

IV.

A NORWEGIAN MORTGAGE, OR DEED OF PAWN, OF LAND IN SHETLAND, 1597. By GILBERT GOUDIE, F.S.A. Scot.

When, about this time two years ago, I submitted to the Society a notice of "A Norwegian Conveyance of Land in Shetland," of date 1537, I ventured to soar into the regions of prophecy. It had been my good fortune, in the course of a number of years, to discover among the public papers of the Sheriff Court of Shetland, or in the charter-chests of local families, no less than ten deeds in the old Norse language, relating to landed property in the islands. It seemed to me then to be not unreasonable to surmise that this series of discoveries, which in the nature of things could not go on for ever, might at last have come to an end. My surmises have, however, been falsified, for since that time two other documents in Norse, which had lain for centuries unnoticed in the charter-chest of a private family, have come under my eye, and have been relegated to my care for purposes of historical investigation. At present I shall only deal with one of these, a document of the year 1597.

I. TRANSCRIPTION.

Jeg Anders Maath tiill Houckeland i Hietlandt oc min kiere hustru Erlig oc welbyrdig fru Else Tronstdaatter tiill Erisfiordt Beplichter os med waare sande arffuinger for alle medt dette wort obne Breff, At wi aff ret witterligh gieldt skyldiigh ere Erligh och Welforstandiig mandt Effuart Sincklar boenndis wdi Hietlandt paa Bollesetter summa tre hundrede Rigs Dalir, huilckie forbemelte penningie envert os aff sin venliig laan laant haffuer, for huilckie summa pendingie, nemlicht tre^e Rigs Dalir wi med waaris fri wilie oc welberaadht hugh, sampt med allis waaris sande arffuingers widskap wilie och samtöckie, Haffuir

pandset forbemelte Effuart Sincklar, hans arffuinger oe efterkommere dette effterschreffne gods som er min kiere hustruis rette Odal, Liggendis wdj Hietlandt, först wdi Wissdals sogn y Öffreböster, tolf march brende, huer march otte pendingie, I Skarpegierdt otte march brende, huer march sex pendingie, noch Degrand i Wisdals sogn sex march brende huer march otte pendingie, noch i Daletings sogn i fornemde Hietland paa ein gaard heder Kirckehuusz tre marche brende, huer marche sex pendingie, Dette forskreffne gods alt samen skall forbemelte Effuart Sincklar eller forbemelte hans arffuinger haffue, nyde, bruge oc beholde tiill ein secher oc tryg wnderpant oc brugelig eiedom, med hues der tiil aff arilds tiid liggit haffuer, fraa högiste fields tinne oc yderste fierre stein, med lottum oc lundom, intil wndertagendis wdi naagen maade, indtil forbemette Effuart Sincklar eller hans arffuinger igien faar oc bekommer sin fyllist betaling meeste oc minsta aff os eller waare sande arffuinger, oc naar wi dette gods igien löszir, skall deth skie i tre terminer, den förste skall angaa om S. Hanszis tid, den anden om sancte Oluff der strax efter, oc denn tredie skal om sancte Hansz det aar der nest efterkommendis oc naar forskreffne summa pendingie fornöiet oeh betalit er, som faaresiiger, daa skal forskreffne gods fölgie oss igien som tilforne : Och dess till sandingenn her om, Att dette forskreffne saaledis fast och wryggeligenn holdis skall udj ordt punnchter oc artickler, daa haffuer ieg fornemdhe Andres Maat med min kiere hustru trycht waare signeter vnder dette wort obne breff oc wnderschriffue medt egen handt, och till ydermere vidnisbyrd her om, daa haffuer wi wenligen ombedit wellerdt mandt her Rasmus Joensönn sogneprest her samme steds med oss at besegle oc stadfeste, Actum Gierisuig denn 20 Junij Anno 1597.

(Seal.)

(Seal.)

(Seal.)

Mowat off Houckeland
Else ttruns daatter
met egen handt

Her Rasmus
Jonsönn minister
manu propria

(Dorso)—Andre Movatts Charthour and his wyff vpoun ye landis of Veisdall.

II. TRANSLATION.

I, Anders Maath (Andrew Mout) of Houckeland (Hugoland) in Hietlandt (Shetland) and my dear spouse the worthy and honourable lady Else Trondsdaughter of Erisfiordt, with our true heirs, acknowledge before all, by this our open letter, that we are justly and truly indebted to the honourable and discreet man Effuart Sincklar (Edward Sinclair), residing in Hietlandt (Shetland) at Bollesetter, the sum of three hundred Rix dollars, which money foresaid he has made over to us in friendly loan, for which sum of money, namely three

hundred Rix dollars, we, of our free will and well advised purpose, with the knowledge, will, and consent of all our true heirs, have pawned to the foresaid Edward Sinclair, his heirs and successors, the after described land, which is my dear spouse's just Odal inheritance, lying in Hietlandt, first in Wissdale (Weisdale) parish in Offreboster, twelve marks burnt [silver] eight pennies the mark, in Skarpegerdt eight marks burnt [silver] six pennies the mark, also Degrand in Weisdale parish six marks burnt [silver] eight pennies the mark, also in Daleting (Delting) parish in the before named Hietlandt, a farm called Kirkhouse, three marks burnt [silver] six pennies the mark. These whole before named lands the before named Edward Sinclair or his heirs shall have, enjoy, use and possess in sure and certain pawn and usable possession, with everything that has belonged to them from time immemorial, from the highest summit of the hill to the lowest stone of the foreshore, with the parts and pertinents, nothing in any way excepted, until the before named Edward Sinclair or his heirs again receive and acknowledge the full payment, the most and the least, from us or our true heirs, and when we again redeem these lands it shall be done at three terms, the first at St John's day, the second at St Olaf's immediately thereafter, and the third at St John's day next after following, and when the foresaid sum of money is fully paid as aforesaid, then the before named lands shall belong to us again as before. And for the verity hereof, that this [contract] before written shall be held sure and unchallengeable in all its words, points, and articles, I the before named Anders Maat with my dear spouse have affixed our seals to this our open letter and subscribed [the same] with our own hands; and for further testimony hereof we have cordially requested the learned man Rasmus Joensonn, parish priest in this place, along with us to seal and confirm. Done at Gierisuig the 20 June 1597.

(Seal.)

(Seal.)

(Seal.)

A. Mowat of Houcheland
Else Trans datter
with [our] own hand

Her Rasmus
Jonsonn minister
with my own hand.

(Dorso)—Andro Mouatts Charthour and his wyff vpoun the lands of Veisdall.

The deed is written on a folio sheet of strong hand-made paper, and is in an excellent state of preservation. The writing is in an ordinary Norwegian hand of the period, and any difficulties in its style have been cleared up for me by a very competent record scholar, Mr Kristian Kören, of Trondhjem.

Various considerations combine to make this deed one of especial

interest. The mere fact that so late as 1597, no less than 130 years after the date when the islands passed under the domination of Scotland, the Norse language should be interchangeable in use, and mutually intelligible, there and in Norway, is of itself noteworthy. Equally so is the fact of the prevalence and the admitted validity of purely Norwegian legal instruments in the islands, side by side with the legal forms of Scotland, which were being steadily introduced, and persistently enforced, by a succession of legal practitioners of Scottish origin.

Rendered as nearly as possible in literal form, the deed may be described as a Mortgage, or, more strictly, a deed of pawn, equivalent to the old Scottish instrument of *Wadset*, of certain properties in Shetland. By this instrument, subjects embraced in the document were not merely mortgaged in security, but were made over in real and corporal possession to the lender, only to be reacquired from him on payment of the borrowed money. The lands so transferred on the present occasion were—

1. Öffreboster, in the parish of Weisdale, 12 merks, 8 pennies the merk.
2. Skarpegierdt, in the parish of Weisdale, 8 " 6 " "
3. Degrand, in the parish of Weisdale, 6 " 8 " "
4. Kirckehuus, in the parish of Delting, 3 " 6 " "

Öffreböster is obviously Everabister; Skarpagarth and Kirkhouse are the unaltered names still existing; Degrand I have not been able to identify.

The granters of the deed are Andrew Mouat of Hugoland ("Houckeland") in Shetland, and his spouse Else Trondsdaughter, who is declared to be owner of the lands in her own right. She is designed as "of Erisfiordt" or Erisfirth in Norway, and it is signed at Gieresvig in that country on 20th June 1597.

Andrew Mouat, according to the researches of Mr Francis J. Grant, Carrick Pursuivant, in Shetland genealogy, was the founder of the leading families of that name in the islands. Mr Grant points out that in the Register of the Great Seal there is a Confirmation by King James VI. on 27th March 1577 of a Charter granted by him in favour of John his eldest son, and apparent heir, of 207 $\frac{5}{8}$ merks

land in Delting, 34½ merks in Aithsting, 8 merks in Walls, 8 in Tingwall, 35 in Yell, and 18 in Unst,—a very considerable estate. Failing John, the inheritance is destined to proceed to Malcolm his second son, whom failing, to Patrick his third son, reserving always his own liferent, and the liferent of one-half of the lands to Ursula Tulloch his spouse. Ursula would appear to have been his first wife, and their representatives are given in *The County Families of the Zetland Islands*, now in course of publication by Mr Grant. We are not, however, at present interested in this marriage or its issue. It is the later marriage with Else Thronsdatter that concerns us in connection with the deed before us.

Else Thronsdatter or Throndaughter, as appears from her designation in the deed, was a Norwegian lady, and we are able to identify her on quite independent authority. She was Andrew Mouat's third wife, if we may accept the genealogical table supplied by the learned Norwegian J. Christian Berg,¹ who credits Mouat with a previous Norwegian wife, by name Karen Gyntelberg. Else's father was Christopher Thronsson, a Norwegian, who, after an adventurous career, attained to the position of Admiral to the King of Denmark and Norway. He had, besides Else, six daughters—Maren, Magdala, Margaret, Anna, Dorothy, and Christina.

Of those sisters, three at all events are subjects of historical record : (1) Anna, who, as will afterwards be shown, became betrothed to the notorious Scottish Earl of Bothwell ; (2) Dorothy, who is said to have been married to John Stewart in Shetland ; and (3) Else, at present under notice. Of the marriage with John Stewart nothing is known in this country, and no satisfactory evidence of it has been produced in Norway, so far as I have seen.

What the connection of this Norwegian family of Thronsson Rustung with Shetland may have been it is impossible at the present time to say. But in the deed before us, Else, the wife of Andrew Mouat, clearly appears as a Shetland heiress, the owner of the specified lands in the parishes of Weisdale and Delting, which are

¹ *Lehnsvrev paa Rosendal Baronie af 1678*, in *Samlinger til det Norske Folks Sprog og Historie*, Christiania, 1838.

declared to be her *rette odal*, or just udal inheritance. She would seem to have been married first to John Haar of Gjeresvig, a property in Norway, where she was residing when the deed was signed, and secondly to Axel Fredrikson, Lawman at Bergen (1569-1585), Andrew Mouat of Shetland being her third husband.

The issue of the marriage with Andrew Mouat is stated by the Norwegian authority above cited to have been Axel Mouat, Christopher Mouat, Karen Mouat, and a daughter not named.

Axel Mouat died on 29th January 1661, at the age of 68, owner of large estates in Norway. He is frequently mentioned (1630-1641) as a naval officer of high rank, latterly as Vice-Admiral of the Fleet, and much employed by the King. His sister Karen, who died in 1675, was married to Ludwig Rosenkrands of Rosendal, who collected all the property of the Mouat family (partly in Hardanger), which was in 1678 made a Barony, under the name of Rosendal. Within seventy years thereafter most of this property, once belonging to Axel Mouat, was lost by the Rosenkrands family; and that family becoming extinct in 1723 in the male line, the barony reverted to the Crown. Anders (or Andrew) Axelson, an illegitimate son of Axel Mouat, was living so late as 1690, and I am assured by private information from Norway that his descendants remain in that country to the present day.¹

Edward Sinclair, the mortgagee, is described in the deed merely as resident at Bollesetter in Shetland. The only person of the name living at the time, of whom I have any knowledge, was Edward Sinclair of Marrasetter, third son of Henry Sinclair of Burgh, in whose favour a testimonial was issued by the Sheriff-Depute and several gentlemen of Shetland on 20th July 1610.²

It only now remains to refer briefly to Anna Throndsdaughter, one of Else's sisters, whose unfortunate association with James Hepburn, Earl of Bothwell, has already been alluded to, and which is not known to, or

¹ Information on this and other points connected with the present inquiry is derived from my valued friend and correspondent Herr Kristian Koren, of the Public Record Office, Drontheim.

² The document is given in Peterkin's *Notes on Orkney and Zetland*, Appendix, p. 96.

has not been recognised by, Scottish historians. In 1559 their father, Christopher Thronðsson, before referred to, had his residence in Copenhagen, and here the meeting with Bothwell probably took place on the occasion of one of his visits to the Continent. We know that he was sent on a mission to France by the Queen Regent in 1560; but while these dates would approximate with sufficient accuracy for this view, it is proper to state that both Professor Schiern and Professor Munch hazard the suggestion that the first meeting may have taken place in Shetland, though the evidence for this is not clear. One thing, however, is certain, that the Lady Anna followed Bothwell to the Netherlands, in full reliance upon his honourable intentions, solemnly pledged to her.¹ But there he basely deserted her among strangers, in circumstances which resulted in her extreme indigence, her own means, according to her account, having been squandered by him. She followed after him to Scotland; and while no record of her proceedings there is preserved, either in the Register of the Privy Council, or in any known minutes of Court, there is little doubt that she urged her claims upon her betrayer with the persistency which she is known to have exhibited elsewhere. She seems to have returned to Norway in 1563, as a passport, in view of her undertaking the journey, was issued in her favour by Queen Mary in that year. This document, in which she is described as "Anna Trundtze, filia Christopheri Trundtze," is preserved in the Royal Archives of Denmark, and the text of it was printed in the *Danske Samlinger* in 1866. Her temporary residence in Scotland and her relationship with Earl Bothwell procured for her the designation of *Skottefruen*, or the "Scottish lady," usually given to her afterwards in Norway.

In 1565, Anna Thronðsdaughter resided in Bergen; and two years afterwards, when Bothwell, fleeing from his pursuers at Shetland, was seized on the coast of Norway, and conveyed as a prisoner to Bergen,

¹ The whole facts have been collected by a Danish scholar, L. Daae, in a pamphlet entitled "*Christopher Thronðsson Rustung, hans søn Enno og hans datter Skottefruen*," Christiania, 1872, to which I am indebted for these details. It is largely drawn upon by Professor Schiern in his *Life of Bothwell*, translated by the Rev. David Berry, 1880.

she confronted him there, and arraigned him before a Court on charges of perfidy and malversation. She accused him of having taken her from her home and country, and conveyed her to a foreign land, under promise of holding her as his lawful wife. These promises, solemnly pledged, he had broken; while, as she alleged, he had no fewer than three living wives,—herself; a lady in Scotland from whom he had procured divorce; and lastly, the Queen of Scots. The particulars of Bothwell's examination before the Court are preserved;¹ and he admitted the truth of the charges preferred against him by offering satisfaction in the shape of an annuity from Scotland, and the smaller one of his ships, with all her equipments, which the Lady Anna accepted.

There is nothing to show that Bothwell was ever again approached by Anna Throndsdaughter. Detained as he was in durance for many years in Malmoe and Dragsholm, this would have been unavailing. In his dying confession at Dragsholm he makes no reference to her, but is represented as admitting having accomplished the ruin of two Danish ladies, besides others in France, England, and Scotland. No such admission is made in his earlier narrative, quoted in *Les Affaires du Conte de Boduel*, where he justifies his proceedings throughout.

The "Scottish lady" survived the perfidious Bothwell for a number of years. In 1594 she is stated to have been seen at the Kirk of Ide in Norway; and in 1607 she, by a formal instrument, made over her paternal property of Seim, in that country, to her sister Else, the joint-granter of the deed which forms the subject of this paper. Thus is this informal writ, in reference to small bits of land in Shetland, oddly brought into association with a romantic, if obscure, incident in Scottish history, viz., the entanglement of a Norwegian lady in the eventful and tragical career of Bothwell.

¹ *Les Affaires du Conte de Boduel* (Bannatyne Club, 1829).