The Commissioners had not so much as asked his Majesty's advice in pulling his servants from him, the Nabs being already touched with the sceplic: whereas former Commissioners touched no Nabs without consulting
Their master. Lauderdale prevailed. "It is
majesty was highly offended." When the Act
reached him, Charles read it and threw it
aside, "declaring that he could not follow
their advice, nor would he disclose their secret;"
but Parker was discerning enough to see that
the tide had turned against Middleton, and
returning to Scotland, he assured the Commissioners
that "he should haste to court to maintain his
own declining interest." Middleton went
up to London. A Scots Council meeting was called
at which Lauderdale concerned the Bilingers
Act in a speech which McKenzie describes as
"his masterpiece." Middleton's defence failed, but
thanks to the intercession of Monk, he was let
down lightly, and might have lived the affair
down, but for his own blind folly.

On February 12, 1663, there was read to the Council
a letter from Charles postponing the levying of the
final installment of fines to be exacted from those
who came within the scope of the Act containing

1. McKenzie, Memoirs, pp. 73-78.
Some exceptions from the Act of Indemnity" passed on September 9, 1662. The following day a letter came from Middleton cancelling the King's letter. Lauderdale, on learning of Middleton's action, went in haste to Charles and told him of the high-handed proceedings of the Commissioner who had dared to recall a royal warrant by "his own private warrant." 2 Middleton's doom was sealed. He tried to exculpate himself by asserting that in the King's letter to the Council, "a latitude was left to them to do what they should see fit." But the letter when produced showed no such latitude, "but a positive command." 3 His Commissioner's office was given to Roker, and his Captaincy of Edinburgh Castle given to Lauderdale. Several months later his overthrow was completed by his dismissal from the Council, as the result of an inquiry into the billeting affair. The Act was annulled. The "party" was subdued and Lauderdale was able to write to Sir Robert Murray, "I care not three shillings of a Currence what can be said or done to me." 4 He had triumphed!

The admission of the Earl of Drumfroris to the Council on September 5, 1661, and of Sir George Melville of Parkhead on June 5, 1662, reflected the influence at court of the Middleton faction. Both of these were staunch supporters of Middleton. Drumfroris led the minority which tried to thwart Lauderdale during the inquiry over the Billings Act.

But in 1663 admissions to the Council reflect the increasing influence of Lauderdale. Charles Maitland and his brother became a Councillor and General of the Mint on June 15. John Home of Renton, who was indeed advanced by Lauderdale, and Sir Alexander Home became Councillors in July. In 1664 two further changes in the Council's personnel were directly due to Lauderdale, when the Earl of Argyle entered the Council on April 19 and Sir John Ricart, as Lord Torraca, on November 10. Argyle owed not only his place in the Council, but his life, to Lauderdale. He had written a letter to Lord Buffess in 1662 in which he had used expressions which

1. P.C.R. Vol I PP. 27-28
2. " " 6216
3. " " 382-3
4. " " 384
5. Fountainhall's Journals p. 214
7. " " 539
8. " " 618
were liable to be construed as insulting to the Scottish Parliament. The letter was intercepted, and taken to Middleton who was not slow in using it to strike at Drygge and through him at his friend Lauderdale. Parker was sent with it to the king, with the request that Drygge should be sent to Edinburgh for trial. Lauderdale failed to prevent his arrest, but generously offered a bond to bail for him. Drygge came down to Edinburgh on July 17 and was charged to appear before the Estates “that same day in the afternoon”. He was remanded until August 26, when he was tried and sentenced to death. “The terms of his execution suspended during the Commissioner’s pleasure.” He was not executed, and only the influence of the Earl of Lauderdale can account for his escape, a supposition which finds support in the fact that when Lauderdale came down to investigate the poaching affair, he brought with him an order for Drygge’s release from Edinburgh Castle.

Hether had resigned his office to his bet largely as a result of his association with Middeton, his kinsman, to whom he owed his advancement. His appointment had been resented by the lawyer class, among whom there were several with great title to preference. He was notoriously open to bribery. "In the reign of terror which now began... every one chose a patron. Some sought the Chancellor's favour: others went to the Clerk Register: but it was to the Advocate that most assiduous court was paid." He had been active in the Middeton party and showed no inclination to bow to Lauderdale. "One observation I must make to you," wrote Lauderdale to Sir Robert Murray, "the Advocate (Hether) was a little insolent this morning, but I did quietly lay his cranks, and so did my Lord Commissioner." Information which was duly passed on to the King; for Murray wrote back from London, "The Advocate's name was taken notice of too. The King mentioned it with a stigma. He followed Middeton into the Wildemen in September 1664.

2. " " 183.
According to McKenzie, Lauderdale had something to do with the admission of James Sharp, Archbishop of St. Andrews, and Andrew Fairfole, Archbishop of Glasgow, to the Council in June 1663. Though the reason why these Churchmen were then advanced, says McKenzie, "was not out of any kindness that Lauderdale had for them, but to let the Episcopal party see, that though they had been informed he would ruin them with their protector Middleton, yet they had been led in error, and were to expect from him greater shares of his favour if they complied with his interest." They did not comply with his interest, and they paid for their non-compliance. Fairfole died on November 2, 1663, and was succeeded by Alexander Bannet, Bishop of Aberdeen. Bannet was admitted to the Council on April 19, 1664, and with Sharp acted vigorously in carrying out the ecclesiastical policy of the Crown, far too vigorously, to please Lauderdale who at the time was inclined to moderation in ecclesiastical affairs.

But he did not interfere in their reckless procedure. He adopted the attitude of the cynical spectator and allowed them to learn in due time the error of their ways. He had not long to wait. The policy of the arrogant prelates and their rapacious friends in the Council, of which Rother was one, culminated in the rising suppressed at Hullio Green in 1666. The prelates had gone too far. Lauderdale, in response to the appeal of a moderate section of the Council, including Lauderdale, Kincaidine, Sir Robert Murray, and Lord Cochrane (afterward the Earl of Dundonald) who was made Councillor on April 10, 1667, began to exert himself. Sharp was ordered to confine himself to his diocese. Rother was deprived of all offices save that of the Chancellorship to which he had been appointed on July 4, 1667. Sharp was easily brought to his knees and made subservient to Lauderdale. He made an abject apology for his misdemeanours. His restoration to the royal favour

2. " " " " 305-6.
was to him "as a resurrection of the dead", and henceforward he was Laudendaile's humble servant. "By you," he wrote to the secretary, "I am reduced to the good opinion of my most gracious master which is dearer to me then life." In 1669, Burnet was removed out of the way. The indulgence which in that year permitted non-conformist ministers to resume their ministry without episcopal sanction, gave offence to the prelates. "Burnet and his clergy were out of measure enraged at it." At a Synod meeting held at Glasgow in October they complained of the Act as "illegal and as like the fatal to the Church." Charles had no right to sanction the Act, since his power was bounded by the Act restoring episcopacy by which "none were capable of benefices, but such as should own the authority of bishops, and be instituted by them... and... these proceedings were unmistakings of law under foot." The Synod drew up a protest to that effect, but resolved to keep it secret till the advice should be taken upon it: and accordingly to

3. " " " 510
present it to the Privy Council, or not". But by some means or other the Council got hold of the protest, and sent it to Charles. His answer to "the insolent, impertinent Glasgow paper", as Lauderdale described it - Murray wrote of it as 'this damned paper was the Act of Supremacy which declared "that the settling of all things relating to ecclesiastical meetings, matters, and persons were to be ordered according as the King should send to his Council". Sharp in privy-said some "wilde things" about the Act, among them, "that all being Henry the 8th ten years' work was now to be done in 3 days, that 4 lines in this Act were more comprehensive than a hundred and odd sheets of Henry 8. But when the Act came before the Estates, Sharp gave it his support. When the Bishop of Ross wanted some phrase inserted Sharp said "No" and snapped him up and said how foolish such a jealousy would be of the King. But Burnet was made of stouter stuff. He refused to acknowledge the Act, and resigned, his officers being seven to Bishop Ligonier of Dunkeld.

2. " " " 137-39.
3. " " " 151-54.
In the meantime several new members had entered the Council. In 1667, General Dalziel (January 3) and Lieutenant General Drummond (January 8) were made Councillors "as a special mark of our favour upon this occasion of the great service they have done in beating and dissipating the rebels". They were joined later by Lord Drumlanrig (January 14), the Earl of Baille (April 16) and Lord William Cochrane (April 16). A change had also taken place in the office of Clerk to the Council, Sir Peter Wedderburn of Seaford having been displaced by Alexander Gibson and James Hay now shared the office.

Lauderdale's influence continued to show itself in further appointments to the Council during the years 1670-1672. On July 25, 1670, the Earl of Home, and Yester, and Dr. Andrew Raushey were admitted. Yester was the son-in-law of Lauderdale's good friend Tweeddale. Raushey had "distinguished himself very far into the favour of his Grace" by generous gifts. He had obtained for Lauderdale "5000 lib. Sterling... for the Citadel of Leith, and other good..."
lit to hein for the new cinposition granted to the town (Edinburgh) by the King, upon ale and wine. 1
In 1671 Sir James Dalrymple of Stain (January) 2 and
the Marquis of Douglas (February) 3 were admitted, and in 1672, "George Earl Mansiell," (June 10) 4 and Lord Cochrane (June 10) 5 whose father had been made Earl. The admission of Dalrymple as successor to Sir John Gilmour, President of the
Curt of Justic, caused some heart burning.
Gilmour, forced to resign through age, recommended
Sir of Stirling for the office. It was offered to his son
the Lord Advocate. "So faintly refusing, thinking
thereby to have been more used, he was taken at
his word;" and then Lauderdale was "would have none of their advices," gave the appointment to "his Stain who was looking little for."
6
In 1672 Lauderdale "was probably more uplifted... than he had ever been before or ever was again." His influence in the Cabal was at its height, as was also his favour with the King,
who had created him Duke, and given him the

1. McKenzie, Memoirs, p. 246
2. P.C.R. Vol III, p. 277
3. " " " 346
4. " " " 532
5. " " " 533
6. Fountainhall.
Gælæ. Raised to such an eminence, Lauderdale had need of caution. His elevation was bound to cause offence to some of his fellow Counsellors. They required but little provocation to give expression to their resentment. It seemed to him to exercise his power with discretion; but that he failed to do. With the result that by 1673 there had gathered a storm of opposition which had reached breaking point, as was revealed in "A Short Account of Affairs in Scotland." This pamphlet was a ruthless indictment of Lauderdale's alleged misgovernment of Scotland and personal misdemeanours. "This man," it stated, "under pretence of being his Majesty's sole secretary, and having the advantage of residing at Court, is and hath been this year by gone, not so much his minister, as our master: for he being the King's informer in our matters, excluding all others with a severe jealousy, and having the absolute disposal of all places, gifts, and other things that concern us, it is evident that..."
not only persons, but our Courts (of Indictment) also must depend on his pleasure... Lauderdale leaves nothing to the Council save an obsequious execution to be managed by his brother Stalken, it matters not how our Council be constituted... the Council, though it hath the name of his Majesty's Council, yet in effect is not so much his as Lauderdale's. He had without the Council's advice, appointed, Officers of State, Privy Councillors, Army Commanders, Lords of Penions. He had added to the incapable men who were already Lords of Penions, men still more incapable, "such as his brother Stalken the Provost of Edinburgh (Ramsay); Maitland of Pitrichie, a mean country gentleman, and Mr Robert Preston, an old country collector, men all of them so unskilled in law, that if the examination ordained by Act of Parliament had been seriously gone about, it would have debarred them in their entry.

The revenue was being squandered in
(a) a great many pensions granted and continued either without merit or above proportion, merely at Lauderdale's pleasure: (b) Lauderdale's allowance
as Commissioner. He had called a Parliament "in order to a treaty of union with England". The Parliament had lasted two hours. He kept it in official existence for four years, "and under this pretext gets vast sums, £1000 Sterling for his equipage: £50 per diem during the first two sessions and £50 per diem during the third as long as he shall please to continue this fourth session of Parliament: and £10 or £15 per diem during all the time of its recesses." (c) Gifts granted by no other rule than favour "as a gift of casualty due before the king's return to Lauderdale and others, and gifts of all wards and marriages for the space of three years to the Earl of Kincardine, which gift has been lately renewed and continued for more years ... and a gift of ultimvs heeres of the Earlom of Dundee to Walton." Nor was it to be expected that the Exchequer officials would rectify such abuses, since all of them were "at Lauderdale's reverence, by reason of their pensions, and several of their shares of the spoils." Not a gift or signature passed through the hands of the king
which was not first "transacted for in Scotland and money paid for it to Halton before it was sent up."
The salt, tobacco, and brandy monopolies came in for criticism, as did also the debasement of the currency by Halton as Controller of the mint, and the graft which had been going on between Lauderdale and Ramsay.

Lauderdale had no sooner read the king's speech at the opening of the Parliament of 1673 than the storm broke on him in all its fury. For when he proposed that the Lords of the Articles should answer the Speech, from all over the House came loud protests. Hamilton, Eglington, Cessilis, Roxburghe, Queensberry and others, demanded that popular grievances should first be considered. Sir Francis Scott denounced the war with Holland. Hume of Colwark even dared to attack the constitution of the Articles and moved for a debate as to whether or not there was to be a free Parliament. Hume gave expression to the essential reason of the revolt, namely, discontent with the arbitrary rule of Lauderdale which formed
a strong buttress in the Articles. He had boasted to Charles in 1669, "I wrote the lists and not a man was altered." I had the party in revolt made the Articles the chief ground of their protest. Lauderdale would have been faced with a serious situation. But they took the less heroic course of basing their protest chiefly on the monopoly grievance, and Lauderdale soon took that from beneath their feet; for at a meeting convened at Holywood, he consented to the removal of the monopolies in salt, brandy, and tobacco. "This would certainly have satisfied," says McKenzie, "if the design of such as managed the whole affair had not been, not to suffer Lauderdale to be reconciled to the people, and to persuade the Court that he was not able to serve the King there." 2

Banished by Lauderdale's concessions the Party sent a deputation—Hamilton, Tweeddale, Drummond— to lay their case before the King. Tweeddale had by this time fallen out of favour with Lauderdale, as had Yester who had preceded the deputation and sought an interview with the King. But neither Yester, nor the

... others found any encouragement in Charles who wrote to Lauderdale, "I have too long experience of your abilities and faithfulness to serve me, even to change from being your true friend". So the storm passed, leaving Lauderdale unharmed under the shelter of the royal favour. Once more he had triumphed over his enemies, and his triumph was evidenced in the Commission of a new Council laid on the Council table on June 4, 1674. 2 From it were missing the names of Tweeddale, Yester, Queensberry (Dunkeld), and Drummond. These appeared instead the names of the Earls of Mar, Kington, Darnley, and Ross. Douls of Cockburn and Wallace of Craigie (Lo) Justice Clerk) were also included in the Commission as were also four Englishmen, the Duke of Monmouth, Sir Thomas Osborne (Dunley), Baron Finch, and the Duke of Ormonde.

2. C.C.R. Vol IV. pp. 73-76.
During the next two years several more Councillors appeared in the Chamber. Sir George Munro was made Councillor on September 1, 1674. On December 10, Bumet was reappointed Archbishop of Glasgow and returned to the Council. Lauderdale's policy had become more to his liking since 1669. The Earl of Winton was admitted on January 28, 1675, and the Earl of Seaforth on March 11. They were joined by the Earl of Errol (Laudonist) (June 24) and Lord Elphinstone on August 5. With Elphinstone entered Sir Andrew Ramsay. Ramsay had been one of the Council since 1673. The opposition against him in the Parliament of that year was so strong that even Lauderdale could not afford to protect him, and he had to resign. On February 21, 1676, the Earl of Hopet and Sir John Keith, brother to the Earl Marischal were made Councillors.

Hamilton who had led the opposition in 1673 escaped the wrath of Lauderdale; but two years later he too was given his marching orders along with several of his friends, Runcard and Lauderdale's staunch supporters in the recent storm being removed.
Kincardine's fall from grace is attributed by McKenzie to the evil machinations of Lauderdale's second wife the Countess of Dysart on whom both McKenzie and Burnet lay the blame for the ill humor taken by Lauderdale's government since she came into his life. She had lost him the friendship of Tweeddale and Sir Robert Murray. She now became between him and Kincardine. Both Atholl and Nalton wanted the removal of Kincardine, who was hated by Atholl, and regarded as a rival for the Secretarieship by Nalton. The Duchess found in Nalton a generous source of income, and wanted to wed her youngest daughter to Atholl's eldest son. She was prepared to serve both Councillors in alienating Lauderdale from Kincardine. She succeeded.

"And thus Lauderdale and Kincardine were most foolishly embroiled in a war wherein neither could expect honour or success, since Kincardine was thereby forced to deem him to the King whom he had so magnified, and Lauderdale to make the other pass for a cheat whom he had
characterized to the King as a Nathanael."

The victim visited London. Lauderdale according to Burnet, asked the King to send him back to Scotland. Charles refused, and Lauderdale was so chagrined that he went home "half dead and half mad" and with the intention of writing out his resignation. So those told Charles, and Charles relenting, pacified his angry Secretary and sent Kincairdine back home. Kincairdine was a marked man; and in June 1676, he provided a sufficient reason for his fall. In that month there took place a mysterious affair in which figured the "outed" minister and historian James Kirkton, Baillie of Inveresk, his brother-in-law, and Captain Carstairs a military spy. Carstairs met Kirkton in the High St., laid hands on him, and took him to the house of a politico agent, where he was asked if he was not John Wardlaw who owed Carstairs money. Baillie appeared on the scene. Carstairs drew a pistol; Kirkton closed with him, and Baillie intervening, released Kirkton. Carstairs


reported the affair to the Council through Stalton, alleging that he had been interfered with while on government duty. Baillie was found guilty by the majority of the Council; but Macarthur, Hamilton, Merton, Dumfries, Primrose and Cochran defended him, and Stalton was given the weapon he sought. A report of the conduct of the minority was duly sent to court, and the result was the formation of a new Council in July, 1676, from which the offending Councillors were excluded. A change was also made in the English representation, the Duke of York as Lord High Admiral of Scotland, taking the place of the Duke of Monmouth.

In 1677 a notable addition to the personnel of the Council took place when Sir George McKenzie of Rosecaugh entered the Council as Lord Advocate in succession to Sir John Nicolson. Up until 1675 McKenzie had been an open opponent of Lauderdale. As a member of Parliament, he had opposed Lauderdale's proposal of union with England, the Militia Act, and the tax on salt, in 1669. In 1670 he had offered to defend the member

for Inverurie who was threatened by Lauderdale with imprisonment for suggesting that members might be given the freedom to make extra-parliamentary addresses to their constituents: and in 1673 he had acted as advocate for the City of Edinburgh against Sir Andrew Ramsay in its oppressive Bovrst. While such in 1673 he had taken a leading part in the revolt against Lauderdale, that the Secretary had sworn K have been "that factions young men" removed from Parliament. But he was not removed. He had no personal feeling against Lauderdale. He had no quarrel with absolute monarchy. He had given his support to the anti-Lauderdale faction in the name of public justice. But when he saw that action of the faction was becoming a matter of mere party-politics, dominated by selfishness, and tending to foster public disorder, he swung over to the side of the government. Charles in a letter to the Treasury on June 28, 1676, appointed him as undertaker to Sir John Hesketh "in the concerns of his office." Hesketh's exit from the
Council was imminent. He had enriched himself and his friends, as Hecotus had done, by bribery. In January he had damaged himself badly by advising his brother who was charged with perjury by Stephenson of Dumbie, to pay Stephenson 4,000 marks in order to stop the suit. Soon after he was again in trouble through taking fees from both sides in a civil case. He was forced to resign and Sir George McKenzie "was named by the King himself in spite of all the endeavours of the Duchess (of Lauderdale) to have Sir George Lochhart promoted to that place."

McKenzie was now as eager to assist Lauderdale as he was before to oppose him; and Lauderdale soon required all the assistance available. In 1678 another attack was launched against him, not only by the Hamilton Party, now increased by the accession to it of M'Alliste and Perre - Perre had been made a Councillor on Jan. 10, 1678 - but also by a considerable section of the English Commons led by the Earl of Shaftesbury. The spring of the
This year saw him escaping impeachment in the English Parliament by the narrow margin of four votes. At the same time the Scottish party were doing their best to discredit him at Court. The episode of the Highland Host, and the defeated Law Burrows measure, provided them with new weapons against him. In spite of a Council order forbidding anyone to leave the country without license, Atholl, Ruth, Hamilton, Roxburgh, Haddington, and Cochran went up to London with the purpose of laying their grievances before the king. To counteract them, Lauderdale, then at Edinburgh, sent up to London, McKenzie, Foulis of Cockston, the Earl of Moray. The only result of the mission of the opposition was the immediate withdrawal of the host, Charles being afraid lest the affair of the host might strengthen the hands of the Shaftesbury party in the Commons. He also gave orders to the Council to cancel the proclamation which contained the absent Councillors, who had ignored its prohibition. In their main object, the opposition failed.
... whole and fervent were so half hearted in their task that one interview with Charles was enough to leave them at his feet, begging his pardon, and swearing never to meddle in his affairs again, which he was sure they would not.

But in 1679 the attack was renewed, in circumstances which favoured Lauderdale's enemies. The fall of Banbury and the exile of the Duke of York deprived him of two strong supporters. The English Commons were now opposed to him than ever. The murder of Sharp and the Boscwell Bridge revolt gave weight to the criticism directed against his administration. Even Charles was beginning to feel the strain of sheltering him. On July 8 at the request of the new English ministry and Charles, Lauderdale's administration was debated in the presence of the being, McKenzie defending it, and Cockburn and Cunningham condemning it. Once again Charles stood by his hard pressed Secretary. The opposition, he said, had objected.

many damned things that he had done against them, but there was nothing objected that was against his (Charles's) service: and the deball ended royal letters to the Scottish Council and Justiciary Courts exonerated Lauderdale from the charges leveled against him. "As to matters of fact differed upon," Charles wrote, "we have now and formerly cleared our judgment upon them so fully that we cannot now in justice both declare, that we think our judicature and servants, and especially the Duke of Lauderdale, of whose fidelity and services, we have had so long experience, most unjustly used by the givers eis of those complaints, there being no Council against which these accusations may not be gleaned up." 2

But Lauderdale was growing old. "The king found his memory failing." He had given the long good service, but he was no longer the minister Charles needed to manage Scottish affairs. If Charles could find such a minister,

1. Burnet. vol. iii 235.
2. Woodsou vol. iii 170
Lauderdale would not remain long in office. Lauderdale was wise enough to see that Charles had found the needed man in the Duke of York, when the Duke came back from Scotland in February 1680 crowned with a success which reflected itself in the fulsome praise of the Scottish Council: and aware of his supersession, Lauderdale resigned from government service on the very day, November 2, 1680, when the Duke arrived in Edinburgh, for the second time as the King's ambassador.

Within a few months, Lauderdale's friends were being shown out of the Council, and his former enemies welcomed back again. Some of them had already come back before he demitted office. Sir George Methuen of Farset had been there since November 11, 1678. Queen'sberry was readmitted on July 11, 1679 in consideration of the great care and readiness shown by him for promoting our service towards the suppression of the rebels. Roxburgh came back on July 6, 1680. Besides these, there had been admitted between 1678 and the date of Lauderdale's resignation, the Bishop of...
Galloway... the first bishop a councillor since the
Kings Restoration: (September 27, 1678) Richard Macland
of Foger (October 9, 1678); Sir George Gordon of Haddo
(November 11, 1678); Marquis of Montrose (November 21, 1678)
John Drummond of Leuchars (December 12, 1678); Earl of
Balcarres (June 3, 1680) and Lord Lorne (October 5, 1680). The Duke of Monmouth had taken his
seat in the Council in June 1679, while in Scotland
commanding the forces which suppressed the
Biddulph Bridge revolt.

In February, 1681 the appointment of M'Kenzie of
Tarbet as clerk register in place of Sir Thomas Murray
of Glendevock was significant of the change of masters
that had taken place in the Council. Murray who
had been given the office in succession to Primrose in
1678, owed to his promotion to the influence of the
Duchess of Lauderdale. On July 19, the Earl of Dumfries
returned to the Council; and there in November
Lauderdale's friends Hoggs and Dalrymple were
compelled to lay down the burdens of office. The fall
of Hoggs was inevitable, now that Lauderdale was out.
of the way. The favour shown him by Lauderdale and the advantage he had taken of it to enrich his house, especially by the acquisition of the Melrose lands, created for him many enemies who found an ally in the Duke of York. For the Duke said it was to prove a serious hindrance to the peace of the Highlands, on securing which the Duke had set his mind. The feeling in the Council against the Earl became apparent in the proceedings which led to his fall. The Test Act ruined him. His Protestant conscience would not allow him to take the Oath without an explanation of the sense in which he took it. The Act could be so interpreted as to mean that those who swore allegiance to it, as it stood, bound themselves to loyalty to the Crown whatever civil or religious policy the Crown chose to adopt. In the event of the Duke of York's succession to the throne, there was the possibility of Catholicism being adopted as the Crown's religious policy, and that possibility provoked a concern which was strengthened by the
fact that no member of the royal house was obliged to take the Oath. Argyle took the Oath as a Privy Councillor on November 3, with the explanation that he took it as it was consistent with itself and the Protestant religion. His enemies were quick to see that what he had said might be construed as reasonable. When he appeared next day to take the Oath again as Commissioner of the Treasury, and declared himself ready to take it "in the sense and meaning he had taken it the day before," they determined to make him explain what that "sense and meaning" implied, in the hope that he would give them something more definite to use against him. No fuller explanation was now demanded on the ground that what he had said the previous day had been spoken in "so low a voice that many of the Councillors did not hear what he said, and he had taken (the oath) so suddenly without giving time to those of the Councillors who had heard him to make any answer!"

Argyle had his explanations written, and after reading it he was asked to retire while the...
Council discussed it. He was asked to return to the Chamber and sign his statement, but he had sense enough to know what they might do with a signed statement, and he refused to sign it until he had reconsidered it. He was asked a second time for his signature, but he again refused. He wanted legal advice before committing himself. Whereupon the Council decided to remove him from office and to imprison him in Dunbar Castle. Charles approved of what had been done, but ordered the Council to inform him of the trial before passing sentence on the Earl. The trial proceeded. Argyle was twice refused the services of Lochhart as his advocate. Charles wrote a letter on December 18th to the Council stating the sentence of death. But two days before the letter reached the Council Argyle escaped from the Castle, and on December 23rd sentence of death and forfeiture was passed on the fugitive.

2. " " " " 292.
3. " " " " 736.
In 1682 Lauderdale died, but not before he had witnessed the entrance to the Council and the promotion of several of his old-time opponents. On May 11, were re-admitted the Duke of Hamilton and the Earl of Tweeddale, and on the same date, the Earl of Middletown, the former Str心血us successor, was made a Councillor. New-day lieutenant General Drummond came back. Earlier in the year the Earl of Strathmore (January 10) and the Earl of Belvoir (February 23), and on August 1, Sir David Dalmeny, President of the College of Justice, became Councillors.

The return of men like Hamilton and Tweeddale revealed the return of the motives which had actuated them and their party in their opposition to Lauderdale. However, they may have opposed his policy and given to their opposition the semblance of patriotism, their motives were selfishly personal. The policy of the Duke did not differ essentially from that of Lauderdale. But Lauderdale’s enemies
were now the Duke's most humble servants, and ready to further the policy which under the administration of Lauderdale they had contended.

Throughout 1682 several changes in the Offices of the Council indicated how the tide had turned in favour of the Lauderdale opposition. On May 6, "His Royall Highness in Council did deliver his Majesty's pleasure for fulfilling the great Offices of State." The Marquis of Queensberry was made Lord Treasurer, the Earl of Berwick, Lord Justice General, and Sir George Gordon of Stobo, Lord Chancellor, in succession to Rolle who died on July 26, 1681. While on October 10, the Earl of Middleton was made joint Secretary with the Earl of Moray who had succeeded Lauderdale in 1680. and on October 31 after an inquiry into his alleged corrupt practices as General of the Mint, and Treasurer Deputy, Walton was turned out of office and his place given to Drummond of Lovat (December 23, 1682).

2. ibid. 555-57.
3. idem. 570-91.
Up until July 1684 five new Councillors were appointed, the most important of them being Colonel James Graham of Claverhouse, who owed his promotion to the good work he had done for the government in suppressing religious disaffection, particularly in Galloway.

Then on July 15, 1684 a new Council Commission marked another and the last crisis in the Council during our period. The crisis centred in the Earl of Aberdeen (formerly Sir George Gordon of Addo) Chancellor. The appointment of Aberdeen as Chancellor had caused dissatisfaction, chiefly owing to the fact of Sir George being a commoner... many maintaining that the office of Chancellor was a dignity which ought to be conferred only on a peer. The elevation of the Chancellor to the peerage removed that objection, but opposition continued and grew. "He sedge they had to see a lawyer and a gentleman step into that office which (they) had intagles and

monopolised for a long time among themselves, rambled in the breasts of the envious nobility, and rambled the more because they were pensioners and to depend on him for what they got out of the Exchequer. "His independent bearing in the Privy Council tended still further to augment this discontented feeling. It had also become apparent that he would be no party to the secretly cherished designs of the Duke of York." His enemies, the Marquis of Queensberry and Earl of Berkeley being the most active among these, found occasion to attack him in their proposal that husbands and fathers should be made answerable by fine and imprisonment for the violation of the Conventicles Act by their wives and daughters. Aberdeen "firmly urged the illegality, the injustice and the impiety of a course which could be carried into effect only by a arbitrary exercise of power, and which must strike at the very existence of society itself." His enemies

2. Letters of Earl of Abercorn (Spalding Club) p. XXXIX.
3. "XXXVII
provided. On January 22, 1684, Perth was sent to Charles to consult him about the disputed measure among other things. "The King determined against the ladies, which was thought very indecent... But to do him right, he was determined to it by the Duke, who... had got the whole management of affairs, English as well as Scottish into his hands." In May, Aberdeen was forced to resign. The reason given for his dismissal in the royal letter which accompanied the new Council Commission, was his lack of sympathy with the Council's attitude towards the religious recusants. "...we have removed from our Councils and highest offices," said Charles, "all such as were thought forward in favouring and slow in proceeding against (the papists) or countenances of disaffected, turbulent people." But two years later Aberdeen's fall was more reasonably accounted for when it was discovered that £2,100 had been paid out of the Treasury by Queenmerry and Perth "to the Duchesse of"

of Montrose, to get out the Earl of Abercorn from being Chancellor.

Perth was given the Chancellorship "to which he had been long aspiring in a most indecent manner." 2 Leinlichnow succeeded him as Lord Justice General. The Earl of Arran joined Murray and Middleton in the office of Secretary; and the return of all who had been removed from the Council as the enemies of Lauderdale, was completed by the readmission of Lord Yester, as a member of the new Council. The Commission also contained the names of Lord Drumlanrig (Queenberry's son), Sir John Drumlanrig, Lieut.-General of the Forces, and James Douglas, Colonel of His Majesty's troops. And during the remainder of our period only one new member was added to the reconstructed Council, when Alexander Cairnnesse took his place in it as Archbishop of Glasgow, in succession to Arthur Ross who had been translated to the Archbishops See of St Andrews, which had been left vacant.

1. Domestic.
3. Voe II 420.
by the death of Burnet on October 27, 1684. Burnet had succeeded Sharp, and the Glasgow see had been filled by Ross.

Among the men whom we have seen taking their place in the Council, if we except Crawford, we look in vain for one worthy of our wholehearted respect. Dalrymple and Argyle redeem themselves to a certain extent in our eyes, at the end of the day by their refusal to take the Test; but their belated conscientiousness hardly atones for the part they had played in the work of the Council. Both of them had shared in the arbitrary government exercised by the Council, and it was only when they were compelled under extreme pressure of conscience that they submitted to its imperative. The rest of their fellow-Councillors were men in whose characters there was not a redeeming feature. They were in Hickton's words, "all of the new mode, that is, void of principles." Their dominating motive was self-interest. They were appointed to office on the assumption that they were prepared
to give service obedience to the Crown, that the rewards of such service were of more consequence to them than a good conscience, and not one of them falsified that assumption. Burnet seemed to do so when he balked at the Supremacy Act, but he revealed the shallowness of his soul, when he resumed office under the same conditions which he had opposed. The Hamilton "party" also appeared to have some conscience left in them. But their return to the Council, and their devotion to the Duke of York, made it obvious that their conscientious objections to Lauderdale's policy were more apparent than real. For Lauderdale's exit from the government made no difference to the policy of the Crown in ecclesiastical affairs. That policy under the administration of the Duke of York was even more rigorously enforced than ever it was under Lauderdale, and yet those one time conscientious objectors gave it their wholehearted support.
The system within which the Council functioned, closed the door to the Council to men of principle. There was plenty of room in the Council Chamber for men who were eager for self-aggrandisement, who were willing to sacrifice their independence, their patriotism, their conscience, for the sake of basking in the royal favour, and incidentally enriching themselves out of the Exchequer; but there was room in it for men of soul.

Hence the reasons why among the crowd of councillors who pass before us in one period, we fail to catch a gleam of one face on which appears the aspect of greatness. They have been chosen for their lack of greatness, so far as character is concerned, and they fully justify their choice. Most of them are not bad, but nobility is the last quality found in them.
The way into the Council was jealously guarded in the interests of the Crown. All who were appointed Councillors had to take several oaths before being admitted to office. Not only had they to take the Oath of Allegiance, but also a special oath which bound them to be "true and faithful servants of the King's Majesty," and to absolute secrecy concerning all business transacted in the Council. To these oaths were added later the Declaration and the Test. Only in the case of the Duke of York was the oath-taking dispensed with, much to the annoyance of the Council. The Duke refused to take any oath before being admitted to take his place in the Council. He had taken none on becoming a Privy Councillor in England, and he would take none in Scotland. Nor did he; though a party in the Council which included Argyll and Mclenzie, the Lord Kirkcaldy strongly objected to his refusal. In a letter to Lauderdale, of which Charles and Lauderdale approved, "The Oath (of Allegiance), Lauderdale wrote
To him, "is certainly much less than the Oath of Allegiance here (in England) which I think your Highness both in the House of Peers, and therefore I hope you will not scruple it; but if you shall not think fit to take it, I dare not presume to advise your sitting in Council, which would give too great advantage to your enemies." But the Duke succeeded in overcoming the examples of Charles and the Secretary. He obtained a royal dispensation from the oath-taking, and that put an end to the objections of the Councillors. "I received yours of the 30 (Dec.)" he wrote to Lauderdale, "and by it found the difficulties (which) had been raised here by some were ordered to my satisfaction, and this afternoon I took my place in the Council." 2

Within the Council Chamber, all Councillors had their, while the Council was in session, "in due and order according to these places and ranks and none of them to stand on their feet after that the Councillors once sat, until such time as they

1. Laud. Papers. vol III 179
2. ....... ....... 186
shall anyse, except any such counsellor who is to answer for himself in any cause, and then he is not to stand in the place wherein he formerly sat, but at the head of the counsell table. No men was to stand "covered in the presence of the lords," and no strangers was to be allowed into the Chamber during sedent in of Council.

The Council began its work in Holywood House. But on October 1, 1661, orders were given to the Lady Mayor of Edinburgh to prepare the Exchequer House for the Council's future accommodation, and there the Council had its headquarters during our period, save when the Commissioners was in the Capital. Then Council business was transacted under the Presidency of the Commissioners at Holywood House. The Council was not bound to hold its meetings in the Capital; but only once did it meet elsewhere as such, when in the Autumn of 1662 it accompanied Maitland in his tour of the West Country and met in Glasgow on October 1.

2. . 54
The task committed to the Council was essentially threefold. It was responsible for the enforcement of law, the maintenance of order, and the administration of justice. We shall now consider (a) the machinery by which the Council sought to fulfill its task; and (b) how the Council fared in fulfilling its task in relation to (1) lawless Highlands and Borders; (2) trade and commerce; (3) the Brughs; and (4) the religious non-conformists.

In order of importance the last aspect of the Council's work should be taken first. But we have decided to place it last, so that it may be realized in some measure that the Council did have something more to do than repress recreants.

When the Council began its work the administrative machinery at its disposal consisted of the Court of Session; the local jurisdictions exercised by Sheriffs, Baillies, Magistrates, and Justices of the Peace; Customs Officers and Tax Collectors; and the mere handful of lips which formed the standing army. But within a few years that machinery was found quite inadequate for the enforcement of the Council's authority, especially in regard to the ecclesiastical policy of the Crown.
In 1664 the ecclesiastical laws created such a heavy burden for the Council that the High Commission Court had to be instituted. On January 12, a letter from Charles gave to the Archbishops and Bishops, the Provost of Aberdeen, St Andrews, Glasgow, Dys, and Dumfries, several members of the Council, and a few other gentlemen or any five of them, authority "to use to their utmost endeavours that the Acts of Parliament and Council made for the order and peace of the Church, and in behalf of episcopal government, be put into vigour and impartial execution, and against all and every one within the kingdom of Scotland who presume to disobey these Acts now settled." They had power to punish by imprisonment or fine those whom they convicted— one half of the fines to be used to meet the expenses of the Court, and the other half to be used for "pious purposes." The Council did not function long. The Council did not give it hearty support.
It was dominated by the prelates who had been chiefly instrumental in setting it up, and between them and the lay element in the Commission there was a decided lack of sympathy which weakened the authority of the Court. Rother wrote to Sandford on December 2, "There is so many in the Commission to speak on all occasions for those who are called before us, that these kind of people have lost the awe and fear they had to come before the Commission." Rother was one of the few Councillors who supported the Court. He was at the time a good friend to the prelates, and not a disinterested one, for the fines attracted him. So "the lords began to weary of the bishops' cruelty and drudgery; the bishops began to suspect their friendship; discussion arose: people cited refused to appear... so this goodly Court of which the bishops expected so great matters, after a short continuance (I about two years) vanished in smoke."

2. Kirkton. Histor. p. 211
But before the Court "evening in smoke" it created in the West Country such a disturbed and threatening situation for the Council that the standing forces had to be considerably increased. Up until 1666 the military resources of the Council were scanty. On January 10, 1661, Parliament deemed "that a troop of horse be raised for guarding the Lord Commissioner and Parliament, to assist the Parliament in putting their acts in execution against disobedient persons." That troop and the English garrison at Leith comprised the whole force at the Council's disposal until the Autumn of 1662, when the garrison was evacuated. In August 1662 five companies of foot were raised three of them for garrison duty at Dumbarton, Stirling, and Edinburgh. On October 8, 1663, Middletown's troop was disbanded, and in 1664 its place taken by a troop raised by Roberts who had succeeded Middletown as Captain General of the forces.

was increased by six troops of horse and ten companies of foot. There were also added three companies of foot from Lord George Douglas's Scots Regiment which had been recently recalled from France. Between January and May 1667 six more troops were raised. But on August 23, 1667 the Council received orders to disband the forces with the exception of the troops of horse commanded by Ruther and Hervburgh, and seven hundred foot, which were to be located as follows. Ruther's troop and 300 foot at Edinburgh: 50 of Hervburgh's troop and 200 foot at Dumfries 20 " " " " 100 " " Lennox 40 " " " " 100 " " Glasgow. The garrisons at Edinburgh Castle, Stirling, and Stirling were also left intact.

Instead of the disbanded forces, a militia force was now to be raised. Parliament in 1663 had ordered to raise such a force, to consist of 20,000 foot and 2000 horse. The scheme was Lauderdale's, who "had his eye in it,

2. " " 14.
4. " " 354.
To let the king see what use the king might make of Scotland, if he should intend to set up arbitrary government in England. He was deeply grateful to Charles for the happy turn which events had taken in regard to the Billericay affair, and now better could he show his gratitude than to punish Charles "with a good army when his affairs in England should require it." But not until 1668 was Lauderdale able to realise his dream, to the extent at least of setting the organisation of the force started. He had not favoured the increase of the standing army, but he was not able to override the strong opinions in the Council in its favour. The use to which the army had been put had discredited it, and led to its dismantlement. His alternative of a militia force was now adopted. On May 6, 1668 a letter from Charles ordered the Council to proceed with the organisation of the force. The 20,000 foot, and 2000 horse were to be raised by quota from each shire: the Council to be  

...advised in appointing officers for the force, by Colonels of the army, excise Commissioners, and Justices of the Peace in the respective shires, who were also to begin the work of organisation. The Council was to provide the force with arms and ammunition; muskets being the only weapons to be given to the infantry. On September 3, the Council was able to report to Charles (1) that Commanders of "known loyalty and good affection" had been appointed to organise the militia in the shires of Lanark, Ayr, Renfrew, and Wigton:

(2) that in the shires of Edinburgh, Haddington, Linlithgow, and Stirling, the work of organisation was completed; the militia had been reviewed several times and had given satisfaction:

(3) that in the remaining shires officers had been appointed, men were being enlisted, and the date of their meeting for training fixed at some time after the harvest.

But the Council had not found its task quite so easy as its report to Charles suggested.

The time and expense involved in the militia service caused a good deal of dissatisfaction on many of the sheriffs' tenures, or on whom a large part of the burden of expense fell, refused to pay their share of it. In other sheriffs there was a slackness in bringing the men together for training.

Manufacturers in the Edinburgh district objected to the tax on behalf of the scheme. They had been promised relief from all taxation when they set up in business. They obtained relief in spite of the opposition of the Edinburgh magistrates.

The new force was first employed in the winter of 1677-78 to deal with the disturbed situation in the West County, and its behaviour caused the Council a good deal of concern. Many of its Island units answered the call to arms very reluctantly. Only after repeated orders did they take to the field; and while on the march, and in the field of operations, they deserted in large numbers. So numerous were the desertions from the Edinburghshire units, of which Loudendale

was Colonel, that the Council had to pass a special act against them. The force did not justify Lawrences's proud words to Charles in 1663, "Of his majesty's service in any of his dominions due require the assistance of this kingdom, he may confidently promise to himself a more universal concurrence of the body of this kingdom for maintenance of his authority, either within Scotland or in any other of his dominions, where and when ever he shall command their service." 2

On November 11, 1678 3 Charles informed the Council of his decision to remove the force. Its present constitution had proved unsatisfactory. It was now decided to form out of the existing force, a smaller, and what was intended to be, a more effective force of 5,000 infantry and 500 cavalry. It was to meet for four days each month for training - its expenses for ten months to be borne by the heritors, and the remaining two months' expenses by the State. The new model amounted to what was practically a standing

3. P.C.R. vol. VI.
army, and it pleased the lieges less than the old. A letter from Charles in December 1679 implies that the Council had done little to further the scheme. In July 1680 the Council was discussing heatedly the opposition which was being offered to its efforts at carrying out the royal orders. Another letter from Charles in October urged the Council to get on with the work, and to deal smartly with those who were holding it up. A glimpse of the opposition with which the Council had to contend, is given us in a Register entry dated November 18, 1680, "Complaint by the Advocate against Sir John Scott of the rumour for inciting against the new model of the militia." In the house of the Provost of Edinburgh, "upon the Stairhead of the back entry" Scott had remarked to several gentlemen present, about the new model, "let us lay our heads together and sticke together, and positively refuse, and in spight of the king and the Counsell, it shall not carry." It did carry however, thanks to the speeding up of the work of organisation done by the Duke of York, who

2. "  "  " 491-3.
3. "  "  " 549-50.
4. "  "  " 575-6.
made that part of his business, when he came down to Scotland in October 1680."

In the meantime changes had taken place in the composition of the standing army. In 1673 two companies of foot, and three bodies of horse had been raised; but the former were disbanded in 1675, with the exception of 100 men, who were drafted into the foot guards. Rothes' troop was also disbanded in 1676. In 1678 two highland companies of foot were raised for police service in the highlands, and the army increased in strength by the addition to it of four new corps of horse and a regiment of foot. Three years later the last increase of the standing forces to take place in our period was made, in the raising of a new regiment of dragoons.

The Council had therefore at its command during the greater part of its career, a force which in normal circumstances could have served it adequately in the interests of law and order. But used as the force was, and had to the

4. Nalton. (1) 44.
5. " " 61.
in dealing with the presbyterian non-conformists, it was not sufficient to do all that the Council required for the enforcement of its authority. We shall see later how weak the Council found itself, through lack of adequate military force, in dealing with the turbulent Highlands, where its authority had to depend for support on the precarious assistance of the feudal superiors.

In 1670 the Council was once more compelled to make its will directly felt in the disaffected western shires, as it did through the High Commissaries Court, by sending several of its members west to deal with the ecclesiastical law-breakers. The Duke of Hamilton, the Earls of Hincardine, Linlithgow, Drumgarry, Drummond, the Lord Clerk Register, and Lieutenant General Drummond were sent to Glasgow on April 27 to exercise jurisdiction over the Shires of Lanark, Renfrew, and Argy... "As freely and fully in all respects as are grumous if our Councils might, doe themselves."

Similar commissions were given (a) in 1674 to the Earls of Mar: Kinross, Kellie, Kincairnie, Wemyss, Stirling, and William Stott of Torosay, to deal with the recusants in the Shires of Fife and Angus; and (b) in 1678, to the Earls of Mar: Atholl, Perth; Glencairn: Moray, Linlithgow: Wigtown; Strathmore, Caithness; and Lord Ross to act in conjunction with the Highland Host in subduing the western recusants.  

In 1671 it was decided to enforce the Council's authority throughout the land by sending out the Lord Justice General (Atholl), the Lord Justice Clerk (Sir John Home of Ranton), and five Lords of Session, to hold Justiciary Courts at Dumfries, Edinburgh, Ayr, Stirling, Perth, the Dees, and Inverness. But owing probably to the opposition of the heritable jurisdictions, this arrangement was postponed in 1672 until 1673, and again in 1673 until 1674, and it did not materialise until 1683, when the jurisdiction of the courts was confined to the Shires south of the Highland line, and their form assumed that of circuit courts conducted by the Lord Justice.

1. SCRO VOE IV. 254-7.  
2. " V 319-20.  
General (Perth), the Lord Justice Clerk (Richard Maclaurin)
the Lord Provost (Sir George Mackenzie), and three lords
of session, Doull, Cockburn, and Balfour. They
met annually in the course of their itinerary
at Stirling, Glasgow, Rye, Dumfries, and Edinburgh.

For the Highlands different judicial machinery
was erected. On August 9, 1682, a commission
was issued appointing commissioners in each
of the three north of the line, including Angus, to
meet twice in the year and to hold justicecy
 courts within certain areas allotted to these.
They were also expected to send representatives to
central courts which were to be held from time
to time under the presidency of Lieutenant
General William Drummond. Justicecy courts
had already been held at Drumoat in 1677–
and 1678 in 1677 by Argyle, Murray, Atholl, and
Caithness; and in 1678 by Argyle, Murray, Caithness,
Mcintosh, Torrance, Campbell of Lorne, and Colonel
Mackenzie, but they had proved ineffective.

3. " VI 35.
In 1677 a saving of the time and labour of many of the Councillors was effected by the appointment of a Committee of Public Affairs. A precedent was found for the arrangement in the procedure of former Stuart Councils where practice it was "to appoint a Committee of their number to meet in time of vacancy to take care that acts, orders, and results of Council may be put in execution, and to omit such acts and orders as they should think necessary for the security of the public peace of the kingdom". The Committee, composed of Councillors, was given power "to do everything during the times of vacation as the Council might do themselves if a quorum were sitting". Up until 1681 it functioned only during "the times of vacation". But from 1681 to the end of our period, it appears from the Council Register that it continued to function with limited powers while the Council was in session, when it dealt with business remitted it from the Council for judgment, or execution.

1. R.C.R. Vol E p.229. (Sept.6)
Further relief was granted the Councillors in 1683 when on December 13 a letter from Charles was read to the Council "Commissionsing his 7 great ministers of State to manage all affairs herein." The relief was not disinterested. According to Fountainhall it was devised against the Chancellor, Aberdeen whose enemies had "represented to the king and York that it was never safe to the government nor pleasing to the nobility that all the representations of our affairs should come by one channell, viz. the Chancellor's only." Nor was the relief welcomed. "They are as the articles &c Parliament," says Fountainhall, "so to be a preparatory committee to the Thirty Councill, to mould, frame, and prepare matters; so that the rest of the Councillors will have little more to due same to ratify their conclusions (as the Exchequer says these ten to what the Treasurer does). There is nothing to be proposed in Council and no account of affairs or recommendations to be transmitted to the king but by theirs."

Burnet reckoned the eight years of occupation to have been a time of great prosperity for Scotland, because of the large amount of money spent by the English army of occupation. He had more substantial ground for the judgment that they were a time of great peace. While Monk was in control at any rate, Scotland was governed with such strength and fairness as she had seldom known. The abolition of the hereditary jurisdictions and feudal superiorities made possible the creation of a judicial system which with the support of the civilian garrisons, and a mobile military police force, operated efficiently in the interests of law and order. Even in the Highlands where authority had to face its severest test, the English government compelled respect. "Where there was nothing but barbarities," wrote John Drummond to Turloe in January 1656, "now there is not one robber all the year, although formerly it was their trade."

they lived by to rob and steal." From Porthmone came
the testimony three months later, "I cannot but
acquaint you of the great conformity that this
new establishment of justices of peace hath brought
upon the heads your country, Porthmone. So that
for fear of the justices and constables there is neither
an upright man nor well-ordered man that has taken
in these bounds a night's meal for naught, or dare
so much as carry a wand, nor have young
magistrates with their arms been seen in this
country since the election; the like which
hath never been heard of before." Monk made
no vain boast when he reported, "we have as
much command of the hills and highlands,
they more than ever any Scots or English had
before." In wildougher itself "the last two
years of his government, were considered so
wild and moderate that the nation would not
have willingly changed it for any other, but
that of their natural prince."  

1. Scotland's Protectorate XLIII.  
3. " " XI. III.  
4. " " X. III."
But with the Restoration this happy state of affairs came to an end. It was no longer possible for a man "to ride all seconfed with a switch in his hand and food in his pocket." He required more than a switch to make him feel secure.

In which the citadels were dismounted and the English forces were withdrawn, the spirit of leniency which had been so rigorously repressed but not destroyed, broke out again, particularly in those areas of age long disorder the Border and Highlands. So that when the Privy Council, which was committed the task of maintaining the peace, began its work, the situation with which it had to deal was pregnant with trouble. Nor did the Council have means capable of dealing with it effectively. In the absence of an adequate military police force, efficient government was impossible. The Council had no alternative but to resort to methods of government which within the restored system of hereditary jurisdictions and

'Burton's "Diary": IV 1668.
feudal superiorities, not only failed to work satisfactorily, but tended to make worse the ills they were meant to cure. With the result that only towards the end of our period did the Council succeed in making its authority felt in the Borders and the Highlands, and even then its grip on both was very insecure. The difficulties with which it had to contend will become apparent as we proceed in narrating the history of its rule in these areas.

It is stated in none of their sessions did anything to deal with the problem, with the exception of giving a decision to which reference will be made later, which made the task of the Council more difficult. Its action was left entirely in the hands of the Council, and immediate attention was given to it when the Council began to act. On July 18, 1661, the Acts of Parliament passed during the reign of James VI relative to the Borders and Highlands were committed to a sub-committee of the Council.
for consideration "between and the next meeting, that then the Council may think upon some course for preserving the kingdom in quietness." A week later the Highlands came up for discussion: but the Borders, with which we shall deal first, did not find a place on the Council's agenda until November 5; on which date the Ears of Stone, Annandale and Jeddington were asked to speak with the Laird of Toros (Sir Gilbert Elliot) and others interested and to consider how the Borders and inhabitants there may be secured from thefts and robberies and to report to the next meeting.

Not until December of the following year was anything further done to deal with "the daily complaints made ... of frequent robberies on the borders." 3 On November 6 the Council had urged Charles to grant authority for a "Commission for regulating the borders to come on either side as was done in former times," because of the "many supplications signed in by the heretores and inhabitants"

1 C.R. Vol I. 11
2 " " 71
3 " (306-9.) 277
of our southern shires... touching the insolencies, murthers, slaughters, uttercies, depredations, theftes, and other nefarious crymes committed day and night on thence be the mosse troupers thewies, robbers, and other wicked and lawasse persons...!

The Commission was appointed on December 16, when the Earls of Roxburne and Stadinghin, and nineteen other gentlemens from the shires of Roxburne and Dunfermline were given authority (1) to carry arms "stagbutts, pistols, and other warlike furnizone" in discharging their duties; (2) to arrest, apprehend, try, and punish all lawbreakers within their bounds; to root them out in the event of flight... no responsibility to rest on the Commissioners if in the course of executing their Commission innocent parties were injured or killed; (3) to confer with any Commissioners appointed for similar work on the English side of the Borders.

On October 13, 1663, their jurisdiction was extended to include the parishes of Dable Egeron, Benavie, Ellis and Warchup, from which had come reports of "refarious cries". But the lawless Borderer required several years experience of such Commissions to induce respect for their authority. The case of Henry Post, a notorious English highwayman with whom the Commissioners had to deal in 1665 indicates something of the difficult nature of their task. While the Duke of Buccleuch, Sheriff of Roxburgh, and John Scott, his deputy, were holding court at Jedburgh, information reached them that Post, the leader of all who travelled between Scotland and Newcastle, was drinking in an alehouse at Oxenham, two miles away. Scott was sent to arrest him. The highwayman was found drinking with several Scots and English cronies. The Deputy appealed to the Scots for assistance in arresting Post. They refused one of them threatening Scott with the sword, preferring "their unlawful
friendship with the notorious thief to their duty to their country. They were at least persuaded to sign a bond promising to produce Pott when he was summoned for trial. But Pott did not appear for trial. The Deputy was as soon out of sight then the Englishman disappeared and left the Scots to face the music. The Council ordered them to be imprisoned, and a fine of £50 to each of them if Pott was not handed over to the Sheriff within 15 days.

Close cooperation was needed between the English and Scots Commissioners if such men as Pott were to be brought to book and his escape may have had something to do with a meeting which took place shortly afterwards between the Commissioners at Montpensier. On December 21, 1663, Scott gave the Council a report of this meeting at which certain measures for co-operative action had been agreed on by the Commissioners for "the more effective suppression of crime."

O.C.R. Vol II 120-21
Between the Council and the Commission there existed a lack of correspondence which in 1669 began to give the Council concern. One of the conditions of the Commission was that the Commissioners were to give an annual report of their proceedings to the Council. This apparently had not been done. For on January 28th, 1669, a peremptory request for a report accompanied the renewal of their Commission. On February 10th, John Reddie, the Roxburgh Sheriff, decided to give bond that before the first Wednesday in April, the Commissioners would "by one or two of their number sufficiently instructed for the rest, give an account to the Council of their procedure and prosecution of their Commission granted on May 3, 1665". Three years later, another demand for a report shows that disregard for the Council's authority continued in the part of the Commissioners. "No answer," complained the Council, "has been yet offered of your proceedings."

1. A.C.R. voe II 592-3.
2. A.C.R. voe II 676.
3. A.C.R. voe III 520.
What happened in the house of the Sheriff of Selkirk and in the town of Hawick at the end of March 1672 illustrates both the lack of cooperation which existed between the Council and the Commission, and how lightly the authority of the Commission was regarded.

Patrick and James Shaw were given authority on December 21, 1671 to arrest certain gypsies who made it "hardly possible for honest people to travel in the country or keep their houses, there being drives from frequently assaulted by them."

If the arrested gypsies were condemned, the Shaw had also authority to transport them. There seems to have been bad blood between the Sheriff of Selkirk and the Shaw: for on March 27, 1672 they broke into his house at Philipshaugh and created a disturbance, in the course of which they wounded one of his servants. On the following Sabbath they committed another breach of the peace at Hawick.

It is possible that they were only doing their best.

1. Vol. III #98 (R.C.R.)
to make up for the remissness of the Sheriff, and that he represented their interference under the authority of the Council. He accused them of abusing their authority, of *oppressing and hanging upon the people* under pretence of executing their commission. He appealed for the recall of their Commission. The Council recalled it and imprisoned the strawberries in the Edinburgh tolbooth.

It was this kind of thing, which was before the Council on April 4, 1672, that lay behind the appeal of rovers and gentlemen of the shires of Roxburgh and Selkirk for a new Commission, on the same date. They complained that abuses continued to be committed on the Borders by men, croppers, and others. The strength of the Commission, appointed on May 1—which included the names of the Duke of Buccleuch, the Marquis of Douglas, and the Earls of Roxburghe, Hastings, Cumnor, Annandale, Berwick, and James—is suggestive of the weakness

1. R.C.R. Voe. III 507-8
2. R.C.R. Voe. III 507
3. R.C.R. Voe. III 517-20
of previous Commissions, and of the seriousness of the situation which demanded the new Commission.

The history of this fresh effort reveals another of the burdens under which the Council laboured in furthering its authority in the Borders. The Royal seal was required before the Commission could function authoritatively. It had not arrived on February 13, 1673 when the Council was again informed "that wranglers, depredations and other outrages are and have of late been frequent in these parts than formerly." 1 In 1674, while still waiting for the seal the Council was compelled, "by reason of the great increase of these disorders" to set the Commission in action. 2 Not until November 5, 1675 3 did the seal come to hand. "Under these conditions," says Hume Brown, "it was impossible for the Council to act with the vigour and decision requisite to the maintenance of its authority." He makes Lauderdale's absorption in other business responsible for the delay.

1 R.C.R. IV. 12-13
2 R.C.R. Voe IV. 211-24
3 R.C.R. Voe V. 14-86
During the next few years, the Borders provided the Council with very little business. The absence of such complaints about the activities of the moss-trooper, as had reached the Council frequently in preceding years would lead us to believe that the Commissioners had succeeded in making a salutary impression on him and his kind. On January 18, 1675, there came before the Council a judgment of the Commissioners which revealed how vigorously they were enforcing the law—too vigorously in the opinion of one of their number, the Marquis of Douglas: for he supported the appeal against the judgment in question. James Elliot had committed theft, and had been sentenced to death for it. On January 18 his sentence was postponed to February 8, and the Commissioners were asked for an account of their procedure against him. On February 11 the death sentence was again postponed until July 10, and a

1 C.C.R. Vol IV 328.
2 C.C.R. Vol IV 165-6 Vol IV 3 42
letter was written to Lauderdale on behalf of Elliot in which the Council pointed out how unwarrantable his crime was, and mentioned how the Marquis of Douglas had interceded for him. What happened to him the Council Register does not tell us; but its silence probably means that he was finally reprieved.

In 1677 two other instances are registered of the Council's interference with the jurisdiction of the Commission. On June 7, 1677, the Council discussed the petition of Thomas Gladstone. He had some property to which Thomas Irving laid claim. Irving obtained authority from the Commissioners to take the property from Gladstone by force. He had done so, and had Gladstone imprisoned. The Council prohibited the Commissioners from proceeding against their prisoner. Four men of the name of Johnston had been imprisoned by the Commissioners at Dumfries. They appealed against the sentence of banishment passed on P.C.R. Vol V 165-6
them. The Council on October 5, 1677, ordered their remonstrance from Dumfries to Edinburgh, where they were kept in custody while their appeal was being further considered. On March 7, 1678, they were liberated under caution of 500 marks each, with the warning that if they ever further committed the crimes for which the Commissioners had convicted them, the penalty would be death.

To this procedure the Commissioners were bound to make objections. It tended to weaken their authority. It encouraged appeals from their tribunal to that of the Council; and though the convicted had the right to appeal, the Commissioners felt that the less the Council countenanced these appeals the better it would be for law and order in the Borders. At least they said 20 to the Council. On January 27, 1681, the Council was concerned with "the procedure and sentences of the Commissioners of the Borders." Their administration had evidently been again provoking criticism and complaint. Aware of possible
action on the part of the Council which might still further cripple their power, several of them lodged a petition on 24 February 1681, "craving that their decrees may not be prejudged by granting suspensions and reductions." They represented "how much the granting of suspension of decrees of the Commissioners of the Borders adenachoness thereto or bringing the same under review by way of reduction may prejudice the execution of the Commissioners granted under the great seals of both kingdoms." The petition seems to have had effect: for the Council Register has no further reference to the matter. The Commissioners were apparently left with a free hand to carry on their work, unhampered by the interference of the Council. The last mention of them in the Register during our period is in a minute dated September 16, 1684. 2 Which registers an order to them to proceed vigorously conforme to the Commission's nominaling of the Commissioners granted by the King and Council for punishing

1 R.O.R. Vol VIII 43.
disorders and enforce in the bounds of their Commission. The allusion to other Commissions introduces us to judicial measures, which had been in operation since 1678, instituted to deal with a new element in Border lawlessness, viz. religious recusancy.

This form of lawlessness did not come within the jurisdiction of the Border Commissioners as such. It was left to the Sheriffs and their deputies to deal with. They had neither the power, nor had some of them the will to execute the Government's policy in regard to the religious recusant. In 1678 he had become so disturbing in the Border county, that Cleaverhouse and Captain Inglis with troops of foot and horse were sent into Dumfriesshire and Furnessdale to enforce the law against him. Cleaverhouse soon found his commission obstructed by the conditions within which it had to operate. He had to reckon with the bounds and powers of the hereditary jurisdictions which were creating difficulties for the Council all over the land. He could not cross the bridge at
Dumfries, because, "the one end of the bridge of Dumfries is in Galva." The Dike bounded his Commission. He was dependent on the Sherrifs and their Deputies, who were not always as diligent in their duties as he wanted them to be. On January 28, 1679 the Council decided to remove these disabilities, by a measure, the purpose of which was "to combine civil powers with the military authority of officers, on whom it could depend for a more vigorous prosecution of the law than the heretofore sherrifs and their deputies had done." New sherrifs and deputies were appointed where necessary in the disturbed areas, which included the Sheries of Hadlington, Dumfries, Berwick, Roxburgh, Higton, and the Stewartries of Annandale and Kenn cand Higton. On March 11 (27 February 1679 as Prof. Terry dates it) Cleaverhouse and his Lieutenant Andrew Broun of Earshale were appointed sherrif-deputies for the area. Dumfries, Annandale, Higton, and

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1. Smyth, "Letter to J. Graham, Cleaverhouse, A.D.
   (Kennytarget Club)
3. A.C.R. "M. M. M.
4. Terry, "Cleaverhouse" A.41
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* Greenway had been added to the jurisdicition of the Border Commissioners on 22 June 1679
R.P.C. Vol. IV, pp. 415-16
Kirnheadbright—with Sir Robert Scleroon they set out to cooperate with them in Wigtown, and Capt. Paterson in Kirnheadbright. In January 1682, the Council's hands were still further strengthened in the South Country by the promotion of Claverhouse to the office of Sheriff of Galloway which had been forfeited by itsholder through his refusal to take the Oath. He was also commissioned to act as formerly in the capacity of Sheriff-depute in the adjacent jurisdictions of Dumfries, Annandale and Kirnheadbright, seeing that it was his duty to suppress religious disorders "de remiss from one jurisdiction to another when they are called in question and pursued." On April 1, he was able to write to Queensberry: "This country now is in perfect peace... In Dumfries not only almost all the men are com but the women have given obedience... and so it is all over the country." And on May 15, he received the thanks of the Council for the good work done by him in Galloway.

2. R.C.R. vol. VII.
4. R.C.R. vol. VII. 431
But before the year was out Colaverhouse, as the Border Commissioners had done the previous year, had to seek the Council's support in executing his Commission, because his authority was being weakened in Galloway by the procedure of Sir John Dalrymple, Bailie of the Regality of Glenluce. The Dalrymples had given a good deal of trouble to Colaverhouse by their sympathetic treatment of the recusants within their bounds. On March 5, 1682 he had informed Queensbury: "Here in the shyr (shire) I fynd the lairds are following the example of a dead great man... (Sir James, Sir John's father who had fled to London to escape the operations of the sect) which is to leave (live) regularly themselves but have all their houses constent hants of whiles... But I am resolued this jest shall pass no longer here, for it is lawing and forting the soomnent. In August he challenged the jurisdiction of Dalrymple by arresting a number of Dalrymples' tenants on the ground that they were absent from...
Churches and Conventicles. On August 30, Dalrymple presented a bill of suspension to the Privy Council alleging that he, as heritable warrice of the Regality of Glenluce, had first attacked and prevented Clavanhose and cited them; and so was preferable both in diligece and to the casualties and emoluments of the gyme. Clavanhose answered that "Sir John's decrees were but custome and not to be resisted." The Privy Council ordered the release of the imprisoned tenants, took charge of the fines, reserved the point of juries' vicinage, and who had a right to them... the argument, to the debate, and "gave a check and reprimande, that Heritable Barlyies or Sheriffs, who are negligent themselves in putting the laws to execution should not offer to compete with the Sheriff's commissiomat and put in by the Privy Council, who executed rigorously the King's will." This did not satisfy Clavanhose. The Bishop of Galloway showed his dissatisfaction. The Bishop assumed the Lord Clerk Register on Oct 11 "that the supporting of Tolures..." C. R. Vol VIII 542. Aberdeen "Letters" 1/71. 2. Fountainhall "Notes" 873-4.
there (Galloway) is positively essential for the quiet of that shyre, and thinks the consequences will be bad if that be not done, and that, doing it will bring that shyre as well to a real and true as to outward submission." The Council was not unsympathetic toward Cleaverhouse. It had sent a letter to him on September 20, urging him "to put the laws to execution, and promising to assist him; which he desired, because he heard that people were, since Sir John Dalrymple's process slackening." The Duke of Hamilton had "sprinted much at" the sending of the letter, until the Lord Advocate said that he "had seen accounts which made it necessary." But Cleaverhouse was determined to humiliate Dalrymple, and to remove him out of the way; and on December 14.³ Dalrymple was indicted by cleaverhouse before the Council. He was accused of weakening the hands of the government in Galloway by "traversing and opposing (cleaverhouse)".

¹ Aberdeen "Letters." 1689.
² " " 77-78.
³ Journals. 1688-89.
in the exercise of his Commission: of employing "disloyal and disaffected persons" to the bailies and clergies in the regality; of having taken no steps to impose the bounty until after January 1682; of imposing mock fines on delinquents "not the 50 or 60 part of what the law appointed" and "only to prevent blameworthy fines; of having discharged tenants from attending sheriff courts summoned by blawnhouse; of illegally appropriating fines; of offering a brieve of £150 to blawnhouse "to convince at the irregularities of his mother Lady Stain, his sisters and others." The case upset fountainhall "raised much transport, blame, and rumour." On February 12, 1683 the Council gave its decision. The pretege of blawnhouse was restored. Dalrymple was deprived of his regality bailieship, fined £500 and ordered to be imprisoned in Edinburgh Castle until the fine was paid.
In April yet another bit of judicial machinery was created for work in the Borders. Calveryhouse had gone up to court in March, and had there given an account of his commission in Galloway. He had evidently stated his case of the part of "Turksh" in the Council to some purpose. For on April 13 a Royal Proclamation instituted a circuit Court of Justice which was to include in its itinerary Dumfries and Jedburgh. Its work was to complete within a larger area the task which Calveryhouse had undertaken in Galloway. Calveryhouse was ordered to accompany the Court and was with it in Kirkby when news reached the Council of the Rye House Plot. He was recalled by the Council and was asked with two others to draft a proclamation to deal with the crisis. On July 5 he was in the Borders organising a military watch to cope with any rebels who might come over the Border into Scotland.

* Professor Lerry thanks with good reason that the substance at least of this report is to be found among the "Aberdeen Letters," pp. 107-111.
The Justiciary Court was in the meantime doing its work. The judges Maikland, Loulis, Lockhart, and Balfour began their Border sessions at Dumfries on June 26, and at Jedburgh on July 3, accompanied, in the interests of their authority, by an armed escort: their jurisdiction chiefly concerned with the recusants, particularly those who were reluctant to take the Test.

The Court was again resumed on September 6, 1684, when Glaverhouse, Dumfries and Queensberry were appointed to act as judges for the shires of Dumfries, Wigtown, and the counties of Annandale & Kirkcudbright.

Such then were the other commissions mentioned in the Council minute of September 16, 1684, notwithstanding which, the Border Commissions were urged "to proceed vigorously conforme to their commission." It was little wonder therefore, in view of such measures, that by the time our period closed, the Councils...
authority was being given a large measure of respect. The situation there was well in hand, judging from the few references to it in the Council Register. The results achieved showed what could be done in the matter of subduing the lawbreaker, had the Council been free to employ its armed forces throughout the whole land as they had been used in the south country. For the comparatively slight concern which the Borders gave it after 1678, the Council owed its thanks chiefly to Blairhouse and his men. His methods of repression may have been severe, more severe in regard to ordinary law-breaking than he wished them to be, for he wanted the Council to give him authority to reduce the death penalty for theft to whipping or banishment, but they were evidently salutary. Covenanters and moss-troopers alike may have detested him, but he was a good servant of the Council.
When we review the history of the Council's government of the Highlands, a different story has to be told. The task of maintaining law and order there was far more formidable than in the Borders. It demanded considerably more attention; it showed up more vividly the weaknesses of the Council, and its measure of success was much less commendable.

The appetite of the Highlanders for plunder was whetted by the poverty in which they had been left by the "late troubles", and the Clan system within which they lived encouraged their depressions. It gave them a conscience which troubled them little beyond the bounds of their own Clan or of the Clans with whom they were friendly. Especially did they regard the property of the "land owner" as their legitimate prey. They honestly believed that they had been deprived of the richer lands of preland by the lowlanders, and that they were,
entitled to get their own back as far as they could.

The system gave them a large measure of protection. When the administration of justice was in the hands of their chief, they could afford to make their lawless ventures with a light heart. If they succeeded in returning with their spoil to the shelter of his jurisdiction, they had little to fear.

On the other hand the system provided a rich soil for the production of clan rivalry and strife. Monk had impoverished its soil in that respect by the removal of feudal jurisdictions and curiosities. With their return at the Restoration, clan dissensions began to appear again. The Camerons for instance had enjoyed under Monk's government a temporary relief from the feudal claims of Argyll, Huntly, and Menteith. After the Restoration the Cameron country of Lochaber became through the resentment of...

[...]

those feudal rights, one of the most troublesome areas in the Highlands.

In these circumstances the Council's will be governed was well fettered. It had to deal with powers which it could not afford to challenge. It had to rely on their precarious administration grow and order. It had to give them support even when their procedure sowed the seed of further trouble. Its sympathy may have been with Lochiel in his dispute with MacInnes, and with Mehan in his dispute with Argyle, but its utmost assistance had to be given to MacInnes and Argyle. All the efforts of the Council to deal with the situations fell far short of the radical measures which alone could redress it. Had the power used in dealing with the Covenanters, been spent in reducing the Highlanders to obedience, the Council would have written a norther chapter in the record of its government.
On July 25, 1651, a strong Committee was asked to consider and recommend to the Council that steps should be taken to secure the peace of the Highlands. It was decided that the line of procedure should follow that laid down in the Acts relating to the Highlands, formed during the reign of James VI. Chiefs and land-lords were to be made responsible for the good behaviour of their clans and tenants. Letters were issued to them commanding them to appear before the Council on October 1. "A find caution and secrecy, for themselves, their men, tenants, and tenants, and indwellers upon these lands, tenements, stedings and possessions or within these bailies that they not nor any of their commit any monstrous reft, theft, resift of theft, depredations open and avowed, fyrse raisings upon dyd ice funds or any other deeds contrair to Acts Parliament. Powers were granted to sheriffs to take sufficient securty of all such persons as are within their..."
bounds belonging to the Chiefs of clans, landlords, and others who are not content in the Council order, "whom they have reason to suspect guilty of thefts, robberies, etc., which bonds were to be returned from time to time to the Council Clerk "with all convenient diligence." Those who were summoned were neither able nor willing to commit themselves to the pledge. Only six of them put in an appearance on the appointed day. Several excused their absence "upon reasonable causes." The rest over seventy in number look no notice of the summons. The Camerons did most proudly and contemptuously disown the said change. The Council had a glimpse of the serious leak which lay before it.

The need for some method of keeping the Highlander in control became apparent. "The Highlanders are now breaking out & prey upon the low countries in robberies and depredations everywhere: the Dutch restrain which the English kept upon their heads being now

1 P.C.R. Vol I. 76
2 P.C.R. Vol I 55-6
3 P.C.R. Vol I 412
lacked, there is no right method as yet fallen upon
to punish or curb these savage courses at all." 1
So the Fraser Chronicle noted in 1665. But the
"breaking out" of the Highlanders had taken place long
before that date. The sheriff of Moray complained on
November 5, 1661 2 of thefts committed in Moray, that
happy hunting ground of the raiding clansmen.
In the spring of 1662 "the bounds of Lochaber and other
adjacent parts" were "so pestiled with thieves that
no gentlemen, tenant, or in habitant can assure
themselves of anything belonging to them." 3 Later in
the year reports of robberies reached the Council
from Strathspey and Badenoch.
In 1663 the Council had to deal with a more serious
affair than a cattle raid, when it had to issue a
Commission of fire and sword to Lachlan McIntosh
against Lochiel and his clan. A long-standing
dispute between the McIntoshes and the Cameron
over the lands of Glenluce and Loch Arkaig in

1 Waddell M.B.S. Fraser Chronicles (S.H. & H.) p. 457.
2 O.C.R. Vol I 70.
3 O.C.R. Vol I 196.
4 O.C.R. Vol I 410-16
Lachlan had been packed up through the mediation of Monk. It was opened up again by Mr. Intox, when the curb placed on him by Monk was removed. He brought the matter before the Restoration Parliament in its first session. He wanted the Estates to support his claim to the disputed lands. His claim was recognized. Cameron was advised caution not to molest Mr. Intox and his tenants in Glen Loir and Loch Awecraig under a penalty of 20,000 merks. But Cameron had no intention of yielding merely to Mr. Intox, or to the government. He had rendered good service to the king. He had the sympathy of men like Glencairn and Medlan in the Council. He had served with them in the Glencairn expedition. Their influence succeeded in holding up the decree of the Estates; and when in July 1662 Mr. Intox obtained a warrant to remove Lochiel and his clan from the lands in question, Lochiel decided to use what influence he had at court.

to achieve McIntosh. He went up Thomson and saw Charles Thomson, whom he pointed out "that his clan... would never part with their ancient dwellings without a great deal of bloodshed... that he had been a great part of his youth a fugitive and outlaw for his attempting to serve his Majesty... but that henceforth he must resolve to live among hills and deserts, a fugitive and vagabond, merely because he was Chief of a clan, for whom, though he was bound by the law, yet he was sure he could not answer when they came to be dispossessed by the ancient enemy of the family". Charles also regarded Lochiel's case sympathetically. But not even Charles dared to meddle with the law which recognised the Claim of McIntosh. He promised however to write "to my Council to endeavour to compromise matters, so as to prevent public disturbance", and sent Lochiel home with the encouraging advice, "In the meantime I still think

1 McVean's "History of Camerons", 156.
2 1569-7.
of your interest to hinder Macintosh, his attaining to possession; and I assure you that neither life nor estate shall be in danger while I can save them. He returned home determined to resist Macintosh. Charles in the meantime had fulfilled his promise in writing to Middleton: "...we are still of the same opinion that though we will not meddle in the point of law or right, which (we are informed) is already determined, yet we have thought fit to recommend to your care, to endeavour so to settle and agree them as the peace of these parts be not disturbed." The letter through the influence of Lauderdale was not read to the Council until September 4. So that when Lochiel reached Edinburgh he found that Macintosh had obtained a warrant for his removal from the lands in question. He sought the protection of the Council and was granted it until June 24. But once in Lochaber he snapped his fingers at

McKenzie's 'History of Cameron'. 157.
Council orders. Repeated commands were issued for his appearance before the Council, but he remained where he was. On August 28, 1663, he exhausted the patience of McIntosh, and the Commission of fire and sundry was issued. McIntosh however found it easier to obtain the Commission than to execute it. Among those authorised to support him in dealing with Lochiel were the Marquis of Montrose, the Earls of Caithness, Moray, Athole, Minto, Mersechal Mar. Dundee, Airlie, Hynne and several other Lowland and Highland landed gentlemen. Only four answered the summons and they were family relations. He made an unavailing attempt to carry out his Commission by the aid of his own clan: and at last in 1665 was compelled to come to an agreement with Lochiel. In January of that year Lochiel's influence in the Council succeeded in bringing the dispute before the bar of the Council. But the breach was "so wide betwixt them, that it was impossible to bring it to any satisfaction close."

\[\text{P.C. R. Vol I. 410-16.}\]

\[\text{McKenzie, 'History of Caithness'. 158-9.}\]
The Council's arbitration was refused by McInlos. He attempted to get away from the Capitol, lest pressure should be brought to bear upon him, but he was arrested by the Council, and detained until he found security that, and his clan should keep the peace. He was no sooner home than he began to organise his forces against Lochiel. He managed to bring two neighbouring chiefs into assisting him, and with this expeditionary force he set out for Lochaber on September 11. Lochiel awaited his coming on the opposite bank of the river Arkaig. They did not come to grips. Campbell of Glenorchy arrived on the scene with three hundred men, before blood was shed, and acted as mediator. His mediation was successful. McInlos agreed, as the Council had suggested in January, to sell the troublesome lands to Lochiel, and so ended "about 360 years after the commencement of the quarrel, one of the longest duration, perhaps mentioned in history," and

considering the strength of the parties, as bloody as any local feud of which there is any record.

In the settlement of the feud small credit was due to the Council. The part played by the Council in the episode was humiliating, and revealed how impotent the Council was to govern. McIntosh had on his side right which was recognised by both King and Parliament. It was the duty of the Council to see that his rights were secured. But every order of the Council issued in his favour had never been written. Their value was worthless. Cameron paid no attention to them. As valueless was the Commission of fire and sword. The Chiefs who ought to have obeyed it and rallied to the side of McIntosh disregarded it complacently; and McIntosh had to do what he could himself to establish his claims. Even if the Council had had the will to help McIntosh, which apparently it had not, the result would have been the same. The Council was dependent for
its executive power on forces over which it had little or no control. Alexander McDonald of Kippoch was among those who failed to find caution on October 1, 1661. Alexander Robertson was good enough to find caution for him on January 10, 1662.

The caution was needed: for in December of the previous year he had invaded the land of McDonald of Duart to burn houses, plundered and pulled down others, and drove away "hogs, sheep, horse and other beasts and thereafter killed his cows and oxen so dryve away be them and there upon disposed at their pleasure, and hunted and preserved there and his servants for their lives, so that they were forced to abandon their own country and to shelter themselves amongst strangers." 1

On March 4, 1662 he was prosecuted by Sir Alexander Burnham, Lyon king of arms, for failure to pay the maintenance levy. 2 Yet on April 6, 1662 he and Matthew Martin Cameron of Letterfinlay were given a Commission to arrest law breakers within

1 P.C.R. Vol I 140. 3 P.C.R. Vol I 179
2 P.C.R. Vol I 150-51
4 P.C.R. Vol I 176
the bounds of Buchan. The following year saw him included among those summoned to execute Mede's commission of fire and sword. The Council had to rely on some doubtful characters for service.

In December 1664, the independent attitude of the chiefs caused the Council concern, as did also the lawlessness of the northern country. A committee was appointed to find out how many chiefs had failed to find the required caution, and to decide how they were to be compelled to find it. On December 22, there was issued another order commanding the recalcitrant chiefs to appear annually before the Council with their cautions on the first Tuesday in June. On the same date the Council decided to establish garrisons at Braemar, Inverbuchan, and Ruthven of Breadner. The garrisons were to be each forty strong, and their fire and bedding were to be supplied by the local chiefs and tenants.

Footnotes:
1. O.C.R. vol. I 634
2. O.C.R. vol. I 638
were urged to deal with cattle robberies within their bounds.

There followed in 1665-6, the issue of a number of Commissions for the establishment of local "watches" to cope the prevailing lawlessness. One such Commission for a watch of twenty-five men was授予 to certain gentlemen in Bagnall: another to the Marquess of Montrose for a watch of not more than thirty men to protect the Lordship of Strath. And two more for watches of not more than sixty men each to heritors of the shires of Stirling and Dumfriess, and to the Marquess of Argyll. These watches had to be supported by those to whom the Commissions were granted.

On October 11, 1666 the Council made an attempt to lessen the "vagabond" element..."especially in the Highlands...where they do abound and are sheltered that the public causes cannot be execent against them" by giving a warrant for their arrest and

\[ A.C.R. Vol II 57. \]  
\[ S. A.C.R. Vol II 205. \]

\[ 2 A.C.R. Vol II 156-7. \]
\[ 3 A.C.R. Vol II 175-6 \]
\[ 4 A.C.R. Vol II 182-3. \]
deputation, to Captain George Grant, who in his wits was to have the support of all chiefs, landords, sheriffs, justices of the peace etc.

But a more effective method than any yet used was required to make an impression on the lawless Highlander. "Notwithstanding that there be many good and excellent laws and acts of Parliament for the quelling of the highlands and isles," complained the Council on August 3, 1667, "... theft, somaing, depredations, murder... doe abound and increase daylie." The complaint was the preamble to a Commission, on that date, to the Earl of Atholl, for the suppression of crime in the highland. Atholl was given power "to raise and keep such a number of men as he thinks fitt, the a constant guard for securing the peace in the highlands, and to watch upon the braes, and in other places where he shall think fitt, and when thieves and broken men do resort within the shires of

Inverness, Raem, Moray, Banff, Aberdeens, Mearns, Angus, Forse, Clachanefearn, Menteith, Stirlings and Wembarton. He was allowed £400 to meet the expenses of raising his force. W. Hume Brown is mistaken in remarking in his introduction to the second volume of the Priy Council Register 1665-9, that the "watchers" which we have mentioned were instituted because Atholl's force was inadequate for its task. The watchers were at work before Atholl received his commission.

Atholl seems to have done something to justify the commission given to him by the Council. For on February 27, 1668 the Council wrote to Hamilton. "We cannot but desire his majesty may be acquainted that ever since the time of Atholl had commission from the Council for preserving those of the last lands from the molestation of the thieves and robbers of the highlands, the country hath been kept quiet and free from all depredations as at any time heretofore."

1. R.C.R. Vol II Introduction "Highlands Session."
2. R.C.R. Vol II 1114.
and at the expiry of his Commission on February 4, 1669... "He has faithfully and diligently discharged the trust committed to him... He has done good and acceptable service to the King."

The value of his service, however, could not have been of such considerable value as the Council made it appear to be. For before many months had passed the unruly Highlander was giving the Council as much anxiety as ever. From George Leslie, Sheriff Clerk of Dunbar, came a supplication craving to be freed from the duty of collecting the Government taxes within the Sheriffdom. The inhabitants of his wide and wild district, which included Loches, Badenoch, Kinnoch, Moydart, Moydart, Glenpare, were not "legally disposed nor willing to his Majesty's dues, being infested with poverty and idleness", and worse, because "disobedience has been given by them to the parties of His Majesty's forces of a considerable strength. The relief he sought was granted.

In September, Sir James Campbell of Lawers had to commission to arrest certain "laxers and brokens men" among them William Bruce, a notorious thief, Peter Colack, and Patrick Mclean, murderers and thieves, and one Angus MacDonald alias "the young halded stirk" who seems to have been a thorn in the flesh of the authorities. He appears several times in Council registers. Two Acts passed by the Council in 1670, indicate some of the difficulties under which men like Lawers had to carry out their commissions. The first prohibited Chiefs from travelling attended by others than their domestic servants. "Dives inhabitants in the high lands," new the Act, "are in use when they travel them the country to be accompanied and attended by a number of house and idle persons not being their domestic servants and thereby occasion is given for stealing and robbing."

The second ordained that all highland drovers

1 A.C.R. vol. III 73-6.
2 A.C.R. vol. III 222.
3 A.C.R. vol. III 223-4.
should possess certificates of character. "Drovers, thieves and so on pretending themselves to be drovers" were under the shelter of their supposed occupation, committing "thefts and disorders". The drovers and other persons who drove horses and cows from the Highlands for sale had now to carry with them certificates testifying that they were bona fide and of "good behaviour". It was long for any of the heirs to hold them up and demand to see their certificates.

The chiefs continued to ignore the Council's demand for an annual peace bond. Many of them were honestly prevented from coming to the Capital through fear of arrest for debt, the burden of which most of them seemed to carry. Lord Macdonald for instance had to be assured on April 6, 1659 that he could "appear without hazard of capture". He was in the city on December 24th, 2 detained by stormy weather beyond the period of his permission.

[Re. R. v. R. 112]
His immunity from arrest was extended to March 1, 1670. But the failure of others to take the bond was due to other causes. The bond placed on the chiefs a burden of responsibility which they were reluctant to bear. With more will than they had to restrain the law-breaking propensities of their clansmen and dependents, such a task was beyond their power. It must also have offended their traditional pride to be asked to pledge their honours in terms of the Council order, especially to a Council in which the land and element was so strongly represented.

"The Earl of Argyll complained that they were too often spoken of as though they were beyond the pale of Christendom." On June 17, 1669 a Committee was asked to interview Argyll, Perth and Fultubardine, "because of some tendencies they have of late in the bond as it is conceived."

Perth and Fultubardine had been "excused" on April 8 until June 1. On June 3, Fultubardine

1 Land. Pap. Vol. III. 131

2 R.C.R. Vol. III. 6
was again "excused" until June 17. The Committee failed to persuade them to sign the bond, and they were commended by the Council to remain in the city until they did so. Atholl and Sullivan did in spite of the command left the city "without giving security for the peace of their countries." Their friends in the Council pleaded that the two Chiefs should be left alone until August: but they were granted only a fortnight's exemption. Perth, remained in the city at the Committee's request, but he also went away at each without taking the bond. For some reason or other Atholl's reluctance to take the bond is not mentioned in the Register. The service which he had recently rendered in the Highlands may have led the Council to take a lenient view of his case. By July 8 he had submitted. For on that date he and Lieut. General Drummond were asked to receive bonds from Perth and Sullivan who "through indisposition of health" were again "excused."

Such conduct on the part of the great Chiefs, and
the Council's partial treatment of it, was not
calculated to strengthen the Council's hands in
dealing with the lesser Chiefs. But once more
came a proclamation renewing the Council's
demand for an annual bond—this time with
the assurance that during the period allowed
the Chiefs for their journey to and from the Capital
"it shall not be lawful to any messenger or other
officer or magistrate to take or apprehend any of them
"for debt or any other civil cause be virtue of
letters of captions or any other precept or warrant."
Where those who were cited could not reasonably
travel to Edinburgh, Sir James Campbell of Lawers
was given authority to receive their bonds. He
experienced some difficulty in fulfilling his
commission, judging from an application made by
him for messengers-at-arms, who were hard to find
in the Highlands "for executing such letters as are

'O.C.R. vol 8. 52-9.'
necessary in procuring of the Commission."

In 1671 the serious state of affairs in Lochaber and the adjacent shires compelled the Council to make a new departure in its Highland policy. The tax collectors were finding it impossible to get the money due to the government; and worse still the Camerons and McDonalds were hampeting land and order under their feet. They had "lattice fallen out," and there had been a spilling of blood. The McDonalds also had taken possession of the "lands of Rannoch," the property of Sir Alexander Menzies, Laird of Menzies. For that offence they should have appeared before the Council on July 27 but they had defied the Council's order. On July 13, two hundred of the Earle of Kinnouls regiment were ordered to march to Lochaber. For the first time the council resorted to the use of the standing forces in dealing with Highland lawlessness. On August 1, the officer in charge received his instructions.

immediately to Lochaber; call together on the marches the tax collectors and weapon bearers, and furnish him with lists of the names of those who refused to pay their taxes; quarter his troops on the most obstinate of the delinquents; who were to be relieved from quartering on their finding caution for their promise to pay the overdue taxes in Edinburgh, before the following Martinmas; assist messengers at arms to fulfill their duty; impress horses if needed for transport purposes; enforce a commission of fire and sword against the delinquent reivers. The Earl of Moray was commanded to see that the force was provided with sustenance at reasonable rates, to give in lists of law breakers within his bounds, and to assist in when necessary. He was also commissioned to hold sheriff courts at Inverlochy.

The Earl of Moray did not proceed far in the exercise of his justices' commission. The commission had been granted "without prejudice to the land"
of McIntosh his right and privilege of the demesne of Hochebou. Circumscribed by the jurisdiction of McIntosh, Moray had little room in which to fulfill his commission. He attempted to overslip its bounds. McIntosh complained to the Council.

He resisted Moray's intrusion and interference. He had right on his side, and on November 16, the Council was forced to withdraw the commission. Much as the dispensation of justice was needed from without, when the jurisdiction of the feudal superior within the area was at fault, the Council had no power to override him. McIntosh could nullify the authority of the Council. Once more the Council was made aware of the exasperating limits of its authority.

Lindisfarne's expeditionary force seems to have fared no better, than Moray's justiciery efforts, in quelling the disturbed area. Hume and reported Thunderdale on December 14. ¹ "We are afraid of the peace of the Highlands by these two unhappy

¹ A.C.R. Vol III 403.
Claus Cameron and McDermid; and though the committee had met diverse times upon that affair, they cannot come to any point in it.

Lochiel had that day been before the Council, "called sumnerly... and required to find securry not to go off towns till he give satisfaction" for "a new murder and depredation committed upon the Medmards." If he failed to find securry, he was to be imprisoned. In February, 1672, Lochiel had a further complaint lodged against him by Alexander Robertson of Struan, for illegally interfering with his (Robertson's) tenants on the lands of Kinnock. Robertson had once before appealed to the Council for justice against Cameron Lochiel, but to little purpose. On August 14, 1666, Lochiel came to Robertson's lands of Kinnock, quartered about eight of his men upon the tenants, beat and threatened them, broke into and searched houses, and took away twenty six head of cattle.

1 Land Papers, Vol II, 219-220.
The Council fined Lochiel a thousand marks in his absence. Some of his clansmen who had been involved in the affair were, after a period of imprisonment in Edinburgh, released, ordered to restore the stolen cattle. But he never paid the fine, and nothing more was heard of the matter. Now he was accused of encouraging clansmen of his, tenants of Robertson of Struan, to ignore Robertson's proprietary rights in relation to them. They sold land belonging to Robertson to other members of the clan without taking Robertson into account: and they did so with Lochiel's protection. Their chief was fined five thousand marks. The Council's judgment was given on February 8. A fortnight later, Lochiel had not yet paid any heed to the judgment: and the Council in response to a further complaint by Robertson, issued orders for his arrest and imprisonment in Edinburgh Castle.

We have no evidence that he was imprisoned.
he paid the fine: though he may have been among certain clansmen brought from prison on March 9th to advise the Highlands Committee what should be done for "securing the peace of the Highlands!"

For the next two years Campbell of Invers was carried on the work of policing the North County. His commission was renewed on February 26, 1672, and again on February 13, 1673. On February 12, 1674 his duties were taken over by Major George Grant, who had done police work for the Council in the Highlands in 1666, and had acted as Governor of Dumfries Castle in 1668. The bounds and powers of Grant's commission were similar to those of Moray's Commission in 1667. In addition he was paid a salary of £200 and a bonus of £20 for each thief or murderer arrested and condemned.

In September he was given authority to hold local courts for the trial of his prisoners, in order to save the trouble and expense of bringing them to Edinburgh,

2. G.C.R. Vol IV 276-8
6. Dalby, "Scott's Army", p. 32.
and with the hope that local trials and executions might make an impression on the communities in the midst of which they were carried out. At the same time the threat of the cattle drovers to travel without passes was renewed, and sheriffs, stewards, and baillies given authority to arrest and imprison such as failed to produce the pass. Notwithstanding all that the Council had done to suppress Highland lawlessness, "the insolency and villanery of thieves, forgers, and other wicked persons," did "abound and increase" within the shires covered by Grant's Commission. 1 He set to work vigorously. Before the year ended, he had rid the shires of forty thieves by execution. 2 The bonus of £20 per head must have been a big inducement to diligent work, but it must have also disturbed the balances of judgment.

1 G. C. R. vol IV. 280-81.
2 G. C. R. vol IV 1357.
3 G. C. R. vol IV 378.
On September 2, 1674, the Council Register introduces us to by far the most serious disturbance dealt with by the Council in the Highlands during our period. viz. the feud between Boggel and the Meheaus "which threatened to involve the greater part of that country in the horrors of feudal war," and the history of which from 1674 to 1681 throws a lurid light on the inefficiency of the Council, made possible by the wicked conditions in which the Council had its function.

In December 1673, Boggel started proceedings against the Meheaus for the recovery of debts owed by them to him. They could not pay the inhabitant sum demanded from them, but the law allowed him to seize the whole of their land instead, and he proceeded to press his claim. The tide of popular feeling ran strongly against him, and it ran through the Council. The Meheaus had acted loyally during the late

1 C.R. v. 4.
troubles. It was far otherwise with the House of Argyle. The Earl was suspected of an "ambitious grasping at the mastery of the Highlands and Western Isles." The Highland Chiefs, especially, as he was injured to his discomfiture, resented his action. The letters sent to the McHears, giving them notice to quit, were issued by the authority of his own Sheriff Court, and "this in itself showed up the injustice of the feudal jurisdictions, for it was monstrous that the law should allow such matters to be decided in Argyle's Court, where the McHears' mortal enemy was both judge and party." 1 But he had the law on his side. He was powerful, and what was of greater value than this, he was under Lauderdale's protection. So that however much the Council may have sympathised with the McHears, it could do little for them. More deference had to be paid to Argyle than had been


2. "Rudyard Kipling's "Loyal clans."

paid to Mr. John of Torosdale: for Mr. John lacked the sympathy of Haughdarle.

The only redress available for the molestors was by the sword, and they decided to use it. They ignored the orders sent to them from the Sheriff Court. They fortified their Castle and prepared to resist Argyle. Letters of haming were served on them for refusing to appear before the Sheriff as Inverary on August 29, 1674. The messengers were given a hot reception.

On September 2, Argyle was given a Commission of Hie Prand against them, and authority to offer them an indemnity if they evacuated the Castle and laid down their arms. They refused to submit, and Argyle invaded the Island of Mull, seized the Castle, Garrisoned, and compelled the inhabitants of the Island to promise him recognition of his proprietor rights. The promise was not kept. Encouraged by the practical sympathy

\[ \text{Highland Masters Vol. 2: 261-3.} \]

\[ \text{C.C.R. Vol. 24: 263-9.} \]
of the Macdonalds, Camerons, and other clans, they threw off the zone of Argyle, and once more offered him resistance. In April 1676 they "convoked three or four hundred men in arms" who remained from April 22 to April 30 "in a warlike posture." They fortified the Castle of Caithness, and summoned freely goods belonging to Argyle. They were repeatedly summoned to appear at January Sheriff court, but remained where they were; and on July 22, Argyle obtained against them a renewal of his commission of his own crown. On August 3, he was authorized to offer them an indemnity if they surrendered, and to summon the militia if assistance was necessary. Letters of reasons were issued on September 1st deeming that they should lay down their arms; but they remained defiant, and at last Argyle decided to carry out his commission towards the

1. A.C.R. vol. IV 433-35

2. A.C.R. vol. IV 471-72
end of September. He set out with an experimental force in which was included 100 regulars and 100 militiamen. But the Meheaus were now reinforced by Mcdonalds, Camerons, and other clansmen, and this opposition in conjunction with a violent storm held up the expedition, and ultimately led to its disbandment.

On October 7, thanks to pressure brought to bear on the Council by Seaforth, Mcdonald, and Mcdonald and others, Seaforth, "for diverse good and weighty considerations importing his Majesties service and the peace of the kingdom," was commissioned to offer still another indemnity to the recalcitrant Meheaus, with the assurance that all charges against them would be suspended and protection afforded them while they journeyed to Edinburgh to lay their case before the Council. A company of soldiers stationed
in Mull under the command of Major Munro was
the withdrawn, but Hogge was allowed to retain
a garrison at Castle Stuart. By December 1676
S prawle was able to report to the Council that he
had issued the suspension, and that the Munros
had agreed to take advantage of it, but that
they were unable to find other cantons for their
defence to the Council's order, than what they
were prepared to give for each other. The Council
was satisfied with the mutual cantons.
and McEwan and Cameron were also cited
to appear before the Council with them.
But only McEwan, Cameron of Lochiel and some
of the Munros came to Edinburgh.
On July 13, 1676 the Lords "having heard the
libel of Hogge against "Lord McEwan, the
laids of Kerse, Brotois, Lochbuy and others",
remitted the matter to a Committee with powers

1 R.C.R. ROC XIV. 491
2 R.C.R. ROC XIV. 5
"To endeavour to settle the parties." The "parties" were not settled. The case dragged on into November, when on November 9 Argyll, his brother, and vessels were summoned to appear at the bar of the Council to answer a Charge laid against them by the Weavers of opposing them, keeping prisoners in the Castles of "Mull and Migherie in Morvern and other places": etc. Argyll and his party put in an appearance when the case was called, but the Weavers were absent. They were still absent on November 22, 16; and 23. Those of them who had come to Edinburgh in July had gone home. McDonald and Lochiel alone remained in the city and by November 30 they also disappeared. Argyll had good reason to complain against their conduct on the latter date. His complaint was sustained by the

1 R.C.R. v. 57

2 R.C.R. v. 59-61
Council, as was also a supplication made by him on December 7th appealing that any further suspension of his discretion against the McMeans should be refused until it was certain that they would come before the Council. The Council cancelled the existing suspension and refused to grant another until "the parties seek themselves at the bar"... and ordained "the suspension to be made first in the presence of the Council and upon sufficient caution other than one of them for another". Another suspension was granted to them on June 28, 1677.

An effort was made to close the dispute. The McMeans were again reluctant to appear as cited and on October 3 the suspension was cancelled as having been granted on grounds which were "frivolous". Argyle had on September 10 made an offer to the McMeans which had been rejected.

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1. R.C.R. roe V 73.
3. R.C.R. roe V 239.
Still hopeful of a settlement, and on January 24, 1678, the Lords, informed that "divers of the aforesaid persons (McHeaus) are willing and desire to have the benefit" of an indemnity offered to them in September 1677, but which had not expired, renewed it for a year. The McHeaus, however, continued defiant, and the Council could do nothing to redress the humiliating situation.

While all this was going on, it may be imagined that the Highlands were in a sorry state of disorder, and they undoubtedly were. Campbell of Lawers was again brought into the field on September 6, 1676 with a commission to arrest law breakers. "Persons of the clans MacDonald, Cameron, MacGibson, MacKale, and others their associates" were "very busy committing "rogs, thieves, and robberies" within the Shires of Perth, Stirling, Dumfriesshire, Fife, Kintyre, and Islay amongst. Campbell was to have the

1. P.C. R. vol. F 329
2. P.C. R. vol. 36
help of military force. A company of 120 strong was to be stationed for that purpose at Finlenig, Lord McDowell and Hochiel, and Dr. James McDowell. The justices were commended to arrest criminals who sought refuge within their territories.

Among the "wants" was McDowell "the Hatted Steer," who eluded capture. On October 12, Campbell reported the arrest of five of them. These were Mackinnons, one McDowell, and one McHae, and according to Fountainhall, his methods as countenanced by the Council were of a questionable character. In arresting the Mackinnons, those condemned to be hanged on December 20, 

"he cheered them," says Fountainhall, "... by a forged remission which was scarcely pia fraud, but only it was thought such robbers and enemies to mankind and humane society deserved to be hunted and caught as we do with wild beasts by nets and all means."

1 R.C.R. Vol. 4, p. 43.

2 Fountainhall, Notices I. 136.
The Camerons were before the Council on January 16, 1677, for plundering "at the instigation of Lucas" the property of John Campbell of Hind. Cows, horses, sheep, butter, cheese, plundering, clothes had all been taken away. Nothing more than restitution was demanded from them and 200 marks expenses. On September 6, the Committee of Public Affairs appointed on that date took over the business of the Highland, and on the 14th an effort was made to reconcile Lord Methven in appointing him to join association with Campbell of Lomar in the interests of Highland law and order. Each was to have a salary of 200 and a bonus if they merited it. Four days later Argyle, Moray, Stowe, and Caithness were commissioned to hold justiciary courts at Inverlochy on the last Sunday of October and the last Sunday of March.

2. R.C.R. Vol V. 239.
Atholl and their like part were ordered to send parties of their troops north to collect unpaid taxes. A garrison of 700 was to be stationed at Dunkeld until quarterly were ready for it at Inverlochy. On September 20th was requested to command his bailies 'cli' to suppress crime within his jurisdiction; to give assistance at the Justice Courts; to support the garrison; and with the co-operation of Lochiel and Maclean of the Sound, to all he did. But these measures did not wholly prevent. In November, the Council, alarmed by rumors of revolt in the Western Shires, recalled the garrison from Dunkeld, and in December the Highland Host was returned south. Matthew Mackay in one of his newsletters expresses the opinion that the Host was employed by the Council "in favour of Argyll to prevent combinations against him occasioned by his opposition of the Weavers." There is more reason.

1 C.R. Vol. E. 249
2 C.R. " 272
in assuming that the Council saw in the employment of the Highlanders as military police among the Covenanters, an even better way of diverting their lawless inclinations, than that which it had hitherto decided upon in the measures we have just mentioned. If so, the Council made a capital blunder. The "violence" of the Highlanders was not likely to be weakened by such a recognition of his worth, nor his taste for "deprivations" lessened by his lowland plunder. And McDonald was at an early date giving the Council a subject of the "violence". He was asked on August 15, 1678 to surrender his Commission. He ignored the letter, as he ignored another sent to him on September 13, commanding him to appear in Edinburg on September 27. On October 10 he was "peremptorily" ordered to appear on November 14.
In October the Council proceeded to carry out the measures adopted in 1677, but which had been held up by the incident of the Host. A commission had already been given to Campbell of Lawers and Colonel James Menzies to establish a garrison of three hundred highlanders at Inverlochy, to be reinforced by a hundred of Lochinver's men. On October 10th, Ross, Macauley, Cameron, McInnes of Pisgah, Campbell of Lawers, and Menzies were appointed to hold a Justiciary Court on November 22 at Inverlochy or any other place decided upon. Chiefs and landlords were commanded to report either at Edinburgh or Inverlochy and pledge themselves as in former years to keep the peace. A proclamation was issued against all manner of crimes. The laws against traveling chiefs and cattle drivers were renewed, and Argyll was once more granted a commission.

2. O.C.R. Vol. VI. 36-42
3. O.C.R. Vol. VI. 44
of fine and demand against the Metheams. Over the renewal of Rogaill's commission there seems to have been divided opinion in the Council. It was alleged that the Commission of fire and sword could not be directed against the Metheams because they had a standing suspension undismissed, and till that took a termination, they were under the security of the King's law. It was answered that it was the Metheams' fault that the suspension was not called. Yet it seems that Rogaill was as much to blame in the delay, since he might have discussed it either by presentation or a decree." Fountanhall who gives us that information also adds that the proclamation of the laws against crimes, and having revenues was "in favour of Rogaill's designs." Be that as it may, circumstances were shaping themselves distinctly in Rogaill's favour. The insolation of
And McDonald strengthenedrogue'shands. For
McDonald continued to treat the Council's orders
with contempt. He did not turn up on November 14.
He had written to the Council on October 22, and
in his letter had not so much as taken notice of
the Council's order of October 10. On November 14
he was summoned to Edinburgh to give an
account of himself on the 28. He was still
an absentee in December when a further
summons was sent Thiem on December 12.

John Young, who carried this summons, Thiem had
a sorry tale of his mission to tell the Council.
Young had gone in search of McDonald to
thuggery, accompanied by a trumpeter. They
were welcomed by twenty or thirty McDonalds
"most of them in women's apparel armed with
dusters and other weapons." The summons was
then served, the trumpeter broken, and Young and
the trumpeter had to flee for their lives.

1 O.C.R. Vol VI 58.
2 O.C.R. Vol VI 75-76.
3 O.C.R. Vol VI 122-3.
They had courage enough however to complete their task. They forced M'Donald at Arvemen, and delivered the Council's message. On January 9 the Council waited for him in vain. It delayed action in the hope that he would arrive, but there arrived instead from him "a most insolent letter". The Council's patience was exhausted. He was commanded to report himself a prisoner at Skirling within fifteen days, or be dealt with as a traitor.

M'Donald was also a Papist, and that helped Azgell. For the alarm caused by the Papish Plot, and the measures taken to deal with the Roman Catholic, gave a sinister aspect to M'Donald's defiance, and made it impossible for the Council to sympathise with him.

On January 23, 1679, a proclamation was issued calling upon all Catholics to disarm; and on
April 4, a letter was read to the Council from Charles authorising the Council to make use of "any part of the standing forces or the militia" in executing its Highland policy. "We do look upon the reducing of the highlands," he wrote "as a quiet and pacable disposition, and one entire submission and obedience to the laws to be a matter of very great importance to our service." He also complimented Argyle on his conduct in the McNair affair. With Argyle's "prudent deportment in the whole transaction upon that occasion," Charles was "very well pleased".

On April 12, Argyle was commissioned to raise a force with which to break the McDonalds and McNairs, and incidentally to disarm all papists in terms of the Act of January 23. In "not only the Protestant religion but the peace of a very considerable part of this our kingdom" were "very much endangered".

1. P.C.R. VI. 165.
2. Lords' Papers. III. 39.
By May Argyll had his plans ready for carrying out his commission. He Weheaus had rejected his advances and had joined forces with the McVeans. He wanted the military assistance which Charles had authorized the Council to use if "you see fit for cause to it."

The Council wrote Lauderdale that it "conceived it not fit to send any of the minded forces in this juncture when field conventicles are so numerous and such insolencies committed by number of rebellious persons frequenting the same in arms."

But the Earl of Balmerino, and the heritors of the shires of Dumfries, Dumbarton, and of Bute were commended to assist Argyll; and 1200 lds of powder and ball were to be sent to them. This modification of Argyll's plans by the Council, and its order to them on June 7 to desist from attacking the McVeans and Weheaus and to join his forces with those of

1 R.C.R. vol VI 203-5
2 R.C.R. vol VI 222
Limit your action against the Covenanters at Bothwell Bridge, and not simply that the Council was still antipathetic towards him in his efforts to master the rebels. Even if, as Woodrow alleges, that a number of the Council were in favour of cancelling his commission, and in favour of a petition from the well-wishers and rebels pleading that Hoptreth be asked to desist from attacking them so that they might be allowed to assist against the king's enemies, larger considerations may have been weighing with the Council than those arising out of personal feeling against Hoptreth. The situation in the South was serious enough without added trouble from the North. A rising in the North, provoked by Hoptreth, in conjunction with the rising in the South, would have been more than the Council could have managed to deal with. What was happening in the South demanded the Council's
Undivided attention. At any rate, Argyle was allowed to resume his task when the cloud of the Douglas revolt had passed; and on September 19, the Council sent a letter to Lauderdale highly commending Argyle's execution of his commission. "We find," it ran, "that the Earl has proceeded with great prudence and moderation, there being little or no bloodshed, and has always kept himself far within the bounds of his commission to the best of our information." He had not yet however succeeded in ending his long drawn out dispute, and the condition of the Highlands continued to give the Council concern. On September 20, "the Council having received information of the broken condition of the Highlands... thought fit to order 500 foot and 100 dragoons" into the shires adjacent to the Highlands, to guard the passes and braes from Dumbarton to Inverness.

1 R.C.R. vi. cf. R.C.R vi 333.
2 R.C.R vi 324.
In December a new chapter in the record of the government of the Highlands began. The written
when the Duke of York took his place in the Council.
"The personal rule of Charles II in Scotland had one
particular and fatal flaw not common to despots:
it was not carried on by, or under, the immediate
direction of, the king himself. ... It was despotism by
proxy; a monarchical government carried on by an
corrupt faction of the nobility. For this reason the
actual government was the worst possible exercise
that function of monarchy, which was to hold an even
balance between different classes and interests."

With the coming of the Duke to Scotland, the throne
was brought into more direct touch with Scottish
affairs, and a brighter prospect opened up for the
Highlands. Royal eyes looked directly at the
limited situation there. Royal sympathy with
the Chiefs in their grievances gave birth to the hope

A. Cunningham "Loyal Chiefs' Cause" 309.
that justice would at least be done: and the authority of the royal will conjoined with the respect of the chiefs for the throne gave promise that an obedience on their part, to measures adopted by the Duke, such as had not been given to the Council, was not possible. But his first visit to Scotland was too brief for him to do more than throw oil for the time being on the troubled waters. That he did succeed in doing. On December 29, he moved the Council to send letters to the Chiefs, summoning them to appear before the Council in January in order that they might be consulted about the government of the Highlands. The result of the conference was the institution of a new commission which made the great chiefs, Atholl, Menteith, Kersley, Moray, and Seaforth responsible for the peace and order of certain territories assigned to them. This step seems to have had a conciliating effect. For the Council wrote on February 17 to Charles about the Duke

1 N.C.R. voce vi 372
2 N.C.R. n. 393-398
3 O.ER. n. 399-400
two days after he had left Scotland. "He has quelled our Highland uprisings without encouraging any opposition at all." In March, the influence of the Duke was reflected in an incident, which occurred in the Council chambers, involving and witnessed by Council had stopped his pension. He demanded its payment, and even threatened "to cut the ears out of (Sir William Sharp's) head" for delaying to pay it. The Duke had befriended him, and that accounted for his arrogance, as it also accounted for "the notorials rebuke" administered to him for his offense by the Council. The Duke's influence was also behind a letter from Charles to the Council in July which suspended any operations likely to be undertaken to deal with Highland lawlessness, "in respect it was thought the King's forces might keep them in peace together with the engagement of the heads of the Clans for all that lives under their influence and old laws." On June 22 the Council had written

Charles, informing him of rovers... daily used by the Highlanders... these in neighbouring shires were put to great expense by keeping daily guards foremost of having some one who should be bound under surety to pay... for the depredations. He had also been informed of certain marauders with whom the Earl of Caithness had been given power to deal, within his jurisdiction. The Council had given assistance to Caithness by transferring them certain forces commanded by Rogge. Charles, in his letter on July 8 acquired in what the Council had done in the Caithness affair, but discouraged any further military ventures save by means of the forces settled in the highlands in September 1679. Reliance had been placed primarily on the old method of exacting customary bonds from chiefs and lairds. On October 7 however, the thieving of the Highlanders had become such a menace, that warrants had to be

1 R.C.R. vol vii 474-5
2 R.C.R. vol vii 490-91
3 R.C.R. vol vii 562
issued to the Marquess of Montrose and the Earl of Fife,
giving them authority to raise "watchers" to maintain
for policing the shires of Stirling and "parts adjacent" to Fife for policing the shires of Fife and "adjacent
parts of the shires of Dumbarton and Lanark, etc.

The Duke of York may have conciliated the Chiefs,
but he had done nothing to reach the Highlanders' prevailing instincts. Nor was his work of
conciliation secure. For the swords of Stirling and the
McKays were still unsheathed, and he was unable
to settle their dispute as he wished, in favour of
the McKays, the only settlement which seemed
likely to destroy the vital root of highland discontent.

Before going up to London he informed the Council
that he had a proposal to lay before the King, by
which he hoped to put a satisfactory stop to the
Argyll-McKean affair. This proposal was probably
the Duke's advice to Charles that the Crown should

R.C.R. vs. vi. 372.
receive the Meheaus by buying off Traggil.

But Traggil was unwilling to relax his hold on
the Meheau lands, and in the end his right to
them was confirmed, on his promising to allow
£30 annually out of the few duties to the Chief of
the Meheaus for the Chief's maintenance and
education. For this settlement Traggil had
to thank Lauderdale who wrote him on July
13, 1680, "I know not whether you will be
pleased with what I have done in this matter,
but I do assure your lordship, there was nothing
in my power wanting too have it settled in the
most advantageous method for your service".

The sky had at last brightened for Traggil,
and the death of Lord Metham in December
made it still brighter. But a storm was
about to gather, which when it broke was to leave
his house in ruins. His successor was his
undoing. Dr. if Traggil was satisfied with

the settlement of his dispute, it brought no satisfaction to the discontented chiefs, much less to the Duke who saw in it a perpetuation of the discontent and strife which he sought to allay. The power of the Earl had to the brother, and now that his good friend Lauderdale was out of the way he had resigned office in November 1680. The listing of breaking him was shorn of its difficulty.

On November 4, 1681 the storm broke on him. He refused to take the Test without reservations, and was committed a prisoner to Edinburgh Castle, from whence he escaped on December 21.  

Two days later there was passed on him the sentence of forfeiture and death. The meaning of the storm which destroyed him has been obscured by the Test which precipitated it. In the Test gave his fall the appearance of having been brought about by that same anti-papal feeling on the part of the Forman

P.C.R. roe VII 242-3.

290-1.

736.
which the test let loose on so many of his fellow countrymen. But the storm clouds which burst on him had their origin, not among the Covenanters, but among the Highland clansmen. His loyalty to the ecclesiastical policy of the government was above reasonable suspicion; and his reasons for refusing to take the test unquestioningly were obviously such as did not imply that his loyalty had become vitiated. Only in connection with the events which we have reviewed in following the course of Argyle’s relations with the clans, can his fall be adequately explained. His treatment of the clansmen had kept the Highlands for years in a state of agitation and disorder. His triumph over the clansmen had consolidated his power, and while he remained free to exercise it, there was little prospect of maintaining peace in the Highlands. To the Duke of York
at any rate, the breaking of Hargle in the interests of the Heighlands' peace was of paramount importance. He may have had other reasons for bringing Hargle back, but one is charitable enough to think that what influenced him most was his concern for the Heighlands. That cannot be said of all who sided with him. What moved them more than the public good, or sympathy with those who suffered at Hargle's hands was crotounness, ambition, and perhaps most of all, personal spite, behind which lay an enduring resentment at the place and power acquired by Hargle through his friendship with Lantanida. These motives became apparent when the Earl's estates and superinities came to the disposal of, and they threatened to spoil the good work at which the Duke aimed.
"No doubt," wrote the Council to Charles on January 31, 1682, "you Majestie... will be careful to see the poor creditors of the late Marquess and Earle of Argyle satisfied out of their estate." But in the meantime "Isaac Lascelles, Haudo, Chancellor and other of Argyles enemies" made haste and "under borrowed names... got devotiones and parcels of his estate." They bought debts cheaply from creditors, and when the final settlement was made, they saw to it that the debts bought were honoured to the detriment of "other poor creditors" who were "expunged totally and left out.

A similar insincerity revealed itself in regard to the Argyle superiors'. "The Duke of York had intended to use the opportunity to see the vassal clause from dependence on a subject-superior... But with those who had associated themselves with him in breach.

Argyle, the oppression of Argyle's vessels weighed as little, as did the poverty of his creditors. The chiefs among them were ready, with the same grasping ambition which they had resented in Argyle, to include his vessels within their superiorities, and it was through no lack of encouragement on the part of the Council that they did not succeed.

The encouragement given by the Council to this tendency came very near to kindling the fire of revolt again in Lochaber. On March 14, 1682, letters of reasons were issued against Lochiel and several of his clan, five hundred of whom had attached a party of soldiers who were sent into the Lochiel county to collect government taxes. Two soldiers were killed. Lochiel and his men were summoned to Edinburgh. But Lochiel was in friendly terms with the Duke of York and the Duke of York was about to visit Scotland.
Hence although on April 29 the Lord Advocate informed the Earl of Aberdeen by letter that the case against the Camerons would be "fully proven", he added, "but we are not over hasty wishing our determination enunt this to be directed by what will be thought fitt". When the Duke did arrive the trial was stopped for the time being. Lochiel even received his knighthood. Not only his friendship for Lochiel, but political expediency also no doubt prompted the Duke to deal kindly with him. The peace of the Highlands which might be impaired if the Camerons were punished as they deserved, was to the Duke of more consequence than justice.

There were those however in the Council who did not share the Duke's view of the case, though justice counted as little with them as it did with him. According to Fountainhall, the

1. Aberdeen "Letters" 1675.
influence of the Marquis of Huntly was at work in the Council. He wanted to get "a footing in Lochaber." If the Camerons could be goaded to revolt, he would be provided with a pretext under which he might set the "footing" he sought. Hence when the Duke left Scotland the trial of the Camerons was resumed; and in November, Lochiel was fined the heavy sum of £400.

On January 4, 1683, his indicted clansmen were fined 2500 merks, and imprisoned until the fine was paid. The were set by Huntly was avoided. But he still wanted that footing in Lochaber, and he almost succeeded in getting it. Evidently, not without the assistance of the government, certain superiority rights held by Argyll were gifted. Thus, there was included among them the superiority of Glenalpin and Loch an eige, and Menne lands which the Camerons occupied as 'Downtown's.'

2 A.C.R. Vol VIII, 7-8.
Argyll's vessels. Lochiel had been promised the rights now gifted to Stewart, and, not in vain he appealed to Charles and the Duke of York. The promise was renewed, and in spite of an attempt on the part of Henry to get the Court of Session on his side, and of a change of reasons laid against him by Atholl, Lochiel got what was promised him. He was made "Mestie of his own clan, and only accountable to (the king) or his Council for them."

The policy of the Duke of York, which sought to break down the feudal system in the Highlands was sound. Its partial application in the case of Ingle did result in mitigating the clan hostility which had given the Council so much anxiety. The readiness with which the clans responded to the Council's call for assistance in repelling Argyll's invasion was a vindication of its value. But the system
was still too strong to allow the Council to
exercise fully the powers of a central government.
A final illustration of the difficulties which the
system threw in the way of the Council is provided
by the experience of the Justiciary Commission
instituted "for securing the peace of the Highlands"
on August 9, 1682." The menacing
highlanders required as much attention as
ever. On July 17, 1682, the Earl of Perth, wrote
to the Chancellor, Aberdeen: "We are so plagued
with the weaving here, it would pain any heart
to see the condition the poor people are in." ²
A few weeks later from further north came the
complaint from Seaford,³ "We suffer so much
by the Lochaber men that if the king and Council
like not and effectually course presently, many
yes in that place will not have so much of our
own as will pay the publick dues... I doe my

1. R.U.C. VII. 507-515
2. Aberdeen "Letters" 36
3. " 71
endeavour to save the king by depressing all disorders; but to resist a whole country of robbers is not in my power without the king's authority, especially if they continue as they are at present daily vasting my land so that in a short time if not prevented they'll put me from being in a capacity to do the king any service.

To cope with the prevailing lawlessness, the Shires of (1) Ross, Inverness, Cromarty, Nairn, Elgin (2) Caithness, Sutherland, (3) Banff, Aberdeen, Inverness, and (4) Perth, Stirling, Dumbarton. They were asked to appoint Commissioners to hold fishing courts periodically within their respective areas, at least twice a year on the second Tuesday of October and the first Tuesday in June. (1) at the head of Loch Ness; (2) at Lochnaver (3) Kinlochewe or Reill; (4) at the head o' Balquhidder.

They had also the liberty to meet at any time or place, and to arrange conferences with other Commissioners.
To assist them companies of soldiers were to be stationed at Braemar, Aberdeenshire, and Inverness. At the same time the Council demanded that all highland cattle sold were to be certified as not having been stolen, and that highlanders travelling a distance of seven miles or more with firearms had to be provided with passes.

The report which came in to the Council from those Commissions were on the whole discouraging. A letter had to be sent to them on December 14 urging them to be more diligent in the performance of their duties. "few or none of you", ran the letter, "have met in obedience to his majesty's commission."

They were requested to keep their courts more punctually, to prosecute their commissions more vigorously, and to return accounts of "their business diligence with all speed". The Council's report to Charles on the same date was given a letter
complexion. It read: "Most of those who have been commissiornate have been very diligent and careful in the execution thereof... But some are not able to attend and others are negligent."

The reminiscence of the Commissions continued.

A meeting of the Lord Justice General and the Commissioners of the northern shires was convened to take place at Inverlochy on June 12, 1683. But on the date "the Lord Justice General and the Commissioners" who had gathered with him, "were much disappointed and the public service not a little prejudged though not marred by the Shires of Murray, Inverness, Ross, etc."

On August 7, 1684, the Council had again to write of them. "Some have never yet accepted of the commission and divers who did accept have proven very negligent and remiss in the execution thereof."

The question of expense seems to have been a considerable factor in the
...hencap under which the Commission worked. One report craved the Council for assistance in that respect. For "without this encouragement many are unable to attend." But the same report in seeking permission to exact bonds of caution from " rogemen", which the Commissioners had no power to exact, suggests, that may be well imagined, that the Chiefs did not like partly to the inclusion of the Commissioners, and did not make their task one pleasant or easy. In 1685 the Sheriff of Dunnys in attempting to carry out his commission had such a sorry experience in Lochaber that the court there was enough for him.

The Commissioners who did act were apparently very satisfied with their work. We read such passages as the following in their reports.

"The effect of the great parleys taken be the Lord Justice General and the foressed Commissioners..."


appears now very well, not only to exceed their own but also the expectations of all the Country... the Counties... adjacent to the Highlands have never been in such quiet and security for above 20 years before. They have brought the Highlands to such a peace and settlement, the lyke whereof has not been from many years to the great admiration and joy of all his Majesties good subjects who live in and upon the border of the Highlands.

"At present the peace of that country is so well settled that even in the North of it, the seat and chief residence of the greatest thieves and resisters of all Scotland, there was never greater quiet." But the Commissioners were quite well aware of the precarious nature of success they had achieved. Unless the Commission was kept in vigorous operation, they knew that "the conditions of the country

1 C.R. Vol. PX 190.
2 " " 197.
3 " " 198.
...we prove worse than before: and they appealed to the Council for the settlement of a strong garrison at Inverlochy... without which the quiet of the Highlands will not be long durable. There is even reason to suspect that they made more of the success of their efforts than was justified. McIntosh of Roeske at any rate had not experienced much benefit from the exercise of their authority. For in the Autumn of 1684 he had to complain to the Council about the McDonalds of Neppoch and others who did "daily molest and trouble and molest the peace of the Highlands." Though he had "interrupted them always and gotten all that could give him: yet they still despised all." He sought a Commission of Fire and Sword and the assistance of military forces. "That they might not laugh at the ineffectualnesse of our laws and in its execucive force." 3 But McIntosh had to do the best he could with the officers. The Council

1. C.R. Vol X. 190
2. C.R. Vol IX.
could do nothing for him. "It was thought not safe at this time to send away any of the Standing forces so far off or to irritate the MacDonalds to break the Highland". That sentence brings into focus the conditions which made the government of the Highlands such an insoluble problem for the Council. The feudal superiorities had the right to rely on the Council for support in the exercise of their powers. But the Council could not afford to give freely the support they required and demanded. For (1) the ecclesiastical policy of the Council needed for its enforcement all the military resources at the Council's command. It was never safe at any time for the Council to send "far off" the Standing forces; (2) even if the Standing forces could have been adequately used in the Highlands, there was the serious risk that their use might make the situation considerably worse. It was therefore the wisdom of the Council...
to interfere as little as possible in the quarrels which arose between the superior and their vessels. Nothing short of the total abolition of the troublesome superintendencies and jurisdictions could clear the way for the effective exercise of the authority of the Council, and "to abolish them altogether with compensation to the owners for their loss was quite beyond the power and resources of being Charles' government, more particularly as it was carried on by the Class chiefly interested in the preservation of aristocratic power."
The Council's relations with the Burghs throughout our period were mainly determined by two factors: (1) the policy of the Crown; (2) the abuses of municipal government. (1) The Crown's intention of making its will supreme in all matters civil and ecclesiastical required for its fulfilment the wholehearted loyalty of public officials. As early as September 1660 the Burghs learned that such loyalty was expected from them. A letter reached the Burgh Commissioners from the Lord Chancellor, urging them to notify the Burghs that only "such as are of known fidelity and loyalty towards his Majesty" were to be elected to office. The Commissioners rightly interpreted what was meant by "known fidelity and loyalty", then they instructed the Burghs that all must be excluded from office who had signed the Remonstrance, or who had sympathized with it, or who were in any way of doubtful loyalty.
Before the next election these qualifications were more authoritatively deme ned by a Council proclamation, which shut the doors of municipal office on all who were of "fanatical principals and enemies of monarchical government." If elected their election was to be declared void. So far, however, the ecclesiastical policy of the Crown was not defined and the residence demanded from burgh officials did not involve an open renunciation of Covenanting principles. Hence the Burghs gave the Council no occasion for correspondence in regard to their elections. But when the Declaration, which presented to the Covenanting conscience a more definite test, had to be taken as a condition of office within the Burghs, their elections began to give the Council considerable concern, and, because of the Declaration, continued to do so until the end of our period.
On February 23, 1664, the Council informed Charles that all the Royal Burghs had given obedience to the Act "except some few" who were not "considerable", and from them, the Council, having "upon the desire of some of their inhabitants... given warrant to make a new election of their magistrates, consisting of such as are willing to subscribe," expected "a good account." A proclamation issued on the same date insisted that those who persisted in office without signing the Declaration, must sign it before April 14, or resign. The "few" who had not signed it were largely confined to the south-western area, where Covenanting loyalty was most strong.

In June Stranraer was without a provost, and magistrates. The elected magistrates refused to take the Declaration oath, and refrained from exercising their office. Their provost, fearing the consequences of his refusal had fled to Ireland.

The Council was asked to deal with the situation, and its authority was given for a new election, at which the Earl of Galloway was to be present to see that the election was in order. In September a complaint reached the Council from 447. Several of the officials then had failed to sign the Declaration and the Burgh was without a Treasurer. If new magistrates could not be found, the Council advised, the existing magistrates were to be allowed to function for a period of two months or longer at the Council's pleasure. Permission was also granted to choose another Treasurer. The November election at Irvine was followed by the refusal of most of the magistrates to elect, to late Office.

Apart from a letter to Inverness in 1668 bringing certain magistrates there to task, who had not subscribed the Declaration, little more mention of the Act in connection with the Burghs occurs in the Council Register until 1677. Yet does not

1. P. C. R. Vol. I 508
2. " " 601
3. " " 617-18
mean that the Act was being universally obeyed.

On March 1, 1676, Sir Patrick Threipland, Provost of Perth, was accused of allowing Burgh Councillors to be elected who had not signed the Declaration; and what was taking place in Perth was evidently taking place in other Burghs. It would seem that the Council had not exercised a very strict supervision over the administration of the Act in the Burghs.

For when the Committee for Public Affairs began to function in 1677, and looked into the matter, their receiving of the Declarations sent in from the Burghs after the 1676 elections showed that only a few of the Burghs had sent in returns, and that many of the returns made were not "sufficient conform to the Act of Parliament". The signed declarations were so drafted that their terms accommodated those who signed them.

2. " " 107.
Shefs were at once taken by the zealous Committee to deal with the defactoes. The Burghs were reminded of their duty in regard to the Act, and from those who had tried to evade the Act by signing it in an altered form to seek themselves, unmodified declarations were demanded. Paisley Baillies who had bucked at the Act were called to account.

New elections of Councillors and Magistrates had to be made at Renfrew and Invercauld.

Up until 1678 Royal Burghs alone came within the scope of the Act. But in July of that year it was decided to impose it on Burghs of Baronage and Regality. On August 1, "the magistrates of several burghs of regality and barony and their clerks who exercise public jurisdiction etc... yet doe take upon them... office without taking the oath and signing the declaration were by council proclamation commanded to fall into line with the Royal Burghs.

1. R.C.R. vol v. 166
2. .. 186
3. .. 326-7
4. .. 485-6
A month later the magistrates of Royal Burghs south of the Tay received a further reminder that the declaration had to be signed by those elected to office at the forthcoming election in December. The duty was again re-enforced for all Burghs on September 1679, in the proclamation issued commending magistrates to assist in arresting the murderers of Archbishop Sharp.

Refusals to sign still took place. But the government was now penalising defectors. On February 18, 1679 a Paisley Baillie who had not signed the declaration had been fined 500 merks and declared incapable henceforward of holding public office: and the threat of penalty seems to have been effective in overcoming the Scars of conscientious objects. In February 1680 seventeen officials of the town of Knares who refused to submit to the Act were summoned before the Council. By February 26 none of them

1. [Footnote: C.R. Vol. VI. 9-10.]
2. [Footnote: 322-3]
3. [Footnote: 28]
4. [Footnote: VI.]
had submitted. On the same date several Dundee magistrates were before the Council on the same charge.

But the declaration was not the only measure which the Council had to enforce within the Burghs in the interest of the policy of the Crown. On April 2, 1673 the magistrates of Royal Burghs were made responsible to the Council for the enforcement of the Convention Act within their bounds. The magistrates of Edinburgh were already carrying that responsibility — had done so since 1668 — and on March 2, 1673 they had been fined £50 for failing to discharge it. The imposition of the burden on all the Royal Burghs gave them a still larger place in the attention of the Council. They found it difficult to enforce the Act and the Council which was generally keen in doing its duty where money was concerned, fined them heavily. The Edinburgh magistrates were fined five times between
1674 and 1675: £100 in 1674; £200 in 1675; £200 in 1676; and £50 in 1677; and £50 in 1679. Glasgow magistrates were fined £100 in 1674, and the magistrates of Inverness £50 in 1680.

Fines were also imposed on the magistrates of several Burghs for negligence in dealing with those who were imprisoned under the Act. In 1679, the magistrates of Glasgow were fined 10,000 marks for such negligence. It was discovered that the jailer’s wife was left in charge of the prisoners who had escaped. The Bailies of Cupar, Fife were fined £50 for the same reason, and the magistrates of Edinburg, 500 marks, but in both instances satisfactory explanations were given as to how the prisoners escaped and the fines were cancelled. Fountainhall tells us that there was “much outcry against the Commiss” over these fines. They went on the whole to individuals, and the King’s exchequer was little enriched.

1. O.C.R. Vol IV. 204-5
2. " 381-2
3. " 440-2, 583-84
4. O.C.R. VI. 202
5. " 493-4, 231
6. " 493-4
7. " 140-41
8. " 195
9. " 197-8
10. Fountainhall. “Notices”
But in 1681 when the Test was added to the Declaration as a condition of municipal office, the Burghs began to figure more largely than ever before, on the Council's agenda. "In almost every Burgh there were persons who refused to take office on condition of taking the Test, while others preferred to resign rather than to subscribe. She result was general dislocation of municipal business which constantly called for the intervention of the Council."

On September 24 the Council gave orders that all Burgh officials must sign the Test between that date and January 1, 1682. The Council in enforcing the Act, acted vigorously. It heard that there was likely to be trouble over the Act at the forthcoming election in Irvine, and on October 4 the Burgh was told that its election must take place before the month ended, and the Test taken. Several

2. " VIII 203
3. " ... 210
of the Edinburgh magistrates had taken it by October 8: the test were commanded to take it before October 15.

When the election did take place, reports of refusals to conform to the Act poured in on the Council. On November 10, such reports came in hand from Jedburgh, Selkirk, Peebles, Berwick, Kirkcaldy, Dysart, and Dunbar: on November 17, from Fyr, and a week later from Linlithgow, Dunfermline and Inverkeithing.

Cuper was without magistrates on December 6. The Edinburgh bailies were summoned before the Council on December 15, asked to sign the Test, and ordered to return to the Burghs and administer the Test to the Councillors and magistrates.

On May 12, Irvine had failed to find magistrates.

Not only municipal government, but craft government was also disorganised by the Act: for it was imposed on craft officials, as well as on church officials. On November 16, 1682.
the crafts of Glasgow and Brechin were reported as defaulters. They had elected their officials, and had ignored the Test. In Fyr no officials were elected, and the Council on January 18, 1683 ordered the crafts to meet and proceed with the election. Only one William Hunter took an appearance on the appointed date, and he was there to hand in "a sedicious and mutinous paper."

In these circumstances, it was inevitable that law and order within the Burghs should suffer: and that the enforcement of the Ecclesiastical laws especially should be neglected. Hence on September 11, 1683 the Council had to deal with such a state of misgovernment in the Burgh of Kirkcudbright. "By reason of the connivance and negligence of the provost and the rest of the magistrates of the said burgh..." the Council announced, "the persons guilty of disorders within the same

2. " viii 29.55.
3. " 244.
for unpunished and thereby these disorders are much increased. The offending Provost was Alexander Milne who had taken an active part in the discussions between the council and the "leading merchants" on the bribe question in 1681. He was now deposed from office, and a commission was given to the Earl of Hainington to enforce the ecclesiastical laws throughout the shire and in the royal burghs, "within the same." On December 6 the Earl was appointed by the council as successor to Milne, a step which was "expressly contrary to the (8th) act of parliament in 1609 ordering only trafficking merchants to be admitted as magistrates of burghs." That act as we have seen had been enforced in 1674 when the enforcement of it united the Crown and Council. But now that it stood between the council and the execution of the council's will, it was arbitrarily brushed aside.

On November 16th Lieutenant Colonel Buchan was commissioned to supervise the judicial work of the magistrates in the byshire burghs. "When the ordinary magistrates do not fully their duty," he was instructed, "five persons should be nominated to assist in His Majesties service."

The spirit of revolt was certainly not lacking in the Burghs: but it was never vigorous enough during our period, even in the Royal Burghs, where the policy of the Crown was particularly provocative, to cause the Council great anxiety. While Charles II was on the throne the Royal Burghs had to play a much less conspicuous part in national affairs, than they did during the reigns of the earlier Stuarts. No longer could it be said of them that through their representative body, the Convention, they "regulated the merchandise, manufactures, and shipping of the Country... claimed the right, independently of the Crown, to nominate the Conservator (of the privileges of Scottish merchants i.e. Haunders) adjudicated on the claims of Burghs to be admitted to the privileges of free Burghs and to be added to their nomencl."

1. Rait, "Parliament".
royal policy was to limit their authority and to weaken their privileges. The supervision of the annual election of magistrates, and of the qualifications of the persons elected, which had been largely the duty of the Convention, was now in the hands of the Council. Complaint was made in 1681 that "of late years some conservators have obtained places from the King" irrespective of the tie of the Burgess. The Convention was seldom consulted regarding matters of trade and commerce, its advice in that direction being directly sought only on three occasions, in 1661, 1662, and 1681.

The economic life of the County was within the control of Parliament and Council. The trading privileges of the Royal Burgess were also encroached upon by the Acts which extended certain of these privileges to manufacturing and fishing companies, and to Burgesses of Barony and Regality.

2. ... I III. 173. (1661-2).
VII. 652-7f. (1681).
public interest of the Burghs Royal had been prejudged, by their choosing gentlemen or noblemen's servants to represent their burghs; so that in effect they made not now a distinct State of Parliament but depended upon the vicinity and gentility. The struggle between Lauderdale and the Hamilton party in the recent Parliament had revealed that the 'Party' had been strengthened by Burgh members whom the Act disqualified. Lauderdale wished to get rid of them, and hence the king's letter.

"The king's design in this was, to exclude such as had been factions in the former Parliament, and to engage the Burghs to an immediate dependence upon the Crown." 2 From the Convention a reply was sent to Charles which enraged him. It seemed him that the practice to which he objected was quite in order, and added, "I have now in hand its rise from (the procedure in question) but from the acts in favour of burghs.

1. McKee. 274.

2. " " 
But notwithstanding all such provocations, only once did they show signs of resentment, and even then a flick of the Council's whip was enough to subdue them. The Act of 1672 which suspended their privileges of trade with the Burghs of Berwick and Regality was the direct cause of their renewed discontents on that occasion. That Act roused them more than anything they had suffered since the Restoration. Though it says McEuenie "Lauderdale took the affront of the Burghs Royal who did formerly depend entirely on him..." in 1674 their pent up feeling found expression. On August 17th a letter was read to the Convention from Charles reminding the Burghs of an Act which made it necessary that their Commissioners in Parliament and in their Convention should be "actual residents." They had been ignoring this Act, and "his Majesty desired that they might consider, how much the


of regalities and the acts of adjudications both past in the 3rd session of the last parliament. 

Its reply was not unanimous. Several members of the Convention objected to its terms, "not being satisfied with the draught of the same". The original draft submitted by Sir George McKenzie had been altered by Sir George Lockhart, from "a discreet and dutiful letter", into "a most unpoltish and undiscreet paper". 2 On January 7, 1675 the Council was involved in the affair by an indignant letter from Charles complaining of the "vicious expressions" of the reply of the Convention wherein he had "great reason to be highly dissatisfied", and ordering the arrest of the provosts of Aberdeen, Glasgow, Dundee and Jedburgh, who had taken a leading part in the sending of the reply, to be arrested. The King's letter was communicated to the Burghs, and at a meeting

1. C. R. Ill. 639 ff.
2. McKenzie. 276
of the Convention on January 13 he was given ample assurance that he had nothing to fear from his Royal Burgh. The Commissioners disowned the conduct of their colleagues on August 17, when the meeting of Convention was but a "partial" one. "It does not a little trouble us," they wrote to Charles, "to find by our records that there has been an imputation and insolent return made unto your majesty's most gracious letter, occasioned by some turbulent persons in August last which we do utterly disclaim and detest."

On July 8 the Council was able to report to Lauderdale, "the royal burghs are fullie returned to their dutie." A full Convention held in Glasgow had written to the king 3.

"We have condemned that undutifull letter sent to your Majesty by theh Convention in August last and has razed and expunged the names out of the records and by excluding unqualified"
commissioners for our conventions, and
by receiving the acts of borrows in relation
to the qualifications of commissioners to Parliament
conventions of estates and how general and
particular meetings." In the meantime
the Council had arrested and dealt with the
offending burnts. In whose indictment occurred
the reflection that it was "inopportune for the
commissioners of burrows to meddle without their
straw sphere and capacity and to take notice
and cognizance of the great affairs of state
and concerns, not only of this but of the
other kingdom and to give their opinion
concerning the same so positively." The accused
threw themselves very humbly on the king's mercy:
they had done wrong "in great ingenuous and
simplicity of mind, without design or giving
the least displeasure to his sacred majesty." They
hoped the Council would deal leniently.

1. A.C.R. XIV. 367-70.
2. " 375.
with them, making allowance for the rudeness of expression and coarseness of the style of the offensive letter, "which is too often charged on the borrower and your suppliants, education as not being accustomed in the style of language becoming the tender and delicate ear of a prince..."

They were fined, ordered to keep imprisoned in Edinburgh until they found security for the payment of their fines, and on their release to spend another eight days confinement in their home itself, and declared incapable forever of any public trust within the kingdom. So ended the solitary and timid gesture of revolt of the royal burghs.

The Act of 1672 however continued to fester, and in 1681 a petition was sent to Parliament through the Duke of York, complaining that "the trade of the Royal Borrowers of the kingdom is in hazard to be absolutely ruined, ruined, and to be carried..."
away and enjoined by Burghs of Barony and Regality and other unfree men, the inhabitants of Royal Burnows being liable to great burdens unless Burghs of Barony and Regality are free and exempted. They wanted the Act rescinded and their former privileges ratified. Neither demand was granted. "...they were so far from getting redress, that the Articles were like to take more away from them. So the Burrows were glad to put up their pipes and hold them as they were." 2 But there followed no more "envelopismine" to engage the attention of the Council, even though the Council on December 6, 1683 "named Lord Alveson, the provost and Alexander Milne their former provost's negligence in executing the Ecclesiastical laws," which was "expressly contrary to the (8th) Act of Parliament in 1609, ordaining only actual trafficking merchants to be admitted.


2. Livingstone. (Edinburgh.)

2. Fountainhall.
as magistrates of burrows" - the Council thus doing what the Royal Burghs had been commanded not to do in 1674, and what had then caused so much trouble.

(2) Irregularities in municipal government stood with the policy of the Crown the responsibility for the bulk of the Council's correspondence with the Burghs during our period. These irregularities were centred old, and chiefly arose from the method of election which had been in operation since 1469 whereby, according to the Parliament period in that year, the retiring Burgh council chose the new, and both the magistrates.

"The effect of the statute in many towns was to give the control of burghal affairs into the hands of a family or a clique who often used their power to alienate from the Burgh its lands and possessions."


Out of such conditions serious dissatisfaction arose from time to time which sometimes found expression in rioting, and called for the intervention of the Council. In 1669, municipal mismanagement in Borrowstoun engaged the attention of the Council. The office of Provost had been filled for some time by the local laird Sir John Urquhart. While he held office he had enclosed as his own property various lands belonging to the Burgh, and he had beaten with a "braine" one at least of the burgesses who had protested. As Sheriff he had set at liberty a prisoner fined and imprisoned by the magistrates and appropriated the fine. He had seized the cess at loanary from the messenger who was taking it at the Customs office, and disposed of it, with the result that soldiers were quartered on the town until the cess was forthcoming once more.

A town Council had been elected, from which

1. B. C. R. Vol III 109. II
Urguant had been excluded. But he had "packed up and election" of his own, putting his own grievance in as proof, Thomas Mcbouloch, a farmer's tenant, and Thomas Urguant, his (Sir John's) butler, as Baillies, and Alexander Dunbar, a "stranger living in one old barn". Thomas Gaine "a chapman that carris a wallet through the country, and certaine other beggarlie persons", as Counsellors. The case against Urguant was strong; but he was a loyalist, and that was enough to sway the Counsellors' judgment in his favor. The Lord having heard both parties, they "assembied... Sir John... from the present complaint penned against him and declared him guilty and fire thersyde in all tyme comynge". His election was recognised as legal, and the pursuers were ordered to beg his pardon, which was done by two of them who were before the Counsell.
being a Privy Councillor, a Senator of the College of Justice, a Lord of the Exchequer, a member of the Committee for the Plantation of Kircs, and had three "opulent fortunes to manage bying in three different shires," his hands were too full for him to give adequate attention to the affairs of the Burgh.

The feeling against him was vented on October 5, 1672, over his reelection to office. The riot mentioned above took place, and a protest against his election was lodged with the Council. But Ramsay had to be treated with respect. He had Lauderdale behind him. He had kept Lauderdale well supplied with funds, and was of service to him in Parliament as heading Burgh's Commissioners. Ramsey's election was therefore not annulled: but an Act was passed which limited the holding of the office of Provost in Edinburgh by one person to a period of two successive years.

Meanwhile Ramsay had written to Lauderdale, telling him of what had taken place and taking care to magnify the recent display, with the result that the Council was ordered to make an inquiry into the whole matter, and report to Charles. The Council did so, and reported on November 21, 1672, that certain individuals had been dealt with, and measures taken to prevent a recurrence of the disturbance. Formerly sheets of those nominated for office had been made up several days before the election, so that time might be given to consider the fitness of the nominees. Now the sheet was to be made up on the morning of the day of the election which was to take place at four in the afternoon. There would be less time for discussion and disputes over the nominations.
Three years later "a great convocation was made of the meaner sort of town's people round about the town Council House ... and in the upper streets of Edinburgh. The tumult centred on Sir Andrew Ramsay, Provost of the City. Who for ten years had managed to hold the provostship, and had governed the City "most tyrannically" ... applying the Common Good to himself and friends, and inventing new, though unnecessary, employments within the town, to oblige those who depended on him." He had received 700,000 merks out of the city revenue and had given no account of how it had been spent. He had put his relatives into office - among them his own son, "while he was yet a mere child," whom he had made Town Clerk instead of Sir John Rocheard, who ought to have had the post. The burgesses had expected him to resign his office as Provost when he was made Privy Councillor, but he did not resign, and since he was besides
At the next annual election the opposition to Ramsay again called for the intervention of the Council. In response to a bill sent in to the Council by those who opposed him, the Earls of Linlithgow and Moray were asked to be present at the election to see that his opponents had fair play. But before the Council representatives arrived, "Sir Andrew had cause to call the rolls, and had filled the places of such as had gone to the Privy Council." The Earl ordained the partie to be heard to be repudiated; and yet Sir Andrew, having the shadow of his Majesty's favour thus stretched over him, was re-elected. But the favouring shadow deserted him before the year was out. In Parliament the tide of feeling swayed so strongly against him, that even Lauderdale could not afford the risk of saving him. He was at last compelled to resign the Lordship.

The resignation of Ramsay did not wholly calm the troubled waters of the city Council. Before the 1674 election a letter from the king ordered the City Council "to lay our positive commands upon the magistrates and Council of our good town of Edinburgh not to proceed in this new election, but to continue the present Lord Provost" and Council "until we shall declare our further pleasure." A "factional design" was suspected in the fixture of the election for Michaelmas Day instead of on the following Tuesday. The king lifted the embargo in July 1675 on condition that the election was carried out according to the advice of the Council. But a certain section of the City Council led by Robert Baird, Dean of Guild "most vigorously treated the king's letter," and taking matters into their own hands, proceeded to elect their own nominees to office. On August 25 the Council was once more among the city.

fathers armed with a letter from the king ordering
the removal of Bass and nine other members
from office, and the filling of the vacancies until
the Michaelmas election, when only "such as are
loyal, sober, and well affected to our government
in Church and State" were to be elected, if said the
letter "they would wish encouragement from us."

The royal letter had its effect. The election on
October 5 proceeded as was desired: and the
elected Councillors sent a very obsequious
letter to Charles, acknowledging his Majesty's
"princely favour and clemency in lifting off
the restraint lying upon the Election of Magistrates
of this your ancient City of Glasgow," while
an accompanying letter assured Lauderdale
of the deep appreciation they had "of ye constant
kindness" he had "shown to ye good town."

1. G.R.R. vol. IV 470

On March 1, 1676, the Council gave its decision in regard to a complaint made by Sir Patrick Hrisipland, Provost of Kirk against certain who had factionally opposed his election to that office. His election in 1675 was followed by a riot. The door of the Council house was besieged by angered citizens. It was opened from within by Councillors who shared their dissatisfaction. Meg surged in: Sir Patrick was "dumped on the breast": someone threatened to cut him "in pieces as small as hail 10a foot": and while he looked on, another Provost was elected in his stead. Death shortly afterwards left the office vacant, but Sir Patrick who ought so late Provost to have filled the vacancy, was again passed over, and the office given to Patrick Nogy.

The case had come before the Council on February 17. The defendant charged Hrisipland with numerous offences. He had
designed "to perpetuate himself in the government of the said burgh, in which by the most unjustifiable methods and practices he had continued for the space of eleven years." He had "by reason of his arbitrariness and animosity and great impositions and malversation... committed upon the common good... firstly rendered (himself) odious to the defenders and whole inhabitants." He had abused his office by introducing to the council his relatives and friends, by whom he secured seven or eight "sure votes." It had been his practice before elections to meet burgesses in taverns and to read to them a rogues letter which he said had come from the king, warning his continuance in office. He had presided at the election of the dean of guild when the retiring dean ought to have presided. He had upset the usual voting procedure by which
voted in order, the Provost, Dean, Bailies, and Merchants. He had allowed Councillors to take office who had not signed the declaration: "laid an imposition" on wine and brandy during the years 1667-1674; obtained for himself the lack of mills, fishings and the Inches; and bought salt for fish curing but sold it for other purposes. Quite a heavy indictment! But Threipland stood well in the Royal favour. He was one of those who had protested against the letter sent to Charles by the Bishops Convention in 1674. Hence he was reinstated as Provost, and those who had opposed him were fined and sentenced to sixteen days imprisonment.

Nine years later the municipal government of Perth again troubled the Council. Patrick Hay who had supplanted Threipland in 1675 had regained the Provostship in 1677. He was

1 C.R. vol III 639.

2 P.C.R. vol VI 104-7.
charged by the Council on January 23, 1679 with practices similar to those of which
Thripleland was accused in 1676. He had put
his friends in office, among them some who had
been declared incapable in 1676. He had
excluded those who were "jealous for his majesty".
He had embezzled the common good. But
worse still he had ignored the Convention Act,
and worse of all he had voted against Laud's sale
in the Convention of 1678. He was discharged
from holding office for three years. A new election
was ordered to be made, and the Earl of Shrewsbury
was commanded to be present.

But the Council had not heard the last of
the Popish faction. As on July 28, 1680, still
another complaint from Thripleland reached it.
He had been assaulted by Hay on March 29,
beaten with a cane, and knocked down.
Once more the Council befriended him. Hay
was imprisoned.
In 1684, Stirling and Kinghorn appealed to the Council for assistance in rectifying municipal mismanagement. The Provost of Stirling, Robert Russell had since "the lyne of the late usurpation made it his work to continue himselfe and his relations upon the magistracy and Counsell of the said burgh." He had been either Baillie or Provost twenty two years and of the twenty eight spent on the Council. He had abused the common good. He was "able by his friends and relatives brought into the Counsell by him to debar many eminent persons, or at least render their influence in significant, because the major part of the counsell, being of his own composing, were against them." The Council was asked to send one of its number to be present at the forthcoming election but the only response made to the appeal by the Council was a command to proceed with the Election, and to see that it was in order.

In Kinghorn dissatisfaction arose over a clique who had kept the affairs of the burgh in their hands for twenty years. They also had plundered the Common food—using the town common for pasturing their own cattle. They had created for their own advantage a posting monopoly, and they had maladministered the fisk. That last charge was seemingly the only one that mattered to the council: for all the reply made to the complaint was a reprimand for not kneeling when taking the test. 2

On two or three occasions the council had to deal with burgh magistrates for exceeding their jurisdiction. In 1673 the Marquis of Queensberry had to complain to the council about the conduct of the magistrates of Stenwick. 2 Queensberry had the right to hold in the burgh the annual fair, "Simon and Jude".


On October 28, 1672 his bailies were sent to proclaim the fair, "expecting nothing but all lawful concurrence of the bailies and inhabitants within the town of Hawick". But the Burgh was jealous of its privileges and gave the bailies a warm reception. One of them was pulled off his horse by burgeses with drawn swords, who assaulted him, tearing his clothes, and giving him "many shocks to the effusion of blood". In September William Hardy, Queenberry’s kinsman was imprisoned by the magistrates, and orders were given to fustians to refrain from working for Queenberry’s folk, and to merchants to refuse them meat and drink. The Council imposed on the offenders fines ranging from £100 to £200 Scots.
At Dundee trouble arose between the magistrates and both the Earl of Southerk and Lord Hatton. As Sheriff of Forfar, the Earl of Southerk had imprisoned two sheep stealers in the Dundee tolbooth. He asked the magistrates to hand them over to him for trial; but they refused. The case they contended fell within their jurisdiction and they claimed the right to try it. The dispute was referred to the Lords of Session. But Hatton, as successor to the Earl of Dundee and as hereditary Constable of the Burgh, asserted that he had more right than either Southerk or the magistrates to the jurisdiction, and his claim was upheld. Then conflict took place between Hatton and the magistrates.

Ignoring the Constable's right, the magistrates fined one George Baird for wounding a Dundee seaman and one George Colesse, for wounding Joseph Henderson. The Constable-depute had

1 P.C.R. Vol IV. 578-35
2 P.C.R. Vol V. 67-66
asserted his authority, but in vain. The
magistrates had even set free, James Christie
when he had imprisoned for causing a breach
of the peace at a Dumfie fair. But on
November 30, 1676, the Council gave him
redress.
George Brown, Provost of Dumfie, and two Councillors
were removed from office, and a new election
ordered to fill their places.

On March 17, 1685, the magistrates of Dumfie
were brought to task for exceeding their powers.
They had imposed a tax on brewers, who had
soldiers quartered on them for non-payment of
the tax as if it were an excise tax. They had
imprisoned beer sellers for overcharging.
But these changes would not have moved the
Council to take action against the magistrates,
if they had not received the Earl of Mar who
had written to them requiring them to come to

P.C.R. Vol. X. 189-94
Allora for advice regarding a forthcoming election. They had questioned his authority. One of their number had spoken disparagingly about him. For that they were severely reprimanded, and the Councillor who had spoken the insulting word, was imprisoned.

But notwithstanding all the disturbances we have noted, save in the case of Edinburgh, disorder in the Bishops was never, in our period, so violent that the Council had to use force to suppress it. In Edinburgh that had to be done more than once. On November 25, 1654, the Council had to quell rioting which had lasted two days. The trouble arose between the merchants and the Customs officers. The officers had been informed that the merchants were importing certain "braid cloth" from England and smuggling it into the city by night. Warrant was received from the Treasury "for searching the haill merchant brothes of Edinburgh and to take their oathes of veritie anent the quantity of..."
their merchandise and guides customary." The merchants closed their premises, and refused to open them to Sir William Seaton, Chief Customs Officer and his subordinates. Then the apprentices broke loose and attacked Sir William's house, seeking to lay violent hands on him: and finding no find him they "were asunder his bands, yokes, and breeches." The Council ordered the Garrison to take the situation in hand, and compelled the merchants to open their shop doors. The Garrison and the apprentices came into collision, and one apprentice was killed.

On January 25, 1665, the Council received a letter from the King in which the magistrates were strongly rebuked, for "had they done their duty, the Garrison would not have been needed." The laxity of the magistrates was evidently due to their sympathy with the merchants, from among whom they were elected.

1. Nicole: Diary, p. 4727.
In 1677 there occurred another serious riot over a decision of the magistrates in connection with a wedding feast which the apprentices wanted to hold on the king’s birthday. The Council had forbidden "weapon-shewing" since 1666, when a riot had taken place at one, at which one man was killed, and over which two craftsmen had been sent to the Barbadoes. The magistrates were reminded by the Council of that affair, and of the extravagant cost - £500 - of such demonstrations. But they decided to hold the wedding feast "thrice again to gain the reputation of loyalty and to make a parade and muster during the time of their administration." In deference to the Council however they confined the demonstration to merchant apprentices, promising the brave apprentices that they would get their turn next year. The trades disapproved of this decision, and attached the merchant apprentices as they were returning from drill. The magistrates
managed to deal with the riot with the help of the Inn Guard, six of the riuers being arrested. 
But on May 18 a crowd of about two thousand apprentice traders held an indignation meeting in King's Park, and fearing trouble Baillie Boyd and Baillie Chalmers were sent by the magistrates to disperse them. The Baillies not only failed in their mission, but were compelled to begin a promise to release the six prisoners imprisoned in the Tolbooth, and to include the Traders in the warrant. The Tolbooth appealed for help to some members of the Council, and the King's troop of horse was ordered to clear the crowd, which was soon dispersed; but not satisfied or subdued; and in the end the magistrates "frighted by the threatening attitude of the traders" complied so far with their insolencies, and in a manner justified and approved them, that they pitefully post from all their former acts and proclamations.
and consented the Trades youths should muster likewise, which was looked upon by others for an act of moderation but of fear. From the King the Provost received "heart thanks" for his care and diligence in dispersing that rude barbarous rabble, and from the City Council Lord Colinton, who as City Councillor had taken an active part in getting the assistance of the King's troops, received "one suit of good armour." The Council tried its best on May 24 to persuade the City Councillors to cancel the war-pincers; but "knowing that to discharge it was a downright reflection on their conduct, and prudence, and contrivance," they dealt with great earnestness with my Lord Chancellor and other members (whom they treated as priests) to give way to it, and offered to engage their whole estate if their should be the least disorder committed, and brought many of the youths themselves to plead for it; and the 14.

Deacons engaged themselves for their Trades: whereupon the Council desisted, the show went on, and the Council was given no further trouble over it.

But on May 2, 1682, the Council was shaken by the worst riot that had yet happened in the city. Two apprentices, it was alleged, had been taken on board a Dutch vessel in the Forth by press gang methods. Their fellow apprentices made a violent demonstration of protest, in the course of which one of the town constables was attacked. Some of them were arrested and imprisoned, and on the night of May 2, "a little before ten", apprentices and journeymen from Leith and Canongate, "rushed into the town... seized the town guard, took their arms from them and broke them in pieces, made the town major prisoner... and then ran through the streets "crying for God and the trade". They took the towners downers and beat the same, transported two cannons from the Court of the Guard to the
heavenly, and did assault and invade some of his majesty's Privy Councillors in the lodging of Sir George Kinnaird. The city was in their hands: they set guards at the city gates, compelled the magistrates to release the prisoners, and when that was done, demanded that the two imprisoned apprentices should be taken from the Dutch ship. The troops were brought into action, and while they were taking some of the rioters into custody, they were attacked, and forced to retaliate with the result that eight or nine men and women were killed. The Council was thoroughly alarmed and angered. Dalziel was commanded to quarter "a competent number of his majesty's forces" in the Cenmgate and to keep guard about the latter. No person was to appear in the streets after ten at night. Major Johnston, who was blamed for "illegally sending the lieges out of the kingdom", was put under arrest. The arrested rioters if convicted were to be straightway

executed, and the magistrates were warned that unless they took effective measures to prevent further rioting, the Council "would beseech His Majesty that his judicatures might be removed to some other place in the kingdom where they might be in safety." It was now the magistrates' turn to be alarmed, and in haste they decided to make known to the Council that they were prepared to organise and support a standing force of one hundred and eighty men to keep the city in order. Even that proposal might not have placated the Council, had not the Duke of York acted as peacemaker. His visit to the City shortly after the riot saved the magistrates. He persuaded the Council to accept their proposal, and to take no further proceedings against them.


2. 425. 438-42
The Restoration found Scotland in the depths of economic depression. She had paid dearly for her Covenanting and Stewart loyalties. War had drained the strength of her manhood. Professor C. H. Firth reckons that between 1648 and 1651 "40,000 of her hardiest sons had been either slain or swept into captivity". Her lands had been repeatedly devastated. Glencairn's rising and its suppression alone, according to Monk, cost her £200,000, "because of the gale destruction and waste made by the enemy, and of what we found necessary to destroy that they might be deprived of sustenance". Her shipping had either been confiscated or destroyed. After Cromwell's victory at Dunbar the shipping in the Firth was "brought to Leith for serving the English. Their demanders, and as were also "200 vessels great and small" seized in the harbours of

2. AV Roe. No. 35.
Life and Angus. "Almost all the ships and vessels belonging to His Majesty's subjects of Scotland", complained the Commissioners who took part in the Union negotiations of 1667-70, "were during the late occupation taken, burnt or destroyed". What resources remained to him were severely taxed to meet the expenses of the English occupation. The quota of £10,000 per month demanded from him was more than he could pay. Monk, with difficulty, gathered in £7,300 per month, and even after the demand was reduced to £6,000 per month, as the result of Monk's intercession, the tax represented "above a fifth part of the rents throughout Scotland." 2 Cromwell had good reason to write, "I do think truly they (the Scots) are a very ruined nation." 3 "A great army in a multitude of garrisons bides above our
heads", wrote Baillie, "and deep poverty keeps all ranks exceedingly under: the taxes of all kinds are so great and trade so little that it is a marvel if extreme scarcity of money end not ere long in some mischief'. While he:oe noted in his Diary that, "poverty and scarcity of money daily increase bear testimony of the great buildings and changes... impost upon the people quickly not mere constraint: shame to sell their lands and estates, but even their household piaze, insinuance, and their clothes and utensils and belongings." 

The Union it is true had given her a large measure of free trade within the Kingdom and with the Colonies. But even had the burden of taxation been lighter, she could have done little to restore her prosperity, because of the handicap involved in the

1 Baillie: Letters & Journals. (Ban. Club) III 357
2 Rev. Brig. 207
conditions attached to or arising out of the Union settlement. Her free trade privileges were checked by: (a) the prohibition of certain of her staple commodities such as wool, hides and skins. She had no manufactures capable of absorbing them. If manufactures were to be established capital was required, and a considerable source of its supply was blocked by the prohibition: (b) the Navigation Act of 1651 which prevented her use of foreign shipping. She had few ships of her own; and to make matters worse, when she sought to purchase them abroad, she had to meet a Government tax of "20 pence of customs and 20 pence of excess of all shipps bought from strangers and brought home for the necessary service of the nation": (c) the raising of the customs rate to the level of those of England. The new rates were much higher than the old, and consequently
foreign trade which had been attracted by the lower rates, was discouraged. A considerable coal trade for instance had been carried on with the Netherlands, but the increased duties now deflected the Netherlands coal demand to the Rhine coal fields. (3) the wars of the Commonwealth with Holland and Spain. The large traffic with Holland was seriously interrupted and Scots merchandise suffered at sea at the hands of the hostile Dutch and Spaniards.

When therefore the task of setting the Scottish household in order definitely began in 1661, the economic situation demanded and received immediate attention. Early in their first session (January-July) the Estates appointed a Trade Commission to consider with the advice of leading merchants or any who "could best give information in those". S. H. Revard v/v e 276.
affairs," what steps were to be taken to further the interests of navigation, trade, and manufactures." The Protectionist policy which was at the time being strongly developed in France and England was adopted, and all the economic legislation enacted during the session — and throughout our period — was determined by it.

1. Foreign commodities were taxed. A tax of 8/ Scots was imposed on all imported pipes, foreign wines, soap, salt, cloth, hair shoffs, hats, stockings, gloves, horses, cattle, sheep, shared with inland salt the burden of providing £96,000 Scots towards the annual gift of £480,000 Scots voted to Charles on March 29.

2. The fishing industry was encouraged by (9) Acts in favour of the Burghs of Eraille, Kirkcudbright, Dunbar, Easter and Pittenweem.

and Messrs R. Rolfe and John Wilson, Dundee, giving them the right to buy from native fishermen in Shetland, Orkney, Shetland and to be served before foreigners: (6) An Act for the promotion of Fishing Companies which were to be given large privileges: viz. the free import of all materials required for their use; the free export of their fish and herring; the granting of bunglass rights to foreigners brought in to improve the industry; the Companies' freedom from taxation for several years after their establishment; their protection by the landlords of fishing grounds who had to compensate losses sustained through malicious within their grounds; and whose "rent" was to be commuted to 10/- Scots or 5/- best of fish landed; the security of Companies' ships and gear against arrest for debt, and of their seamen from compulsory naval service, save...
at the King's command: he right to purchase strong drink for their seamen duty free: the monopoly right to export fish and herring.

8. When manufactures were considered, the leather, linen \(^2\) and woollen \(^3\) industries were singled out for legislation: while an "Act for the erecting of manufactures" offered attractive terms to makers of "cloth stuffs, soap, stockings or any other kind of manufacture". The export of hides, wool and linen yarn was prohibited. The width of linen was regulated; for "to the great prejudice of the said commodity", it was "brought into contempt abroad and become handicd venderable through the ... unequall breidtn thereof". Linen making companies were to be granted a monopoly of the linen export trade: freedom from Customs on all exports and imports of foreign materials.
required for the industry: and exports brought from abroad by them were to have the right to set up on their own and to be free from "public burdens". The Manufactures Act provided that "if any stranger shall come or be brought into this kingdom by natives resident work and teach his art in making cloth stuffs, stockings, soap or any other kind of manufacture he shall enjoy the benefit of the law and other privileges that a native doth enjoy, with power to erect manufactures either in borough or landsward as they shall think fit". All oyle, dying stuffs, foreign wool, potashes or any material useful for manufactures were to be exempt from "customs excise or other dues". All manufactures were to be exported duty free for a period of 19 years. The stock for the erection and maintenance of the factories was to be free.
from taxation, and the factories free from military quarterings. The export of skins was besides by the Act, and in referring to the prohibition of the wool export, the Act added a significant clause to the effect that fleeces or furs must not be made heavier by the inclusion of stones or sand.

4. A retaliatory Act "for encouraging of Shipping and navigation" was passed in answer to the English Navigation Act of 1660 which treated the Scot as an alien. His ships and seamen were excluded from all share in England's foreign and colonial trade by the English Act which declared that no goods were to be exported from any of His Majesty's Dominions in Asia, Africa or America except in ships belonging to England, Ireland, Wales, Brunswick or Tweed or the Plantations, the West and those
fourths of the sea of which had to be English: that no foreign goods were to be brought into England except in English ships or ships belonging to the countries where the goods were produced; that no goods grown or manufactured in Asia, Africa, or America were to be imported into England and her colonies except in English or Colonial ships; and that all aliens (the Scot among them) were to be excluded from the English coasting trade. The Scottish Act ordained: (1) that all goods brought to Scotland must be shipped either in Scottish vessels or vessels of the country where the goods were produced (2) that all goods, exported or imported, belonging to aliens, and all goods native or foreign exported in other than Scottish ships must bear a double customs tax: (3) that all Scottish vessels must be manned by a native Captain and a crew three-fourths native, or else be treated as foreign.
This body of legislation, the Estates, when they rose in July, committed to the care of the Privy Council. The only Act which gave the Council immediate concern was the Navigation Act. It was passed in the hope that it would move the English Government to modify their Act in favour of Scotland. It was not to be enforced against English or Irish merchants, if in England and Ireland the Scots received exemption from the English Act. It was withheld from publication while negotiations took place with England with a view to securing modification of the English Act in Scotland's favour. One concession was granted. Scottish seamen were freed from the restrictions placed on them. But their liberty was short-lived. The English customs farmers objected to it, and bearing it to withdraw the Convention of Rouppe urged the Council to solicit the support of Charles against the farmers.
The Council, sharing the concern of the Convention at "the endeavours" made by the farmers to obstruct His Majesty's royal goodness dispensing with the late Act of Parliament of England in favour of the seamen of this kingdom, implored Charles to leave the Act as amended, "seeing besides the subsistence of many thousand families, the commerce and trade, and consequentlie the publick good of this kingdom is therein much concerned."

A few days later, the Council, learning that the concession had been withdrawn, ordered the Provost of Edinburgh to convene a meeting of the Burgh Commissioners to deal with the matter, and to advise what the Council should do in regard to it. The Commissioners met in March, and a letter was sent to Lauderdale on behalf of the Cook Commission. But in the meantime, the Council had published the Scots Navigation Act which was to take effect from March 1, 1662.

1. C.R. 1921, II 97.
2. " " 127.
The Council evidently considered that the decision of the English Government was unalterable, as it proved to be. The Act was only a few days in operation when two supplications to the Council from Aberdeen merchants, revealed that the Council's authority was being treated with some measure of respect. They craved exemption from the Act for four ships of theirs, homeward bound, which had been freighted before the Act was proclaimed. Exemption was granted until July 1. Elsewhere however, less concern was shown for the authority of the Council, judging from a petition to the Estates in 1663 by Glasgow merchants, who taking advantage of the Act, had built and were building ships, but who found that several strangers and others, especially Dutchmen, had imported several commodities and goods in Dutch vessels on the river Clyde and other ports, and had broken bulk, and sold, and made

use of the said commodities. The merchants had tried to enforce the Act, but those who bought the goods, and "other concurring with the Dutch," had opposed them.

In 1604, the Council, in dealing with an alleged breach of the Act by two Irish merchants, made a highly festive in the hope of securing a more generous treatment of Scottish traders under the English Act. A ship commissioned by the Irishmen, and freighted with wine from Spain, had encountered stormy weather on its voyage to Dublin. It had failed to harbour at Dublin. It tried to make for Derry, but was forced to seek shelter in the Clyde where it arrived in a badly damaged condition. The Irishmen appealed to the Council for permission to sell the cargo at Glasgow. The Glasgow merchants protested, and averred that the ship had been purposely damaged before the arrival of the Commission sent by the Council to investigate the case.

(T.C.R. Vol I. 479-80: 487-88.)
The Council decided to allow the sale of the wine which was to be taxed at customs rates exacted from natives; but a fine of 40,000 was the unfriend of Scottish traders did not receive similar treatment in Ireland.

Allusions to the Act in the Council Register for 1681 imply that the Act was on the whole effectively enforced. Under its protection the number of native ships had considerably increased. In 1668 they numbered 215. In 1681 they were twice that number. So many indeed were they that half of them were idle. Dutch shipping had been ousted - in the opinion of the Forrest of Linlithgow to the detriment of Scottish trade. "Now," he said, "coal and salt, for example were trans ported in our own ships and prices are low: before, Hollander came in their own ships and bought goods at a good rate."

1. G. C. R. Vol VIII 665-72
2. " " 652-5.
for the enforcement of the Act regulating the width of linen, the Council did so little, that not until 1663 did the linen weavers take any notice of it. The Act became law on November 1, 1661. On January 27, 1663, the Glasgow weavers petitioned the Council for further immunity from it, on the ground that considerable alterations had to be made on their looms before the conditions of the Act could be met. The required grace was granted until June 1; but the Act remained a dead letter until 1667, when the Council delegated the task of bringing the delinquent weavers to book, to David Wemyss, merchant, Dundee. Wemyss had suffered and spent his money freely as a loyalist during "the late troubles". 

Lauderdale had been asked in 1662 that "some course might be taken to repay him". 2

The weakness of the Council in securing obedience to the Act made possible the recognition of his services.
He was authorized to deal with the law breakers, with the right to collect for himself the "mutes and fines" which were granted to him "by gift under the rotary seal on June 8? 1666." He made the most of the gift. In 1667 a number of weavers in Glasgow, 2 Rupenfeigh, 3 Carluke, 4 Pardone, 5 Edinburgh, 6 Preston, 7 Aberdeen, 8 Brechin, 9 and Montrose were charged 42550 · 1000 for the payment to him of fines imposed on them for violating the Act.

The Council was not embarrassed by the number of applicants who sought to take advantage of the inducements offered in the fishing and manufactures Acts. The results from both were depressingly meagre.

The fishing industry remained in a state of decadence. There was a poor demand for fish. An effort was made to stimulate the demand by Acts prohibiting the sale and consumption of fresh...
on Wednesdays, Fridays, and Saturdays, and during
that, but to no purpose. Passed "for the profit and
encouragement of many poor families who live
by fishing, the improvement whereby has not been
looked to these many years by gone", the Acts, in
spite of repeated proclamations and heavy penalties,
were apparently generally ignored.

Only two Companies sought the Council's
recognition, one in Kirkcaldy, the other in Fife;
and it was not the Council's failure to assist them
in terms of the Act, that discouraged others from
sharing the Act's advantages. Because both
Companies had the Council's protection and
encouragement. Matthew Anderson, one
of the partners of the Kirkcaldy Company, was
fined and imprisoned by the Craille magistrates for refusing
to pay a tax exacted by them on a cargo of
oysters and lobsters brought in Craille by Anderson
for export to Holland. ¹ He appealed to the

¹ S.C.R. vol 1. 231-2.
² " " 223-4.
Council. He had been fined and imprisoned, he complained, "for asserting and maintaining of His Majesties Acts of Parliament and Council". The Council ordered his release on bail, and summoned the magistrates to its bar. Anderson was set free, and the magistrates, severely reprimanded, were warned not to repeat the offence.

The Glasgow Company, who were about to employ vessels "in the fisheries of the Western Isles", sought permission to engage a Dutchman to teach them the superior methods of the Dutch in fish-curing. Their request was granted.

The encouragement of the Council was in vain. In the preamble to a proclamation establishing a fishing Company on 16 June 1670, there occurred the admission, that the Act of 1661 "hath lain over and taken no effect now these six years bygone". This Company was an ambitious venture. It had a total capital

2 " M 175-8."
of 25,000, towards which Charles subscribed 5000. It had powers to trade in “Muscovy, Friesland Island, Greenland and such northern islands and continents for the space of three nineteen years.” It was to have all the privileges of the Fishery Companies’ Act. So it also the Council gave every possible assistance, and such assistance was required. For the managers of the Company had to contend with a good many local difficulties in furthering its interests.

Peter Gemmel and John Walkinshaw, owners of the “Dolphin” refused to fulfill a contract to transport a cargo of herring to Danzig. The Council commended them to carry out their contract. 2 William Anderson, Provost of Glasgow, and others, diversely seven in all, most of them belonging to Glasgow, some of them to Greenock, Irvine, Renfrew, and Dumbarton. Sir George Maxwell among these—imprinted the 3

2.O.C.R. vol III. 300.
Company's export monopoly by exporting herring from the Clyde ports. Sir Robert Sinclair "fell into a lamentable premonition" on their account. He drew up for them a bill of complaint against the managers of the Company and presented it to the Council. "Among other things he had this expression that the petitioners were free agents, members of a Royal body whose privileges ought not lightly to be crossed; else malcontents would then take occasion of grudge and of sowing fears and jealousies between his Majesty and his people." The bill caused a storm in the Council Chamber. Lauderdale who as Lord High Commissioner was present "began to bawl and frame and screwed up the cryme to such a height as that (its author) deserved imprisonment, deprivation and a most severe reprimande." The Council in a "more moderate answer" decided that Sinclair should acknowledge his offence upon his
knees before the Holy Lands and recent and
disclaim the foresaid expression as seditious
and not becoming a subject." The Company,
on September 18 lodged a cornitic complaint
with the Council against the merchants.
Sir George Maxwell was discharged on the ground
of what he had suffered "for his loyaltie". The others
were fined 100 merks for each last of herring
reported by them.

The heritors on the Clyde and "adjacent
lochs" prohibited fishing in those quarters
before July 25. The Company protested to the
Council that this close time was "not fandit
in any law" and was "found to prejudice the
early fishing, now very much improved by
the fishing Company." They appealed for the
removal of the prohibitions, and at the same
time asked for permission to institute a new
standard of measurement for the sale of herring.
Both requests were granted.

1. Records in "Journals" (S H S). 209
2. O C R: vol IV. 40.
The Company, having had authority given them to legislate for the interests of their business, had issued an Act in 1675, prohibiting all non-members from salting or barrelling herring before September 20, under penalty of the confiscation of all herring found illegally barrelled. "Widows, gentlemen, and others that doe make and barrel herrings for proper use of their respective families" were excepted, "providing the overseer at Greenock be notified of the number of barrels any one are to make, and give security that they shall be landed and expended within the county." The Act was ignored, and although the Company had obtained "general letters against all and sundry, the persons contriving thereof, and letters of sequestration and confiscation of their ships, boats eli... yet nevertheless the same hath not received due execution for want of that concurrence and assistance that is necessary."

'P.C.R. Vol. V 76-8.'
The Council provided the Company with military assistance for the enforcement of the Act.

But the Company was doomed to failure, notwithstanding all the protection and encouragement received from the Council. Fowler then expressed the opinion that more could be done with £50 outside the Company than with £200 within it. The Duke of York at a meeting held in 1681 between the Committee of Trade and leading merchants suggested that the capital of the Company might be better employed in some other business and that fishing should be open to all. He knew and the Duke agreed that it should be dissolved. Charles wanted the money he had invested in it for the payment of arrears of pay due to his troops. The Company was ultimately dissolved by Act of Parliament in 1690.

The history of the Manufactures Act makes pretty similar reading. Few availed themselves of its privileges. Dennis de Rapas, while travelling in Scotland in 1672, wrote to Sir Edward Harley: "I never saw a nation in general more restless, lazy, and least ingenious in the matter of manufactures than they are." But no more than was the failure of the Fishing Companies' Act, was the failure of the Manufactures Act due to the remissness of the Council in protecting and encouraging those who confided in it. For the Council gave them every possible assistance.

Thomas Diden came from London at the request of the Edinburgh Glover's "upon their great expenses as one member servant of their trade to serve them" as a glove perfumer. The Act encouraged him to start business on his own. The Glover's opposed him.

'H. M. C. R. Courtland Papers. III. 327.
(Quoted by A. H. Keck. "Commercial Relations of England & Scotland")
He appealed for protection to the Council. The Council ordered the wheelers to cease molesting him. They petitioned the Council to alter its decision. Perfuming they complained was no new manufacture but a part of petitioners' trade, and others "did not treat the same". It was to their "great prejudice that a stranger should interfere with their privileges". But the Council stood by its decision.

Colonel Ludovic Lesley had been granted the right under cover of a nineteen years monopoly "to make salt... in a way not formerly known in this Kingdom". His process was being copied and exploited. The Council prohibited the use of the method unless by the Colonel's consent.

Robert Pape "employed his whole estate and fortune for advancement of the publick good", in erecting a glass factory in the Citadell at
Leith. But such was "the humour of some merchants and inclination to ruine and destroy all publick works whereby credit or benefit may arise to the nation," that they abstained from buying his wares, preferring to import them from abroad. The Council ordered the import of glass to be stopped. This did not satisfy Cape. A month later he asked the Council for permission (1) to search all vessels from abroad for glass; (2) to ask the Customs authorities to give an account of all glass passing through the Customs house; (3) to examine the Customs' books; (4) "to make open doors and cellars and houses suspected of containing glass, and to confiscate the glass found there. He did not get all he wanted; but the Council authorised the Exchequer to issue orders at Cape's request for the confiscation of "all such glasses as are already or shall be imported contrary to the said Act of Council."
Samuel Hall, master of a silk weaving company, complained to the Council about Walter Chisley and others, silk weavers, who refused to join the company. They were commanded either to become incorporated or else "desist and cease from exercising the said craft." Alexander Dees had set up a paper factory at Dalmuir in 1662. The Council and Exchequer had recognised it as coming within the meaning of the Act. He had brought in Frenchmen to assist him. The factory had been burnt down. It was rebuilt but business was in a bad way through lack of raw materials. Rags were scarce owing to their use by candle makers as wicks, instead of flax and cotton. The Candlemakers were prohibited the use of rags for wicks and the monopoly of paper making granted to Dees, which was about to expire, was renewed for another period of nine years.


Vol. VI. 142-3.
In 1667, a supplication was made to the Council in the name of the masters of manufactures in and around Edinburgh and Leith, for relief from taxation imposed on them by the Edinburgh magistrates. The Act, they claimed, exempted them from all taxation for a period of years. The Council upheld their claim and summoned the magistrates to confer with a member of the Council "to the end they (the manufacturers) may be secured in their liberties and freed from all public burdens." The following year, the same party complained about the imposition on them of the militia tax. They had suffered from military quartering and the pounding of their goods. One of their number was imprisoned for refusing to pay the tax. They had sought redress from the Edinburgh magistrates, without success. The magistrates were summoned before the Council, and both

2. " " 536-7.
brocades of silk or silk lace, seimp lace, velvet statin, beaver hats, were also prohibited.

But the Act was weakened by exceptions in favour of nobles, Prelates, Privy Councillors, Lords of Session, Barons with a yearly rental of £2000, Proctors, Bailies, Deans of St. Andrews, University Rectors, the wives and eldest sons and daughters of all such persons, and all the children of noblemen.

In 1681 the merchants who were asked to express their opinion about the economic situation made it clear that the forbidden goods were coming in from England as freely as ever. "All that we can export to England," it was complained, "does not compensate the fourth part of our importation which consists in cloathes of all sorts, and many wooden manufactures; all sorts of laces, seimp laces andfreqels, silks etc and generally everything for luxury traders." This..."has already consumed the great part of our stock..."
of money and of not prevented will in a short time discuss that which remains. "We can never expect to bring any manufacturies in Scotland to attempt, as we have already found by experience such manufacturies being several times attempted but always crushed by the import of English commodities. A thrust at the Council's disrespect for the law was also made in the reflection that "if all persons and especially of the greatest quality would imitate his Majesty's highness then needed no law to discharge the use of these superfluities." 2

The Act of 1667 3 which shut the door on Irish imports received far more attention from the Council. The Act was not only "one affair wherein the interest of the kingdom is much concerned", but also an affair in which the Council was particularly concerned. For its members and the class they represented had a considerable stake in the

2. " 653.
agricultural interests which the Act was intended to protect. "The money arising from this trade (in cattle) has been the most sure and considerable stock for the return of money," wrote Sir William Sharp of his master Lauderdale in 1663 when news came new about the English Act excluding Scottish cattle. Sharp's concern was how his master's money was to be as profitably invested as it was in the cattle trade, if in the event of the Act being passed, the trade in Scotch cattle slumped. His concern was shared by most of the Council who were all landed proprietors. When therefore Scottish agriculture had to reckon with the closure of the English market, strong measures had to be taken to keep the Irish farmer, who was also excluded from England, from making the situation of the Scots farmer still more difficult, by the importation of Irish cattle and virtual.

A proclamation issued on April 9, 1668 included horses among the imports prohibited in 1667, in response to a petition of the heritors of the western shires. In August, owing to "endeavours used to transport cornes, cattle, horses and other goods in great numbers into several places of this one being done," severe penalties were attached to the Act. The importing vessels and their cargoes were to be confiscated and sold. One half of the importers were to be fined £200 - one half of the fines and the sale price of vessels and cargoes going to the Treasury, the other half to informers.

Still the cattle came in. Reports of seizures reached the Council in October 1669 and January and April 1670. On December 16, 1669, Sir David Dunbar of Balgon was fined £200 for importing 120 cattle, and £200 for sending Irish cattle into England.
At their forenoon session on March 1, 1670 the Council decided to order "all the heritors who have thairie lands lying on the west sea coast to give bond, that if any Irish beasts be put a shore within thairie bounds, that they shall seige the same under the pague of 40 Scots pounds for each ox or cow which shall escape there."

Western heritors present at the Council meeting agreed to do their best to deal with the smugglers, but "were not willing to be lyable to the fine if those escaped there, because victual is easily concealed and horses not easily caught."

Two days later a fresh proclamation was issued. It revealed how the law had been evaded. Cattle had been seized and sold according to prearrangement. Horses and mares had been imported presumably for the private use of the importers, but actually for sale. Victual had been put ashore during the night.

1 Land. Papers. III 177.
Magistrates and Militia Commissioners were ordered to refrain from troubling the petitioners.

The Council also made the Act still more attractive by a decision—resolved into an Act of Parliament in 1663—embodied in the terms of the Establishment of a Cloth Manufacturing Company at Ipswich in 1662. Anxious to secure cheap labour, the Company in their petition for recognition, reminded the Council that the Act had as one of its intentions, "the employing and providing of a great number of poor and idle persons, who are now miserable for want thereof and are a heavy burden to the country," and authority was sought to impress "the poor and idle" into the Company's service. An Act of the 15th Parliament of James VI ordaining "that strong beggars with their bands be employed in common works and continue servants there during the rest of their life."

1 G.R. III. 315-16
was regarded by the Council as sufficiently legal
found on which to grant the Company's request.
A request which the Council welcomed as a
means of solving the problem of 'the beggar and
the vagabond' which at the moment was causing
a good deal of trouble throughout the land.

So the Company was authorised 'to bring
into the place of the said manufactories all idle
persons and vagabonds within the sheriffdoms of
Galloway, Ayr, and Renfrew, who shall be found
begging and burdensome to the country', and
'other persons who albeit they beg not, have
no trade, stock, or visible lawful way to main-
tain themselves by their own means and art'.

The impresarios, when confirmed in these, were the
compelled to work for their keep for a period of 15
years, reckoning from the 16th year of their age;
but those who were "only out of service and
resilient for the yoke" had their term of service
sharply to five years. The Act of Parliament of 1663, which ratified the Council's decision, gave this privilege to all manufacturing companies, and enhanced its value by making the parishes to which "the poor and idle" belonged liable for their keep to the extent of 2/ Scots per day for the first year after arrest, and 1/ Scots per day for the following three years. The half of the cost to be borne by the heritors and the other half by the non-heritors of parishes.

In 1663 and 1667 two more protective Acts were added to those already under the supervision of the Council—the one passed by the States to check the import of English foods, the other passed by the Council to exclude the import of Irish cattle, salt beef, and provisions. The former like the Navigation Act of 1661 was retaliatory. An English Act had...
imposed heavy duties on Scots beef, yarn, linen, salt, and on cattle imported from Scotland between August 20 and December 20. The Scottish Estates now placed an embargo on cloth (broad, narrow, serge, caselain) hats, stockings, tobacco, and gloves, and 80% on all other commodities imported from England.

There was added a clause to the effect that the Privy Council had the right to raise the embargo in the event of the English Act being cancelled. A letter was sent by the Council to Charles underlying the clause. But not until 1669 did the English government make any alteration in their Act in favour of Scotland.

In 1665 the Council appointed a committee to confer with the Scotch Commissioners regarding the economic relations existing between the countries. The Council had already sent a letter to Charles pointing out how
unpolitic it was for England to treat Scotland as an alien. Charles however could not overcome the determination of the strong English merchant class to shut out the competing goods of the Scots, and the Act remained as it was.

The Cattle embargo was a particularly serious handicap to Scottish trade in which cattle were a considerable factor. In 1668 the Council urged Lauderdale to do something towards the removal of the embargo. He succeeded. On April 23, 1669 the English Parliament passed an Act allowing the import of Scottish cattle and mutton. This liberty was afterwards withdrawn, and the old Act re-established.

The Scots Act was not exactly a dead letter. An appeal of English merchants for the restoration of the trade relations existing between Scotland and England earlier in the
century, mentioned that great quantities of English manufactures and English plantation commodities had been imported into Scotland, but that since the erection of the Scottish tariff wall, "thousands of families who get a comfortable living in & managing of that trade are now exposed to want and beggary." But the Act did not receive the attention required from the Council to make it effective in keeping the English merchant out of the Scotch market, and in stimulating home industries. The 50% tariff on "all other commodities mentioned in the Act seems to have been quite ineffective. The Estates in 1672 spoke of considerable sums spent on such goods to the detriment of native manufactures, and dealt with them in a summary Act prohibiting the wearing of clothes "having in them gold or silver, gold or silver lace, buttons, ribbons, tracings, fringes, loops of gold or silver." Embroidery, flowered stuffs, striped stuffs

"H. Keith. "Commercial relations of England and Scotland" (quotation) p. 91."
The sequestrers had now to be reported to the Treasury and permission sought for their sale. Passengers were to be allowed to bring in with them only one or two horses. A weekly search was to be made, and on market days, for smuggled victual. The bond mentioned above had to be subscribed by the West Coast heritors.

In June, Stewart of Ardindoe was commissioned to see that the proclamation was respected. The task was too big for him. Commissioners—among them being the Earls of Southold, Dumfries, Cassillis, Eglinion, Argyile—had to be appointed in 1673 to exact the bond which the heritors were reluctant to give. The Irish goods still came over. The case of Graham, laird of Dumfries, which came before the Council in 1673, shows how loosely the Irish wall was guarded. Graham had a brother Cathcart in Ireland who sent consignments of Irish cattle to him.

for transport into England. The customs officials at Fortpatrick were bribed to let the cattle through, and they were sent on to another brother Hector. "No of purpose does reside upon the Border for reselling and venting of the said prohibited foods."

In 1675, the abnormal severity of the winter of 1674 compelled the Council to grant licenses for the import of Irish cattle, horses, and viatic in order that sorely depleted stocks might be replenished. The Duke of Buccleuch was given liberty for a year to import no more than 200 horses and 4,800 cattle. Charles Charteris, customs officer, or any other merchant, were licensed to import Irish viatic before September 1, the sold in the shires of Wigton, Kirkcudbright, Dumfries, Ayr, Renfrew, Lanark, Argyle, Berli, Dumfartous, and in the town of Perth. In December, the shaft of Wigton and other specified shires were allowed to import Irish viatic.
oak, oatmeal, and pease, in view of the deaths in their districts. But on February 24, 1676, the license granted to the ship was cancelled. A flood of imports had come in, and the Council decided to close the door once more.

Within a few weeks, the Council was as busy as ever dealing with the smuggler, and enlisting means to thwart him. Sums of £80 per boat were imposed on James Tain, merchant, Glasgow, and others for importing 400 tons of victual in April. Thomas Reid had two ships and their cargoes seized about the same time; but they were released, because the cargoes were ordered before his license expired, and the ships had been held up owing to contrary winds. The Duke of Buccleuch's licence was still valid. But on July 4, 1676, a complaint was made to the Council that the licence was being abused. More than the stipulated number of horses and cattle were being...
imported, and they were older than the license allowed. His license was cancelled only to be renewed on July 27 to allow a further import of 1,600 cattle.

On July 4, 1676, a Commission was given to Robert Fleming, clerk to the Dumbarton garrison, to seize boats bringing in victual from Ireland. He was to get the boats he seized and a third of the value of their cargoes. Part of the victual was to go to the garrison and part to the poor. The Earl of Wigtown, captain of the garrison, had orders to give him military aid.

In August, the Earls of Wigtown and Drumlanrig, and Lord Rose, President of the Session, Justice Clerk, or any two of them were commissioned to sit in judgment on a number of defaulters. They began their work at Glasgow on December 27, and apparently reports reached the Council that the Commissioners were too severe in their judgments.

On January 18, 1677, the Earls of Mar, Nellie,
and their like four were appointed to consider the proceedings of the Commission. A week later it was reported that the Commissioners had "proceeded very legally and orderly in said affair entrusted to them."

Another Commission for the enforcement of the Act was given to the Earl of Argyll, Lord Ross, and Sir Richard Murray on December 14. They were to be paid for their services, and Ross was allowed £15 for the purchase of two boats to police the Clyde. The skippers had to report their canoes, without breaking bulks, at Greenock, Largs, Inver, Dumbarton, Roker, Brodick, Dunoon, Inveraray, Campbeltown, Inverary, Portpatrick, Glenluce, and Kirkcudbright.

But in December 1679 a Council order to Lord Ross signifies how little the efforts of the Council had succeeded in putting an effective stop to the violation of the Act. "For public example and caution", he was ordered to burn two boats seized at Largs and Inveraray.

P.C.R. vol V. 102.

2 " 76-8.

3 " 11 348.
to destroy their cargoes of meal, and to send their skippers to the Edinburgh tolbooth. The Council was afraid that "now when the mercats begin to quicken ... there may be great quantities of victuals suddenly imported from Ireland."

On December 18, 1679, the Act was committed to the care of Robert Campbell, brother of the Laird of Ardvingless, John Boyle of Kilbrin, and James Dunbar of Muckrorn. Each had a wide district to police. Campbell—from Loch Long to Kintrye; Boyle—from Kilbrin to the March of Galloway, from Glasgow to Loch Long, including Aran, Buti, and the Camerons; Dunbar, from the March of Galloway to the March of Rithsdale. When their Commission was renewed in 1680, they were made liable to pay £100 for every boat they failed to seize.

They laboured, like their predecessors, in vain; and in 1682 the Council had to admit defeat.

Charles Murray and Robert Milne

2 " " " 594-7.
Customs collectors, craving the Council for the repeal of the law as it affected horses. "Irish horses," they said, "have been and are as plentifully imported as ever, either by connivance or negligence of the persons entrusted... It is absolutely necessary for tillage and laboring that Irish horses be imported and... it is simply impossible to put a stop to the said import, the importers having the opportunity of a large coast, and also bringing them into England and by roads to this kingdom without paying duty." The Council decided to lift the ban on horses.

The ban on cattle, beef, and victual remained. But, "notwithstanding all the care and endeavors taken, the said prohibitory goods" continued to be imported; and the last glimpse we get of the "Iron wall" in the Council Register is on March 20, 1684, when Sir Robert Erskine of Log and John Boyle take it in hand, without...
salary, but with the lucrative right to all fines
raised for breaches of the Act since the indemnity
of 1679.

The Council's interest in agriculture also
determined the vigorous Act passed in 1680,
prohibiting the import of foreign spirituous liquors.
The Act was particularly aimed at the exclusion of
brandy, which had given a good deal of trouble.
It linked to find a readier sale than whiskey, and
so the market for barley was depressed.

It was placed on the list of taxed imports in
1668 and the monopoly of the tax given to Lord
Elphinstone. Elphinstone's abuse of the monopoly
was one of the grievances of the Hamilton party
to which they gave expressions in Parliament in
1673. He had "extended so far the gift, that he
allowed the incorporation of it (brandy) at his
own price, with the result that the price of
barley was kept down, "the strong waters, which
formerly consumed part of it being no more used." She lost the monopoly and brandy had a heavier tax imposed on it.

But in 1680 it was again "found destructive to the produce and manufactory of this our ancient being done", as well as "prejudicial to our customers" and it was shut out altogether, along with other "foreign strong arakis". Each of the excluded liquors were to be staved in when found; ships importing them were to be confiscated, the shipper imprisoned; and retailers and consumers of the imports were to be fined, and if brewers, deprived of their brewer's right.

The Act was an expression of a growing concern on the part of the Council in regard to the economic situation which was creating widespread dissatisfaction. Seven days after the Act was passed, a Commission was appointed for the encouragement of cattle and linen.

1. MacCulloch, "Memoir": 244.
3. 451-2.
There was a great scarcity of money, "in great part occasioned by the decay of trade" in cattle, linen, plaiding and woollen goods. But it was not until the following year, when the Duke of York took his place in the Council, that anything further was done in the matter. He took a keen interest in the economic situation and moved the Council to action. On January 27, 1681, a Committee of Trade was appointed to inquire into the causes of the decay of trade and the scarcity of money, and "to propose and offer such expedients as they shall think fit, with power to call for any merchants or other persons and to confer with them thereupon." A meeting between the Committee and several leading merchants took place on February 21, at which a memorandum dealing with current economic problems in the nation's life was submitted by the House of Commons. The other merchants desired time in which to meet and to decide how they ought to advise the Committee.
They were given a week for their conference. They began their deliberations the forenoon day "in the Litch Town Council House at 3 P.M."
and by March 1, their report was in the hands of the Committee. Some of their conclusions were immediately embodied in a proclamation prohibiting the import of "silver and gold thread and diamond work to be worn on apparel:" frocked Holland, linen cambric, lawn, damask, damask velvet, brocade, sattin, calico, ruslin, chintz and Indigo India linen, and all clothes made of linen and cotton: all frocked clothes and stuffs whatsoever made of wool yarn, worsted and hemp: frocked silk and woolen stockings: laces made of silk, gimp or thread: all manner of laces and point of any sort or colours: frocked flannel, shoes, boots and slippers.

This hurried proclamation was issued to anticipate a rush on the part of the merchants.
to import goods likely to come under the Council's ban. In the meantime the Council was petitioned by every industrial interest in Edinburgh for protection under the ultimate Act. But when the Act was proclaimed on April 11 the list of goods prohibited in the preliminary Act of March was but slightly increased by the addition of flowered, striped, figured, checked, painted or printed silk stuffs or ribbons, and all foreign made clothes - night gowns, petticoats etc. for women and children. To meet the case of merchants with stocks of the prohibited goods on hand, permission was given them to sell their goods up to June 15. The magistrates had orders to search shops periodically, as well as the homes of merchants for such goods, which when found were to be destroyed, while their owners were to lose their buyers' rights. Merchants had to give an inventory of their
stocks of cloths, and to send in samples of it with a signed bond not to import or sell the forbidden goods. Officers who had been found that this was done were to be fined and to lose their office for all time, if they failed in their duty. The Manufactures and Linnen and woollen Acts were again ratified. They had been committed for their enforcement to Sheriffs, Magistrates, Lords of Ragalities and Barones, but "by their oversight and neglect the same has not been put into execution."

The gift of fines enjoyed by Weemss of Duncnan was withdrawn. The rest of the Act dealt slightly with materials for ship building, books, tobacco and foreign liquors.

Within two years of the passing of the new legislation the same old story of disregard for the law continued to be written in the Register:

The demand for foreign goods, especially
English cloth which was both cheaper and finer than the home product, was more than the merchants could resist. On January 4, 1683 a number of Edinburgh merchants were brought before the Council for importing, "Cloth, worstit curle, sarges, worstit stuffs, muslins and vermilion, callicoes, holland, cambric and Tielian cottons, muslins, flaxens, silk and worstit stockings, white lace and point," and other goods to the value of over £2,000.

In February, the Council itself was compelled to temper with the Reck. The new milletus Company received a warrant to import cloth from England for soldiers' uniforms, at a cost to the Exchequer of no more than 5s. per ell which was 1/6 cheaper than the cloth made by the Company. The Company failed to carry out the contract. The warrant was cancelled and General Dalziel was asked to appoint whom he could to bring the required cloth from England.
Licenses for the same purpose were afterwards given to Cleaverhouse and Drumlanrig.

W. R. Scott in an essay on "The fiscal policy of Scotland before the Union", passes that seems an unfair judgment on this procedure of the Council. He thinks that the Council treated the deviation Company unfairly, by weakening the Act through the issue of the licenses, by the encouragement of illegal imports, and by failing to give the army Contract to the Company for the sake of economy. But it may be pointed out that, as we have seen, English cloth was being illegally imported before the licenses were granted: (2) that the cheaper price of English cloth does not account for the failure of the Company in bringing it in. If others could do it, why not the Company? (3) that Alexander Ross before the first license was granted had to pledge himself not to import more cloth than
was stipulated in his Commission, and that the Council arranged with the Company for one of their number to inspect the cloth at Berwick before it entered Scotland, lest Ron should abuse his license: (4) that quality was a consideration with the Council as well as price, and there is evidence that the Company's cloth was not of the quality needed by the military authorities; (5) especially that the Register minutes of the Council’s dealings with the Company in the matter would suggest that the biggest difficulty was the Company’s inability to provide in time all the cloth needed to meet the pressing requirements of the troops.

It is true, however, that the licenses could not but foster disrespect for the Act. On April 22, 1684, in spite of a proclamation issued on August 16, 1683 forbidding the purchase of forbidden food imported since November 1, 1681 which still further implies that smuggling had been going
in long before the license issue — the notorious Company had to lodge a complaint against the continued breach of the act on the part of certain Edinburgh merchants. There had been "mutual complaints" made by the merchants and the Company on April 8. The Company accusing the merchants of underselling their goods by "stealing in English cloths" — the merchants alleging that the goods they sold had been imported by the Company and sold to them as the Company's product. The merchants were now charged with refusing to take the bond connected with the act, and with having imported large quantities of cloth and worked stockings. They had imported more since the proclamation of August 16 than in the two previous years. The names of those who bought the cloth make interesting and suggestive reading. Among them were the Marquis of Atholl,
the Bishop of the Isles, and the marquis of Montrose! The guilty merchants were fined 12/ for each yard of cloth imported and 5/- per dozen stockings.

Two days later, John Chancellor, an Edinburgh Baillie was ordered to repent seven pieces of English cloth. He was fined and the cloth burned.

On the same day, still another proclamation was issued, this time forbidding the wearing of clothes made of the imported cloth. "... Several women, complained the Council, "even in our capital city of Edinburgh and elsewhere throughout this our kingdom have presumed to go abroad with cloth made of the said prohibited stuffs, upon pretexts that they are night gowns, undresses or mantoes." No mention was made of Aitho, Montrose, or the Bishop of the Isles! Fountainhall says that some of the Councillors wanted to impoverish the feminine wardrobe still further by including in the proclamation, "women's
laced shoes; no types of fringes on their petticoats than one; mundered out silks and flored hoods and scarfs, but these things "were forbome to be expressly discharged at this time."

On August 19, 1684, the newmilns Company were again knocking at the Council door, seeking the withdrawal of the licenses, on the ground that they could now supply all the cloth the soldiers needed. The Committee of Trade interviewed members of the Company on August 28, and inquired "if they could furnish sufficiently in short time the forces with sufficient clothes at reasonable rates and of such a dye as shall be thought fitt to distinguish sojourns from other sculling and vagrant persons who have hitherto committed the livery of this kings sojourns."

A week later another issue of licenses took place. The Council found that the Company could not provide in time the needed cloth.

4. " " 140.
To the Act of 1681, there was added another measure in the interests of trade improvement when on May 22, 1682, an Act was proclaimed commending recognition of the Staple port of Camperveer in the Netherlands, and its Conservator of Trade. The Staple regulations suffered neglect during the year of the Commonwealth. The Commonwealth government deprecated them for political and economic reasons. It did not favour the restriction of trade to one port or one Company, and the Scots had assisted Charles after the execution of his father. The merchants of the non-royal burghs welcomed the attitude of the government. They were encouraged to ignore the staple regulations which excluded them from direct trade with the Netherlands. The practice continued after the Restoration, and respect for the staple was not deepened by the passing of the appointment of the Conservator Act.
of the hands of the Convention of Burghs into those of the King. Royal and non-royal burgh merchants ignored the Port and the Conservators.

The report of the merchants to the Committee of Trade in 1681 complained about the prevailing disregard for the Staple regulations, and pleaded for a renewal of the Status of the Conservators. "Merchants now hardly owned him. "Few or none" frequented the Staple Port but carried their goods to Rotterdam "or when they will". Their goods were sold at less than Staple Prices, "making trade rather a peddling then an established commerce, and does not now deserve the name of Staple trade"."

The proclamation of May 22 authorised by Charles in a letter of May 11, ordained all customs farmers and Collectors "to search all Staple goods transported . . to the Netherlands", to take security that the goods were carried to the Staple port, and
to collect certificates which were the handed in quarterly to the agent of the Royal Burghs signed by the Conservator to the effect that goods exported had been delivered at the staple port.

But like the Act of 1681, the Staple Act was ignored. The Council dealt with a complaint of the Burghs' agent Hugh Wallace on January 4, 1683, against George Dunsas of Leith and others for exporting staple commodities to Rotterdam and other ports. Three of the accused were fined 1000 merks each. On February 5, 1683, the Conservator, Sir James Kennedy and John Elphinstone agent to the Burghs complained to the Council of certain persons "who are wicked and ungodly designe, the Lester to keep up and intertenance correspondence with these seditions and rebellions persons who are sheltered at the town of Rotterdam" who did "constantly transport their ships and staple goods to Rotterdam or some port of the Netherlands.
and not to the staple port of Camphire. Among those indicted were merchants and shippers belonging to Elgin, Findhorn, Boosmawness, Arbline and Dundee. The ease against them however was 'not proved', their defence being that though they had landed their goods at Rotterdam, they had not "broken bulk" there, and it was permissible to land goods at any port in the Netherlands providing they were sent on to Camphire "unbroken". The decision of the Council betrays a lack of sympathy with the Act on the part of the Council. If the goods had not been "broken" it was because they had been arrested by the Conservators at Rotterdam, and he would not have arrested them if he had not had good reasons for suspecting that they were not intended for Camphire. A similar implication is suggested in the response of the Council to an appeal made to it by Kennedy, for support in steps he had taken to deal with.
John Fleming, factor at Rotterdam, known as the "fanatic and disaffected." By an Act passed in the reign of James VI, Scotsmen residing in the Netherlands had to take an oath of obedience to the Crown in order to qualify for privileges of trade. Fleming refused to take the oath, and prepared to claim Dutch burgher rights. Kennedy had deprived him of his trading rights as a Scot, and had notified merchants and skippers to that effect as far as possible. He now went to the Council to make a public intimation of what he had done, by having a notice of it posted up at the Edinburgh Cross and at the pier head at Leith. The Council questioned the request, though Fleming was a notorious fanatic, and appointed a Committee "to see how far it could be granted."
In one respect, the Act of 1681 had value. It stimulated home industries. The Newmilns cloth company was established in 1681. Another cloth factory was erected at Leith in 1683. Captain Thomas Hamilton sought a monopoly for the making of beaver hats on July 12, 1683. No beaver hats were being manufactured in Scotland. He had returned from the Plantations with a quantity of beaver and "raccoon" skins which he wanted to use in hat making. He was given a nine years monopoly.

David Fawcett 3 applied for recognition of a linen and mercer factory set up by him at Leith. Thomas Sharp of Edinburgh had a silk dyeing business brought within the shelter of the Manufactures Act on September 20, 1683; while a year previously George Sandy 2  an Edinburgh burgess was granted a monopoly.

N.C.R. Rep 142, 304-5
2 " " 193
3 " " 302
of twisted silk manufacture, an industry "never hitherto practised in this Kingdom."

Throughout our period therefore Scotland did not move very far out of the economic depression which prevailed at the Restoration. But the slight progress made towards prosperity was not a result for which the Council could be greatly blamed. The main factor which determined it was such as the Council was unable to control. The strongest of governments could have done little to improve the economic life of a nation situated as Scotland was in the years 1660-85. The wonder is that she made any progress at all.

(1) Taxation continued burdensome. The annual revenue of £40,000 voted to Charles in 1661 proved an oppressive burden. "To bear the rent of this kingdom," remarks McKenzie, "for it load'd extremely the price of victual, because it heighten'd the price of beer and ale; and when money grew scarce, it forced gentlemen to make untimely shifts for payment: ..."
and the exacting of it being entrusted to soldiers who quartered till it was paid, they made this a pretext to oppress the Country; and they pressed so uncomitatively upon the remotest parts of the kingdom... that in effect these shires paid still a double shire, and when all was collected, it did either lie idle, or in the Castle, or else was carried by carriers into England: And thus trade was defrauded by want of a stock, and the country men impoverished by a lasting and eating tax." Large sums were also levied in 1665 and 1670 to assist Charles in his wars with the Dutch. And added to all that was the burden of fines exacted for pre-Restoration disloyalty and breaches of the ecclesiastical laws.

M. Henry. Memoirs. 1631-32
(2) Internal strife hindered trade. A letter dated November 24, 1666, from an Edinburgh sailor to Rory McLeod of Dunvegan, throws a good deal of light on the adverse effect of the western rising on the trade of the Country.

The sailor regrets that he can get no Holland "worthie of your Honour's weare, the merchants being afraid to take in maier by reason of the great bubble (Peedie and Rixing) yet is happening their". The trade situation which called for serious attention in 1681, arose shortly after the more formidable revolt which culminated at Bothwell Bridge.

Blame of for some of those burdens cannot wholly pass the door of the Council. It knew well the poverty of those who had to bear the burden of the "disloyalty fines". Roller wrote to Harvenel in December 1664, "now the lesion of paying the fines is very near..."
and there is but very little appearance of money, it being so exceedingly scarce in the kingdom, the guilty cannot get it": and in January 1665, the
fewer lament me, for I find there are so many positively assure you, hundreds of beggars in the list, such as tenants, cotters, and their shepherds. Three
score and ten came to me out of two parishes in Stirlingshire... and did declare that they believed they had not so much every year as to pay the
proportions of fines that were imposed upon them, though many of them were but put to do a piece as to both the first and second moiety. Yet his concern
was that the Act which Charles had delayed to operate against the wishes of the Council, should be put into immediate execution, lest the fines should not be "with a grain".

Rothes and Sprigg were aware of the difficulty of raising the money required by Charles in 1665, "the kingdom being so impoverished and repressed..."
with the late miserable troubles and rebellions that our
poverty is not depressed, and at this time there
is more given to His Majesty than ever before by the good.

About the same time Innesdale was expressing the
opinion Thunderdale that the condition of the country
was such, "though want of trade and the low prices
of all the native commodities... and the extreme
scarcity of money" that even the hazard of affront
and prejudice the country would suffer in the event
of an invasion, "were better ventured by far than
a tax imposed how mean and qualified soever..."

But that was all the length their concern went to
the Convention which met to consider the King's
demand. Obsequiously granted the money.

But responsibility for the more serious obstacles
to the nation's prosperity lay with the English
government. (3) England's economic policy struck
a heavy blow at Scottish trade and commerce.

Obliged by the English Navigation Act of 1660 from

2. "  "  "  21-13
trade with the Plantations, and from any carrying trade with England, and severely handicapped in the English markets by the English Commercial Act of 1663, the Scots found their chances of economic recovery spoiled at the very outset, and that at a time when their trading privileges in France were being curtailed by the protective policy which was then being strongly developed by Colbert. These privileges had been confirmed as recently as 1639 by the Council of France. But in 1663 the tax of 50 sous per ton on all foreign shipping which had been in operation since 1559 and from which the Scots had been exempt, was imposed on Scottish ships by Colbert's administration. The Council and the Convention of Burgesses tried repeatedly to have the tax repealed but to no purpose. In 1681 the Crown of Scotland intimated to the Committee of Trade that the Royal Burgesses were ready to pay £2000 to anyone who succeeded in having the tax removed. ²

² P.R. VII 655.

¹ Repeated offers of money made by the Burgesses to Charles and his ministers to induce them to do something to remove this tax - recorded in C. B. Regesti. ⁴
Nor was Scotland in a position to wage a successful fight against the English policy. With rich resources of raw materials, a more advanced manufacturing system, a rich colonial market at her disposal, England could afford to regard with complacency the efforts of the Scots to deprive her of raw material and a market for her manufactured goods. The Scots, depending for their wealth on a few commodities such as cattle, fish, wool, corn, coal, linen, and woo in the home manufacture of the goods they needed, were at England's mercy. England could enforce her protective measures against the Scots, as she did with so much vigour that in 1681 it was complained that "few commodities of this kingdom are transported there, being either prohibited absolutely or taxed prohibitively." But the Scots could not without serious repercussions, enforce retaliatory measures against England. They could not absorb their native products, and had to get rid of them.
at any price. Any attempt to restrict the export of them, as happened in the case of corn, resulted in a glutted market. They could not do without the manufactures of England. Then they made a bold attempt to do so in 1681, one result was the passing of an English Act which, restricting the import of linen damaged one of the most valuable of their industries. In an appeal of letters merchants to the Council in 1684, they complained of their Scots agents being whipped through several towns like manufactors and "very many of these forced to give bond never to return".

(4) England's foreign policy involved Scotland in still further economic hardship. Its attempts to break the Dutch during 1665-1674 not only increased Scotland's financial burden but also greatly impoverished her trade, by closing one of her most lucrative markets, which was once open to the free export of the wool growth.
of the Kingdom, save salt and herrings.

The Commissioners of the Exchequer wrote in 1672 that the revenue was reduced during the war of 1665 by one third, and that they expected the same result from the war in progress. A letter from Rother to Lauderdale in May, 1665, corroborates that statement about the poverty of the Exchequer in 1665. "In no place in the whole world," he writes, "have we any commerce at this time and money does grow daily scarcer, so as in a little time there will be none, and I am sure little or none to pay pensions." 2 He was unable to scrape enough money together to pay the Skelton pensions. He was unable to pay the pension of the Earl of Dunfermline.

(5) It has also to be remembered that the internal economic system within which the Council had to carry out its task of fostering ¹ R.C.R. VIII 654.

trade and commerce, made such a task very difficult. The protective sympathy which invested
buyers, merchants, and crafts with rights and
privileges, discouraged and hindered that
enterprise which the situation demanded.

Its Robertic character was realised, as we
have seen, by those who sought to take advantage
of the Acts passed during our period in the
interests of economic prosperity. Co-operation
was needed, but there prevailed a self-interest
which made co-operation impossible. Mckenny
gave a true sense of what was required when he
wrote, "It is the duty of every member of Parliament
to oppose all impositions upon any commodity
sown, and to adhere to one another, concluding
still that they are members of one body, and
that each poor individual represents the whole
humanity." But he tells us how "those who have
salmon, care not how much the imposed upon
Mckenny Memoirs. 172
buf us; whereas, when it comes to their share to be
concern'd, they who have the other commodity do,
out of revenge, or at least by the same reason
desert them. Thus the nobility neglect the burghs:
and they again desert the nobility in what is
their concern. Elsewhere he informs us that
in 1664 it was proposed "that all tradesmen
should be declared free in the Burghs Royal... for
payment of a very small acknowledgement.
which would encourage strangers to come, and
settle in this kingdom... whereas now we are forced
to buy all things abroad, because our seamen
and trades here will not allow to import tradesmen
while amongst them; nor are any admitted to be
artificers, except such as either married the
daughters of tradesmen, or have serv'd as apprentices;
whereby the ignorance and unwillingness of
workmen is transmitted to prosperity, without
any possibility of reformation." But the
proposal was opposed by Sir Andrew Ramsey "to insinuate himself with the trades of Edinburgh who are absolute disposers of Magistracy"; and his opposition was successful because "he was still employed by (Lauderdale, Commissioner) to win the Commissioners of burghs to consent to what was proposed; upon whom Sir Andrew had a great influence"... And thus the public good is made subservient to the meanest interest and is overruled by the most insignificant and unworthy persons."

The Council and the Non-Conformists.

By far the most arduous task committed to the Council was that of securing obedience to the ecclesiastical policy of the Crown. That policy found definite expression in September 1661, when Charles informed the Council that he had decided to restore the Church in Scotland "to its right government by bishops, as it was by law before the late troubles... and as it now (stood) by law."

Before the Estates in their second session, May 8 - September 5, 1662, ratified the change in Church government, the Episcopal was already functioning. James Sharp, as Archbishop of St. Andrews, Andrew Fairfoul, as Archbishop of Glasgow and James Hamilton and Robert Leighton as Bishops of Galloway and Dunkeld respectively, had been ordained to office at Westminster Abbey on December 15, 1661, and had returned to Scotland...
with authority to ordain the bishops appointed to the vacant sees. On May 8, the Estates
independently approved of what Charles and his Council had done in regard to the Church.
Acts were passed "for the restoration and reestablishment of the ancient government of the Church by
Archbishops and Bishops," and "for calling in the Bishops to the Parliament." A month later
the power of the prelates was increased by an
act which ordained that all ministers settled
since the abolition of Patronage in 1649 must
seek presentation by their patrons and collation
by their bishops before September 20, or be deprived
of their benefices. Then came the Declaration
Act on June 24, which excluded from public
trust all who had genuine presbyterian sympaties. It demanded from public officials
an oath by which they acknowledged that the
National Covenant and the Solemn League and
Covenant were unlawful. Refusal to take the
oath rendered them incapable of holding office in
the state, and the same penalty was to be meted out.
to all who should "by writing, printing, praying, preaching, libelling, remonstring, or by any malicious and advises speaking, express, publish or declare any words or sentences to stir up the people to the hatred or dislike of his majesty's royall prerogative and supremacy in causes eclessiasticall or of the government of the church by archbishops and bishops as it is now established by law".

These acts gave the council its introduction to the task of compelling obedience to the royal will as expressed in the episcopall: a task which was in the near future to absorb nearly the whole of its time and attention, and to demand the employment of all its military resources. It was soon to learn that while the presbyterian conscience was alive only in a minority throughout the land, such as there was of it was surprisingly vigorous, and resolute in its nonconformity. How much of that conscience the council found among public officials, we have described elsewhere in our essay. But it was among the

In section dealing with Berghs.
clergy that the Council first encountered the Presbyterian conscience in its strength.

When Parliament ended its second session, Middleton the Commissioner and several members of the Council made a tour of the western shires. There opposition to Episcopacy was most likely to assert itself - with the intention of strengthening the hands of the Archbishop of Glasgow. They discovered that he required all the assistance they could give him. Not one of the ministers affected by the Act of June 11 had recognised his authority. On being asked by Middleton what should be done to alter their mood, Fairfoul suggested that an Act of Council threatening them with banishment from their parishes, presbyteries, and congregations, if they did not conform to the Act before November 1, would have a salutary effect. He was sure that not more than ten at the most would remain intractable. The suggestion was embodied in an Act passed by the Council at Glasgow on October 1. But the response to the Act exposed the ignorance of Fairfoul.

O.C.R. Vol. 1. 269-70.
and staggered the Council. At least two hundred ministers, principally within Faulgoul's jurisdiction, preferred to leave Newcastle, parish, and presbytery rather than obey the Council. So alarmed was the Council by the result of its Act - passed we understand while the councillors were bemuddled with drink - that on November 4 letters were sent to the Archbishops requesting their presence at a Council meeting in Edinburgh. Faulgoul had to be written to again a fortnight later (November 18). He had advised the passing of the Act, and his delay in coming to Edinburgh was probably due, as Wodrow suggests, to his fear of facing the Council. He had proved a false prophet. The Council would have been wise had it pocketed its pride and cancelled the Act, or modified its terms. But at the outset of its career such an admission of error would not have enhanced its prestige: and so instead of brushing the Act, the Council merely extended the period given to the recalcitrant ministers in which to change their minds in favour of episcopacy. But the

1. O. C. R. vol. 1, 273-4
2. O. C. R. vol. 1, 292
indulgence was ignored, and the Council was left face to face with the first fruits of its executive activity on behalf of the Episcopal, in the form of hundreds of vacant churches.

Having dealt with the dissenting ministers, the Council's next step was to deal with their congregations. They were commanded to attend their own parish churches. Disobedience was to be punished by a fine of £20 Scots. But they did disobey. They preferred to listen to the deposed ministers in the house or in the open air than to the Bishop's Canalis in the churches.

Such disobedience called for further legislation, and it was forthcoming in the Conventicle Act and the "Scots mile Act" which were to give the Council endless trouble until the Revolution. The latter Act proclaimed by the Council on August 13, 1663, ordered all ministers who had refused to submit to episcopal authority "to remove themselves, families, and goods" from out of the parish prohibited to them, within 20 days of the publication of the edict; and not to reside within
...20 miles of Newburgh, or a Cathedral Church, or within 3 miles of a royal burgh. The lieges were forbidden to countenance them or to give them hospitality. On October 7, another Act excluded fugitive ministers from Ireland, and contained measures for the enforcement of the Convocation Act. Noblemen, sheriffs, magistrates, justices of the peace, and officers of the standing army were to give every assistance to orthodox ministers in the discharge of their duties. Recusants were to be fined and the fines devoted to the needs of the poor and to other pious purposes. To prevent extortion the fines were restricted to 207 Scots for each offence. But Parliament in committing the measures of the Council made them still more rigorous in the "Bishops' Drag Act". For non-attendance at church each nobleman, gentleman, and writer was to be fined 1/4 of his annual rent; each yeoman, linent, or farmer, such a portion of his "free moveables" as the Council "shall think fitt"; benefices were to be penalised by the forfeiture of their leading privileges and 1/4 of their "moveables". Absentees from Church...
who persisted in their non-conformity were to be referred to the Council after being admonished by their parish minister in the presence of two witnesses.

In 1664 the High Court Commission came into the field, and while it was tackling the "enemy" at the "front", it was reinforced from time to time by further legislation from headquarters at Edinburgh. On December 7, 1665 the "Mile Act" was made to apply to all ministers ordained before 1649, who had since the restoration of episcopacy relinquished their ministries or had been deposed; and conventicles were made the more criminal by being declared "seminaries of rebellion". On June 28, 1666 all students were ordered to take the oath of allegiance before graduating; and on October 11 all head lands and heads of families, and magistrates were made responsible for the Church attendance of their dependents.

1. *C.R. vol II 107-8
2. *C.R. vol II 173-4
Then came the first open reaction against the repressive measures of the Council. On November 19, 1666, Stephen Irving, a Drumphie Ricellie, came in haste to the Council with the alarming news that the town of Drumphie had been invaded by "a considerable number of men in arms." The alarm of the Council expressed itself in the means taken to deal with the situation. An express messenger was sent immediately to London with news of the "revelt." Letters were written to the Earls of Mar, Lauderdale, Glencairn, Caerlisle, and Bothwell; Lords Drumlanrig, and Newbattle, and Sir Gilbert Elliot, commanding them to march with their armed retainers to those districts where risings were reported to have taken place. A Committee was appointed to confer with Dalziel about the crisis. Next day, Dalziel was ordered to proceed to Glasgow and from there to operate against the insurgenits. The Capital was placed in a state of defence. The night guard was doubled. A garrison was mobilised to defend the city from attack. The names of all strangers in the
The city had to be reported to the authorities. Two days later the magistrates were ordered to see that the Oath of Allegiance had been taken by all officers and men within the city bounds. The sheriff of the city was commanded to bring the armed forces of the city with all haste to the capital. Mobilisation orders were sent to all the shires.

The ferries between Edinburgh and Stirling were guarded to prevent rebels from the north from joining forces with those in the south. A garrison was posted at Leith. On November 26, the Council, on hearing that the rebels were making for Edinburgh, ordered that all prisoners in the Castles of Edinburgh, Stirling, and Dunbarton should be made more secure, and that no one should be allowed to visit them. Morning and evening three horsemen were sent out as scouts to watch for the approach of the rebels. At all the city gates a guard was set. Every stable was examined for horses unclaimed by their owners. The castles of Edinburgh and Stirling were supplied with arms and ammunition. Blacksmiths at
Calvend and Dunfermline were pressed to supply
with all speed large quantities of fencens
and pole-axes. On the morning of December
27, the panic of the Council reached its height.
The rebels were reported as having arrived at
Duddingston. The heritors of "the merse, Tweeddale,
and the Forest" were urged to hecken to Edinburgh.
All unclaimed horses in the city were commandeered.
The members of the College of Justice formed themselves
into an armed force. On November 28 every
gentleman in Edinburgh defining a horse was
ordered to join Dalziel, on he regarded as a rebel.
Their help was not required. While they were
preparing to join Dalziel, he was routing the
rebels at Rullion Green.

The following day saw the Council wiping the
sweat from its brow and writing Charles that
the crisis had passed. 2 The forces mobilised in the
Ayr, Perth, and the Hebrides were immediately
disbanded. Those in the South West were kept
in arms until further orders. The Borders were
watched for fugitives who might try to escape
into England.

1 A.C.R. vol II 226
2 A.C.R. vol IV 228-9
The prisoners were cruelly dealt with. Some of them were tortured by the "book." Several were hanged, in spite of the protests of certain in the Council who thought that they should be treated as prisoners of war. Wolsey was informed that even Delphic "curse and swore limply" when he saw how the poor wretches were to be treated, "and said, were he to serve the king never so long, he should never bring in a prisoner to be butcherted."

In suppressing the revolt the Council had acted vigorously, and but for two reasons its action would have been commendable. (a) The nature of the revolt did not justify the elaborate and strong measures to suppress it. Behind these measures lay a mind with a vision distorted by exaggerating fears. England and Holland were at war, and an invasion was feared. "She cunningly set up the north schore of the Forth being put in fear of the incursion of the Hollander, had deiety and strictie watches for their ain defence, incese they should be surprized by nine Hollander." One John Melhood appealed
to the Council for assistance in protecting his own and neighbouring lands on the northern coast. "Wanting an army for their defence, and lying remote from the assistance of others," McLeod and his neighbours were "daily allarmed with the expectations of foreign invasion." The war had caused unrest through a serious dislocation of trade. "At this time (1665) trade and traffic ceased universally by sea, and no employment by reason of the war between the king's majesty and the Hollenders, to the heavy damage and want of the people." There was much discontent over the impressing of seamen for naval service. "The seamen here in Scotland were daylie sought out, taken and apprehendit, and warded until they were schipit for service." They tried to emigrate when orders for the impressment of 500 of them were issued in 1664; but the Council stopped the emigration by letters to all seaport towns on January 12, 1665. Even then the Council had difficulty in finding the needed seamen. Rumours were also rife that the

1. T.C.R. Vol II 277
disaffected Scots and the Dutch were in communication with each other, with sinister intentions; and that the Council dreaded such a cooperation of forces is suggested by the fact that among the measures taken to meet the crisis in November was the concentration of a force in Roxburgshire "to repel any invader, and to prevent any rising in concert with him." It was the fear that the Dutch were in league with the insurgents that evidently accounted for the vigorous action of the Council. But there was nothing in the revolt to justify the suspicion that it was premeditated and organised, nor to support the judgment that "in many parts of the country there were numbers ready to join the insurgents, who, had they not been checked, would have swelled the ranks of those who marched to Edinburgh." Comparatively few followed them towards the Capital. There were many dissenting. Turner, who was with them as a prisoner, says that at their strongest they numbered about 1000, and that on the eve of Rutland Green their number fell to eight or nine hundred. After their defeat

1 R.C.R. Vol. II 224
3 Turner, "Memoirs" 170.
"Many of them were killed," says Woodrow, "and several taken prisoners by the people of the parishes round about," a fact which does not suggest the existence of popular sympathy with the rebels. "The more I enquire," wrote Sir Robert Moray to Haerdale on July 1, 1667, "the less appearance I find that there was a formed design of rebellion and that it might have been more easily quashed than it was."

6. Responsibility for the revolt rested with the Council. The High Commission Court and the soldiers had knitted the frize of revolt. The harsh treatment meted out to those convicted by the Court is indicated in a letter from Robert to Haerdale on March 20, 1666. "Some of them," he wrote, "are sent to the hame to work (at first building) and some of them scourged through the whole town of Edinburgh, and some of them we have sent to the Barbadoes, so we could not think of no stricter punishment unless we had hanged them."

1. See: Rapin. vol. II 63.
2. " Vol. I 236."
What the recusants suffered at the hands of the soldiers, came to light in a Committee report on charges of oppression made against Turner in 1667. Those charges, twenty-one in number, included the exaction of fees from the "orderly", the bedridden, those parishes, and those who were convicted of acts which were not illegal: the theft of cattle and other goods; the extortion of unincurred quartering expenses.

One good result of the Pentland Rising was the exposure of the dominating, prelate-ridden clique in the Council whose administration of the ecclesiastical laws had stoked up the spirit of revolt. Sir Robert Moray was sent down from London to see at first hand how things stood, and his report led to (a) the breaking up of the clique—Rothes was deprived of the office of Commissioner; the Exchequer was placed in the hands of four of Lauderdale's friends, Huicardine, Moray, Tweeddale, and Bellenden; Turner was cashiered; Sharp was confined to his diocese.

(b) the disbanding of all but a small part of the standing forces: and (c) a general pardon for all, save the foraulked, who had shared in the recent revolt.

But the root cause of the prevailing discontent—episcopacy—still remained, and an effort was now made to conciliate the non-conformists. Leighton proposed that a body should be set on foot... for changing the laws that had carried the episcopal authority much higher than any of the bishops themselves put in practice... He proposed that the Church should be governed by the bishops and their clergy mixing together in the Church judicatories, in which the bishop should act only as president, and be determined by the majority of his presbyters, both in matters of jurisdiction and ordination:... that the presbyters should be allowed, when they sat down first in these judicatories, to declare that their sitting under a bishop was submitted to by them only for peace sake with a reservation of their opinion with relation to any such presidency:... that no negative vote...
should be claimed by the bishop... that there
should be provincial synods, to sit in course
every third year... in which complaints of the
bishops should be received, and they should
be censured accordingly.

But Leighton's "Accommodation" had to give way
to something less radical. For his scheme left
the bishop "little more than the name", and the authority
of the bishop had to be maintained in the interests
of the monarchy. The conciliatory measure adopted
was the Indulgence. "Outed" ministers who had
lived orderly and peaceably in the parishes
where they resided were to be allowed to return
to their former parishes and to resume their
ministry as they found Churches. They had to
submit to collation by the prelates, and keep
presbyteries and synods. If they refused to
recognise the Church Courts they had to confine
themselves to their own parishes. They were forbidden
to admit to their Church membership members
of Churches in other parishes. To marry them or b-
baptise their children without permission from the ministers of the parishes from whence such ministers came, unless the Churches in those parishes were vacant.

But the indulgence failed to conciliate the non-conformist conscience. Up until March 3, 1670 only forty-three of the ejected ministers took advantage of it, and they did not succeed in breaking up the conventicles. For if "at first the people of the county ran to them with a transport of joy. Yet this was soon cooled. It was hoped that they would have begun their ministry with a public testimony against all (that) had been done in opposition to what they were accustomed to call the word of God; but they were silent at this time and preached only the doctrines of Christendom... So they came to call them the King's curates... (and) their caution brought them under a worse charge of dumb dogs, that could not bark."

Yet did a second indulgence in 1672 make the situation any better. So the conventicles went on. But the indulgences, in the view of the Council, had rendered the lawlessness of the recusants inexcusable, and justified every possible means which might be used to suppress them; and for the next few years, the Council occupied most of its time in trying to dragoon the obstinate recusants into submission.

Before the indulgence of 1669 was declared, conventicles had a second act passed against them. The landlord on whose ground a conventicle was held was liable to a fine of £50, which seems he was at liberty to recover from those who attended the conventicle. The passage was disputed in the Council, some of the Councillors contending that the Council "had no power by their authority to set arbitrary fines." But those who favoured the act claimed "that the act of parliament that had restored episcopacy had a clause in it recommending the execution of that act by all the best ways they could think of."

"Burnet, vol I 583."
Though proclaimed, the disputed Act was not put into execution, and the Council had to content itself with a more rigorous enforcement of the Covenanted Act already on the statute book. On June 2, 1674, the Council wrote to Charles an optimistic letter about the success of its campaign against the "field meetings". "The proceedings we have found," the letter read, "have so good effects and so good success that we now hear little either of invasions of pulpits or of field conventicles, even in those places where they were most numerous." But judging from the measures launched by the Council against the conventicles before the year was out, the optimism of its report to Charles was more apparent than real. Council Commissions were sent into the field to suppress conventicles. Seizures and magistrates of Royal Burghs were commanded to exact bonds from their dependents that they would not attend the forbidden meetings.

"C.R. vol. iv 217."
Sheriffs and Magistrates of Royal Burghs were to report such meetings held within their jurisdictions, and to arrest those who attended them. In 1675 the situation demanded continued attention. Commissions had to be kept at work in the disaffected shires. The prelates were asked to report the names of persons within their respective dioceses who taught in families or schools without license. In 1676, so ineffective had the measures of the Council proved that, that respect for them had to be enforced by attaching to their heavier penalties. whipped the fines inflicted on Burgh Magistrates for failing to suppress conventicles within their bounds had not exceeded £200, which sum had been paid by the Edinburgh Magistrates in February 1675. Now the penalty was increased to £500 and offending Magistrates had to pay it out of their own pockets instead of out of the public purse as formerly. Heritors were to be fined a whole year's rent.
The prelates had not succeeded in checking meetings conducted in houses by unlicensed "schoolmasters, pedagogues, or private chaplains, who held such meetings under the guise of family worship; and now family worship so conducted was forbidden. Gentlemen who broke the law were liable to a fine of £200 marks, and burgesses or any other subject 600 marks. On August 3, an Act prohibiting "intercommuning" with certain persons at the horn for attending conventicles reflected the disregard with which the authority of the Council was being treated. Over one hundred were named in the Act with whom it was a crime even to converse, and the presence among them of women like Ladies Colville, Baillie, Walkhill, Colbery, Kinnet, and Balgonie, suggests that instead of more discouraging forbidden preaching the policy of the Council was tending to make it more attractive, so attractive that even people of some social standing were being drawn to it.
and coming under its influence.

In 1677 the situation became desperate. On July 24th, landholders were commanded to subscribe bonds pledging themselves and their tenants to ecclesiastical conformity, and a fortnight later commissioners were sent into the disaffected areas to see that the bonds were forthcoming and that the Conventicle laws were observed. But strong objection was taken to the bond, and the conventicles still went on. Even the Duke of Hamilton considered the bond "hardly practicable." From Clunie and Dundonald in the west came the report that "it was not in their power to quiet the disorders." In Carrick, Dundonald found that conventicles were "kept up in every parish almost every week." The people had deserted their own parishes which they frequented formerly. Outlawed preachers were ministering in parish churches, and new churches were even being built for them by the people.

1. P.C.R. vol. V
2. P.C.R. vol. V 280
3. Lands Papers. vol. III 88
If the patience of the recusants was being exhausted so was the patience of Lauderdale who felt that they were grossly ungrateful for all he had done for them in his conciliatory measures, and that they were taking advantage of his leniency (!). At last he decided to teach them respect for law and order. On December 30, acting on Lauderdale's advice, Charles gave the Council authority to quarter the Highland troops in the South West for the purpose of cracking the bond and suppressing conventicles. With the host, the standing forces and the militia were to cooperate, and if necessary, regular forces from the north of England and the north of Ireland.

The Highland troops came south. But their coming only made the situation worse. The bond was enforced, only to be refused by large numbers all over the south country. It was rejected by the Earls of Crawford, Cassillis, Loudon, Callender Roxburgh, Lands Balmerino, Melville, Newark

1 S.C. R. vol. V.
Montgomery, Cochrane, Camerack, Barbery, and the Viscount Phylips. In Lauderdale's own shire, out of 1000 to whom the bond was tendered, only 50 or 60 signed it. Then on February 14 "in view of the fact that the bond making heritors responsible for their dependents (was) disregarded", that was passed the law known which ordained "that all persons who refuse to take the bond enlack themselves in the Books of the Privy Council within 10 days after the charge, that they and their dependents shall keep His Majesty's peace and particularly that they shall not go 1 field conventicles, nor harbour or commune with rebels or persons intercommuned and that they shall keep the person, families, and goods of their regular minister's harmless and that under the double of every man's third yearly rent... and of such other penalties as shall be thought convenient by the Lords of His Majesty's Privy Council or their Committee, if they have no valued rent".
On February 18, 1678 the Highland Host was ordered home. Between them, the "Black Band", the Law Burrows and the Host had created a critical situation in the West for the Council. Those measures had aroused the resentment of the Lowland nobility on whom their weight fell. Even Atholl and Perth, who led the Host revolted. They had come south with their clansmen, only to find that there was less need for an armed force in the Lowlands than in the Highlands. "Requited by false reports as to the situation, and led on by mistaken ideas of loyalty and duty, they undertook the task of helping to reduce the Whigs to submission, but... when they actually proceeded to the West and saw the real aspect of affairs there, their better feelings prevailed and they found it impossible to continue in the active service of the Council." Both of them were among the "nobles and gentlemen of quality who went up to London in March 1678 to protest against the Council's policy, and on whom the Council laid the blame for the failure.

[Note: "Highland Host" 103 (Hymnary of the Whore's Opinion) 100. III 449]
of its recent dealings with the recusants. It informed Charles that "Whereas now, the numbers and numberlessness of those who are now gone up have done all they could to shake loose all the foundations of authority here to such a height, as will soon grow above correction, if it be not speedily, vigorously, and openly averted!"

In 1679 the fears of the Council were amply justified. On May 3 Sharp was murdered at Major's Mains, and his death precipitated a storm more severe in its violence than that of 1666. The patience of the recusants in the south-west had reached its limits. They made their dramatic protest against the Council at Rutherglen on May 29. On June 1 they defeated Cawhouse at Drumclog. On June 22 they were crushed at Bothwell Bridge. But for the restraining hand of the Duke of Monmouth, who commanded the government forces, the Council would probably have dealt more severely with the prisoners taken at Bothwell Bridge, than it did with...
none taken at Rullion Green. The murder of Sharp, the treasonable protest at Rutherglen, the humiliating defeat of Cleaverhouse at Drumellog, the claim at Bothwell Bridge cried out for vengeance. But only seven of the prisoners were executed. Heresies, with the exception of ministers, baritons, and the ring leaders among them, were allowed their liberty on condition that theytook a bond not to rise in arms against the crown.

To Montrose was also due a proclamation issued on July 4 which announced a royal indulgence in the following towns:

1. It suspended the execution of all laws and acts against such as frequented house
   convenicles in the low countries south of the Tay, excepting always the town of Edinburgh,
   and two miles round about, with the lands of
   Musselburgh, Dalkeith, the Cities of St Andrews,
   Glasgow, Stirling, and a mile about each of them.

O.C.R. Vol VI 264-5
(2) It suspended "all diligences for fines upon the account of convivialites, except such fines as are imposed by our Priory Council, and such fines of inferior judicatures, as were uplifted or transmitted for prior to the 29th of May last, and all letters of intercommuning, and other executions, except so far as concerns those who were our actual servants, or in public trust."

(3) ordained that "all such as shall be found to preach, to have their names given in, and secretly found to our Priory Council for their peaceable behaviour, only one preacher to be allowed to a parish; none to be allowed who have appeared against us in the late rebellion, nor none who shall be admitted by the un conform ministers in any time hereafter."

The die-hards in the Council were by no means pleased with this gesture of clemency. A letter was written to handwrite on July 12 asking for a clearer explanation of the terms of the Indulgence.
But their letter was anticipated by one from Lauterdale written on July 11, which made the meaning of the Indulgence quite clear, and left the Council with no alternative but to proceed with the distasteful task of liberating imprisoned ministers who were prepared to accept the Indulgence.

On August 13, the Indulgence was followed by an Act of Indemnity. It offered pardon to all such as have been at field or house conventicles; and such as are guilty of irregular administration of the sacraments, and other schismatic disorders; and such as have been engaged in the rebellion of 1666, or the late rebellion; all such as have spoken, written, printed, published, or dispensed any seditious speeches, infamous libels or, parchalls; all such as have malworn in any public station or trust... It included from its pardon such as are already punished by our parliaments, or our criminal courts, fined by our Privy Council, and such as being found
by inferior judicatures, have paid or transacted for their fines, in so far as concerns their respective fines, so imposed; all such heritors and ministers, who have been in the late rebellion or were contrivers thereof, and such heritors as have contributed thereto by devies of men or money; such as obeyed not our, and our Council's proclamation, in assisting in our war, to be pursued for their delinquency according to law; such persons as have threatened or abused any of the orthodox clergy, or any of our subjects for assisting us in suppressing the late rebellion.

The terms of the indemnity were to be interpreted by judges "with all possible latitude and favour."

To prevent further risings, garrisons were planted in the most disaffected districts; and commissions of justice were granted to justices of peace to deal with those who did not come within the scope of the royal pardon.
But neither the royal clemency, nor the free use of the council's military resources had the immediate effect of breaking the spirit of the recusants. "Notwithstanding of his majesty's indemnities and indulgences granted to the recusants," the council wrote Thamefordale on April 28, 1680, "they are running out again to field conventicles in several places of the kingdom. Many of those who were at Bothwell Bridge have refused to take the bond for living peaceably; those who have taken the bond, do actually run to field conventicles." On June 30, the council was able to give Thamefordale tangible proofs of the obstinacy of the recusants. He was informed that a new covenant had been found upon Donald Carnegie, and Mr. Hall, and that a reasonable declaration had been fixed by the market towns at Sangerhead. "A strange spirit of fury," says Burnet, "had broke loose on some of the Presbyterians. These held that the king had lost
the right to the crown by breaking the covenant, which he had sworn at his coronation, so they said he was their king no more, and by a formal declaration they renounced all allegiance to him." The fury of those who were responsible for the Dungaver declaration was by no means strange. It was not surprising that men who had been excluded from the intimacy and made outlaws, should there are caution to the winds, and declare themselves the enemies of the throne that had placed on them the mark of doom.

Then in 1681, to the council's already overburdened lot there was added one of the most difficult cases the many difficulties cases of its twenty years experience, when there was given to the duty of imposing the Test Act, and of dealing with those who refused to take it.
The Pet 'had to be taken by 'The persons in public trust, civil, ecclesiastical, and military, especially by all members of Parliament, and all electors of members of Parliament; all Privy Councillors, lords of session, members of the Exchequer, lords of justice, and all other members of these courts: all officers of the crown and state: all archbishops and bishops: all preachers and ministers of the gospel whatsoever: all persons of this kingdom, named, or to be named commissioners of the borders: all members of the commission for church affairs: all sheriffs, stewards, bailiffs of royalties and royalties, justices of the peace; officers of the mint, commissioners and their deputies, their clerks and fiscais; all advocates and procurators before any of these courts: all writers to the signet: all public notaries, and other persons employed in writing or accounting, the same being at arms, heralds, perambulators, and messengers at arms; all collectors, sub-collectors and farmers of His Majesty's customs and excise;
all magistrates, deans of guilds, councillors, and clerks of bump's royal and regalitie, all
diains of brades, and deacon conveners in the
said bump's; all masters and doctors in
universities, colleges, or schools; all chaplains
in families, pedagogues to children; and all
officers and soldiers in armies, forts, or militia...

The terms of the test raised difficulties for
all shades of religious opinion. Roman Catholics
were affected by its demand for loyalty to "the
true Protestant religion, contained in the Confession
of faith, recorded in the first Parliament of King
James VI." Episcopalianz regarded it with
suspicion, in that it asked them to believe that
the said confession was "founded on and
acceptable to the written word of God." For the
Confession raised questions about the validity
of their episcopal orders; the Confession being
a baptyrian symbol. Anglicans could
not gainsay their countenance, because it
asked them to admit that there lay on their
no obligation from the National Covenant, or the Solemn League and Covenant; and to pledge themselves not "to endeavour any change or alteration in the government, either in the Church or State, as it is now established by the laws of this kingdom." But the most serious stumblingblock in the Oak, found expression in the seemingly unimportant parenthesis... "the king's lawful brother and sons only excepted." An Act of Succession had been passed which secured the succession to the throne for the Duke of York "the king's lawful brother." He was avowedly a Roman Catholic. Those who took the oath were pledged to be true and true allegiance to the king's majesty, his heirs and lawful successors... free from the necessity of taking the oath, which was to hinder the Duke, when he became king, from imposing Catholicism on the nation? The protestant conscience was alarmed by that possibility, and the Council found itself face to face with a wider area of
discontent and non-conformity than ever it had faced before.

With the exception of Hulse, Woodmire, and Balsmyre, the Council had no difficulty in getting its own members to take the Test. The Duke of Hamilton made a temporary refusal. He refused it on November 3, 1681, but took it on July 4, 1682, and had his offices restored to him.

But among other high officials of the Government, there was a good deal of objection to the Test. The Register of the Council, Volume VII, contains a lengthy list of offices and fines victims rendered vacant, owing to the failure of their possessors to take the Test — among them being the Earls of Haddington, Riksdale, Galloway, Galbraith, Sutherland, Cassilis, and later; Viscount Kenmure, Countess of Robert; Lords Torstoken and Carnes;

Cuthane B. Balfourly; Laird of Arbister;

Sir Andrew Agnew of Lochnaw. While, as we shall see in another section of our essay, the municipal government was disorganized by the numerous
refusals of officials to take office on Test conditions, and by the resignation of those who were unwilling to take the Test.

Many of the established clergy found the Test unpalatable enough to make them reject it. "The stir among the clergy which was new and unprecedented in anything inspired by the State, made the managers about Edinburgh begin to reflect a little, and shudder at a declaration and an explanation against the Test," says Wood. The Council explained that (a) "though the Confession of Faith... was penned in the infancy of our reformation, and deserves its due praise; yet by the Test we do not swear to every proposition or clause therein contained, but only to the true protestant religion founded on the word of God contained in that Confession, as is opposed to popery and fanaticalism; (b) ... no invasion or encroachment is made or intended upon the intrinsic spiritual power of the Church."
power of the Keys as it was exercised by the Apostles and the most pure and primitive Church in the first three centuries after Christ: (c) that the Oath is without prejudice to the Episcopal government of the National Church… which is most agreeable to the end of God and most suitable to monarchy.” With that explanation of the Oath, the Prelates were commanded to tender the Test to all ministers in their dioceses: but even so explained, it was refused by eighty of them.

While the Council was thus busy with the work of pressing home the Test, no slackening took place in its campaign against the Conventicles, and outlawed rebels. During the remaining year of our period, while the Duke of York was at the head of Scottish affairs, the repressive and punitive measures of the Council against the recusants exceeded in severity anything with which the recusants had hitherto to contend.
In such severity, a certain section of the disaffected... those who had been up arms... and had declared themselves rebels... gave the Council an excuse, of which full advantage was eagerly taken. "We are now fully persuaded," ran a proclamation of April 13, 1883, which commissioned Circuit Courts... deal with the recusants, "that it is neither difference in religion, nor kindness of conscience (as it is pretented) but merely principles of disloyalty and disaffection to us and our government, that moves them (under pretense of religion) to disturb the quiet of our reign and peace of this our ancient kingdom. It was, and is now, more than ever, our royal inclination, and firm resolution, to extirpate and root out all seditions and rebellious principles."

The Commissioners of the Circuit Courts were given drastic powers! In the instructions issued to them by the Council on September 6, 1684, were included the following:

(a) To seize all unauthorised preachers, and chaplains, and to send them to the Council.

(b) To examine indulged ministers, to remove those of them who had violated the terms of their indulgence, and to imprison them until they found security for their good behaviour. (c) To search diligently for the heritors, inciters, promoters, or connivers to the late rebellions, the intercommunicers with such, or resisters, and others, not heritors, guilty of the said crimes since July 1, 1683.

(d) To secure all pedlars who have not passes, and to keep them in custody until they found security for their obedience to law.

(e) To stop all posts carrying letters, except such as were allowed by the Post Master General.

(f) To turn out all the wives and children of forfeited persons from their homes, if they were known.

C.R. Roe IX 345-8.
I have conversed with their husbands or parents or if they refused to take the oath.

(3) To acquaint the neighbouring jurisdictions with which any of the rebels might flee.

(4) To use the forces assigned to them as they found it necessary, and if need be, to summon local reverends to assist them "under pains of being punished as absent from our host."

On September 16, 1684, the Council empowered the Committee of Public Affairs "to call and convene before them at the instance of his Majesty's Adventurers and as are guilty of disorders and conventicles and refuse to take the oath of allegiance, and to pronounce sentence of banishment against them. And if any of them... shall refuse to own the King as their lawful sovereign, or will not call the rising of Bannockburn Bridge a rebellion, or the Archbishop's murder, a murder, or do own the Covenant, or that is lawful in defence thereof to rise against the King..."
or seem to hesitate, the Council authorises the said Committee to remit them to the Justices, or the Lord Criminals. On the previous day a proclamation was issued which sought to prevent recusants from leaving the country or from returning to it from exile. All captains of ships were commanded "to present all and every one of their passengers upon oath" to certain officials at Leith, Montrose, Aberdeen, Inverness, Borrowstone, Port Glasgow, Irvine, Dysart, and Portpatrick. The answer of the extreme non-conformists to such measures was the "Apologetic Declaration" inspired by James Renwick, in October, in which "they announced their intention of punishing, after proper investigation, all officers of the law employed against them, including in the number 'vipers and malicious bishops and curates' who gave information to the civil and military authorities. This defiant action of the rebels moved the Council to drastic retaliation. The west coast..."
was placed under martial law, and the soldier became both judge and executioner of recusants who, when they fell into his hands, refused to swear wholehearted allegiance to the crown.

By this time, the Council had used every available weapon in its long campaign against the presbyterian non-conformists. To the extent that conventicles were less common, the Council had succeeded in its work of repression. But when death released Charles off the stage on February 6, 1685, the spirit of presbyterian non-conformity in Scotland was by no means dead. It had survived fines, imprisonment, torture, and death itself; and three years later the Council was to learn that while its victim seemed to have been driven into the wilderness to perish, it had gathered strength there for a less critical effort which was to find its success in the humiliation of the Crown in 1688.
Before we pass judgment on the Council's treatment of the non-conforming presbyterians, mention must be made of two other religious non-conformists with whom the Council had to deal during our period, namely the Roman Catholic and the Quaker: for most histories of our period tend to ignore the fact that the Presbyterians were not the only recusant who had to be dragooned into obedience to the Crown.

(1) The Catholic. The Restoration Parliament underlined the existing laws against Catholics, and the Council had to see that such laws were enforced. All "seminary and mass priests, and traffiquing papists" had to quit the country within a month of the publication of the Act of February 1, 1661, which revived the anti-Catholic laws; and all sheriffs and other public officials were commanded to make diligent search for such papists as the Act marked down for deportation. But the Council had neither the time
nor the inclination to enforce the Act energetically, though the papist could on occasion be more violently defiant of authority, than the most violent presbyterian, and with less reason. If a presbyterian had acted as one Francis Living, brother of a Burside Laird, acted in 1667-70, he would have received short shrift at the hands of the Council. On November 11, 1669, the Magistrates of Aberdeen complained to the Council about the said Francis. He had gravely insulted the Magistrates in the house of Thomas Dunston, one of the Baillies, Walter Robertson being witness. He had boasted "that he would cause his footmen to kick off the uppermost half of his head at the Cross, and cause him to kick him in the arse with his foot." He had called Robertson a villain and rascal, thrown off Robertson's hat and "called him rascal and cussie knave." The Baillie took up the hat, only to have it thrown against the wall again. Francis then, with a wringer in his hand, chased the poor Baillie round the room, and
when the Baillie was able to remonstrate with him, from the rude Francis came the reply that "he would rush upon the justices and all the magistrates of Aberdeen."

The Aberdeen magistrates had not heard the case of Francis, who "aroused and profest papist, and constant hearer of the masse," who had committed the sin of refusing to take off his hat while present at a fire burning, "it being the Christian and usual custom that the minister and people do join in prayers to God for persons who are to suffer." wanted to bury his sister Elizabeth "in one public way, within one aisle of the Nicholas Church." As a Papist, he had no right to do any such thing. But Francis was a determined kind of fellow. He made for Aberdeen with a body guard of armed neighbours, and marched through the main streets of the city "a commander marching before them, another in the rear, having pistols bended in their hands."
He gave orders to the Provost to see that none but the "invited" should be present at the burial of Elizabeth, and at 11 o'clock at night, Elizabeth was buried, while the Highlanders stood round the grave with flaming torches and drawn swords in their hands. Next morning the bold Francis and his men marched back to Denside, bidding the outraged Provost farewell, by discharging their guns as they passed his door. Irving was called before the Council. But he was only fined, put into the Edinburgh Tolbooth, until the fine was paid, and afterwards set free on condition that he would not appear face in Aberdeen again. The ban however lasted for only eight months.

The Aberdeenshire Catholics gave more trouble to the Council. James Chalmers, the Sheriff, having commissioners, reported to the Council on October 3, 1661, that the Synod, in obedience to Council orders, had "made diligent search and inquiry," and had "found out one number of papists." On the list submitted to the Council...
Council were the names of the following: The Lady Marquis of Huntly, with her children and whole family; the Viscount of Fendoch, with his brethren and children; the Laird and Lady Drum; their children and family; the Laird of Heigh, children and brethren; the Laird of Tetterneill, lady and family; George Hay of Murefauld, his wife and sisters; the Laird of Craig Trenchendar, lady, and family; the Laird of Balgouny, lady, and brothers and sisters; the Laird of Willsons, lady, brothers and sisters; Elspeth Gordon of Grandom and whole family; the Laird of Sheives; the Tolisons of Thresein, all of them: the Goodman of Kleistersine and family; the Laird of Kincairn, Gordon; Tungburner of Mousally; Primrose alias Captain Ogilvy; Ballander; the two Lumsdeans; Brown and Leslie, preists and Jesuits and one great number more... They had been excommunicated. But "notwithstanding thereof, they continue in their
accustomed course of disobedience and will ernanways conforme to the laws of the Church and Kingdom. The Committee appointed a Committee to meet with Chalmers "to advise the best course to be taken against such persons. But the Register gives us no information as to what was done to them.

The record of the Council's dealings with the offending papists amounts to little more than the appointment of Committees from time to time to consider the papish problem: the consideration of the Committee reports: the issuing of proclamations on the basis of such reports; the occasional arrest and banishment of "trafficking papists"; and the placing of the sons of papists of social standing into the custody of "good" protestant preachers.

On November 7, 1661 John Ingles and William — "trafficking papists" were imprisoned in the Edinburgh tolbooth, and on the 14th sentenced to banishment. On November 7 the Clerk of C.R. Vol. I 72-73. 84-85.
the Council was given orders to draw up a
proclamation against the papists. All sheriffs,
magistrates, and ministers were ordered to
seach them out, apprehend, imprison, and
report them to the Council. Annual lists of their
names were to be sent to the Council. All
Catholic literature was to be seized and destroyed.

In 1666, the report of a Committee appointed
to deal with the papist problem recommended
(a) that Bishops should be asked to submit
to the Council, annually, lists of all papists
in their dioceses; (b) that the Edinburgh
magistrates should search for papist meetings
and report the names of all attending them;
(c) that lists of excommunicated papists should
be given to the Lords of Session, so that such
might be debarred from pleading. The
recommendations of the Committee were adopted.
But though a proclamation embodying the
recommendations was published on
February 1, 1666, no lists, as required, were

1 C.C.R. vol I 73
2 C.C.R. vol II 135-6
to hand on July 20, 1667, nor did they come in until February 4, 1669.

On November 11, 1669 another Committee, appointed "to consider what fit course shall be taken to suppress popery", advised the renewal of what had now become a familiar proclamation of the regulations measures against the papists. The proclamation was renewed on January 13, 1670, and evidently it was needed in the north country, for we read that in Banffshire the papists met openly and celebrated Mass every Lord's Day. Here and elsewhere in the neighbouring counties priests were celebrating Mass and performing the ceremonies of baptism and marriage. In one district the Catholic congregation was even summoned to worship by the ringing of a bell. In January 1672 a big seizure of Catholic literature, rosaries, surplices and other "papish ornaments" was made by the Customs Officers at Leith.

P.C.R. Vol. II 597
2 P.C.R. Vol. III 119-22
3 P.C.R. Vol. III 441
In December 1673, and again in January 1679, the papists were reminded that there were laws against their faith and its practice, the latter proclamation imposing on them new penalties, "because of the noise of the papist plot lately discovered in England.
(a) no papists were to be allowed to take public office, or bear arms in the army. (b) All papists of whatsoever quality, had to deliver up their arms of all kinds "beside of the Esk, against the 20th of February; besides of it, against the 20th of March.

But there were too many papist families of "quality" in the Highland, for the order to be carried out seriously "beside of the Esk, and there is no evidence in the Register to indicate that the order was carried out very thoroughly. The "quality" of the northern papists were one of the big reasons why the Council showed such impotence in applying the anti-papist laws. Instances of their disregard for the Council's
authority are to be found in the way in which some of them refused, until strong pressure was brought to bear on them, to obey the law demanding that their sons should be brought up in the Protestant faith. The Council ordered the Countess of Traquair to send her eldest son to Glasgow to be placed under the supervision of Gilbert Burnet. Three weeks passed and the Countess had not sent the boy away. When next she heard from the Council it was in the peremptory command to carry out the Council's order. In January 1674 the Council had ordered the young Lord Sempill to repair to a school at Ochilbie, to be instructed there in the Protestant faith under the care of Sir John Cochrane, son of the Earl of Dundonald. Four years later (August 1678) the Council was informed that young Sempill was receiving regular instruction from a Catholic tutor, Wylie by name. The Earl of Dunsmuir was requested to bring Wylie before the Council and to see
that in future Semple was looked afail by a "fett pedagogue".

What with its anti-presbyterian obsession, its knowledge of Charles's sympathy with Catholicism, the Catholic faith of some of the powerful Highland Chiefs, and the lenity of its sentences, the Presbyteries, in relation to the papish problem, the Council could do little more than utter loud threats against the papists' threats which it sometimes put mildly into execution in order to save its face. The Catholics had not much need to go in fear and trembling because of the Council, and they had less fear when the Duke of York came and took hold of the helm of Scottish affairs. A Catholic himself, he gathered round him Catholic sympathisers. The test it in the end was ostensibly directed against Catholicism; but it was just a repetition of the old conventicle, and meaningless threat.
Quakers. With less clemency, but with no more success did the Council deal with the "Cafficking Quakers". The Parliament which in 1661 legislated against them, put them into the same category as Anabaptists "with their cruel knave and bloody practices". But the Quakers, like the popish and presbytian, refused to be broken by the rod of the Council. Andrew Craig and Anthony Rolbin were librated from the Edinburgh Tolbooth on August 18, 1664, on condition that they keep silent. On November 3, the Council was issuing orders for their re-arrest. They had continued to "Caffick in deluding and subverting diverse of his Majesties lieges to their corrupt and erroneous opinions".

The work of a Committee appointed on November 24, 1664, to deal with the Quaker made little impression on him. In 1666 an Act of Council had to be passed charging all officials within whose jurisdiction Quakers were found, to transport them to the Edinburgh.

1. R.C.R. Vol I. 596
2. R.C.R. Vol II. 105
3. R.C.R. Vol II. 696
Tolbooth. Special instructions to the Sheriffs of
Devotdale and Aberden, and there suggest
that the sect was numerous in those districts.
They were very active in 1670. On March 1,
"There was a great complaint made to the board
(Council) that Quakers were suffered to meet
too frequently and many to sit near the walls
part of the houseto and particularly Sweintos
who went north in the late fresh storm with some
Englische in his company." Two days later
while the Privy Council "was about to meet," new
came in that a general meeting of Quakers
"from all corners of the country" was to be held
in Edinburgh that afternoon. The Council sent
baillies to arrest them. As the Council was
about to rise a report came to hand that
twenty three of the sect had been arrested
in the West End, Sweintons among them. Kincairdie,
Perinose and Tivisdale were appointed to
examine the prisoners and to report to the
Council at four o'clock that evening.

Land Papers vol II 178
179-80.
The council imprisoned four of their leading men, Swinton being among them; considering the sect as likely "to prove more dangerous than many (were) aware of."

They continued however to assert themselves and to increase in number throughout the remainder of our period, especially in the East in Berwick, Roxburgh, Edinburgh, Montrose and Aberdeenshire. In 1672 the magistrates of Montrose imprisoned fifteen of their number and sent their leader William Rapiere to Edinburgh for both.

Papists, Quakers and Presbyterians therefore were regarded as the enemies of the Crown. But, as we have seen, it was on the Presbyterians that the Crown concentrated its forces of repression, and for the part played by it in his repression, the Council has been generally condemned at the bar of history.
Whether that condemnation is just or not depends on the answers to two questions.

1. How far was the Council responsible for the policy which it executed in relation to the Presbyterian? 2. How far was the policy justified?

1. If responsibility for the policy of Presbyterian repression is to be laid at one door more than another, it must be laid at the door of the Council. Council members were strongly represented among the lords of the Articles who conceived and forced through Parliament in 1661, the Recency Act which cleared the ground for the erection of a new Church government, and left Charles free to decide what form that government should take. The Act no doubt pleased Charles, but it was certainly more than he expected. It exceeded the instructions which he gave to Middleton, his Commissioner,* and Middleton "passed it without staying for an instruction from the king".

* Middleton had been instructed to ignore the legislation of the Convention of Estates of 1643, and of the Parliament of 1649 and to rescind all acts passed by parliaments since 1649 if they intruded on the royal prerogative.

Lawrences Papers: I: 39
It was also the majority role of his Scottish Councillors that moved Charles to decide in favour of a restored episcopacy. "The King naturally hated presbytery," and episcopacy was in alignment with his idea of monarchy. But his decision to restore episcopacy was not made with complete arbitrary disregard for Scottish opinion. He at least consulted his Scottish Councillors in the matter. Several of them discussed it at a meeting convened by him in London in the summer of 1661, and apart from Crawford who declared himself against the return of the bishops, and Handyside, Hamilton, and Sir Robert Moray who were... "for delaying the making any such change till the King should be better satisfied concerning the inclinations of the nation," though rightly sensing what Charles desired, gave him the advice he sought. They urged him to restore the episcopacy, and he accepted their opinion.
The Councillors who were in Scotland had yet to be reckoned with. But they offered no serious objection to the royal decision. They may have been "all muli" when the letter intimating that decision was read to them. But when Tweeddale and Kincardine pressed that the Council would write back to his majesty, that it was fit that his majesty would consult the Provincial Assemblies for so whatever was the event, his majesty could not be blamed... this was opposed... and a letter was returned to his majesty from the Council showing their compliance and satisfaction." Had his Scottish Council opposed the bringing in of the bishops, Charles would have thought twice before deciding to open the door to them. For the Council represented a class in the nation's life whose will he could not afford to offend.

McKenzie, Memoirs, 59-60.
No less responsible was the Council for the measures adopted to enforce the ecclesiastical policy of the crown. If those measures had been fashioned at Whitehall, it would be admissible to plead that the only share of blame attributable to the Council, for whatever wrong there may have been in such measures, was that of acquiescence. The Council in that case was but carrying out the orders of its superior. But the Council did more than acquiesce in the methods used to repress the presbyterians. It was left free to a large extent to devise what methods it thought best for dealing with the presbyterians. Hence it was from the Council that most of the anti-presbyterian laws proceeded, and of the Council's devising were the means by which those laws were enforced. If those laws and the means of their enforcement were wrong, the blame for them must primarily be charged to the Council. So the Council was not compelled to keep the presbyterians as it did that here, so far as the crown was concerned.
2. But the question remains, was the policy so conceived and enforced by the Council justifiable? If it was, the Council does not deserve the censure it has received at the hands of the historians. It might rather be applauded for its vigorous and courageous government. For more could not have been done, than it did in fulfilling its task of repression: very rarely had Charles to change the Council with slackness in dealing with the presbyterians. He had on more than one occasion to moderate its enthusiasm in that direction.

No king could have had a more faithful, more zealous government, than the Council proved itself to be in prosecuting the ecclesiastical policy of the Crown.

Well, from one point of view that policy both in conception and execution may be regarded as justifiable. Out of the terrible struggle which it involved between the Council and the presbyterians there came a political and religious cooperation which delivered the nation out of a tragic dilemma.
"The Scottish people were clefth in linien by his conflicting principles which made a coherent state impossible." On the one side stood a Presbyterian Scotland holding the conviction that its creed and polity were of divine origin; on the other side stood a powerful section of the people sharing with their king the conviction that his authority was of similar divine origin. The royalists claimed for the king the right to impose his will on the presbyterian. The presbyterian claimed the right to impose his will on the king. Both claims were right within limits; and it was only in the struggle of their conflict that those limits came to be recognised. Royalist and presbyterian were compelled to learn by bitter experience that there was less divinity in their respective claims than they had supposed: "that some compromise was necessary to a settlement by which all parties should be allowed to live in peace through the long travail of a century; the nation"

Hume. "Browns" of Scott: History 90
learned to abandon "absolute principles which, by their very nature made an organised society impossible. The Revolution settlement was a compromise which equally ignored the divine right of kings and the divine origin of Presbyterianism". So it turned out in the wisdom of that Providence which shapes our ends, though not their hand we will: and therefore it may be argued that the end justified the means. But the end justifies the means in this case only if in the first place, the end achieved was the end at which the Council aimed. In one sense it was. "When we found the ruinous course of misgovernment under the Restoration," says Lang, "we must remember that the administration, in many ways lawless and cruel, was tugging back down the old intolerable Presbyterian pretensions, the immortality of the Covenant as eternally binding on the whole posterity of the congregation, which entered into that most mischievous of bonds. Quite so. But we must also remember that...
in trying to destroy the "old intolerable Presbyterian pretension," the Council was doing its utmost to establish the equally intolerable pretension of the divine right of kings. The end at which the Council in its administration aimed was the substitution of one tyranny for another, even far removed from that towards which the Council was being unwittingly guided by an overriding Providence. Moreover, the Council did more than try to break down the old Presbyterian pretension (9) the immortality of the Covenant. It tried to destroy root and branch the whole Presbyterian ideal. It made no discrimination between that ideal as it was in itself, and as it was interpreted by fanaticism. "The policy pursued by the Council aimed at nothing less than the complete extermination of Presbyterianism, and the setting up of Episcopalianism in its stead."
In the second place, even though presbyterian fanaticism had to be destroyed, it is questionable if the council adopted justifiable means in seeking to destroy it. We are of the opinion that some measure of Erastian government was necessary in order to deal with the ecclesiastical situation in Scotland at the Restoration. For we do not see how otherwise the warning elements in presbyterianism itself could have been prevented from disturbing the peace of the nation's life. But the government needed was one that would seek to accommodate itself as far as was reasonable and practical to the presbyterian conscience, a government that would aim at conciliation; and there is reason to believe that there was in Scotland at the Restoration a strong body of presbyterian opinion which would have sympathised with such a government. The popular sentiment after all offered a thin soil to the radical presbyterian: and had some means been taken to arrive at a policy of accommodation.
it might have been possible to avoid the tragic course the nation had to pay for the wisdom which came to it at the Revolution. The Council at any rate would have absolved itself from blame if after a serious attempt at conciliation from the beginning, it was compelled to pit itself against the irreconcilables. But with utter disregard for every shade of presbyterian opinion, without the slightest effort to form a conciliatory policy, the Council decided to impose on the nation a policy which was bound to give offence even to the most moderate of presbyterians, the policy of uncompromising episcopacy. The line came when compromise was attempted, in the form of indulgences and proposed accommodations. Had these attempts at compromise been made at the beginning, there might have been some chance of their being regarded with a measure of sympathy. But they were made after years of brutal oppression, after there had been created within the national life a body of men and women whose experience had left
there in a rebellious mood, who had been driven
by the measures of the Council closer to the ideal
from which the Council sought to turn them away.
Their mood was undoubtedly such as had to be
dealt with severely. "Menaced by such, recalcitrants,
no Government could be blamed for taking
energetic repressive action in face of so grave a
situation." Granted: but the Government had
itself largely to blame for the gravity of the situation.
To provoke a man to revolt and then to claim
justification for his repression is absurd.

We admit that the situation which faced the
Council in Scotland at the Restoration was difficult.
It called for a Council composed of men of generous
and unselfish mind and heart; men of high ideals:
men who had no axe to grind, who with vision
enough to see clearly both sides of the difficult
problem. But it was the misfortune of Scotland
that in the hour of her deep need, she lacked such
men, and found herself governed by men whose
mentalities were the very opposite of what she required.
Haunted by men whom he could respect, from whom he could expect justice, or at least a measure of understanding and sympathy, we believe that the Presbyterians at the Restoration might have been led along a far different road than that which he had to travel during our period. But the men who handled him were men who were prejudiced against him, who were eager to pay off old scores against him; who regarded him as a legitimate object of plunder; whose prejudice drove justice, so far as he was concerned from the Council Chamber; and he would have been less than human, or more than human, if he had not struck the rough road on which we have found him. We have no sympathy for "the old intolerable presbyterian pretensions." We have less sympathy for those who ventured to destroy it.