

V.

SOME FORGOTTEN INCIDENTS AND PERSONAGES IN THE LOCAL HISTORY OF SHETLAND. BY GILBERT GOUDIE, TREASURER, S.A. SCOT.

Remote as Shetland is from those influences and activities which have tended to the making of history in the provinces of Scotland in the past, with a scanty population, a poor soil, and limited possibilities in every direction, it is yet astonishing what a wealth of incident and association is found as the reward of patient research in its obscure annals. Formal history has not failed to present the fascinating story of the Norsemen as conquerors, and finally occupants, of the country, and to repeat the tale of oppression since the sovereignty passed from the Dano-Norwegian crown to that of Scotland. Prolific, too, in illustrations of life in the prehistoric ages have been the revelations of archæological discovery. But local and personal history, the absorption and aggregation of landed property, the rise and fall of families, the incidents of social development are yet practically unexplored; and, fortunately, materials for the study, restricted though they be, are not wanting. I have endeavoured to bring together some illustrative incidents here. The sources from which these are derived are mostly legal records, ancient native deeds, and other original documents noticed in this connection for the first time; anything previously to be found in print is either in works issued abroad, or appearing incidentally in works of a different class and difficult of access, and, practically, as regards the subject matter of the paper, unpublished.

¹ See Greenwell's *British Barrows*, 1877, p. 98.

I.—EARL ROGNVALD AND THE DUNROSSNESS MAN—
Twelfth Century.

Since the issue in 1873 of the translation of the *Orkneyinga Saga*, which contains the earliest records of Orkney and Shetland history, an unknown fragment of the Saga as originally composed was discovered by the late Professor Vigfússon at Upsala. This fragment gives perhaps the earliest picture we possess of every-day life in Shetland, in the story of an incident between the Earl Rognvald of Orkney, Lord of Shetland, and a Dunrossness man (*bóndi*—small farmer) which occurred most probably on the occasion, about the year A.D. 1150, when the Earl, crossing from Moray, was wrecked at Gulberwick, near what is now Lerwick. The story tells how the Earl in disguise went off to a fishing near Sumburgh Head with a country man in place of one of the ordinary crew of the boat; how the stranger plied the oar while the man fished; how they were nearly swept away by the violent tide of the Sumburgh *raust*, the stranger maintaining meanwhile a jaunty good humour, and surprising the other by handing over to him his share of the fish when their catch came to be divided; how the Earl missed his footing in ascending the cliff and fell down, creating merriment to a number of women and other spectators; how he composed a stanza in his usual style on the occasion, and how the *ruse* he had thus played on the country people was discovered.

The narrative, though 700 years old, has all the freshness of yesterday, showing to us men and women in their every-day calling, with indications of a fishing and agricultural industry combined, in very much the same way as at present existing in the district,¹

II.—A SHETLAND HEIRESS, anno. 1403.

A curious record of personal attire and domestic equipment 500 years ago, of quite a superior kind, is preserved in the list of the goods and gear of a Shetland heiress, one Gudrun Sigurd's daughter, wife of

¹The text of the story is given in the original Old Northern in *An Icelandic Prose Reader*, Oxford, 1879. I have printed a translation of it in *Mill's Diary* issued by the Scottish History Society, 1889.

Arnbiorn Gudleikson, residing in the Feroe Isles, dated 1403.¹ Abbreviating the description, the lady's possession is said in the old Norse deed to have consisted of—

A head-dress valued at 13 or 14 öre ; a full dress suit decorated with shields down to the waist in front and on the loins ; a great silver buckle, and a rosary with silver beads ; a small buckle from Courland of silver gilt or of gold, a finger-ring of gold, and two silver bowls ; two cloaks, and gowns with buckles ; bed ornaments and curtains, silk red and green, and numerous bright ornaments ; that she wore no other head-dress except on Friday, when a coarse cap was used ; 5 or 6 beds, and pillows, with covers of precious workmanship and fringes, and a large furnished chest ; basins and bathing-tubs on two feet (*tuifot*) ; dishes, cans, pots, kettles and goblets beyond number ; with two sets of house furnishings, tapestry hangings and carpeting, brocaded and braided lace coverings, [for saints, or relics, or pictures] ; and in addition, a land rent from Shetland.

In another document of nearly the same date, this lady's possessions are again described as consisting, apart from her heritable properties, of the following, viz. :—

Six beds with down pillows and precious fringes, the large pillows with goose feathers, and good covers of precious workmanship ; a head-dress valued at 13 öre (as mentioned in the document last quoted) ; rosaries with silver beads, 3 finger-rings of gold and a suit ornamented with shields, and other effects, very much as described above.²

III.—HANS SIGURDSSON'S ESTATE IN SHETLAND, 1490.

The division of the estate of this great landowner, whose properties lay in the parish of Northmaven and elsewhere, as described in a deed of 11th September 1490, executed at the sight of Archbishop Gaute of Drontheim and others, throws an interesting light upon the state of landed property in the islands at that comparatively early period, upon the persistency on the one hand, of local names, and on the other, the differentiation, by a gradual process, of their forms in the course of time. At the same time the system of heritable succession

¹ *Diplomatarium Norvegicum* (several separate documents).

² These ancient deeds, contained in the *Diplomatarium Norvegicum* were printed in a small collection of Orkney and Shetland deeds issued for private circulation at Edinburgh in 1840.

is well illustrated ; while it is also conclusively shown that large landed estates, which are usually represented as a feature of modern growth, were accumulated in the northern islands at an early date, even during the Scandinavian period, side by side with the smaller holdings, which were unquestionably the characteristic feature of the Udal system there. The deed of division is given in full in the *Diplomatarium Norvegicum*, vii. p. 436, and the place-names are critically discussed by the late Professor P. A. Munch of Christiania in a paper in the *Memoirs de la Société des Antiquaires du Nord*, 1850-60.

IV.—TESTAMENT OF SIR DAVID SINCLAIR OF SUMBURGH, 1506.

Equally interesting indications of the more opulent life in the islands in early times are found in the testament of Sir David Sinclair of Sumburgh, signed at Tingwall 9th July 1506. Sir David was third son of Earl William St Clair, from whose other sons and daughters he obtained the Sumburgh and other properties in Shetland, by deed dated at Edinburgh 3rd Dec. 1498. He was high in esteem with the King of Denmark and Norway, and while occupying the position of Great Fowde of Shetland held at the same time the appointment of Captain General of the fortress at Bergen in Norway. In the Will, a copy of which is preserved among the papers of the Sheriff Court of Orkney, and has been printed in the *Miscellany* of the Bannatyne Club, we find that all Sir David's inherited property in Shetland, together with valuable personal property, was bequeathed to Lord Sinclair, while Lady Sinclair and other noble friends were suitably remembered, and the following Shetlanders, viz., Thorrald of Brucht, Richard Lesk, William Spens, and others received various small lands and other presents. To St George's altar, in the Danish cathedral of Roeskilde, he left the gold chain which he got from the King of Denmark ; a cup was destined for St Magnus Church at Tingwall, but seems never to have reached that place, and his *black velvet cloak* was left in the proportions of two-thirds to the church at Tingwall, and the remaining one-third to the Cross-kirk of Dunrossness, a venerable fabric which existed for 300 years later only to be swept

away at the end of last century by an ignorant barbarity ever to be reprobated and deplored.

V.—FIGHT WITH INVADERS FROM THE LEWS.

This incident, which is stated to have occurred in the reign of Queen Mary, is related in a M.S. *Description of Dunrossness, by Mr. James Kay, Minister thereof* (from 1682 to 1716), contained in volume 13. 2. 8. of the manuscript collection in the Advocates' Library.

“I can hear of no Battels fought in this place [Dunrossness]; only here (as in other places) they have not wanted Feuds, which have occasioned some skirmishes. One in the reign of Queen Mary between Oliver Sinclair of Brow in this parish and Hutchen of the Lews, the occasion whereof was this. William of the Lews having married an Heretrix in this Country, Oliver Sinclair being Fowd or Governor of the Country, feared lest William [Macleod] of the Lews, being a great man, should possibly have opposed him; therefore he concluded to make him away, to which he was not a little instigated by his wife. And because he could not avowedly effectuate his murderous design, he resolves at length upon this expedient, that he would go, and, in show of friendship, visit him, which done, under pretext of intimate Comradship, he would exchange pages with him. In the meantime he had conducted his page, thus exchanged, to kill him, which he did that same night. In revenge of whose death Hutchen of the Lews, brother to the deceased William, made several inroads into this Country; but his people here having advertisement given them by some of the inhabitants of the Fair Isle whom they had conducted to that purpose, for the first two attempts he prevailed not. But the third time he overtook the Fair Isle boat before she landed and put the boatmen to the edge of the sword. Which done, he landed at Gairth Banks without opposition, and made a great slaughter, especially about Quendale, a quarter of a mile from Brow, where in one morning fell above sixty souls. But Oliver himself fled to Souburghhead, where being hotly pursued he leapt over, but eventually falling upon a bit of green in the cliff of a rock, he escaped without more prejudice but the loss of an eye, and Hutchen is by Queen Mary commanded back.”

Local tradition has preserved emphatically the memory of incursions by the Lewismen. Scenes of conflict with them are still pointed out on the Links of Sumburgh, and at the sandy shore at Scousburgh where the “Lewis Scords,” so called, are still shown. The present encounter, inspired by revenge, appears to have taken place at Quendale, in the

same parish of Dunrossness; but the incursions were frequent, and spread over a lengthened period, and the accounts as reported at the present day are mixed up in some confusion. So early as in 1461 the ravages of these marauders formed the subject of complaint by Bishop William of Orkney to the King of Denmark and Norway.¹ The story here given, though not corroborated by any known record, may be supposed to approximate to accuracy, as the alleged occurrence was at no great distance of time from that of KEY, who recorded it.

Oliver Sinclair of Brew was the *Great Fowde* of Shetland who entertained Bothwell in 1567 on his strange meteoric visit to the northern islands after his flight from the side of Queen Mary on the field of Carberry Hill. The family of Brew was at one time of first consideration in Shetland, possessing extensive properties not only in the south end of the country, but also in the island of Unst and elsewhere. They seem to have gone rapidly down after the time of the present Oliver, but representatives remained into the present century, when the succession passed to the family of Mr Grierson of Quendale.

VI.—SLAUGHTER OF RICHARD LEASK.

The following is quoted from the same manuscript as the preceding:—

“Not long after this [the incursion of the Macleods of the Lews] happened another [skirmish] between Henry Sinclair of Sandwick and Henry Dillidasse, occasioned by some little prejudice done in the House of Brow to the servant of Henry Sinclair. In revenge whereof, being instigated by his wife, Henry Sinclair conducted his man to stab Richard Leask, son-in-law to Oliver Sinclair of Brow, which he did as he was entering the door of the Church, and so he died. Henry Dillidasse, son-in-law to the deceased Richard, being in Orkney at the time, and hearing of the Murder, went over to Caithness, and assembled some of his Friends to revenge his father-in-law's death, with whom he came over to Zetland. But Henry Sinclair, with some of his friends and followers, being fled north the length of Laxfoord,² he pursued after them, and they not advertised of his arrival were returning southward. So they met upon a Moor between Laxfoord and Lerwick, where at first meeting Henry Dillidasse desired them to surrender the Murderer, on whom he might inflict condign punishment for

¹ *Diplomatarium Norvegicum*, vol. v. p. 605.

² Laxfirth.

his crime, promising that upon so doing there should be nothing but peace and friendship betwixt them ; which the other refusing to do, they prepared for a skirmish, in which Henry Dillidasse slew the Murderer with the shot of a Pistol, and the rest were forced to flight. Henry Sinclair himself narrowly escaped, and one Sinclair of Burra swam over to Trondra, near a mile of Sea. In this skirmish several fell on both sides."

This Richard Leask ("Richart Lesk") who was murdered at the door of the Cross Kirk of Dunrossness, was appointed by Sir David Sinclair to be one of his executors in his testament of 1506 before referred to. Sir David bequeathed to him 20 merks of land in Cwndistay [Brindista?] and a ship—"my Inglis [*i.e.* English] schipe with all geir." The story of the murder is nowhere else recorded, and no knowledge of Leask otherwise is preserved in the islands.

The above incidents (V. and VI.) are printed for the first time in *Mill's Diary*, recently issued by the Scottish History Society. The work is not available for general circulation, which justifies the reproduction of the stories here.

VII.—TRIAL OF CULTEMALINDIE, 1577.

There is no event in the history of Shetland that equals in intensity of interest the trial of Laurence Bruce of Cultemalindie ; no record approaching it in tragical detail, or so vividly portraying the social and economic condition of the islands, and that at a time of exceptional interest, following upon the crisis of the Reformation, and the upheaval and unsettlement of political affairs in Scotland which ensued. It must be remembered, too, that at the time Orkney and Shetland had been little more than a century dissociated from their direct dependence upon Norway. The extraordinary thing is that while the extortionate and tyrannous character of Lord Robert Stewart's rule in the islands has been well understood in a general way, the details, and even the knowledge of this trial having taken place, had passed entirely out of view until the record of the trial itself, now preserved in the Register House, fell into the hands of the late Mr Balfour of Trenaby, who presented it as a contribution to the Maitland Club.¹

¹ *Oppressions of the Sixteenth Century in the Islands of Orkney and Zetland : from original Documents.* Edinburgh, MDCCCLIX.

Harassed by every form of plunder and oppression, discouraged and dismayed by the overthrow of cherished institutions and usages of great antiquity, which were admirably suited for local requirements, and liable to the penalty of death itself if found complaining, the inhabitants were completely in the hands of this merciless tyrant, whose willing instrument was Laurence Bruce. The cries of complaint were stifled, and appeal to the Scottish Government rendered wellnigh impossible; but by the persistent courage of a local gentleman, Arthur Sinclair of Aith, a formidable indictment was at length framed and produced against Cultemalindie; and as there were other more serious charges against Lord Robert, the Regent Morton and the Privy Council could no longer refuse to interfere.

Two Commissioners, William Mudie of Breckness, a former Chamberlain of Orkney, and William Henderson, Dingwall Pursuivant, by Commission dated at Dalkeith 9th November 1576, were instructed to proceed to the islands, and make an investigation on the spot. Their Courts were held in the month of February following (1576-77), the record of the proceedings being titled—

“THE COMPLAYNTIS AND PROBATIOUNIS LED THAIRUPOUN OF THE COMMONOWNIS AND INHABITANTIS OF ZETLAND RESSAVIT AND TANE UP BE MAISTER WILLIAME MUDIE OF BREKNESSE AND WILLIAME HENDERSOUN, DINGWELL PURSEVANT, COMMISSIONARIS IN THAT PAIRT SPECIALIE CONSTITUTE CONJUNCTLIE, BE OUR SOVERAINE LORD AND HIS GRACIS REGENTIS COMMISSIOUN DIRECT TO THAME THAIRUPOUN THE DAYIS RESPECTIVE UNDERWRITTEN, IN THE MONETH OF FEBRUAR, THE YEIR OF GOD 1⁵⁷⁶LX SAXTEIN YEIRIS, IN COURTIS THE SAID DAYIS HALDEN BE THAME RESPECTIVE AT TINGWALL IN ZETLAND.”

The Courts appear to have been constituted, and the evidence taken and recorded, with the utmost care and formality. The proceedings form, indeed, a kind of Domesday record of the then existing community, that is, of the “Commons and Inhabitants” as they are termed, though there are instances of clergymen and holders of church revenues (“kirkmen”), and larger landowners, also introduced. The heads of families in every parish were summoned, and most of them seem to have entered

appearance, their names, and very frequently also their places of occupancy or ownership, being given.

Nine special articles, which formed the body of general complaint, were inquired into by the Commissioners, and the evidence of each parish in order was laboriously taken on each of the articles, bringing out the details of oppression and the environing circumstances with romantic but appalling vividness. Then followed a set of general and particular complaints by different districts and individuals, all investigated by the leading of evidence in the same way. Finally, special "Bills of Complaynt," over and above their share in the general grievances, were submitted by the following individuals, viz., Andro Hawyk of Scatstay, Barthole Strang of Voisgarth, Andro Fairlie, and Gawane Gadie (of Lugassetter in Dunrossness). The particulars of these latter complaints are not given, because, as is explained, the circumstances are set forth in the bills themselves. These special bills are stated to have been forwarded to the Regent's Grace and Secret Council (King James VI. being then in minority), and unfortunately they have disappeared.

It is unnecessary to follow the details of the trial, which are given at large in the printed papers. It is sufficient to say that the results were inadequate to its importance. Lord Robert was deprived for a time of the earldom, and Cultemalindie of his office of Fowde, but these changes were attended with only slight amelioration of the position of the islanders. Nevertheless, the efforts of the native patriots, headed by Arthur Sinclair of Aith, deserve admiration; but his name and family connection have passed entirely out of memory. The name of Cultemalindie survives in evil odour, but little is now known regarding him or his descendants. I have endeavoured from fragmentary notices in local records, native deeds, and other sources to gather some particulars regarding both Cultemalindie and Sinclair of Aith, and their respective families.

VIII.—THE FAMILY OF CULTEMALINDIE AND MUNESS.

Laurence Bruce of Cultemalindie, a small property in Perthshire, was the son of John Bruce, third laird of Cultemalindie, by Euphemia, daughter of Lord Elphingstone, who had previously been the mother of

Lord Robert Stewart, afterwards Earl of Orkney, illegitimate son of King James V. His appearance in Shetland as *Great Fowde*, or Chief Magistrate, in 1571, was thus the natural result of his connection with Earl Robert, of whose extortions and oppressions he was the ready instrument. He seems to have been overbearing and turbulent in temper, and, like his master, to have been often in trouble.

The culmination of his career of rapacity has already been referred to under the head of his trial at the court held at Tingwall in 1577. The Privy Council ordained that he must remain on this side "the watter of Tay, and in no wayis transcend the saidis boundis, nor pass to the saidis cuntries of Orkney and Zetland in time comeing, quhill the said order be tane;" and, as the result of the finding of the Commissioners, he appears to have been deprived of the office of Fowde, and Earl Robert to have been placed in ward. Bruce, however, had established himself well in Shetland by this time, speedily acquiring lands in different quarters, and about 1598 erecting a well-appointed dwelling-house, the Castle of Muness, in the island of Unst. Over the doorway he placed a self-complacent inscription as follows:—

"List ye to knaw this building quha began,
Laurance the Brus he was that worthy man,
Quha earnestlie his ayris and affspring prayis
To help and not to hurt this wark alwayis."

The bronze door-knocker of the Castle is in the possession of John Bruce, Esq., of Sumburgh, and is described by Major W. Bruce Armstrong in the *Proceedings* (vol. iii. New Series, p. 101). It bears the name and arms of Andro Brus, second of Muness.

The records of the Privy Council disclose the following incidents—some of them not very creditable—in Cultermalindie's career, viz.—

1577, Feb. 23. Signed bond at Holyroodhouse for the due discharge of his office of Admiral-Depute in Shetland.

1577, Aug. 30. Charged with wrongously intromitting with an English ship, the "Marie Galliard," in Shetland.

1577, Nov. 20. Taken bound to deliver the ship "Mynion."

1577, Nov. 5. Complained against by Barthill Strang of Voisgarth, in the island of Unst, for compelling his wife, when he himself was absent

in Norway, to pay the Bishop's Umboth duty 3 months before it was due, and for stopping Barthill in August last from going on his voyage to Birroun [Bergen] in Norway, and compelling him to carry him and his company of 24 persons from Shetland to Dundee without payment. Bruce alleged that Strang had asked him to come, and offered to carry him free.

1578, Jan. 30. Lord Robert Stewart, then warded in Linlithgow, grants obligation to return from Shetland within a time specified. His sureties get obligation of relief from Laurence Bruce of Cultemalindie and others.

1578, Dec. 22. Bruce, alleging fear of bodily harm from Laurence, Lord Oliphant, and Laurence, Master of Oliphant, his son, William Douglas of Lochleven becomes surety for the Oliphants. The same day the Master of Oliphant alleged similar fear of Bruce, who in turn provided the security of John Livingston, younger of Dunipace, that the Master should be "harmless and scaithless" of him.

1591, April 3. Caution for £2000 (Scots) granted by Thomas Bellen-den, brother of Sir Lewis Bellen-den of Auchnoull, for Patrick, Master of Orkney, that he will not harm Laurence Bruce.

1592, Jany. 31. Contention with the Master of Orkney in respect of a bill for the Indemnity of Bruce, which Bill the Lords ordered to be put in execution.

1597, Dec. 23. Charged, with a number of others, of molesting Michael Balfour of Mountquhany, Sir Andrew Balfour of Strathore, and Michael Balfour of Garth. The parties were bound in caution for 5000 merks.

1609, June 6. Charged, along with others, by the Council, in connection with the troubles of Earl Patrick.

1610, Sept. 6. Order by the Council for the protection of him and others against Earl Patrick.

Cultemalindie, though brought to Shetland under the auspices of Lord Robert, ere long adopted a policy of antagonism to the Stewart earls, as shown above. In 1592 he was a party to a Supplication to the Lords of the Articles complaining of Earl Patrick's encroachments upon the rights of udal landowners in Shetland, among whom he,

formerly their oppressor, now pretended to rank himself. At a later date, 12th Feb. 1606, he pursued the Earl in an action before the Court of Session for contravention, because that, as the record expresses it—

“after Charge and Caution found, Captain Allan, domestic servant to the Earl, and captain of the ship called the Dunkirk, came to the pursuer, being sailing upon his voyage towards Scotland, and boarded the pursuer's ship, took his household men and servants prisoners, struck and dragged them, and detained them prisoners, took them to land, and kepted them in prison five or six days.”

The case was debated before the Lords on points of law (Morrison, p. 16,653), but the final decision is not given.

In Fleming's MS. in the Advocates' Library, quoted by Chambers in the *Domestic Annals of Scotland*, an account is given of the murder, in the south gate of Perth, of David Toshach of Monyvaird, by Laurence Bruce, younger of Cultemalindie, on 20th June 1618. Four years after this, the Privy Council informed the King that old Cultemalindie, besides banishing his two sons and a servant, had offered 1000 crowns by way of assythment to the friends of the slaughtered man, and £2000 (Scots) to two men that had been mutilated. The murderer, Laurence Bruce younger, seems to have been grandson of the original Laurence Bruce of Cultemalindie in Perthshire and Muness in Shetland, whose son Alexander, father of the murderer, succeeded to the Perthshire property, and appears to have been undone by the sorrows and expenses caused by the misdeeds of his son. The family ere long disappeared from view in Perthshire, and Cultemalindie is now, I understand, a farm on the estate of Mr Smythe of Methven.

Andrew Bruce, second son of the original Laurence, succeeded to the Muness Castle property in Shetland. His successor was Andrew, followed by Hector, whose eldest son Andrew was drowned about the year 1700. The succession passed to Andrew's uncle, Gilbert Bruce of Clivocast and Muness, who by deed recorded on 28th February 1718 disposed to George Pitcairn, merchant in Lerwick, the whole remaining property of the family, reserving only the liferent of the house and lands of Ramnagoe for himself and his wife. With him the male line of Cultemalindie became extinct, but he left two daughters—Ursula,

married to John Scott of Voisgarth, and Marjorie, married to John Gauden. The last representatives of the family of Cultemalindie and Muness were the family of the late Gilbert Gauden of Skerpoe, by direct descent from Marjorie Bruce and her husband.

IX.—ARTHUR SINCLAIR OF AITH AND HIS DESCENDANTS.

Aith, apparently the lands of Aith in the parish of Aithsting, ceased in the early part of the 17th century to be known as a territorial designation in the family of the Sinclairs, and Arthur Sinclair of Aith, the leader of the patriots of 1576, and one of the most prominent men of his day, has in that way ceased to be recognised. Some native deeds at present in my hands have made it possible for the first time to trace his lineage as the principal representative in his day of an old Shetland family, the Sinclairs of Houss and Burra. In 1527 William Sinclair of Houss was present in the army of Orkney-men and Shetlanders at the battle of Summerdale in Orkney, when the Earl of Caithness, at the head of the Government forces, was slain with 500 of his followers. Sinclair was subsequently, with thirty others, respited by King James V.

Arthur Sinclair was son of Laurence Sinclair, designed "of Norbister" (deed of 1560) and "of Sandes" (1587), and his mother's name was Marion Katell. His brothers were Edward, designed "of Scalloway" in 1580, David, James, William "of Ustanes" (1584), and others. He was married to Margaret Colvine, to whom he conveyed 40 merks of "conquest land" in the Isle of Trondray in liferent as provision for her.

Arthur appears at an early date to have attained to a public position in the islands, a deed of 1572 describing him as "Sheriff of Shetland;" his later prominence in connection with the bringing of Cultemalindie to justice in 1576 has already been noticed. His property, originally only a portion of the paternal estate, seems to have gone on augmenting until he became the head of the family. In 1576 he states in his own complaint against Cultemalindie that "he and his foirbears hes had the tak and rowme of the land lyand in the parochin of Dunrosness extending to xxxii merk land, with auchtein merk land in Ayth." He declares

further that he possessed the heritable title to St Ninian's Isle in the said parish of Dunrossness. In 1572 he acquired certain lands in Nesting, etc.; and a charter in favour of him and his spouse, of date 1581, by Lord Robert Stewart, Earl of Orkney and Lord of Zetland, is of 64 merks of land in Burra and Houss, and 2 *lasts* (*i.e.* 36 merks) in North Ireland in Dunrossness = 100 merks in all.

In 1587 his brothers and sisters made over to him 21 merks in Burra; in 1591 the "toun of Scalloway" was conveyed to him by Nicoll Nicolson, James Nicolson, Katherin Magnus dochter, and Herman Manson, her son. In 1595 he acquired 3 additional merks in the isle of Trondray from Alexander Irving and Margaret Irving his sister; and Alexander Irwein, "mariner and burgess of Kingorne, one of the airis of umqll Williame Irwein of Tronray in Zetland," conveys to him in 1596 1 merk in Cultisweik and 1½ merk in Houlland in Tingwall. Besides these and many other acquisitions, his having been a man possessed of capital is indicated further by his having obtained from Andro Hawik of Scattsta in 1591 wadset of 8 merks of Graven in Delting for 20 "Angell Nobles of gold," and of 8 merks of Wodbester in Tingwall and 2 in Voe, Delting, for 50 pieces of the same; while the purchase in 1600 from Adam Sinclair of Brow, with consent of Helen Bruce his spouse, of 5 lasts (= 90 merks) in Whiteness and Weisdale, is stated to have cost £2000 Scots. On the other hand, in 1592 he sells and disposes to Nicoll Garoche a small piece of ground, 16 ft. × 40 ft., "within the boundis of Scalloway" for a certain sum of money, paid to him, as the deed expresses it, in his "urgent necessitie" at the date of the making thereof. He seems to have been alive so late as 1617 when Adam Sinclair of Brow granted a charter to him of lands in Bressay.

In 1588 Laurence Sinclair, the eldest son of Arthur Sinclair of Aith, obtained from Lord Robert Stewart a disposition of the lands of St Ninian's Isle (Melby Papers), of which Cultemalindie had wrongously seized the rents and duties for the crop of the year 1575. This disposition was probably merely the restoration of the isle to the rightful owners.

In 1620 and 1634 this Laurence Sinclair, designed "of Houss," the

eldest son, has charters in his favour. James, the second son, designed "of Scalloway," has charters of lands in 1626 and 1629, and a Charter of Adjudication in 1642 (Melby Papers). The estates of the family were thus apparently divided between the two sons of Arthur Sinclair, the designation "of Aith" lapsing.

Arthur Sinclair of Houss, apparently son of the preceding Laurence, was served heir to his grandfather, Arthur Sinclair of Aith, on 17th October 1634.¹ The estate, as specified in the deed, is very extensive, comprehending Houss and other places in the isles of Burra, and numerous lands in other parishes, viz., Dunrossness, Tingwall, Whiteness, Weisdale, and Bressay. The Dunrossness property is described as "5 lie lastis terrarum de Brow" (*i.e.*, 5 *lasts* equal to 18 merks each, or 90 merks in all); and this suggests the impression that the Ayth and Houss properties may have at one time formed a portion of the extensive estate of the family of Sinclair of Brew, though a remnant of the original property continued for nearly a couple of centuries longer in that family, with the old designation "of Brew."² Arthur Sinclair of Houss appears to have left a daughter (or sister), Grizel Sinclair, heiress of the property. James Sinclair of Scalloway, his uncle, married Margaret Smelholme. On 2nd August 1667 he

¹ *Arthurus Sinclair de Hous, hæres Arthuri Sinclair de Aith avi (Inquisitionum ad Capellam Domini Regis Retornatorum quæ in publicis Archivis Scotiæ adhuc servantur, Abbreviatio*, vol. ii., MDCCLXI. *Orkney et Shetland*, 1605-1699).

² The position of the estate of Brew in the 17th century is shown by the following deed of 1639 :—

"Disposition by Laurence Sinclair of Brow to William Sinclair his eldest son of 5 score 14 merks 6 pennies the merk in Brow, 10 merks in Whilygairth adjacent, 47 merks in the said town and among the lands of Brow adjacent thereto, belonging to Kirk and King and the Lordis of Norroway, all lying amongst the said lands of Brow, in all 7 score and 17 merks all 6 pennies the merk all in the parish of Dunrossness."

Who were the "Lords of Norway" sometimes alluded to in Shetland deeds? They appear on one occasion which has come under my notice to have been no lords at all, but certain lay holders of property which belonged originally to the pre-Reformation Church of Norway.

From a bond granted by Alexander Sinclair of Brew in 1756 the rental of the estate of Brew then remaining appears to have been in money £206 Scots. A large portion of the surface was blown away and overspread with sand.

wadsetted to Laurence Stewart of Bigton the lands of St Ninian's Isle, which appear ever since to have been incorporated with the Bigton property.

Arthur Sinclair, son of James Sinclair and Margaret Smelholme, succeeded to Scalloway, and married Grizel Sinclair of Houss. They had three sons, Arthur, Charles, and Laurence.

Arthur, the eldest son, succeeded. On 31st October 1678 the properties of Scalloway and Houss were disposed to him by his grand-uncle James Smelholme, who had obtained possession under a decree of adjudication in his favour, apparently for behoof of the family, on which he was infeft in 1677. On 29th November 1692 this Arthur was served heir to his grand-uncle Smelholme. A list of the properties, consisting of lands in the isle of Burra and many small holdings in different parishes, is given in the deed.¹ His wife was Margaret Bruce, daughter of Bruce of Munness, who died soon after the marriage, leaving an only son, who was bound apprentice to Alexander Guthrie, W.S., Edinburgh, and died in Edinburgh in 1705.

Charles Sinclair, brother of the foregoing Arthur, succeeded to Scalloway, and his mother, Grizel Sinclair, in 1706 disposed to him the lands of Houss. He died at Edinburgh in 1710, leaving three sons, Arthur, Robert, and Laurence. Arthur, the eldest, was drowned in going to college at Aberdeen in November 1716.

Robert, the second son, born in 1702, succeeded to the estate,² and in 1721, when only nineteen years of age, married Philadelphia Dalmahoy, daughter of Sir John Dalmahoy. Their family were a son named James and two daughters, Ann and Catherine.

James, the son, born 1726, died in 1762 unmarried. In a deed of

¹ Arthurus Sinclair de Scalloway, *hæres* Jacobi Smellholme, portionarii de Pres-ton fratris Margaretæ Smellholme, *fratris proaviæ* (*Retours of Service, Orkney et Shetland*).

² Robert Sinclair of Scalloway and Houss died 3rd January 1741. An epitaph in Latin, and an elegy, were composed by the Rev. John Skinner, Episcopal clergyman, at one time tutor in the family. The epitaph and elegy were both supposed to have been lost, but a copy was found among papers of the Scalloway family in 1837, and was inserted in copies of the collected edition of the author's works published by J. Chalmers & Co., Aberdeen, 1809.

1760 he is designed "great-grandson and only heir of the deceased Arthur Sinclair of Houss, heritor and udaller."

The elder sister, Ann, married John Scott of Melby, and died in 1757, leaving an only child, Philadelphia Scott, who was married to George Chalmers, tide-surveyor in Lerwick. Catherine, the younger sister, married in 1750 James Scott, merchant in Scalloway,¹ and died in 1772, leaving four sons and five daughters. On the death of James Sinclair, his sister Catherine and his niece Philadelphia Scott were served heirs in special to Robert Sinclair of Scalloway and Houss, and they disposed these estates to James Scott, the husband of Catherine, on 30th April 1771.² James Scott was succeeded by his son—

John Scott of Scalloway, who married a daughter of John Scott of Melby, and had an only son—

John Scott of Scalloway. He married Jessie, daughter of Gideon Gifford of Busta, and, dying in 1850, was succeeded by his son, Gideon Scott of Scalloway and Houss (died 1873), whose sisters, Miss Grace Eliza Scott and Clementina Charlotte Scott, widow of Mr Charles Spence, S.S.C., and also his daughters, Grace and Beatrice, survive.

The pedigree of the family in its earlier stages is given with a rough approach to accuracy by Van Bassan, a Dane, quoted by Father Hay.³ Van Bassan, who claims to be a relative, says (his spellings are retained):—

"Arthur, the first Laird of Houss, begot upon Dorothee daughter to David Dunbar of Entrechin, Arthur and David of Arisdall, Chamberlane in Shetland, who espoused first Rutilia, daughter to Bertell Mowatt of Hagueland, upon whom he begot Michael Saintclare of Dalsholl in the county of Hallen, Captain to the King of Norway and Danemark, slain at the siege of Folcalmar in Sweden, who left by Anna, daughter to George Monsioll of Dalsholl, and widow to Matthias Torbrun, a son of the house of Hesseleholme in Sweden, a daughter called Boella Rutilia, married to a Captain in Danemark surnamed Van Bassan.

¹ James Scott, merchant in Scalloway. See FAMILY OF SCOTT OF SCOTTSHALL.

² The above particulars regarding the Scalloway family are taken chiefly from the *Condescendence* for James Scott of Scalloway in the process at his instance against John Bruce Stewart of Symbister, 8th July 1779, preserved in MS. among the papers of the Sheriff Court of Zetland at Lerwick.

³ *Genealogie of the Sainteclairres of Roslin*, compiled about the year 1700; printed 1835.

“Arthur, second Laird of Houss,¹ had a sone named Laureance of Lustenesse in Shetland, begotten upon Margaret Colville, who left to succeed him Arthur, begotten upon Margaret Southerland, and a daughter named Grisall, thereafter Heretrix of the estate.

“James Saintclair, second sone to Arthur Sinclair and Margaret Colville, Laird of Scalava, married Margaret, daughter to George Smallam, merchant in Leith, and had a numerous family. He left to succeed him a younger sone named Arthur : George, his eldest sone, dieing unmarried. This Arthur married the heretrix of Houss, his Cousin-german, and so left to his sone Arthur in succession Houss and Scalava. This last married Margaret, daughter to Hector Bruce of Mounus, Justiciarie of Scotland [? Shetland], who bore to him a sone of the same name, and divers other childering, who enjoy the estate of Scalava in Shetland att this day.”

I have been thus particular in tracing the lineage in descent from Arthur Sinclair of Aith, because he is entitled, in the history of the islands, to be regarded as the foremost of native patriots.

X.—EARL PATRICK : A SCENE IN SCALLOWAY CASTLE, c. 1600.

The castle of Scalloway was built by this tyrannous earl in the year 1600 (as also, no doubt, in preceding and subsequent years). His compelling the natives to labour at its erection, without meat, drink, or pay, is preserved on record and in tradition. The only incident hitherto known connected with the building is the alleged scene between the Earl and Pitcairn, the minister of Northmavine, when the wrath of the former was aroused by the minister's pointing out his enormities, and suggesting an inscription for the doorway which bore an insinuation of the instability of a house built upon a sandy, that is, an unworthy, foundation. The inscription, now much worn, is given in Gifford's *Description of Zetland* (1733). The castle has long been a roofless ruin.

In *Morison's Decisions*, vol. xix, p. 16,481, under the head *VISIT MERUS*, a case “Earl of Orkney against Vinfra”—reported in *Haddington's MS.* vol. i., No. 1074, is thus quoted, under date 21st February 1606 :—

“The Earl of Orkney charged Andrew Vinfra to pay to him 2000 merks. He suspended that the Contract was null, because it was extorted by fear

¹ This would appear to be Arthur Sinclair of Aith, the hero of the Cultemalindie trial.

and dead-dome ; because the Earl having caused send this Vinfra to him to his Castle in Zetland, presented to him this Contract subscribed by the Earl, and commanded him to subscribe it, which the said Andrew Vinfra refused, wherewith the said Earl was so offended, that with terrible Countenance and words, and laying his hand upon his whinger, he threatened with execrable oaths to bereave this Vinfra of his life, and stick him presently through the head with his whinger, if he subscribed not, and so for just fear he being compelled to subscribe it, the same was null. It was excepted by the Earl against the reason that the same was not relevant to stay the execution of his decret ; which the Lords repelled, because it was only a decret of registration of the Contract by compearance of a procurator. Next he alleged that the same could not come in the way of exception, especially because there was no fact nor deed libelled, but only boisterous words which could not be thought just fear, chiefly seeing he offered him to prove that the said Andrew Vinfra, by his missive letter, had offered to contract upon those conditions before the date thereof. The Lords found the exception of fear very relevant and sufficiently qualified, but in respect of the answer founded upon the missive letter, they ordained to produce the same before interlocutor."

Nothing further is reported of the case, but it is an interesting record of a characteristic incident within the Castle of the rapacious Earl, and of courage on the part of an islander in refusing tamely to submit to the tyrant. It is, moreover, worthy of note that at this period the protection of the law was available against even one so powerful as the Earl, who was obliged, like other litigants, to refer his claim to the Supreme Court, with, as it would appear, only indifferent success.

In the name of the defender we are warranted in discarding a printer's error, and in place of "Vinfra" to read Andrew Vmfra, a name of some historical interest. There is little doubt that this was the Andrew Umfra who conveyed to Dunkirk the shipwrecked seamen of the ship of Admiral Don Juan Gomez de Medina of the Spanish Armada, wrecked in 1588 on the Fair Isle. He was a master mariner, probably owner of his own ship, and possessed of some landed property as well. In 1634 his grand-daughters, Jean and Janet Umphray, were served heirs to him, as appears from the following entries in the Retours :—

"Nov. 26, 1644.

JEANNA UMPHRAY, *hæres portionaria* Andreae Umphray nautæ incolæ villæ de Scallowaybankis : *proavi*,—in 27 mercatis terrarum de Berrie : E. 2 *lie leispundis*

butiri, &c.—1½ mercata terræ in Houll : E. 3 mercata *butiri*, &c.—*feudifmarum* : omnibus infra parochiam de Tingvall et dominium de Zetland. xix. 106.

Nov. 26, 1644.

JONETA UMPHRAY, *hæres portionaria* Andreæ Umphray nautæ, incolæ villæ de Scallowaybankis, *proavi*—in terris prædictis. xix. 107.

The designation here given, sailor, master mariner, indweller in the town of Scallowaybankis, entirely corresponds with what we should expect to be a natural position for the defender. He was besides a person of some realised means, owner of the small property of Berrie, sufficient to incite the cupidity of the earl.

Though Umfra's male line failed, his succession having been thus taken up by his grand-daughters, collaterals of the family have maintained their position in the islands to the present day, *e.g.* :—

1634—Patrick Umphray of Sand.

1697—James Umphray of Voe.

1698—Barbara Umphray, relict of Thomas Cheyne.

1704—Patrick Umphray of Sand.

1708—John Umphray of Asta.

1721—Laurence Umphray of Voe.

1735—Andrew Umphray, disposes lands of Stove to James Mitchell of Girlsta.

1743—Laurence Umphray of Voe.

1772—Lilias Umphray of Stapness.

In 1837, the present Mr Andrew Umphray of Reawick was infett by precept of Chancery as heir of John Umphray of Asta, his great-great-grandfather, in lands in the parish of Sandsting. The lands of Asta (24 merks) with the Holm of Asta, &c., were originally acquired by John Umphray in Scalloway, and Ignane Adamsdochter, his spouse, in 1586. As appears from the Register of the Great Seal, a Charter of confirmation was granted, on the 4th of October of that year, to the sale of the property to them by Magnus Halcro of Burgh, precentor of Orkney, with the consent of the Bishop.

XI.—SLAUGHTER OF MATTHEW SINCLAIR OF NESS, 1602.

No particulars, so far as known, are preserved regarding this event, which took place on the 27th June 1602. Several persons were

believed to be implicated, and security to the extent of £100 [Scots] from each cautioner was taken for their appearance at the ensuing Lawting Court thereafter, viz.:—

David Leslie. John Niven of Scousburgh, cautioner.
 Adam Sinclair of Brow. . . William Bruce of Symbister, cautioner.
 Laurence Sinclair of Gott. . Malcolm Sinclair of Quendale, cautioner.
 Andrew Nicolson. Malcolm Sinclair of Quendale, cautioner.
 William Fermour. Malcolm Sinclair of Quendale, cautioner.
 Garthe Hemlein. William Bruce of Symbister, cautioner.

The case accordingly came before the Lawting Court at Scalloway, 16th August 1602, when the following persons were indicted for the crime, viz.:—

Francis Sinclair, of Uyea.
 Robert Sinclair, his brother.
 John Bruce, servitor to Adam Sinclair of Brow.
 John Sinclair, son to Laurence Sinclair of Gott.
 Laurence Sinclair, son to William Sinclair of Ustanes.
 John Lindsay, servitor to Robert Sinclair.

Those were all found to be “actual doaris and committaris,” and having taken the crime upon themselves, and being fugitive therefor, their whole goods, geir, and lands were forfeited.

The crime appears to have been the outcome of a bitter family feud, and all the parties concerned to have been related. By a separate action, at the instance of Robert Sinclair of Campston and Edward Sinclair of Scollay, on the 23rd day of the said month of August, Adam Sinclair of Brow, who was at first suspected, but is not in the list of those declared fugitive on the 16th, is also found to have been art and part in the slaughter, inasmuch as he the night before the slaughter gave up friendship with the deceased, and after the slaughter intercommuned with his own servant, the actual doer, whom he also furnished with money and other necessaries for carrying him out of the country. The judgment of the Court is recorded as follows:—

“Quhairunto the Assyse taking long and mature deliberatioun, be the inspectioun of the chepturis of the law-buik, and practicks of the countrie in sic caices, and the haill premises found lawfullie provin, decernis the said Adam’s haill moveabillis guidis and gere, with his haill heritabil landis and

possessiounis, to be escheit, and himself beneist the countrie within the space of 15 daies, and gif he beis apprehendit thairefter, to be tane to the heiding-hill of Scalloway-Bankis, and thair his heid to be tane and strickin fra his bodie in exempill of utheris."

Sinclair of Brew, thus implicated and condemned, appears to have been altogether in a bad way at this time. A few days before this he was charged as guilty of wrongous and violent intromission with the goods of a broken Dutch ship, without leave of the owner, or any commission from Earl Patrick's deputes or of the Foud of the parish :—

"The Assyse taking this to consideratioun, and trying him to have committit great wrang and oppressioun thairinto, thai all in ane voice decernis the said Adam, with his hail moveabill guidis and gere, in my Lordis will thairfor, in exempill of utheris, reserving place to satisfie the pairtie."

While, as has been stated, no actual details of the murder appear to be obtainable, the above information regarding the incrimination of parties in connection with it are extracted from the Court Book of Shetland preserved in the General Register House. I have elsewhere (in *Mill's Diary*, Scot. Hist. Society, 1889) printed in full the proceedings of the Court held at Dunrossness, 5th, 6th, and 7th August 1602, at which the case was first brought up. It is possible that further examination of the Court Book, and perhaps also the records of the Privy Council, might furnish information regarding the deed and the subsequent career of some of the guilty ones. Adam Sinclair of Brew, a near relative, under sentence of death if he returned from banishment, and with all his property forfeited, was in a position of extremity, and the subsequent recovery and preservation of the family property, or a portion of it, until the present century, remains without explanation.

The murdered man, Matthew Sinclair of Ness, in the parish of Dunrossness, appears to have been a member of the Brew family—a son of that Oliver Sinclair of Brew who was Foude of Shetland when the Earl of Bothwell, Duke of Orkney, came to Shetland in his flight after his parting from Queen Mary on Carberry Hill in 1567. Bothwell was at dinner with Oliver Sinclair when Kirkaldy of Grange and his other pursuers reached the country. By his will, dated 14th February 1570, Sinclair divided his whole lands among his three sons, James, Matthew,

and William Sinclair, the second of whom appears to have been the victim of the present outrage. Francis and Robert Sinclair, two of those incriminated, seem to have been his nephews, sons of William Sinclair (of Underhoull in Unst) and Margaret Stewart his wife, daughter to Lord John Stewart, Prior of Coldingham, and niece of Lord Robert, Earl of Orkney. Margaret Stewart was, after William Sinclair's death, married to William Bruce first of Symbister and Sumburgh, who obtained possession of Sinclair's property, and the sons followed their own courses. Implicated in the murder of Matthew Sinclair, and outlawed from Shetland as above mentioned, they fell into evil habits and bad company in Scotland, resulting in poverty, discord, and litigation, as appears from an action in Court at a later date pursued by James Sinclair of Scalloway against Andrew Bruce of Muness. The "information" for the pursuer, which contains valuable details of local history and discussions on points of local law, is preserved among the papers of the Sheriff Court of Shetland, and a transcript is in my possession.

Garth Hemlein, who appears in the list of those at first suspected of complicity in the murder, was a German merchant, Geert Hemelingk of Bremen, who traded between Shetland and the Continent, and appears to have had a trading station, if not a residence, in the parish of Dunrossness, probably at the Pool of Virkie, at that time a rendezvous of Hamburg and Bremen merchants, who carried on a brisk trade 300 years ago, and at a later date, in the export of Shetland fish and the import of continental goods.

The Earl of Bothwell, on his arrival in Shetland, entered into a contract with Hemelingk for the hire of his ship "The Pelican," and for another ship of a Hanseatic merchant then on the coast. Both ships were taken in command by Bothwell, along with the two smaller vessels in which he and his party had escaped from Scotland. A copy of the contract between Bothwell and Hemelingk is preserved in the Danish Royal Archives, dated "jnn Schvineborchovett den vofftein denn Augusti nha der gebort Christi 1567," *i.e.*, at Sumburghhead the 15th of August, A.D. 1567.

Bothwell, with the "Pelican" and his other ships, after a battle fought with his pursuers off the Shetland coast, was seized in Norway and

detained a prisoner, and Hemelingk craved the intervention of the authorities of the city of Bremen for the restitution of his ship and the payment of the hire due to him by Bothwell. Olaf Sinclair of Bru, designed as "Kemener und overste principall van Hidtland," gave a testimonial to Hemelingk's character as an honourable merchant in Shetland, and this, with Hemelingk's petition and the letter from the authorities of Bremen to King Frederick II. of Denmark, is preserved among the public records of that country.¹ We have thus, in the circumstances connected with the murder of Matthew Sinclair, certain side glimpses at the state of life and society in the islands at the time, and likewise at one of the most singular occurrences in the history of Scotland, the flight of Bothwell, the discarded husband of Queen Mary.

About the time of the slaughter of Sinclair, another murder, that of John Ollawson, was committed in Shetland. The case had at first been regarded as one of suicide, as appears from the entry in the Court books, 27th July 1602 :—"Jhone Ollawsoun, for hanging himself, his guidis and gere escheit." But possession of his worldly goods having been obtained by escheit, another victim for extortion was found in the person of one Gilbert in Futtoun, who, a few days afterwards, viz., on 6th August 1602, was ordained to enter "befoir my Lord [Earl Patrick Stewart] and his deputis at Skalloway bankis the thrid or feird dayis of the Lating Court in octoecum to underly the law for the slachter of Jhone Ollawsone under the paine of xl. lib."

XII.—PROCEEDINGS OF NINIAN NIVEN, NOTARY.

Apart from legalised tyranny at the instance of donatories of the Crown lands and revenues in Shetland, the native population have suffered much from oppressors of a lower type, legal adventurers and others, who swarmed upon the country. One of these was Ninian Niven, a notary, who acquired a property, and founded a family which is now locally extinct. Among the Privy Council papers in the General Register House the following unprinted MS. is preserved :—

¹ The whole story is told in the *Life of James Hepburn, Earl of Bothwell*, by Professor Schiern of Copenhagen.

Oppressiounes Tirranies and Falcetis and Cruelties done and
committit be Niniane Neving upon the poore Inhabitantis
of the Contrie of Zetland.

Item in the first Mr Gilbert Mowat alledging that umq^{ll} Jhone Mowat of Hugoland was adebtit to him the tyme of his deceiss q^a deceissit in August 1617 the soume of viij c. lib. for the quhilk he haid the land of ester Hugoland Hograsetter and certane uther landis contenit in the Chartor thairrof and the said Mr Gilbert Mowat not being in possessioun thairof the said Mr Gilbert came dyvers tymes to the tenentis and occupiers of the saidis landis to require payment of the meallis and dewties quhilk thay refusit and seeing he could not prevaill that way Niniane Neving nottar in Zetland on his pretendit manir drawis up to the said Mr Gilbert ane fals seassing of ane antidait writtene efter the deceiss of the said umq^{ll} Jhone Mowat in the quhilk he hed insert him as baillie and authentick witnesses qrof thaire is foure dead and foure leivand witnesses declaris that thay nevir knew thairrof nor yet ony uther persone in the Cuntrie upon the q^{lk} fals seassing the said Mr Gilbert hes obteneid two Decreits aganis the tenentis and utheris haveing ryt the ane thairrof of the dait the vii day of Febry 1618 wes obteneid befor Robert Finlasone then Shiref deput of Zetland for the tyme the other Decreit wes obteneid befor the Lordis of Consell and Sessioun for non compeirance and null defence of the dait of the last day of July 1622 quhairupon the quhilk decreit thay have raised and used letteris of Executoriallis aganis the tenentis and possessoris of the said landis for payment to him of the maillis and dewties notwithstanding thair wes two suspensiones raised of the said two decreits and seeing the said Mr Gilbert could not [obtain] payment thairrof the said Niniane Neving nottar foresaid came dyvers tymes to the tenentis houssis and brak up the dooris windowis and utheris lock fast pairtis and specialie in November anno the said Niniane himself came bodin in fere of weir accompanid with sindrie broken men to the landis of Howgoland and thair maisterfullie wold have tane away with thame fra Arthor Robesone tenent thair the number of xij Ky quhilk the said Arthor haiveand maid some stope thair-intill the said Niniane Neving strok him with ane great battoun on the head and shoulder and uther pairtis of his bodie to the effutioun of his blood in great quantitie. And seing the said Niniane could not prevall nor his intent fulfillit according to his evill humor he maist wrongouslie and falslie makis ane fals and conterfeit band to the said Mr Gilbert and subscribit the same as nottar for the said Arthor Robertstone converting all his maillis and dewteis in ane soume of money as is contenit in the said fals band to be payit to the said Mr Gilbert quhilk he wrongouslie and falslie since the deceiss of the s^d umquhill Johne Mowate quhilk band is registrat in the buikis of Consall and letteris raised thairupon quhilk letteris wes delyverit to Jhone Robesone

messenger quha past at the directioun of the said Mr Gilbert and Niniane Neving to the dwelling hous of the said Arthor under cloud and silence of night brak up his doors sua that the said Arthor wes forceit for fere to flie to the hills quhair he remains the space of xx dayes never coming to no hous.

Item thair wes ane uther callit Olla Bodderson in Hagrasetter quhilk he compellit to grant ane chartor to Mr Gilbert of ane merk half merk land of heritage onlie for satisfactioun to the said Mr Gilbert of the wrongis meallis and dewteis that is in the chartor quhilk wes writtene and subscribit be the said Niniane quhairthrow the said Olla is utterlie wrackit and also compellit all the rest of the tenentis to mak payment to him of all the rest of the maillis and dewteis notwithstanding they have payit the same to James Mowat of Ure as being infest heretable and Cristan Stewart relict of umq^{ll} Jhone Mowat infest in lyfrent quhome the said umq^{ll} Jhone the tyme of his deceis left peaceable [in] possessioun of the saidis landis.

Item the s^d umquhill Jhone Mowat borrowed fra the s^d Mr Gilbert ellevine barrellis butter pryce is iiij c. xl merkis for securitie quhair of the said landis of Wester Hugoland is gevin him in wadset conform to ane present Chartor maid thairanent at Ollaberrie be the said Niniane Neveing the xxiiij day of May 1617. Olla Mansone and James Gregorsone famous men are witnesses subscribing thair off.

Item efter the deceiss of umq^{ll} Jhone Mowat the said Niniane Neving hes maid ane contract concerneing the soume of xii c. lib. to the said Mr Gilbert q^{lk} contract is fals and fenzeit becaus it is efter the deceis of the said umq^{ll} Jhone Mowat subscribed be the said Niniane in his name with ane antedait as give the same haid bene lawfullie done in his lyftyme and is daitit the xxiiij of May 1617 and the said Olla Manson and James Gregersone are insert as witnesses thairintil bot hes not subscribed the samen bot James Neving who wes fourtie myllis fra that pairt that day of the subscriybing thairof hes subscriybit the same as Witnes. Upon the q^{lk} fals contract the said Mr Gilbert with consent of the said Niniane hes obtenit decret of registratioun aganis the airis of the said umq^{ll} Jhone Mowat upon the day of 1623 is registrat in the buikis of Consall quhairupon the said Mr Gilbert intends to apprys the said umq^{ll} Jhone Mowat his haille landis in Zetland and be that meynes myndis to debar all the Creditors fra thair just debttis.

Item in November and dyvers dayes thair off 1622 yeiris Niniane Neving came to the saidis landis of Ester Hugoland and Hagrasetter to the tenentis thair off and thair violentlie brack up their dooris and maisterfullie tuik fra thame thair meallis and devties be way of spoliatioun and efter the spoliatioune and away tacking thair off the said Niniane convened accidentallie with James Mowat of Ure immediatlie thereafter quha desyrit him to render the samen

back agane bot he being accompanied with sindrie brokin men preiffit to have strocken the said James with ane drawin quhinger.

Item it ever wes and hes bene the ancient custom of Zetland amongis the inferioris and common people thairoff that if aney honest man have ane peiss of heritage and sindrie bairnis that efter the deceis of the parentis the heritage sal be equallie and apportionallie dividit amongis the bairnes. Bot this Niniane Neving on his pretendit manner instigatis the eldest bairne that is linallie descendit of the eldest is air to his umquhil fatheris guidischir or grandschir to give him chartor and seassing of the haille dividit landis in that ane maner awnie persone secluding thairby all the rest and this he dois under cullor and pretext of law to defraud the rest of thair equall richtis and portionis that hes possesset the saidis landis mony yeiris of befoir.

In practeis quhairof ane callit Swannie Jonsoun in Zetland quha wes the xi man that haid succedit and possesset the fourtie merk land of Wyndhous in Yell in Zetland as thair heretage and the said Swanie deceise ane twentie yeir since and haivand four sonis [left] the saidis 40 merk land equallie amongis thame viz. to everie ane of thame ten merk land is dividit quha hes possesset the same still and peciably since the deceis of thair said umquhill fayther to lailtie within this few yeiris the eldest brother died and in his rowme thair succedis his sone. Trew it is that in yeir 1613 this Niniane Neving instigat the boy to give him Chartor and seassing of the haille 40 merk landis that wes devidit in maner foirsaid and efter the giving of the quhilk Chartor and Seassing the said Niniane came with ane company of brokin men immediatlie thairefter to the saidis landis and houssis of Wyndhous and thair maist violentlie and maisterfullie brak the dooris and windoes thairoff ejectis and outputis all the rest of his haille aires thair wyffis bairnis and servandis gudis and geir and possesset himselff with his whole familie and dwellis thair presentlie.

Item thair being dyveris cuntrie men rood and ignorant quha cannot wryte and reid nor know what securities meynis and the said Niniane causis thame do onything he pleassis and to his humour especiallie quhairas ony sick persone sellis ony pece of land to an uthir the pairtie seller cannot subscribe his chartor to the pairtie buyer bot most be subscribit be the said Niniane as nottar and he subscribit for thaim being bot ane nottar and makis thaim beleive it is valeat quhilk be the Act of Parliament is null upoun the quhilk and siclyke and pretendit Chartoris he gives seassing of ane pendicle of the saidis landis in name of the rest and thereafter againe be the saidis occasionis to his owne commoditie caussis uthers by the samen landis and gives thame uther kyndis of Infementis subscribit be two nottaris as valeat. By the quhilk unjust dealling the haille Cuntrie of Zetland is oppressit and so useit be the said Ninian Neving nottar foresaid.

Item it wes the ancient custome of Zetland ever frome the beginyng in respect thair hes not bene famous nottaris in the cuntrie thir ages bygane

that it wes sufficient that any Chartor that wes formed be the minister of the paroche or ony uthir that haid knowledge of letters and could wreit and reid the same Chartor wes and is holdin effectuall past memorie of man. To faillie this the foirsaid Niniane Neving hes caused alter the forme thairoff especiallie he be himself or utheris quhome he instigates to by the saidis landis so holdine be the saidis Chartoris from the first anealiers thairoff and thair successoris and mak thame that are byer new Chartoris [and] seassings thairoff conforme to the forme now usit and practeised be the quhilk strange doings he absolutlie annulls the haill former Chartoris quhairby men are forceit to by thair heretages of new agane or utherwayis to want the same that way be the quhilk dangerous interpryss thair is like to fall out as undoutillie it will breid greatt dissensioun and inconvenientis in the haill cuntrie of Zetland without tymeous remeid be found out thairby and order taken thairanent.

Lastlie the said umquhill Jhone Mowat wedset certane his landis to sindrie sempill husbandmen and utheris ignorant of wreitis and securities. The said Mr Gilbert and Androw Mowat send to the said umquhill Jhone Mowat knowing perfytlie that thair were not weill secured on the wadset of the saidis landis and Christane Stewart relict of the said umquhill Jhone Mowat having bot ane base infetment as custome wes then in the cuntrie Trew it is that Niniane Neving caused the said Androw Mowat in the moneth of Aprill jaj vjc and thrie being at Edinburgh mack ane antiedaitit band as give the same haid bene maid and grantit at Urafirth at Zetland thrie monethis before it wes ather wreittin or subscribit, to wit quhilk the fyftein day of January to the said Mr Gilbert containeing the sowme of fyftene hundreth thrie scoir poundis and thrie hundreth poundis of faillie To be payit within short quhill efter the making of the said band quhilk thay presentlie caused registrat and raised letteris of poynding and compriseing and comprysis the said umquhill Jhone Mowat his haill landis upon the said antiedaitit band and never ane penny money givin thairfoir. And this wes done under collusioun and fraud of all creditouris that hath no meanis to reduce the said compryseing quhilk compryseing passing throw is haldin as lawfull and myndis thairby to put all the pure creditoris to utter wrack and ruyine becaus thay are not abill to defend thairintil lying far off and bot sempill of thaimselfis and sua for null defence and thair simplicite thinkis thairby to appropriat all the saidis landis to thaimselfis contrair all equitie of conscience, the said Androw nather being infest seised served nor retoured into thes landis the foirsaidis Bandis wes antiedaitit to prevent all inhibitiounis that wes served aganis him.

(*Dorso*)

NINIANE NEVING

Information of the Greiffis and Complaintis of Zetland.

This document, which, though undated, appears to be of the year 1641, reveals a sufficient tale of villainy. Its responsible authors are not named, but it is evident from what follows that these were John Edmonston, late minister of Yell, James Sinclair of Scalloway, and others. The persons accused, viz. Ninian Niven, notary, and James Mowat of Ollaberry, had the hardihood to plead innocence and to present a counter petition, which we find recorded in the Acts of the Parliament of Scotland, 1641, as follows, viz.:—

PROCEEDINGS IN PARLIAMENT, 1641.

SUPPLICATION FOR MR JAMES MOWAT OF OLLABERRIE AND NINIANE NEVIN OF WINDHOUS IN YETLAND.

Unto the Nobilitie and remanent memberis of the honorabill and supream Court of Parliament humbly sheweth your honors Supplicants Mr James Mowat of Ollaberrie and Niniane Nevin of Windhous in Yetland that quhair I the said Mr James being elected and nominat laick elder for the presbiterie and Ile of Yetland for this present Assemblie conforme to my commission for that effect heirwith produced, I am come heir to attend the said assemblie and to represent both to the parliament and assemblie the disorders grievances and abusis committed be certain factious persons disaffectit and evill disposed asweill of the clergie as laicks for the quhilkis some of them are suspended be lawfull sentence of the Presbiterie and others are under their legall tryall and censure—of quhilk number John Edmestoun lait ministr at Yell and Mr John Mitchell lait minister at Tingwall and arch deane of Yetland are tua, quha are lawfullie suspended for their grosse miscariages. And they fearing their just deserved punishment have combyned and bound themselves with James Sinclar of Scalloway Arthur Sinclar of Hous Mr Patrik Cheine of Halry¹ Lawrence Gihart fear of Weddersta and Mr W^m. Hay archdeane of Yetland lykewise a deprived minister who politicklie and subtilie to preven the just complaints and grievances aganes them have forged a scandallous lybell fomented with calumnies and untreuthes and therupon have purchased ane warrand from the Committie of Estates for summonding a number in Yetland who have lawfullie proceded aganis them according to the discipline of the kirk and have purchased another warrand for summonding of them before the Generall Assemblie, both quhilkis are execute to a certain dyet now approaching. And they finding that I the said Mr James Mowat am come heir as commissioner for the Assemblie and am to remonstrate the saids grievances and to ansuer to their unjust persutes alsweill before the Parliament

¹ Halry, *i.e.*, Waley, or Vaila.

as Assemblie, and I the said Niniane Nevin am lykwise come heir to ansuer for myself in the saids persutes we ar informed that the said James Sinclair hath denounced or intends to denounce me the said Mr James to the horne and to debar me from appeareing ather in Parliament or Assemblie and to apprehend my persone for ane verrie unjust cause viz. as cation in a suspension raised be certane udallers and heretors in Yetland aganis quhom the said James Sinclair obtained ane wrangous decretit for the maills and dewties of their awin Udall lands possest be them past memorie and quhairof he purchased ane pretendit Infetment under the greate Seale over the heads of all kyndlie heretours and Udallers thereof like as Mr Gilbert Mouat sone to James Mouat of Ure and the said Joⁿ Edmestoun hes denounced me the said Niniane Neven to the horne of sett purpose to debar me from defending in the saids causes, and sieing we are come heire for cleiring ourselves and to represent the grievances of the countrie in maner forsaid in equitie and justice our persons ought to be protected dureing our attendance heir at the leist for the space of some few dayes whill our suspension and relaxation be past be the ordiner Lords of Session, for doing whereof we have causeit forme our Bill upon most relevant reasons bot seing in the meane tyme befoir our Bills can be hard and considered our parties wha are our professed enemies may stryve to trouble our persons, in respect thereof we ought to have *persona standi in judicio* to persew and defend in the saids matters otherwise both the publick and we in our awin particular interesse shall suffer prejudice, heirfore we humblie beseik your Lordships to take the premisses to your consideration and to grant protection to our persons that we may saiffie appeare before the Parliament and Assemblie respective dureing the dependance of the said matter at least for some few dayes till our suspension pass to grant us libertie to stand in judgement for our awin defence, and for dischargeing of the Commission intrusted to me the said Mr James notwithstanding of the saids unlawfull horneingis useit aganis us quhilk we shall make appeare to be most unjust and unwarrantable in the owin tyme, and withall to discharge all magistrats messengers of armes and others Judges from onie troublinging arreasting or apprehending our persons in the meantyme, and your lordships ansuer humblie we attend.

3 Augusti 1641.

This applicatioune with another in the contrair hereof be James Sinclair being publiklie red be the Parliament, they appoint the pairties haifing interest to appeir before the Committee for the billis the morne to be hard in this bussines and in the mein tyme grantis protectioun to the supplicantis whill the morne at night.—(*Acts of the Parliament of Scotland*, vol. v. p. 633.)

III August M.DC.XLI.

SUPPLICATION MR JA^s. MOWATT FOR ZETLAND.

TO THE KINGS MOST EXCELLENT MAJISTIE AND MOST HON^{BLE} ESTATES OF
PARLIAMENT.

The humble Petition of Mr James Mouat of Ollaberrie for himself and in name and behalfe of the remote Inhabitants of Zetland conforme to Commission,

SHOWETH that wherras in anno 1634 his majistie wes graceouslie well pleased upon remonstrance of the grievance of the said Island at that tyme by the Petitioner to give order to the most hon^{ble} Privie Counsell for remedying theirof and authorising a Commissionare for going thither for trying and rectifying all abuses there which order the said Counsell did approve. But in respect of vacation then instant and winter approacheing the going of the said Commissionar wes delayed and thereafter being delayed tooke no effect wherethrowe the said Inhabitants have bein and are much grieved and have taken occasion in this happie tyme of reformation to renue thair said remonstrance by the said petitioner.

Therfor it is humblie craved that a Committie may be appointed for examining the said grievances and concluding upon fit remedies to be applied therto by sending a Commissionare or otherwayes as shalbe found expedient.

Nov. 16, 1641.

James Sinclair of Skalloway and John Edmeston, minister at Yell, for themselves and "in name and behalf of the cuntrie of Zetland" complain that they are informed that their adversaries Gilbert Mowat of Garth, Mr James Mowat his son, and Ninian Niven of Windhouse "throw thair bygain miscariage finding themselves unlegall ar seikeing ane protectioun aganis our horneingis and Captioun upon a pretext that they ar comissioneris to the parliament but can show no lafull comission. And seeing we ar reddie with our witnessis and all uthir probatioun:" Wherefore they crave an immediate hearing of their case.

On the same day, the Estates of Parliament remit the supplication to the Lords of Secret Council (vol. v. p. 713).

The matters in dispute being thus referred by Parliament to the Privy Council, further information on the subject may be disclosed when the records of the Council at that date come to be printed. Nothing of

it further is heard of in Parliament until 20th July 1644, when, by a "Judicial Act of Submission," James Sinclair of Scalloway, John Adamson, and Ninian Niven consented to refer the whole to the arbitrament of William, Earl of Morton (Acts of Parliament, vol. vi. p. 179). The result is not known. Ninian Niven was probably by this time an old man, for his misdeeds appear to have begun early in the century, and his death may have occurred soon after these proceedings. There is nothing known of him previous to his coming to Shetland. In 1650 we find one John Niven active as a notary in Shetland. In a deed of 1654, in my possession, this John is styled "of Luneing" (Lunna?); and his son Laurence Niven is named. Thirty or forty years later another Ninian Niven, designed "of Scousburgh," appears upon the scene. Scousburgh, in the parish of Dunrossness, was wadsetted by Niven in 1689 to Stewart of Bigton, and it has ever since remained in the possession of the heirs of that family, though the subject of continual litigation between the representatives of the two families. In 1783, nearly a century after the date of the wadset, it was found, by a judgment of the Court of Session, that the Bigton family were not entitled to *bonâ fide* possession, but only to retention as a security, and to account for the rents. The title "of Scousburgh" was accordingly claimed by Gilbert Niven (son of the second Ninian), and by his daughter Helen, wife of Robert Mitchell, in the middle of last century, and by other representatives. The property of Windhouse in the island of Yell (Vind-áss, *Icelandic*, a blowy ridge), acquired by the original Ninian in the manner described in the petition to Parliament, remained in the hands of descendants, latterly through a female line, until recently, when it passed into other hands.

XIII.—THE FAMILY OF SCOTT OF SCOTSHALL.

The house of Scotshall, formerly in the town or village of Exnaboe, in the parish of Dunrossness, is no longer in existence. Erected early in last century, before 1705, when the title "of Scotshall" begins to be found in use, the family who owned it became possessed of some extent of property, and occupied a good position in the islands.

The first of the family appears to have been John Scott, designed

“merchant in Edinburgh,” who in 1714 acquired 9 merks of land in Scatness and 13 merks in Goat from Laurence Strang, eldest son and udal successor to Laurence Strang, sometime merchant in Dunrossness.” In 1711 he purchased 4 merks in Rerwick from the same seller; and in 1717 was infeft further in 14 merks udal land in Exnaboe, and 19 other merks in Dunrossness and in Fair Isle, disponed to him by William Sinclair of Goat, “heritable proprietor and udaller.”

In 1720 Hector Scott, second of Scotshall, disponed to his wife Janet Douglas, designated “Lady Scotshall,” 30 merks land in Scatness and 46 in Aith in Cunningsburgh, with the dwelling-house of Scotshall for her liferent use if she survive him.

In 1777 Elizabeth Graham, widow of Robert Scott of Scotshall, had placed on the record disposition in her favour by her late husband, of “the manour house of Scotshall, with one merk land in Exnaboe surrounding it, and on which the same is built, also garden, cornyard, and hail offices thereof as well ruinous as in repair;” also 4 merks land in Rerwick, and dwelling-house in Lerwick.

Lieut. Walter Scott of Scotshall, eldest son of the above Robert Scott and Elizabeth Graham, appears to have been the last of the family. He disponed the 4 merks in Rerwick to John Bruce Stewart of Symbister in 1785, and sold the house and offices of Scotshall to John Bruce of Sumburgh in 1786.

Walter Scott was sheriff-substitute of Shetland in the early part of this century, but I have not been able to establish his relationship to the Scotshall family.

James Scott, merchant in Scalloway, who in 1750 married Catherine Sinclair, co-heiress of Scalloway, and acquired that estate and Houss, as mentioned under the head of the FAMILY OF SINCLAIR OF AITH, appears to have been a son of the above Hector Scott of Scotshall, to whom, according to researches communicated to me by the late Mr R. R. Stodart of the Lyon Office, he was served heir male and of provision general, but the dates do not satisfactorily correspond. Mr Stodart also showed that John Scott, “merchant in Edinburgh” and first of Scotshall, was a son of Alexander Scott, goldsmith, Edinburgh, who again may have been connected with Scott of Gibleston (a second son of Scott of Scots-

tarvit in Fife), who had previously settled in Shetland, and was the ancestor of the Melby family.

XIV.—SETTLERS IN SHETLAND FROM FIFE.

The Balfours of Trenaby (of the Mountquhanie family), the Traills of Orkney, and the Scots of Melby in Shetland, all claim their descent from the east of Fife. The name of Beaton in Orkney, and of Spence both in Orkney and Shetland, and others, are also regarded as derivatively from the same quarter, though no record of origin is known. There have been Spences in Shetland from an early period, perhaps from as far back as the time of the mortgage of the islands to Scotland. The town of Crail, at the eastern extremity of Fife and at the mouth of the great firth, seems to have had a good deal of direct commerce with Shetland, and the local records give indication of personal intercourse and of settlement there. William Bruce, first of Symbister and Sumburgh, seems to have come from this quarter. He certainly retired to it in his latter days, having married a second time, leaving the Shetland property to his eldest son Robert, and the lands which he acquired in the east of Fife, Nacketfield and in Kingsbarns, to his son Andrew, founder of the family of Bruce of Pittarthis, now extinct. A monument to William Bruce of Symbister is still to be seen in Crail churchyard. A mutilated figure in armour, which has certainly no connection with him, being of about a century earlier, has been set up in the monument.

William Fermor, "burgess of Crail," is witness to a seisin of date 9th June 1619, in William Bruce's favour. One William Fermor, probably the same individual, was active as a notary in Shetland in 1602-1603, when he appears to have been intruded into the office of Fowde of Dunrossness, a post never held, except under force, by any one but a resident native. The name Fermour, or Farmer, is still known in Fife coast towns, and its presence in Shetland in this instance is an illustration of the intercourse and personal connection between Fife and the islands in the 16th and 17th centuries.