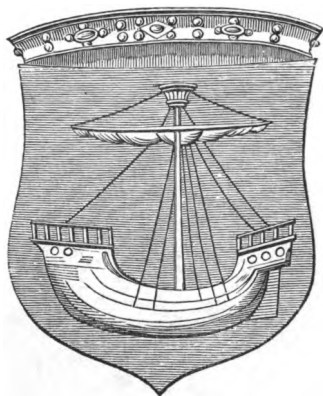


ODAL RIGHTS
AND
FEUDAL WRONGS:
A MEMORIAL FOR
ORKNEY.



EDINBURGH: MDCCCLX.

George Adair O'Hara

THE following pages were originally intended as introductory or explanatory of a volume presented by me to the Members of the Abbotsford and Maitland Clubs under the title of OPPRESSIONS OF THE SIXTEENTH CENTURY IN THE ISLANDS OF ORKNEY AND ZETLAND; but I have been induced to reprint them in the form of this MEMORIAL, by the hope that it may be useful or interesting to some readers indifferent to subjects merely antiquarian, or even repelled by original documents of strange form and antiquated language.

DAVID BALFOUR,
OF BALFOUR AND TRENABY.

BALFOUR, 22d June 1860.

ODAL RIGHTS AND FEUDAL WRONGS:

A MEMORIAL FOR ORKNEY.

THE History of Orkney and Zetland is still to be written. There is no part of the United Kingdom which possesses historical materials more ample, or more early, and none so little known as these, the last acquired of the British Isles. But where the sources of information are so scattered and inaccessible, it is perhaps easier to estimate the amount of attainable knowledge, than to fathom or fill up the depths of inevitable ignorance, and I am far from pretending to supply this desideratum. I still hope to see it in abler hands, when the same research, learning and acumen, which have done so much to elucidate the Celtic history of the North of Scotland, shall be applied to the parallel subject of these not less interesting Islands. In my essay on a theme so difficult both from its antiquity and its novelty, I shall account it a sort of success, if my statements, omissions or mistakes, shall tempt or provoke some more capable or more practised inquirer — more earnest, and more honest in the search for truth, he cannot be.

What I now propose is, to give only such brief introductory notices as may seem necessary to illustrate the ARTICLES, COMPLAINTS and other documents, selected from the many Supplications, Petitions, Protests and Memorials of the ill-used Islanders, not merely on account of the more minute details which they contain of oppression and misrule, but for their curious glimpses of social life in the far North, and the olden time, and of the laws and customs of a day and district so near, and yet so strange.

Placed on a salient point, dividing two oceans, flanking the two weakest coasts of Britain, and confronting within a few hours' sail, the mouths of the Baltic and the Elbe—indented with fine harbours, easily made as impregnable as any in Northern Europe, and never boomed like them by half a-year of ice—with a soil of more than ordinary fertility, and a sea-loving people, hardy, intelligent and enterprising—Orkney was well adapted to become the vanguard of northern civilization and commerce. The fostering liberality which has raised a Venice in the Baltic, might easily have made of Orkney a garden or a granary, and of any one of its score of harbours, the Valetta or Sebastapol of the Atlantic and German Oceans. Perhaps with such a position and structure, soil and population, it might even have become (under circumstances less repressive), the powerful centre of an independent Hanseatic league, the check and counterpoise of the usurped monarchy of the seas. But

for nearly four centuries, it has been mediatized into an overtaxed and overshadowed dependency, and dragged in the rear of a political and commercial system, in the advantages of which it has been grudgingly permitted to share, but in whose reverses it has ever been made to suffer most unequally; and the few who have cared to trace its history, have been too much absorbed in the painful interest of its actual condition, to indulge in speculations on what it might have been.

While these Islands were Scandinavian, if not independent, they had from locality and circumstance some individual action, and a history; but since they became an item of Scotland, and Scotland of the integer of Britain, they have had no self-motion to record, but short episodes of struggle, the spasms of a feverish nationality to be crushed as rebellion against the dominant state. But their fate has been more hard than that of most small nations, merged in another larger than themselves. The ruling power had not only the usual interest in profiting by union, repressing insubordination and veiling oppression, but also (from its defective title) in suppressing its surreptitious profits, lest others should estimate too well the value of Scotland's gain and Norway's loss.

Since they were severed, more than three centuries ago, from the kindred rule of Norway, their history has been a continuous tale of wrong and oppression, of unscrupulous rapacity and unheeded complaint. RECEPI, NON RAPUI, might have been the character-

istic motto, as that shadowy distinction between the merits of the thief and the receiver has been the plea, of every government under which they have since been ruled or misruled. Regarded as aliens, of no value beyond the revenue or plunder which could be extorted from them, they have been granted, revoked, annexed, re-granted, confiscated and re-annexed, with wearisome monotony of torturing change. Five times they have been formally annexed to the Crown by Act of Parliament, and fourteen times committed, in defiance of such Acts, and without either protection or redress, to one needy and rapacious courtier after another. Each Donatary or Tacksman, aware of his precarious opportunity, took for granted all previous exactions, and sought farther profit in some mine of advantage hitherto unwrought, till the growing burden of extortion wrung from the Islanders a cry of oppression too loud to be smothered, and then the government sometimes disavowed or removed the indiscreet official, who could not conduct his pillage with decorum. But in general it was blind to all such profitable enormities, and deaf to all complaints, unless the complainer could give interest to his case by charges of treason, of embezzlement of royal revenues, or above all, of coquetting with the dangerous claims of Norway. In such a case the oppressor became perhaps a victim, and was forfeited, imprisoned or beheaded, not for oppressing the subject, but for alarming the Crown. But every change was to the Islanders only a change of tyrant, and their com-

plaints served only to warn the new Donatary of the rocks and shoals on which his predecessor had made shipwreck of the thriving trade of robbery. The Crown might do justice on the oppressor, but it invariably appropriated his plunder, and adopted his profitable exactions, as prescribed rights, and precedents for farther claims. LAURENCE BRUCE was removed—but his false Weights and Measures still prevail. LORD ROBERT STEWART was imprisoned—but the Doubled Teind was not reduced, nor the Escheited Land restored—both still form part of the Estate of the Crown and its Donatary; and the culprit was reponed, with higher powers, to wreak vengeance on his accusers. EARL PATRICK was beheaded—but his feudal casualties and illegal exactions and decreets were still enforced for the benefit of future Donataries. The BISHOPRIC LANDS have been (in the language of the New World) *annexed* by the Crown, and sold to plant the parks of London—but their chartered obligation to uphold all ecclesiastical buildings has been transferred to the other landowners. The fictitious Debt and Mortgage to WILLIAM EARL OF MORTON were cancelled—only to enhance his powers, profits and peculations, by the sanction of a surreptitious Act of the British Parliament. Other Scottish counties were relieved of the “AULD EXTENT” when the new CESS was imposed; Orkney and Zetland still pay both—to the Crown the British LAND TAX—to its Donatary the SKAT of Norway.

The very enormity of such anomalies makes it hard

to believe them possible in a place and time so near our own, and harder still to persuade the nineteenth century, in its self-complacent admiration of the just and enlightened rule of Britain, that much of the evil still exists uncorrected and unredressed in this the twenty-third year of Queen Victoria.

On 8th September 1468, Christian I. of Denmark, Sweden and Norway, by the CONTRACT OF MARRIAGE between his only daughter Margaret and James III. of Scotland (after discharging the Annual of Norway, a tribute due by Scotland for Man and the Hebrides), engaged to pay a dowry of 60,000 florins—viz. 10,000 before the young Queen's departure, and for the balance of 50,000, to pledge the islands of Orkney, to be held by the Crown of Scotland until he or his successors, kings of Norway, should redeem them by payment of that sum. In return, Christian stipulated for certain jointure lands and terce to the Queen, if left a widow, or at her option a payment of 120,000 florins, for 50,000 of which the restitution of Orkney should be counted as a discharge. Only 2000 of the presently promised 10,000 florins being paid, Zetland was also impignored for the balance of 8000 florins under the same conditions (20th May 1469), and both groups were thus mortgaged *sub firma hypotheca et pignore* for 58,000 FLORINS OF THE RHINE of 100 pence each, or about £24,166, 13s. 4d. sterling.

Such was the important transaction on which Britain founds her possession of these Islands, or, as they were

generally styled, THE COUNTRIES OF ORKNEY AND ZETLAND; and while some have found or fancied in its terms, unusual safeguards for the laws and liberties of the Islanders, others have distorted its plain meaning to impugn the right of redemption, or, with even less honesty, have feigned, forged, or uttered the forgery of a subsequent irredeemable Cession. But it was neither less nor more than an IMPIGNORATION, such as Denmark's necessities had often forced her to make of States or dependencies which she could not mean to cede in permanency, such as Funen, Sleswig, and (more than once) the City and Castle of Copenhagen. A transaction so usual required no such extraordinary clauses or safeguards. In its very nature it implied only such a redeemable substitution of ownership as was consistent with the unchanged integrity of the pledge, so that when redeemed, it should return unaltered to its original owner. Even while creating a new and temporary right for Scotland, it did not extinguish the reversionary claims or present interest of Norway; for we find that power making valid grants of kirk-lands (1490-1500), its officer, the Lawman of Bergen, pronouncing valid decrees affecting Zetland (1485), and the Scottish Parliament expressly recognising the ancient native laws in the islands (1567) a century after the Impignoration. Most Scottish historians, from Ferrerius and Buchanan downwards, assert as a point of national honour the extinction of this Right of Redemption, either by renunciation or prescription; but the

first plea is disproved by documentary evidence of two centuries of Danish demands and Scottish evasions; and so late as 1668 (two centuries after the date of the impignoration, and not two centuries from our own) the Plenipotentiaries of Europe assembled at Breda, attested that the Right of Redemption was unprescribed and imprescribable. Whether this Right be still vested in Denmark, or transferred to Sweden with the Norwegian Crown, are questions of the Law of Nations decided for the present by British preponderance of metal — until perhaps some power, recognised by the grace of Palmerston and Treaty of London as the future heir of Denmark, may revive the claim with arms as cogent as his pleas and his inducements.

Every writer of Scottish history has recorded this Impignoration, Wadset or Mortgage, as the basis of Britain's right to the Orkney and Zetland Islands, and some have narrated the attendant circumstances with more or less honesty of investigation; but few have interrupted the flow of their narrative to trace the political causes or social consequences of that revolution, and still fewer to define the several rights and interests of those affected by it as parties, subjects, governors, or governed.

It is not difficult to perceive Scotland's objects in seeking, not only to be freed from the constant *casus belli* of a degrading tribute, disputed payments, and increasing arrears, but to acquire without cost a valuable addition of territory long coveted, and to convert

a cause of weakness into a source of strength, by turning dangerous enemies into disarmed and profitable subjects. All these objects were attained. There was thenceforth peace between her and Scandinavia. After a few struggles, the Islanders subsided in angry submission to the fraud and rapacity of their new rulers; and to a nation impoverished like Scotland by wars and misgovernment, Orkney proved in time a rich acquisition, if we may estimate the wealth of the victim by the annual plunder of 3000 head of cattle, 5000 bolls of grain, 6280 stones of butter, and 700 gallons of oil, extorted for centuries in kind or in value from Orkney alone, in addition to its proportion of the ordinary taxation of the kingdom, and exclusive of the burdens of Zetland. But of this booty, little was allowed by the unscrupulous collectors to reach the National Exchequer, and the gain of the Scottish Crown bore no proportion to its guilty greed.

The interest of the Danish Crown in this transaction is not so obvious. It had long been an ordinary resource of its exhausted Treasury to pledge or sell its States or dependencies, but always for a valuable equivalent. But in this case, Christian surrendered a large and undoubted claim, and ceded two valuable provinces for no consideration except the personal contingency of the Queen's jointure, frustrated by her early death (1486). Perhaps, as Count of Oldenburg, even when exalted to the throne of three kingdoms, he had still a German gratification in embellishing his family

tree with another royal marriage. Perhaps, as a Dane, he was not unwilling to tear a gem from the rival, though now united Crown of Norway. If so, he had his reward — promises without fulfilment — alliance, which never ripened into aid or subsidy, were all that he obtained for abandoning these kindred colonies to the will of their ancient enemies, and four centuries of continuous disaster, defection and decline, have shown if Denmark did well or wisely in casting off subjects so bound by blood, habit, and history to love whom she loved, and hate whom she hated.

William Sinclair, the last of the Orkneyar Jarls, had many objects to gain in the transfer of the sovereignty of the Islands. More refined, and less ignorant than the contemporary herd of nobles, who suspected his studies of subjects unearthly and unholy, he could appreciate, even with some pride, the cloudy romance of his ancestral Sagas; but a foreigner by descent, if not by birth, he had few sympathies with the Islanders. His efforts to extend and consolidate his power and estates had offended the King, estranged the Odallers, and embroiled him with the Bishop and the Lawman — his family partialities had awakened bitter feud between him and his eldest son — and as the vassal and high dignitary of two kings, ruling a province of the one, dangerously near the coast of the other, he might easily become an object of suspicion or umbrage to either or both. Indeed, clouds had already arisen between the Scottish Earl and his Nor-

wegian Suzerain, and the substantial splendour of the dignities, titles, lands, and pensions of his Scottish connection, outshone the shadowy jurisdictions and waning revenues of his ancient Jarldom. With such and so many motives, he can hardly be blamed for favouring or even suggesting a change which (when consummated by the subsequent excambion) would release him from a position so irksome and unsafe, enhance his Scottish influence, and aggrandize a favourite son, by disinheriting an unloved heir of his Odal birthright.

William Tulloch, the Bishop of Orkney, was a Norwegian prelate, but a Scottish priest; and if he had any doubts of transferring the spiritual allegiance of his diocese from Drontheim to St. Andrews, they were speedily relieved by his appointment as Confessor to the Queen, and removed by a favourable Tack of the newly acquired demesne of the Scottish Crown. Indeed the change was almost essential to his safety, for his frauds and rapacity had provoked the earl to seize and imprison him; and he owed his liberty only to the express solicitation of the Kings of Denmark and Scotland—with both of whom he had the address to make a merit of his sufferings as a martyrdom for his devotion to their incompatible interests. The warm commendations of Christian were so ably seconded by the bishop's services to James, that the Queen's confessor became successively Lord Privy Seal, Ambassador to England, and Bishop of Moray.

But to the unfortunate subjects of this bargain of kings and princes, the change was an evil unmixed, irremediable, and scarcely alleviated by the hope of its temporary nature. Every interest was threatened, and every feeling wounded, in such betrayal by their natural rulers into the hands of hereditary enemies—exasperated by five centuries of mutual feud and outrage—despised as an inferior race for easy defeats and long subjugation—and hated still more as masters, foreign in blood, language, customs, and laws. When Scotland writhes under her subjection to her “auld enemies of England,” and complains of the jealous removal or destruction of every historical record or monument of independence, Orkney in its turn may smile to trace, in every mortification of its first oppressor, a retributory transcript of its own.

Christian indeed made a form of consulting his Orkney subjects, through their Lawman, before he cast them off; but the Lawman was soon afterwards, if not then, the bought pensioner of Scotland, and his opinion, even if conscientious, could no more express the mind of Orkney than the dictum of the Speaker could bind the judgment of Britain and her Parliament. It is true that there was in the Islands an anti-patriot or Alien faction, consisting of the Earl, the Bishop, and their Scottish dependents, who viewed the change as in every respect favourable to their own interests, but especially as offering in Scotland a nearer and more friendly centre of law and Court of Appeal

than that of Bergen. But to the Islanders in general, there was nothing in the Revolution more galling to their pride, or more dangerous to their interests, than the imminent conflict of Feudalism with their dearly cherished Odal laws. As the last command of their native King, they paid their Skatt to Scotland without remonstrance, almost without a murmur; but the coming shadow of the first feudal grant which menaced the freedom of their Odal soil, roused the long-suffering Odallers into rebellion, and the exterminating victory of Summerdale gave Scottish Kings a lesson for another generation.

To illustrate this conflict of legal systems in connection with the documents now printed for the first time, I propose briefly to sketch the TENURE, RIGHTS, and BURDENS OF LAND in Orkney and Zetland prior to the Impignoration, and the alterations and encroachments made by Scottish rulers and Scottish lawyers in the sixteenth century.

In the primitive form of Scandinavian society, without trade, manufacture, or commerce, *land* was the only wealth, its *ownership* the sole foundation of power, privilege, or dignity. As no man could win or hold possession without the strong arm to defend it, every landowner was a warrior, every warrior a husbandman. King Sigurd Syr tended his own hay harvest, and Sweyn of Gairsay and Thorkell Fostri swept the coasts of Britain or Ireland, while the crop which they and their rovers had sown grew ready for their reaping.

The landed interest was all-powerful, for all were classed according to their interest in land, as *Free* or *Un-free*. The *Freemen* were the landowners, and as such, members of the Althing or Council of Freemen, including all the governing powers of the State, the King, Jarl, Bishop, Odallers, and Odal-baarn. The *Un-free* were those who, possessing no land, had no political rights, including not only Slaves, the captives of war or relics of the conquered Pechts, but Tenants and Dependents, personally free. But as the interests of all were more or less affected by the Impignoration and subsequent changes, the extent of the revolution may be best estimated by a successive consideration of the nature of ODH-AL-RÆD, of the system of THINGS and STEFNS, and of the condition, rights and powers of the KING, JARL, and ODALLERS — freeborn Thingmen; of the BISHOP, a Thingman by custom or courtesy; and finally, of the UNFREE, Tenants and others, subjects not members of the Thing.

The Al-odh-ial or Odh-al holding was the only tenure of land recognized in Scandinavian kingdoms. It was transmitted by Odin's followers to their offspring, as the dearest of those free institutions which distinguished them from servile races, willing to hold their lands as the gift of a master; and in the end of the ninth century, was established in the Norwegian colonies of Orkney and Zetland as the rule and safeguard of all property, right and privilege enjoyed or claimed by king or subject. The Odal tenure, by

simple *primal occupancy*, has been so long and generally superseded by the more complex Feudal theory of landed property, as the gift of the State or its chief, repaid by service or payment, conveyed by Charter and Saisine, subject to casualties and irritancies, and inherited by a single first-born heir by grace of the Superior, that perhaps it is most easy to realize the Odal idea as the absolute negation of every Feudal principle. The ODH-AL-RÆDI or Right of Full Possession, was a tacit entail upon the Primal Occupant and his Heirs, of the ODALSJORD won by his strong right hand, complete without a written title, subject to no service, payment or casualty, comprising every conceivable right of use, ownership and possession, and at his death, constituting in each of his children an equal, tacit title, inalienable while one Odal-born descendant should exist to claim the inheritance. The courtly *Beneficium* flowing from the Sovereign was the human invention of kingcraft; the *Alodium* in its grand simplicity was a direct gift to man from his Maker, by the true *jus divinum*. Such was the right of the Odaller; nor was that of the ODAL-BAARN a mere future contingency, but a present patent of nobility and privilege, not by writ or summons from a king, but by grace of God, and right of birth as a FRIBORINN and THINGMAN. He might take service as a Væringr, Hirdman or Husskarl, or till another's land as Leignmadr or Bolman — he might even sink into a Thræll, like Olaf Tryggveson, or rise

like him to be a king, but his Odal-ræd was indelible. The throne was often filled or shared on the simple but admitted plea of descent from the founder of the kingdom, for the royal race was Odal-born to the Crown. The succession of the Orkneyar Jarl might be divided or disputed by many heirs; but though royal favour might aid, even royal power could not set aside one claimant Odal-born to the Jarldom; and after a life of roving, the Odal-born Væringr might seek rest by reclaiming from the stranger his Odalsjord in Norway, Iceland or Orkney, alienated in his boyhood or absence.

The present or contingent possession of land by Odal-ræd was thus the foundation of every right or franchise; and in the infancy of Odal society, no Law could be made or administered, no Tax imposed or levied, and no Power assumed or exercised by King or Jarl, without the sanction of the ALTHING or *Council of Freemen*, where King, Jarl, and Bishop, Odaller and Odal-born, were all and equally THINGMEN.

The ALTHING was the simple prototype of a modern Parliament, but the assembly was primary, not representative; and the Estates met and voted together as in one Chamber. Whether assembled at stated times of Jol and Vor, or summoned by King or Jarl for special causes, by passing from hand to hand the Stefn-bod or Cross, the place of solemn meeting was the great Domring of Stenness, the Thing-stod in Magnus Kirk, or the Thingholm in Tingwall-vatn,

under the Presidency of the LAWMAN OF ORKNEY, or FOUD OF ZETLAND, the official Speakers of this Island Parliament. The LAWMAN was the judge appointed (in the early vigour of Odal independence) by the Thing, but afterwards by the King or Jarl, to keep the BOOK OF THE LAWS, and to pronounce and ratify the Thing-Doms or Decrees by the COMMON SEAL OF ORKNEY, of which he was the custodian. The FOUD was originally the Collector of the King's Skatt and Mulcts, first appointed by King Sverrick on the confiscation of Zetland (1196); but his duties were afterwards assimilated, but subordinate, to those of the Lawman, and the salary of both was paid by an assessment called Thing-för-kaup. The Thing and Thing-stod were sacred both to Christian and Pagan, as a sanctuary where all forgot their feuds and met unarmed, with a security which weapons could neither win nor maintain elsewhere. Even the sentenced criminal was safe within its sacred Vebönd, and if he could win against his pursuers the race of life and death to the nearest Mör-steinn, Cross or Kirk, was presumed to have redeemed his life in sight of God and man. Much of the procedure was conducted by reference to the oath of the accused, and the Lawman's oath, Saxter oath, Hirdman's oath, &c., differed only in their degree of solemnity and number of compurgators. Besides the criminal penalties of death, forfeiture, or un-law to the Crown, damages civil or criminal might be awarded, and accepted by the suf-

ferers or their kin, with minute scrupulosity of compensation; and contempt of Court was visited by the additional infliction of a DOMROF. In early times, the Althing enacted the laws which it administered, authorized and apportioned taxation, and virtually held the keys of peace and war, by granting or withholding the supplies; but having once compiled a BOOK OF THE LAWS, it seems to have exercised its legislative functions but rarely, and, under the less solemn name of LÖGTHING or LAWTING, to have restricted its consultations to matters of general administration, finance, police and judicature. THINGS of many other kinds and of inferior powers, summoned as occasion arose, were named from their objects, functions, or place of meeting, as the Leidar-Thing, Höf-Thing, or Huss-Thing, or sometimes styled STEFNAR or *Citations*, as the Hirdman-Stefn or *Council of Warriors*. Each Herad, Hrepp, Skathald or Parish, regulated its local administration and assessments by a Herad-Stefn, Hreppamot or Vard-thing, assembled on its Ward Hill or round its Mör-steinn, where the Under-foud presided as the ruler's representative, and the Lögröttman watched the interests of the Commons, and guarded and applied the Standards of weight and measure. A SCHYND or *inquest* of Thingmen, sanctioned every Erffd or division of Odal heritagé by its Skind-Bref or Schynd-bill, and in later times, confirmed every alienation of land-right by a similar document. Every three or four years the Vard-thing, headed by its Under-foud,

“rode the Hagra,” or perambulated the march of the common, and exacted from all intruders on the Hagi or Skathald a rent of Hagleyffi, or a subsidiary Toldber-Skatt, for the benefit of the Heradsmen, Hreppsmen or Skat-brethren. Every seventh year the accumulated offences of the district were visited by a Thing of SKULDING or GRAND-REFF for correction of abuses, where every offence had its appropriate SKULD or *Fine*. But no sentence affecting life or limb could be pronounced, except by the Althing or Lawthing, and every decision was founded on the principles of the venerated LÖG-BOK. This BOOK OF THE LAWS was probably a selection from the early Norse codes of the Gula-Thing and Frosta-Thing, and the later enactments of Sverrer, Magnus Lagabæter, and Haken the Fifth, with such additions and modifications as the circumstances of the Islands required, together with a record of former Dooms and Decrees. It was guarded by the Islanders with superstitious reverence, and the final abstraction of their LAW BOOK and their COMMON SEAL was perhaps the most unpopular accusation against Earl Patrick. His perversion of justice under its pretended sanction, and the irreparable loss occasioned by its disappearance, gave to the Scottish Crown an excuse for abrogating the LAWS OF ORKNEY, which, after being acknowledged by frequent Acts of Parliament, were finally abolished by an Order of the Privy Council in 1612. The Things, though formally abolished by Cromwell and the submissive Convention, still continued at

times to haunt their ancient Dom-rings, but their power and spirit had vanished with the laws which gave them life. The Thing was a mere Jury of Inquest, their Lawman a Sheriff, their Underfoud a Baillie; and strange to say, what may be called the last ghost of a Thing was (1691) called into a vampire existence, to give with its expiring breath the shadow of a sanction to the fraudulent Weights and Measures, against which its Odal fathers had protested.

When Harold Harfagr (895) gave the conquered Jarldom of Orkney to Rognvald of Mære, the father of Rollo of Normandy, waiving his royal rights of Skatt and Lydskyld, he ostensibly reserved to his successors, the **KINGS OF NORWAY**, little more than a nominal sovereignty. But the royal rights and prerogatives, though dormant, were not the less real. The same King Harold exacted from the Islands a heavy Mulct for the death of his wayward son. King Erik Bloody-axe, and his wicked wife and sons, seized both lands and Skatts as their own (939). One King Olaf forced Christian Baptism on Sigurd Jarl and his men (995), and another compelled Thorfinn, the most powerful of the Orkney Jarls, to acknowledge himself as his Liegeman (1025). King Olaf Kyrre granted to his new city of Bergen the Monopoly of the trade with Zetland (1072). King Magnus Barefoot imprisoned the Jarls, and at his will resumed and restored the Jarldom (1098). King Sverrer punished Harald Jarl for rebellion by the Forfeiture of Zetland, and the

Islanders by conditional Confiscation of the Odal of all rebels (1196). King Hacon IV. asked no leave of Magnus Jarl or his Odallers when he Valued and Taxed their Urislands (1263). Hacon V. appropriated the Revenue during the Jarl's minority (1309), and Hacon VI. during disputed succession (1370); and every royal Sea-king, who ravaged the coasts of Britain or Ireland, mustered his fleet in the Orkneys, and received or enforced the Military Service of the Jarls. Thus from time to time had the Kings exacted in Orkney every royalty exigible in Norway, but at such long intervals, that we are apt to regard each rare assertion as a usurpation or new conquest, and to forget that Harald's heirs were the Odal-born lords of Orkney, entitled to all royal rights whensoever they had will or strength to enforce them.

But when the adoption of primogeniture in the thirteenth century gave to the Norwegian throne a stability and consistency unknown to Odal succession, the royal claims became more exacting and more definite, as the Jarls and other Thingmen became, by Odal division and contest, less able to resist them. Harald Madadson's adherence to an unsuccessful faction was punished as rebellion; and the long intervals of anarchy, the disputed successions which followed the deaths of Erlend IV. (1158), and of each last male of the successive lines of Athol, Angus or Stratherne, Jarls of Orkney, and the reference by the claimants and the Islanders to royal arbitration, afforded to the Crown irresistible

opportunities of asserting and realizing its claims to possess by Royal and hereditary right — 1st, The actual Sovereignty of the Islands, the Ownership of the Jarldom and consequent prerogative to grant or to withhold investiture of any of the claimants; 2nd, A Jurisdiction exclusive in some cases, and cumulative and appellative in all others; 3rd, The Skatt of all occupied Odal lands, with confiscation in case of Skattfal or non-payment; and 4th, The Bota-Mali or Mulcts for homicide, and other finable crimes, and the O-bota-mali or Forfeitures for crimes not expiable by fine. Commissions during the King's pleasure were granted to the Earl, the Bishop, or some other officer specially appointed as Governor, Custos, Foud or Lieutenant, to govern the Islands and collect or farm the revenue; but under an express acknowledgment that such temporary and *fiduciary* powers and rights, however ample, were given without prejudice to the King's prerogative to bestow, resume or reserve, all or any of them at his pleasure. It is probable that some lands and Skats were always thus reserved and intrusted to several hands; but on what grounds, or to what extent, it is useless to inquire, since the Impignoration included every royal right in Orkney and Zetland—viz., SOVEREIGNTY and JURISDICTION, LANDS and SKATS, FINES and FORFEITS, and conveyed them UNDER REDEMPTION to the Crown of Scotland.

The JARL held not only the largest Odal lands in his Jarldom, but the sovereign power in a secondary and

delegated degree. None of these rights, however, descended to him by the Odal-ræd, which constituted the immemorial title of his subjects. The Odal of his fathers lay in the Norwegian Jarldom of Mære. Rognvald became Jarl of Orkney (895), only by the gift of King Harald Harfagr; and his successors owed their lands and dignities to similar royal grants, and their powers to the sanction of the Althing. But though only the Lydskylldr or Liegeman of the King, the Orkneyar Jarl was not only exempted from the customary Lydskylld of Norwegian Lendermen; but in consideration of exposure to piracy, was permitted to retain the royal Skatt paid by the Odallers for the exigencies of the Jarldom, and there was little to remind him of his own subjection, unless when face to face with the King, nor of the Odallers' independence, except their rare refusal to join him in a Viking-för. When at home he passed, like the kings of Norway, from one Bordland, Böl or *Guestquarter* to another, receiving most of his revenues in kind for the ordinary necessities of his household, and defraying his wasteful hospitalities at the cost of his Saxon or Celtic neighbours impartially. With the Skatt of the Odallers, and the Landskylld of his tenants, he kept up a fleet of restless rovers, ever ready for a provident Haust-Viking on the coasts of England, Scotland, or Ireland, for their Jol-feasts and winter cheer, or a thrifty Vörviking, when their exuberant carouses threatened a short supply of beeves and ale. At his death, his Jarldom and its rights were

divided, compromised or contested by his heirs, till but one or two remained to enjoy the impoverished inheritance. Nine generations of this Northman race of Rognvald had ruled the Jarldom by a sort of prescriptive Odal-ræd, sometimes extending their authority over half of Scotland and Ireland—sometimes struggling for their insular domains—but in the twelfth century, the growing power of the Scoto-Celtic Crown had shorn them of their southern conquests of Moray, Ross, Inverness, Man, and the Hebrides. Erlend IV., the last heir male of his line, shared the Jarldom with St. Rognvald (the first instance of succession through a female—the founder of Kirkwall and its stately kirk, in honour of his maternal uncle Magnus Jarl, the Saint and Martyr), and on their closely consecutive deaths (1154–8), the sole succession devolved upon HARALD II., son of the Countess Margaret of Orkney and the Scottish Earl Madad of Athol. Harald Madadson was the founder of the shortest but most disastrous of Orkneyan dynasties. By his opposition to the Birkbeinar revolution, which made Sverrer Sovereign of Norway, Harald Jarl forfeited Zetland (1196), never to be again formally or permanently united to Orkney; and after two wars of mutual barbarity and reprisals, he was compelled to do homage to William the Lion for all Cathnes to the Oikel (1198). His son JOHN OF ATHOL, by his share in the death of Bishop Adam of Cathnes, forfeited the southern portion of that province, the new county of Sutherland (1222); and on his murder, for his Scottish

disregard of the Odal claims of his Orkneyan relatives (1231), his son-in-law MAGNUS II., son of Gilbert Earl of Angus, was acknowledged Jarl of Orkney by Hacon IV. of Norway, and of Cathnes by Alexander II. of Scotland. Five generations of this race of ANGUS ruled Orkney and Cathnes during a century of unwonted peace, arising from this double vassalage, the minorities and civil wars which weakened both Norway and Scotland, and the treaties of matrimony and commerce which united them. This calm was scarcely disturbed by the last Northman Viking-storm, which swept over the Islands to expire at Largs in the equinoctial gales of 1263, but which is memorable to Orkney for the Survey of its Urislands, and the Deathbed of Hacon, the last of the Sea-Kings. MAGNUS JARL III. had little difficulty in making his peace with his royal namesake of Norway, for his lukewarm support of an invasion so violent, and his grandson JOHN II. married a daughter of King Erik of Norway. The prudence of Robert the Bruce, Hacon V., and the young MAGNUS JARL V., hastened by mutual compensation and a new treaty (1312) to restore peace, when Scottish pirates seized and held to ransom Sir Berner Pess, the Norwegian Governor of the Islands during the Earl's nonage, and Orkney had retaliated by a similar outrage upon Patrick of Mowat, a Scot—perhaps the first introduction of two names now common in the Islands. During this period of comparatively peaceful intercourse, many other Scottish names and fashions found entrance, and many dis-

tinctive Scandinavian features disappeared in Orkney, though still prevalent in Zetland, which was less exposed to Scottish influences. The male line of **ANGUS JARLS** failed in **MAGNUS V.**, and their curtailed Jarldom passed by a female heir to the Scottish **EARLS OF STRATHERNE**, and from them to their representatives, **ALEXANDER DE ARTH**, who inherited and resigned the Earldom of Cathnes to Robert II. (1375-6), and **HENRY LORD SINCLAIR**, whose homage as **EARL OF ORKNEY** was, after an interval of disputed succession, accepted by Hacon VI. (2nd August 1379), but on conditions which left to him little beyond the lands of his fathers. Even their title, the only hereditary title permitted in Norway to a subject not of the Blood Royal, was declared to be subject to the Royal option of investiture. The Earl was to govern the Islands and enjoy their revenues, but only under Norse laws, and during the King's pleasure; to keep in pay soldiers for the King's service, but to make no war, build no place of strength, make no contract with the Bishop, nor sell nor impignorate any of his rights without the King's consent; and finally, to answer for his administration to the King's Court at Bergen. But the civil broils which preceded the Union of Calmar, and were continued through the restless reign of Eric the Pomeranian, freed Earl Henry from royal interference, and he ruled the Islands regally in his Castle of Kirkwall, which he built without waiting for the King's consent, and with such strength and skill, that the witch-haunted

mind of the 17th century believed that only the devil himself could have been its engineer and architect. His powers and rights were tacitly continued to his son EARL HENRY II., whose little Court of Orkney was the most elegant and refined in Europe, and adorned with the official services of many proud Scottish nobles. To his enlightened guardianship was committed the early education of the most accomplished prince of his time—James I. of Scotland, the Zerbindo of Ariosto; and half a century before Columbus commenced his baffling search for a patron among the sovereigns of Europe, the Venetian navigator Zenoni had been commissioned by Earl Henry to retrace the footsteps of the early Scandinavian discoverers of the Western World. On the death of Henry II., the Foudrie of Zetland was conferred upon John Sinclair his brother (1418); and during the nonage of his son, the Government of Orkney was committed (1422), first to the Bishop Thomas Tulloch, then to the Chief of the Scottish Clan Menzies, and again to the Bishop, till (on 10th August 1434) William Sinclair was formally invested with the title, and intrusted with the Government, subject to the same hard limitations as his grandfather. WILLIAM, the last JARL OF ORKNEY, was the most liberal patron of Scottish literature and art in his day. He was busied in the endeavour to consolidate his power and increase his estates by purchase and excambion, when the Impignoration opened to him a shorter and safer way to gratify at once his ambition, his affection, and his

hatred; and with the same worldly wisdom which led him (1455) to prefer the possession of Caithness to his claims on Nithsdale, he accepted (1471), with the full consent of the King of Denmark, the lands and pension offered by James III. as an ample equivalent for all that remained to him of the ancient Jarldom of Orkney—viz., his title and his lands, inherited or acquired.

The ancient estate of the Jarls lay scattered through every Island and township of Orkney and Zetland, and consisted, 1st, of LANDS SET or *leased* to tenants on a three years' tack, with a GERSOM or *fine* at each renewal, and an annual LANDSKYLLD, *landmail* or *rent*, in addition to the King's Skatt, the Bishop's Teind and other burdens, local and general; 2nd, of the BORDLANDS or *Mensal farms*, with their Bøl and its enclosures, the occasional quarters of the Jarl in his progresses of pastime or State Service, and on that account exempt from Skatt, even when leased to husbandmen on the usual terms in other respects; and, 3rd, of certain QUOYS and other lands added by Odallers to their holdings, but not by odal-ræd, and therefore paying no Skatt, but Landskylld and other burdens of tenant lands. The Earldom also included CONQUEST or *acquired lands*, consisting, 1st, of lands added by the later Earls by purchase or excambion; and, 2nd, of lands which they had seized as *ultimi hæredes*, or confiscated for crime or Skatfall. The tenants or tacksmen of the "auld" Earldom were a sort of Rentallers with a prescriptive claim of renewal by law or custom, on payment of the stated Gersom; but

those of the Conquest lands were in the far less favourable condition of removable tenants, with terms and burdens at the landlord's mercy. A small fee was expected by the Earl's bailiff, at each renewal or assedation, called for the Mainland LAND-SETTER, and for the smaller islands EYSETTER-KAUP, and every tenant was bound to *fure* or ferry the Earl and his family, to bring peats to his Castles of Birsay or Orphir, and perform other prædial services when required. The payments were mostly made in kind, altering in form according to the convenience, residence or non-residence of the donatary, but weighed and measured by fixed and native standards. These LANDS, MALES, GERSOMS and SERVICES, constituted the *jus comitatus* which Earl William (1471) conveyed to the Crown of Scotland.

From the time of WILLIAM, by Romish consecration PRIMUS EPISCOPUS ORCADUM (1136), the Bishops had a seat in the great Council of Freemen. Whether this were at first their right as actual or presumed Odal-born Freemen, a concession to their sacred office, or a priestly assumption, their presence in the Thing was often salutary, sometimes to the Jarl, sometimes to the Odaller, either as Councillors for the wisdom of the serpent, or as peacemakers for the gentleness of the dove.

The earliest authorities testify as usual to the undainty acquisitiveness of the Clergy, making profit alike of the weakness and the wealth, the crimes and the penitence of all around them. Augmenting and pros-

pering by Gifts—such as those of the Odaller of Airland to the Crosskirk of Stenness, of David of Rendall to St. Ninian, or of Guidbrand of Quendal to the Vicar of Evie, for “a mass ilk Friday;” by Confiscations—as of Baddi’s Lands for bloodshed in the Kirkyard; by perpetuation of all liferent Donations; by pretended Excambion, retaining their own land and seizing the promised equivalent; by withholding their own Skatts and embezzling others, and by the numberless oppressions of lawless strength against weak neighbours, the Bishops advanced in wealth and power. In the quaint language of Bishop Graham, “the old Bishopric of Orkney became a greate thing, and lay *sparsim* throughout the haille parochines of Orkney and Zetland. Besyde his lands, he hade the teyndis of achtene kirks; his lands grew daily as adulteries and incests increased in the countrey,” till they were “estimat at the third part of the COUNTREYIS of old.” How or when the Bishops were permitted to Tithe the lands and labour of the Islands is uncertain; probably the building of Magnus Kirk, the Primus Episcopus, and this impost were connected and coincident (1136); but its rigorous exaction and arbitrary increase were probably too recent for popular patience, when (in 1222) Bishop Adam was burned to death for doubling the customary payment. Certain Skatts were probably granted among the earliest provisions for religious uses, but the indiscriminate appropriation of those of Church-lands and others probably commenced when the Scottish Bishop, Thomas

Tulloch, combined the powers and opportunities of Bishop, Governor, and Collector of Royal Revenues, during the non-investiture of Earl William (1422-34). With possessions so extensive, a jurisdiction over their own lands almost unlimited, and an influence dreaded by all in this world, as all-prevailing in that which is to come, the Bishop could cope with the waning power of the Jarl as easily as other Prelates of the Scandinavian Church could defy the Crown. Safe in his Palace of KIRKWALL or his stately Castle of NOLTALAND (his *Land of Leisure*, his Episcopal *Buen Retiro* or *Sans Souci*), he was within his own domain as powerful for good or evil as the Crown or its Donatary, but Orkney never tasted the full bitterness of oppression, till the powers of both were united in such hands as those of Bishop Thomas, or his kinsman and successor William Tulloch, who filled the See at the date of the Impignoration, and was rewarded for his supple usefulness by a favourable Tack of the Earldom and Royal revenues. It was fatal to the interests and independence of Orkney, that, at such a crisis of transition, the power to interpret and fix the existing and future rights of parties should have been intrusted to such an arbiter. His ambition as a Courtier, his interest as a Churchman, his partiality as a Scotchman, and his education as a Canonist and feudal lawyer, all united to bias his decision of the questions at stake between the Scottish Crown and its Scandinavian subjects — between Feudal principles and what were to him the barbarous

anomalies of Odalism. Able, subtle and plausible, he was equally conversant with every stronghold of Feudal or Canon law, and every weak point in the Odal system. Scotland could not have found a minister more skilful or less scrupulous in turning its new acquisitions to advantage. If he somewhat aggrandized his benefice at the cost of the Crown's Estate intrusted to him, he largely enriched both at the expense of the Odaller, on whom he accumulated new burdens, teinds, services and escheats, with such ingenuity, that his successors in oppression could hardly "better the instruction" by one original idea of extortion—one impost which could not be traced to some suggestive innovation of Bishop William.

The ODALLERS and ODAL-BORN were the COMMONS of Orkney and Zetland—the ROITHISMEN and ROITHISMEN'S SONS—the GÖFUGAR and GÆDINGAR, who constituted the numerical strength of the Althing. There is no class in Europe exactly analogous to this—the ODALS-MADR, BONDI or *Peasant-Noble* of Orkney and of Norway—but perhaps the Hindustani scholar might trace some curious parallels in the Tenures and treatment of the landowners of Upper India. He was a Peasant, for he tilled his own land, and claimed no distinction among his free neighbours; but he was also Noble, for there was no hereditary order superior to his own—as an ODALS-MADR with RÆDI, EIGN and SÆMD—*Master of his Household, his Goods and his Honour*.*

* The three legal distinctions of Odal-ræd consisted of RÆDI,

The King might wed the Odaller's daughter or match his own daughter to the Odal-born without disparagement, for he himself was but the Odal-born of a larger Odal. The Jarl might be deemed less free and therefore less noble, for he owed something to the grace of a human superior. The Bondi in his Odal was *sui juris*, and in the one-chambered Parliament of the Althing, had a vote and voice as potential as King or Jarl, who often, when consulting the humour or will of the Odallers, were bearded and thwarted by the independence of some Thorkel Fostri, Magnus Havardson, or Sigurd of Westness. The King might enforce the military service of the Jarl — the Odallers owned none to either of them. Nothing short of actual invasion entitled the Jarl to call them to arms by the Ward-fire, and with all their passion for the sport of war, many a right and immunity they won or redeemed, as the price of their consent to some foreign Viking-för.

The ODALSJORD consisted of the TUN or *Town-land* with its BOL (*Head Bull* or principal farm), enclosed by its TUN-GARDR (*hill dyke*) which separated its GARTH (*Infield*) from its SÆTTUR or HAGI (*out pasture* or *hill*). Every enclosure from the Sættur became a QUI (*Quoy*), which if encircled by an extension of the *Tun-gardr*, became a *Tumale*, or if again abandoned to pasture, became a *Toft*. It is doubtful if these later

dispensatio rei œconomici; EIGN, *possessio*; and SÆMD, *honor, decus* — the "Royth, Ayning, and Saming," so common in Orkneyan titles, and so puzzling to legal Antiquaries.

additions, the *Quoy*, *Tumale* and *Toft*, enjoyed at any time the same Odal immunities as the original possessions—the *Tun*, *Bol* and *Garth*; but there is not a doubt that the first Odaller occupied the *Tun* and used the *Scettur* by the same Odal title, unwritten, unburdened, inalienable, and divisible equally among the Odal-born. In this division each *Garth* or *Quoy* might become the *Head Bull* of a new Odal, with the same Odal-ræd, a share of the Infield, and a proportionate right to the common *Hagi* or *Scettur*, in which every intruder paid to the *Tun* a HAGA-LEYFI for leave to pasture. The union of several towns constituted a HREPP or *Tribe*, with its local Court or HREPPA-STEFN, the members being bound together as HREPPSMEN or SKATTBRÆDER, sharing together the pasture of the MOAR or SKATT-HALD, and the TOLL-BER-SKATT exacted from strangers; and a combination of such *Hrepps* or *Skat-halds* formed a HERAD or THING, which in time became a PARISH. But equal and independent as they were, each secondary Odal retained a Suffragan regard for the primal Odalsjord, which gave name to the *Tun*, *Hrepp* or *Scat-hald*, and the Odaller of the *Garth* or *Quoy* respected and acknowledged in the Odaller of the *Bol* or *Bu*, the HOFDING or Chief of the HREPP and SKAT-BRETHREN, as naturally as the Tacksman and Bol-man felt their inferiority to both.

The Odaller owned no vassalage to King, Jarl, Lawman or Hofding, but with characteristic love of system, and deference to lawful authority, he yielded to each in

his degree the obedience of a subject; not the personal devotion of the Celtic Clansman to his kindred Chief, but the federal subordination of a Gothic FRIBORINN to the Executive Presence of those Laws to which he himself had consented as a Thingman. He owed neither rent, duty, nor service for his Odalsjord, but as a subject and Thingman he was liable to various assessments for the public service. Of these the earliest and most important was the SKATTR or *Land Tax*, first imposed by Harald Harfagr as a tribute from all the Occupied Lands of his kingdom or colonies, towards the expenses of the State and revenue of the King. LEDANGR or LEANGR, another Tax for public service and naval equipment, was paid in Shetland (where the people and customs have always been more purely Scandinavian), but not in Orkney. The THING-FÖR-KAUP, the ancient fee of the Lawman for his duties at the Thing, and the VOTN-TEL, or fee of the Underfoud for telling the votes and summing up the evidence of the Vard-thing, were early assessments. But when or how the Odallers submitted to the imposition of TEINDS is doubtful—probably when St. Rognvald established a fitting hierarchy for his new Cathedral in the twelfth century. The SKATT, TEYND, FÖR-KAUP, VOTNTEL and LEANGAR, were the only payments exigible from the Odaller, though they severally became the foundation of every subsequent exaction. The denominational proportion was permanent, but the amount and form of payment was altered or augmented according to local circumstances.

Though nominally valued in Marks, Ures or Pennies, the taxes of Zetland were paid in Wadmál, Oil or Fish, the produce of its Skathalds, rocks and seas, and those of Orkney in Butter from its pasture, with augmentations or commutations of Malt from its advancing culture, all weighed and measured by native standards of Norwegian origin, and apportioned by authority of the Thing according to the ancient valuation of Hacon the Fourth (1263), which has strangely subsisted for nearly six centuries without suggesting or affording to Crown or Donatary an opportunity of oppressing the Islanders profitably.

It would be difficult to trace each successive change in the condition of the Odallers, to tell how their Odals, impignorated to Torf-Einar Jarl for their share of the Mulet for the slaughter of Halfdan Halceg (930), were redeemed from Sigurd Jarl by their voluntary service in his Irish wars (1014); or how, by the gift of a mark for each ploughland to Jarl Rognvald's stately Magnus-Kirk, they purchased an immunity from confiscation (1130), which they forfeited by rebellion against King Sverrer (1196). But Odal law and Odal influence declined more rapidly and continuously with every succeeding race of Scottish Jarls, as each Athol, Angus, Strathern and Sinclair, came attended by clansmen and dependants, the ready tools of the fraud or violence of their chief; as Scottish Bishops followed to the prey, lawyers rather than divines, willing to instruct brute force with clerkly subtilty, and skilled in the devil's

logic to warp even the Divine law into oppression. Even the Lawman, once guardian of the common liberties, and still expounder of the Book of the Laws, was generally some Scottish settler, some Cragy, Hall or Irving, owners of Odal land, but not by Odal-ræd — who, ignorant of Odal law, misinterpreted its principles, and misapplied its terms according to Scottish ideas, and introduced written deeds and Scottish forms, in feudal distrust of an undocumented title. Under such combined influences of ignorance and interest, every generation saw some principle modified, some right invaded. Thus each distribution of Odal heritage came to need the sanction of a SHYND or DOOM OF ERFFD from the Thing and Underfoud, equivalent to a Scottish service, and instead of an equal share, the eldest son claimed the Head Bu, and each daughter was restricted to half a son's portion. The rights once inalienable from the Odal-born, became the subject of Impignoration, of Forfeiture, of Donation to the Church, and of Alienation on the ground or legal fiction that the Odaller was too poor to retain, or the Odal-born to redeem them. The legal term of Redemption was gradually shortened, and its conditions made more stringent, till finally a modification of the Shynd-bill in presence of the Thing was alone necessary to legalize the purchase, sale, and transference, of almost every Odal right, to evade the claims of the Odal-born, and to give to the Scottish purchaser the un-odal security

of a written title in his own language—a combined form of Disposition and Sasine.

Six centuries of Odal sub-division had minutely intermingled the lands, rights, and privileges of every Townland. At each succession the Odalsjord was shared among the Odal-born, male and female—the Jarl claimed for himself or for the Crown all lands forfeited and unredeemed, and seized as *ultimus hæres* every inheritance lapsed or unclaimed—the Bishop asserted the Church's rights to the gifts of the pious, a share of the forfeits of the guilty, the teinds of all, and the *corban* perpetuity of every indulgence once permitted to a Churchman—and Scottish settlers claimed Odal lands and Odal rights by descent, affinity, or purchase. Thus the Odalsjords and their vague and customary pertinents were mixed in alternate patches, ridges or furrows, not only with other Odals, but with the claims of Jarl, Bishop or settler, as undefined, but more arbitrarily expansive. Even before the Odallers' final change of masters, two centuries of such foreign and native influence had prepared the way for such a revolution, by modifying his privileges, altering his customs, and effacing much even of his own memory of their origin and traditions. But his spirit was still unbroken, he was still a Thingman, his order was still that of the Gofugar and Gœdingar of the Sagas, the *proceres communitatis*, whose wealth and influence pointed them out as the mark of the oppressor. Their

Odal lands, pertinents and immunities, were still the field whence lawless power could reap a golden harvest, and more than a century of Scottish oppression was still required to level the Peasant Noble of Orkney with the Tacksman or Husbandman of the Earldom or Bishopric.

The only class which remains to be noticed as interested in the change of sovereignty, is the *Unfree* — that large body possessing personal freedom (for slavery had gone out with the Vikings) but no political rights as Thingmen — the Tenants of the King, Jarl, Bishop or larger Odallers. These were either BOLMEN, *tenants at will*, or LEIGN-MEN, *by tack or assedation*, paying to the proprietor a LANDSKYLLD, *land mail or rent*, and EYSETTER and LANDSETTER-KAUF, or its Scottish equivalent of *grassum*, on each renewal of their tack—with all the other burdens of Skatt, teind, &c., sometimes besides, sometimes included in their land mail of money, grain, butter or live-stock, and certain prædial and personal services of mills, peats, furing or ferrying, &c., mostly of Scottish origin, and exigible according to the caprice or wants of their master.

Such were the condition and powers of Thing and Thingmen—such the land rights of King, Jarl, Bishop and Odaller, at the date of the Impignoration; and when Christian (28th May 1469) addressed a letter to the Communities of Orkney and Zetland, desiring them to pay obedience and Skatt to the King of Scots till redeemed by the King of Norway, he no doubt intended, and his subjects hoped, that it was but a

temporary transfer of the sovereignty of the Islands, to return to his Crown unblemished and unchanged, like his often pawned metropolis. But the Scottish Government entertained very different views of the nature and duration of its rights and powers; and from the first, no resource of law or chicane was left untried to fortify and perpetuate its defective and redeemable title. By a series of transactions (from 17th September 1470 to 16th May 1471), the Crown in exchange of certain lands in Fife, and a pension of 40 merks, acquired from Earl William an irredeemable title to the Earldom estate, and *jus Comitatus Orchadie*—an Act of Parliament annexed to the Crown the “Erledome of Orkney and Lordship of Schetland, nocht to be gevin away in time to cum to na persain or persainis, excep alenarily to ane of the kingis sonnys of lauchful bed” (20th February 1471), and the Archbishop of St. Andrews was despatched to Rome, to invoke the solemn benediction of Pope Innocent VIII. on the Impignoration and subsequent transactions, as the seal of Heaven’s sanction upon the completed Revolution.

It is a strange ingratitude in Britain to abjure the Jurisdiction of the Pope; while so many of her original titles rest solely on his authority—improved perhaps by force, as in Wales—by fraud, as in Orkney—or by a happy combination of both, as in Ireland.

The Scottish Crown had now a Redeemable title to the Sovereignty of the Islands with the Skatts, Fines,

Forfeits, and Jurisdictions of the Kings of Norway under Wadset, for a principal of £24,166, 13s. 4d., and subject of course to a Count and Reckoning for its intromissions, which would show how soon and how often that sum has been paid — principal and interest — by the Revenue drawn from the Islanders. It had also acquired an Absolute and Irredeemable Property in the lands, males, and services of the Earldom; but to the lands of the Bishop or Odallers it had no other pretensions than those included or implied in the rights of Sovereignty. To extend over these free domains the claims of Superiority or Property, to confound the titles Redeemable and Irredeemable, and to frustrate the power of Redemption by effacing all distinctive laws, customs and tenures, required time, patience and adroitness in invading rights and evading claims; and the gradual substitution of feudal for odal law, and the degradation of the Scandinavian Countries of Orkney and Zetland to a Scottish County and Lordship, was the stealthy process of the next century and a half.

The absorption of the Bishopric and Kirklands (commenced without a shadow of title, and in the infancy of public opinion) has been so slow, silent and serpentine, that their final assimilation as British property is an act of the present reign. The first advance bore the harmless form of a courteous recognition of the Bishop's rights by his new Sovereign, in a charter of Regality (10th October 1490). The assumption of a

concurrent sanction of the Norwegian presentee of the Kirklands (1491-2), was followed by the sole presentation (under Papal Sanction) of a Commendator and Successor to the Bishop (8th April 1498), and shortly afterward by the defiant appointment of an Archdean of Zetland, with a protest against "the temerity and presumption" of the Danish Presentee (8th January 1501-2), and in the civil feuds which long shook the Norwegian throne the Scottish Patronage of the See of Orkney was thenceforth undisputed. The right to dispose of the Church rents during a vacancy (2nd March 1559), and to confirm the Feu Charters of Church lands (1560), flowed naturally from the Charter of Regality; the Act of Annexation (29th July 1587) seemed a necessary precaution against the rapid spoliation of the Church; and the Excambion of Earldom and Bishopric (4th October 1614), was too obviously beneficial to both to look like usurpation. During the convulsions of Church and State in the seventeenth Century, the Bishopric was repeatedly applied to secular uses; but the final act of appropriation was that which established Presbytery (22nd July 1689); the Church lands were vested in the Scottish Exchequer, and ultimately transferred to the British Board of Woods and Forests, by whom, in Imperial contempt of all nationalities, Scandinavian or Scottish, the Orkney Bishopric has been sold (1854-56), and the price expended in the adornment and luxury of London.

The attacks upon the rights and liberties of the

Odaller required less delicacy, and were conducted with less decorum, for he stood defenceless in his isolation. All who might have made common cause with him had been bribed into complicity against him; the Danish King, by promises; the Earl, by grants and pensions; the Bishop, by present preferments and future hopes; and even Kirkwall was seduced from native interests by its erection into a Royal Scottish burgh (31st March 1486). The very name and traditions of the Odalsmadr secluded him from the sympathies of the Tacksmen or Tenants, a class more favoured by the higher powers because more profitably open to arbitrary exaction. To reduce both to the same level of easy oppression under form of law, was the first object of the Government; and the first duty which the Scottish King imposed upon its new subjects, the Earl and the Bishop, was the compilation of a RENTALE, modified (with a difference) from the ancient SKATT BOOK, and embracing all the lands and burdens of Orkney and Zetland, with a studied confusion of Odaller and Tacksman, of Odal and Feudal, of Skatt and Land male, aggravating every payment that had ever been made under any circumstances, and adding every exaction, prestation, or service that could be suggested by feudal lawyer or canonist. But however justly the Odaller might complain of the new and heavy burthens of the Rentale, of its abrogation of his rank, its evasion of his claims, invasion of his rights, and imposition of degrading services, other

secret and inherent agencies, as hostile and less suspected, were working the downfall of the Odal system. Like every human attempt to curb individual passions by social laws, it had seen and outlived its day of usefulness; but every creed is dear to those nurtured amid its influences, and a generation which remembers the fanaticism of Whig and Tory, and still pants with the contest of Protection and Free Trade, has no right to smile at the long struggle of feudal prejudice or the longevity of Odal dotage.

The simple rules and forms of Odal law might suffice to define and guard the rights of man as an individual, or even as a member of society in its primeval or patriarchal form, of a few families scattered far apart, with intervals of wild solitude, with the sea for their march, and the mountain for their landmark. But as the rights and obligations of the man and the family became complicated with those of the neighbour, the citizen, or the subject, society soon outgrew this simple code. Each new social element required some new modification; every change, as by an inherent principle, tended to concentrate in the State, or its Head, the rights and powers of the individual; the Odaller, whose free institutions have taught freedom to the world, was cherishing a system as fatal to liberty as that which he despised, and Feudalism in its vigour was scarcely more favourable to the growth of despotic power than Odal-ræd in its decay. In both the evil might have been

checked, by opposing to the invasions of tyranny the resistance of a powerful aristocracy, of an influential middle class, or of the rival supremacy of the Church. But when the Impignoration let loose the conflict of legal systems upon Orkney, the Scandinavian Crown, by substituting primogeniture for Odal succession, had grown so strong as to absorb the powers and possessions of the Jarls, who had become the mere Lendermen or Tacksmen of the Royal revenues. The Church, which more than once nearly overmastered the Scandinavian Crown, was in Orkney its humble *servus servorum*—more disposed to court its favour by servile complicity, than to defy its wrath by an uncourtly defence of freedom. The collective influence of the Thing was no defence—its free councils and jurisdictions had been undermined by insidious innovation of forms or terms, or finally uprooted by masterful violence. Successive generations of Odal subdivision had so reduced the wealth and weight of the middle class of Peasant Nobles, that it was but a question of time when the heirs of the most influential Odaller should make an infinitesimal sub-partition of the last zowsworth of his Odalsjord, and sink into poverty, without means of independence or self-defence against oppression or encroachment. Unfortunately, the peculiarities of his rights long survived his power to defend them, complicating his relations to his new feudal masters, and adding to his difficulties, legal and illegal, that of instructing a foreign feudalist to plead

his cause before a foreign judge, whose decisions, forms and language, were as strange to him as his laws, usages and terms, were barbarous and uncouth to them. Eloquence was the most popular accomplishment of the Odaller, and he was wont, as Thingman and Umbothsman, to discuss the law, and defend the rights of himself and others—but he was overwhelmed by legal principles which he did not know, in a language which he could not speak; and he soon found that the vague and customary claims, and unwritten tenure of his fathers, were no match for the defined rights and pretensions of the pettiest neighbour possessing by the *litera scripta* of a feudal title, still less of the powerful Feudatory claiming by Royal charters, and aided by the ingenuity of the professional lawyer, trained and practised in the logic of the schools. As if to insult the dearest prejudices of the Odaller, every feudal aggression was held forth as a boon of reform, every change as an amendment of his barbarous code, every abrogation of a cherished right as the removal of an antiquated abuse—while the promised improvement was but a delusion, and the new abuses were more burdensome than the old.

Left to itself therefore, Odalism must have decayed by the natural development of its germs of self-destruction; but the mere decline of the abstract principle, or even the impoverishment of the Odaller, were no object to the Scottish Government, except

as tending to its own enrichment at his cost. To make present and growing profit of the defects of the Odal title—to drive the possessor into the refuge of a feudal tenure, and to obviate the Redemption by Scoticizing every law or custom derived from the mother country, were now the objects of Scottish policy, and an able agent was found in Bishop William Tulloch, who (27th August 1472) undertook to collect the Revenues of the Crown for a Commission of 20 per cent., and a tacit connivance in his unquestioned appropriation of all “unconsidered trifles,” and in his extra extortions, “ony maner of way,” beyond his Tack duty of £366, 13s. 4d. Deeply embued with feudal prejudices, Tulloch affected to see no legal principle in a code of customs so anti-feudal. Heritage, without Superior or Vassal, payment or Service, Charter or Sasine, or any of the essentials of a valid feudal title, was to him a mere traditionary usurpation, subversive of lawful order and authority. The Odaller was a mere squatter, with, at best, a possessory title, liable to arbitrary exaction limited only by his capacity to pay, and with prescriptive custom as his only claim to differ from the annual Tenant or triennial Tacksman. To obliterate all such distinctions, the lands of the Odaller and Tenant were registered in one indiscriminate Rental, with a studied confusion of rights, Odal paying Skatt—and rights extra-Odal paying land-male. The Thing-För-Kaup of the Odaller, and Gersomr of the Tenant, were claimed as the

nominal equivalent of the feudal Forcop and Grassum — Skatt, Wattel, Leidangr, and every Odal tax without a feudal synonyme, were exacted as a rent — every feudal claim or casualty, without an Odal name or equivalent custom, was imposed and extended to its full feudal limits — while every Odal customary right of pasture, fishing, or sea-beach, was limited, taxed or punished as a feudal purpresture. The whole district was indiscriminately subjected to the prædial and personal services formerly due by Tenants only, and new burdens of Hawkens, Balliatus, and Chetry, were laid on all by the arbitrary authority of the Bishop, whose powers of excommunication, infamy, and penal forfeiture, were infinitely enlarged by the rigour of canonical rules and prohibitions, quite new in a Scandinavian diocese. Neither could the unfortunate Orkneyan escape from this grinding tyranny by any appeal. His oppressor ruled the Bishopric as Bishop, and the Earldom as Tacksman, with regal powers — the Thing was divested of all criminal jurisdiction — the Lawman was the stipendiary servant of the Government — the Kirks were filled with Scottish Priests, the creatures of the Bishop, as rapacious and pitiless as himself — the Odallers, collectively or individually, were too poor to purchase, and too powerless to command forbearance, favour, or justice — and what Donatary was ever able to resist the combined temptations of plunder, helplessness, and opportunity?

The Tack of Bishop Tulloch lasted for seven years,

followed by six of similarly irresponsible Episcopal rule under Bishop Andrew, the presentee of John of Denmark and probably a Scandinavian. The appointment of Henry Lord Sinclair as Tacksman of the Crown in Orkney (1485) and the recognition of Sir David Sinclair as the Danish representative and Fowd of Zetland (1491), gave hope of better times. After the tyranny of strangers, the Orkneyans were prepared to rejoice in the return of kindred rulers, and Sir David was the son and Lord Henry the grandson of their last Earl William. With the tastes and accomplishments, and some of the vices of their time, the Sinclairs were popular in the Islands, and favourites in the Courts of Denmark and Scotland. They were in the main just, humane, and generous, they exposed unsparingly the rapacity and frauds of their Episcopal predecessors, relaxed their intolerable imposts upon some of the districts, redressed much individual injustice, and liberally relieved the impoverished population. It was probably by their influence that an Act of the Scottish Parliament (1503) to annul all foreign laws within the realm, was so altered as to spare the native laws of Orkney and Zetland. But the sapping process of Scoticizing every Orkneyan institution, the interchange of names and things, Odal and Feudal, without real equivalence, went on unchecked if not encouraged by the Sinclairs. A comparison of their successive Rentals shows little change in the names, nature, or amount of Odal payments,

beyond the occasional remission of some overcharge, or the record of some new escheat; but there was a large increase of the total burdens of the country, chiefly at the cost of the Tenant population. Their rule of half a century was distinguished by no formal abolition of unjust innovations, no restoration of Odal liberties and immunities; but by the ceaseless, silent change of language, forms, and manners, traced perhaps in a clause or word of some feudal parchment or mouldering Thing-doom.

From the death of Lord Sinclair at Flodden, his widow, Dame Margaret Hepburn, held the Crown lands in Orkney and Zetland at a rent of £433, 6s. 8d., by successive Tacks for nearly 30 years without interruption, but not without disturbance. The Odal-lers knew too well the evils of alien rule; but a female ruler was a new indignity, and even in the second year of her widowhood (1515) they had elected as their leader and virtual Governor, James Sinclair the possessor (though illegitimate) of most of the wealth of his family, and the inheritor (as a born and bred Orkneyan) of all its popularity. On the plea of a general devastation by the English fleet in Orkney and Zetland, they withheld Lady Margaret's Rents for three years (1523-5), forced her son Lord William to surrender her castle of Kirkwall and escape into Caithness (1528), and on his return next year with an army of Scots, defeated and took him prisoner at Summerdale (7th June 1529), slew his ally, John Earl

of Caithness, with every man of his followers, beheaded Nicol Hall the Lawman, and took forcible possession of the Islands. The Scottish invasion, sanctioned as it was by the King's Letters of Four Forms, cannot fairly be attributed to the private ambition of Earl John or his allies. On the other hand, it is equally improbable that Sinclair, the brother-in-law of the Queen Dowager of Scotland, would have risked his Court interest by heading an open rebellion against the King, or that the spirited and sagacious James V. would have pardoned wilful and violent rebels, or rewarded their leader with legitimation, lands and knighthood. The subject is beset with difficulties, but the most probable conclusion is, that the Orkneyans were deemed excusable in resisting to death a combination of circumstances so formidable to their independence, as the King's reported purpose of giving a Feudal Lord to Odal Orkney, followed by the alliance of the Donatrix with Earl John, the zealous feudalizer of his own Earldom. James having asserted his dignity by renewing Lady Sinclair's rights and by signing the dreaded but ineffective Few Charter to his illegitimate brother, James Earl of Moray (1530-1), gave but one more feudal Grant, and that was to Sir James Sinclair (1535). This Grant containing every feudal right, and the first infraction of Odal succession by a clause of single primogeniture, was perhaps the purchase of the independence of the Odal leader — begged and accepted with a selfish inconsistency,

mournfully explained by his madness and suicide within a year. But the King's sagacity had found the pear not ripe — Odalism was sick, but not dead — the project was deferred, and no open attempt was renewed to feudalize the Islands for another generation.

The visit of James V. (August 1540), was the only presence of a King in Orkney since Hacon IV. came there to die (1263); for the dying Maid of Norway was brought to its shores (1290), only to find a hasty but more permanent rest in its Cathedral. Bishop Maxwell entertained the Royal Guest, not in the ancient Palace which had sheltered the death-bed of his Northman ancestor, but in the more modern Episcopal residence within the City of Kirkwall, to which he had lately renewed its Burghal Charter (8th February 1536), and where he is said to have held a Thing in the very ancient tenement still dignified as the Parliament Close. He was not hindered by the courtesies of the Bishop from seeing and correcting his negligence or avarice, in leaving so many kirks and benefices vacant, to the obvious increase of his own emoluments; and though there was now no Sir James Sinclair to instruct or mislead him as to the wants or wishes of Orkney, the shrewd King of the Commons saw and heard for himself the value of the Islands—the danger of leaving them to irresponsible and subaltern oppression—the undue profits of the Donataries and the loss to his Crown and Revenue. At a time when the gross Rental of his metropolitan County of Fife was only

£1348, 10s., a province yielding to the Donatary a Rental of £1382, 10s.—to the Bishop £1251, 2s. 6d., and probably not less to the Odal Proprietors—was a jewel of his Crown not to be lightly given or thrown away. All Grants or Tacks of the Revenues and jurisdictions of Orkney and Zetland were forthwith revoked, and the Islands reannexed to the Crown *jure coronæ*, to be henceforth inalienable except by Act of Parliament (10th December 1540)—an exception and safeguard of Orkneyan liberties, as specious as the former restriction to the legitimate Blood-Royal, and as little regarded. Lady Sinclair's powers were thus rescinded, and in spite of her protest (10th September 1541), were committed at a fairer Tack Duty of £2000 to the unfortunate Oliver Sinclair, as one who could be trusted both by the King and the Islanders (20th April 1541). James probably designed to carry out this policy of annexation by such temporary Commissions to Lieutenants and Collectors responsible to himself. There were many Odal grievances which he could not know, and much hard injustice which he could not cure; but the public administration of Orkney would probably have been much amended, had he lived to give effect to his judicious plans of reform.

It has been shrewdly said, that Scotland possessed “the wisest laws in Christendom, and the worst administered;” for the best intentions or the sagest acts of King and Parliament might be frustrated by some flaw of policy, expediency, or Court favour. Under

the weak regency of Arran, some claim to the Islands was urged by the Queen Dowager, who appointed as her Lieutenant-Governor, first a Frenchman named Bonot, and afterwards the Scottish Earl of Huntly. The struggle of the Queen, Regent, and Cardinal Beaton, for the power to misrule Scotland, was mimicked on a narrower field by the contests and law-suits between Bonot, Huntly and Sinclair, for the possession of Orkney, and with similar results. Government was in abeyance or abandoned to the local authorities, if the term can be applied where nothing reigned except disorder. Respites and pardons for murder and violence are for nearly twenty years almost the sole records of the Islands. Even the regular collection of the inevitable Rents and revenues of the Crown was so completely interrupted, that the appointment of Mr. William Mudy as the Queen's Chamberlain (10th December 1561) was met as a usurpation, which nearly cost his life at the hands of a mob of Churchmen and others, who had been fattening on the arrears and disorder accumulated on the land for a fearful reckoning under the harsh rule and evil days which were approaching.

The learned Bishop, Robert Reid, though he founded a school in his Cathedral city, and made other attempts to tame his wild Diocese, was driven to seek safer and easier duties elsewhere as a diplomatist and a senator of the College of Justice. Adam Bothwell, his successor as Bishop and as Judge, is only known

to have once visited his See, from a Feu Charter of Westray and Noltland Castle to his brother-in-law, Gilbert Balfour (30th June 1560), remarkable as the first feudal Grant since that to Sir James Sinclair, and the first of a series of Feus of Kirklands, all containing the same insidious infraction of the equal subdivision of Odal inheritance, in favour of a single eldest heir-male.

The wise policy of James V. to respect the native laws and liberties of Orkney had been swept away by time; and the conflicting influences and interests of the Reformation had surrounded his daughter with Counsellors who thought only of turning to most profit the difficulties of their Queen and country. Moray, as chief of the Reforming party, had secured the lion's share of the spoils of the Crown and Church for himself and his brother-in-law Argyle, and their influence obtained for his bastard brother, Lord Robert Stewart, a Feu Charter of the Islands of Orkney and Zetland (26th May 1565), a gift exactly suited to his character and capacity, as a sphere of safe and indefinite speculation, unexposed to political dangers. This memorable grant was the first express sanction of Tulloch's policy of identifying the *libere tenentes*, as the Odallers were styled, with the serf-like Rentaller of the Scottish Crown, and was essentially as illegal as unjust — illegal, because neither sanctioned by Parliament nor bestowed on a lawful Prince, and unjust, because it disposed not only of the ancient Earldom, Skatts, and

actual property of the Crown, but of the Feudal Superiority, Lands, and Services of the Odallers, which could be neither conveyed by Norway, acquired by Scotland, nor bestowed upon a subject.

But their fate was still suspended for a little by accident or the fluctuations of Court interest. The rise of Darnley was the fall of Moray, and the cupidity of some new courtier searched out the inherent flaw in Lord Robert's title. His Government and Sheriffship were conferred upon Gilbert Balfour of Westray, now Master of the Queen's Household (3rd January 1565-6), but subject to the native laws which were again solemnly recognized by Parliament (6th December 1567), and Lord Robert was partially consoled for his loss of Orkney by a grant of the rich temporalities of the Abbey of Holyrood (16th April 1567).

In the same eventful year (12th May 1567) Queen Mary sought to grace her last fatal nuptials, solemnized by Bishop Adam, with a wedding gift to James Earl of Bothwell, of the Islands and Dukedom of Orkney—a short-lived dignity of a month, forgotten in the immortal infamy of his older title. On his flight from Carberry, he plunged like an angry meteor from another sphere across his Northern Dukedom, leaving there, as elsewhere, no traces but of evil. Baffled in Orkney by the opposition of Balfour, his semi-piratical exactions in Zetland afforded the precedent for the future annual burden of Ox-money, and he continued his flight to Norway, chased like a hunted wolf by Bishop

Adam, who, in the new-born zeal of his pursuit of his fallen friend, was wrecked upon the rock still named from his ship *The Unicorn* — the monument of his first and last visit to his Northern Diocese — but the two Bothwells, Earl and Bishop, have involved local history in a strange Comedy of Errors.

In the meantime, Lord Robert's feu of Orkney (though not expressly revoked) was presumed to have fallen by its own inherent nullity, and he would probably never have resumed the attempt to make it effectual, but for an opportunity of making it doubly profitable. Bishop Adam was a Lord of Session, and had left the spiritual duties of his See to the superintendent, Mr. James Annan, while he contented himself with receiving its temporalities. By a mutually convenient exchange of these temporalities for those of the Abbey of Holyrood (30th September 1568), the Feu of the Earldom of Orkney became also Commendator of the Bishopric, with the combined powers of both, strengthened by the countenance of his brother the Regent. To "stress the Odallers" was henceforth the unchanging object of Lord Robert, by aggravating their burdens in Weights and Measures of his own standard, increasing their liabilities to Crown and Kirk in a Coinage of his own valuation, multiplying the civil and criminal grounds of escheit and fine by Enactments of his own, and finally, litigating the very title of the impoverished Odal before Courts and Judges of his own appointment.

As Feuar of the Earldom, and Commendator of the Bishopric, he exercised all the powers of an arbitrary landlord, by raising the rents to the limits of the tenants' endurance, with aggravations and breaches of the triennial contract, feelingly detailed in the Complayntis. He oppressed Churchmen and others into a compulsory surrender of their lands and rights — suppressed the burghal liberties of Kirkwall and burned its archives — aggravated the evils of Odal subdivision, by extending the Sister's part to a share even of the Head-Bu — abolished the little Odal mills still traceable on every burn or VATN, and astricted all to his own mills, with new Scottish burdens. Claiming the whole Commonities, fisheries and sea-beach, he punished all use of them by native or Stranger as a trespass — laid heavy Tolls and Customs on the numerous fleet of Dutch fishermen and the Norwegian traders whose traffic to and from the Islands interfered with his own monopoly, and found other illicit profits in the sale of remissions for crimes, permissions for single combat, and Licenses for exclusive traffic — in secret encouragement and partnership with pirates, and in prohibiting assistance to wrecks as an infringement of his pretended droits of Admiralty. But a richer, if not a wider field for his cupidity, was offered in the iniquitous grant of superiority over the *libere tenentes*, and the power of subjecting the Odallers to all the lucrative claims and casualties of feudal tenure. Every exaction of former Rentals was enforced, every parish tax became a

household or poll tax on each parishioner, every occasional or special payment (such as Bothwell's forced contributions of sheep and oxen) was made an annual burden, every service ever claimed from a tenant, and many new forms of Scottish serfage, were laid upon the Odaller without appeal — for by the forfeiture of Balfour the Sheriff, and gift of his escheit, Lord Robert was again Sheriff and Foud, with power to call and pack the Lawthings with creatures of his own, and to use or pervert the Law-book according to his will or interest. By such pretended decrees, many Odallers were, like Rendall of Gairsey, evicted without a chance of justice; some were escheited for murder, theft, witchcraft, suicide, or “moving of a march-stane,” others by the slower process of burdens or debts accumulated till the arrear warranted Comprising by him as creditor, or Escheit as Superior — new enactments, new offences, new courts and new fines, enriched the Sheriff and pillaged the Suitors. Not content with multiplying the forms of exaction, with retrospective enforcement of half a century of arrears, and compulsory second payment to himself of sums already accounted for to the Royal Comptroller, he aggravated every burden by adding a fourth to each standard of measure and weight, replaced the inconvenient vigilance of the Lawrightmen by Weighers of his own choice, and cried up or down the tariff and the coinage according to his interest as buyer or as seller. To guard against appeal or complaint, he enacted the penalty of death or

escheit for crossing Firth or ferry without his passport ; and against any outbreak of native despair, he was provided with a body of outlaws and broken men, living at free quarters upon the plundered natives, and knowing no law except the will of their present paymaster. Sea and land, Tack and teind, Court and gibbet, Mint and Tron, Firth and Ferry, all were in the hands of the Donatary. To such a power, supported by the public warrant of the Royal Charter and the secret evidence of the Rentall, the Odaller had nothing to oppose except the moral weight of ancient tradition, and a physical force which had lost more by its divided poverty than it had gained by increased numbers—and now the very Law-book and Thing of his Odal fathers were made to doom away his liberties and his lands, in a strange tongue, at the bidding of the Donatary.

For some years Lord Robert superintended the fleecing of the Islands from the ancient Episcopal Palace of Kirkwall or from his lodge at Dynrostness ; but as a local habitation for his full-grown greatness, he created at Birsa, the seat of the old Orkneyan Jarls, a large baronial domain by special extirpation of the Odallers, and there, by the forced labours of the natives, “ without meat, drink or wages,” he built a palace after the manner of Falkland, and inscribed it :

“ **DOMINUS ROBERTUS STEWARTUS FILIUS
JACOBI QUARTI REX SCOTORUM HOC OPUS
FACERUNT.**”

His vanity was mimicked at a humble distance by his brother and villanous instrument, Cultmalindy, in his Zetland Castle of Muness, with a doggrel motto of equal self-complacency —

“ List ye to knaw this building wha began —
Laurence the Bruce he was that worthy man,
Quha earnestlie his ayres and afspring prayis
To help and not to hurt this wark alwayis.”

The ambition which is the infirmity of the noble, sometimes gives boldness to the weak. To exchange the dependent and precarious Possession of the Islands for Sovereignty, and restore in his own family the ancient Jarldom, protected but not controlled by a nominal dependence on a weak and distant Suzerain, was a prospect which might almost have tempted a wiser, and excused a better man; and in 1572, Lord Robert had made some progress in treason. The chances of success warranted the risk. He was in possession of the field — besides a considerable force of soldiers, he was sure of the support of a crowd of followers and adventurers, dependent for their all on his favour and success, and might even win the Islanders themselves to a war with Scotland, by a pledge to restore those native laws and liberties, to the abrogation of which they traced every grievance. On the other hand, the Scottish King was an infant of five years old; the Government precarious; the nation weakened and distracted by civil feuds; the only power that could be sent against him, some one of the northern nobles, all

of dubious loyalty; and only one generation had passed since Orkney had defied and defeated the whole available force of Scotland. Denmark was as willing to countenance as Scotland was weak to oppose his designs; and Lord Robert had every reason to hope that the revolution would be effected by pens and treaties, not by swords and battles, if his secret could be kept within his circle of stormy seas, prohibited firths and guarded ferries.

But after all his precautions, one postern of his jealous fortress was open, unguarded, and not commanded by himself. The larger Feudatories of the Kirklands, Balfour of Munquhany, Bellenden and Mudy, owed him no allegiance, and resented restrictions and encroachments from which they suffered as well as the Odallers. It was probably by their influence that the Articles of Indictment against the public enemy were enabled to reach the ear of Morton the Regent. Heavy as was this catalogue of oppressions, and those detailed in the Complaints of Sinclair of Aith and other Zetlanders, they would probably have failed to rouse the attention of the Scottish Government, had not Lord Robert's dangerous and treasonable practices with Denmark awakened the Regent's cupidity by the hopes of a profitable composition, or still more lucrative confiscation of his grant and plunder. But the criminal was now summoned to answer for his crimes, and warded in the Castle of Edinburgh, while by Royal proclamation (31st January 1575-6), the ferries and Firth were

freed from his illegal restrictions; and during that year, a flood of complaints and evidence from natives and Strangers poured in against him. A Commission was issued (9th November 1576) to Mudy, the former Chamberlain of Orkney, and Henderson one of the King's Pursuivants, to examine witnesses on the spot as to his oppressions; and having finished this portion of their examination during the month of February 1576-7, they were further commissioned (24th April 1577) to inquire into the charges of high treason, and it was only under a heavy Bailbond of £10,000 by Lord Lyndsay, that Lord Robert was (5th August) removed from the Castle of Edinburgh to a less strait prison in Linlithgow Palace. It is easier to guess than to trace the secret influences by which he escaped from such overwhelming evidence of treason and crime. Morton, his enemy, was tottering to his fall—his friends Argyle and Lyndsay, were rising into power and favour. On 30th January 1578-9, he was allowed to revisit Orkney to prepare his defence, under heavy bail to return for trial on 30th September, but no trial ensued; he probably compounded for his head with his estate—his bailbond was cancelled by a Royal Warrant, and the whole parade of Commissions and probations ended in a temporary suspension of his powers in Orkney, without restitution or redress to the aggrieved Odallers, who were again abandoned to the ordinary misrule of the local collectors.

In the meantime, the Crown had given every

encouragement to Scottish settlers in Orkney by large and liberal feus of Kirklands and Earldom (without any scrupulous reservation of Odal rights which might be involved in the grants), on a Reddendo of the accumulated burdens "according to the Rentale," but often at a commutation temptingly illusory. On the disgrace of Lord Robert, it seems to have been designed to lure the Odallers, by similar terms, to accept of feudal confirmation of their rights; for such a charter was granted to William Sinclair (of the 5th March 1578-9), for the expressed purpose, "*dare inhabitantibus intra dictas patrias de Orkney et Shetland, bonam occasionem et exemplum cognoscere et accipere suas securitates de nobis in simili modo.*" But either the Odallers were jealous of such security—the Court unwilling to spoil so promising a field of plunder—or Lord Robert had already exhausted it by his exactions, suits and escheits; for few or none of the Odal lands were at this time feued according to the Rentale.

On 18th January 1581, we find Lord Robert engaged in the congenial work of safely insulting a fallen foe, and paying court to a rising favourite, by assisting to convey the ex-Regent to his prison at Dumbarton—and on 28th October 1581 he had his reward in a new confirmation of his former grant of Orkney and Zetland erected into an Earldom, with all those additional powers of Justiciary, Admiralty, &c., which he had been formerly charged with usurping

without a warrant, and (9th June 1585) another confirmation of the transaction with Bishop Adam. Armed with these despotic powers, he returned to Orkney to practise the lesson of his late escape, by finding some safer mode of possessing himself of the Odal lands than the casualties and escheits of a feudal Superior. In the quaint language of Bishop Graham, "Erle Robert obteynit a feu of Orkney and Shetland, and yairupone intendit to stres the Udillaris and augment a rental on these thair landis. He ceasit fra it and found out ane uthir way to doe his turne. He was abbot of Halyroodhouse, and Adame Bothwell then Bischope of Orknay. They made ane excambione, and Erle Robert in these dayis was Bischope *in omnibus*, and set his Rentale of teyndis upon these Vdillandis above the availe, yea triple above the availe." As Justiciar he had instituted courts of Perambulation to examine all titles in the Islands, and reduce all which seemed feudally defective, including many Odal lands and undocumented accessories, such as Quoys, Commons, &c., the use of which he punished as encroachment on the rights of Crown or Mitre, united in himself. As Bishop *in commendam*, he was titular of all teyndis, untrammelled by any fixed standard of collection, commutation or proportion, and thus he menaced the harassed Odallers on all sides, till they gave up the contest in despair. He set or feued the vacant lands to his own dependents—but cultivation ceased, and the lessened produce warned him that it was not his interest to

pauperize or depopulate the Islands, and he retraced his steps. Perhaps the change was but the completion of his scheme for driving the Odallers into feudalism, and giving the sanction of a new bargain to his multiplied and aggravated exactions. The Perambulations being no longer useful, were abolished as illegal, and he made a merit of renouncing the lands and pertinents of every Odaller who should accept, in confirmation of his right, a feudal grant, paying therefor all the accumulated burdens of Skatt, teind, &c., according to the Rentale. So effectually had Earl Robert *stressed* them, that most of them accepted such feudal investitures, and the few who adhered to their Odal tenure, had henceforth neither rights to defend, strength to resist, nor wealth to tempt cupidity.

But the very profits of such rapacity at once prompted and justified the resumption of a Grant so valuable and so abused. The Crown's revenue from the Orkneys had risen progressively within a century, from Lord Sinclair's Tack duty of £366, to Oliver Sinclair's of £2000, which also continued to be Lord Robert's Feuduty; but the Crown was too poor to give away such an appanage without a larger share of the profits, and James VI. on his majority, resolved to add to his revenue by resuming the Islands, and to his popularity by affecting to commiserate their misrule. By three Acts of Revocation, Annexation, and Dissolution (29th July 1587), he annexed the Bishopric to the Crown, resumed the Earldom, and re-granted it at a Duty of £4000 to

his Chancellor Maitland and Justice-Clerk Bellenden, whom (16th December) he commissioned to inquire into the oppressions of "Lord Robert Stewart, lait Erle of Orknay."

The result of their inquiry is not recorded, and it was probably dropped when it had served its purpose of cloaking the transfer of a lucrative grant from one courtier to another. There was probably as little sincerity of motive in the renunciation of it by the new Donataries, whose character forbids us to believe that they were sufferers from an honest system of fair dealing with the natives. Probably their two years' experiment proved, that such a complex machinery of extortion could only be kept in working order by the master hand of Lord Robert, and to him, at a diminished duty of £2075, it was again committed by a new charter (1st April 1589), renewed to him and his heir (11th March 1591-2), and ratified by Parliament, to Patrick, Master of Orkney (5th June) when Earl Robert had passed to his account — a master in the art of extortion under colour of law.

In a quarter of a century he had raised his revenue from the Crown estate from £6366, 10s. to £9016, and that of the Bishopric from £4381, 2s. 6d. to £9000, at conversions which doubled the total burden of Orkney, besides what he could extract from the scatholds, rocks, and seas of Zetland, and a large income from customs, tolls, wrecks, fines, grassums, and other sources, which could not safely or conveniently

be entered in the rental. But this enormous increase of revenue bespoke no improvement of the wealth or resources of the Islands. Their whole legal burden at the Impignoration had been under £600, and the large balance of produce was the lawful property of the Odallers or tenants. This increase of rental, therefore, was but the stealthy transfer of this balance from the subject to the ruler, even to the point of confiscation, with a minimum of bare subsistence to the Ryot cultivator — skatts, males and duties, were aggravated in weight, measure and value, till the land could no longer produce enough to pay them, and exorbitant conversions were charged for each deficiency, till the accumulated debt gave pretext for seizure and eviction. The modern improver of the waste finds in every furrow the traces of an earlier tillage and the homes of a dense population; and contemporary rentals testify, that even while the Donatary was exulting in such universal appropriation, whole Districts, once tilled and enclosed, had been again abandoned to the rush, the heather, or the sand flood, overwhelmed by his new and intolerable burdens.

If any thing could have made more bitter the Orkneyan's sense of oppression, it must have been the baseness of the oppressor. Unlike his brother Moray, whose public aims were lofty, and whose private life was decorous, Earl Robert crawled and wriggled through desperate mazes of legal difficulty, and through political storms which swept away contemporaries more

daring or less cowardly—his highest aim to steal estates for his bastards, his boldest achievement to *stress* an Odaller. Both Earls were reputed sons of James V., but Moray's mother was the dark proud lady of Lochleven—the dam of Lord Robert, after his birth, found a fitting mate in the Guidman of Cultmalindy, and in their son, Lawrence Bruce, we find the worthy brother and accomplice of Earl Robert, and with poetical justice, the victim of his successor. The structure of his fortunes, reared by the Earl—wrong upon wrong, iniquity upon iniquity—out of the ruins of hundreds, in twenty years of cool, cautious, calculating system, was overthrown as speedily by the spendthrift folly of a son worthy of such a father, the heir of all his vices, with superadded contrasts of his own—crafty but headstrong—mean but vain—rapacious but extravagant—luxurious but cruel to ferocity—an unjust judge, an imperious ruler, and a traitorous subject—a faithless husband and a heartless parent; but relieving the darkness of his father's memory by the deeper detestation of his own.

Earl Patrick succeeded to a fair inheritance, however heavily the malison of a plundered people might lie upon his father's soul. Within the bounds of Orkney and Zetland the King was a name and not a power. As Justiciar and Admiral, Donatary of the Crown Duties, Skatts, Males, and Grassums, Tolls and Customs, Feuar of the Earldom, and Commendator of the Bishopric, the Earl was master of all by land

or sea. To an income of about £56,000 (equal to the Royal Pension which nearly provoked a war between James of Scotland and the stingy vixen of England), he added the jointure of a wealthy bride, the widow of Sir Lewis Bellenden, his father's enemy; but all was not sufficient for his expenditure. His new palace in Kirkwall, and Castle at Scalloway, were reared by the same cheap oppression as his father's residences of Birsá and Dunrossness; but the lavish maintenance of four such establishments, his life of riot, his retinue, body guard and trumpeters, and other affectations of Sovereign state—his petty suits and petty wars, with damages and loss in both, and his desperate struggles to support or redeem his credit at the Scottish Court, plunged him into debts and difficulties inextricable unless he could find another fortune where his father had found it. There was not much to glean after the sweeping harvest of Earl Robert; but if necessity could invent few new forms of exaction, it could augment the old. His favourite adviser Harry Colville, the titular Parson of Orphir, had been hunted by wild justice to a savage death on the Noup of Nesting (1596), but the obsequious ingenuity of Dishington, the Sheriff and Commissary, might suggest new bargains of convenient dubiety, or discover some flaw or overlooked advantage in bygone transactions. Higher land males and grassums were demanded from tenants and tacksmen—Teinds were arbitrarily raised, or so collected, that all were glad to compound or redeem

at his own terms—Burdens already commuted and paid under the general name of Feu-duties, were reimposed and superadded to the amount of composition—Owners of Odal lands had incurred non-entry or purpresture—the native Odaller, in unwitting ignorance of casualties whose very names were new to him—Scottish purchasers, like Lawrence Bruce and his co-Suppliants, in blind trust of the Odal immunities which he had assisted to annul. The Earl threatened both with fines or confiscation; and if we smile to find Lawrence Bruce, in the disguise of an Odaller, pleading for Odal rights, in total ignorance of Odal terms or traditions, and complaining of falsehood, meanness, and tyranny so like his own, we can neither wonder nor regret that such a representation did not avert the fate which he deprecated. By a stringent exercise of his powers under the new ratification by Parliament (5th June 1592), the Earl brought into his mercy the Odallers, real and pretended; but fearing the consequences to himself of excessive depopulation, he consented to suspend the dreaded casualties, and renew the tenures by a mutual recognition as Superior and Vassal. *The Uthell Buik of Orkney* (16th March 1601–2) records every Odal land as “feuit to the Udallers paying their Scatts and Dewties according to the Rentale, with dew service usit and wount”—and how profitable these new bargains were to the Earl’s revenue, is shown by the important “Rentale pro Rege et Episcopo,” compiled about this time by Dishington.

By the subserviency of the Sheriff and his subordinate staff of Things (no longer composed of Odallers, but of Servants and Tenants), and by the abuse or perversion of the Law Book, the Justiciar had no difficulty in multiplying enactments, penalties and convictions for the most trivial causes or impossible crimes. If evidence was insufficient, and bodily torture had failed, confession was extorted by the agonies of the victim's dearest objects of affection, and the judicial murder was consummated by gibbet, fire or water, on Thieves holm, or before the window of the Earl's hall. Confiscation for his benefit was the object and consequence of every such conviction, and the Law Book when it had served, and could no longer serve his purpose, disappeared for ever. His droits and jurisdiction as Admiral were made equally profitable by means equally nefarious. As Patron he appropriated all vacant benefices, or sold them to his dependents, and as Lord Paramount, he claimed the sole disposal of the commons, harbours, ferries and fisheries, even in the ocean, and every other right not feudally secured.

But by his assumption of a more than kingly prerogative of arbitrary and general Taxation, to the extent of 20,000 marks in 1594, and £40,000 in 1595-6, and by the addition of a third to every Standard of weight and measure, and consequently to every Teind and Duty, he touched the interests, and roused the active opposition of a class less patient and more

powerful than the Odaller, whom he had learned to coerce or crush at pleasure—the larger Feuars of the Kirk lands, the old opponents of his father. Confident in their Island strongholds and in their Crown Charters, titulars of their own Teinds, with independent jurisdictions and other rights as well defined as his own, and less precarious, they opposed his usurpations, defied his power, retorted his injuries, and even protected his victims. One after another he had long waged against them a desultory war of law and violence. For the siege and capture of Noltland Castle, and imprisonment of the Laird of Monquhannie (1592), the Court of Session had punished him with escheit and heavy damages; and in defiance of his edicts against suing in any Court beyond the bounds of Orkney and Zetland, Mudy of Breckness, Bellenden of Evie, the Goodman of Eday, and even his own brothers, had carried to the Supreme Court similar complaints with similar results; and the Earl could only vent his rage upon the servants who had convoyed their masters beyond reach of his jurisdiction.

He had, however, influence to obtain another renewal of his grant (1st March 1601), with powers and rights even more extensive, and in spite of unanswerable evidence, Court favour had quashed at least one alarming Bill of Indictment against him (1606). But even the unjust Judges of Scotland were at last wearied by the continual coming of Complainers of every kind, nation and degree, and at this crisis of his fate, he

provoked another powerful enemy to join in the combined attack which ended in his ruin.

Earl Patrick had enjoyed the temporalities of the Bishopric for many years undisturbed, but the appointment of James Law to the long vacant See (28th February 1605-6), alarmed him for his possession, and he hastened to secure it by new contracts with the Bishop, sanctioned by the King as a temporary arrangement till he should redeem the Bishopric by a rental of £3000 in England (17th November 1606). The Earl had never shown much regard to an obligation, and now overwhelmed with debts, and pressed by Creditors, he was unable, if willing, to fulfil his contract. By unpunctuality, evasion, and insolent refusals, he drove the Bishop to throw his great talents and commanding influence into the common cause of his many enemies, and Law's rank and character necessarily placed him at their head. Even the Anglo-Scottish Court of James VI. could not resist the Bishop's just claims, well supported charges, and representations of treason, misrule and inhuman oppression, and on 27th December 1608, Earl Patrick was summoned to Edinburgh, to compare on 2nd March "to answer to the Complaintis of the puir distressed people of Orkney." It is possible that Bishop Law was sincere in his sympathy for the Earl's victims; but his Rental of 1614 is as grasping as the worst of its predecessors, and his own day of unlimited power was marked by no redress or relaxation of the bonds of iniquity.

Earl Patrick's subsequent fate, his long imprisonment, his base repudiation of the son who had risked and lost life and all to serve and save him, and his trials and execution for treason as a subject, not for tyranny as a ruler, have been too amply illustrated elsewhere to need notice here. The consequent forfeiture of the Earldom and annexation of all the lands and rights in the Islands—the excambion and redistribution of Orkney and Zetland into Earldom, Bishopric and Lordship, and the final abrogation of the native laws—might give interest to this Sketch, but would extend beyond its limits of time or subject. The demands of Denmark, and evasions of Scotland, relative to the redemption and restitution of the Islands, would also be a curious and cognate inquiry, which, with many others of this unexhausted theme, must be left for a future time and another hand. Each subsequent century has had its characteristic type of oppressors, wrongs and victims, feudal, fiscal or judicial. By no course of action, resistance or submission, could the Islanders escape from legalized extortion. They gave Montrose 2000 men and £40,000, and the Commonwealth exacted 300 Horse and £60,000 (1650). Again, they raised another Regiment and Contribution for Charles II. (1651); and he rewarded their loyalty and their sufferings by a further exaction of £182,000, in 1662, and then surrendered the Islands to the tender mercies of the Earl of Morton, the worst King Stork of all the Donataries.

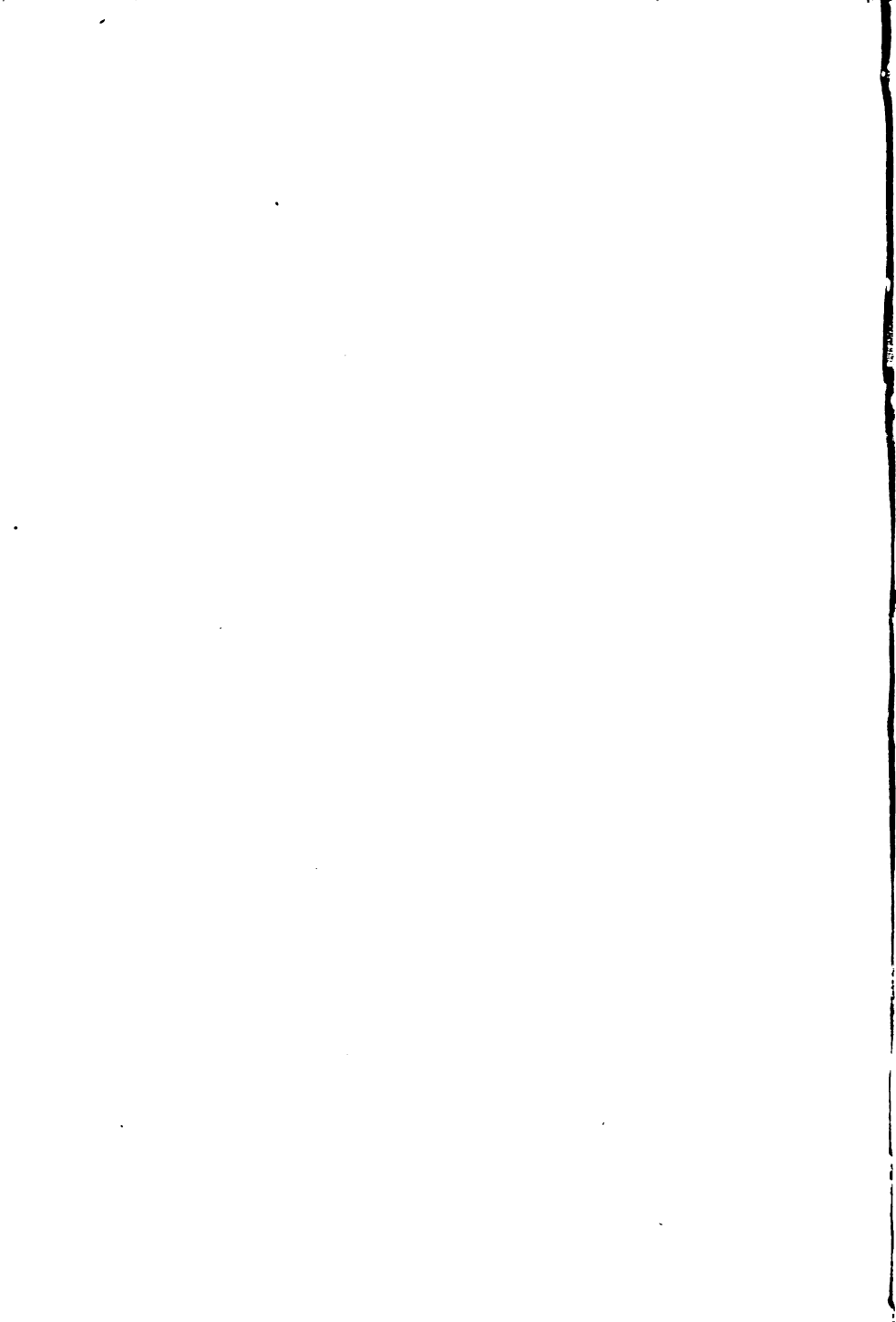
Could Britain prove the abandonment of one exaction, the redress of one oppression, the restitution of one item of official plunder, she might treat the complaints of Orkney and Zetland as bygone and antiquated grievances. But she still enforces every exaction of Tulloch or the Stewarts by a Standard even higher and heavier than theirs—still imposes the double burden of British Cess and Norwegian Skatt with aggravations unknown in Norway—still extorts the last farthing of her claims, just or unjust, and pays her debts by a bankrupt's composition, compelling a discharge in full—and still appropriates the usurped Church property of Orkney to secular and English uses, transferring its burdens to the other Heritors, and claiming for its last relics the inapplicable immunities of English Crown prerogative, first applied by the democratic Government of Cromwell. The Islands are still robbed of their native Laws, Things, and Jurisdictions, and subjected to foreign codes and courts—while Zetland has of late been mocked with a fractional voice in the British Parliament at the expense of the already nominal representation of Orkney. While Britain parades her maternal care and lavish liberality even to her distant dependencies, Orkney has been neglected by every public officer except the Tax-gatherer. Unaided by one penny of that public money which has enriched other Counties more fortunate or more favoured, Orkney has been left to struggle alone against its many difficulties, fiscal and physical. Twice has its

right to the income of its own State Property been officially recognized; once by a Lease from George III., in trust for its public improvements (27th July 1775), and again by a Treasury Warrant for the same purpose, from George IV. (3rd March 1825) — but the first was diverted to the sole use of the Lessee; and the second was evaded by a shuffle of Government Offices, and repudiated on the lawyerly quibble that the British Commissioners of Woods and Forests are not bound by the obligations of the Scottish Exchequer. Instead of due protection in return for the taxation and duty of subjects, a County which contributed 5000 seamen to the British Navy, was denied one Gunboat to guard its own shores and harbours from the repeated insolence of privateers.

Conscious that Orkney was but a pawn which might some day be redeemed by the rightful owner, Scotland, like a temporary tenant, scourged the precarious holding with unfair cropping and stinted outlay; and Britain, her assignee, discovering its capacity to produce and to endure, has followed the same profitable precedent of chronic hard usage. Unthrifty greed has loaded the Land with unjust burdens and undue taxation, has impoverished the Owners with unexpected claims and vexatious lawsuits, has often forced back the cultivated acres into wilderness and driven the cultivator to strive in freer lands for leave to live. But no misrule has yet exhausted the fertility of the soil, or crushed the energy, or worn out the patience of a

people still struggling against an evil destiny, but still amenable as ever even to the semblance of lawful authority. Even though Scotland may have reduced Orkney to "the skeleton of a departed country," Britain has still found profit in gnawing the bones.

APPENDIX.



APPENDIX.—No. I.

CHARGES laid before KING ERIC (THE POMERANIAN)
by the COMMONS OF ORKNEY against DAVID
MEYNER (MENZIES) OF WEEM, PRÆSES OF
THE ISLANDS. MCDXXV. Extracted and Cor-
rected from the ORCADES *seu* RERUM ORCADENSIVM
HISTORIÆ, *Auctore* THORMODO TORFÆO. *Havniæ*,
1697, p. 179.

I. Cum adversi frugibus anni affligerent terram, PUB-
LICO-que CONCILIO (ipsius quoque Davidis consensu) decretum
esset, ne frumentum efferretur, sed indigenis tolerabili pretio
venderetur, nihilominus ipsum Præsidentem quatuor navibus
frumentum in Scotiam avexisse, et antequam hæc constitutio
facta esset, quinque aut sex naves frugibus onustas alio
amandasse, maximo insularum damno.

II. Peregrinos præterea invexisse, qui plebi universæ,
etiam iis qui judicia administrabant, admodum graves hos-

pitiis se magnis civium damnis et molestiis violenter ingessissent.

III. PUBLICUM TERRÆ SIGILLUM, invito Supremo juris Præfecto abstulisse, contraque leges et consuetudines obsignandis quæ libuit adhibuisse; cumque vir quidam Nobilis nomine Christianus Ellingeflet (LINKLETT) expostularet, præposterè SIGNACULUM GENTIS in abusum trahi, magnam eum pecuniæ jacturam fecisse. Cum autem Comes accederet, postularetque idem ad obsignandum Testimonium, quo jus suum in Orcades a majoribus per ordinem successionis ad se delatum, monstraret et affereret, simulque ut quidam indigenarum Nobiliores secum ad Serenissimum Regem ejusque senatum transfretare permetterentur, ad statum publicum declarandum, verumque de jure suo testimonium ferendum, neque SIGNACULUM, neque comites ullos, præter Thomam Sinclerum et Archidiaconum Hialtlandiæ, duosque famulos indigenas impetrasse.

IV. Anno proximo ex quo Comes in Dania apud Serenissimum Regem moratus esset, cum prædictus David eo profecturus esset, universos eum insularum incolas convocatos, de testimonio vitæ apud eos transactæ sollicitasse, idque scriptis ad Clementissimum Regem eique traditis literis obtinuisse, ea conditione ut Viri primæ Nobilitatis viginti quatuor eum ad Regem sequerentur, quos (cives nequaquam dubitarent) si eo pervenissent, tum de commodis Regis, tum etiam administratione Davidis Regem informaturos; verum itinere a Davide prohibitos, domi remansisse, solum profectum, Sigillum Gentis secum avexisse, nemine Nobilium comitante.

V. Regiæ monetæ valorem adeo minuisse, ut uni Scotico duos regios nummos æquari juberet, idque tantisper, donec tantum non omnem regionem monetâ exhausisset. Cum autem Thomas Sinclerus novissimè e Daniâ rediisset, in eundem valorem eam restituisse quem in Norvegia obtinuit, idque publicè promulgasse, quod et hodie teneat.

VI. Nec parum incolis nocuisse mulctarum Regi Comitique debitarum (præter legum privilegiorumque aut reformationum regulas), rigidas exactiones.

VII. SUPREMI INSULARUM JUDICIS, quem *Nomophylacem* (LAWMAN) appellant, uxorem, ejusque propinquos accusasse, quod is bis comprehensus in Turrim (carcerem) conjectus fuerit, talibus ex causis. Quarum prima, quod Jon de Baddi Nomophylacis minister et propinquus, repetivisset equum suum a Michæle Magio (MENZIES?) Davidis propinquo, qui eo invito eum (aliò profecturus) abstulisset, ea de causa Nomophylacem in Plateâ Kyrkinvogensi (*The DOM PLATZ of Kirkwall, now BROAD STREET*) incedentem apprehensum Turri (BISHOP'S TOWER) inclusisse, sed postquam dimisisset peregrinos Catanesenses, in domum ejus immissos, templum offringi fecisse et quæcunque ibi continebantur evihi singula quæ in domo erant, magna parvaque corrumpi, nullo omnino excepto. Captum denuo Nomophylacem in Turrim conjecisse, tantum quod ei SIGILLUM TERRÆ ad obsignanda quæcunque volebat tradere recusasset, ibique tam diu detenuisse, donec se ei addixisset, uxorque ejus SIGILLUM et CODICEM LEGUM altari Divi Magni imposuisset. Exinde prædictum Davidem SIGILLUM et CODICEM in suam custodiam assumpsisse, aliumque

Nomophylacem constituisse, qui id officium ægrè assumpsisset.

VIII. Quo tempore Supremum Judicem Turri incluserat, alium quoque Nobilem indigenam simul in carcerem, contra Leges et sine causâ, intrusisse.

IX. Jonem Loggium (LOGY) accusasse, se quoque eidem carceri mancipatum, quod requisitum Sigillum negaret sibi, nisi ad custodiendum, commissum esse.

X. Thomam Sinclerum mandatarium Comitis expostulasse cum Davide, quod de canonibus annuis Comitis à morte patris ejus et anno qui præcessit, ad octo Libras Anglicas acceperit, præter alia, id quod Comes ad Clementissimum Regem accusare decreverit.

XI. Ipsum quoque Thomam Sinclerum suo propriæ nomine questum, quod postquam literis Regiis munitus esset, quibus eum Rex, ejus ministros, bona, navem et quæcunque ejus essent, in suam regiam protectionem receperat, nihilominus famulum suum Davidem Smid (SMITH) comprehensum, ad sanguinem usque intra suam domum verberatum, inque infima Turris detrusum, ibique compedibus injectis, in reditum suum è Scotia detentum fuisse. Se vero, cum primum in Orcades reverterit, interponentibus se bonis viris, statim domum suam cum suis rediisse, ibique ad finem diei permansisse, quo tunc Johannes Kroge (CRAIGIE) filiusque sororis ejus, cum pluribus aliis se accessisse suasisque, ut in Templum (*Kirk of St. MAGNUS*) aut aliò profugeret, ni cum suis incendio perire mallet; quò cum se recepisset, ad jura

Templi literasque tutelæ regiæ quas simul exhibuerit, nequiquam provocasse; tandem clam elapsum, Clementissimi Regis suisque amicis collectis, postulasse, ut in gratiam Regis, se ab oppressione vindicarent, legum pro se suisque præsidia sæpius inclamasse. His comitatum, ubi ad Templum rediisset suosque ministros inde exemisset, cæsum esse sororis suæ filium. Inde interponente se Nomophylace cum aliis Primariis Viris, litem istam ita compositam, ut datis ab utraque parte prædibus, causam omnem Regis aut Comitis iudicio decidendam committerent; cavisse prædibus Thomam duodecim, Davidem nullo. Cumque ille in Scotiam rediisset, Comitem decessisse; quo cognito, Davidem prædibus istis duodecim triginta sex libras Anglicas expressisse, omnemque dilationem, quoad simul iudicio Regis senatusque sisterentur, abnuisse. His ita ordinatis, eos qui Thomæ Sinclero ad Ædem Sacram protectoriis literis Regis conservandis adhæserant, octuaginta Libris Anglicis et quinquaginta solidis multasse; fuisse autem qui Davidis Thomæque verba exceperant, cum Thomas ad Legis et iudicis sententiam provocaret, nimirum Nicolaum Myrium (MUIR), Dominum Laurentium, Dominum Johannem Canonicum, Wilhelmum de Hedal (HEDDLE), Alexandrium de Suderlandia, Johannem de Krage (CRAIGIE), Wilhelmum Yrving (IRVING), Wilhelmum Flet (FLETT), Adamum de Nestegaard, Christiamum de Ellingeklat (LINKLETT) multosque alios terræ istius Bonos viros, et presbyteros et laicos.

XII. Wilhelmum quoque Bressium (BRASS), sine ullo juridico processu, nedum criminis alicujus convictum, compedibus constrinxisse, tantùm quòd ad colloquium cum Comite in Scotiam profectus esset.

XIII. Cùm plebs de Rognvaldzö (South Ronaldsey) Præsidi provinciæ suæ quereretur, de Scotorum quos Feros (WILD HIGHLANDERS) appellant, nimiâ, sibi que commissationibus aliisque molestiis, gravi frequentatione; professa se mori malle, quàm tantis identidem injuriis vexari, respondisse Davidem, “Non omnes eos uno eodemque die morituros, singulis tamen diebus quoad is iis præesset, aliquos.”

XIV. Davidem Meynerum Henricho Garoch (GARRIOCH) duas selibras Anglicas abstulisse, quod prædicto Thomæ in Regii diplomatis autoritate vindicanda adhæreret.

XV. Joni Simonis filio undecim solidos Anglicos, eodem die abstulisse.

XVI. Malcun Jonis (MALCOLM JOHNSON) etiam questum, nave se bonisque aliis, pretio ducentorum nobliorum, sine actione juris spoliasse.

XVII. Prædictum Davidem Jonem Jonis filium, comprehendi curasse, adque livorem et sanguinem contusum in Turrim conjecisse, eique unam naviculam sex scalmorum, pretio duarum Librarum Anglicarum, emunxisse, cum pluribus aliis bonis sine causâ.

XVIII. Nauclerum Thomam Brun questum, conjectum se à Davide in Turrim, quòd ad primum nuncium eum non accessisset.

XIX. Et cum David novissime ex Dania rediisset, onustam mercibus prædicti Thomæ navem arripuisse, inque

Scotiam se invito misisse, ibique similagine pretio viginti quatuor nobliorum eum spoliasset, detenuissetque maximam partem hiemis, cujus exitu cum domum navigasset navis, mercium nautarumque aliquot jacturam fecerit.

XX. Jonem Loggium quiritalum, exutum se a Davide ex prædictæ navis vectura decem cadis (tounas vocat) hordeo, octo similagine refertis, octo cupis pice uno ferro distentis, undecim mensuris ceræ quas LAPIDES appellant, viginti sex lebetibus magnis parvisque, duabus stateris, duobus molegis malluviis, centum et octo libris cannabis, sex cantharis stanneis, undecim albarum et rubrarum patinarum decadibus, quæ simul in summam viginti sex librarum Anglicarum ascenderint.

XXI. Prædictum Davidem Andræ Jonis ex eadem nave sex lebetes, pretio sex nobliorum, eripuisse.

XXII. Præfatum Davidem Nicolaum Jonis (NICOL JOHNSON) spoliari fecisse quadraginta solidis Anglicanis, in auro et argento, eo quod se Thomæ Sinclero conjunxisset, Clementis-simique Regis diplomati satisfecisset; ad leges se sed frustra provocasse.

XXIII. Patricio Thyrgelsonio duas vaccas, bovemque castratum, eadem de causa adeptum.

XXIV. Jonem Fif in Turrim coniectum, compedibus ferreis duriter constrinxisse, vigintique nobliis mulctasse, sine juris processu, tantum quod dixisset Comitem esse ad comitatum Orcadensem illo jure potiozem, essetque Comiti sanguine junctus.

XXV. Joni Blatto (FLETT ?) quinquaginta marcas Anglicas de nocte eripuisse, quod in mandatis regiis vindicandis, cum Thoma Sinclero unum fecisset; eum quoque leges iudiciumque implorasse, sed nullo successu.

XXVI. Wilhelmum Graa (GRAY) conquestum, se ab eo coactum ad transmittendam navem suam ad insulam in mari longè dissitam, Solsker (SOULIS SKERRY) dictam, sub minis exilii, cumquenavi duos fratres suos minores et octo alios indigenas imposuisset; omnes cum ea periisse; navem cum armentis mercibusque quindecim marcis Anglicis aestimantam.

XXVII. Samsonem Vilhelmi filium (WILLIAMSON) deplorasse, se Templo violenter ereptum, damnatorum in morem vinctum, protinus capitis supplicio à Davide destinatum, ni Canonici cum uxore ejus intercessissent. Expressos tamen sibi unum et quinquaginta solidos Anglicos, sine juris processu, sine iudicio, tantum quod imputaret sibi, quod ministrum suum vulnerasset; se legibus crimen diluere volentem, non admissum.

XXVIII. Paridem Lutzit (LOUTTIT) professum esse, se quoque inclusum Turri, coercitum ferreis compedibus, tribus integris diebus ac noctibus; liberationem deinde impendio decem marcarum signatarum constitisse, inobservato se nullius criminis convictum, tantum quod a Thoma Sinclero dependens, Regis mandatis velificari studerit.

XXIX. Prædictum mandatum Paridi inter recitandum, a Davide ereptum, referente, "se tales Literas in alium ser-

monem translatus, octodecim denariis Anglicis in Dania emere posse ;” retinuisse deinde, et in eum diem quo hæc querela instituta est, retinere.

XXX. Thomæ Bimsoni (BEENSON) unam et viginti marcas Anglicas, inauditâ causâ, eripuisse.

XXXI. Inaudita quoque causâ, sine iudicio, contra leges Magno de Jennelandia (MAINLAND?) duodecim cados hordeo plenos, viginti quatuor solidorum Anglicorum pretio eripuisse.

XXXII. Wilhelmum Geredsonium (GARSON) ejusque equos in Turrim conjecisse, sine legitimo processu, tantum quod Thomæ Regiique mandati partes susceperit, tredecim marcis Anglicis liberationem emercari coactum.

XXXIII. Eadem de causa Sanderum Brunum (SAUNDERS BROWN) de nocte viginti septem marcis Anglicis spoliasset.

XXXIV. Et prædicti Sanderi ministrum undecim marcis Anglicis, ejusdem intentati criminis prætextu.

XXXV. Dominum Nicolaum Myrium (MUIR) et Dominum Laurentium, Canonicos, questos esse, quod sigillum capituli arcæ quæ in penetrali Templi stetit, exemisset, præterque semestre detinisset ; quid scribi illoque obsignari fecerit non sibi constitisse.

Multo plura esse quæ ad Clementissimum Dominum suum Regem de gestis Davidis Meyueri, illatisque ab eo populo Orcadensi damnis, scribi possent, necessariaque essent ; sed

molem ejus criminum, longamque seriem, in præsens se exponere nequisse; tantum in horum capitum firmiter testimonium, majoremque securitatem, Terræ suæ Populique Sigillo has literas obsignatas, etiam sigillis Reverendi pro-bique viri Wilhelmi Thurgilssonii Regionis nomophylacis, Kolbeini Flæt (FLETT) Jonis Magni filii (MANSON) et Wilhelmi Urving (IRVING) confirmatas.

APPENDIX.

THE TAXATION, RENTALS, WEIGHTS AND MEASURES, OF ORKNEY AND ZETLAND.

THE earliest Survey and Valuation of Orkney (1263) was the counterpart—perhaps the pattern—of the AULD EXTENT of Scotland made by Alexander III. somewhat later and subsequently to his intimate relations with Norway. It was to the Islanders an event of such importance, that history and tradition have combined to commemorate its date, place, and circumstances with picturesque minuteness. It was on St. Martin's day 1263 that Hacon IV., in an upper chamber of Bishop Henry's palace in Kirkwall, lay down to die of a broken heart and mortified ambition. But the cares of royalty followed him even to his deathbed; his troops and seamen, the relics of the storm and battle at Largs, were starving and houseless; and in the absence of Magnus Jarl III., he issued orders to divide the whole occupied lands of Orkney and Zetland into MARKLANDS containing 8 EYRISLANDS or URISLANDS, each of which should find quarters and supplies for a HOFDING and a fixed number of men, probably in proportion to the Skatts formerly paid.

In the comparatively fertile and populous Orkneys, more minute subdivision soon became necessary ; and some Scottish Jarl divided each Norse Urisland into the Scottish denominations of 18 Pennylands, and each pennyland into 4 Farthings or Merks, or (in some districts) into 6 Uriscops or Mæliscops, and finally into 10 Yowsworths, to suit the excessive partition of Odal heritage. Though the Mark is still the vague denomination of land-measure in Zetland, as being sufficiently minute for its large tracts of comparatively valueless waste, even there it has been found convenient to estimate the unequal value of the Markland by Pennies, and to apportion its Skathald, Skatt, and Landskyld to the number of Pennies ascribed to each Mark, an alteration traditionally attributed to English valuator under a commercial Treaty between England and Norway—perhaps that of 1431. From the confusion of terms of value, weight, and size,—of Mark and Merk—of Peningr and Penny—of Urisland and Uriscop—of Marklands in Zetland of 4, 8, and 12 pennies per mark—and of Pennylands in Orkney of 3, 4, $5\frac{1}{3}$, and 8 merks to the penny—so many difficulties beset this subject, that I rejoice that I am not required to attempt their solution ; for the denominations of land-value still exist as fixed by Hacon's Survey, practically undisputed by subjects or rulers—neither the ground of oppression nor the cause of complaint.

This Survey was probably grounded partly on traditions of taxation, as early as the Norwegian Conquest, and partly upon the *Matricula Regis*, King Sverrer's Register of the Odals confiscated under penal terms of redemption (1196)—and from its results was compiled the first LIBER CENSUS, or SKATT BOOK of Orkney and Zetland, the authentic Statement of the extent of each Odal Tun then in occupation, and of its

STENT or proportion of Butter Skatt. As population increased, each TUN or subdivision thereof paid for its enlarged area of cultivation a Malt Skatt also, marking at once the advance from pasture and the increase of culture; and the old *Liber Census* was from time to time replaced as out of date, by a new and more complete record of such changes. The only specimen extant is a copy of the SKATT OF ZETLAND, compiled by one of the Sinclair Earls, without a date, but so ancient that the scribe of the fifteenth century apologises for the illegible writing and uncouth terms, as unintelligible even to himself. This Skatt Book distinguishes each Thing; describes the extent of each Tun in Marks of so many pennies per mark; and under distinct heads charges against each possession its Odal-Skatt and Leangr, or Tenant's Land-male of wadmæl, oil, or fish—or sometimes both Odal and Tenant burdens; probably because such lands, though formerly Odal, had fallen by confiscation to the King or Earl, and been set to a tacksman, subject to both the old and new exactions. But though it thus records a few *land-males* (showing the small extent of land in Zetland under tacksmen), the Skatt Book seems to have been a fair and distinct statement of National Taxation, unblemished by the studied confusion of tax and rent, of Odal and Feudal terms, which rendered its successor, the Rental, so oppressive to the Odaller. Like the Doomsday Book of another Northman race, the Skatt Book was the simple Record of the revenue and rule of taxation—its successor, the Scottish Rental, claimed to be also the substitute for a written title, the limit of every claim, the standard of every burden, the authority for every exaction; but compiled in secret, and jealously closed against public inspection, it rather favoured the claims of the ruler than

secured the rights of the subject. The first duty imposed by James III. upon his new vassals, the Earl and Bishop of Orkney, was the compilation of such a rental, including not only the land-males or rents of his own newly acquired Earldom, and of the Church lands, but also the whole Skatts and other Odal taxes of the Skatt Book, exigible from the lands of free Odallers. The "AULD PARCHMENT RENTAL," Earl William's last legacy of spite against the Bishop and the Odallers, has unfortunately been lost, but it is evident from other authorities that he revenged himself on the Churchman by pitiless exposure of his fraud and rapacity, and on the Laymen, by suggesting the close similarity and easy identity of Odal and Tenant rights and burdens. The same fate has overtaken the Rental prepared by Bishop William Tulloch, partly for the Crown's instruction, partly in self-defence against the Earl's accusations of *Skatts abstracted* and *lands gripped*, and other encroachments during the Lieutenancy of Bishop Thomas and himself. Of these conflicting Rentals, and their mutually truthful recriminations of embezzlement and oppression, much may be learned from the succeeding Rentals of Henry Lord Sinclair, of which the earliest was prepared in 1492, more than twenty years after the Impignoration, and therefore affording ample time for such Crown officers as Bishop Tulloch to alter every land right in the Islands. Accordingly, this Rental shows an aggravation of the number, nature, and amount of the Odaller's burdens, and a studied confusion of his rights with those of the Tacksmen of the Crown or Kirk. Thus, the Odal lands are charged with the ancient SKATT, but this is sometimes doubled and paid both to King and Bishop. The FÖR-KAUF is no longer the fee of the Lawman (whose salary of £12 is charged against the

Crown in the tacksman's account), but under the feudal name of *Forcop* is again exacted from the Odaller as a *triennial grassum* for the use of the once free and common pasture. The *VOTN-TEL* is entered under the corrupted name of *Wattel*; but in despair of its lost Norse meaning, the fancy of the Feudalist has explained it as a tax for holy water, or for the good offices of some saintly lady whose profitable virtues had outlived her name; while its ancient purpose of the Underfoud's fee, is again supplied by the *Balliatu*s, a new impost on the parish. Another parish burden of *Hawkhens for the King's falcons* is first mentioned in the *compota* of Bishops William and Andrew (1478-9), and first charged in this Rental, where the *Escheits of Moveables and Heritage* are entered as an ordinary item of revenue, under the suggestive name of "Chetry." The purely Scottish claims of *Wrack and Waith* (which in time ripened into the full *Droits of Admiralty* and the *Leges Forestarum*) were new and violent invasions of the Odal freedom of hunting, fishing, and sea-beach; and every occasional or temporary payment once paid became a tax for ever.

The several exactions may be classed in the order in which they are named in the Rental. 1st. Odal; 2nd. Tenant; and 3rd. District or Parochial Burdens.

The Odal payments consisted of—

- 1st. *STENT*, the *Butter Skatt* assessed by ancient valuation in proportion to the pennylands.
- 2nd. *BUTTER SKATT*, *præter the Stent*, an obviously unwarranted and. often large increase of the tax—generally as much more.
- 3rd. *MALT SKATT*.
- 4th. *SILVER SKATT*.

- 5th. **FORCOP**, already explained, but of such arbitrary and unequal exaction as fully to warrant the definition of Dufresne, "*FORCOP, Forcapium, exactio, tributum haud debitum, per vim et contra jus captum.*"
- 6th. **WATTEL**, the Fee of the Underfoud, paid or estimated in grain.

The Land-male or Rent of Tenants or Tacksmen consisted of—

- 1st. **COST**, or victual—generally paid in a commutation of two-thirds of malt, one-third of meal.
- 2nd. **FLESH**—paid in cattle or live stock, at a conventional estimate of 2 or 3 head to each Last of nominal quantity.
- 3rd. **PENNYWORTHS**—an equivalent in grain, butter, oil, or other produce of the lands, in case of deficiency of the other payments.

The parochial exactions (all of Scottish origin) are summed up with a quaint acknowledgment of omnivorous rapacity; "And all this *supra*, is *præter* the Skattmarts, Wrack, Waith, Hawkens, Chetry, Balliatus, and uthir profitis and Revenues that may happen ony maner of way."

The relative share of the Odaller and Tenant in these new parish burdens is not expressed, but both must have looked back with regret to the worst of their ancient rulers, and watched with dismay the rising tide of Scottish oppression which was slowly but inevitably sapping their rights and overwhelming their liberties.

Of the taxes, rents, and assessments of the Rental, only a very small part was payable in money, and every coinage seems to have been current, though at an exchange often and arbitrarily fluctuating.

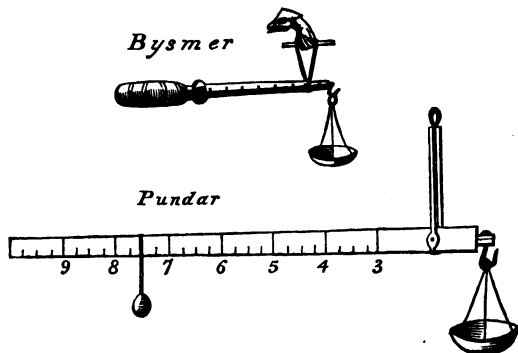
The rest of the *Debts and Duties*, as they were called, were paid in kind or produce, and measured by the PUNDAR and BYSMAR—the CAN and BARRELL—the CUTTEL and PACK—the native Standards and Instruments respectively of weight, capacity, and extent. The correctness and uniformity of these instruments was guarded with jealous care by the Thingmen, and the Wardthing of every Parish elected a LÖGRETTMAN or LAWRIGHTMAN to watch the measuring of its debts or duties by the Underfoud, and to take charge of its Standards, which were from time to time compared and corrected in presence of the Thing, by reference to a Common Standard of each kind of instrument of mensuration. Each of these common Standards was more solemnly authenticated by the Common Seal, or the signature or mark of the Lawman, by authority of the Lawthing, and severally kept by one of the Lawrightmen of four different districts, honoured by law or custom with their custody. This system of inspection, counter-checks, and separate guardianship, effectually precluded fraudulent or ignorant tampering with the Weights and Measures of the country, till virtually cancelled by the violence of the Donatary and his agents in superseding the Lawrightmen.

Of measurement by weight the instruments were—1st, The PUNDAR or PUNDLAR, identical with the Steelyard or *Statera*, and of two kinds—the *Malt Pundar* for weighing Malt and other bulky articles, and the *Bere Pundar* for Bere only, using the same weights, but each a third less than the

same denomination on the Malt Pundar ; and 2ndly, the **BYSMAR**, on which were weighed the butter and other articles requiring more minute mensuration. The following figures



will explain the form of the Pundar and Bysmar better than description, and show their liability to error and fraud, and



the consequent necessity for the jealous watch of the Law-rightman upon the weigher's crafty hand.

The first is a facsimile of the woodcut which occurs in the original edition of the *Historia de Gentibus Septentrionalibus*, of Olaus Magnus, Archbishop of Upsala, p. 468, Romæ, 1555, folio. The other is copied from *The General Grievances and Oppression of the Isles of Orkney and Shetland* (by James Mackenzie), p. 19. Edinb. 1750, 8vo.: Both cuts are figured in Dr. Hibbert's Shetland.

The weights in use were —

8 Eyrar or Ounces	= 1 Mark of half a pound.
24 Marks	= 1 Lispund, Span, Setteen, or Stone.
6 Lispunds	= 1 Meil.
24 Meils	= 1 Last.

Of measurement by capacity, the instruments were the Can or KANNA of Norway, and the Barrel or BARIEL of fifteen Lispunds.

48 Cans of Oil or 15 Lispunds of Butter	= 1 Barrel.
12 Barrels, 180 Lispunds, or 576 Cans	= 1 Last.

Of measurement by extent the only instrument was the CUTTEL or ALIN, a wooden rod of the length of the Scottish Ell. The Cuttel of Wadmæl became in Zetland the general measure of value, standard of barter, and substitute for a current coinage; 6 Cuttels being equivalent to an EYRIR or ounce of land taxation, and 6 score or a large hundred of Cuttels being the standard price of an ox or six sheep.

6 Cuttels	= 1 Gudling or Gullioun.
10 Gulliouns	= 1 Pack.

The standards of weight and measure were unchanged

till Earl Robert, by raising the weight of the fundamental Mark from 8 to 10 ounces, added in the same proportion of one-fifth to every other denomination—and by increasing the Gudling from 6 to 8 Cuttels, he added one-fourth to every Pack of Zetland Wadmæl. Earl Patrick increased the Mark to 12 ounces, thus adding one-third to every Lispund, Meil, and Last; and subsequent Donataries improved the profitable example by aggravating the Mark to 20 ounces, and thus boldly achieving an increase of 250 per cent. upon every denomination of weight or measure. The only apparent exception was the Barrel, which, being a vehicle of foreign export, could not be enlarged, and consequently could only contain 10 of these aggravated Lispunds instead of 15 of the normal size; but the balance was charged in *loose Lispunds* of similar overweight.

There is no authentic statement of the revenues of James III. as Sovereign and as Earl of Orkney, but assuming and deducting a rise during the Episcopal Tacks proportioned to that which appears between the first and second Rentals of Lord Sinclair, the Skatts and Land-males of the Crown may be approximately stated at between £500 and £600.

Their progressive increase during the sixteenth century may be more minutely estimated by a comparison of Lord Sinclair's Rentals (1492-1502) with that of Earl Patrick (1600-1), and an unerring tariff of current prices is found in the Rentals themselves, or in the contemporary Rolls of the Scottish Exchequer. The last Rental of Lord Sinclair stands thus—

1502.	<i>Scat Butter</i> —1312 Lispunds	}	£82	0	0
	at 1s. 3d. per Lispund				
	<i>Scat Malt</i> —60 Lasts at £3,				
	6s. 8d.		200	0	0
	<i>Forcop</i> (the exact amount of the				
	Lawman's fee, £12)		12	0	0
	<i>Wattel</i> —12 Lasts		40	0	0
			<hr/>		
	Total Odal Payments		£334	0	0
	<i>Butter</i> , 24 Barrels (360 Lis-				
	punds)		£22	10	0
	<i>Cost</i> (or Grain Rent), 88 Lasts		293	6	8
	<i>Flesh</i> , 59 Lasts (118 oxen at				
	13s. 4d. per head)		78	13	4
	— 32 salted Marts at the				
	same price		21	6	8
	<i>Hawkhens</i> , 440 at 4d. each .		7	6	8
			<hr/>		
	Total Land males of Earldom . .		423	3	4
			<hr/>		
	Total Crown's Scats and Males . .		£757	3	4
			<hr/> <hr/>		

These revenues, with the unrentalled profits of Wrack, Waith, Chetry, Balliatus, &c., were farmed by Tulloch and other tacksmen, at a rent or Tack duty varying from £366 to £466, till James V. (1540) ascertained by personal investigation, that under the most liberal tack, a duty of £2000 was not too high for the increased value of official perquisites, and the higher prices of conversion, which had raised the Crown's Rental as follows—

1540.	<i>Butter</i> at £3 per Barrel . . .	£262	10	0
	<i>Malt</i> at £5 per Last . . .	300	0	0
	<i>Wattel</i> at £5 per Last . . .	60	0	0
	<i>Forcop</i> as before . . .	12	0	0
		<hr/>		
	Total Odal payments . . .	£634	10	0
	<i>Butter</i>	£72	0	0
	<i>Cost</i>	440	0	0
	<i>Flesh</i> (150 cattle at £1, 10s. per head)	225	0	0
	<i>Hawkhens</i> at 6d.	11	0	0
		<hr/>		
	Total Land males	748	0	0
		<hr/>		
	Total Crown Rental	£1382	10	0
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The same Tack duty of £2000 was paid by Lord Robert Stewart as a Feu-duty; and in 1568, the first year of his actual exercise of power, the higher prices of conversion had raised the Crown Rental to the following value, without increase of quantity:—

1568.	<i>Butter</i> , 87½ Barrels (at £9 } per barrel)	£787	10	0
	<i>Malt</i> , 60 Lasts (at £30 per last)	1800	0	0
	<i>Wattel</i> , 12 Lasts (£360), <i>Forcop</i> (£12)	372	0	0
		<hr/>		
	Total Odal payments	£2959	10	0

	Brought forward	.	£2959	10	0
<i>Butter</i> , 24 barrels	.	.	£216	0	0
<i>Cost</i> , 88 Lasts	.	.	2640	0	0
<i>Flesh</i> , 59 Lasts (at £7, 4s.)			424	16	0
— <i>Marts</i> , 32 (at £3, 12s.)			115	4	0
<i>Hawkhens</i> , 440 (at 6d.)	.		11	0	0
			<hr/>		
	Total Land males of Earldom	.	3407	0	0
			<hr/>		
	Total first Rental of Earl Robert		£6366	10	0
			<hr/> <hr/>		

On his disgrace (1587) and the new grant to Chancellor Maitland and Bellenden on an increased duty of £4000, the Rental, as stated in their Charter, was found to have been raised to the following quantity and value, without distinction of Skatt or Land male.

1587.	<i>Butter</i> , 1458 Lispunds (at 12s.)	.	.	£874	16	0
	<i>Grain</i> , 189 Lasts (at £30)	.	.	5670	0	0
	<i>Flesh</i> , 91 Lasts (at £7, 4s.)	.	.	605	6	0
	<i>Money</i> , in lieu of Forcop and Skatt Silver			109	0	0
				<hr/>		
	Total (acknowledged) Rental of the Crown		£7259	2	0	
			<hr/> <hr/>			

But this numerical statement of quantities no longer expressed the actual burdens of Orkney. Earl Robert's increase of the weights and measures had added a fifth to every nominal Mark, Lispund, Meil, or Last in the Rental, and when he was reinstated (1589) (compounding at a reduced Feu-duty of £2075), the quantities and value actually paid under the nominal Rental amounted to—

1589.	<i>Butter</i> , 1822½ Lispunds (at 12s.)	.	.	£1093	10	0
	<i>Grain</i> , 236½ Lasts (at £30)	.	.	7095	0	0
	<i>Flesh</i> , 113¾ Lasts (at £7, 4s.)	.	.	818	8	0
	<i>Money</i> in lieu of Forcop and Skatt Silver			109	0	0
	Total Crown Rental in Orkney			£9015	18	0

Accordingly Earl Robert's final Rental, although the articles of payment differ in arrangement and commutation, amounts, at the former conversions, to nearly the same sum and value :

1592.	<i>Butter</i> , 87½ Barrels at £9 per Barrel	.	.	£787	10	0
	<i>Do. loose</i> , 791½ Lispunds at 12s. per Lispund	.	.	474	18	0
	<i>Grain</i> , 227 Lasts at £30 per Last	.	.	6810	0	0
	<i>Flesh</i> , 97½ Lasts at £7, 4s. per Last	.	.	702	0	0
	<i>Hawkhens and other Poultry</i> , 3242 at 6d.			81	1	0
	<i>Swine</i> , 3 at £1, 16s.	.	.	5	8	0
	<i>Peats, Rabbit-Skins, and other minor articles</i>			10	10	0
	<i>Money</i> , in lieu of Forcop and Skatt Silver			144	13	0
	Total last Rental of Earl Robert	.	.	£9016	0	0

Thus showing an increase of quantities and value since his first audit of 1569 amounting to—

	<i>Butter</i> , 431½ Lispunds at 12s.	.	.	£258	18	0
	<i>Grain</i> , 67 Lasts at £30	.	.	2010	0	0
	<i>Flesh</i> , 22½ Lasts at £7, 4s.	.	.	161	10	0
	<i>Poultry, swine, and minor articles</i>	.	.	85	19	0
	<i>Money</i>	.	.	132	13	0

Total augmentation of Rental by Earl Robert, £2649 0 0

If to this aggravation of the Rental we add his revenue from Tolls, Customs, Droits, Escheat and triennial Grassums, and consider the forced labour, the diminished area of cultivation, and the doubled penal conversions for every deficiency of these impossible quantities, we may estimate the income of Earl Robert and the misery of the Islanders; though the *Rentale pro Rege et Episcopo* (1592-1600), which exhibits the numerical increase of exaction, is silent as to his aggravation of the Weights and Measures.

This addition of a fifth to every actual payment was augmented to a third by Earl Patrick's similar aggravation of the Mark to 12 ounces; and increased penal conversions were exacted for all arrears, rests, or unpaid balance of duties beyond what the Islands could produce, till their actual burdens thus aggravated, and valued at the current averages of conversion, amounted to—

1600.	<i>Butter</i> , 87½ Barrels at £20	£1,750	0	0
	<i>Do.</i> loose, 1055 Lispunds at £2.	2,110	0	0
	<i>Grain</i> , 306 Lasts at £60	18,360	0	0
	<i>Flesh</i> , 130½ Lasts at £16	2,088	0	0
	<i>Swine</i> , 3 at £4	12	0	0
	<i>Hawkens</i> , &c., 3242 at 1s.	162	2	0
	<i>Peats</i> , &c., about	23	5	0
	<i>Money</i>	144	13	0
		<hr/>		
	Total Crown Rental of Earl Patrick	£25,650	0	0

But besides this large revenue, and that derived from the Grassums, Droits, Tolls, Customs, Fines, and other unrentalled, unacknowledged, and unestimated perquisites,

to the amount of about £6000 more, the Stewart Earls were also Commendators of the Estates of the Church, to which they proved no less dutiful as nursing fathers during their possession of about half a century. The Rental of the Bishopric at the Impignoration or beginning of the sixteenth century cannot be ascertained, but at the time of James V.'s visit, the articles composing the Church Rental (as shortly afterwards attested, and valued at the prices of the period), amounted to the following sums and quantities:—

1540.	<i>Butter</i> , 180½ Barrels at £3 . . .	£541	10	0
	<i>Grain</i> , 79 Lasts at £5 . . .	395	0	0
	<i>Flesh</i> , 12½ Lasts at £3 . . .	37	10	0
	<i>Marts</i> , 4 at £1, 10s. . . .	6	0	0
	<i>Hawkens</i> , 217 at 6d. . . .	5	8	6
	<i>Swine</i> , 2 at 15s. . . .	1	10	0
	<i>Wax, Peats, &c.</i> , about . . .	13	1	6
	<i>Silver</i>	251	2	6
		<hr/>		
	Total Rents and Teinds of } £1251	2	6	
	Bishopric in 1540 . . . }	<hr/> <hr/>		

These quantities were officially attested by Bishop Adam in 1561, and in 1568 (the date of his first contract with Lord Robert), amounted at the current prices to the value and quantity following, viz.—

1568.	<i>Butter</i> at £9 per Barrel . . .	£1624	10	0
	<i>Grain</i> at £30 per Last . . .	2370	0	0
		<hr/>		
	Carry forward . . .	£3994	10	0

Brought forward	£3994	10	0
<i>Flesh</i> at £7, 4s.	90	0	0
<i>Marts</i> at £3, 12s.	14	8	0
<i>Hawkhens</i>	5	8	6
<i>Swine</i> at £1, 16s.	3	12	0
<i>Wax, &c.</i>	22	1	6
<i>Silver</i>	251	2	6
	<hr/>		
Total	£4381	2	6
	<hr/>		

These articles, the amount of the Bishopric Rental at Earl Robert's entry, he increased to the following quantities at the same conversion :—

1587. <i>Butter</i> , 73½ Barrels at £9	£661	13	0
<i>Do.</i> , 136 Lispunds 21 Marks at 12s.	82	2	6
<i>Grain</i> , 189 Lasts, 20 Meils, 5 Set ^{ns} , at £30	5696	0	10
<i>Flesh</i> , 84 Lasts, 18 Meils, 2 Set ^{ns} , at £7, 4s.	610	10	0
<i>Poultry</i> , 1046	26	3	0
<i>Wax, &c.</i>	24	6	6
<i>Silver</i>	299	7	2
	<hr/>		
Total	£7400	0	0
	<hr/>		

which by his aggravation of one-fifth of every weight and measure, actually represented the following quantities and value at his death, 1592 :—

1592. <i>Butter</i> in Barrels (unchanged)	£661	10	0
<i>Do.</i> Loose, 171 Lispunds at 12s.	102	12	0
	<hr/>		
Carry forward	£764	2	0

	Brought forward	£764	2	0
<i>Grain</i> , 237½ Lasts at £30		7120	0	0
<i>Flesh</i> , 105 Lasts 22 Meils at £7, 4s.		762	12	0
<i>Poultry</i>	:	26	3	0
<i>Wax, &c.</i>		27	15	10
<i>Silver</i>		299	7	2
		<hr/>		
	Total	£9000	0	0
		<hr/> <hr/>		

Earl Patrick's aggravation of one-third in like manner raised the actual quantities paid from the Bishopric in the same proportion, and at the current prices of conversion, to the following value :—

<i>Butter</i> , 73½ Barrels at £20 per Barrel	£1,470	0	0
<i>Do.</i> , 182 Lispunds at £2 per Lispund	364	0	0
<i>Grain</i> , 253 at £60 per Last	15,180	0	0
<i>Flesh</i> , 113 Lasts at £16 per Last	1,808	0	0
<i>Poultry</i> , 1046 at 1s. each	52	6	0
<i>Swine</i> , 2 at £4	8	0	0
<i>Wax, &c.</i> , about	33	6	10
<i>Money</i>	299	7	2
		<hr/>	
	Total Bishopric	£19,215	0 0
		<hr/> <hr/>	

The following Abstract of the results of these Tables will exhibit briefly the progressive increase of the burdens of Orkney during the sixteenth century—

1502.	Crown Rental	£757	3	4
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1540.	By a rise of prices—			
	Crown	.	.	£1382 10 0
	Bishopric	.	.	1251 2 6
	Rental at the visit of James V.		—————	£2633 12 6
1568.	By a farther rise of prices—			
	Crown	.	.	£6366 10 0
	Bishopric	.	.	4381 2 6
	Lord Robert Stewart's first Rental		—————	10,747 12 6
1592.	By a rise of quantity, weight, and price—			
	Crown	.	.	£9016 0 0
	Bishopric	.	.	9000 0 0
	Earl Robert's final Rental		—————	18,016 0 0
1600.	By farther rise of quantity, weight, and price—			
	Crown	.	.	£25,650 0 0
	Bishopric	.	.	19,215 0 0
	Earl Patrick's Rental of Orkney		—————	44,865 0 0

I am not aware of any authentic Rental of the burdens of Zetland during the sixteenth century, except the statement in the Charter to Maitland and Bellenden (1587), and the Comptroller's Accounts (1588), after twenty years of Earl Robert's aggravations of weight, measure, and value, when a third had been added to the contents of every Pack of Wadmæl and Lispund of Fat-gude at arbitrary conversions in a coinage as arbitrary. The nominal quantities (for which the Donatary compounded with the Royal Comptroller at £400) are there stated as follows :—

<i>Wadmæl</i> , 167 Packs (of 60 Cuttels) at 6d. per Cuttel	} £250 10 0
<i>Butter</i> and <i>Oil</i> , 1530 Lispunds at 12s. per Lispund	918 0 0
<i>Wattel</i> , commuted at 105 Dollars at 30s. each	157 10 0
<i>Tolls, &c.</i> , 120 Angel-Nobles (at £4) and 20 Dollars	510 0 0
<hr/>	
Total Rental accounted for by the Donataries	<u>£1836 0 0</u>

But by the augmented Weight, Measure, and Price, the burdens actually extorted from the Lordship of Zetland were raised (exclusive of Ox-money and other unacknowledged exactions) to the amount and value of—

<i>Wadmæl</i> , 167 Packs (of 80 Cuttels) at 2s. per Cuttel	} £1336 0 0
<i>Butter</i> , 2040 Lispunds at 18s. 8d.	1904 0 0
<i>Wattel</i> , 105 Dollars at 36s. each, with other augmentations	210 0 0
<i>Tolls, &c.</i>	2000 0 0
<hr/>	
Total actual burdens of Zetland	<u>£5450 0 0</u>

From these Abstracts of the Revenues of the Crown Estate and Bishopric of Orkney and of the Lordship of Zetland, the income drawn from the Islands by Earl Patrick, exclusive of a multitude of unacknowledged exactions, may be approximately stated thus—

Orkney—Crown Skatts, } Duties, and Males }	£25,650	0	0
Bishopric Rents and Teinds . . .	19,215	0	0
Tolls, Customs, Ad- miralty, Justiciary, &c. (about) . . .	6,000	0	0
Total Revenue of Ork- ney . . .	£50,865	0	0
Zetland—Skatts, Males, Tolls, &c. . .	5,450	0	0
Total Revenues of Earl Patrick	*£56,315	0	0

The peculation of subsequent Donataries, by the fraudulent increase, fluctuation, and complexity of the Standards of Weight and Measure, and consequent augmentation of the burdens of Orkney to the amount of 3000 Cattle, 5000 Bolls of Grain, 6218 Lispunds or Stones of Butter, and 700 Gallons of Oil, became (1750) the subject of the memorable PUND-LAR PROCESS. To the various Memorials and Pleadings in that suit I must refer for more minute details, as the whole difficult subject is there discussed and exhausted, but in a form too long for insertion, and too intricate for condensation. The evidence was complete, that the Crown Donataries had for two centuries persistently, fraudulently, and enormously increased the legal weights and measures of the Islands. But after the Pursuers had been driven to incur the expense of

* About £5000 Sterling — a princely revenue in those days, when the general scarcity of coin, and poverty of kings and kingdoms had been met by a debasement of the coinage gradual and universal; but in Scotland so rapid, that the £ Scots, equivalent to the £ English in 1366, was worth only 8s. in 1468—6s. 8d. in 1540—3s. 4d. in 1568—and 1s. 8d. in 1600.

this elaborate proof, a decision was given against them on the merely preliminary plea of prescription, to the disgrace of a corrupt or partial Court. With such Judges even the specific evidence of date, place, and person, now added by the complaints, might have had little weight; perhaps they might have obsequiously convicted the Zetland witnesses against Lawrence Bruce, of Conspiracy against "that worthy man."

GLOSSARY OF UNUSUAL WORDS.

AL-THING, see THING.

ANGEL, An English gold coin = 10s. sterling.

ARFF, AYRFFE, N. ERFFD, *hereditas, heredium*, Heritage, succession.

AYNING, N. EIGN, *possessio*, The Ownership of an Odaller.

BABIE, BAWBEE, A coin = $\frac{1}{4}$ d. sterling, but varying from 3d. to 6d. Scots.

BAILLIE, An official appointed by the Donatary to perform the functions of the ancient Under-fowd, especially in guarding the interests of the Crown.

BALLIATUS, A parochial assessment for the Baillie's salary, in addition to the ancient WATTEL, appropriated by the Donatary.

BARREL, N. BARIEL, A measure of quantity = 15 Lispunds.

BERE, *hordeum hexastichon*, A species of Barley, of six rows of grains.

BERE PUNDIAR, see PUNDAR.

BOLMAN, N. BU-MADR, *rusticus, inquilinus*, A husbandman, a yearly tenant or tenant at will.

BONDER, N. BONDI, BONDR, *paterfamilias, colonus*, An Odaller.

BORD-LAND, N. BORD, *mensa, cibus*, The guest quarters of the King or Jarl, and therefore exempt from skatt.

BOTA-MALI, (N.) Offences expiable by compensation or damages to the injured party, or by Mulcts shared between him and the Crown, which derived no small part of its revenue from this source and from the OBOTA-MALI (*quod vide*).

BULL, N. BOL, BU, *prædium nobile*, The principal farm of the

ODALSJORD ; sometimes called HEAD BULL, N. HOFD-BU, or CHEMISPLACE, DAN. HJEMS, *domus*.

CAN, N. KANNA, A measure = $\frac{1}{48}$ of a Barrel.

CHESTRY, Revenue arising from the Scottish Casualty of Escheit.

COMMONTY. Each TUN possessed its own SETTUR or Infield Common ; each Skat-hald or Hrepp, its HAGI or Hill Pasture, shared exclusively by the HREFFISMEN of its TUNS ; and each HERAD its MOAR, common to every HREFF and TUN of that VARD THING, but to none else.

COST, Grain Rent, generally commuted at $\frac{1}{2}$ of Meal and $\frac{2}{3}$ of Malt or of raw grain.

CUTTLE, ELL, N. ALIN, *ulna*, A measuring rod of the length of a Scottish Ell, used in Zetland as the fundamental unit of Length and of Valuation. A Cuttel of Wadmæl long bore a Standard value of 6d. Scots—6 cuttels being equal to an EYRIR or "Ure" of Valuation ; 20 Cuttels = to a sheep, and six score or a "Large Hundred" to an ox. The value of the cuttel was raised to 2 shillings by Earl Robert

DOLLAR, A silver coin = 50d. sterling, but varying from 30s. to 40s. Scots.

DOMERA, DOMERAL, N. DOM-ROF, *mulcta eorum qui judicia contemnunt*, A fine for contempt of court.

DONATARY, A grantee of the Crown's Skatts, Males, and Duties.

EYSTERCOP, AUSTERCUP, N. EY-SETTR-KAUP, *merces insulæ conducendæ*, A fine paid every third year at each renewal of the Tack or Setting of the smaller islets—afterwards assumed to be equivalent to the Scottish *Grassum* ; and still later both burdens were sometimes exacted in Zetland.

FATGUDE, a term used in Zetland for the Butter or Oil paid to the Donatary.

FLESH, Rent paid in Cattle, generally estimated by Weight, 15 MEILS = an ox, 10 MEILS = a cow, 4 MEILS = a sheep. But this valuation rose and fell according to the caprice of the Donatary.

FLOREN OF THE RHINE, A German gold coin = 2 dollars, also a Money of account = 100d. sterling.

FORCOP, N. THING-FÖR-KAUP, *itineris forensis merces*, The Lawman's salary for the Thing circuits; afterwards charged by the Donatary, first against the Crown, and again against the parishes on various pretexts, sometimes of Odal usage, sometimes of feudal claim; but according to Dufresne, "FOR-CAPIUM, *Exactio, Tributum haud debitum, per vim et contra jus captum.*"

FOUD, N. FOGETI, Dan. FOGUD, *quæstor Regius*, Collector of the King's Skatt, Skyllds, Mulcts, etc., afterwards Chief Judge, and ultimately Sheriff of the Foudrie of Zetland.

GARTH, N. GARDE, *prædium nobile*, A portion of Odalsjord.

GÆDINGR (N.) *Locuples*—GOFUGR, *nobilis, venerandus*—HOFDINGR, *procer, magnas*, terms applied in the Sagas to the Odaller, expressive of his superior wealth, dignity, and powers.

GRANDRIE, GRANDORIE, N. GRAND-ROF, *noxarum castigatio*, A septennial Court to abate nuisances and punish local abuses.

GUDLING, GULLION, A measure of quantity = 6 cuttels, or $\frac{1}{10}$ of a pack of Wadmæl, but afterwards raised to 8 cuttels.

GUEST-QUARTERS, The occasional residence of the King or Jarl as guest of the HUSBONDI, whose BORDLAND was exempt from Skatt on that account.

HAGI, (N.) Dan. GRASMARK, *pascua*, Hill pasture, common to a TUN.

HOG-LEAVE, N. HAGA-LEYFI, *permissio pascuendi*—HAG-RA, *facultas pascuendi*—RIDING THE HAGRA, perambulation of the Marches of the HAGI.

HAWK-HENS, A general parochial burden of "poultry to feed the King's falcons" taken in the islands; first exacted by Bishop William Tulloch (in addition to the new Scottish burden of Kane-fowls, exigible from tenants only), and still occasionally demanded by the Queen's Falconer.

HERAD, (N.) *districtus montibus et mari terminatus*, A district containing several Hrepps or Skathalds, with their several Tuns or Rooms, and a MOAR common to them all.

HIRDMAN, (N.) *Miles, aulicus*. HIRDMAN STANE, N. HIRDMAN STEFN, *congressus militum*.

HOMER, HOEMOTHER, Sunfish, or Basking Shark.

HREFF, (N.) *tribus*, The Community of HREFFMEN, or Skatt brethren

possessing a SKATHALD, with common pasture in the MOAR, and a share of the Tulberskatt exacted from intruders not entitled to pasture there.

HUSS-BONDI, (N.) *paterfamilias*—HUSS-KARL, *domesticus, operarius*.

JOL, (N.) *natalitia Christi, initium Aquarii*, Yule or Christmas.

LANDSETTERCOP, N. LAND-SETTR KAUP, *merces conductionis*, A fee or fine on letting or reletting a farm.

LANDSKYLD, Dan. LAND-SKYLLD, N. LAND-SKULLD, Scot. Landmale, *debitum quod locator fundi debet domino præstare, locarium, redditus prædianus*, The rent of a farm.

LAST, N. LÆST, *mensura oneris nautici*, A measure = 12 Barrels; also a weight = 24 Meils.

LAW-BOOK, N. LÖG-BOK, *codex legum*, Book of Laws.

LAWMAN, N. LÖG-MADR, *nomophylax*, The President of the Althing, Keeper and Expounder of the Law-book, and Chief Judge of Orkney, anciently paid by the assessment of FÖRKAUP, and afterwards by the Scottish Government, and ultimately abolished or merged in the office of Sheriff.

LAWRIGHTMAN, N. LÖG-RETTA-MADR, *scabinus*, An Official chosen by the Vard-Thing, and charged with the custody and application of the Standards of Weight and Measure, and the general interests of the Herad or Parish, especially in the Law-thing, where he acted as Assessor of the Lawman or Foud. The name was latterly given to the inferior local umpires of minor questions of Scandal, Marches, or breaches of the Sheep Acts, more correctly called RANCELMEN.

LÆANGER, N. LEDANGR, *contributio in præsidium patriæ*, A Tax paid in Zetland.

LEIGUMADR, (N.) *conductor prædii*, A Tenant farmer under a formal Tack of Assedation, generally for three years, but renewable on payment of Grassum, LANDSETTR or EYSETTR-COP.

LISPUND, LESPUND, LESCHPUND (*idem ac SETTEEN* q. vide), A Weight = 24 Marks, or $\frac{1}{2}$ of a Meil, or $\frac{1}{15}$ of a Barrel; gradually raised by the donataries from 12 to 18 lb Scots measure.

MARK, N. MÖRK, *bes, sonulibru, octo uncia*, A weight = 8 ounces or $\frac{1}{4}$ of a Lispund or Setteen, gradually raised to 20 ounces; also a

- Land-Measure, not of extent, but of valuation proportioned to the taxation, and regulating both rights and burdens.
- MEIL, N. MÆLIR, A Weight = 6 Lespunds, or $\frac{1}{24}$ of a Last.
- MERK, A Scottish coin = 13s. 4d. or $\frac{2}{3}$ of a Pound Scots.
- MELISCOP, A local Land-measure = $\frac{1}{2}$ of a pennyland.
- MUIR, Islandic MOAR, *ericetum*, Heath pasture, common to all the Skathalds and Hrepps of a Herad.
- MUIR STANE, N. MOAR STENN, The idol, afterwards (till lately) the THINGSTOD of a HERAD, or Vard-Thing.
- NOBLE, ANGEL-NOBLE, An English gold coin = 10 shillings sterling.
- NONENTRY, A Scottish Feudal casualty.
- O-BOTA-MALI, (N.) *crimen cere non expiabile*, Crime inferring death, exile, or forfeiture to the King.
- ODAL, N. ODAL, *allodium, prædium hereditarium*, The estate of an Odaller; quasi ODH-AL *plena possessio*.
- ODAL-BORN, N. ODAL-BORINN, *natus ad heredium avitum, viz., rectâ lineâ a primo occupante*.
- ODALRED, N. ODH-AL-RÆDI, *jus plenæ possessionis a primo occupante*.
- ODALLER, ODALSMADR, *dominus allodialis*, The Free possessor of an Odalsjord.
- ODALSJORD, (N.) *prædium hereditarium*.
- OX-MONEY and SHEEP-MONEY, Exactions in Zetland, grounded upon the provisions furnished to Bothwell.
- PACK, N. PACKI, A quantity of Wadmæl = 10 Gudlings.
- PLOWK, Scot. A plug or pin.
- PUNDLAR, N. PUNDARI, *statera*, An instrument of Weight of two kinds, viz., the Malt-pundlar for Lispunds, Meils, and Lasts of Malt—1 Last = 24 Meils = 144 Lispunds; and the Bere-pundlar for Bere only, but estimating the Last as containing 36 Meils, or one-third more than the Malt-pundlar, according to a conventional proportion of raw to dried grain.
- PURPRESION, PURPRESTURE, A feudal casualty of forfeiture or fine for encroachment on the rights of the Overlord.
- QUOY, N. QUI, *area circumsepta*, An enclosure.

- RENTALS OF ORKNEY, Records of the Odaller's Skatts, Tenants' Males, Vassal's Feu-duties, and Parish burdens, chargeable by the Donatary or Chamberlain.
- ROOM, N. RUM, *locus*, The same in Zetland as TUN in Orkney.
- ROTHE, ROYTH, N. RÆDI, *dispensatio rei œconomicæ*, The Odaller's Condition and Rights as master of his own house—ROITHISMEN and ROTHISMEN'S SONS, Odallers and Odalborn.
- SAMYNG, N. SÆMD, *honor, decus*, An Odaller's Rank and Dignity as a free-born Thingman.
- SCHYND, SCHOIND, SCHOWND, N. SKYND, DAN. SKJON, *ratio*, An Inquest of Thingmen to examine, sanction, and confirm all procedure respecting the Succession, Impignoration, or Alienation of Heritage; anciently by a *vivâ voce* doom, but frequently (after the accession of the Scottish Jarls) by a SKYND-BREF or "Schynd Bill."
- SCOULDING, N. SKULLD, *debitum, crimen, mulcta*, A Thing for civil debts, damages, and fines for minor offences.
- SET, N. SETTR, *pactio*, An agreement, the letting of land.
- SETTEEN, SETTING, N. SETTUNGR, *sextans*, A weight=24 marks, or $\frac{1}{8}$ of a Meil, *idem ac* LISPUND *et* SPAN.
- SETTER, N. SETTUR, The infield pasture of a TUN.
- SKAT, N. SKATTR, *vectigal, tributum*, The Tax upon all land occupied by Odal-red, for the support of the Crown, and expense of government—SKATT-BRETHREN, N. SKAT-BRÆDIR, Members of the same Skathald, called also HREPPISMEN—SKAT-FAL, (N.) Failure for two years to pay Skatt, punished by confiscation, unless redeemed—SKATTALD, N. SKAT-HALD, A district or HREPP containing several TUNS or ROOMS, with an exclusive HAGI, and a share in the MOAR of the HERAD.
- SKYLD, LAND-SKYLD, DAN. LAND-SKYLD, A Tenant's Rent, as opposed to SKATTR, Odaller's Tax.
- SKYLLING or QUHYT, A Danish coin = $1\frac{1}{2}$ d Scots, afterwards raised to 6d. by Earl Robert.
- SPAN, *idem ac* LESPUND.
- STEFN, (N.) *citatio*, A Summons, afterwards a Court or Assembly.
- STEMBOD, N. STEFN-BOD, *signum citationis*, A symbol of citation, being a Staff for ordinary Meetings, an Arrow for matters of urgency or

haste, an Axe for a Court of Justice, and a Cross for Ecclesiastical or Religious affairs.

STENT, N. STEND, *stare, equivalere*, The amount of Butter Skatt legally due by each ODAL-TUN.

TACK, A Lease of a farm, sometimes of a considerable district, or sometimes even of the whole Earldom, or Bishopric—TACKSMAN, the holder of such a lease. The term is generally applied to the Farmers of the Crown Rents and Revenues.

THING, (N.) *comitia*, An Assembly, Parliament, or Court of Freemen.

AL-THING, *forum universale*, A general Assemblage of all Free-men.

HERADS-THING or STEFN, A district Meeting of HERADSMEN.

HIRDMANS-THING or STEFN, A Council of Warriors.

HOF-THING, *consultatio de rebus sacris*.

HUSS-THING, *consultatio de rebus domesticis*.

LAW-THING, A Court of Law—LEIDAR-THING, A War Council.

VARD-THING, HREPPAMOT or HREPPA STEFN, An Assembly of the Skatt-brethren of a Hrepp or Skathald.

THING-STOD (N.) *locus comitorum*.

THRÆLL, (N.) *servus*, A slave.

TOFT, N. TOMT, *area domus vacua*, Land once tilled but abandoned.

TOWN, N. TUN, *viridarium, pratum*, The original ODALSJORD of a Primal Occupant or LAND-NAMA-MADR, possessing its own exclusive SETTUR, a share of the HAGI, and rights of commony in the MOAR.

TUMALE, Scot., Land enclosed from the common pasture, and tilled; but not included in the original ODAL-TUN.

TULBERSKATT, N. TOLD-BER-SKATT, A fine or rent exacted by the Vard-Thing from unentitled intruders on the MOAR of its HERAD.

TUN-GARDR, (N.) *sepimentum viridarii*, Hill-dyke.

UMBOTHSMAN, N. UMBODS MADR, *procurator, mandatarius*, An agent, procurator, for-speaker, or advocate.

UNDER-FOUD, An Official in every parish of Zetland, with local duties and powers similar to those of the Head Foud, especially in representing and watching the interest of the Government; latterly superseded by the *Bailie*.

URE, ORE, N. EYRIR, *uncia*, An ounce, the fundamental unit of all Orkneyan mensuration, being $\frac{1}{16}$ th of a Mark.—URISLAND, A

denomination of Land-Value = $\frac{1}{3}$ th of a Mark of Land, or 18 penny-lands.

VATH, (N.) *aqua, lacus*.

VIKING, (N.) *pirata*—VIKING (N.) *piratica*—HAUST- or VOR-VIKING, an Autumnal or Spring expedition.

VOR-BOND, (N.) *sepimentum dicasterii, tutela pacis publicæ*, Anciently the cord which encircled the Thing-stod, and the rupture of which dissolved the meeting—from its peculiar sanctity it came to signify an Asylum or Sanctuary.

VØRINGE, (N.) *miles Nordmannus Imperatoris Græci*.

WARD HILL, WART HILL, N. VARDI, *strues lapidum*, The hill on which the beacon was lighted to give warning of approaching danger.

WATTEL, WATTLE, N. VOTTE-TEL, *testes numerare*, The ancient assessment for the salary of the Underfoud for summing up the evidence at the VARD-THING, afterwards a perquisite of the Baillie, in addition to the *Balliatu*s.

ZOPINDALE, YOWPINDAL, A silver coin = 15 shillings Scots in 1541, but raised by Earl Robert to 20 shillings in 1572.

ZOWISWORTH, YOWISWORTH, COWSWORTH, a proportion of Odal-land = $\frac{1}{10}$ th of a pennyland.