

II.

CONCORDIA FACTA INTER ANGLICOS ET SCOTOS, 3^D JANUARY,
1322-3. COMMUNICATED BY PROFESSOR MÜNCH, HON. MEMBER OF THE
SOCIETY, IN A LETTER TO DAVID LAING, ESQ., V.P.S.A. SCOT.

Professor Münch of Christiania, one of our Honorary Members, is at present in Rome, engaged in collecting materials to illustrate the earlier history of Norway. The edition he has just published of the "*Chronica Manniæ Regum et Insularum*" fully exemplifies, if any proofs were required, his skill and learning, in giving not only an accurate text of this well-known historical work, but enriching it with valuable notes and illustrations. Having, last autumn, sent me copies of a few early documents connected with this country, transcribed from the archives of the Vatican, to lay before the Society, I cannot better introduce these than by reading a portion of his letter, describing the pursuits in which he is at present engaged. It is dated Rome, June 29th, 1859.

"Our Government, or rather Parliament, has granted a sum enabling me to make researches for the Norwegian History in foreign public archives or record offices, especially in the secret archives of the Vatican here in Rome, where I have resided since December past, having on the way hither been for half a year in Copenhagen, a month at Berlin, and three months at Vienna. I am glad being able to tell you, that I have succeeded here in Rome beyond all expectation, almost wonderfully. You are no doubt aware that generally the Vatican

Archives have been hermetically closed to all foreigners, or rather, to any person not belonging to the office itself, let alone to Protestants; that the only favour which could possibly be obtained was, and still generally is, to get copies, badly written by the secretaries of the keeper, but dearly paid for, of the letters or documents whose existence you might be able to point out. As you were not allowed to see the catalogues,—which in themselves were moreover very bad and defective,—still less to peruse the very *Regesta*, or to write yourself, it is easy to see that the results from such endeavours made by foreigners to get information or copies from the costly things here preserved were either equal to nothing, or at least very poor. I, however, partly, I think, by the good luck of having good recommendations and opportunities of making excellent acquaintances, partly even by good managing for my own part, have succeeded in getting on the best terms with the keeper, Pater Theiner, who shows me the greatest friendship, and has allowed me not only to peruse and search through the *Regesta* and other documents personally, but even to write and copy myself whatever I liked; nay, he confides even so far in me, that he allows and requests me sometimes to find what he wants for his own learned works. In this manner I have now already gone through upwards of a hundred and fifty volumes of *Regesta*, from the middle of the thirteenth century to about the year 1370,—immense folios, containing each, perhaps, about 2000 letters; and I am almost stupified by seeing this immense mass of materials, not only for the history of the Church generally, but even for the special history of every European state. Of course England is one of the states most amply represented there; and for an Englishman, enjoying the same privileges which I now am happy enough to enjoy, there might be an exceedingly rich harvest to make, and a new edition of ‘*Rymeri Fœdera*’ might be considerably enlarged. But even for Scotland there is much more than I had expected; and only as a proof, I subjoin here copies of three Papal Bulls, taken by myself with the utmost accuracy, which I beg you to accept of as a little contribution to the ‘*Proceedings of the Society of Antiquaries.*’ There are many more of these dispensations, which, of course, cannot but throw a great and often unexpected-for light upon certain family connections.”

"I subjoin, also, another document, which I think very interesting. From Fordun, as well as from the public deeds printed in Rymer's *Fœdera*, it is known that in the year 1322 King Robert Bruce fought successfully with the barons of the north of England, headed by Andrew Hartclaw, Earl of Carlisle, and partly, may be, even through habile negotiations, induced them to make a Treaty of peace or truce, the first ever made with him by the English, and in which, for the first time, he was styled and acknowledged as King. It is further known, that when King Edward received information of what was going on, he grew furious, and sent immediately a letter (printed by Rymer), where he strictly forbade any further proceedings in this matter, and commanded Andrew Hartclaw to repair to Court, &c. Hartclaw, however, having already concluded the Treaty, and feeling himself *in culpa*, did not choose to present himself, whereupon King Edward had him arrested, arraigned, and condemned as a traitor, which punishment he also did suffer, being beheaded, according to Fordun, on the 1st of October following. The Treaty, however, which proved so fatal to Hartclaw does not exist in any of the English archives or collection of records as far as we know; at least it is not inserted in the collection of Rymer. There is also every reason to believe that the English copy thereof was annihilated, perhaps even before the arrest of Hartclaw, that it might not prove anything against him; and it is only through the general account of what the Commissioners appointed to try him had found out, that something about the contents of the Treaty was hitherto known. Of course a copy must have existed in Scotland, but this has no doubt shared the fate of so many other Scottish documents of which no traces now exist. By a combination of circumstances, however, in itself interesting and curious, the Treaty in question has been preserved where nobody might expect to find it, in a Codex Diplomaticus or registerum, belonging formerly to the Episcopal See of Bergen in Norway, where all letters, even private, issuing from or addressed to, or regarding any interest of the Bishops, were copied successively, a true *liber cogriialis*. This seems, indeed curious; it is, however, easily accounted for, when we know a little more of the particulars of Norwegian history. In the year 1293, the Norwegian king, Eric, being a widower since 1283, when his queen, Margareta of

Scotland, died, probably in childbed of her daughter Margaret, "the Maid of Norway," married Isabella, sister of King Robert the Bruce. Isabella being then, it would seem, very young, perhaps not more than thirteen years of age, did not die till 1358, and survived, consequently, her husband, who died in 1299, for about 59 years. Most of this time she seems to have passed at Bergen, living very quietly, in a kind of dependence on the bishop, or as a sort of lay sister under his protection. There exists, namely, an original deed, issued by the Bishop of Bergen on the 25th of March 1324, when the bishop testifies that he has given her a house with all appendages and premises, which he had caused to be constructed next to the Episcopal residence at the costs of the See, to inhabit and freely to use as long as she lived, but after her death to fall back to the possession of the See. Even her testament, made in 1316, gives already to understand a similar connection. Now, this being the case, we need not wonder that public documents of any concern, sent to Isabella, were inserted in the regest-book of the See, perhaps at her own request; and likewise it may easily be imagined that Bruce, who no doubt kept his Sister pretty well *au fait* of all his proceedings,—she being on her side no doubt eager to get all news from him as soon as possible,—was especially proud and happy to send her a copy of the first Treaty he had ever concluded with England, and of the first document in which he had extorted the public acknowledgment of himself being *King of Scotland*.

"The Episcopal record-book here mentioned existed and was preserved till later times. It shared, however, the fate of so many other Norwegian historical records, in being removed to Denmark after the union of Norway with this kingdom. Probably this book was brought to Denmark in the middle of the seventeenth century. We know, at least, that it existed there about 1690, and belonged to the library of the University of Copenhagen; and that this library being destroyed in the dreadful fire of 1728, the Codex here mentioned underwent the same fate. Previously, however,—that is to say about the year 1690,—the learned historian Thomas Bartholin had a copy taken of the whole book by the then young, afterwards celebrated Icelander, Arnas Magnæus, founder of the famous Arnamagnæan collection of Manuscripts; and this copy, written, as all copies taken by Arnas, with the utmost accuracy

and the clearest character, is to be regarded as almost equal to the original itself. From this apographum I have taken the copy here presented, giving it as I found it, only correcting some obvious errors, which, however, are sure to have existed in the original itself, Arnas being too scrupulous and too learned to have possibly committed them on his own account; nor have I omitted to give the erroneous phrases quite as they are, in notes subjoined.

“Thinking this document, which, if known before, ought to have had its place in Rymer’s *Fœdera*, a not invaluable contribution to the stock of public records illustrating the history of Scotland, I beg you to accept of it for insertion in the ‘Proceedings of the Antiquarian Society,’ as a token of the regard and thankfulness I owe it for having done me the honour of electing me an Honorary Member. I only beg to remark, that as the Scots at that time used to commence the year with the 25th of March, the year of the document is really 1323, although 1322 is named; so it is also inserted in the record-book of Bergen between documents of 1323.”

“*Concordia facta inter Anglicos et Scotos.*”

“3^o *Januarii* 1323.—Deus misericordiarum et totius consolacionis autor qui post varias afflictiones populi Christiania langores (*sic*) et dolores fidelium oportuno (*sic*) remedio finaliter intuetur ad ecclesiarum incendia villarum et urbium ac agrorum depopulaciones maximas hominum mortalitates que occasione guerre inter Anglie Scocieque regna mote in graue dispendium animarum et diuini cultus detrimentum magnam et fructiferam partem utriusque regni in desertam solitudinem redegerunt oculos misericordie convertens et vtriusque regni populo clementer compaciens post varios e diuersis partibus inter serenissimum principem dominum Robertum dei gracia regem Scotorum illustrem et magnificum virum dominum Andream de Arcla (*sic*) comitem Karleoli super pacis reformatione inter regna predicta tractatus habitos tandem pro communi utilitate et quiete vtriusque regni et pro dictis malis sedandis ad honorem ejus et ecclesie sue catholice nec non ad promocionem viagii terre sancte inter predictos regem et comitem quandam concordiam in forma que sequitur ordinauit videlicet quod ambo regna predicta sint per se distincta et separata diuersis et separatis regibus de sua nacione in

suis legibus consuetudinibus et ritibus gubernata ita quod neuter regum qui pro tempore fuerint super alterum vel regnum eius in detrimentum vel diminucionem ipsius vel regni sui aliquid occupet vel usurpet aut eius regnum subjugare presumat quoquomodo quodque dominas rex Robertus et heredes sui ante aliquam invasionem occupacionem vel vsurpacionem in regno Anglie faciendam¹ habeat et habeant teneat vel teneant dictum regnum Scocie pleno jure liberum et immune ab omni seruicio exaccione vel demanda regis Anglie vel communitatis regni sui seu cuiuscunque alterius cuiuscunque condicionis fuerit sine status ad quod procurandum promouendum et manu tenendum omnium consilio et auxilio quibus poterit vel poterint quoquo modo sine ficione quacunque contra omnes predictus² dominus Karleolensis se et suos heredes cum omnibus eis adherentibus predicto domino regi Roberto et suis heredibus ac comitatu regni sui firmiter et fideliter obligauit et idem dominus rex Robertus se et heredes suos cum toto comitatu regni sui dicto domino comiti et heredibus suis ac eis adherentibus et eorum heredibus firmiter se obligat in futurum ad procurandum (*sic*) promouendum et manutenendum omnium auxilio et consilio quibus poterit seu poterint communem vtilitatem regni Anglie juxta consilium et informacionem comitis memorati et si contingat quod dicti rex et comes in predictos (*sic*) consilio et informacione concordare non poterint tunc producet dominus rex ad certum locum infra sex septimanas a tempore dicte variacionis sex viros per cum electos et dominus comes infra idem tempus ad dictum locum producet alios sex per ipsum electos quibus omnibus in amborum presencia iuratis quod per dictos duodecim vel eorum majorem partem decretum vel ordinatum fuerit in premissis prefati rex et comes adimplebunt et adimpleri³ et exequi facient vnanimiter toto posse. Item quod dicti rex et comes et heredes sui una cum eis adherentibus et eorum heredibus ac comitatu supradicto ibunt hostiliter et manu armata sine ficione et more dispendio contra omnes dicte concordie resistentes aut eam quomodolibet impediendes vel eodem non consencientes tanquam contra reipublice vtriusque regni inimicos capi-

¹ Corrected; in the copy of A. M.: "ante aliqua invasione occupacione vel usurpacione in regn. A. faciendum."

² Corrected; in the original: "predictos."

³ Corrected; in the copy of A. M.: "adinplerit."

tales qui ex nunc huius concordie autoritate pro inimicis notoriis habeantur. Item quod de omnibus dicto comiti adherentibus in premissis habeat dominus rex securitatem quam ordinauerat cum comite supradicto vel quod ipsos non concordantibus ordinauerint duodecim prenotati vel maior pars eorundem. Item si contingat quod dictus dominus rex Scocie ducat vel mittat exercitum in regno (*sic*) Anglie iuxta formam concordie supradicte, eandem curam et diligenciam pro Saluacione rerum dicti comitis et suorum adherencium ad eandem punitionem in delinquentibus adhibebit et adhiberi faciet, quam in consimili casu in regno suo faceret vel facere consuevit, et hoc idem faciet dominus comes et adherentes sibi si contingat eos exercitum in Scociam ducere ad instanciam regis Scocie memorati. Item quod nulla vel nulle conuenciones confederaciones seu colligaciones fiat vel fiant ex parte dictorum regis aut comitis vel suorum, que sit vel sint dicte concordie contraria vel contrarie, vel que poterit aut poterint eandem concordiam in toto vel in parte quomodolibet eneruare. Item predictus dominus rex Scocie dabit regi Anglie, si a tempore date presencium infra annum predictam pacis concordiam acceptauerit et ex debita securitate firmauerit, quadraginta milia marcarum in sterlingis infra decem annos soluendis, videlicet quolibet anno quatuor milia marcarum, et fundabit idem rex Scocie pro animabus defunctorum in guerra unum monasterium infra regnum Scocie ad valorem quingentarum marcarum annui redditus, et concedat regi Anglie maritagium heredis sui masculi ad maritandum in congruo loco in sanguine suo si dominus rex Scocie et dominus comes vel ipsis discordantibus dicti duodecim vel ipsorum maior pars id ad vtilitatem amborum regrorum viderint vel viderit expedire et si dominus rex Anglie dictam concordiam infra annum acceptare voluerit, extunc dictus dominus rex Scocie ad premissa sibi facienda nullatenus obligetur sed predicti duodecim vel maior pars eorundem in hiis, in quibus dicti rex et comes concordare non poterint, procedant firmiter seu procedat prout magis et melius ad vtilitatem et quietem vtriusque regni viderint aut viderit expedire, et est sciendum quod si disponente altissimo predicta pax inter predictos reges firmetur, preter hoc tamen non tenebitur aliquis regum predictorum aliquem in regno suo recipere qui contra eum de guerra exstiterit, nec ei terras quas antecessores sui vel ipse tenebat in regno suo reddere et restituere nisi hoc facere voluerit de sua gracia

speciali. Et ad omnia ista et singula sub modis et formis superius expressis firmiter observanda predictus dominus rex Scocie per nobilem virum Thomam Ranulphi comitem Moraue dominum vallis Anandie et Mannie nepotem dicti regis Scocie et dominus comes Karleolensis personaliter tactis sacrosanctis euangeliis jurauerunt et sigilla sua huic indenture alternatim apposuerunt. Datum apud Dochmaban¹ (*sic*) tercio die Januarii anno gracie M° ccc° xxij°.

In regard to this treaty, Professor Münch correctly states, that as it was regarded to be a cancelled or unauthorised deed, it would not be recorded, and thus it has remained unknown to our historians. That this should have been so, is easily explained. In Rymer's *Foedera* there are two letters of Edward the Second, both dated the 8th of January 1322-3, commanding, that as he, the King, had not been consulted, the treaty for a truce with his Scottish rebels should have no effect. ("De Tractatum super Treuga cum Scotis, Rege inconsulto, non habendo.") A subsequent letter, dated the 1st of February, is entitled, "De Andrea de Hertcla comite Karlioli, quia Scotis adhæsit, arestando et capiendo." Commissioners were appointed, before whom Andrew de Hartcla, Earl of Carlisle, was brought to trial for his traitorous conduct. In the course of their proceedings, it was proved that Hartcla, by whatever motive he was influenced, had had an interview with the King of Scots, and had bound himself, both in writing, and by oath, to assert and maintain him and his heirs in the right and possession of the entire kingdom of Scotland. Hartcla was found guilty, and condemned. His sentence was, that you shall be degraded from your rank and honours, and forfeit the title and dignity of Earl for yourself and your heirs in all time to come. That you shall be ungirded of your sword, and have your gilt spurs hackt from your heels. And the sentence further prescribes the savage and revolting mode of execution, not unusual in those times, which was carried into immediate effect at Carlisle, on the 2d March, 1323. (See Lord Hailes's *Annals*, Kerr's *History of King Robert I.*, and Tytler's *History*.)

A few years later Edward found it convenient to ratify a truce with Bruce by the style and title of "King of Scotland."

¹ No doubt *Lochmaben*.

[The three Papal Bulls or Dispensations which Professor Münch mentions in his letter, as well as some similar transcripts since received, cannot well be inserted in this place, not merely from want of types to represent the numerous contractions, but they would also require explanatory notes, which at some future time Professor Münch may be able to supply.]

MONDAY, 4th June 1860.

THE HON. LORD NEAVES, Vice-President, in the Chair.

The Donations exhibited were as follows; and thanks were voted to the Donors:—

Stone Celt, 3 inches across face, 5 inches long, broken at one end; found near the gate of Duddingston Church. By ANDREW KERR, Esq., F.S.A. Scot.

Cast from an Inscribed Stone, with Latin Inscription, now standing near Yarrow Kirk, Selkirkshire. By His Grace the DUKE OF BuccLEUCH.

Details of the finding, &c., of this stone are given in a Communication by Dr J. A. SMITH, Sec. S.A. Scot., in the Proceedings, vol. ii. p. 484.

Two large Clay Cinerary Urns, one measuring 10 inches across the mouth, ornamented with a belt of crossing lines on the upper part; the other 9 inches across the mouth, the projecting upper portion of which is ornamented with a belt of horizontal lines made apparently with a twisted cord. By ROBERT DUNDAS of Arniston, Esq.

The urns were discovered by a man whilst ploughing in a field near Arniston; each was inverted in the ground, the plough removing the lower portions of the urns, which show a reddish brown coloured fracture.

Old Harp, about 3 feet in height, which formerly belonged to Mr Fraser, player on the music bells in the steeple of St Giles' Church, Edinburgh;

Musical Instrument, consisting of a box 26 inches long and $9\frac{1}{2}$ inches

broad. It is rounded on the back, and is perforated on the face with three ornamented sounding openings, and has a double row of string pegs at one end;

Sculptured Head of a Female in Sandstone, 8 inches high. It is considerably defaced. The head is surmounted by a crown, with the hair turned back. It was found when digging a grave in Roslin Chapel;

Sculptured Head, in Sandstone, 10 inches high, of a Female; a plaited band of hair from each temple crosses the front of the head in high relief, and is attached to a projecting scroll-like ornament on the top of the head;

By WILLIAM B. JOHNSTONE, Esq., F.S.A. Scot.

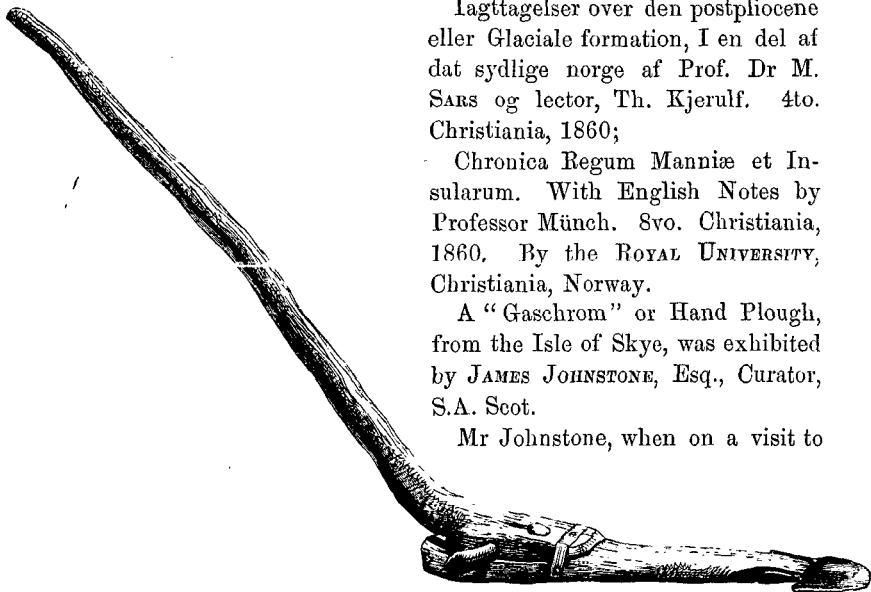
On the Megalithic Circles or Open-Air Temples of the Ancient Britons and Gauls. Reprinted from the "Crania Britannica," part 4, (pp. 8). By JOHN THURNAM, M.D., Devizes (the author).

Iagttagelser over den postpliocene eller Glaciale formation, I en del af dat sydlige Norge af Prof. Dr M. Sars og lector, Th. Kjerulf. 4to. Christiania, 1860;

Chronica Regum Mannæ et Insularum. With English Notes by Professor Münch. 8vo. Christiania, 1860. By the ROYAL UNIVERSITY, Christiania, Norway.

A "Gaschrom" or Hand Plough, from the Isle of Skye, was exhibited by JAMES JOHNSTONE, Esq., Curator, S.A. Scot.

Mr Johnstone, when on a visit to



Skye some years ago, saw a man using this plough, and made a purchase of this very primitive implement of agriculture.

Small Terra Cotta Circular Cup-shaped Lamp, $2\frac{1}{2}$ inches diameter;
Small Terra Cotta Figure, draped; $4\frac{1}{2}$ inches high, from Halicarnassus;
By WILLIAM ROBERTSON, M.D., R.N.

The following communications were read:—