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The Court Books of
Orkney and Shetland
The Earl's Palace, Kirkwall, Orkney

Scalloway Castle, Shetland
THE COURT BOOKS OF
Orkney and Shetland
1614–1615

transcribed and edited by
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PREFACE

My warmest thanks are due to Mr John Imrie, Curator of Historical Records, H.M. General Register House, and to Professor Gordon Donaldson of the Department of Scottish History, Edinburgh University, for their scholarly advice so freely given, and for their unfailing courtesy.

R.S.B.

Edinburgh

June, 1967
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The Earl's Palace, Kirkwall, Orkney
Scalloway Castle, Shetland
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INTRODUCTION

THE NORTHERN COURT BOOKS

This is the third volume printed in recent years of proceedings in the sheriff courts of Orkney and Shetland in the early decades of the seventeenth century. The first was The Court Book of Shetland 1602-1604, edited by Professor Gordon Donaldson and issued by the Scottish Record Society in 1954; next came The Court Book of Orkney and Shetland 1612-1613, edited and published by the present writer through the medium of the Kirkwall Press in 1962; and the volume now produced, for the years 1614 and 1615, completes the trilogy.

The sheriff court in Scotland dates back to the twelfth century; and the older sheriff court records are of considerable interest and importance, particularly in the field of local history. Of those which have survived, the earliest in a reasonably continuous form are the court records of Aberdeen beginning in 1503. For Orkney and Shetland, the earliest extant sheriff court records of length appear 100 years later. They are in the custody of the Keeper of the Records of Scotland in H.M. General Register House at Edinburgh, and include the following manuscripts:

The Court Book of Shetland 1602-1604
The Court Book of Orkney and Shetland 1612-1613
The Court Book of Shetland 1615-1628
The Court Book of Orkney 1615-1630

1 These two manuscripts are bound together and labelled ‘Sheriff Court Book Orkney and Zetland 1612-1630’.
The Court Book of Orkney 1630-1643

The Court Book of the Bishopric of Orkney 1614-1638

Although the Court Book of Shetland for 1602 to 1604 is grouped for convenience with the sheriff court records – the chief magistrate styled himself sheriff principal – the book is, in the main, an account of proceedings as conducted by the ancient law officials of Shetland. It is the oldest volume of Shetland record that has survived. The second manuscript, the Court Book of Orkney and Shetland for 1612 and 1613, is in some respects a sequel to the preceding record for Shetland. It is the earliest Orkney court book known to exist.

The account of proceedings in the island courts is continued in the Court Book of Shetland 1615-1628 and in the three Orkney court books for the period 1614 to 1643. (The Court Book of the Bishopric relates to those parishes which, from 1614 onwards, constituted the bishopric territory.)

The present work comprises the material for 1614 and 1615 contained in those manuscripts. The book is in three parts, and consists of: (1) a small section of the Court Book of the Bishopric of Orkney (folios i-4r), dating from 15 November 1614 to 21 December 1615; (2) a section of the Court Book of Orkney 1615-1630 (folios 1-3r and 43-55), dated 5 May to 20 December 1615; and (3) a section of the Court Book of Shetland 1615-1628 (folios 1-20), dated 22 June to 9 October 1615.

The great bulk of the records, from 1616 to 1643, remain to be explored. Their publication (in calendar form, it is suggested) would be a valuable contribution to northern history.

Extracts from the Orkney and Shetland court books were published in the nineteenth century – in *The Diary of the Reverend John Mill* (printed by the Scottish History Society,

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1 This volume is labelled ‘Sheriff Court Book Orkney and Zetland 1630-1643, 1648’; but it relates almost solely to Orkney.
1889), in George Barry's *History of the Orkney Islands* (1805, 1808, 1867), in Alexander Peterkin's *Notes on Orkney and Zetland* (1822), and in the *Miscellany of the Maitland Club*, vol. ii (1840). The last-named work includes (with various flaws in transcription) the trial for witchcraft and the 'country acts' of Orkney and Shetland printed in the present volume. Barry's *History*, 1805 and 1808, contains the country acts of Orkney rendered, from an imperfect copy, into English – as distinct from the vernacular of the text. The edition of 1867 reproduces the Maitland Club transcripts relating to Orkney.

Sheriff court records are now kept either in the Scottish Record Office, in Register House, or with the local sheriff clerks; and it is not known when or under what circumstances the Orkney and Shetland court books were removed from the islands and came to be lodged in Edinburgh. With the possible exception of the Court Book of the Bishopric, they were certainly in the General Register House in 1840 when extracts from them were printed by the Maitland Club; and the first volume in the series, the Court Book of Shetland 1602-1604, is mentioned by Peterkin as being kept at the Register House in 1822.

**THE COURT BOOKS DESCRIBED**

The six court books now in the Scottish Record Office, extending among them through eighteen hundred pages, have been arranged and bound into five volumes. This has been effected by assembling the Court Book of 1612-1613 and the Court Book of Orkney for 1615 to 1630 within the same cover. In the combined volume, the first five folios pertain to 1615 and

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1 See below, pp. 18-20, 25-34, 62-72.

2 As examples: *kirk* becomes *church*, and *fra qm they coft the samen* is rendered *from whom he bought the same.*
later years; next in order are the 37 folios of the Court Book of Orkney and Shetland 1612-1613; and these are followed by about 200 folios for the period 1615 to 1630. The composite volume bears the title ‘Sheriff Court Book Orkney and Zetland 1612-1630’. The folios of the Court Book for 1612 and 1613 are numbered 1 to 37, at the top-right corners – and also 6 to 41, at the top-left corners. The second sequence (in which one folio has been overlooked) is relevant to the book as part of the combined volume.

The five volumes measure about twelve inches in height by eight in width, and vary in thickness. Each is contained in stiff covers, with a half-binding in brown morocco and with brown cloth on the sides. There are five raised bands and gold lettering on the spine, and double head-bands. The spine panels are plain. The style of the bindings indicates that all have been executed in the Register House at various times within the last 100 years.

The manuscripts are on paper and are reasonably well preserved, though the folios exhibit a wide range in their general condition and appearance. They are for the most part intact, but not a few are frayed at the edges and corners; and while some are near-white after three and a half centuries, many are discoloured or stained. There are signs of exposure in the past to damp.

There is a margin at the left-hand side and at the bottom of each page; at the right-hand side there is usually none, with the result that the end of a word is at times obscured in the binding or lost through fraying and trimming. The titles to the numerous acts and proceedings are all written in the margins.

Several distinctive watermarks can be discerned. One of these, in the form of a thistle surmounted with a crown, having the characters R and AR beneath, is said to have been a device of the
first paper-mill in Scotland, that of Peter Heare. The letters refer to the sovereign and his queen, James VI and Anne of Denmark.

The script of 1614-15 is in the legal style typical of the period in Scotland, and similar to that found in central court records such as the Acts and Decreets of the Court of Session. It is akin to the Elizabethan secretary hand in contemporary English records.

The quality of the writing varies noticeably. Portions of the script now printed are extremely legible, but here and there the hand deteriorates. In places, too, the ink has faded, and in some folios (in the Court Book of Orkney) it has soaked through, so that the words on both sides are visible at once in a confused pattern. The diversity in penmanship and legibility is considerable.

The text is in the Scottish vernacular with legal idiom and local terms interspersed. It is not punctuated. The rubrics and dates of court sittings are mainly in Latin. The manuscripts for 1614 and 1615 extend to 40,000 words approximately.

EDITING THE TRANSCRIPT

In the printed transcript the sittings of each court appear in chronological order. This has meant the rearrangement of some entries in the manuscript court books of Orkney.

The text of the three court books is printed virtually in full; but various legal terms and clauses, often recurring and of little significance, have been freely excised or shortened, first being shown unabridged in typical processes. Minor variants in the omitted phrases occur, too trivial to record. The deleted passages are indicated thus . . . and so contrived that the sections remaining convey a sufficient and connected account of the pro-

1 The Library, x (1929-30), 441, 443.
ceedings. Two types of process in particular have been considerably shortened: those dealing with bonds of caution in lawborrows or precepts of warning to flit and remove, both of which are unduly protracted. The words The quhilk day or (rarely) The said day, which introduce most proceedings, are silently suppressed save at the first sitting of each court. Altogether, perhaps 4,000 words have been excised, roughly a tenth of the total.

The original spelling has been carefully preserved, except that the arbitrary usage of certain letters is modified; and medieval characters are modernised. Details of the changes effected are given below.

The letters i and j, and u, v and w, frequently interchanged, are (in general) rendered to conform with their sound. As examples (taking these letters in pairs): with i and j – prejudice is transcribed prejudice and jn as in; with u and v – silver is transcribed silver and vp as up; and with v and w – wall and Irving as Irving. In words like mutone and persuwe, and in place-names such as Hwip and Mwnes, the w is rendered u; but when the clerk prefers u to w, as in twentie, the u is retained. In words like causing, the w is retained. The scribe’s y for þ (thorn) and his z for ß (yogh) are rendered th and y respectively. His z for the fraction ½ is so transcribed.

The occasional double initial ff, as in ffor and ffrancis, is rendered f or F. Clerical errors which are obvious have been rectified.

The numerous abbreviated words, with few exceptions, have been fully extended, adopting the scribe’s way of spelling if he reveals it at other points, as generally happens. With regard to words that are always abbreviated, the missing element assumed is printed in square brackets; but resso½ is transcribed ressonabill, lre as letter, and the recurrent sref as schiref – without brackets.

In the words houss’ and refuiss’, where the printed apostrophe
represents a written flourish, we have examples of the distinctive termination in long ss which often marks the plural of nouns ending in s and the present tense of verbs ending in s. This form is rendered ssis in the printed transcript, so that houss’ and refuiss’ become houssis and refuissis respectively. An exception is made with horss’, which (on account of its sound) is not extended.

In words ending with a single s and flourish, like els’ and fals’, the flourish is disregarded.

The abbreviations which follow, nearly all in use at the present time, have been retained: St, Mr, viz, li or lb (the modern £ or lb.), s, d and c (for centum). The corrupt form jaj observed in dates is printed as i

Though capital letters are not uncommon in the manuscript, small letters are often used as initials in place and family names. In the transcript, capitals are used for all proper names and also for the first word in a sentence. A simple system of punctuation has been introduced.

The titles of acts and proceedings, and added notes, written in the margin of the folios, have been moved to suitable places in the text and printed between pointed brackets < in this fashion >.

Words and letters within square brackets in roman type have been supplied in place of entries in the manuscript which are illegible or doubtful, obscured in the binding or lost through fraying and trimming, in place of words and letters missed out by the scribe, and (as stated above) in the extension of various contractions. The substitute entries have been inferred from the context, derived from similar processes found elsewhere, or deduced from blurred outlines in the text - and are not infallible. Illegible and missing material which cannot be made good is represented by asterisks, the number of these denoting roughly the amount of material wanting.
THE HISTORICAL SETTING

The brief summary which follows of events and conditions in the Northern Islands, in the half-century between 1565 and 1615, will serve as a background to the scenes portrayed in the court books.

In 1565 Lord Robert Stewart, a natural son of King James V, received from Mary, queen of Scots, his half-sister, a feu charter in respect of the old earldom and crown lands in Orkney and Shetland, together with the office of the sheriffship. In return for an annual duty of 3,000 merks payable to the crown, Lord Robert was free to acquire what he could in rents and dues, and from the fines gathered by his court. His charter, dated at Stirling, was a document which, for many years, had profound consequences in the Northern Isles.¹

Separate from those lands were the extensive bishopric estates scattered throughout the islands. These came under the jurisdiction of the bishop, who at that time was Adam Bothwell. Lord Robert determined to extend his domain in the north. As a scion of the royal house, he had been endowed in childhood with the rich abbacy of Holyrood at Edinburgh. By 1568 he succeeded in compelling Bothwell to part with the bishopric lands in exchange for the abbacy. In this manner the crown, the earldom and the bishopric properties in Orkney and Shetland passed into the keeping of Robert Stewart.

He was now entitled to revenue from every corner of the

¹ Register of the Privy Seal of Scotland, v, 2078.
islands; his court had supreme judicial authority with certain legislative rights; and, his territories being remote from the seat of government, his powers had no restraint. He was arrogant and dissolute, and for a quarter of a century he applied himself, either personally or through his underlings, to the business of extorting money, land and substance from the people of Orkney and Shetland.

There was scant regard for justice. Weights were altered and acts were passed to Stewart's advantage; false decrees were uttered, numerous fines were imposed, and substantial bribes were accepted; rents were increased, duties were raised, and lands were seized on various pretexts.

In 1581 Lord Robert was created earl of Orkney by his nephew, King James VI, and in 1593 he died. His successor as earl and sheriff was Patrick Stewart, his son, who continued his father's ruthless policy with equal diligence. Labour was conscripted and services were demanded, without so much as food or drink in recompense. People were banished and their lands and goods were forfeited. Poverty, distress and ruin were widespread.

It was in 1605 that an event took place which in time brought an end to the Stewart tyranny and led to the destruction of the earl himself. The minister at Kirkliston in the Lothians, James Law, a man of resolute character and marked ability, was appointed bishop of Orkney. The new prelate stood high in the king's esteem, and as a result of his supplications Earl Patrick was arrested in 1609 and committed to ward in the castle of Edinburgh. For his manifold oppressions and tyranny he was first brought to trial in 1610.

In the years that followed came changes of considerable importance. In 1611 the old Norse laws, which had been in force in Orkney and Shetland for centuries, were abolished by an act of the Scottish privy council and superseded by the laws of
Scotland. At the same time, while Patrick Stewart was still in prison, his deputies in both groups of islands were discharged of their judicial offices; and orders were issued that the castles of Kirkwall and Scalloway be surrendered.

In 1612, by an act of parliament, Orkney and Shetland (with the exception, evidently, of the church estates) were permanently annexed to the crown, and 'ane stewartrie' was erected. Jurisdiction and authority had by this time been vested in Bishop Law.

An event of some consequence occurred in 1614 when, through an excambion, the widely scattered church estates were acquired by the king; and, as compensation, the bishop was granted by crown charter a more compact and united territory. This consisted by and large of certain parishes in southern Orkney, and the new bishopric became a separate sheriffdom. The rest of Orkney, with the whole of Shetland, constituted the principal sheriffdom. There were now two different sheriffs and two separate courts in the islands - an arrangement that was maintained for many years.

Finally, also in 1614, an attempt was made by Robert Stewart, a natural son of the deposed Earl Patrick, to win back the islands; but after initial successes in Orkney he was besieged in Kirkwall Castle and obliged to surrender. For the part he took in the rebellion the young man was condemned to death, and early in the following year he and his father were executed in Edinburgh.

THE SCOPE OF THE COURT BOOKS

The Court Book of Shetland 1602 – 1604

In 1602 and 1603 the court in Shetland was presided over by

3 Acts of the Parliaments of Scotland, iv, 481, c. 15.
4 Register of the Great Seal of Scotland, 1609-20, 1119.
John Dishington, Earl Patrick Stewart's deputy, and in 1604 mainly by the earl in person. In June or July each year the court went on circuit, and sessions were held in different districts throughout the islands. Later, in July or August, a central court, the Lawting, was held in Scalloway, in the castle built for Stewart by his enslaved subjects.

The Court Book of Shetland for 1602 to 1604 came just in time to record a way of life and a code of law and administration that was soon to disappear. From the wide variety of cases dealt with by the court (under the old Norse system mainly), touching every aspect of life and people of all kinds and every class, a unique picture emerges of conditions in Shetland during the 'reign' of Patrick Stewart; and an impression is gained of the entire economy of the islands at that time. This court book is a work of first importance in the study of Shetland history.¹

The glossary in Professor Donaldson's edition contains a vocabulary of the Norse legal terms and numerous words of the Norse dialect which occur in the text.² The volume is of special interest to the linguist.

The Court Book of Orkney and Shetland 1612–1613

The manuscript begins with the proceedings of a court held in the cathedral church of Saint Magnus in Kirkwall, in July 1612. The presiding official was James Law, bishop of Orkney, the king's commissioner, sheriff and justice in Orkney and Shetland. Bailies and counsellors were elected and acts were passed.

The bishop next appeared with his court in Shetland, and on several occasions in August he sat at Sumburgh House and the castle of Scalloway. Disputes of different types were heard, a

¹ In Shetland Life under Earl Patrick (Oliver and Boyd, 1958) Gordon Donaldson discusses the court book at considerable length.
² A few amendments to this glossary are given in Scottish Historical Review, xxxv (1956), 162.
trial for murder took place, and a series of ‘country acts’ was put into force.

The court then returned to Orkney; and the remainder of the record, covering the period from September 1612 to May 1613, is concerned with proceedings in Kirkwall under the jurisdiction of Mr Henry Aitkin, sheriff depute – in the great hall, evidently, of the Bishop’s Palace. Numerous actions were raised, both civil and criminal in character.

The Court Book of 1612 and 1613 was written during a period of transition in Orkney and Shetland. The oppressive rule of the Stewart earls was ended and authority was vested in the bishop. The ancient code of laws had been revoked, and court procedure and terminology approximated to that of a Scottish sheriff court. Whereas the earl’s court had manipulated the law, the bishop’s court now administered justice.

Characteristic of the new regime was the bond of caution in lawborrows, frequently sought. If A stood in fear of B, then A could petition the court to place B under legal pledge that A should be free from intrusion and injury at the hands of B, under pain of a substantial fine; and a cautioner for B was required. This instrument, seldom referred to in the records of 1602-04, apparently had a marked effect in preventing the assaults for which, under Earl Patrick, convictions had been common.

The importance of this court book lies in showing clearly that the old order in the north had given place to a new, and how emphatic the changes had been. It is valuable, too, for the light it throws on the social history of the islands, especially the Orkneys.

The Court Books of Orkney and Shetland 1614 – 1615

After the excambion of 1614 the bishopric territory comprised, in the main, the Orkney parishes (in whole or part) of Sandwick, Stromness, Orphir, St Ola, Holm, Shapinsay, Hoy and Walls;
and in these areas Bishop Law assumed the function of sheriff, by
virtue of his charter. The Court Book of the Bishopric relates
to proceedings within his territory.

In the rest of Orkney along with Shetland (which areas may
be styled the stewartry of Orkney and Shetland) the sheriff
acting for the king was Sir James Stewart of Killeith. The Court
Book of Orkney and the Court Book of Shetland record, respec-
tively, proceedings in the Orkney and Shetland regions of
the stewartry.

It seems, however, from the following entry in the bishop’s
court book, that the king’s sheriff had certain rights within the
bishopric. On 29 November 1614, at the first sitting of the
bishop’s court in Kirkwall, a protest was made in the name of
Sir James Stewart, ‘that . . . this court sould not prejudge the
generall gift of the schireffship and justiciarie grantit to the said
James, quhilk he alledgit to be anteriour to ony gift to my lord
bishop’.

The list of sederunts of the different courts, given below,
shows the date and location of each court sitting, and indicates
the various movements of the courts on circuit.

LIST OF SEDERUNTS²

The Court Book of the Bishopric of Orkney, 1614 — 1615

1614 November 15 Sandwick
    November 29 Kirkwall
1615 March 7 Kirkwall
    November 23 Kirkwall
    December 14, 21 Kirkwall

¹ Register of the Great Seal of Scotland, 1609-20, 1119.
² The places where the courts were held are not always mentioned by name;
but the omitted locations can be presumed with reasonable certainty from the
text.
It will be observed that in 1614-15 the sittings of the bishop’s court were few in number and erratic. His first appearance was at the church of Sandwick on 15 November 1614, when he gave judgment in a claim for tocherguid (a wedding dowry). The bishop next held court a fortnight later in the hall of his palace in Kirkwall, when the protest by the king’s sheriff, referred to above, was entered. In 1615 there were four sittings of the bishopric court, all in Kirkwall and presided over by Mr Henry Aitkin, sheriff depute, who had served James Law in that
capacity in previous years.\textsuperscript{1} The proceedings were concerned with tenure of land and processes of warning to 'flit and remove', in one of which the bishop himself was the (successful) plaintiff.

The first sitting of the court of the stewartry took place on 5 May 1615 in the hall of Kirkwall Castle, when William Sinclair of Warsetter was tried by jury for committing an assault with 'suordis and pistollis'. The presiding officials were Henry Stewart and William Livingston, the sheriff deputes; the procurator fiscal was Robert Coltart, who also held that office in the bishopric; and the clerk to the court was Henry Aitkin, the sheriff depute in the bishopric.

Ten days later the court was on circuit in Orkney, and the islands of Rousay, Stronsay and South Ronaldsay were visited. The court then sat in Kirkwall on several occasions in early June.

Late in June the court was on circuit in Shetland, going first to Unst and Yell and then to Scalloway, where sittings were held in the castle. Thereafter the court returned to Unst, went on to Walls and Northmavine, and completed the circuit at Scalloway in late September and early October. In Shetland the sheriff depute was William Livingston, mentioned above; and the procurator fiscal was Robert Kaa, clerk to the bishopric court. The dual appointments of Robert Coltart, Henry Aitkin and Robert Kaa are worthy of note.

On 27 October the court was back in Kirkwall, in the Earl’s Palace; and sittings were continued till 20 December. Both sheriff deputes were usually present.

For convenience, the two court books of the stewartry are reviewed together: they are similar in character. Of the many actions that were raised in 1615, some dealt with the tenure or ownership of land, the payment of rents or duties, the recovery of debts and claims for compensation; others, with acts of theft

\textsuperscript{1} The Court Book of Orkney and Shetland 1612-1613.
and (a few) with deeds of violence. Bonds of caution in law-
borrows were numerous. These are all subjects that were dealt
with in the records of 1612-13, and the new material adds to
our knowledge of such affairs. There is more, too, about the
penalties for crime – from fines and standing in the kirk door to
fixing in the jougs, scourging, branding, banishment, and death.
There were, also, proceedings of a miscellaneous nature.

Among subjects that are new in the present volume is a trial
for witchcraft. On 7 June 1615 Janet Drever and Katherine
Bigland were charged in Kirkwall with ‘the abohminable and
divelishe cryme of witchcraft’. The unfortunate women were
both found guilty by the assize; and while Janet Drever was
sentenced to be ‘scrudgit fra the end of the said toun to the
uther’, Katherine Bigland was condemned to death.

New also in this volume (since 1602-04) are actions against
persons accused of stealing sheep, both in Orkney and Shetland –
some charges going back from six to eight years. The penalty
varied; but, at Scalloway, Ivor Manson, Buttie Erasmuson and
Christopher Esplein were hanged on the gallow hill. In Kirkwall,
the curious punishment of Ola Smith was ‘to be hangmane of
this schirefdome in all tyme cumming during his lyftyme’. Others
convicted of sheep-stealing were scourged and banished.

Of considerable interest are the country acts of 1615 contained
in the court books.¹ The acts of Shetland, twenty-four in num-
ber, were dated at Scalloway on 3 August; and the eighteen acts
of Orkney, at Kirkwall on 7 November. The two series have
many items in common, but differences exist, and all the acts
have been printed in full. The purpose of the country acts, which
embraced a wide range of subjects, was to meet local needs, and
to temper Scottish law to former usages. A similar, shorter
series had been passed at Scalloway in 1612.²

¹ See below, pp. 25-34, 62-72.
INTRODUCTION

The present volume, for the years 1614-15, is plainly of some importance. It shows the constitution of the courts after the establishment of separate sheriffdoms, the system of court procedure under new officials, and how the law continued to be upheld. The country acts give an added value to the work.

The printed Court Books of Orkney and Shetland now available, for 1602-04, 1612-13 and 1614-15, present a unique panorama of events and circumstances in the Northern Islands in the early-seventeenth century: first under the Stewart earl and the Norse law; and then under the law of Scotland, administered in turn by the bishop and the king's sheriff. The transition from an era of tyranny to an age of justice is clearly demonstrated, and a sudden light appears on social conditions. The three volumes will be used mainly for the purposes of study; but they are also profoundly interesting as narratives of human activity, and for their mention of individual men and women – many hundreds in number – who lived in a time that now seems remote. Their names are famous in the islands, and their descendants are there to this day.
CURIA tenta apud templum de Sandwick per reverendum in Christo patrem Jacobum episcopum Orcadensem vicecomitem principalem terrarum episcopalium de Orknay decimo quinto die mensis Novembris 1614. Curia legitime affirmata. [Folio 1r]

< Warth contra Breken and Kirkness >
The quhilk day anent the clame intentit and persewit befor the said reverend father in God at the instance of William Warth in Scor[w]**[k] aganes Magnus Brekin, William and Alexander Kirknessis, acclamand fra the said Magnus ane ox or the soume of x li. for the price thairof and fra the said[is] William and Alexander Kirknessis the soume of iii li. money fra ilk ane of thame, for tocher guid promittit be thame to him with [blank] Brekin, thair sister, four yeir syne or thairby, as the said clame at mair lenthe beiris; the said persewar being personallie present and the saidis defendaris being lykways personallie present, thair richtis, reasones and allegationes, togither with the depositiones of divers famous witnessis, being hard, sein and considerit be the said reverend father, schiref principall forsaid, [and] he thairwith being ryplie advyscit, decernis the said Magnus to content and pay to the said persewar ane young ox o[r the soume of] viii li. as for the price thairof and the said William the [soume of] **** [and] the said Alexander the soume of iii li., promittit be thame A
[to him for] tocherguid forsaid, and assoylies the saidis defendaris fra the ******* poyntis of the said clame and decernis thame quyt and [frie thairfra in tyme] cumming; attour decernis the said Magnus to content and pay to the said persewar the soume of xx s. and the saidis William and Alexander the soume of x s. as for expenssis of pley mad, sustenit and debarseit be him in persute of this present decreit; becaus the poyntis of the said clame being fund relevant and admittit to the said persewaris probatioun of consent of the saidis defendaris, he instant[lie] verifit the samen be productioun of divers famous witnessis; as wes cleirlie understand to the said reverend father and thairfor he decernit as said is and ordanes preceptis and executoriallis to be direct heirupoun gif neid beis in forme as effeiris.

< Hackland contra Richie >
The said reverend father in God sittand in judgement decernes Johne Richie in Hour[stan]c, as cautioner and souertie for James Gar[i]och in [blank], to content and pay to Andro Hakland in Lynda the soume of iii li. money promittit be him to the said Andro, ex confessione partis rei.

Curia capitalis vicecomitatus episcopi de Orknay tenta apud palatium de Yeardis in aula eiusdem per reverendum in Christo patrem Jacobum episcopum de Orknay vicecomitem principalem eiusdem episcopatus vigesimono die mensis Novembris 1614. Sectis vocatis et curia legitime affirmata.

Ar choisin for memberis of court Robert Kaa clerk, Robert Coltart procuratour fiscall, Archibald Dundas officer and Johne Thomson adjudicator.

[Protest in name of Sir James Stewart of Killeith] Compeirit David Heart, shiref clerk of Orkney, and in name of S[i]r James Stewart of Killeith, kny[gh]t, and Mr Johne Finla-
sone, his deput, protestit that quhatsumever sould be done this
court sould not prejudge the generall gift of the schireffship and
justiciarie grantit to the said James, quhilk he alledgit to be anteri-
our to ony gift to my lord bischop, and thairupoun askit instru-
mentis.

The forsaidis memberis of court [chosin] and electit as said is
wer admittit and sworne, the court fensit and sutes callit wes
continwit to the morrow.

Curia vicecomitatus episcopatus Orcadensis tenta apud urbem de Kirkwall infra palatium de Yeardis ibidem in aula eiusdem per Magistrum Henricum Aitkin vicecomitem deputatum dicti vicecomitatus die septimo mensis Martii anno Domini millesimo sexcentesimo decimo quinto.

The said Mr Harie Aitkin, schiref deput of the bischoprak of
Orknay, produceit his commissioun and efter reiding thairof
mad faith and craved Robert Kaa clerk, Robert Coltart, notar,
procuratour fiscall, Thomas Young and Archibald Dundas offi-
ceris and Jone Thomsone dempster.

< Fermour contra Copland >
Anent the lybellit sumondis of removeing intentit and persewit
befor the said schiref deput sittand in judgement, at the instance
of William Fermour, lyfrentar of the landis underwrittin, aganes
Walter Copland, pretendit tenent, possessour and occupyer of
the saidis landis, makand mentiouin that quhair the said persewar
had the tyme of the warneing efterspecifeit of befor, continwal-
lie sensyne and as yit hes all and heall thrie farding land in Hurt-
[e]so within the parochin of Holme, Mainland of Orknay and
shirefdome forsaid, with houssis, biggingis, **** pendiclis and
pertinentis thairof pertening to him in lyfrent; be ve[rtue]
quhairof he, be his precept and officer in that pairt fourtie dayis preceding the feast and term of Witsonday last bypass, causit lawfullie warne, conforme to the act of parliament maid anent warneing of tennentis to remove fra landis, the said defendar, pretendit tennent, possessor and occupyar of all and haill the said persewaris thrie farding land, houssis, biggingis and pertinentis thairof forsaidis, to have flittit and removed him selff, his wyf, bairnes, servandis, familie, subtenennitis, cottaris, guidis and geir furth and fra the samen landis, houssis, biggingis and pertinentis thairof forsaidis, and to decist and ceis thairfri and to leave the samen void and red at the said feast and term of Witsonday, to the effect the persewar, his wyf, bairnes, men, tenentis, servandis [2r] and utheris in his name micht have enterit thairto peaciablie, bruikit, joisit, occupyit, labourit and manureit the samen, sett, useit and disponeit thairpoun dureing all the dayis of his lyfyme, conforme to his lyfrent richt of the samen, warneing forsaid and act of parliament abonewrittin in all poiintis, as the said precept of warneing, executiones and indorsationes thairof at mair lent beiris; nochwithstanding quhairof the said defender continwallie sen the said feast and term of Witsonday last bypass be him selff, his servandis, complices and utheris in his name violentlie and maisterfullie hes occupyit, labourit and manurit the said thrie farding land, houssis, biggingis and pertinentis thairof forsaidis, and will on nawayis as yit remove, desist and ceis thairfri to the effect abonespecifit without he be compellit; and anent the chairge given to the said defendar to have compeirit to have hard and seine decreit given and pronunceit in maner underwrittin, or els to alledge ane ressonabill caus quhy the samen sould not have bein done, as the saidis sumondis at lenthe beiris. The said persewar compeirand personallie with Robert Coltart, his procuratour, quha for proveing the pointis of the saidis sumondis produceit ane tak and assedatioun maid and grantit be Robert, erle of Orknay, lord of Yetland, to the
said William during all the dayis of his lyftime, of all and haill the saidis landis with houssis, biggingis and pertinentis thairof forsaidis, of the date the fyft day of November the yeir of God i\textsuperscript{m} v\textsuperscript{e} lxxxvii yeiris, and the said defendar being lykwayis personallie present, thair richtis, reasones and allegationes being hard, seine and considerit be the said schiref deput, and he thairwith being ryplie advyseit, decernes the said defendar to flitt and remove him self, his wyf, bairnes, familie, subtennentis, cottaris, guidis and geir furth and fra the said thrie farding land, houssis, biggingis and pertinentis thairof forsaidis, and to leave the samen void and red, decist and ceis thairfra, to the effect the said compliner, his wyf, bairnes, servandis, men, tenentis and utheris in his name may enter thairto peaciablie, bruiik, jois, occupy, labour and manur the samen, set, use and dispone thairupoun at his pleasour in tyme cumming, conforme to his said richt of the same, warneing forsaid and act of parliament abonewrittin in all poynitis; becaus it wes alledgit be the said defendar that he aucht not to be decernit to flitt and remove fra the landis lybellit, becaus he had takis sett to him be the said persewar for termes to rin, and offirit him to prove the samen sufficientlie, and ane terme being assignit to him for proveing thairof he failyeit in doing of diligence to that effect; as wes cleirlie understand to the said schiref deput and thairfor he decernit as said is and ordanes preceptis and executoriellis to be direct heirupoun gif neid beis in forme as effeiris.

Vigesimo tertio Novembris 1615

< Ridland contra Beatoun >

In the actioun and caus intentit and persewit at the instance of Johne Ridland of that ilk aganes Thomas Beatoun in Inner Stromnes, to heir and sie him decernit to have done wrang in the wrangous, violent and maisterfull occupatioun, labouring, man-
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ureing and withholding fra the said persewar, without tak or licence of him or any other title of [rich]t, of the said compliners nyne rigges of land [with] the pertinentis thairof lyand in the parochin of Stromnes and schirefdome of the bischoprik of Orknay, be the space of tua yearis croppes nixt and immediate following the feast of Witsunday i\textsuperscript{m} vi\textsuperscript{e} and fourtein yearis; and to decist and ceis thairfra in tyme cumming, to be peaciablie bruikit be the said persewar as his proper landis in all tyme thair-efter; and to refund and pay to him the proffeitis that he mycht have had of the saidis nyne rigges of land with the pertinentis yeirlie be the said space, gif the said Thomas had sufferrit him peaciablie occupy and labour the samen with his awin guidis; as at mair lenath is contenit in the said matter, actis, preceptis and heall proces led and deduceit thairupoun; the said persewar being personallie present and the said defendar being lawfullie sumond to this actioun lawfull tyme of day biddin oft tymes callit and not compeirit, the said schiref deput hes admittit and admittis the poynitis of the saidis sumondis to the said persewaris probatioun, and for proveing thairof hes assignit and assignis letteris to prove. [Continued on 14 December.]

[3r] Decimo quarto Decembris [1615]

\textless Bishop contra Setter and Quoyis \textgreater

Anent the lybellit sumondis of removeing intentit and persewit befor Mr Harie Aitkin, schiref deput of the bischoprik of Orknay sittand in judgement, at the instance of ane reverend father in God, James, bischop of Orknay, haveing guid and undoubtit richt to the landis underwrittin, that quhair he hes \ldots all and haill the landis of South Setter and quoyis, houssis, biggingis and pertinentis thairof lyand within the ile of Wais and schirefdome forsaid, pertening to him as a pairt and portioun of the patron [age] and rent of the said bischoprik; be [3v] virtue quhairof he \ldots xl
dayis preceeding . . . Witsunday last bypast, cawsit lawfullie
warne . . . Elizabeth Setter, relict of umquhill Magnus Chalmer,
and Alexander Quoyis, pretendit tennentis and occupyeris of all
and haill the saidis landis . . . lyand within the ile and parochin of
Wais and schirefdome forsaid, to have flittit and removed thame
selves, thair wyifes, bairnes, servandis, familie, subtennentis, cot-
taris, guidis and geir furt and fra the saidis landis . . . to the effect
the said reverend father, his men, tennentis and servandis . . . may
enter thairto peaciablie . . . as the said precept . . . at mair lenth
beiris; nochtheles the saidis persones . . . have continwallie sen
. . . Witsunday last bypast . . . occupyit . . . the saidis landis . . . and
will on nawayis as yit remove . . . thairfra . . . without they be
compellit; and anent the chairge givin to the said defendar to
have compeirit . . . as the saidis sumondis at mair [lenth] beiris.
The said persewar compeirand be Robert Coltart, his procura-
tour, quha produceit for proveing of the poynitis of the said
lybellit sumondis ane instrument of saisine under the subscrip-
tioun of Mr Harie Aitkin, notar publict, of the date the fourtein
day of November i m vi c and fourtein, bearand the said persewar
to be infeft and seasit in all and haill the saidis landis, and the
saidis defendaris being lawfullie sumond to this actioun lawfull
tyme of day biddin oftymes callit and not compeirit, the said
schiref deput decernis and ordanes the saidis defendaris to flitt
and remove . . . furth and fra the saidis landis . . . to the effect the
said reverend father . . . may enter thairto peaciablie . . . conforme
to his richt thairof . . . becaus the saidis defendaris wes lawfullie
sumondit to have compeirit befor the said schiref deput to have
hard and seine sentence and decreit given and pronunceit in
maner abonewrittin, or els to have alledgit ane ressonabill caus
quhy the samen sould not have bein done, with certificatioun
to thame and they failyeit the said schiref deput will decerne in
maner forsaid, and they being lawfullie sumond to that effect
compeirit not to alledge ony ressonabill caus in the contrair; as
wes cleirlie understand [be] him and that for he decernit as said is and ordanes preceptis . . . as efFeiris.

< Ridland contra Beatoun >
Anent the terme letteris assignit [on 23 November] be Mr Harie Aitkin, schiref deput of the schirefdome of the bischoprik of Orknay, to Johne Ridland of that ilk aganes Thomas Beatoun in Stromnes, for proveing of the sumondis of violent proffitis persewit at the instance of the [said] Jone aganes the said Thomas, as the said sumondis at mair lenth beiris; the said [persewar] being [4r] personallie present produceit diligence upoun William Beatoun of Cluk, Magnus Cromertie and Jone Cursetter, quha compeirit not, and protestit for farder diligence aganes the saidis persones and ma witnessis, and the said defendar being lawfullie sumond etc., the said schiref deput assignis letteris to prove pro secunda et tertia.¹

[2v] Vigesimo primo Decembris 1615

< [Ommon]d contra [Omm]ond etc. >
Anent the lybellit sumondis of removeing intentit and persewit befor Mr Harie Aitkin, schiref deput of the bischoprik of Orknay sittand in judgement, at the instance of Richard Ommond in Onstoun, heretabill udaller of the landis underwrittin, that quhair the said persewar hes . . . all and haill ane markland in Kirbuster within the parochin of Orpher and schirefdome forsaid, perten- ing to him heretablie as his richt and title thairof proportis; be vertue quhairof he . . . fourtie dayis preceiding the feast and terme of Witsonday in anno i⁰ vi⁰ and fourtein yeiris, causit lawfullie warne . . . James Guni, James Wischart, pretendit

¹ The above action was continued on the last day of February 1616, on 7 March 1616, and on 14 March 1616, when judgment was given largely in favour of the pursuer.
tenantis, possessouris and occupyaris of the saidis landis, and Robert Ommond in Kirkwall for his entres, to have flittit and removit thame selffis, thair wyffis, bairnes, servandis, familie, subtennentis, cottaris, guidis and geir furt and fra the saidis ane markland and pertinentis thairof at the said feast and terme... to the effect the said persewar, his wyf, bairnes, servandis, tenentis... micht have enterit thairto peaciablie... as the said precept... at mair lent beiris; nochtwithstanding quhairof the saidis persones... continwallie sen... Witsonday hes... occupyit... and withhaldin fra the said persewar the said ane markland... and will on nawayis as yit remove... thairfra without they be compellit; and anent the chairge givin to the said defendar to have compeirit... as the saidis sumondis at lenthe beiris. The said persewar compereand personallie [jr] with Robert Coltart, his procuratour, and the said defendar compereand lykewais personallie with Jherome Chalmeris, his procuratour, thair richtis... with the depositiones of divers famous witnessis receaveit, sworn and admittit for the pait of the said defendar, being hard... the said schiref deput... decernis the saidis defendaris to flitt and remove... furth and fra the said ane markland... to the effect the said persewar... may peaciablie enter thairto... conforme to his richtis as uddaller thairof... becaus it wes alledged be the said Jerome Chalmeris, procuratour forsaid for the pait of the said Robert Ommond and remanent defendaris forsaidis, that they can not be decernit to flitt and remove fra the said ane markland lybellit, becaus John Ommond, grandschyr to the said Richa[rd] and ane guidschyr to the said Robert, hade four mark uddall land quhilkis he devydit betuix the bairnes begottin upoun his first and secound wyffis, and that the said ane markland lybellit fell to David Ommond, father to the said defendar, quha wes sone lawfull begottin of the secound maryage, quha continwed in the peaciable possessioun thairof dureing all the dayis of his lyftyme, lyke as the said defendar haid continwed in peaci-
able possessioun of the samen ever sen syne be the space of tuentie four yeiris; to the quhilk it wes answerit aucht to be repellit, becaus he offerit him to prove that the said ane markland lybellit fell in partage to umquhill Thomas Ommond, brother to umquhill Eduard Ommond father to the said persewar, quha wedsett the said ane markland to umquhill Peter Rusland in Haray, fra quhom and his aires the said umquhill Eduard redemit the samen; to the quhilk it wes duplyit be the said Jerom[e] Chalmeris, procuratour forsaid for the pairt of the saidis defendaris, that the said replie aucht to be repellit, becaus gif ony wedsett ane markland wes it wes maid be the said umquhill Thomas to the said umquhill Peter Rusland, giveand and nocht grantand the samen, that nather the said Peter nor the said umquhill Thomas, his authour, attenit to the possessioun thairof, and that his umquhill gudame, his father and him selff for thrie ages almost be the space of ane hundre[th] yeiris had continued in peaciable possessioun thairof hinc inde efter utheris sen the deceis of the said umquhill Johne, baith thair auctores, and offerit him to prove the samen sufficientlie; quhilk exceptioun and duply being fund relevant for eliding the said lybell and reply, the said schiref deput admittit the samen to the saidis defendaris probation, and tyme being assignit to thame for proveing thairof they faily[ei]t in proveing of the samen; as wes cleirlie understand be the said schiref deput and thairfor he decernit as said is and ordanes preceptis . . . as effeiris.

[The next entry in this court book is dated 4 January 1616.]
URIA justiciarie vicecomitatus de Orknay et Yetland tenta apud castrum de Kirkwall in aula eiusdem per honorabiles viros Henricum Stewart de Carlongyie et Magistrum Willelmum Levingstoun vicecomites deputatos dicti vicecomitatus die quinto mensis Maii anno Domini 1615. Curia tenta et legitime affirmata. [Folio 43r]

The quhilk day ar chosen Mr Harie Aitkin clerk, Jon Moffet officer, Jon Thomesone dempster and Robert Coltart procurator fiscall.

〈 Ryot: Sinclair 〉

William Sinclair of Warsetter being laufullie sumondit to have compeirit befoir the saidis schirefis this day in judgement to underly ane assyse for the cruell and unmercifull unbesetting of Jon Broun, merchand in Bia in Sanday, be way of foirthot fellonic with suordis, pistollis and utheris waponis invasive of purpois to have bereft him of his lyfe, upone the thrid day of Apryle last, thairby committing manifest oppressioun and ryot upone the said Jon in contempt of his majesteis auctoritie and lawis; the said William Sinclair being personallie present denyet the same. Thairfoir the judges referrit the same to the knawledge of ane assyse of the persones following, viz –
The said Robert Coltart, procuratour fiscall, and the said Jon Broun, pairtie greved, desyrit the said William Sinclair to give his aith de calumnia upone the cryme abonewrittin, quha refuissed to give the same. The foirsaidis persones being chosen, suorne and admittit, past al togidder furt of court, rypelie advysit intenterit agane, fand and delyverit the said William Sinclair to have committit ane ryot upone the said Jon, and that be the delyverance of Nicoll Garioche, chancelar electit be the saidis assyssoris. The judges condemnis him [in ane] unlaw of court for the ryot.

At [blank] kirk in Rowsay the xv day of Maii the yeir of God 1615.

< De Chalmer contra Alexander >
Anent the supplicationoun geven in befoir the saidis schiref deputtis at the instance of Jerome Chalmer, burges in Kirkwall, aganes Henrie Alshunder in Langskaill in Rowsay, beirand that in the
moneth of March 1609 the said Henrie conditioned with him to labour the landis of Stannaquoy\(^1\) within the ile of Rowsay, pertening to the said Jerome, and to begin thairto to the crope and yeir of God 1609 yeiris forsaid; lyke as the said Henrie promises to content and pay to the said Jerome yeirlie and ilk yeir during his occupatioun thairof forsaid the males and dewteis of the samen, viii settingis malt; and trew it is that the said Henrie enterit to the possessioun of the saidis landis for the said crope and yeir of God 1609, and hes possesst and laborit the samen yeirlie and ilk yeir sensyne be the space of seven yeiris and croppis, and that the said Jeron[me] hes oft and diveris tymes requyrit and desyrit him to have maid payment to him of the said yeirlie dewtie for the males of the saidis landis yeirlie and ilk yeir the croppis and yeiris of God abonewrittin. Nottheleshe wrangouslie refuisissis sua to do, nather will he content and pay to him the soume of iii li. for the price of ilk meill of the said malt without he be compellit, as [43v] the said suplicatioun at mair lenth beiris; the persewar being personallie present and the said defender being lykwayis personallie present, thair richtis ... being hard ... the saidis schiref deputis ... decernis the said Henrie to content and pay to the said Jerome viii settingis malt yeirlie and ilk [yeir] be the space of the saidis seven yeiris for the dewteis of the saidis landis, or ellis to content and pay the said soume of iii li. for the price of ilk meill thairof; becaus the pointis of the said supplication being be the said persewar referrit to the said defenderis aith of verritie simpliciter, and he being personallie present as said is refuisiss to give the same; as wes cleirlie understand to the saidis schiref deputtis and thairfoir they decernit as said is and ordanes preceptis etc.

At the hous of Strynie within the ile of Stronsay the xxvii day of Maii 1615.

\(^1\) Possibly Scannaquoy.
The saidis schiref deputtis sittand in judgement, compeirit Oliver Skae and becam actit to content and pay to James Mowat, merchant, the soume of v li. money betuix and the feast of Lambe nixt.

Compeirit Andro Eygo, smyth, and becam actit to content and pay to the said James fyve meillis beir on the beir pundler, or ellis the soume of xxxiii s. iii d. for the price of ilk meill thairof, and that betuix and the feast of Pashe nixtocum.

Compeirit David Voy in Hoip and becam actit to content and pay to the said James Mowat the soume of fyve pund betuix and the feast of Lambe nixt.

At the kirk of Burwick within the ile of South Ronnoldsay the first of Junii 1615.

In presens of the saidis schiref deputtis sittand in judgement decernis and ordanes William Birstane younger as cautioner and full debtour for Jon Williamsone in Paplay, to content and pay to Adame Cromertie of Kirkhous the soume of xxx li. money adebit be the said Jon to the said Adame for thrie yeiris bygane dewteis of ane farding land in Paplay occupyet be the said Jon, pertening to him, ex confessione dicti Willelmi.

Anent the clame persewit befoir the saidis schiref deputtis at the instance of William Carmichell, merchant in Kirkwall, aganes Archibald Drysdaill in South Ronnoldsay, acclameand fra him xxxv li. xix s. iii d. money adebtit be him to the said William
conforme to ane futtit and subscrivit compt, and sicklyke ac-
clameand the soume of xxxviii lib. money debursit be him to
William Fullertoun, merchand, at his letter of requeist wreattin
to him from Dunrosnes the xxiii of August 1603, quhilk he
promesed to have repayit immediatlie efter his cumming to
Orknay, quhilk wes shortlie thairefter, as the saidis clames at
mair lent beiris; the said persewar being personallie present and
the said defender being lykewayis personallie present, thair rich-
tis... being hard... the saidis schiref deputis... decernis the said
defender to content and pay to the said persewar the soume of
xxxv li. xix s. iii d. and xxxviii lib. money foirsaid, adebtit be
the said defender to him in maner and for the caussis abone-
writtin; becaus the said defender alledgit that he had maid pay-
ment to the said persewar of the saidis soumes of money sen the
daft of the said subscrivit compt and letter of requeist, quhilk
being fund relevant and admittit to his probatioun, he than in
steid of all uther probatioun thairof admittit the same to the said
persewaris aith of verritie simpliciter, quha being suorne deponit
he had maid payment to him of no pairt of the saidis soumes; as
wes cleirlie understand to the saidis schiref deputtis and thairfoir
they decernit as said is.

[44r] At Kirkwall the sext day of Junii 1615.

<Fulsetter contra Wilkie>
In presens of the saidis schiref deputtis sittand in judgement decer-
nis and ordanes Jon Wilkie in Birsay to content, pay and delyver
to Gawen Fulsetter in [blank] tua meillis malt and tua meillis
maill, or ellis to content and pay to him the soume of v li. for ilk
meill malt and vi li. for ilk meill maill abonewrittin receavitt
be him fra the said Gawen of the crope and yeir of God 16*3,
quhilk the said Jon promesed to have gottin allowit to him in his
debtis and landmaillis, quhilk he did not, ex confessione partis rei.
Anent the lybellit precept of removeing intentit and persewit befoir the saidis schiref deputtis at the instance of the rycht honorabill Sir James Stewart of Killeith, knyght, takisman of the landis underwrittin, aganes Thomas Sinclair in Lopnes in Sanday, makand mentioun that quhair the said persewar... hes all and haill the achtene penny land of Lopnes and xviii d. land of Wais lyand within the ile of Sanday and schirefdome foirsaid, pertening to him as takisman thairof, as his tak and rycht grantit to him at lenth beiris; be virtew quhairof he... fourtie dayis preceding... Witsunday last bypast, cawsit laufullie wairne... the said defender, pretendit tenent, possessour and occupyer of all and haill the saidis landis with the pertinentis, to have flittit and removed him selfe, his wyf, bairnis, men, tennents, servandis, cottaris, guidis and geir furt and fra the samen landis... to the effect the said persewar, his men, tennentis, servandis... micht have enterit thairto peciable... as the said precept... ait mair lent beiris; notwithstanding quhairof the said defender... hes continowallie sen... Witsunday last bypast... occupyet... and withhaldin fra the said persewar the saidis landis... and will on nawayis as yit remove... thairfra... without he be compellit; and anent the chairge geven to the said defender to have compeirit... as the said precept at mair lent beiris. The said persewar compeirand be Robert Coltart, his procuratour, and the said defender being laufullie sumondit... and not compeirand, the saidis schiref deputtis discernis and ordanes the said Thomas to flitt and remove... furt and fra the saidis landis... to the effect the said persewar... may enter thairto peciable... becaus the said defender wes laufullie sumondit to have compeirit to have hard and sene decreit geven in maner abone... writtin, with certificatioun and he failyet the saidis judges wald dicerne in maner foirsaid, compeirit not, and sicklyke becaus the said [44v] [Robert] Coltart, procuratour foirsaid for the pairt of the said
Sir James, persewar, producit ane tak and assedatioun of the hail landis and rent of the erledome of Orknay, grantit to the said persewar be his majestie, of the dait the [blank] day of [blank] vi° and [blank] yeiris; as wes cleirlie understand to the saidis schiref deputtis and thairfoir they decernit as said is and ordanes preceptis . . . as effeiris.

Curia capitalis vicecomitatus de Orknay et Yetland tenta in loco praedicto per praedictos vicecomites die vii Junii 1615. Sectis vocatis et curia legitime affirmata.

< Lawborrowis: Setter contra Sclaitter >
Robert Mowat in Skeldell becam actit cautioner, souertie and lawborrowis for Robert Sclaitter in Suonnay that Thomas Setter, smyth, his wyfe, bairnis, men, tennentis and servandis sail be harmeles and skaithles in thair bodeis, landis, heritadges, takis, stedingis, rowmes, possessiounis, cornis, cattell, guidis and geir, and on nawayis to be trublit nor molestit thairin be the said Robert Sclaitter, his wyf, bairnis, men, tennentis nor servandis, nor be na utheris of his cawsing, command, receat, asisstance nor ratihabitioun, nor nane quhom he may stop or lat directlie or indirectlie in tyme cumming utherwayis nor be ordour of law and justice, under the pane of xl li., and the said Robert Sclaitter becam actit for releif of his said cautioner etc.

< Lawborrowis: Sclaitter contra Setter >
Hew Halcro of that ilk becam actit cautioner, souertie and lawborrowis for Thomas Setter, smyth, that Robert Sclaitter in Suonnay, his wyfe, bairnis . . . sail be harmeles and skaithles . . . be the said Thomas, his wyf, bairnis¹ . . .

¹ The amount of the surety is not stated.
< Act contra Lening\textsuperscript{1} for alledgit witchcraft >
Compeirit Alexander Stewart of Clet and becam actit as cautioner for Marioun Lening, spous to James Howiesone in Papa Westray, that the said Marioun sall compeir befoir the schiref principall of Orknay or his deputis and underly the law for the alledgit cryme of witchcraft and consultatioun, at quhat tyme or how sone shoe sall be laufullie chairgit to that effect, under the pane of i c. lib., and the said James Howiesone becam actit for releif of the said Alexander, cautioner foirsaid.

< Witches Drever [and] Bigland >
Jonet Drever and Katherene Bigland alias G\textit{ie}dock being pannald, indyttit and accusit for airt pairt useing, committing and practizeing of the ab\textit{hmi}nable and divelishe cryme of witchcraft contened in the particular and severall pointis of dittayes geven in aganes thame, compeirit Robert Coltart, procuratour fiscall, and desyrit the foirsaidis persones to be put to the knawledge of ane assyse of the persones following, viz –

<table>
<thead>
<tr>
<th>Alexander Stewart of Clet</th>
<th>Thomas Randell elder in Rakwick</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Menteith of Egilsay</td>
<td>Oliver Howiesone thair</td>
</tr>
<tr>
<td>Mitchell Balfour of Garth</td>
<td>Thomas Randell younger thair</td>
</tr>
<tr>
<td>Jon Beinstoun of Noup</td>
<td>Oliver Donoldsone in Wa</td>
</tr>
<tr>
<td>James Cragie in Bruch</td>
<td>William Randell thair</td>
</tr>
<tr>
<td></td>
<td>Jon Setter in Wa</td>
</tr>
<tr>
<td></td>
<td>Thomas Howiesone elder thair</td>
</tr>
<tr>
<td></td>
<td>William Howiesone thair</td>
</tr>
<tr>
<td></td>
<td>Boneface Leask thair</td>
</tr>
<tr>
<td></td>
<td>Robert Low thair</td>
</tr>
</tbody>
</table>

\textsuperscript{1} This name contains five minims. \textit{Lening} is the most likely form.
The saidis persones being receavit, suorne and admittit, past altogidder furt of court and rypelie advysit incenterit agane, [45r] fand and delyverit all in ane voice for the most pairt the said Jonet Drever (be the mouth of Robert Menteith, chancelar) to be convict and gilitie of the fostering of ane bairne in the hill of Westray to the fary folk, callit of hir our guid nichtbouris, and in haveing carnall deall with hir and haveing conversatioun with the fary xxvi yeiris bygane, in respect of hir awin confessioun; and sicklyke fand and delyverit for the maist pairt, be the mouth of the said chancelar, the said Katharine Bigland to be convict and gilitie of witchcraft for standing in the style of the kirk yaird of the Cros Kirk of Westray with drawin knyffis in hir hand quhill Marioun Tailyeour, hir mother, and utheris that wes in hir companie, cam furt of the said kirk the most pairt of ane nicht; item convictis and fyllis the said Katharine for laying of ane duyning and quotidiant seiknes upone William Bigland in Swartmilhn, hir maister; item fyllit the said Katharine for practizeing of the said divelishe cryme of witchcraft in going furt under clud of nicht about Candelmes last and bringing in to the said William his hous of watter as ap[per]*it, and weshing of the said William his back thairwith, and laying him doun saying he wald get guid rest, and lying doun betuix him and the dor, haveing refuissed to ly in any uther place, and the said William haveing walknit with fear and crying and feilling a thing lyke a ruche sheip abone him, in saying to him Be not affrayit for it is the evill spreit that trublit yow that is going away; and in taking of the said William upone the morne at nicht efter sun setting under the bankis and weshing of him with salt watter at that tyme and fyve or sex uther nichtis thairefter quhill he receavit healthe be hir unlaufull and divelishe airt of witchcraft; item fyllit the said Katharine in laying of the seiknes the said William had upone Robert Broun, his servand, quha continowit thairin almost mad tua dayes quhill shoe cam and graippit his pulses and
brow and straikit his hair backward and saying he wald be weill, and casting of the same seiknes immediatlie upone the said William Bigland; and the said Katherene being challengit within the said ile thairefter for taking of the said seiknes af the said Robert and casting the same agane upone the said William, in saying if William Bigland lived shoe wald die, and thairfoir God forbid he leive. Efter quhais delyverance the judges decernis and ordanes the said Jonet Drever to be tane upone the morne betuix 3 and 4 houris efter nune and scrudgit fra the end of the said toun to the uther, and thairefter to be banished the cuntrey and never to returne, under the pane of death; and sicklyke decernis and ordanes the said Katherene Bigland to be tane to the heid of the lone the morne at tua efter nune, and thair to be bund to a staik and hangit to the death and brunt to asches; and dome geven thairupone.

Octavo Junii 1615

〈 Bluid: Walter and fleck [sic] 〉
Jon Walter, servitour to Edward Scolay, being indyttit and accusit for the unbesetting of Thomas Auchinleck yestemicht and for hurting, wounding and bluiding of the said Thomas with a suord on the heid to the effusioun of his bluid in great quantitie, and the said Thomas being indyttit and accusit for unbesetting of the said Jon, hurting, wounding and bluiding of him on the left arme with a whinger, quha denyet the same; comperit Robert Coltart, procuratour fiscall, and desyrit the saidis persones to be put to the knawledge of ane assyse of the persones following, viz – [45v]

Assisa

Robert Sinclair of Campstane  James Maxwell of Marie-kirk
Edward Sinclair of Esinquoy
James Scolay of Toftis  Adame Sclaitter of Burnes
Quhilkis persones being receavit, suorne and admittit, removed furt of court and electit and choised the said Robert Sinclair of Campstane in chancelar, quha being ryplie advysit inenterit agane, fand and delyverit the saidis Thomas and Jon to have bled utheris hinc inde conforme to the dittay abonewrittin, and fyllit the said Thomas in the wyt. The judges decerns and ordanés baith the saidis persones to pay ane unlaw and bluidwyt, and ordanés thame to remane in waird quhill they find cautioun to pay the said unlaw and find cautioun for keiping of his majesteis peace in all tyme thairefter. Compeirit Edward Scolay of Strynie and declarit that he had bene cautioner for the said Thomas for keiping of his majesteis peace conforme to ane band geven for him thairu[pone], and desyrit that the said Thomas sould remane in waird quhill he fand cautioun of new, and for his releif of his said band protestit that he wes present at the bar, quhilk the saidis judges admittit.

Edward Scolay becam actit to satisfie the schireffis for the foir-said bluid committit be the said Jon Walter, and sicklyke becam cautioner for the said Jon for keiping of his majesteis peace within the said schirefdome, with all his majesteis leiges in all tyme cumming, under the pane of v c. markis, and the said Jon becam actit for his releif.
Hew Halcro of that ilk becam actit as cautioner for the said Thomas that he sall observe and keip his majesteis peace in all tyme cumming, with all and sindrie his majesteis subdittis within the saidis boundis, under the pane of v c. markis, and sicklyke that the said Thomas sall satisfie the saidis schireffis for the said bluid committit be him, and the said Thomas and Jon McKenzie, his father in law, becam actit for releif of the said Hew Halcro, cautioner foirsaid.

< De Scolay contra Grott >

In presens of the saidis schiref deputtis anent the clames persewit at the instance of James Scolay, takman of Stronsay, aganes Malcolme Grot of Aikernes, fewar of the landis of Huip and takisman of the miln of Stronsay, acclameand fra him xxiii meillis i setting beir for the dewteis of the landis of Huip the crope and yeir of God 1612, or the soume of lii[i] s. iii d. for ilk meill thairof; item xii meillis maill for the miln mult[u]ris of the miln of Stronsay of the said crope and yeir of God, or the soume of vii li. for ilk meill thairof; item liii s. for the taxatiouns of the saidis landis of [46r] Huip the said crope and yeir of God 1612; as the said clame at mair lent beiris; the said persewar being personallie present and the said defender being lykewayis personallie present, quha confest him selve to be heritour and takisman of the saidis landis and miln, thair richtis . . . being hard . . . the saidis schiref deputis . . . decernis and ordanes the said Malcolme to content and pay to the said persewar the haill victuall or prices thairof abonewrittin and remanent soumes of money abonespecifeit; becaus the pointis of the saidis clames being [led] the said defender referrit simpliciter to the said persewaris aith of verritie. The said persewar maid faith that the same **** [debt]full conforme to the clame; as wes cleirlie understand to the saidis schiref deputtis and thairfor they decrenit as said is and ordanes preceptis etc.
ORKNEY

Decimo Junii 1615

〈 Lauborrowis: Chalmer contra Scolay 〉
Compeirit personallie James Maxwell of Mariekirk and becam actit as cautioner, souertie and lawborrowis for Duncane Scolay in Strynie that Robert Chalmeris in Kirkwall, his wyfe, bairnis . . . sall be harmeles and skaithles . . . be the said Duncane, his wyfe, bairnis . . . under the pane of i m. markis, and the said Duncane becam actit for releif of his said cautioner etc.

Curia vicecomitatus de Orkney et Yetland tenta apud urbem de Kirkwall in nova domo prope palatium de Yeardis per honorabiles viros viz Henricum Stewart de Carlongie et Magistrum Willelmum Levingstoun vice-comites deputatos dicti vicecomitatus die vigesimo septimo mensis Octobris anno Domini 1615. Curia tenta et legitime affirmata.

〈 Ryott: Irving contra Deldall 〉
Anent the dittay criminall persewit at the instance of Robert Coltart, procuratour fiscall of the said schirefdome, and Jone in Deldall in Deirnes, pairtie greived, for his entres (in presence of the saidis schiref deputtis sittand in judgement) aganes James Irving in Deirnes for stryking of the said Jone Deldall op the held within the kirk yeard of Deirnes on ane Sunday, being the [blank] day of September last bypast; compeirit the said James Irving quha confest his falt and come in the saidis schiref deputtis willis, and fand Adame Cromertie of Kirkh[ous] cautioner for his unlaw and for assythment of the said Jone Deldall, pairtie greived, and the said James becam actit for his releiff etc.

[46v] 〈 Lawborrowis: Deldall contra Irving 〉
Compeirit the said Adame Cromertie of Kirkhous and becam actit cautioner, souertie and lawborrowis for the said James
Irving that the said Jone Deldall, his wyf, bairnes . . . salbe harmeles and skaithles . . . be the said James Irving, his wyf, bairnes . . . under the paine of ane hundreth pundis money, and the said James becam actit for the said Adame Cromertie his releiff etc.

< Lawborrowis: Irving contra Deldall >
Compeirit lykwayis personallie Johne Robertsone in [blank] and becam actit as cautioner, souertie and lawborrowis for the said Jone Deldall that the said James Irving, his wyf, bairnes . . . salbe harmeles and skaithles . . . be the said Jone Deldall, his wyff, bairnes . . . under the pane of xl li., and the said Jone Deldall becam actit for his releiff etc.

Sexto Novembris 1615

[Sinclair contra Hardie et Gudaill]
Magnus Hardie and William Gudaill in [Kirkwall] being tane and incarcerat be the saidis schiref deputtis be vertue of letteris of captioun raisit at the instance of Johne Sinclair, merchand in Kirkwall, aganes thame for not payment to him of the soumes of money and utheris contenit in aither of thair bandis, and for thair releiffis furth of the said waird; compeirit personallie Patrik Cromertie, indueller in Kirkwall, and becam actit cautioner and souertie for the said Mans Hardie, and sicklyk compeirit personallie Mitchaell Chalmeres thair and becam actit cautioner and souertie for the said William Gudaill, that the saidis persones and aither of thame for thair awin pairtis conforme to aither of thair saidis bandis, letteris of horneing and captioun raisit thairupoun, sall mak payment to the said Johne the sowmes of money contenit thairintill within tuentie dayis nixt[heir]efter, utherwayis to present and enter the saidis persones and aither of thame for thair awin pairtis as said is in ward agane, thairin to [47r] remane
upone thair awin expenssis ay and quhill they haid maid payment thairof, ilk ane of thame for thair awin pairtis as said is; and the saidis Magnus Hardie and William Gudaill became actit for aither of thair saidis cautioneris thair releiffis etc.


< Anent the preamble and caus of the actis following >
Forsameikle as sinne and iniquitie is and hes bein the caus of Godis heavie plaigues and judgmentis, and the caus of great desolatioun in kirk and politic within this cuntrey for laik of discipline and putting of the actis of the kirk, quhilk hes bein meikle compleinit in tymes past, to dew executioun; and siclyk that thair hes bein great ignorance of his sacred majesties royall and supreme auctoritie in practis[eing] of forren and uncouth lawis contrair to the actis of parliament and secreit counsall maid thairanent; and lykwayes that thair hes bein great desolatioun in the commoun weill, truble, dissordour, injuries and wrang[is] amongst the inhabitantis of the land for laik of gove[rnment], administratioun of justice and putting of the samen to dew executioun; thairfoir it is statu[it and] ordanit be the saidis schiref deputis, with advys and co[nsent] of the gentilmen suitteris of court and commounes, all with ane advys consent and assent, as efter follow[is].

< [1] Anent the putting of the actis of the kirk to executioune >
In the first: it is statuit and ordanit for pun[ishment] of sinne and
vyce that the actis of the kirk, maid and to be [maid] be the
ministerie and thair sessioun of kirk aganes tr[ansgress]ouris and
sinneris, be put to dew executioun with all [rigour in] example
of utheris to do the lyk; and to this effect [that] the baillie of ilk
parochin and his officer concur and assist [thair] ministeris, eldersis
and thair officeris in putting of all si[k actis] and statutes maid or
to be maid in thair sessioun of kir[k to] dew executioun as said
is, for manteinance of Godis [worship], keiping of the Sundayis,
suppressing of all idolatrie speciallie of walkis and pilgramages
and all utheris [vyces], and punishing of persones refractarie
and dissobedie[nt to] thair discipline, under the pain of depriva-
tiou and pay[ment] of fourtie pundis to be employed ad pios
usus.

< [2] Anent the obedience to his majestie and [law]is
and provisioun for armour >
Item: it is statuit and ordanit that all maner of perso[nes], of
quhatsumever rank, qualitie and degrie, sall honour [thair] dreid
soverane the kingis majestie and submit th[a]me[SelfS] with all
reverence to his auctoritie in obeying his law, disclameing and
renunceing all forren lawis, actis, statu[tes and] constitutiounes
quhatsumever observit heirtofoir, [under the pains] conteinit
in the actis of parliament and [most honorabill privie coun]sall
[maid thairanent]; and [that all men according] [iv] to thair
rank and degrie provyd thameselfis of sufficient armour accord-
ing to thair estait, and be in redines to serve his majestie and
deputtis present or that salbe for the tyme, for suppressing and
withstanding the incursiounes of pirrotis and utheris tumultuous
persones, as they wilbe answerable upon thair hiest perrell.

< [3. Anent] the **** direct[ing of the] cors >
Item: it is statute and ordanit to the effect foirsaid that ilk hous
and familie sall cairfullie and diligentlie direct the cors according
to the ordour and custome to his nixt nichtbour with ane suffi-
cient bearer, for admonishing the people ather to convein to kirk
to preiching and prayeris or for his majesties service and sik uther
necessar causis as salbe thocht expedient be the minister, schireff-
 fis and justiciaris or thair baillies, and sail not stay nor lay doun
the samen bot direct it with all diligence upon the recept thairoff,
under the pain of sax pundis money toties quoties.

< [4. Anent the [mar]king of [pund]leris and [bisper]is >
Item: it is statute and ordanit that all pundleris and bismeris be
markit with his majesties mark betuix and the [blank] day of
[blank] nixtocum, under the pain of ten pundis for the first fault
and doubling of the said pain sa oft as they sail happin to transgres
thairefter, and that by and attour the act of parliament maid
thairanent and paines conteinit thairintill, and punishment to be
inflictit upon the contraveineris thairoff conforme thairto.

Item: it is statute and ordanit that na caschies be hevier than ane
half setting weicht, conforme to the old statutes maid thairanent,
under the pain of fourtie shillingis for the first fault and doubling
thairof for the second fault and confiscatioun of the victuall con-
teinit thairintill for the thrid fault, and that by and attour the
punishment of thair persones at the will of the judge.

< [6. Anent guid nichtbour]head >
Item: it is statute and ordanit that guid nichtbourhead be keipit
amongst nichtbouris in ilk parochin in all tyme cumming, in
bigging of thair dykis yeirlie and putting of thair swyne to the
hill befoir the fyftein day of Apryle, keiping and hirding of thair
sheip befoir the said day, and keiping of thair horss, nolt and
uther bestiall befoir the first day of Maii, under the pain of fourtie
shillingis money to be payit to the schireff or his deputtis; and in
cais of contraveining and breking heirof so that nychtbouris be dampnyfied and hurt be utheris in not tymous dyking and hirding as is abonewretin, in that cais the contraveineris to pay to the pairtie interest and skaithit as followis, to wit – befoir Lambes sall pay for ilk sheip tua shillingis, for ilk swyne ten shillingis, for ilk horss, meir and nolt four shillingis totis quoties, and efter Lambes sall pay the double of ilk pain toties quoties as they or ony of thame sal happin to be fundin within dykis and lau[fullie tryit] befoir the baillie of the parochin to have bein in th[air] [2r] nychtbouris skaith, the dykis alwayes being maid laufull and sufficient. Lyk as immediatlie efter the tryell of the said baillie it sall be lesum to him to poynd and uplift the saidis paines, and that by and attour the comprysing of the skaith and pay[ment] of the samen conforme to the daylie practique observit in sik caissis.

< [7] Anent commoune grindis and cloising thairof >

Item: it is statute and ordanit that all grindis and yettis on all hi[e] wayes salbe cloisit be all passingeris that enteris thairby in sik soirt as they opin the saidis grindis and yettis they salbe haldin incontinentlie to cloise the samen agane, under the pa[in] of fourtis shillingis toties quoties; and no commoune grindis nor yettis to be stopped nor cloisit up that hes bein of auld and yit necessar and neidfull to be, under the pain of ten pundis.

< [8] Anent fieing of uther menis servandis >

Item: it is statute and ordanit that it sall not be lesum to ony persone or persones to fie, hyir nor conduce ane uther manis servand except that they be dischairgit be thair maister or that they dischairge thair maisteris laufullie fourtis dayis befoir ane la[jufull] terme, and that nather gentilmen, boundmen nor na uther resave ony sik persones nor give them hospitalitie nor
intertenem, nor yet set to thame houssis nor resave, suppoirt nor supplie any vagaboundis, idle men or unlauffull weomen, under the pain of ten pundis *toties quoties*.

*< [9] Anent rancelling for thift >*

*Item: it is statute and ordanit for eshewing and tryell of thift in tyme cumming that it salbe lesum to the pairtie inter[est], with the baillie or officer of thair parochin or tua or thrie hon[est] men to be chosin be him, to rancell, search and seik all houssis and suspect places within the samen, and if neid be[is] in cais of susp[i]tioniun to pas to the nixt parochin [or] beyond the samen; and to this effect ordanes the baill[ie] of ilk parochin or officer to concur with the pairtie interest in [ma]ner foirsaid for appprehending thairof, as they will eschew to be [reput] and haldin as partakeris of the said cryme.*

*< [10] Anent the ryderis of uther menis hors and cutting of the taillis thairof >*

*Item: it is statute and ordanit that quhatsumever persone sa[lbe] apprehendit or tryit to have riddin ane uther manis hors without licence of the awner, in with the parochin quhair the aw[ner] of the hors duellis, sall pay to the schireff or his dep[uttis] the sowme of sax pundis and to the pairtie interest the [sowme] of uther sex pundis; and if he be fund outwith the par[ochin] quhair the awner duellis sall pay the double of the said p[ain]; and forder according to the distance from the parochin [out] of the quhilk the said hors salbe takin, sall triple, [quadru]ple and augment the said pain effeirand to the sev[rall] parochines quhair-throw they sall happin to ryd the said hors; [and] lykwayis it sall not be lesum to ony persone to cut or s[teill] ane uther manis hors taill, under the pain of ten pu[ndis]; and if the rydaris, stellaris and cuttaris foirsaidis s[all] have na moyen to satisfie the said penalties proportiona[llie] as is abonewrittin, they to be punishit*
in thair persone efferand [to] the deid and offence at the discretioun of the judge.

< [11. Anent **************** servandis]1 >
Item: it is statuit and ordanit that ********* by, bargane nor sell with ane uther **************** [knowledge] of his maister, as [they] **************** **[2v] as resetteris of thift, and it beand tryit the geir to [be] restoirit to the richt awner but repayment of the pryce thairof or thingis resaveit for the samen.

Item: it is statuit and ordanit that na flesheouris nor utheris buyeris and slayeris of flesh sall sell to na inhabitant within the toun nor outwith the samen the said[is] fleshis untill the tyme they cum to the baillie of the quarter and shew him the beast, the mark and the manis name fra quhom they coft the samen, quha salbe haldin to give the buyaris name in wreit, togither with the beast and m[ark] thairof and fra quhom and at quhat tyme the samen wes [coft], as the slayeris and selleris of the said bestiall will eshew to be reput, haldin and punishit as steilleris thairof.

Item: forsameikle as thair is many inconstant, sluggish and idle persones quha, leaveing servoice, gives them selfis to traffique and play the merchand and attendis the repairing of sh[ippis] and straingeris to reidis and usuall places and resoirtis, and gois on ship buird under cloud of niet or privatlie under cullour of buying and selling of merchandice or guidis, under the pretext quhairof they p[yk] and stealhs, baith fra the cuntrey people to

1 The legible parts of this act are almost identical with the corresponding parts of act No. 20 for Shetland. See below, p. 69.
sell to thame and fra thame to sell to the cuntrey people; for remeid quhairof it is statuit and ordanit that na sik persone nor persones sall hant, traffique or repair on ship burid of ony strainger or dogger for buying or selling of merchandice or guidis, under quhatsumever cullour or pretext, bot sik as salbe allowit and approvin of the baillie of the parochin quhairin they duell, and for quhom the said baillie or ane or tua speciall honest men of the parochin salbe answerable, under the pain of fourtie shillingis and warding of thair persones for the first fault, and doubling of the said pain for the second fault, and sa furth tripling and quadrupling the said pain and punishment sa oft as they sal happin to cum in the contrair heirof.

14 Anent the resoirt of beggaris and 

to Yetland and etc.

Item: forsameikle as it is hevilie compleinit be the inhabita[ntis] of Yetland of the great resoirt and repair pairtlie of sturdie begg[eris] and pairtlie of puir vagaboundis from Orkney, Caith-nes and uth[eris] forren places, quha sornes, beggis and overlayis the cuntrey begging, pyking, steilling and oppressing the inhabi-tantis thairof; thairfoir it is statute and ordanit that na maister of ship, bark, bo[att] nor creart transport ony sik persones nor na utheris q[uha], under cullour and pretext to pley the merchand, intendis to resoirt to [the] said cuntrey to buy the commodities thairof, in prejudice of the p[ayment] of his majesties rentis, but ane sufficient testimonial or warrand of the schireff or his de-puttis, [gr]antit and haid to that eff[ect], under the pain of tuentie p[undis] money.

15 Anent the onin[g of the commodities of the cuntrey

Item: forsameikle as his majesties chalmerlanes ar m[eikle] inter-est and prejudgit yeirlie be the tennentis, takis[men] and utheris
addebtit in the yeirlie payment of the fruittis, rentis and dewties
dew to be payit be thame, be selling of thair best[iall], butter,
ulie and victuall befoir the saidis chalmerlanes be satis[fy]it and
payit; thairfoir it is statute and ordanit that na sik persone nor
persones sall sell, annalie, dispoun [nor put] awa[y] [3r] [ony
bestiall, butter or ulie befoir St Androis day]1 yeirlie, nor ony
victuall, b[ea]r, [malt] or me[a]ll quhill [the] feast of Lambes
yeirlie, that his majesties rentis be [satis]fyit and payit, under the
pain of xl lib., and that by and attour the deirest prices and hiest
fier that can be ex[actit] of thame be law (except the toun of
Kirkwall), or that ane licence be grantit upon ressonabill caussis.

< [16] Anent the resoirt of uncouth beggaris >
Item: forsameikle as thair is great repair of puir stra[ing]eris, idle
and vagabound persones that overlayis the cuntrey, quha hes not
bein borne nor brocht up within the cuntrey, contrair to the
tennour of the lovable lawis maid thairanent; thairfoir it is
statute and ordanit that na man suppoirt, suppl[ie] nor interteine
the saidis persones nor grant hospitalitie [unto] thame, under the
pain of fourtie shillingis; and siclyk that na man transpoirt nor
bring in the cuntrey ony sik persones in tyme cumming, under
the lyk pain of fourtie shilling[is]; and that conforme to the
saidis actis the saidis persones and everie ane of thame may repair
to thair awin cuntrey and parochines, and that everie parochin
interetine, supplie and sustein thair awin puir according to the
will and meaning thairof in all poynitis; and in cai
s ony sik persone
salbe fundin going heirefter outwith thair saidis parochines, that
it salbe lesum to the finder and apprehender to present thame to
the baillie of the parochin to be punishit as idle vagaboundis in
the jogg[is] or stoikis; and gif the baillie sall absent him self or

1 This entry represents a line at the top of the page, evidently cut off in trimming.
The missing words have been supplied from the Maitland Club transcript of
1840, in which they appear within square brackets.
refuis to caus punish thame conforme to the premissis, or to present him to the schireff or his deputtis present or that sal happen [to] be for the tyme, he salbe halldin to pay to the schireff or his deputtis the soum of tuentie pundis.

Anent the conceilling of sinne

Item: it is statute and ordaneit that na persone or persones of na rank, qualitie nor degrie sall hyd nor conceill ony kynd of thift, sorcerie nor witchcraft, bluid, wrang, injurie, roberie nor oppressioun, wraik nor wai[t]h, bot sall impairt, shaw and delait the samen to thair baillies or to the schiref deput, as they will eshew to be halldin and reput as partakeris thairof and punishit thairfoir conforme to the lawis and practice of this realme.

Anent the putting of the foirsaidis actis to executioun

And finallie: it is statute and ordaneit be the saidis schiref deputtis that the baillie of ilk parochin sall mak publicatioun heirof at thair paroch kirkis, quhairby nane pretend ignorance of the premissis; and that they sall put the saidis actis and everie ane of thame to dew executioun in the haill [heidis], articles and claussis thairof, for manteinance of Goddis worship, the reverend obedience of his majesties most royall and supreme auctortie and lawis, and for the peace and guid of the inhabitantis [of the] land; and in casis it sal happen the saidis baillies or ony of thame to be tryit or found to have oppressit or wrangit ony perso[ne] or persones within thair baillerie, be exacting of unlawfull ser[vices] or be taking of buddis or brybes for perverting of justice, [or] in ony soirt in oppressing the puir or doing of ony uther deid of the lyk nature and qualitie contrair to equitie and resoun, in that casis they salbe halldin to repair the wrangis at the [sicht] of the schiref deput, and salbe estemat to be unworthie to beir [office] or credit in tyme cumming, and that by and attour.
the due [punish]ment to be inflicted to thame according to the demerit [of the fact].


< De Paplay contra Smyth et Irving >
Arient the lybellit sumondis of removeing intentit and persewit befoir the saidis schiref deputtis at the instance of Magnus Paplay, eldest sone and air of umquhill Jone Paplay, his father, uddaller of the landis underwrittin, aganes Thomas Smyth in Vedda, William Irving in Brekis and Jone Copland in Sandis, makand mentioun that quhair the said persewar hes all and haille the four markis landis in Sandis within the parochin of Deimes and schirefdome foirsaid, pertening to him as his proper uddall landis airit be him be way of successioun efter the deceis of the said umquhill Jon, his father; be vertue quhairof he fourtie dayis preceeding... Witsonday last bypast, cawsit lawfullie warne... the saidis Thomas Smyth, William Irving and Jon Copland, pretendit tennentis and occupyaris of the saidis landis, to have flittit and removeit thame selves, thair families, servandis, sub- tennentis, cottaris, guidis and geir furth and fra all and haill the said four mark land with houssis, biggingis, pairtis, pendiccles and pertinentis thairof... to the effect the said compliner, his bairnes, servandis, tennentis... micht have enterit thairto peacie-ablic... as the said precept... at mair lent beiris; notwithstanding quhairof the saidis persones... have continwallie sen... Wit sonday last bypass... occupyit... and withhaldin fra the said
compliner the saidis landis... and will on nawayis as yit decist... without they be [47v] compellit; and anent the chairge given to the saidis defendaris to have compeirit... as the said lybellit precept at mair lenth beiris. The said persewar being personallie present with Jerome Chalmer, his procuratour, quha past fra the said Jone Copland pro loco et tempore and declairit he onlie insistit aganes the said Thomas Smyth and William Irving, and the saidis Thomas and William being personallie present lykwayis, thair richtis... being hard... the saidis shiref deputtis... decernes and ordanes the saidis Thomas Smyth and William Irving to flitt and remove... furt and fra all and haill the said four mark land... ilk ane of thame for thair awin pairtis sa far as they occupy thairof... to the effect the said persewar... may enter thairof peaciablie... conforme to his said richt thairof... becaus the saidis defendaris nocht past fra as said is being lawfullie sumondit to have compeirit befoir the saidis shiref deputtis to have hard and sein decreit given in maner abonewrittin, or elst to have alledgit ane ressonabill caus quhy etc. the samen sould nocht have been done, with certificatioun to thame and they failyeit the saidis shiref deputtis walde decerne in maner foirsaid, and they being lawfullie sumondit to that effect and compeerand personallie as said is shew no ressonabill caus in the contrair; as wes clerlie understand to the saidis shiref deputtis and thairfor they decernit as said is and ordanes preceptis... as effeiris etc.

Octavo Novembris 1615

< Absolvitour: Sinclair contra Mowat >

Anent the lybellit precept of ejectioun intentit and persewit befoir the saidis shiref deputtis at the instance of Ingram Mowat in Marsetter, possessour and occupyar of the landis underwrittin, aganes Mathow Sinclair of Bruch and Eufanie Robertsone, his spous, makand mentioun that quhair the said persewar wes in the
peaceable possessor of all and every penny land kingisland callit Uplay penny land, with houses, biggins, tofts, crofts, tumails and pertinentis thairfo pertenying thairt, lyand in the il of South Ronaldsay, Lady parochin thairfo and [48r] sheriff-dome foirsaid, and that be vertue of ane dispoisioun of the takis and kyndnes of the saidis landis maid be the said Mathow Sinclair with consent of the said Eufane Robertsone, his said spous, to the said persewar, of the samen divers and dendrie yeiris preceeding the year of God 1610 yeiris; at quhilk tyme in the moneth of Aprile the yeir of God forsaid the said Mathow and his said spous, without ony warnneing, decreit of removeing, uther proces or ordour of law quhatsumever, at thair awin handis violentlie and maisterfullie ejectit and ouptatt the said persewar, his wyf, bairnes, servandis, guidis and geir furth and fra all and haill the said ane penny land . . . and wrangouslie intrudit thame selves and thair tennentis in thair names thairintill and hes possest and occupiyt the samen sensyne, and will not reenter and reposses the said persewar thairwith, to his havie damage and skaith without remeid be provydit, as in the said lybellit precept at mair lenth is contenit; the said persewar being personallie present quha for verifying of the poynis of the said lybell produceit the foirsaid dispoisioun, and the saidis defendaris being lykways personallie present, thair richtis . . . being hard . . . the saidis sheriff deputis . . . assoilyeis simpliciter the saidis defendaris fra the said lybellit precept, actioun of ejectioun thairin contenit, haill tenour and contentis thairfo, and decernes thame quyt and frie thairfra in all tyme cumming; becaus it wes alledgit be the saidis defendaris that they cannot be decernit to have done wrang in the wrangous and violent ejecting and outputting of the said persewar and his foirsaidis furt and fra the said ane penny land . . . nather yit to enter nor reposses the said persewar, his wyf and utheris abonespecificit to the possessor and occupatioun thairof, becaus thay offirrit thame to prove that sen thair entrie
to the saidis landis he hes dischairgeit his rycht of the forsaid band produceit <and th[ey] decernit be decreit arbitral to enter to the possessioun thairof>, quhilk exceptioun being fund rele-
vant be the saidis schiref deputtis for eliding of the poyntis of
the said precept, they thane admittit the same exceptioun to the
saidis defendaris probatioun, quha being personallie present as
said is produceit ane decreit arbitral of the dait at Kirkwall the
auchtein day of Januar 1609 yeiris, beirand the saidis <defendaris
to be decernit to enter to the possessioun of the saidis landis>, as
wes cleirlie understand to the said schiref deputtis and thairfor
they gave decreit absolvitour in maner foirsaid and ordanes pre-
ceptis etc.

< Lawborrowis: Langskell contra Sinclair >
Compeirit personallie Robert Sinclair of Campstane and becam
actit as cautiouner, souertie and lawborrowis for Hew Sinclair,
merchand, his brother, that Robert Langskell in Birsay, his wyf,
bairnes . . . salbe harmeles of the said Hew . . . his wyf, bairnes, . . . [48v] . . . under the paine of i c. li., and the said Hew
becam actit for his releiff etc.

< Lawborrowis: Sinclair contra Langskaill >
Compeirit James Giffen, servitour to the said Harie Stewart,
schiref deput foirsaid, and becam actit as cautioner, souertie and
lawborrowis for the said Robert Langskaill that the said Hew
Sinclair, his wyff, bairnes . . . salbe harmeles and skaithles of
the said Robert Langskell . . . his wyff, bairnes . . . under the
pane of i c. li., and the said Robert Langskaill becam actit for
his releiff.

< Lawborrowis: Ommond contra Cromerties >
Compeirit personallie Magnus Cromertie of Sandwick and
David Cromertie of Wydwall and becam actit cautioineris,
souerties and lawborrowis *hinc inde* for utheris that Robert Ommound in Wydwall, his wyf, bairnes . . . salbe harmeles and skaithles of thame . . . thair wyffis, bairnes . . . ilk ane of thame under the paine of i c. li., and aither of thame becam actit *hinc inde* for utheris releiffis etc.

< Lawborrowis: Cromertie contra Ommond >  
Compeirit Thomas Smyth in Vydda and becam actit as cau-
tioner, souertie and lawborrowis for the said Robert Ommond that the said David Cromertie etc. salbe harmeles and skaithles of him . . . his wyf, bairnes etc. . . . under the paine of i c. [li.], and the said Robert Ommound becam actit for the said Thomas Smyth his releiff etc.

[Dittayis of thift contra Smyth et Watsone >  
Anent the dittayis criminall produceit and persewit at the in-
stance of Robert Coltart, procuratour fiscall of the schirefdome of Orknay and Yetland, aganes Olaw Smyth in Housbie in Stronsay and Alister Watsone in Grimnes in South Ronaldsay; that is to say, the said Olaw Smyth for the thifteous steilling of four sheip pertening to Magnus Fia and Mr Robert Hend[ir]sone of Holland, quhairof he stall tua of thame in the moneth of August last and uther tua seven yeiris syne; and the said Alister for the thifteous steilling of ane burdein of corne in the moneth of October last pertening to Alexander Flett, and for the thifteous steilling of xviii sheaves of corne of uther menis bind pertening to his nychtbouris, qihilke wes fund in his skrow, as the saidis dittayis at mair lenth beiris; the said procuratour fiscall being personallie present and the saidis defendaris being lykwayis per-
sonallie present, quha enterit on pannall and haveing no lawfull caus quhy they sould not pas to the knawledge of ane assys wer content to byd tryell, quhairupoun the said procuratour fiscall desyrit the saidis dittayis to be put to the knawledge of ane assys
and the pannallis to be accusit thairupoun; efter accusatioun the said Olaw Smyth confest the steilling of the sheip abonewrittin and the said Alister Watsone denyit the haill poynitis of his dittayis; thairfor the judgeis remittit the dittayis to the knowledge of ane assys quhom they ordanit to be callit.

Assysa

Magnus Cromertie of Cavay   Jaspert Flett of Houbister
Adame Cromertie of Kirkhous  David Moncreiffin Kirkwall
David Kincaid of Yinstay    Patrik Murray of Wydwick
James Tulloc of Nes         Harie Spence in Scapa
Adame Sclatter of Burnes    Thomas Louttit of Hatstane

David Cromertie in Wydwall
Johne Myller in Evie
Nicoll Garioch in Kirkwall
Jone Cromertie in Braheid
James Corrigill in Rendaill

Quhilkis persones of assys being receaveir, suorne and admittit but lawfull objectioun of the pannallis and removeit out of judgement, nominat and electit Jespert Flitt of Houbister chancler of the said assys, and efter dew deliberatioun haid anent the dittayis produceit aganes the saidis Olaw Smyth and Alister Watsone and poynitis thairof, and they enterand in judgement agane, the haill assys be the mouth of the said chancellor fyllit the said Olaw Smyth of his particular dittay abonewrittin led aganes him; and sicklyk fyllit the said Alister Watsone in the auchtein sheaves of corne contenit in that poynit of dittay led aganes him, and remittit sentence to the judge and dome to the dempster; quhilk determinatioun the judges thane present acceptit and continwit in giveing of sentence to the tent day of this instant moneth of November.
Act for Mowat

Compeirit personallie James Tulloc of Rothisholme and James Maxwell of Marikirk and becam actit as cautioneris and souerties for James Mowat, merchand, that he sail enter the morne to answer as law will for sick crymes as the judges sould lay to his chairge the said day, under the paine of l li., and he becam actit for thair releiffis.

Hunter contra Halcro

Anent the lybellit precept intentit and persewit befoir Harie Stewart of Carlongie and Mr William Levingstoun, schiref deputtis of Orkney and Yetland, at the instance of Helen Hunter, relict of umquhill Captane Allane Lentrone, executour testa- [menta]r nominat be the said Captane Allane and haveing licence to persew the actiounes underwrittin, aganes Hew Halcro of that ilk, eldest sone and air to umquhill Henrie Halcro, his father, at the lest behaveand him self as air, at the lest executour, at the lest universall intromettour with his guidis and geir, to heir and sie him be decernit to content and pay to the said persewar the soumes of money lybellit addebtit be the said umquhill Henrie to the said persewar, conforme to the severall obligatiounes mentionat in the said lybell, as at mair lent is contenit in the lybellit precept raisit thairanent; the said persewar being personallie present and the said defendar being lykwayis personallie present, quha denyit the lybell, and thairfor the saidis schiref deputtis hes admittit and admittis the said lybellit precept to the said persewar hir probatioun, and for proveing thairof hes assignit and assignis the [blank] day of [blank] nixtocum to prove, partibus apud acta citatis etc.

1 For facsimile of folio 49v, see below, p. 121.
Decimo Novembris 1615

< Act: Tulloc et Maxwell >
In presence of the saidis schiref deputtis sittand in judgement compeirit personallie James Maxwell of Marikirk and James Tulloc of Rothisholme and presentit the [said] James Mowat, merchant, conforme to the act abonewrittin, to underly the law and to answer for sick crymes as sould be laid to his chairge, and thairupoun askit actis of court.

< Act: Mowat >
Compeirit personallie the said James Mowat and protestit that he sould be fred of the band maid be him to Robert Elphingstoun for his compeirance befoir the saidis judges in respect of his compeirance, and thairupoun askit instrumentis and actis of court.

< Act: Halcro et Mowat >
Compeirit personallie Robert Halcro of Cavay and James Mowat, merchant, and the said Robert in name of [blank] Bruce, his mother, on the ane and uther pairtis, and became actit judiciallie of thair awin consentis to stand, abyd at and fulfill quhatsumever sould be decydit be Robert Menteith of Eglishaw quhat the said James sould pay of ane certane soume of money contentit in ane decreit obtenit be the said Robert his mother befor the commissioner of Orkney aganes the said James; and fand James Tulloc of Rothisholme cautioner for him that quhatsumeever soumes of money the said Robert sould decerne to the said James to pay to the said Robert in name of his said mother, he sould mak guid and thankfull payment thairof; and the said James becam actit for his cautioneris releiff.

< Lincletter contra Halcro >
Compeirit personallie Hew Halcro of that ilk and became actit not to remove Jone Lincletter in Sanday fra the half penny land
in Wesbuster in Rousay occupyit be him and his subtenentis, and not to crave nor trouble the said Jone for the maillis and dewties of the same, bot to dischairge him thairof yeirlie during the non payment of the soume of lx li. money contenit in ane band and obligatioun maid be the said Hew to him thairupoun, of the dait the [blank] day of [blank] the yeir of God i\textsuperscript{m} vi\textsuperscript{e} and [blank] yeiris; quhairupoun the said Jone Lincletter askit actis of court etc.

\textit{< Act of bluid contra Mo watt >}
Compeirit personallie Malcolme Mowat in Sangar in Stronsay and becam actit cautioner and full debtour for James Mowat, merchand, his brother, to content and pay to Harie Stewart of Carlongie and Mr William Levingstoun, schiref deputtis and justices of Orkney and Yetland, the sowme of xl li. money in contentatioun of all bluidis and ryottis committit be him and quhairof he is convict be ane assyse befoir the bailyie of Stronsay, and of the sowme of x li. money addebit be him as cautioner for William Grot of Odnes, and that betuix and the seventein day of this instant, under the paine of ten pundis money; and the said James becam actit for his cautioneris releiff etc.

\textit{< Rany contra Mowat >}
The said Malcolme Mowat becam actit as cautioner and souertie for the said James Mowat, his brother, to content and pay to David Rany the soume of xxv li. money in full and compleit payment of ane decreit obtenit be him aganes the said James befoir the commiss[ioner] of Orkney and Yetland, and of all utheris decreitis, comptis and reck[on]ingis that the said David can ask or clame of him, and that betuix and the xxv day of December nixtocum, under the paine of vi li.; and the said James becam actit for his cautioneris releiff.
William Colvile of Midhous being personallie present in presence of the saidis schiref deputtis sittand in judgement, compeirit personallie Robert Menteith of Eglishaw and desyrit the saidis schireff deputtis to caus the said William to find cautioun and lawborrowis to him that he, his wyff, bairnes . . . salbe harmless and skaythles of him . . . and renunceit all anteriour actis of lawborrowis gif ony wes fund be him; and the said William being personallie present as said is declairit that [he] could not find cautioun and lawborrowis to him actit in thair buikis, in respect he haid fund lawborrowis to him actit in the buikis of counsell to the effect abonewrittin, and thairfor could not be astrictit de novo to find cautioun befor ony inferiour judge, and thair-upoun askit act of court etc.

Compeirit personallie the said Macolme Mowat and becam actit cautioner for the said James Mowat that he sall compeir befor the saidis schiref deputtis in judgement for the soume of x li. money addebtit be him to William Carmichell, merchand, or els to pay to the same, to the said William, quhenever he salbe lawfullie wairneit to that effect, quhairupoun the said William askit act of court etc.

Anent the sentence continwit [from 8 November] to this day aganes Olaw Smyth and Alister Watsone, the judges decernes and ordanes the said Olaw Smyth of his awin consent to be hangmane of this schirefdome in all tyme cumming during his lyftyme; and ordanes the said Alister Watsone to be put in the jogis, thair to stand during thair will, and to stand at his awin paroche kirk dure the first preicheing day fra aucht houres in the morneing quhill the preicheing end, with ane
superscript with for thift about his foir head; and thairupon
dome given etc.

Undecimo Novembris 1615

< Miller contra Murray >

Anent the lybellit sumondis persewit at the instance of Johne
Miller in Evie aganes Clara Murray in Kirkwall, dochter and air
to umquhill James Murray of Garth, at the lest behaveand hir
self as air and executrix confirm'd to him, at the least intro-
mettour with his guidis and geir, to heir and sie hir as air and
executrix confirm'd to him, at the lest intromettour with his
guidis and geir, decernit be decreit of court to content and pay
the said persewar the soumes of money lybellit, as the said sum-
ondis at mair lent beiris; the said persewar being personallie
present with Robert Coltart, his procuratour, and the said de-
fendar being lykwayis [sir] personallie present, quha alledgit she
could not be decernit to mak payment to the said persewar of
the soumes of money lybellit for the caussis thairin contenit,
becaus that umquhill S[i]r Magnus Murray, thair predicessour,
set a nyne yeir tak of the landis lybellit to the said persewar
gersum frie, upoun condition that he sould big neccessar houssis
thairupon and ane chalmer for him self to his cumming, quhilk
chalmer he biggit not, and offirrit hir to prove the same suffyci-
entlie; quhilk exceptioun being fund relevant be the saidis
schierf deputtis, they than admittit the samen to the said defendar
hir probatioun, and for proveing thairof hes assignit and assignis
the fourt day of Aprile nixtocum, partibus apud acta citatis etc.¹

Decimo septimo Novembris 1615

< Elphingstoun contra Stoif, Thomstone et Midhous >

Anent the lybellit sumondis of removeing intentit and persewit
befor Harie Stewart of Carlongie and Mr William Levingstoun,

¹ There is no mention of this case in the record for April 1616.
schiref deputtis of Orknay, at the instance of Robert Elphing-
stoun of Hammagar, heritour of the landis underwirttin, aganes
Oliver Stoif in Grotsetter, Elyzabeth Thomsone, relict of um-
quhill William Irving of Sabay, and James Midhous now in
Grotsetter, for his entres, makand mentioun that quhair the said
persewar hes . . . all and haill thrie penny land and ane half callit
Grotsetter, houssis, biggingis and pertinentis thairof, lyand with-
in the parochin of St Andro and schirefdome forsaid, pertening
to him heretablie as his rychtis and titles thairof proportis; be
vertue quhairof he . . . fourtie dayis preceiding . . . Witsonday
last bypass, cawsit lawfullie wairne . . . the said Oliver Stoiff and
Elyzabeth Thomsone and all utheris pretendit tennentis, pos-
sessouris and occupyaris of all and haill the said persewaris thrie
penny half penny land callit Grotsetter . . . to have flittit and
removeit thame selves, thair wyffis, bairnes, servandis, familie,
subtendentis, cotteris, guidis and geir furt and fra all and haill
the saidis landis . . . to the effect the said persewar, his men,
tennentis, servandis . . . mycht have peaciablie enterit thairto . . .
as the said precept . . . at mair lent proportis; notwithstanding [sic]
quhairof the saidis persones and James Midhous, thair subtenant
. . . have [5iv] continwalhe sen . . . Witsonday last bypass . . .
occupyit . . . the saidis landis . . . and will on nawayis as yt
remove . . . without they be compellit; and anent the chairge
given to the saidis defendaris to have compeirit . . . as the said
lybellit precept at mair lent beiris. The said persewar being per-
sonallie present with Robert Kaa, his procuratour, and the saidis
defendaris being lawfullie sumond . . . and n[one] compeirand
except the said Elyzabeth Thomsone, the rychtis . . . being hard
. . . the saidis schiref deputtis . . . decernes and ordanes the saidis
defendaris to flitt and remove . . . furth and fra the saidis landis
. . . to the effect the said persewar . . . may peaciablie enter
thairto . . . conforme to his saidis rychtis and title thairintill . . .
becaus the saidis defendaris wer lawfullie sumondit to have com-
peirit befoir the saidis schiref deputtis to have hard and sene
decret given aganes thame in maner abonewrittin, or els to have
alledgit ane ressonabill caus quhy the samen sould not have bein
done, with certificatioun to thame and they failyeit the saidis
schiref deputtis wald decerne in maner foirsaid, and they being
lawfullie sumond . . . and nane compeirand except the said
Elyzabeth, quha alledgit no ressonabill caus in the contrair; and
sicklyk becaus the said Robert Ka, procuratour for the pairt of
the said defendar [sic], produceit the foirsaid precept of warne-
ing dewlie execut and indorsat, togither with the said persewaris
instrument of saisine of the saidis landis under the signe and sub-
scriptioun of Robert Coltart, nottar publict, of the dait the sex-
tein day of Juni 1614 yeiris; as wes cleirlie understand to the
saidis schiref deputtis and thairfor they decernit as said is and
ordanes preceptis . . . as effeiris.

Vigesimo primo Novembris 1615

Vigesimo primo Novembris 1615

Anent the precept of wrangous intromissioun intentit and per-
sewit befor the said schiref deputtis at the instance of Robert
Hunto in Birsay aganes William Sinclair of Tolhop, to heir and
sie him decernit to have done wrang in the wrangous intro-
missioun, away taking and detening fra the said persewar of the
guidis and geir following contenit in the said precept, [at] the
tyme and in maner lybellit, viz - ane ox worth x li. and tua
meillis malt, pryce of the meill v li., ane pot price iii li., as the
said precept at mair lenth beiris; the said persewar being person-
allie present and the said defendar being lykwayis personallie
present, quha alledgit that he can not be decernit to restoir and
delyver agane to the said persewar the ox nor malt lybellit as
wrangouslie intromettit with be him, becaus that the said ox wes
lawfullie poyndit be vertue of ane decreit given be the bailie of
the parochin, and that the persewar delyverit him the twa meillis malt conforme to his promeis maid to him thairupoun, and denyit the rest of the said lybell; to the quhilk it wes answerit be the said persewar anent the malt that the said exceptioun aucht to be repellit becaus he wes forceit and compellit for fear of his lyff to give the same; quhilk exceptioun anent the ox being fund relevant be the saidis schiref deputtis they than admittit the samen to the said defendaris probatioun, and sicklyk the said reply for eliding of the said exceptioun anent the malt being lykwayis fund relevant be thame, they thane admittit the same togethier with the remanent poyntis of the said precept to the said persewaris probatioun; and for proveing thairof hes assignit and assignis the [blank] day of [blank] nixtocum hinc inde to prove, partibus apud acta citatis etc.

< Lawborrowis: Kincaid contra Bannatyne >
In presence of the saidis schiref deputtis sittand in judgement, compeirit personallie Mr Robert Hendersone of Holland and becam actit cautioner, souertie and lawborrowis for William Bannatyne of Garsay that David Kincaid of Yinsta and Walter Kincaid, his brother sone, salbe harmeles and skaythles of the said William . . . under the paine of v c. markis, and the said William becam actit for his cautioneris releiff etc.

< Lawborrowis: Bannatyne contra Kincaid >
Compeirit personallie Jone Colvile in Tankernes and becam actit cautioner, souertie and lawborrowis for the said David Kincaid that the said William Bannatyne, his wyf, bairnes . . . salbe harmeles and skaythles of the said David . . . under the paine of v c. markis, and he becam actit for his cautioneris releif etc.

[52v] < Bannatyne contra Kincaid >
Compeirit Robert Menteith of Eglshay and became actit cautioner and souertie for David Kincaid of Yinstay that the said
David sall sattisfie the saidis schiref deputtis for troubling and molesting of William Bannatyne of Garsay, and that he sould mak sattisfactioun to the said William, and the said David becam actit for his releiff.

Vigesimo tertio Novembris 1615

< Colvile contra Home >
In presence of the saidis schiref deputtis sittand in judgement, compeirit personallie Robert Menteith of Eglishay and became actit of his awin consent as cautioner for Nicoll Home, greive to William Colvile of Midhous, that the said Nicoll sould compeir and answer befoir the saidis schiref deputtis at the instance of the said William, his maister, for his intromissioun with the said William his cornes and sick uther thingis he haid to lay to his chairge as greive to him, at quhat tyme and how sone he sould be lawfullie sumond; and as he sould be fund debtfull, efter sentence sould mak guid and thankfull payment according to his intromissioun and decreit; quhairupoun the said William askit instrument and act of court etc.

< Home contra Colvile >
In presence of the saidis schiref deputtis etc. compeirit personallie Mr Robert Hendersone of Holand and becam actit of his awin consent as cautioner for William Colvile of Midhous that the said William sall answer and compeir at the instance of the saidis schiref deputtis and answer at the instance of the said Nicoll, sum tyme his greive, for the alledgit ejectioun of the said Nicoll furt of certane landis possest be him and spoliatioun of certane guidis and geir furt thairof pertening to him, as he sould be lawfullie sumond to that effect; and as he sould be fund debtfull, efter sentence sould mak guid and thankfull payment conforme to the said [eject]ioun, spoliatioun and decreit thairof; quhair-
upoun the said Nicoll Home askit instrumentis and actis of
court etc.

< Lawborrowis: Bannatynes contra Kincaid >
Compeirit personallie David Kincaid of Yinstay and becam actit
cautitioner and laborrowis for Walter Kincaid, his brother sone,
that William Bannatyne of Garsay and Robert Bannatyne, his
sone, etc. salbe harmeles and skaythles of the said Walter . . .
under the paine of i c. lib., and the said Walter became actit for
his cautioneris releiff etc.

[53r]  < Lawborrowis: Kincaids contra Bannatyne >
Compeirit personallie Mr Robert Hendersone of Holand and
became actit catioun, souertie and lawborrowis for Robert
Bannatyne, sone to William Bannatyne of Garsay, that David
Kincaid of Yinstay and Walter Kincaid, his brother sone, etc.
salbe harmeles and skaythles of the said Robert . . . under the
paine of i c. li., and the said Robert became actit for his caution-
eris releiff etc.

Vigesimo quarto Novembris 1615

[Traill contra Colvile]
Anent the lybellit precept intentit and persewit befor the saidis
schiref deputtis at the instance of George Traill of Westnes aganes
William Colvile, sone to Katherine Douglas, relict of umquhill
William Stewart of Lykeing, lyfrentrix of the landis lybellit, to
heir and sie him decernit to releive the said persewar at the handis
of the said Katherine Douglas anent the payment of the yeirlie
dewtie lybellit, contenit in the letter of tak mentionat thairintill,
yeirlie and ilk yeir the cropp[is] and yeiris of God contenit in the
said lybellit precept, as at mair lenth is contenit thairintill; the
said persewar being personallie present with Robert Kaa, his
procuratour, and the said defendar being lykwayis personallie present with Robert Coltart, his procuratour, quha denyit the lybell; and thairfor the saidis schiref deputtis hes admittit and admittis the poyntis of the said lybell to the said persewaris probatioun, and for proveing thairof hes assignit and assignis letteris to prove, quha in the meantyme protestit for incident diligence etc.

< Dowglas contra Traill >
Anent the lybellit precept intentit and persewit at the instance of Katherine Douglas, relict of umquhill William Stewart of Lyk-[ing], aganes George Traill of Westnes, to heir and sie him decernit to content and pay to the said persewar the yeirlie dewartie and teyndis of the landis contenit in the tak lybellit, extending to the particular quantitie mentionat thairintill, and that yeirlie and ilk yeir the croppis and yeiris of God lybellit, or els to content and pay to hir the particular prices of the same lybellit, as the said precept at mair lenthe beires; the said persewar compeirand be Mr Robert Henderson of Holland, hir procuratour, and the said defendar compeirand personallie with Robert Kaa, his procuratour, quha alledgit na payment of the dewtis lybellit unto the tyme the testament of the said umquhill William Stewart wer confirmed, q[uha] decist sen the yeir of God i\textsuperscript{m} vi\textsuperscript{o} xiii\textsuperscript{i} yeiris; to the quhilk it wes answerit be the said Mr Robert Henderson, procuratour forsaid for the pairt of the said persewar, that the said exceptioun aucht to be repellit becaus be the said tak he is speciallie bund and oblist to the said William and the said Catherine or [53v] ather of thame, quhilk reply the judges thought relevant for repelling of the said exceptioun; secundo it wes alledgit be the said defendar that na proces can go aganes him in this actioun unto the tyme his actioun of releiff alreddie intentit be discussit, at the lest to go pari passu with this actioun; to the quhilk it is replyit the said alledgeance aucht to be repellit becaus no privat transactioun can prejudge the persewar;
to the quhilk it is duplyit be the said Robert Kaa, procuratour forsaid for the part of the said defendar, that the said persewar and his assignay ar conjunct persones and that he wes factour and commissioner for hir, and the haill benefice redoundis in his persone and favouris, quhilk secound alledgeance in respect of the said duply the judges thought relevant; and thairfor hes ordanit the saidis actiounes to go pari passu.

Decimo quinto Decembris 1615

< Act contra Stoive, Paplay, Tailyeouris et utheris >
Compeirit personallie David Moncreif in Kirkwall and became actit catioun and souertie for Oliver Stove, James Paplay, Magnus and Andro Tailyeouris, Jone Okilsetter and James Irving, all induelleris in St Androis parochin, that they salbe answerable to the schireff for the dreven tymber [cumit] in in St Androis parochin, intromettit with be thame, under the paine of [blank] and they became actit for his releiff.

Decimo sexto Decembris 1615

< Sinclair contra Copland >
Compeirit personallie Jerome Chalmeris in Kirkwall and became actit cautioner and souertie for James Copland in Henbister in Holme that in cais Robert Sinclair, merchand, sall qualifie him to have promeissed ane kow to the said Robert Sinclair, in that cais he sall restoir and delyver the same to him, and the said James becam actit for his releiff etc.

Curia justiciarii vicecomitatus de Orknay et Yetland tenta apud Kirkwall in nova domo prope palatium de Yeardis ibidem per Henricum Stewart de Carlongie vice-comitem ac justiciarium deputatum eiusdem die decimo nono Decembris 1615.
<Theifis Manssone et utheris>

Anent the dittayis criminnall produceit and persewit at the instance of Robert Coltart, procuratour fiscall of the said schiref-dome, aganes James Mansone, sone to Jone Manssone in Burray, David Rendall alias Graven in Yinstay, Nicoll Lauchtane alias Bounde, fisher in Kirkwall, William Forrester alias Leask in [blank], Margaret Tailyeour in Deirnes and William Sclatter, sone naturall to Hew Sclatter in Burnes, for certane poyntis of dittayis underwrittin, that is [54r] to say – the said Jone [sic] Manssone for the thifteous steilling of ane belt and ane knyf furt of Nicoll Sclatteris hous in Holme and of ane peice of auld plaid in March last; item for the steilling of ane mark woll fra ane wyf in Harray in somer last; item for airt pairt of the breking of Thomas Gariochis hous and thifteous cutting and steilling of ane wob out of his worklome of four elves of lenth upoun the last day of March last bypast; item for the cumming to Jonet Flettis hous in Muddisquoy upoun the thrid day of December instant, and efter he haid receaveit almoise he violentlie and maisterfullie dang the said Jonet and brak hir face, and thairefter violentlie and per force tuik away fra hir ane pair of shone and tua elves of gray clayth; the said David Rendall alias Graven for the thifteous steilling of ane burdein of corne out of ane skeow in the moneth of December 1611 yeiris, the same pertening to Barnard Yinstay; item for the thifteous steilling of ane wedder fra Marie Scollay at Lambas last or thairby; item for the thifteous steilling of ane gr[a]y sheip pertening to David Kincaid of Yinsta[y] within thir xv dayis bygane; item for airt and pairt of [the] thifteous receat and stelling of certane bear pertening to Magnus Quhyt in harvest last and of ane half meill aittis out of the said Mans his barne upoun the fourtein day of this instant at tua severall tymes, at least in induceing and seduceing of William Sclatter, sone to Hew Sclatter in Burnes, to stell the said bear and aittis and bring thame to his barne; the said Nicoll Lauchtane
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alias Bounde for cumming to James Linayis barne in Papdaill, persewing and shutting up his barne doure and entering of the said barne, to have stollen his cornes with ane sewit sark to have put thame in quhair he wes tane; the said Margaret Tailyeour for steilling of ane pokfull of beir out of ane cassie in Henrie Paplayis windo in Deirnes upoun the xvi of this instant, and of certane aittis fra divers and sindrie persones in the parochin; the said William Sclatter for the thifteous steilling of ane sark pertening to Nicoll Ewinsone aff his yeard dy[k] a fourtein days syne or thairby; item for the thifteous steilling of ane half meill beir in harvest last and delyvering of the same to David Rendall, and ane half meill aittis out of Magnus Quhyttis younger maister his barne at tua severall tymes and putting of thame in the said Davidis barne [at] his desyrc; item they all ar indyttit and accusit as comone theives and pykeris; and the said William Forrester alias Leask for airt pairt and thifteous breking of Thomas Gariochis hous, inducining, pers[wa]ding and putting in of James Mansone in at the hoill that he brak in the hous, and causing the said James cutt and steill ane pairt of ane wob out of ane warklome pertening to the said Thomas [54v] upoun the last day of November last bypast; as at mair lenth is contenit in the saidis dittayis; the said procuratour fiscall being personallie present and the saidis defendaris being likwayis personallie present, quha enterit on pannall and haveing na lawfull caus quhy they sould not pas to the knawlcdge of ane assyse wer content to abyd tryell; quhairupon the said procuratour fiscall askit actis ot court desyring the dittayis to be put to the knawledge of ane assyse and the pannallis to be accuseit thairupon; efter accusatioun the said James Mansone confess the haill poyntis of dittay led aganes him, the said David Rendall confess the first and last poyntis of dittay led aganes him anent the burdein of corne, beir and aittis, the said Nicoll Lauchtane alias Bounde confess his poynt of dittay, the said Margaret Talyeour confess hir poynt of
dittay, the said William Sclatter confest the tua poynis of dittay led aganes him, and the said William Forrester denyit that poyn of dittay led aganes him; and thairfor the said judge remittit the dittayis to the knawledge of ane assys quhom he ordancit to be callit.

Assisa
Harie Spence in Scapa
Jerome Chalmeris, skiper in Kirkwall
Thomas Collace, skiper thair Hutche[o]ne Cursetter in Newbiging
Jone Tait in Knarstoune
Alexander Mansone in Over Skapa
James Fraser in Wytfirth
Stevin Ewinsone in Birstane
Thomas Garay in Instiple
Thomas Lentrone, baillie
Bernard Yinsta in Yinsta
Niniane Smyth in Fia
Alexander Yinstay in Yinstay
Thomas Sinclair of Clett
David Bichen in Orquyll

Quhilkis persones of assyse being admittit, sworne and receaveit but lawfull objectioun of the pannallis and removeit out of judgement, nominat and electit Thomas Lentrone, bailie, in chancellar of the said assyse; and efter dew deliberatioun haid anent the dittayis produceit aganes the saidis persones pannallis and haill poynits thairof, and they enterand in judgement agane, the haill assys be the mouth of the chancellar fyllit the said James Mansone of the haill poynits of dittayis led aganes him; item fyllit David Rendall of the stelling of the corne contenit in the first poyn of dittay led aganes him [557] and of seduceing of the said William Sclatter and recept of the bear and aittis contenit in the last poyn of dittay; item fand Nicoll Lauchtane guiltie of the
poynt of dittay led aganes him and fyllis him thairintill; item fyllis Margaret Tailyeour lykwayis of the poynt of dittay led aganes hir; and si[c]klyk fyllis William Sclatter of the tua poyntis of pykerie and dittay thairof led aganes him; and clenges William Forrester alias Leask of that poynt of dittay led aganes him, and remittit sentence to the judge and dome to the dempster; quhilk determinatioun the judge thane present acceptit and continweit in pronunceing of sentence to the morne etc.

Vigesimo Decembris 1615

[ Sentence contra Manssone et utheris ]

Anent the dome and sentence continwit to this day [see above] aganes the persones following, the said schiref deput decemit and ordanit the said James Manssone to be scourgeit fra this stair fute to the schoir and back agane to the jogis be the lockmane, quhair he sould stand be the space of tua houris and brunt in the shoulder and thairefter to be banisched the schirefdomes of Orkney and Yetland and never to be sein thairintill, under the paine of hanging in cais he be fund within ane moneth efter the dait heirof Forsaid; item ordanit David Rendall to stand in the jogis with ane myter of paper about his head bearing the caus thairof fra the first bell in the morning to thrie houris efter none, and the first preiching day at his awin parochin* kirk so to stand fra aucht houris in the morneing till the people be sk[e]lt, and to be banishit the parochin betuix and Fastingis Evin, and that he sould find cautioune to that effect and for his guid behaviour and lyf in tyme cumming; and lykwayes ordanit Nicoll Lauchtane alias Boundie to stand in the jogis upon Sunday fra the first bell in the morning to the ending of the preiching with ane myter and superscriptioun of his dittay about his head, and that he find cautioune to that effect and for his guid behaviour in tyme cumming; and in lyk maner ordanit Margaret Tailyeour to stand at
the kirk dore of Deirnes the first preiching day with ane myter about hir head fra the beginning of the preiching to the end thairof; item decernit and ordanit William Sclatter to be tane be the lockman and scourgit fra the fute of the stair to the end of the Laverok; and assoilyeit simpliciter the said William Forrester alias Leask fra that poynt of dittay led aganes him, haill tennour and contentis thairof, and decernit him quyt and frie thairfra in all tyme cumming; quhilkis sentences the dempster gave for dome.

[55v] < Catioun: Rendall et Lauchtane >
Compeirit personallie Jerome Chalmeris, skiper in Kirkwall, and become actit catioun and souertie for David Rendall alias Graven and Nicoll Lauchtane alias Boundie that they sail fulfill the sentence and dome given thairupoun aganes thame immediatlie preceeding, ilk ane of thame under the paine of xl li., and they became actit for his releiffis etc.

[The next entry in this court book is dated 5 January 1616.]
THE COURT BOOK OF SHETLAND
22 June 1615 – 9 October 1615

CURIA balivatus de Yetland tenta apud Uyeasound in Unst per honorabilem virum Magistrum Willelmum Levingstoun vicecomitem ac balivum deputatum de Orknay et Yetland vigesimo secundo die mensis Junii anno Domini 1615. Curia tenta et legitime affirmata. [Folio 1r]

< Act: caution Bruce >
The quhilk day compeirit personallie Andro Mortoun in [blank] and became actit as cautioner and souertie for William Bruce in Lun that he sould sattisfie the schiref for the ryott committit be him upoun Alexander Forbes in Viga, and for sattisfactioun of the pairtie, and the said William Bruce became actit for his releiff.

< Lawborrowis: Symone in Clipragarth contra Sinclair >
Compeirit personallie Olaw Manssone in Snaburch and became actit as cautioner, souertie and lawborrowis for Francis Sinclair of Uye[a] that Symone in Clipragarth, his wyfe, bairnes . . . salbe harmeles and skaithles of the said Francis etc . . . his wyfe, bairnes . . . under the paine of i c. lib., and the said Francis became actit for his cautioneris releiff etc.

< Duncane contra Sinclair >
Decernes and ordanes Francis Sinclair of Uyea to content and pay to Andro Duncane in Vigga the sowme of threttie s. money
for the price of ane sow intromettit be him and his servandis at Yule last or thairby and slaine, the sowme of thrie pundis xii s. money for the pryce of ane young kow lykwayis wrangouslie reft and takin away be the said Francis fra him thric yeiris syne or thairby, and the sowme of xxi s. money in fie for halding of his pleuch ane yeir syne or thairby; becaus the said persewar being personallie present and the said defendar being lykwayis personallie present, quha confess the sleying of the sow and the xxi s. for halding of the pleuch, and refferrit the kow and price thairof to the persewaris aith of verritie simpliciter, quha being personallie present as said is maid faith that he reft the kow fra him and that she wes worth iii li. xii s. money; as wes clerlie understand to the said schiref deput and thairfor he decernit as said is and ordanes preceptis etc.

At Reafirth [Yell] the xxiii day of Junii 1615

< Erassmussones contra Bruce >

Anent the suplicatioun given in befoir the said schiref deput at the instance of Peter, Mans and Jacob Erassmusones, sones of umquhill Erasmus in Guids[hyr], aganes Andro Bruce, fe[a]r of Moenes, makand mentioun that quhair in the moneth of Aprile last bypast the said Andro did direct and send certane of his servandis with pleuchis and oxen, intending violentlie, without ony kynd of ordour, at his awin hand to labour and manure the thrie mark half mark land in Guids[hy]re in Yell, per[tening] heritable to the saidis persewaris be deceis of thair umquhill father, quha dieit ***** peaciablie [in] possessioun thairof; quhais force they not being ***** to withstand, wer forcit and compellit to go to Moenes [quhair the said] ***** wes for the present, and thair to receave ane tak and assedatioun *****ing thame in possessioun thairof, as the said suplication [at mair lenth] [iv] beiris; the saidis persewaris being personallie present and the said
defendar [being] lykwayis personallie present, thair rychtis . . .
being hard . . . the said schiref deput . . . decernes the saidis
persewaris of consent of the said defendar to bruik, jos and
posses the said thrie mark land and a halfe ay and quhill they be
lawfullie warneit, ordourlie callit and put thairfra be law, not-
withstanding of the acceptatioun of the said tak, and that
beacaus of his violent intrusioun by all kynd of ordour of law
and justice etc.

< Absolvitour: Scot contra Scot >
Anent the suplicatioun givin in at the instance of Osea Scot in
Reafirth aganes Gilbert Scot in Kirkabister, makand mentioun
that quhair tuentie yeir syne or thairby the said Ossea set in tak
and assesdation to the said Gilbert seven mark of land and ane
halfe, with the houssis, chalmeris, barnes, byres and remanent
houssis being standing than upoun the ground of the saidis landis,
for payment of ane certane yeirlie dewtie, at the quhilk tyme
the said Gilbert promeisit faythfullie not only to pay the dewties
bot lykwayis to uphald, beit and repair the saidis haill houssis,
chalmeris, barnes and byris windticht and watterticht induring
his occupatioun of the saidis landis, and to redelyver the same to
him at his removeing frome the samen in als guid estait as they
wer at his entrie thairto tyme foirsaid; and trew it is that the said
Gilbert hes removeit him selff fra the saidis landis ane yeir syne
or thairby and hes not fulfillit his said promeis anent the restoir-
ing of the saidis haill houssis, bot it is of veritie that the said
Gilbert hes dimolisheit and cassen doun ane haill chalmer, boith
ruiffes, wallis, loftis and gistis thairof, togither with ane barne
both ruiff, wallis and tymber wark, quhairby he is dampnifyit
in the soume of xx li. in the said Gilbertis default, quhilk he
auchtt and sould refound, content and pay to him in recompence
of his saidis lossis; togither with i leispund butter or xl s. for the
price thairof for the gersumes of the saidis landis the crop and
yeir of God 1614 yeiris; and four markis butter or xx d. money for ilk mark thairof yeirlie thir sex yeiris last bypast for his pairof the proffeit of ane kow, quhilk he promiseit to pay to him; as the said suplicationoun and clame at mair lent beiris; the said persewar being personallie present and the said defendar compeirand personallie with Ninian Neven, his procuratour, thair rychtis, reassounes etc., assoilyeis simpliciter the said defendar fra the said sowme of xx li. money acclamed in recompsatioun of the dimolishing of the saidis chalmer and barne, and fra the haill butter and prices thairof acclamed, haill tenour and contentis of the said suplicationoun and clames, and decernes him quyt and frie thairfra in all tyme cumming; becaus it wes alledgit be the said Ninian Neven, procuratour forsaid for the pairt of the said defendar, that he can not be decernit to mak payment of the said sowme of xx li. money for dimolishing of the saidis houssis, nather of the butter nor prices thairof acclamed, becaus that be contract past betuix the brether in Marche 1614 the persewar dischairieit the said defendar of all bygane comptis and reckningis, quhilk the said persewar confest to be of veritie; as wes cleirlie understand to the said schiref deput and thairfor he gave decreit absolvitour in maner forsaid etc.

< [Nev]en [contr]a [Scot] >
Decernes Osea Scot to content, pay and delyver to Ninian Neven in Kirkabuster ane barrell oylie or the sowme of [blank] for the price thairof, payit be the said Ninian as cautioner for him to Gilbert Scot of Gardie, ex confessione rei.

[2r] < Edmestoun contra Scottis >
Decernes Hossea and Gilbert Scottis to content, pay and delyver to Andro Edmestoun, minister at Yell, the quanitie of aucht threaves bear intromettit with be thame furth of the said Andro his nes callit Ludesetter this last harvest, or the soume of [blank]
for the price of ilk thr[ei]ff thairof, partibus presentibus et confitentibus etc.

*Mans in Hultjasgarth contra Edmestoun*

The said schiref deput decernes and ordanes Jone Edmestoun to restoir and redelyver to Mans in Hultjasgarth ane servand of his violentlie takin away be the said Jone fra the said Mans, and that within tuentie four houres under the pane of x li.; partibus presentibus the persewar maid faith that he nether gave his servand his leiff nor his servand him etc.

*Smyth contra Laurencesone et Scottis*

Decernes Johne Laurencesone of Awick, Hossea Scot of Reafirth and Gilbert Scot, his brother, to content, pay and delyver to Jone Bruce, sone naturall to Laurence Bruce of Cultimalyndies, as factour and procuratour for Andro Smyth, ane ox or the soume of ten pundis money for the price thairof, wrangouslie intromettit with and away takin be thame fra the said Andro threttein yeiris syne or thairby, partibus presentibus et confitentibus.

*Page 2v is blank.*

Curia vicecomitatus de Yetland tenta apud castrum de Scalloway bankis in aula eiusdem per honorabilem virum Magistrum Willelmum Levingstoun vicecomitem deputatum dicti vicecomitatus die primo mensis Augusti anno Domini millesimo sexcentesimo decimo quinto. Sectis vocatis et curia legitime affirmata.

*Memberis of court*

Ar chosen Robert Kaa in procuratour fiscall, Robert and George Blakis and Gilbert Cantlie officeris, suorne and admittit, and
Magnus Cromertie in dempster, and all actiounes continwit to the thrid day of this instant.

Tertio Augusti anno 1615

[Preamble to the country acts]
Forsameikle as sin and iniquitie is and hes bein the caus of Goddis havie plagues and judgementis and that partitioun wall quhilk devydit the people frome the presence of God, and the caus of gryt dissollatioun in kirk and politie within this countrey for laik of disciplein and putting of the actis of the kirk (quhilk hes bein grytumlie contempnit in tymes past) to dew executioun; and sicklyk that thair hes bein gryt ignorance of his most sacred majesties royall and supreme auctoritie in practiseing of forren and uncouth lawis contrair to the tenour of the actis of parliament and secreit counsell maid thairanent; and lykwayis that thair hes bein gryt dissoliouion in the comone weil, trouble and disorder, injuries and wrangis amongis the inhabitantis of the land for laik of governement, administratioun of justice and putting of the samen to dew executioun; thairfoir it is statute and ordaneit be the said schiref deput, with advyse and consent of the gentlemen sutteris of court and comounes, all with ane advyse consent and assent, as efter followis.

< 1 > [Acts of the kirk session to be enforced]
In the first: it is statut and ordanit for punischement of sin and vice that the actis of the kirk, maid and to be made be the ministrie and thair sessiouin of kirk aganes transgressouris and sinneris, be put to dew executioun with all vigour in example of utheris to do the lyk, be stocking, joging and gowing of the saidis male-factouris and be putting of thame in brankiss, douking in the sey and in useing of all uther publict punischement answerable to the qualitie of the salt; and to this effect that the bailie of ilk
parochin and his officer concurr and assist their ministeris, elderis
and their officeris in putting all sick statutis maid or to be maid
in their said sessioun of kirk to dew executioun as said is, for
maintenance of Goddis worship[, keiping of the Sondays,]
suppressing of all idolatrie speciallie of walkis and pilgrim-
ages and all utheris vyces, and punisheing persones refrac-
tarie and disobedient to their disciplein, under the paine of
depriutioun and payment of fourtie pundis to be employed ad
p[ios] usus.

[Foreign laws to be renounced: all men to arm themselves]
Item: it is statut and ordanit that all maner of **** and persones,
of quhatsumever rank, qualitie and degrie, sall honour their
dread soverang the kingis majestic and submitt thameselves with
all reverence to his auctoritie and obey his law, disclame and
renunce all forren lawis, actis, statutis and constitutiounes quhat-
sumever observeit heirtofoir, under the paines contenit in the
actis of parliament and most honorabill privie counsell maid
thairanent; and that all men according to their rank and degrie
provyd thameselves of sufficient armour according to their estait,
and be in reddines at all occasiounes to serve his majestic and
deputtis present or that sall be for the tyme, for suppressing and
withstanding the incursitiounes of pirottis and utheris tumultuos
persones, as they wilbe answerable upoun their hyest perrell.

< 3. Anent directing of the cors >
Item: it is statut and ordanit to the effect foirsaid that ilk hous
and familie sail cairfullie and diligentlie direct the cors to hisnixt
nychtbouris with ane sufficient berar, for admonishing the people
to convein, aither to kirk to preicheing or prayeris or for his
majesties service and sick uther necessar caussis as salbe thought
expedient be the minister, schireffis and justiciaris or thair baily-
cis, and sail not stay nor lay down the same bot direct it with all
diligence upoun the recept thairof, under the paine of vi li. money toties quoties.

4. Anent fals wechtis
Item: it is statut and ordanit for eshewing of fals wechtis and meassouris that all busmeris be markit with his majesties mark and all cannes be answerable conforme to the Scottis pynt and quart, and that the Dutche merchandis barrellis and all utheris traffec[cs]aris be of sufficient bind, and that thair ry maill barrellis be weill packit, contening aucth leispundis and ane halfe leispund maill; and the contraveneris heirof to pay ten pundis for the first falt and double the said paine sa oft as they sail happin to contravein thairefter, and that by and attour the paines contenit in the actis of parliament maid thairanent and punishment to be inflictit upoun thame conforme thairto.

5. Anent vagaboun[ndis] and beggaris of woll
Item: it is statut and ordanit that na outland nor inland beggeris of woll, fishe and cornes of honest rank sail repair throw the contrey nor overlay the samen, begging, steilling, rouing and pulling of sheip under pretext thairof; and in cais ony sick persones that ar not auld, decripit and misterfull salbe fund heirefter begging in maner foirsaid, that it salbe lesum to the finder and apprehendar to delyver thame to the bailie of the parochin, to be punisheit as idile, vagabound persones in the jogis or stockis; and gif the bailyie sail refuis to punishe thame conforme to the premissis or utherwayis to present thame to the schirefe or his deputtis, he sail pay to the schireff or his deputtis the sowme of tuentie pundis.

6. Anent the payment [of the la]ting oxin [and sh]eip
Item: it is statut and ordanit that all sick landis as hes bein in use and custome of payment yeirlie of the lating oxin and [afr] scheip
at any time since the first imposition all pro rata pay the same for relief of the common and pure annis, notwithstanding any immunity or oversight they have had in time bygone.

< 7. Anent quhitred, craw, corbie and earne >
Item: it is statute and ordained by the advice aforesaid with consent of the ministry that everybound, bailie, minister and gentleman shall present this next year allanerlie to the head court the first Tysday of August either the head of any quhytred, craw, corbie or earne or any of the fowlis egis in manner afterdevydit, viz - ilk bound ane head or ege or the soume of xii s. money, ilk minister thrie heidis or thrie egis or the soume of xxxvi s. money, ilk gentleman four heidis or for eges or the soume of xlvi s. money, and ilk bailie sax heidis or sax egis or the soume of iii li. xii s. money; and that the names of the parochineris be inrollit be the bailies and the heidis or egis to be inbrocht be thame conforme to this present act.

< 8. Contra repaireris to Brassay >
Item: it is statute and ordained that in all time coming no persone nor personses shall repair to the sound nor isle of Brassay for furnishing of beir, vivoris and other necessaries to the Hollandaris and utheris fairren[eris] comitting thairby villanie, fornicaition and adultrie, under the paine of tuentie pundis toties quoties as they shall happen to be challengeit; and that the owneris of the ground shall dimolishe all houssis bigit nor shall suffer nane to be big nor mak recidence thair to the effect aforesaid, under the lyk paine of xx lib.

< 9. Anent the holmes >
Item: it is statute and ordained that gif it shall happen any man to be tryit or fund in ane uther manes holme be day or nycht upoun quhatsumever pretext without licence of the owner, and speci-
allie in the holmes now pertening to the kingis majestie, without licence of the keipar thairof, he salbe haldin for the first salt to pay the soume of x li. and for the secund the sowme of xx li. and for the thrid he salbe haldin, reput and punishit as a comoune theiff etc.

< 10. Anent gude nychtbourheid >
Item: it is statut and ordanit that gud nychtbourheid be keipit amongst nychtbouris in ilk parochin in all tyme cumming, in bigging of thair dykis yeirlie and putting of thair swyne to the hill befoir the fyftein day of Aprile, keiping and hirding of thair sheip befoir the said day, and in keiping of thair nolt, hors and uther bestiall afoir the first day of Mai, under the paine of xl s. money to be payit to the schiref or his deputis; and in cais of contravening and breking heirof sa that nychtbouris be dampny-fyit and hurt be utheris in not tymous dyking, keiping and hirding as is abonewritten, in that cais the contraveinaris to pay to the pairtie interest and skaythit as followis, to wit - befoir Lambas sall pay for ilk sheip tua s., for ilk suyne x s., and for ilk hors, meir or nolt four s. toties quoties, and effer Lambas sall pay the double of ilk paine toties quoties as they or ony of thame sall happen to be within dykis and lawfullie tryit befoir the bailie of the parochin to have bein in thair nychtbouris skayth, the dykis alwayis being maid lawfull and sufficient. Lyk as immediatlie effer the tryell of the said bailie it salbe lesum to him to pouynd and uplift the saidis paines, and that by and attour the comprysing of the said skaith and payment of the samen conforme to the daylie practique observit in sic k cais[sis].

< 11. Anent sheip doggis >
Item: it is statut and ordanit that it sall not be lesum to ony man to keip she[ip] doggis bot sick persones as salbe aproven and allowit be the bailie, and parochiner[is] quhais names ar tain up
in ilk parochin alreddie, and for the quhilkis doggis they sal[be] haldin to answer, under the paine of x li. by the payment of the loissis, [and] to be done be thame conforme to the law and practique.

[4v]

12. Anent grindis and yettis
Item: it is statut and ordanit that all grindis and yettis in all h[ie] wayis salbe cloisit be all passingeris that enteris thairby in sick sort a[s] they opin the saidis grindis and yettis they salbe haldin incontinentlie to clois the same agane, under the paine of xl s. toties quoties; and that no comone grindis nor yettis be stopit or cloisit up that hes bein of auld and yit necessar and nedfull to be, under the paine of x lib.

13. Anent going through thair nychtbouris scattell
Item: it is statut and ordanit that it sail not be lesum to ony persone or persones at ony tyme of day, bot especiallie afoir the sune rysing and efter the soone setting, to go through his nychtbouris scattell or comontie with ane sheip dog except he be accompanied with ane or tua nychtbouris, famous, honest men; and gif he be fund contrair to the tenour heirof he salbe haldin to pay for the first falt the sowme of vi lib. money and the dog to be hangit and it not to be lesum to him to have ane sheip dog thairefter, under the paine of four angellis; and gif he be fund the secund tyme not accompanyit as said is he sail pay sax angellis; and gif the thrid tyme, or gif he salbe fund under cloud of nycht beand ony way is suspect, the samen beand proven, he salbe reput and haldin ane and punishit as ane comone theiff.

14. Anent ranselling
Item: it is statut and ordaneit for eshewing and tryell of thift in tyme cumming that it salbe lisum to the pairtie interest, with the bailie or officiar of the parochin or tua or thrie honest men to be
chosen be thame, to ransell, seik and searche all houssis and suspect places within the samen, and in cais of not finding or suspi[c]ioun to pas to the nixt parochin or beyound the samen; and ordanes the bailie of ilk parochin or officiar to concur with the pairtie interest in maner foirsaid for apprehending thairof, as they will eshew to be reput and haldin partakeris of the said cryme.

15. Anent rouing of sheip
Item: it is statut and ordanit that it sail not be lesum to no maner of persone nor persones to rouing ony sheip unto the tyme they be lawfullie wairnit be the bailie of the parochin to ane competent day, as they will eshew to be reput and haldin as theiffis and punishit conforme thairto.

16. Anent pedderis
Item: it is statut and ordanit that all pedderis, chapmen or utheris byaris of hyddis, skinnes or woll, fra quhatsumever persone or persones, sail cum to the bailie of the parochin or to tua famous and honest nychtbouris within the boundis quhair they sail happen to buy the same, and shaw to him or thame the hydis, skines or woll and fra quhom they coft the samen, lyk as the seller salbe haldin to do the same; or in cais aither the buyer or seller refuis to give thair aithis of veritie to the bailyie of the parochin, being requyrit be him to that effect, it salbe lisum to the said bailyie to confiscat the saidis guidis to the schireffis use.

17. Anent flescheouris
Item: it sail not be lisum to no fleshouris nor na utheris byaris nor slayeris of flesh to sell to na inhabitant within the contrie nor outwith the samen the saidis fleshis unto the tyme they cum to the bailie or tua honest nychtbouris and shaw thame the beast, the mark and the manes name fra quhom they coft the samen, quha
salbe haldin to comitt the byaris name in wryt, togither with the
beast and mark thairof and fra quhom and at quhat tyme the
samen wes bocht, as the slayeris and selleris of the bestiall will
eshew to be reput and haldin as stellaris thairof and punished
thairfor as accordis.

<18. Aganes transporting of servandis>
Item: it is statut and ordanit in respect of the scarcitie of servandis
to labour the ground and for punishment of theiffis and utheris
malefactouris that no maister, skiper nor ony of the acquippadge
of ony bark, boat, creair or ship sall transport ony boundis manes
servant or boy furth of the contrey without licence of the schiriff,
or in his absens without ane suffycient testimoniell of the minister
and bailie and thrie or four honest, famous men of the parochin
within the quhilk he or they sall happin to duell for the tyme,
under the paine of i c. lib.

<19. Anent hyring of servandis>
Item: it is statut and ordanit that [na] mane fie, hyre nor conduce
ane utheris manes servand except they be dischairgit be thair
maister or that they have dischairgit thair maisteris lawfullie
fourtie dayis befoir ane lawfull terme, nor that nather gentleman,
boundis mane nor na uther receave ony sick persones nor give
thame hospitalitie nor intertenement, nor yit set to thame houssis
nor receave, support nor suplie ony vagaboundis, idle men nor
unlawfull wemen, under the paine of x li. toties quoties.

<20. Anent servandis>
Item: it is statut and ordanit that na man seduce, by, bargane nor
se[ll] with ane uther manes servand by the knowlege of his
maister, as they will eshew to be punishit as receptaris of thift,
and it being tryit the geir to be restorit to the rycht awner but
repayment of the prices thairof.
Item: it is statut and ordanit that quhatsumever persone salbe apprehendit or tryit to have ridden ane uther manes hors without licence, inwith the parochin quhair the awner of the hors duellis, sall pay to the schiref four markis Scottis money and to the pairtie interest the soume of uther four markis; and if he be fund and apprehendit ryding ane uther manes hors outwith the parochin quhair the awner of the hors duellis, salbe haldin to pay the double of the said paine; and forder according to the distance of place from the parochin out of the quhilk the said hors salbe takin, sall triple, quadruple and augment the said paine effeirand to the severall parochines quhairthrow they sall happin to ryd the said hors; and lykwayis it sall not be lisum to ony man to cut or steill ane uther manes hors taill, under the paine of x li.; and gif the ryddaris, cuttaris or steillaris forsaid[s] sall have no moy-anie to sattisfie the saidis penalties proportionallie as abonewrittin, they to be punishit in thair persone effeirand to the deid and offence at the discretioun of the judge.

Item: it is statut and ordanit with advyse and consent foirsaid that all men be sufficientlie provydit in boitis for serveing of his majesties leigis in thair lawfull and necessar adois, upoun thair ressonabill chairgis for payment of sick competent fraucht as efter followis, under the paine of x li., to wit – at Bluma Sound ii s., frome Unst to Gudshyre in Yell or Fetlar or ather of thame 4 s., frome Unst to Reafirth in Yell sex s., frome Reafirth to Fetlar four s., fra Luna Firth aucht s., for Yell Sound be Biga four s., Yell Sound to Northmav[in] aucht s., fra Glus to Cald-back fyve s., fra Br[ae] to Aith aucht s., Pap[a] Sound ii s., fra Bigsetter to Skalloway xii s., the ferric at the kirk of Wiesdaill tuelf pennyes, fra Skalloway bankis to Mawick tuelf s., [fra] Mawick or fra Skalloway to Hous sex s., Brassa Sound tua s.,
Quh[ail]say Sound sex s., and fra Vassie to Glatnes to Laxfurde thrie s. [Lyk] [5v] as it salbe lesum to all sick persones as hes boitis and not servandis to serve the leigis to chairge sick nycht-bouris as may convenientlie to serve upoun ressonable daill of fraucht, under the paine of xl s.; and in cais of wilfull refusall of the boitsman its salbe lisum to the passinger or passingeris to tak the boitis for thair transporting but danger of spulyie, the passingeris allwayis at thair landing placing the boit safflie, and this but prejudice of that service dew to schireff, commissioner or thair servandis and utheris his majesties commissioneris, and but prejudice of dew and thankfull service in transporting of the ministrie over the foirsaidis ferries and utheris necessar soundis or vois for serveing of thair cures, conforme to the lovable custome observ-veit in tymes bygane.

< 23. Aganes conceilling >

Item: it is statut and ordaneit that na persone nor persones of no rank, qualitie nor degrie sail hyde nor conceill ony kynd of thift, sorcerie nor witchcraft, bluid, wrang, injurie, roberrie nor oppressioun, wrak or ony kynd of waith; bot sail impart, shaw and delait the samen to thar bailies or to the schireff deput, as they will eshew to be reput and haldin as partakeris thairof and pun-ishit thairfor conforme to the lawis and practique of this realme.

< 24. Contra bailies oppressouris >

And finallie: it is statut and ordanit be the said schireff that the bailyes of ilk parochin sail mak publicatioun heirof at thair paroche kirkis, quhairby nane pretend ignorance of the premisis; and that they sail put the saidis actis and everie ane of thame to dew executioun in the haill heidis, articlis and claussis thairof, for maintenance of Goddis worship, the reverend obedience of his majesties most royall and supreme auctoritie and lawis, and for the peax and guid of the inhabitantis of the land; and in cais it sail happen the saidis bailies or ony of thame to be tryit and fund
to have oppressit or wrangit ony persone or persones within thair bailyeari[es], by exacting or unlawfull services, feastis or bankquettis or be taking of buddis or brybis for perverting of justice, or in ony sort in oppressing the pure or doing of ony uther deid of the lyk nature and qualitie contrair to equitie and reassoun, in that cais they salbe haldin to repair the wrangis at the sicht and discretioun of the schireff deput, and salbe estimat unworthy to bear office or credite in tyme cumming, and that by and attour the dew punishment to be inflictit upoun thame according to the demerite of the fact.

[6r]  < Decret: Murchesone contra Bruce >

Decernes Robert Bruce of Troll, as cautioner for William For-dyce, to pay to Jone Murchesone the sowme of sevintein pundis money addebtit be the said William to the said John Murchesone conforme to ane decreit arbitral!, actore presente et Roberto Bruce qui confessus est, and ordanes preceptis.

Decernes Lusk [St]ro[s]burgh to content and pay to Walter Richie the soume of nyne dollouris as partner with Henrie Luce,¹ Dutche merchan at Buravo, and for the price of ane gun.

< Sinclair contra Mansone and Hawick for his entres >

Anent the clame intentit and persewit at the instance of Ola Sinclair in Sandnes and Marioun Forrester, his spous, portioneris of Norbie, aganes Magnus Manssone in Clevogarth, acclamand fra him tua leispundis butter, price of the leispund xl s., tua shilling² wedmell, price of the shilling xxiii s. money, and xxxii s. of gersum, for the dewties of four mark land in Clevogarth in U[lun]afirth pertening to thame heretablie, occupyit be him the crop and yeir of God 1614 yeiris, quhairof he hes bein in use in tymes bygane to mak thame payment and now wrangouslie delayis swa to do without he be compellit, as the said clame at

¹ Or Lute. ³ See Glossary.
mair lenth heirs; the saidis persewaris being personallie present and the said defendar being personallie present and Andro Hawick of Scatstay being lykwayis personallie present, quha wes admittit for his entres, thair rychtis . . . being hard . . . the said schiref deput . . . decernes and ordanes the said Mans to content, pay and delyver to the saidis persewaris the butter, wedmell or prices thairof abonewrittin and the said soume of xxxii s. of gersum as for the dewties of the said four mark land, crop for-said; becaus the said Mans being personallie present confess he wes debtfull in the dewties acclamed, and sicklyk becaus the said Andro Hawick, admittit for his entres, alledgit the said Mans could not be decernit to mak payment to the persewaris of the dewties acclamed, becaus he offirrit him to prove that he haveing obtenit ane decreit of removeing aganes the said Mans and haid continwit him in possessioun upoun promeis of payment of the dewties acclamed; to the quhilk it wes answerit be the saidis persewaris that the same aucht to be repellit becaus the said Mans being [thair] tenent and they not lawfullie wairnit nor callit to the said decreit, no decreit obtenit aganes him can be prejudicial to thair rycht and possessioun; lyk as they offirrit thame to prove that the said Magnus haid maid payment to thame of the saidis mailis and dewties be the space divers yeiris immediatlie pre-ceding, quhilk they referrit to the said Mans his aith of veritie simpliciter, quha being personallie present as said is maid faith that he haid maid payment to thame of the dewties of the saidis [landis] be the space of ten yeiris preceiding; as wes cleirli understand to the said schiref deput and thairfor he decernit as said is and ordanes [pre]ceptis etc.

[6v] [Contra Edmestoun]
Anent the clames intentit and persewit befor the said schiref deput at the instance of Busse Storchborg\(^1\) aganes the persone

\(^1\) The second and fifth letters are \(c\) or \(t\); the fourth letter could be \(o\).
erternameit, acclameand fra thame the soumes of money efter-
spécifieit, viz – acclameand as factour for Henric Luce fra Andro
Edmestoun, minister at Yell, fourtie tua gulyeounes and ten
shillingis wairis addebtit be him to the said Hendrick and the rest
of the moscop of Burrovo, quhairof he is on and factour for the
rest, conforme to his band maid of the samen of the dait the
secund day of September 1613 yeiris, quhairof he faithfullie
promesit payment; item acclameand fra James Sutherland
tuentie gulyeounes conforme to his band given and maid be him
to the said Busse thairupoun; item acclameand fra Andro Hawick
of Scatstay the soume of tuentie fyve gulyeounes addebit be him
to the said Busse in ane compt of merchandice coft and receaveit
be him fra the said Busse, Henric Luce and the rest of their
moscop of Burravo thir fyve yeiris syne or thairby as the said
clame at mair lent beiris; the said persewer compeirand person-
allie with Alexander Bruce, his procuratour, and the said defender
being likwayis personallie present, thair rychtis . . . being hard
. . . the said schiref deput . . . decernes and ordanes the said
defender to content and pay to the said persewer the said soume
of fourtie tua gudlingis and ten shillingis of wairis addebtit be
him to the said Busken and Henrie and rest of the moscop of
Burrovo, superceiding in the meantym the executioun of his
present decreit and payment of the soumes of money contenit
heirintill quhill the first day of August nixtocum in anno i⁰ vi⁰
and sextene yeiris, and ordanes the said Buskene of his awin con-
sent to produce ane sufficient testimonial! agane the said day that
the decreit efterspecifeit, obtenit be the said Andro aganes the
said Henrick, wes satisfeit be him to the said Andro; becaus it
wes alledgit be the said Andro Edmestoun, defender [for]said,

1 Or Lute.

2-2 This passage is divided from the rest of the entry by means of lines drawn
by the clerk: there is no further mention of James Sutherland or Andro
Hawick.
that he can not be decernit to mak payment to the said persewer of the soume acclamit, becaus he offerit him to prove that the said Henrick being addebtit to him in the soume of tuentie ane angells and haveing obtained decreit befor the schireff of Orknay thatirupoun, he aucht to detene the said soume of fourtie tua gudlingis and ten shillingis of wairis acclamit, be way of compensatioun in pairt of payment of the said tuentie ane angells, and for pro[ve]ing thairof producit the forsaid decreit of the dait the xxvii day of Julii i\textsuperscript{m} vi\textsuperscript{o} and ten yeiris; to the quhilk it was replyit be the said Alexander Bruce, procuratour forsaid for the said Busken and remanent perseweris forsaid[is], that the said exceptioun aucht to be repellit becaus he offerrit him to prove that in the yeir of God i\textsuperscript{m} vi\textsuperscript{o} and threttene yeiris, lang sene the gevin of the said decreit obtenit be the said Andro aganes the said Henrick, the said Andro efter compt and reckning maid betuix the said Henrick and him, grantit him be his band subscryvyvit with his hand to be addebtit in the said soume acclamit; to the quhilk it was duplyit be the said Andro, defender forsaid, that the same aucht to be repellit becaus he offerit him to prove that the said Henrick at the gevin of the said band ernestly requeistit the said Andro to grant the samin being than enterit in ane new moscope with new partineris for satisfeing of his said partiner[is], quha wer nawayis addebtit in payment of the said tuentie ane angells addebtit be him to the said Andro at quhilk tym he promessit faithfullie to pay his awin debt notwithstanding thairof; quhilk duply being repellit be the said schireff deput in respe[c]t of the said reply proponit be the said persewer for elyding of the pointis of the exceptioun proponit be the said defender for elyding the pointis of the said clame persewit at the instance of the said persewer aganis him, he than admittit the said reply to the said perseweris probatioun, quha than provit the same sufficientlie be producione of the forsaid band of the dait and contentis abone-writtin; as wes clerlie understand to the said schireff deput
and thairfor he decernit as said is and ordanes preceptis... as efferis.

[7r]  \(<\text{Decret: Kintoir contra Sinclair}>\)

Decernes Laurence Sinclair of Ustanes to content and pay to James Kintoir in Skalloway bank is the soume of fourtieschillingis money for certane wyne quhilk he send to his hous this last yeir in hervest, quhairof he promeisit payment, the soume of fourtie shillingis restand be him to the said James his wyfe for his ordereris at certane tymes, the sowme of fourtie shillingis quhilk he send his man Andro Turnet to Skowisburch out of Quendall to [bring] to him in the yeir of God 1607 yeiris, and the sowme of sevin pundis as for the maillis and dewties of ane hous quhairin he duelt this winter last bypass, quhairof he promeisit to mak him payment at the taking of the same; actore presente et reo, quha referrit the matter to the persewaris aith of veritie simpliciter, quha being personallie present as said is maid faith conforme to the said decreit in all poyntis etc.; and ordaneis preceptis etc.

\(<\text{Mortoun contra tenentis}>\)

Anent the actioun and caus intentit and persewit at the instance of Marjorie Fermor, relict of umquhill James Sinclair of Crosbuster, lyfrentrix of the landis lybellit, and Andro Mortoun, now hir spous, for his entres, aganes Symone and Erasmus in Daill, Mans in Newhous, William Gray of Gairdie, Andro in Seetter, Erasmus in Colvasetter, Mathow Loutit in Sletoun, Henrie Tailyeour, Gotherum in Funyie, Jone Eduarsone, Mans of Urasetter, Erasmus Petersone, Thomas Lauder, Katherine Edmistoune, Ola Vassie, Laurence in Grimsetter, Jone of Awick, Nicoll Olasone in Papa [Liti]ll, Ninian Neven, Jone Edmestoun, Andro Shewartsone, Helen Jonesdochter, James Burger, for payment of the maillis and dewties of the landis acclaimed of the crop and yeir
of God 1614 pertaining to the said Marjorie in lyfrent, as in the
clames raisit thairintill at mair lent is contenit; the saidis perse-
waris being personallie present and the saidis defenderis being
lawfullie sumond . . . to have compeirit befor the said schiref
deput . . . and not compeirand, and Francis Sinclair of Uyea,
admittit for his entres, compeirand be Niniane Niven, his pro-
curatour, quha produceit ane procuratorie of the dait the second
day of August instant subscryvit be the said Francis, and alledgit
that the saidis defendaris cannot be decernit to mak payment to
the saidis persewaris of the maillis and dewties acclamed, becaus
the landis pertenit to the said Francis as air to umquhill William
Sinclair of Uyea, his father, quha wes uddaller of the samen, and
quhairof he haid bein in possessioun be uplifting of the maillis
and dewties thairof divers yeiris sen the deceis of his said umquhill
father; to the quhilk it is answerit be the saidis persewaris that
the saidi exceptioun aucht to be repellit becaus they offerrit thame
to prove that the said umquhill James, spous to Marjorie per-
sewar foirsaid, wes enterit to the possessioun of the saidis landis,
at the least ane great pairt thairof, be the said umquhill William,
his father, in his awin tyme, and that the said umquhill James
continwit in the peaciable possessioun thairof be uplifting of the
maillis and dewties of the same to the tyme of his deceis, quhilk
wes in the yeir of God 1613 yeiris, lyk as she wes ane conjunct
persone with hir husband, to quhom be contract of mariage the
saidis landis wer provydit during hir lyftyme; quhilk replie being
fund relevant be the said schiref deput, he than hes adm[ittit]
[7v] the same to the saidis persewaris probatioun and hes with
consent of the saidis persewaris referrit the poynitis of the particu-
lar clames the persones defendaris acclamed thairfor to thair
aithis of veritie simpliciter, and for proveing of the said reply
hes assignit and assignis the fourt day of August instant to prove,
and to warne the saidis defendaris to give thair aithes of veritie
upoun the poynitis of the saidis clames.
< Mair contra Umphray et Craigtoun >
Decernes Jone Craigtoun, merchand, burges of Dundie, as principal, and Andro Umphray of Berrie, his cautioner, to content and pay to Margaret Mair in Skalloway the summe of nyne pundis of the price of ane punsheoun wyne coft be the said ***** fra the said James [sic], partibus presentibus et reo confitenti, etc.

< Cautioner Robertsone >
Compeirit personallie Mathow Robertsone in Aith and became actit of his awin consent for Jone Craigtoun, merchand, to releive the said Andro Umphray of Berry, cautioner for the said Johne for payment of the summe of ix li. money abonewrittin, restand be the said Jone to the said Margaret Mair, etc.

< Fermour contra Sinclair >
Anent the terme assignit [on the previous day] to Marjorie Fermour, relict of umquhill James Sinclair of Crosbuster, and Andro Mortoun, hir spous, for his entres, for proveing of the poyntis of the reply proponit be thame for eliding the poyntis of the exceptioun proponit be Francis Sinclair of Uyea, admittit for his entres, aganes the clames persewit at the instance of the said Marjorie and hir said spous aganes the tenentis of thair landis of Unst, Yell and Fetlar, contenit in the act of litiscontestatioun, as in the samen at mair lenth is contenit; the saidis persewaris being personallie present, quha for proveing of the poyntis of the said reply produceit the witnessis underwrittin, viz – James Sutherland, Jone of Awick, Johne Nevein and Scipio Bruce, quha wer receaveit, admittit and suorne to depone; reiis presentibus etc., the persewaris protestit for ma witnessis. [Continued on 17 August.]
< Sinclair of Bruch contra Fermor et Mortoun >
Compeirit personallie Thomas Blak of Strome in name of Laurence Sinclair of Bruch and protestit that nothing sould be done in the actioun and caus abonewrittin, persewit at the instance of Marjorie Fermor, relict of umquhill James Sinclair of Crosbuster, and Andro Mortoun, now hir spous, for his entres, aganes thair alledgit tennentis of Unst, Fetlar and Yell, prejudicial to the said Laurence his rycht of the samen landis, and thair-upoun askit actis and instrumentis etc.

[8r] < Lawborrowis: Thomasone contra Sinclair >
Compeirit personallie Andro Gif hart of Weddersta and becam act as cautioner, souertie and lawborrowis for Henrie Sinclair of Suening that Christopher Th[oma]sone, his wyf, bairnes etc. salbe harmeles and skaithles of the said Henrie, his wyfe, bairnes etc. . . . under the paine of tua c. markis, and the said Henrie became actit for his cautioneris releiff etc.

< Lawborrowis: Sinclair contra Thomasone >
David Strang in Orgill in Lunasting became actit as cautioner and lawborrowis for Christopher Thomasone in Suening that Henrie Sinclair of Suening, his wyf etc. [sal]be harmeles and skaithles of the said Christofer, his wyf, bairnes etc. . . . under the paine of xl lib., and the principall became actit for his cautioneris releiff.

< Lawborrowis: Strang contra Sinclair >
Compeirit personallie Laurence Sinclair of Aith and became actit as cautioner, souertie and lawborrowis for the said Henrie Sinclair of Suening that David Strang in Orgill, his wyf, bairnes . . . salbe harmeles and skaythles of the said Henrie etc. . . . under the paine of ii c. markis, and the principall became act for his cautioneris releiff.
< Lawborrowis: Sinclair contra Strang >
Compeirit personallie Andro Bruce, fear of Munes, and became actit as cautioner, souertie and lawborrowis for David Strang in Orgill that Henrie Sinclair of Suening, his wyfe, bairnes etc. salbe harmeles etc. of the said David, his etc. . . . under the paine of ii c. markis, and the said David became actit for his releiff etc.

< Lawborrowis: Michall contra Chawser >
Compeirit personallie Jone Mansone in Garmontuat and becam actit as cautioner, souertie and lawborrowis for Jone Chawser in Stansland in Wais that George Michaell in Brabuster thair, his wyfe, bairnes etc. salbe harmeles and skaithles of the said Jone Chauser, his wyfe, bairnes . . . under the paine [of] xl li., and the said Jone Chauser becam actit for his releiff [etc.].

< Lawborrowis: Chawcer contra Mitchall >
Compeirit personallie Johne Wishart in Burrafirth and became actitas [cautioner] souertie andlawborrowisfor George Michaell in Brabuster that Jone Chawser in Stansland, his wyf, bairnes etc. salbe harmeles and skaithles of [the] [8v] said George, his wyfe, bairnes . . . under the paine of xl li., and the said George became [actit] for his cautioneris releiff etc.

< Lawborrowis: Sinclair contra Strang >
Compeirit personallie Laurence Sinclair of Ustanes and Johne Laurencesone of Awick and became actit cautioneris, souerties and lawborrowis conjunctlie and severallie for David Strang in Orgill that Laurence Sinclair of Bruch . . . salbe harmeles and skaithles of the said David, his wyfe, bairnes etc. . . . under the paine of tua hundreth markis, and the said David became actit for his saidis cautioneris thair releiff.
Laurence Sinclair of Ustanes became actit as cautioner and souertie for Christiane Sinclair and Thomas Sinclair, now hir spous, that they sould content and pay to Martha Sinclair sick soumes of money as shoe sould qualifie thame to be justlie debt-full to hir being persewit befoir the schireff thairfor as law will, and they became actit for the said Laurence his releiff.

Compeirit personallie Malcolme Halcro of Hoswick and became actit cautioner and souertie for lowsing of the arrestment maid at the instance of Malcolme Sinclair of Quendall upoun the dewtis of the landis pertening to Robert Ratter in Tolhop in Dunrosnes, and that the samen salbe maid furthecumand to the said Malcolme as law will, and the said Robert Ratter became actit for his cautioneris releiff.

Compeirit personallie Adame Sinclair of Brow and becam actit and oblist of his awin consent, under the paine of fyve hundreth markis, to caus thrie of the maist responsabill tenentis of the landis of Brow becum actit for payment to Andro Gifhart of Wedderstay of the sowme of nyne scoir pundis money adebbit be him to the said Andro, the ane half at Martimes nixt and the uther at Lambas i\textsuperscript{m} vi\textsuperscript{e} and sextein yeiris nixtocum, and that quhenever the said Andro or ony utheris in his name haveand his power sall requyre the said Adame to that effect, the said Andro Gifhart alwayis giveand him ane suffycient lyfrent tak of the sex mark land in Brow and ten mark land in Utisgarth pertening to the said Andro heretablie, quhairupoun aither of the saidis pairties \textit{hinc inde} askit actis and instrumentis of court.
< Ros contra Sinclaris >
Decernes Christiane Sinclair and Thomas Sinclair, induelleris in Scalloway bankis, of consent to content and pay to Patrik Ros, merchand, the sowme of four pundis money for the lois and skayth sustenit be him in the saidis Christiane and hir said spous thair detening fra him of the quantitie of thrie elves blak Frenshe clayth delyverit be him to the said Christiane in borrowing, to be ane mort clayth to the buriell of umquhill George Sandesone, at hir earnest desyre fyve yeiris syne, quhilkis thrie elves blak Frenshe clayth they delyverit instanter at the bar.

Octavo Augusti 1615

< Decreit: Sinclair contra Tait >
Decernes Gilbert Tait in Laxfurde to content and pay to Robert Sinclair, sone lawfull to umquhill William Sinclair of Ustanes, the sowme of threttie pundis money for the price of thrie barrellis beir as the just and equall halfe of sex barrellis beir equallie cocht be thame baith, run be the said Gilbert and sauld at Brassound this last somer, quhairof he promeisit him compt, reknning and payment, juramento actore asente reo; attour decernes xxx s. of expenssis etc. and ordanes preceptis etc.

< Absolvitour: Sinclairis contra Sinclair et Kintoir >
Anent the suplicatioun given in befoir the said shiref deput be Martha Sinclair and James Kintoir aganes Christiane Sinclair and Thomas Sinclair, hir spous, for his entres, makand mentioun that quhair the said Christiane became actit, at the least faithfullie promeisit, for releif of Duncane Easone in name of umquhill George Sandesone to content and pay to the saidis persewaris the soume of xi li. money addebtit be the said umquhill George to thame, for the quhilk the said Duncane wes cautioner, and albeit she faythfullie promittit for releif of the said Duncane and as cautioner for the said George to have payit the said sowme,
nottheles she and hir said spous wrangouslie refuissis to do the
samen without they be compellit, as the said suplicationoun at mair
lenth beiris; the saidis persewaris being personallie present and
the saidis defendaris being lykwayis personallie present, thair
rychtis, ressounes etc. being hard etc., assoilyeis simpliciter the
saidis defendaris fra the said suplicationoun, haill tenour and con-
tentis thairof and decernit thame quyt and frie thairfra in all
tyme cumming, becaus the poynitis of the samen being referrit
be the saidis persewaris to the said Christiane hir ayth of veritie
simpliciter, and she being personallie present as said is maid faith
that she never knew nor hard of the said cautionerie; as wes
cleirlie understand etc. and thairfor he gave decreit absolvitour
in maner forsaid etc.

< Lawborrowis: Niven contra Bruce >
Compeirit personallie Andro Gifhart of Wedderstay and became
actit as cautioner, souertie and lawborrowis for Andro Bruce of
Sandwick that Ninian Neven of Kirkbuster, his wyf, bairnes
... salbe harmeles and skaithles of the said Andro, his wyf,
bairnes ... under the paine of ane thousand markis money, and
the said Andro Bruce became actit for his cautioneris releiff etc.

[9v]
< Lawborrowis: Bruce contra Niven >
Compeirit personallie Jone Niven of Skowisburch and became
actit as cautioner, souertie and lawborrowis for Ninian Niven in
Kirbuster that Andro Bruce of Sandwick, his wyf, bairnes etc.
salbe harmeles and skaithles of the said Ninian, his wyf, bairnes
eetc. ... under the paine of fyve c. markis money, and the said
Ninian become actit for the said Jone his releiff.

< Lawborrowis: Umphray contra Jamesone >
Compeirit personallie Arthur Sinclair of Aith and became actit
cautioner and lawborrowis for James Jamesone in Howland that
Andro Umfra of Berrie, his wyfe etc. salbe harnelles etc. of the said James [his w]yfc, bairnes etc. . . . under the paine of iii i. markis, and the principall for his cautioneris releiff.

< Lawborrowis: Jamesone contra Umphray >
James Kintoir in Scalloway bankis became actit as cautioner and lawborrowis for Andro Umfra of Berrie that James Jamesone in Houland etc. salbe harmeles etc. of the said Andro, his wyf etc. . . . under the paine of iii i. markis, and the principall became actit for his cautioneris releiff.

< Lawborrowis: Umphray contra Cantlie et Cant >
Gilbert Cantlie and Jone Can[t] in Scalloway bankis became actit hinc inde for utheris that Andro Umfra of Berrie, his wyf, bairnes etc. salbe harmeles etc. of thame, thair wyfes, bairnes etc. . . . under the paine of iii i. markis. Ilk ane of thame and ather of thame became actit for utheris releiff.

< Lawborrowis: Umphray contra Dudingstoun et Weymes >
William Garioch in Scalloway bankis became actit cautioner and lawborrowis for Martein Dedingstoun thair, and the said Mairetein became actit cautioner and lawborrowis for Geillis Weymes thair, that Andro Umfra of Berrie, his etc. salbe harnelles and skaithles of thame, thair etc. . . . ilk ane of thame under the paine of iii i. markis, and the said Martein became actit for the said William Garioch his releiff as cautioner for him, and the said Geillis became actit for the said Marteiningis releiff as cautioner for hir.

[Lawborrowis: Umphray contra Mair]
Gilbert Cantlie, officiar in Scalloway bankis, became actit as cautioner, souertie and lawborrowis for Margaret Mair thair that Andro Umphray of Berrie, his wyf, bairnes etc. salbe
harmeles of hir etc. . . . under the paine of iii c. markis, and she became actit for his releiiff etc.

[10r]  Decimo septimo Augusti 1615

〈De Gyre contra Taittis et Brassay〉
Decernes Gilbert and Thomas Taittis and Marioun Brassay in Brassay to redelyver to Robert Gyir in Railsburch ane meir with foile or viii li. money for the pryce thairof, wrangouslie intro-mettit with and away takin be thame a[nd] at thair command furth of the comontie of his landis of Railsburch pertening to him in November 1614 yeiris, and the sowme of iii li. money for the loss sustenit be him in wanting of the said meir sensyne, together with the sowme of xl s. money of expenssis of pley etc.; becaus the said matter being admittit to the said persewaris probatioun and ane terme assignit to him for proveing thairof, he insteaid of all uther probatioun thairof referrit the samen to the saidis defendaris thair aythis of veritie simpliciter, and they being lawfullie sumond to that effect lawfull tyme of day bidden, with certificatioun to thame and they failyeit the samen sould be haldin pro confess and decreit given aganes thame, and they being oftymes callit thay failyeit to compeir to alledge ony resonabill caus in the contrair; as wes cleirlie understand to the said schiref deput and thairfor he decernit as said is and ordanes preceptis etc.

〈Fermour contra Sinclair et tenentis〉
Anent the terme assignit pro secunda [on 4 August] to Marjorie Sinclair, relict of umquhill James Sinclair of Crosbuster, and Andro Mortoun, now hir spous, for proveing of the poyntis of the reply proponit be thame for eliding the poyntis of the exception proponit be Francis Sinclair of Uyea in the actioun persewit at thair instance aganes thair tennentis of thair landis in Unst, Yell and Fetlair; the said Andro Mortoun being personallie pre-
sent produceit the witnessis underwrittin, viz – Guthrum in Funyie in Fetlar, Erasmus Erikson thair, Laurence in Gramsetter in Yell, Mans Erasmussone in Gudshyr thair, Symone in Daill in Unst and Donald Fraser in North Sandwik in Yell, quha wer receaveit, suorne and admittit to depone; reiis absentibus, the persewaris renunceit farder probatioun and protestit for ane sen-
tentiandum and conclusioun of the caus. [Continued on 26 August.]

Curia justiciarie tenta die supradicto per dictum vice-
comitem.

< Dit[tayis] of thift contra Scarpagarthe >
Anent the dittayis criminall produceit and persewit at the in-
stance of Robert Kaa, procuratour fiscall, aganes Thomas Man-
sone in Scarpogarth for certane poynits of thift underwrittin, 
viz– in the first for airt and pairt of the thifteous steilling of aucht 
cannes ulie and sum hand lingis out of Mans Olasones skeo aucht 
yeiris syne or thairby, item for airt and pairt of the thifteous 
steilling of tua sheip fern yeir and tua sheip this yeir fra Mans in 
Utterquoy, item for thifteous steilling of ane ox and for breking 
of ane skeo pertening to Thomas in B[rin]er and in steilling of 
muttoun and uther thingis out thairof in harvest 1613, item for 
airt and pairt of the thifteous steilling of aucht sheip from Symon 
Thomassone in December last, item for airt and pairt of steilling 
of four sheip fra Olaw Williamsone in Hallomes last, item for 
airt and pairt of the thifteous steilling of ane lamb with threttie 
tua clewis of yairne and tua fleishes woll and putting thame in a 
bogie and hyding thame in a carne of stanes besyd the loch of 
Coginsburch for fear of ranselling in November 161[3] yeiris or 
thairby, item for airt and pairt of the steilling of ane sheip in 
November 1612 quhairof he gave anehalfe to Thomas Rendallis 
wyfe, wobst[e]r, and last of all as ane comone theiff sua brutit, 
reput and haldin etc., as the saidis dittayis at mair lenth beiris;
the said procuratour [10v] fischall being personallie present and
the said defendar being lyk wayis personallie present, quha enterit
on pannall haveing no ressonabill caus quhy he sould pas to the
knowledge of ane assyse wes content to byde tryell, quhairupoun
the said procuratour fiscall askit instrumentis desyring the saidis
dittayis to be put to the knowledge of ane assyse and the pannall
to be accusit thairupoun; efter accusatioun the said pannall denyit
the haill poynits of dittay abonewrittin and thairfor the judge
remittit the saidis dittayis to the knawledge of ane assyse quhom
he ordanit to be callit.

Assisa

William Sinclair of Rawick  James Kintoir in Scalloway
Laurence Sinclair of Ustanes  bankis
Andro Gifhart of Wedderstay  Thomas in Sound
Hew Halcro of Aithsetter  James in Flatabuster
Malcolme Halcro of Hoswik  Alexander Bruce in
                        Skelberie
                        William Dempster
                        
                        James Nevein of Caldclift:
                        Adam Boyne in Tyngwall
                        David Kead in Scalloway bankis
                        Malcolme Mowat thair
                        Jone Buchannane thair

Quhilkis persones of assyse being receaveit, suorne and ad-
mittit and pasing out of judgement, nominat and ellectit all in
ane voice the said Alexander Bruce in chancellar, and entering
in judgement agane efter dew diliberatioun hard anent the dit-
tayis produceit, the greattest pairt of the said assyse be the mouth
of the said chancellar fand and declarit the said pannall to be
guiltie in steilling of ane lamb, xxii [sic] clewis of yearne and tua
fleishes woll and in hyding of the same in the carne of stanes in
November 1612, and in steilling of ane sheip quhairof he gave the ain pairt to Thomas Rendaillis wyfe, wobst[er], the said moneth of November 1612, conforme to these tua poynis of dittay, and for the rest rais clauso ore and remittit sentence to the judge and dome to the dempster; quhilk determinatioun the judge thane present acceptit and conteinwit sentence to the nyntein day of this instant.

Decimo nono Augusti 1615

< Kintoir contra Sinclair >
Decernes Francis Sinclair of Uyea to content and pay James Kintoir in Scalloway bankis the sowme of sevintein pundis money addebtit be him to the said James, partibus presentibus et reo confitenti.

< Act cautionerie: Kneland and Jonesone >
Compeirit personallie Laurence Sinclair of Ustanes and became actit cautioner for Henrie Kneland in Bruagarth and Erasmus Jonesone in Cheddernes that they sail compeir befor the schireff and underly the law for the alledgit thifteous steilling of ane o[i]r, quhenso[e]ver they salbe lawfullie chairgeit upoun xv dayis wairneing, under the paine of xl li., and they became actit for his releiff.

< Sentence contra Scarpogarth >
Anent the sentence criminall continwit [from 17 August] be the said schiref deput to this day aganes Thomas Mansone in Scarpagarth, the said schiref deput decernes and adjudges him to be banished [11r] the contrey of Yitland, and to that effect to remove thairout betuix and Martimes nixt and never to returne thairto, and gif heirefter during his abyd he be tryit to comitt ony kynd of thift to be hangit, and this the dempster gave for dome.
At [blank] xxvi° Augusti 1615

< De Fermour et Mortoun contra tennentis >

Anent the clames intentit and persewit [on 17 August] befoir the said schiref deputt at the instance of Marjorie Fermour, relict of umquhill James Sinclair of Crosbuster, lyfrentar of the landis underwrittin, and Andro Mortoun, now hir spous, for his entres, aganes the persones efterspecifeit, acclameand fra thame the dewties of the landis undermentionat of the crop and yeir of God i° vi° and fourtein yeiris last bypast, to wit — fra Symone and Erasmus in Daill in Unst, xx markis butter and fyve cuttell wedmell for the dewties of tua mark half mark land in Daill, vi d. the mark, of the crop and yeir of God forsaid; item Magnus in Newhous, xvi markis butter and four cuttell wedmell for tua mark land in Unst occupyit be him; William Gray of Gairdie, xvi markis butter iii cuttell wedmell for the dewties of tua mark land in Clibberisweik in Gairdie; Andro in Seatter, iii cuttell wedmell for ane mark land in Seatter; Erasmus in Colvasetter, iii cuttell wedmell for half mark land in Colvasetter in Unst; Mathow Loutit in Sletoun, viii markis butter ii cuttell wedmell for ane mark land thair; Henrie Tailyeour for ane mark in Midgarthe be north the vo, viii markis buttir tua cuttell wedmell; Gotherum in Funyie in Fetlar for ane mark £ mark land in Funyie in Fetlar, xii ane cuttell wedmell; Jone Eduartsone for ane mark £ mark land in Strand, xii ane cuttell wedmell; Erasmus and Mans of Urasetter for i mark land in Aith, viii ane cuttell wedmell; Erasmus Petersone for ane mark in Urasetter, viii markis butter ii cuttell wedmell; Thomas Lauder for ane mark land in Rosetter, viii ane cuttell wedmell; Katherine Edmestoun for ane mark £ mark land in Howbie, xii ane cuttell wedmell; Ola Vassie for thrie mark land in Vassie in Yell, 7 d. the mark, xxvii markis butter vii cuttell
wedmell; Laurence in Grimsetter for four mark land thair, ix d. the mark, ii leispundis buttir ii shilling wedmell; Jone of Awick for four mark half mark land in North Awick, ii leispundis vi markis buttir ii shilling iii cuttell wedmell; Nicoll Olasone in Pap[e]ll for half mark land thair, iii markis butter i cuttell wedmell; Ninian Niven for ane mark and half in Kirkbuster, ix d. the mark, xviii markis butter i shilling iii cuttell wedmell; John Edimestoun for thrie mark in Basta, ix d. the mark, xxxvi markis butter [blank] shilling [blank] cuttell wedmell; Andro Shewartsome for ii mark thair, i leispund butter i shilling wedmell; Helen Johnesdochter for 4 mark in Castagarthe, ix d. the mark, ii leispundis butter ii shilling wedmell; and James Burger in Colvsetter for ane mark land, xii markis butter iii cuttell wedmell: quhilkis dewties or prices thairof underwrittin properlie belangis to the said Marjorie in lyfrent, quhairof they have oft and divers tymes requyrit the saidis defendaris to have maid thame payment for the said crop and yeir of God 1614 yeiris, or the soume of ii s. money for the price of ilk mark butter and iii s. money for ilk cuttell wedmell, quhilk they wrangouslie refuis to do without they be compellit; as the saidis clames, haill proces led and deducit thairintill at mair lenth beiris. The saidis persewaris being personallie present, quha producit ane contract of mariage maid [betoix] William Fermor, taking the burding upoun him for the said Marjorie, his dochter, on the ane pairt, and the said James Sinclar of Crosbuster on the uther pairt, subscryvit with thair handis of the dait the tent of August 1613 yeiris, berand the said umquhill James to have bund and oblist him to infeft and seas [11v] the said Marjorie during hir lyftyme in the saidis landis of Crosbuster, and in all and quhatsumever uther landis than possest be him or that he sould happin to get thairefter; and the saidis defendaris being lawfullie sumond ... and not compeirand and Francis Sinclair of Uyea, quha wes admittit for his entres, compeirand personallie with Ninian Neven, his procuratour, the
saidis pairties compeirand, thair ryczthis . . . toghither with the depositioune of divers famous witnessis product for the pairt of the saidis persewaris, receaveit, suorne and admittit, being hard . . . the said schirlef deput . . . decernes and ordanes the saidis defendaris, and ilk ane of thame for thair awin pairtis as is abone-devydit, to mak guid and thankfull payment to the saidis persewaris of the haill butter [and] wedmell as for the dewties of the saidis landis of the foirsaid crop and yeir of God 1614 yeiris < or els the prices thairof abonewritten>; attour ordanes thame to content and pay to the saidis persewaris the soume of [blank] as for expenssis etc., to be equallie payit amongstis the saidis defendaris; becaus it wes alledgit be the said Ninian Niven, procuratour forsaid for the pairt of the said Francis, quha wes admittit for his entres as said is, that the saidis defendaris cannot be decernit to mak payment to the saidis persewaris of the maillis and dewties acclamit of the landis abonewritten, becaus the saidis landis pertainit to the said Francis as air to umquhill William Sinclair of Uyea, his father, quha wes uddaller of the same, and quhairof he haid bein in possessioun be uplifting of the maillis and dewties thairof divers yeiris syn the deceis of his said umquhill father; to the quhilk it wes answerit be the saidis persewaris that the said exceptioun aucht to be repeljit becaus thay offrit thame to prove that the said umquhill James, spous to the said Marjorie, persewar foirsaid, wes enterit to the possessioun of the saidis landis, at the least ane great pairt thairof, be the said umquhill William, his father, in his awin tyme, and that the said umquhill James continwit in the peaciable possessioun thairof be uplifting of the dewties of the same to the tyme of his deceis, quhilk wes in the yeir of God 16[1]3 yeiris, lykas she wes ane conjunct persone with her said umquhill husband, to quhoom be contract of mariage the saidis landis wer provydit during hir lyftyme; quhilk being fund relevant be the said schirlef deput for eliding the poynitis of the said exceptioun, he than admittit the same toghither with the
poyntis of the saidis clames to the saidis persewaris probatioun, and divers termes being assignit to thame for proveing thairof they proved the same sufficientlie, and sicklyk becaus the saidis defendaris, being divers tymes lawfullie sumond and last of all to have hard and sein sentence and decreit given and pronunceit in the said matter, compeirit not to alledge ony ressonabill caus in the contrair; as wes cleirlie understand to the said schiref deput and thairfor he decernit as said is and ordanes preceptis etc.

Apud Uyeasound in Unst 26° Augusti 1615

< Gray contra Manssone >
Decernes William Manssone of Gardie of consent to content and pay to Mr Gilbert Gray, merchant, the soume of sevintein pundis [12r] money addebtit be the said William Manssone to him be ane obligatioun maid be him to the said Mr Gilbert upoun the soume of xx gudlingis, and assoilyeis simpliciter the said William Mansone fra the rest of the said soume of consent of the said Mr Gilbert and decernes him quyt and frie thairfra in all tyme cumming, and ordanes preceptis etc.

< Sclatter contra Forbes >
Decernes Alexander Forbes to content and pay to Nicoll Sclatter in Scalloway bankis the sowme of iiii li. iii s. iiii d. addebtit be him to the said Nicoll of the sowme of vi li. money for vi leispundis malt and sex s. lent silver, and assoilyeis simpliciter the said Alexander fra the rest of the said sowme of sex pundis and vi s. acclaimed, becaus the said persewar compeirand be Robert Scollay, his procuratour, referrit the matter to the said defendar his ayth of veritie simpliciter, quha being personallie present and suorne be his said ayth maid fayth that he wes onlie debtfull to the said Nicoll in the said sowme of iiii li. iii s. iiii d., as wes cleirlie understand etc. and ordanes preceptis etc.
Decernes Mr Gilbert Gray, merchand, to content and pay to Barthelmew Aikley the sowme of fourtein gulyeounes or the sowme of xxiii s. for ilk gulyeoun, lent be him to the said Mr Gilbert in the toun of Enovissin sex yeiris sync, partibus presentibus et reo consitenti.

Decernes David Pitcarne of Scarpo to content and pay to William Mansone of Gardie the sowme of xii s. money for the price of iiiii markis butter and i cuttell wedmell and the sowme of iii s. money in gersum, and that yeirlie and ilk yeir be the space of thir thrie yeiris last bypast, for the dewties of the ane half markland in Clowgun pertening to the said William here- tablie, and that but prejudice alwayis of ony rycht the said David hes to the saidis landis gif he onyhes, and ordanes preceptis etc., partibus presentibus et consentientibus.

Compeirit personallie Henrie Williamsone in Buanes and becam actit cautioner, souertie and lawborrowis for Mans Cragie in [blank] that Nicoll Gardner, sumtyme his prentes etc. salbe harmeles and skaythles of the said Mans, his wyfe etc. . . . under the paine of xl li., and the principall became actit for his cautioneris releiff etc.

Symone in Clipragarth became actit cautioner, souertie and lawborrowis for the said Nicoll Gardiner that the said Mans Craigie, his wyfe, bairnes etc. salbe harmeles etc. of the said Nicoll etc. . . . under the paine of xl li., and the said Nicoll for his cautioneris releiff became actit etc.
< Decreit: Bruce contra Craigie >
Decernes John Craigie in [blank] to content and pay to William Bruce of Ungerstay the summe of £iii s. viii d. of the summe of xii li. vi s. viii d. addebitit be him to the said William, and assoil-yeis the said defendar fra the summe of iii li. xvi s. money for the price of ilk barrell of tua barrellis fisch receaveit be the said William fra him in pairt of payment of the said haill soume, juramento reo actore presente, quha referrit the samen thairto etc., and ordanes preceptis.

[12v] At Burrostow in Wais the sex day of September the yeir of God 1615

< Lawborrowis: Nicolsone contra Bruce >
In presence of Mr William Levingstoun, schiref deput of Orknay and Yetland, compeirit personallie Arthur Sinclair in Bardista in Wais and became actit as cautioner, souertie and lawborrowis for Scipio Bruce, sone natural! to Laurence Bruce of Cultimallyndies, that Eduard Nicolsone in Brek in Wais, his wyfe, bairnes etc. salbe harmeles and skaithles . . . be the said Scipio Bruce, his wyfe, bairnes etc. . . . under the paine of xl lib., and the said Scipio became [actit] for his cautioneris releiff.

< Lawborrowis: Bruce contra Nicolsone >
Compeirit personallie Walter Scot in Quhytsnes and became actit as cautioner, souertie and lawborrowis for Eduard Nicolsone of Brek that Scipio Bruce, his wyfe, bairnes etc. salbe harmeles and skaithles . . . be the said Eduard, his wyfe, bairnes etc. . . . under the paine of xl lib., and the said Eduard became actit for his cautioneris releiff etc.

Curia balivatus de Yetland tenta apud templum de Hildiswick in Northmaven per Magistrum Willemum Lev-
ingstoun vicecomitem deputatum ac balivum eiusdem octavo die Septembris anno Domini 1615.

< Bruce contra Sinclair >
Anent the suplicationoun given in befoir the said schirf deput and persewit at the instance of Laurence Bruce of Cultimalyndies, heretabill proprietar of the landis of Hildiswik with the pertinens lyand within the parochin of Northmaving, lordship and shirefdome of Yitland, aganes Ursilla Sinclair, relict of umquhill Mr James Pitcarne, makand mentioun that quhair the said umquhill Mr James Pitca[r]ne and the said Ursilla, his relict spous, proprietaris and occupyaris of the landis of Urafirth lyand contigue to the saidis landis of Hildiswick, mynding to appropriat the comontie thairof to thair saidis landis of Urafirth, maist wrangouslie dykit in the out fredome and comontie pertening to the saidis persewaris landis of Hildisweik, appropriating the same to the comontie of thair saidis landis of Urafirth, and quhairby they be thame selves, thair servandis and utheris in thair names maist wrangouslie debarrit the said persewar, his tenentis and servandis from using and injoying the benefite of the said comontie, and frome pasturing of thair guidis and stryking of thak as they have bein in use and custome to do thairupoun past memorie of man; lykas the said Ursilla as yit wrangouslie detenis and withhaldis fra thame the priviledge of the said comontie and will not dimolishe and cast doun the saidis dykis maist wrangouslie biggit and [13r] extendit thairpoun, to the effect the saidis persewaris may enjoy the benefite thairof in pasturing and stryking of thak thairpoun the samen in maner foirsaid, bot debarris thame thairfra contrair to all equitie and reassone and to thair great hurt and prejudice gif remeid be not provydit thairto, as the said suplicationoun at mair lenth beiris; the said persewar compeirand personallie with Thomas Black, his procuratour, and the said Ursilla Sinclair compeirand lykwayis
personallie with Mr Gilbert Mowat as procuratour for hir and for his entres, their rychtis . . . togethier with the declaratioun of ane condigne assyse, being hard . . . the said schiref deput . . . decernes the said dyk to stand and not to be dimolishit nor cassin doun, and ordanes ane comoun lone and passage to be maid of threttie fute of breid direct from the present auld grind in the said new dyk, quhilk is on the south west, to the present grind in the said dyke on the north eist, be the eist syde of the mylne of Urafirth, for serveing the said persewar and his tenentis to go to the said hill of Urafirth for stryking and leiding of thak and calling of their sheip to pasture upone the said comontie and hill, conforme to use and wont; becaus it wes alledgit be the said Mr Gilbert Mowat for him selff and as procuratour for the said Ursilla that the said dyke aucth not to be dimolishit nor the said persewar nor his tenentis to have rycht of comontie within nor beyound the samen, becaus thay offirit thame to prove that the scattellis and comounties of Hildiswick and Urafirth ar severall scattellis and devydit be meithis and merche stanes, and that the said dyk is far within the saidis merches; to the quhilk it wes answerit be the said Thomas Black, procuratour foirsaid for the pairt of the said persewar, that the said exceptioun aucth to be repellit becaus he offirit him to prove that the said persewar, at the least his auctour, wer in peaciable possessioun past memorie of man be pasturing and croveing of thair sheip beyound the said dyk, and haid passage through the said comontie and hill of Urafirth; to the quhilk it wes duplyit be the said Mr Gilbert that the said reply aucth to be repellit becaus, gif ony passage through the saidis landis possessioun upoun the said comontie the said persewar or his auctour haid, it wes be tollerance of the said umquhill Mr James his auctouris, and offirit him to prove the same sufficientlie; quhilk suplicatioun, with the said exceptioun, reply and duply abonewrittin, the said schiref deput of consent of baith the saidis pairties and procuratouris, refferit the
same and haill poynis thairof to the knawledge of ane inquest, quha being electit, nominat and sworne of consent as said is, past to the ground of the said landis and dyk forsaid, and efter mature deliberatioun and cognitioun hard and taken thairanent, fand and declairit all in ane voice that umquhill David Tulloc in Hildiswick, autour to the persewar, pastorit his sheip upoun the comontie benorth Urafirth and haid passage betuix the loch and auld dyk of Urafirth, to call thair sheip and led thair tha[c]k from the said comontie to Hildiswick, and that he c[ro]ed his sheip quhen he tuik thame in the croe of Urafirth and haid not ane of his awin, and as the said umquhill David Tulloc pastorit on the comontie benorth Urafirth, so the tennentis of Urafirth and Aithsetter pastorit als frielie to Rooneip bewest Hildiswick; as wes cleirlie understand to the said schiref deput and thairfor he decernit as said is etc.

At Urafirth [Northmavine] the ix\(^{\text{th}}\) of September 1615

\(<\text{Lawborrowis: Symone in Clipragarth contra Sinclar}>\)
Compeirit personallie Jone Mowat of Olaberrie and becam actit as cautioner, souertie and lawborrowis for Robert Sinclair, brother german to Francis Sinclair of Uyea, that Symone in Clipragarth, his wyfe, bairnes etc. salbe hameles and skaithles ... be the said Robert, his wyfe, bairnes etc. ... under the paine of i c. lib., and the said Robert became actit for his cautioneris releiff etc.

Curia vicecomitatus de Yetland tenta apud castrum de Scalloway bankis in aula eiusdem per Magistrum Willel- mum Levingstoun vicecomitem deputatum dicti vicecomitatus die decimo nono Septembris anno Domini 1615. Curia tenta et legitime affirmata.
Anent the lybellit sumondis of removeing intentit and persewit befoir the said schiref deput at the instance of Malcolme Sinclair of Quendaill, heretor of the landis underwrittin, aganes Johne Andersone and Patrik Cheyne, makand mentioun that quhair the said persewar hes... all and haill the fysein mark land callit South Seatter lyand within the parochin of Tinguall and lordship of Yetland, pertening to him heretablie in wedset as his infeftment and saisine thairof proportis; be vertue quhairof the said persewar... fourtie dayis preceiding... Wisunday last bypass, causit lawfullie wairne... the saidis Johne Andersone and Patrik Cheyne, pretendit tennentis and occupyaris of all and haill the saidis landis, to have flittit and removeit thame selffis, thair wyfes, bairnes, familie, subtennentis, cornes, cattell and guidis and geir furth and fra the saidis landis, houssis, biggingis and pertinentis thairof... to the effect the said persewar, his men, tennentis, servandis... mycht have enterit thairto peaciablie... as the said precept... at mair lenth beiris; nevirtheles the saidis persones... have continwallie sen... Wisunday last bypass... occupyit...and withhaldin [14r] the samen fra the said persewar, and will on nawayis as yit remove... thairfra without they be compellit; and anent the chairge given to the saidis defendaris to have compeirit... as the said precept at mair lenth beiris. The said persewar compeirand be Thomas Sinclair, his procuratour, qua for verifying the poynts of the said lybellit precept produceit the said precept of wairneing dewlie execut and indorsat, togither with ane instrument of saisine berand the said persewar to be infest and seasit in all and haill the saidis landis with the pertinentis, of the dait the x[v] day of September 1607 yeiris under the signe and subscripifoun of Alexander Bruce, nottar publict, and the saidis defendaris being lawfullie sumond... and not compeirand, the rychtis... of the said persewar being hard etc., decernes the saidis defendaris to flitt and remove... furth
and fra the saidis fyfein mark land callit South Setter . . . to the effect the said persewar . . . may enter thairto peaciablie . . . conforme to infeftment and seasine thairof . . . becaus the saidis defendaris wes lawfullie sumond to have compeirit befoir the said schiref deput to have [hard] and sen decreit given in maner abonewrittin or els to have alledgit ane ressonabill caus quhy the samen sould not have bein done, with certificatioun to thame and they failyeit the said judge wa[l]d decerne in maner foirsaid, and they being lawfullie sumond to that effect compeirit not to alledge ony ressonabill caus in the contrair, as wes cleirlie understand to the said schiref deput and thairfor he decernit as said is and ordanes etc.

< Neven contra Broun >

Decernes William Broun, servitor to Thomas Black of Stroholme, to content, pay and delyver to Martha Pitcarne [1]

James Neven of Caldclift the number and quantitie of threttein elves stuff receaveit be him to lit, or the sowme of xvi s. iii d. for the price of ilk elve thairof, partibus presentibus juramento reo, and ordanes preceptis etc.

< Broun contra Niven >

Decernes James Niven of Caldclift to content and pay to William Broun the sowme of fyve pundis money addebit be him to the said William for the graithing of tua suordis tua yeiris syne or thairby, and the sowme of iii li. vi s. viii d. money as for the litting of threttein elves Yetland stuff at vi s. viii d. the ***e litting, juramento actore presente reo, quha referrit the samen thairto etc.

Vi]gesimo Septembris 1615

[Contra Isbister]

Decernes Alexander Isbister in Harduell to content and pay to Lancelot [? Mowat], merchant, the soume of xx li. xiii s. iii d.

1 There is evidently an omission at this point.
borrowit and receaveit be the said Alexander fra him ane yeir syne bygane at Witsonday, quhilk he promeisit to pay to him agane, partibus presentibus et reo confitenti etc.

Curia vicecomitatus ac justiciarie de Yetland tenta apud Scalloway bankis in castro eiusdem per Magistrum Willelmum Levingstoun vicecomitem deputatum eiusdem die vigesimo Septembris 1615.

< Mowat contra Sinclair >
In the actioun and caus persewit befoir the said schiref deput at the insta[nce] of Johne Mowat of Hugoland aganes Laurence Sinclair of Burch, eldest lawfull sone and air of umquhill Hew Sinclair of Bruch, his father, at the least executor confirmed to him, at the lest intromettor with his guidis and geir, for payment to him of fyftie auld rex dollouris lybellit conforme to the said umquhill Hew Sinclair his band and obligatioun subscryvit with his hand of the dait the xxviii day of Aprile 1599 yeiris, as in the lybellit sumondis raisit thairanent at mair lent is contenit; the said persewar compeirand be David Hairt, his procuratour, quha produceit the obligatioun lybellit, and the said defendar being personallie present alledgit na payment of the said sowme lybellit contenit in the said obligatioun, becaus his father in his awin tyme haid maid sattisfactioun to the said persewar of the samen, and offerit him to prove the samen sufficientlie; quhilk being fund relevant be the said schiref deput he thane hes admittit and admittis the same to the said defendaris probatioun, and for proveing thairof hes assignit and assignis the first Tysday of August nixt to prove the samen, partibus apud acta citatis.

< Lawborrowis: Sinclair et Neven contra Sinclair >
Compeirit personallie Thomas Sinclair in Scalloway bankis and became actit as cautioner, souertie and lawborrowis for
Laurence Sinclair of Ustanes that Laurence Sinclair of Bruch and Jone Neven of Scowisburch, their wives, bairnes... salbe hameles and skaythles... be the said Laurence Sinclair of Ustanes, his wife, bairnes etc. under the paine of ii c. markis, and the said Laurence becam actit for his cautioneris releiff etc.

< Lawborrowis: Sinclair contra Sinclair et Neven >
Thomas Blak of Stroholme became actit as cautioner, souertie and lawborrowis for Laurence Sinclair of Burch and Jone Neven of Skowisburgh that Laurence Sinclair of Ustanes, his wife, bairnes etc. salbe hameles and skaythles of the saidis Laurence of Burch and Jone Neven, their wives, bairnes etc. under the paine ilk ane of thame of ii c. markis, and they became actit for thair cautioneris releiff etc.

Vigesimo octavo Septembris 1615

< Buchannan contra Esplein >
Decernes James Esplein, officiar in Aithsting, to content and pay to Jone Buchannan in Scalloway bankis and Lillias Boyne, his spous, the soume of tuelf pundis money pairtlie borrowit be him fra thame and pairtlie for certane furnishing furnishhit to his sones, being in waird within the castell of Scalloway thrie yeiris syne or thairby, and quhairof he hes oft and divers tymes promcisit thame payment, partibus presentibus et reo confitenti etc.

< Sutherland contra Sinclair >
Decernes Henrie Sinclair of Sueining to content and pay to James Sutherland, skiper, indueller in Kirkwall in Orknay, the soume of four auld silver dollouris or lv s. money of Scotland for the
price thairof,¹ and that in full contentatioun of ane obligatioun and sowme of sex auld rex dollouris thairin contenit as faiyie of delyverie to the said James of ane suffycient hors of fyve yeir auld with ane meir of thrie yeir auld, quhilkis saidoul could have been delyverit be him to the said James in the yeir of God 1613 yeiris, as in his said obligatioun maid and subscriвит be him to the said James thairupoun at mair lenth is contenit etc., actore presente quha produceit the said obligatioun in modum probationis reo absente.

〈 Dittayis of thift contra Espleines 〉
Anent the dittayis criminnall intentit, given in and persewit at the instance [of] Robert Kaa, procuratour fiscall of the said shirefordome, aganes Nicoll and Cristopher Esplenis for certane poyntis of dittay for thift underwrittin, viz – the saidis Nicoll and C[h]ristopher for airt and pairt and for the thifteous steilling sex yeiris syne or thairby of ane sheip pertening to Johne in Houlland upoun the hill at xii houris [at] nune or thairby, and efter the taking thairof in putting it under ane bray for hyding thairof quhill they sent Margaret Porteous with ane cassie for it, quha pat it in ane cassie and fog abone it and brocht it to the hous pertening to thair father; item 〈bayth the said Nicoll and Christopher〉 for the steilling of sex sheip at divers tymes, sumtymes on the nycht and sumtymes on the daylicht, fra the said Jone in Houland, quhairof sum the saidis Nicoll and Christopher brocht home and eat in thair motheris hous and eat with thair mother and sum they did eat in Mans of Cumblingis² byir; item the said Nicoll for the steilling of ane blak sheip fra Peter in Tuat quhen he wes the said Peteris servand, quhilk wes markit be his going fra him that nycht and upon the mornie he wantit the sheip quhilk wes missit be his sone, and quhen his sone tauld

¹ Presumably for the price of each dollar: see Glossary.
² Spelt Tumbling below (twice).
him he bad him hald his tong[ue] for it wald be gottin agane; item the said Nicoll for airt and pairt of the thifteous steilling and recept of ane sheip fra Mans Nicolsone quhen the said Mans wes ane young boy, and of ane uther sheip fyve yeiris syne; item the said Christopher for the thifteous steilling of ane sheip under a bray pertening to Arthour Quhyt taking thairof, and quhen Walter Scot wes cumming by the said Christopher causit Jone Mansson, sone to Mans in Tumbling,¹ lat it goe; item the said Christopher for the thifteous steilling of [ane] quhyt yow perten-ing to Arthour Quhyt thrie yeiris syne quhilk Christian, his dochter, b[ru]** home in hir gairdcuill, and for steilling ane uther sheip fra him within tua nychtis thairefter, item for the thifteous steilling of a lamb fra Peter in Tuat vi yeiris syne or thairby quhariof he fand the skin in his fatheris hous, the said Christopher and his brother [15v] being at home; item the saidis Nicoll and Christopher for the thifteous steilling of xxx sheip fra John in Houland this last winter, and of tuas sheip fra Christop Olasone in Grunevo quhen he wes hurt in Papa, and of ane wedder immediatlie efter the lawting last, and of xv sheip fra Peter in Tuat ferne yeir; and thairfor and that they ar reput and haldin as comone theiffis aucht and sould be adjudgeit and hangit to the death, as the saidis dittayis at mair lenth beiris; the said procuratour fiscall being personallie present and the said defend-aris being lykwayis personallie present, quha enterit on pannall haveing no ressonabill caus quhy they sould not pas to the knaw-ledge of ane assyse wer content to byd tryell thairof, quhairof the procuratour fiscall askit instrumentis desyring the saidis dittayis to be put to the knawledge of ane assys and the pannallis to be acusit thairrof; efter accusatioun the saidis pannallis denyit the haill poynitis of dittay abonewrittin, and thairfor the judge remittit the dittayis to the knawledge of ane assyse quhom he ordaneit to be callit.

¹ Spelt Cumbling above.
Assisa
Robert Murray of Stanidaill
Walter Scot in Quhytsnes
Johne Wishart of Burrafirth
Mans Olasone in Aythsnes
Andro Stewart in Futaburch

Arthour Irving in Ure
William McReth in Brua-
lander
Robert McReth in Futaburch
William Sinclair of Rawick
Nicoll Mansone in News-
burch

Mans Jonesone in Cut[ils]wick
Ola Jones[t]oun thair
Christopher Mathesone in Setter
Jerome Mathesone thair
Thomas Mansone in Bigsetter
Thomas Androsone in Howland

Quhilkis persones of assyse being receaveit, suorne and ad-
mittit and passing out of judgement, nominat and electit Robert
Murray of Stanidaill in chancellar of the said assyse, and reenter-
ing in judgement agane efter dew deliberatioun and examina-
tioun of divers famous witnessis quha with consent of pannallis
wer suorne and admittit to depone anent the dittayis produceit,
the haill assyse all in ane voice but discrepence or varience fand
and declarit the saidis Nicoll and Christopher Esplenes, pannal-
lis, giltie anent the steilling of ane sheip fra Jone Howland sex
yeiris syne at nune or thairby, and of steilling fra him of sex sheip
and eating thame in thair fatheris hous with thair mother and
sister and pairt of thame in Mans of Tumblingis byir, conforme
to the first tua poynitis of dittay laid aganes baith conjunctlie;
and fyllit the said Nicoll of stouth and ressait of tua sheip fra
Mans Nicolsone; and fand and declarit the said Christopher to
be giltie of thift and in airt and pairt of steilling of Arthour
Quhytis sheip and Peter in Tuatis lamb, conforme to the uther poynis of ditty; and of comone brute and slander of thift, and for the rest poynis of ditty aganes thame severallie rais clauso ore; quhilk determinatioun the [16r] judge thane present acceptit, and continwit in giveing and pronunceing of sentence to the fourt day of October nixt, and the pannallis in the meantime to be incarcerat to that tyme.

Tertio Octobris 1615

< Alshunder contra Donaldsone >
Decernes Johne Donaldsone, skinner in Scalloway bankis, to content and pay to Jonet Alshunder, spous to William Cruikshank in Dunrosnes, and to the said William, hir said spous, for his entres, the soume of threttie tua pundis money addebitit be him to thame for merchand wairis coft and receaveit be him fra the said Jonet at sundrie tymes, comptit and reckonit to the said soume, partibus presentibus et reo confitenti etc.

< Heart contra Tait >
Decernes Jerome Tait in Howasetter to delyver and pay to David Heart, writter, ane barrell of croussis¹ for the quhilk the said Jerome became cautioner and souertie for Jone Boundsone in Lie in the yeir of God 1612 yeiris, or els to content and pay to him the sowme of thrie pundis tuelf shillingis for the price thairof.

< Heart contra Halcro >
Decernes Nicoll Halcro of Culbensburch to content and pay to David Heart, writter, the sowme of sex pundis money for formeing and writting of ane submissioun betuix the said Nicoll for him selff and takand the burdein upoun for Mareon Malcolmesdochter on the ane pairt, and Hew Halcro younger of Aithsetter

¹ Possibly troussis.
for him self and takand the burdein upoun for Brigida Mans-dochter on the uther pairt, and for formeing and writting of ane contract and appoyntment betuix the saidis pairties contening tua throwch of paper, and for registreing and extracting of the same contract sa far as concerns the said Nicollis pairt thairof, partibus presentibus et consentientibus.

< Absolvitour: Boyne contra Andersone >
The said schiref deput assoilyeis simpliciter Adame Boyne in Tinguall fra the actiou and caus underwrittin persewit at the instance of Nicoll Andersone aganes him, that is to say, for the pryce of ane meir pertening to the said Nicoll alledgit stickit be the said Adame Boyne with his fork, and decernes him quyf and frie thairfra in all tyme cumming; becaus the said Adame alledgit he could not be decernit to mak payment of the price of the said meir alledgit stickit be him, becaus he offirit him to prove that the fork quhairwith she wes stickit, pertening to him, wes stollen fra him fourtie dayis befoir the sticking thairof and that he maid ransell for the said fork, and gave his aith de calumnia thairupoun and proved the samen sufficientlie be the depositiones of divers famous witnessis, the samen being admittit to his probatioun, as wes cleirlie understand etc.


< Thift contra Erassmusone, Stephansone et utheris >
Anent the dittayis criminall produceit and persewit at the in-stance of Robert Ka, procuratour fiscall, aganes Bothwell Erass-musone, Andro Stephansone, Joahnes Andersone, Robert Mans-one, Iver Mansone, Laurence Castisone, Petter in Grobisnes and
Mans and Olaw Jeillissones underwrittin, for certane poynit of dittay for thift underwrittin, viz – the said Bothwell alias Buttie Erasmusone for airt and pairt of the thifteous steilling ferne yeir in harvest of ane yow out of the nes of Rannageo pertening to Robert Clerk, and of the thifteous steilling tyme foirsaid of sex sheip out of the said nes fra Francis Nicolsone and Walter Rippe[t]h, item for airt and pairt of the thifteous steilling of tua sheip quhilk he brocht into his maisteris hous quhen he wes absent at Candlmes last, and of steilling of certane sheip quhen he wes servant to Jone of Awick thrie yeiris syne quhen he sent him to link his sheip in the nes, and returnit verie hote and callit for drink, and within a day or tua thairefter Garth of Burch and Jone of Awickis sone being going aorth the feildis with ane dog fand ane deid sheip wanting baith skin and hyd hidd in the airth, and quhen the said Jone challengeit him for doing thairof he fled and ran to Robert Sinclair, so taking the cryme upoun him, item for airt and pairt of the breking of Symone of Clipragarthis skeo and of the thifteous steilling of ane half Hambruch barrell of beiff furth thairof in winter last, and of the steilling of sum woll quhilk he hide in his maisteris middein, and of breking of William of Gardies skeo and in steilling of certane lining clothis furth thairof, and of breking of Jone of Awikis skeo thrie yeiris syne and of the thifteous steilling of ane mutone and a half furth thairof, and in breking of Mans in Hamnavois skeo and steilling furth thairof ane mutoune, thrie geis and certane utheris vivouris, and of breking of Francis Nicolsonskeo and thifteous steilling furth thairof of ane half barrell salt and ane bolt of towis, and for airt pairt and thifteous breking of Andro Mortounes hous and steilling out thairof buttir, beiff, geis and utheris vivouris in winter last; the saidis Andro Stephensone and Johannes Anderson as airt and pairt of the thifteous steilling of tua sheip out of the nes of Kebusta, and ane uther of the nes of Gr[im]bista in Juni last on ane Sonday in the morneing, quhilk they pat in a boit and
sauld to the Hollenderis at Brassay; item the said Andro for the thifteous [steilling] of a blak unmarkit lamb that same day at nycht quhilk he slew in his awin hous, and of a blak yow out of the nes of Brawick pertening to Jerome Leslie quhilk he sauld to the Hollanderis, and of steilling of a young lamb in the ley of Caldelclift in voir last, item for the thifteous rouing of xi heid of sheip pertening to William Tait and selling of the woll thairof in Scalloway at Pashe last or thairby, and of the thifteous steilling of ane yow [17r] and tua lambis pertening to Jerome Nicolsone the said tyme; item the said Joahnnes Andersone for the thifteous steilling of ane sheip in September 1614 and roasting thairof in the hous of Wasland be eist Elibista; the said Robert Manssone in Quarfe for airt and pairt of the steilling of ane sheip upoun the hill of Quarfe tua yeiris syne at the Hallowmes, pertening to Andro Mansone in Eister Quarfe, and of the steilling of a yow fra Nicoll in Sand about Yule 1613 quhilk he tuik home and eat in his sisteris hous, and for steilling of a lamb pertening to Laurence of Flatabuster at La[mbe]s last; the said Iver Mansone in Vasgarthe in Cunn[insb]urch for airt pairt and thifteous steilling and rouing aff the woll of seven sheip in ane out skerrie at Moussay about Beltane thrie yeiris syne, and for steilling of a yow furt of Uradaill tua yeiris syne, and of steilling of sheip yeirlie at sundrie tymes out of the ile of Moussay, item for thifteous steilling of tua sheip ferne yeir in winter quhilk he brocht home on horsback under cloud of nycht, and for steilling of ane sheip upoun the tuentie day of September last pertening to Olaw Howland upoun the hill of [Conn]sburc, and for steilling of certane cornes fra Gilbert of Brind ferne yeir in winter; the saidis Lawrence Castisone and Peter in Grobsnes for airt pairt and thifteous steilling of tua sheip pertening to Andro Gifhart of Weddersta out of the ile of Rue, quhilk he eat in the [ 1 ] pertening to Ola Grind in Papa Stour in somer last; item

1 Word missing.
the said Peter for airt pairt and breking of the said Andro Gifhart
his hous callit the new hous and steilling furth thairof thrie
kirneingis of butter with certane beiff and thrie fleshes of woll;
and the saidis Mans and Olaw Jeillissones in Huisetter for the
thifteous steilling fra Marioun in Stove in Wais of ane blak yow
tua yeiris syne and maid ane pair of sockis of the woll thairof,
and for steilling of ane uther yow, ane gray sheip and tua lambis
ferne yeir fra the said Marioun; and generallie all the saidis per-
sones ar indyttit and accusit for comone theiffis and recept of
thift, and thairfor aucht and sould pas to the knawledge of ane
assyse, as the saidis dittayis at mair lenth beiris; the said procura-
tour fiscall being personallie present and the saidis defendaris
being all lykwayis personallie present, quha enterit on pannall
haveing na ressonabill caus quhy etc. they sould not pas to the
knawledge of ane assyse wer content to abyd tryell thairof;
quhairupoun the said procuratour fiscall askit instrumentis de-
syring the saidis dittayis to be read and the pannallis to be accusit
thairupoun; efter accusatioun the forsaidis haill persones pannal-
lis denyit the haill poynitis of dittay abonewrittin, and thairfor
the judge remittit the saidis dittayis to the knawledge of ane
assyse quhome [he] ordanit to be callit.

Assisa
Andro Gifhart of Weddersta
Johne Neven of Skowisburch
Hew Halcro of Aithsetter
Malcolme Halcro of Hoswick

[17v] James Mowat of
    Burrafirth
Alexander Bruce of
    Skelberrie
James Neven of Caldclift
    Mans in Aithisnes

James Kintoir, bailie of
    Tingwall
Mans in Brindista
Thomas Blakbaird in
    Skelberie
David Forrester of Lunay
Peter Olasone in Tuat  
Christopher Olasone in Tumbling  
Mans Jonesone in Dayseter  
Johne Nisbite of Burrownes  
Alexander Isbister in Hardwell  
Christopher in Inhous  
Mans Irving in Laxo  
Nicoll Smyth in Udallistoft  
Andro Pe[r]sone in Gonfirth and  
Jerome Nicolsone in North Caldclift  

Quhilkis persones of assyse being receaveit, sworne and admittit <but lawfull objectioun of the pannallis>, passing out of judgement nominat and ellectit all in ane voice Alexander Bruce in chancellor of the said assyse, and reentering in judgement agane efter dew diliberatioun haid anent the dittayis produceit, all in ane voice fand and declairit the said Bothwell alias Buttie Erasmussone to be giltie of the steilling of Robert Clerkis yow in the first dittay, and of the sheip that wes fund hid be Garth of Bruch and Jone of Awickis sone in the secound dittay, and of the steilling of Symone in Clipragarthis beiff and breking of his skeo, quhairof ane pairt confest be him selff contenit in the thrid dittay; item the chancellor and assyse for the maist pairt fand Andro Stephansone giltie in steilling of ane young lamb in the ley of Caldclift in voir last, and of the steilling and ruing of the sheip and selling of the woll in Scalloway conforme to the secound poynpt of dittay led aganes him; and fand Johanes Andersone giltie of the steilling of ane sheip quhilk he and Elspeth Step[h]-ansdochter rostit in the hous of Vasland be eist Elbista in September 1614 contenit in the thrid dittay led aganes him; item the said chancellor and haill assyse fand the said Robert Manssone giltie of the steilling of a yow pertening to Nicoll in Sand and of

1 Possibly Cumbling.
a lamb pertaining to Laurence in Flatabuster; item fand Iver Manssone giltie of the steilling of tua sheip ferne yeir in winter quhilk he brocht home [in] midnycht on horsback, and of ane uther sheip pertening to Olaw in Howland in September last, and of steilling of Gilbert of Brindis cornes in winter last; item fand Laurence Castisone and Peter in Grobisnes giltie of the thifteous steilling of tua sheip pertening to Andro Gifhart contenit in thair first dittay; and fand the said Peter giltie of the breking of the said Andro Gifhartis hous callit the new hous, and of steilling of beiff, butter and woll furth thairof contenit in the secund poynit of dittay; item fand the saidis Mans and Olaw Geillissones giltie of the steilling of ane blak yow fra Marioun in Stove; and last of all fand and declairit Bothwell alias Buttie Erassmusone and Iver Manssone to be reput, [i.e.] haulting and sclanderit for comone brute of thift; and rais for the rest of the poynitis of dittay clauso ore and remittit sentence to the judge and dome to the dempster; quhilk determinatioun the judge thane present acceptit and continwit in giveing of sentence to the morn, and ordanit the pannallis in the mean tyme to be incarserat to that tyme.

Quarto Octobris 1615

< Removeing: Mowat et Heart contra Mowatis >
Anent the lybellit sumondis of removeing intentit and persewit befoir the said schiref deput at the instance of Jeane Mowat, eldest lawfull dochter to Johne Mowat of Hugoland, heritrix of the landis underwrittin, and David Heart, writter, hir spous, for his entres, aganes James Mowat of Burrafirth, Johne Mowat of Hugoland, Andro Mowat, his sone and ap[a]rand air, Thomas Johnstone in Liaskoill, Andro Erasmussone in Stow, James [blank] thair, Donald Williamsone in Brawick and Andro Olasonethair, makand mentioun that quhair the said persewar hes . . . all and
sindrie the landis and utheris eftermentionat, viz – all and haill fourte nine mark and a halfe mark land, ix d. the mark, callit Houssayord; all and haill ten mark and half mark land, sex penny the mark, callit North Hous in Ure; all and haill fyve mark land, [ix] d. the mark, callit Esterhous in Ure; all and haill sevin mark and half mark land, sex pennies the mark, callit Liaskill in Ure; all and haill ane mark and half mark land, sex pennies the mark, callit Breweik; and all and haill sevin mark land, nyne pennies the mark, callit Stow; with houssis, biggingis, toftis, croftis, townmellis, quoyis, outbrekis, medowis, pairtis, pendicles and pertinentis quhatsumever pertening to the saidis landis or ony pairt thairof, all lyand within the parochin of Nortmaving, lordship and schirefdome of Yetland, pertening to the said compliner heretablie as hir infeftment and saising thairof propoirtis; be vertew quhairof the said compliner and hir said spous, for his entres ... fourtie dayis preceiding ... Witsonday last bypast, causit laufullie wairne ... the saidis James Mowat of Burrafirth, Jone Mowat of Hugoland, Andro Mowat, his sone and ap[a]rand air, Thomas Jonesone in Liaskoll, Andro Erasmussone in Stow, James [blank] thair, Donald Williamsone in Brewick, Andro Olasone thair, and all utheris pretendit tenentis and occupyaris of the saidis landis, to have flittit and removeit thame selves, thair wyffis, bairnes, servantis, families, subtenentis, cornes, cattell, guidis and geir furth and fra all and sindrie the saidis landis, houssis, biggingis ... and pertinentis thairof ... to the effect the said persewar and hir said spous, for his entres, thair tenentis, servandis ... micht have enterit thairto peaciablie ... [18v] ... as the said precept ... at mair lenth beiris; nevertheles the forsaidis persones ... haif continwallie sen ... Witsondey last bypast ... occupyit ... and withhaldin fra the said persewar and hir said spous ... the saidis landis ... and will on nawayis remove ... without they be compellit; and anent the chairge given to the
saidis defendaris to have compeirit... as the said lybellit sumondis at mair lenth beiris. The said persewar being personallie present, quha for verifying the poynsis of the said lybell produceit the precept of warneing dewlie execut and indorsat, togethier with ane instrument of saisine of the saidis landis berand the said persewar to be infeft in all and sindrie the saidis landis, of the dait the secund day of October 1613 yeiris under the signe and subscripzioun manuall of Alexander Bruce, nottar publict, and past pro loco et tempore fra James Mowat of Burrafirthe and declarit she\(^1\) onlie insistit for removeing aganes the rest; and the remanent of the saidis defendaris being all lawfullie sumond ... and not compeirand, the rychtis ... of the said persewaris being hard ... the said schiref deput ... decernes and ordanes the saidis defendaris not past fra as said is to flitt and remove ... furth and fra all and sindrie the saidis landis ... ilk ane of thame for thair awin pairtis thairof sa far as they occupy ... to the effect the said persewar and hir said spous, for his entres ... may enter thairto peaciablie ... conforme to hir infeftment and saisine thairof ... becaus the saidis defendaris wer lawfullie sumond to have compeirit befoir the said schiref deput to this day to have hard and sein decreit given and pronunceit in maner abonewritten or els to have alledged ane ressonabill caus quhy etc., with certificatioun to thame and they failyeit the said schiref deput wald decerne in maner foirsaid, and they being lawfullie sumond to that effect they failyeit to compeir to alledge ony ressonabill caus in the contrair; as wes cleirlie understand to the said schiref deput and thairfor he decernit as said is and ordanes preceptis etc.

\(^{19r}\) [Mowat contra Nevein et Mowat]

Anent the lybellit precept for productioun of evidentis intentit and persewit befoir the said schiref deput at the instance of Johne Mowat of Hugoland aganes Johne Nevein of Skowisburgh and

\(^1\) Possibly they.
James Mowat of Burrafirth, for his entres, makin, mention that quhair the said perswar hes divers and sindrie actiounes and caussis to intent and persew aganes divers and sindrie persones duelling within the boundis of the said schirefdome, for divers and sindrie landis, debits and soumes of money quhairunto he hes richt, lykas thair is divers actiounes and caussis intentit and persewit aganes the said perswar be divers and sindrie persones duelling within the saidis boundis, in the quhilkis actiounes and caussis the said perswar can nather gudlie persew nor defend without he have the particular writtis and evidentis underwrittin delyverit to him, they ar to say—ane chartour of confirmatioun conte[n]d ane new dispositioun maid and grantit be our soverane lord the kingis majestie, with consent of umquhill James, earle of Mortowne, his hynes regent for the tyme, to umquhill Andro Mowat of Hugoland, the said perswaris father, of the maist pairt of his landis in Yetland; the precept and instrument of saisine following thairupoun; the contract of mariage maid betuix umquhill Robert, earle of Orknay, for him self and takand the burdein upoun him for Cristiane Stewart, his dochter naturall, now spous to the said perswar, on the ane pairt, and the said umquhill Andro Mowat and the said perswar on the uther pairt; the chartour of alienatioun maid be the said umquhill Andro to the said perswar, his sone, quhairby he disponit to him his haill landis conforme to the said contract; the instrument of saisine following upoun the same chartour; the procuratorie of resignatioun maid be the said umquhill Andro quhairby he resignit all his landis in the handis of the said umquhill Robert, earle of Orknay, his superiour for the tyme, for new infeftment to be given thairof to the said perswar; the instrument of resignatioun following thairupoun; the chartour maid and grantit be the said umquhill earle to the said perswar upoun the said resignatioun; the precept and instrument of saisine following thairupoun; certane chartouris and dispositiounes maid be divers
and sindrie persoune duelling within the boundis of Yitland to
the said umquhill Andro Mowat of divers and sindrie landis
within the saidis boundis, with the instrumentis of saisines fol-
lowing upoun the samen; quhilkis evidentis, writtis and securi-
ties ar in the handis of Johne Nevein of Skowisburch and James
Mowat of Burrafirth, at the least they haid, hes or fraudfullie hes
put the samen away and will on nawayis delyver the samen to
him to be keipit and usit be him as his awin proper writtis and
evidentis in persute and defence of the saidis caussis; nather yit
will they exhibite and produce the samen befoir the shireff
principall or his said deput to be sein and considderit be thame
to the effect they may be decernit to be delyverit to the said
persewar to be keipit and useit be him as said is without they be
compellit; and anent the chairge given to the saidis defendaris to
have compeirit befoir the said shiref deput exhibitand [19v] and
produceand the particular writtis and evidentis abonewrittin,
togither with all utheris writtis and evidentis quhilkis they have
in thair handis and keiping pertening to the said persewar, at the
least quhilkis they haid, hes or fraudfullie hes put away, to have
bein sein and considderit be the said shiref deput and being
produceit to have hard and sein the samen to be delyverit to the
said persewar to be keipit etc., as in the said lybellit precept at
mair lenth is contenit; the said persewar compeirand be David
Heart, his procuratour, and the saidis defendaris being lykwayis
personallie present, thair rychtis . . . being hard . . . the said
shiref deput . . . decernes the said James Mowat to restoir and
delyver to the said persewar the chartour of confirmatioun and
saisine following thairupoun and ane uther evident in parche-
ment <etc. to be keipit etc.>\textsuperscript{1} confest be him to be [in] his handis
and keiping, and assoilyeis the saidis Jone Nevein and the said
James of the haveing of the remanent of the saidis writtis and
hail remanent poynitis, and decernes thame quy\textsuperscript{t} and frie thairfra

\textsuperscript{1} It is not clear where this marginal note should be entered.
in all tyme cumming; becaus the haveing of the saidis writtis and tenour of the said lybell being referriit be the said persewar to the saidis defendaris thair aithis of veritie simpliciter, the said Jone Nevein confest the recept of the foirsaid chartour of confirmatioun and sasing thairupoun and ane uther writ on parchement fra the said James Mowat quhilck he haid redelyverit to the said James, and gave his said aith thairupoun and that he haid na uther wryt pertening to the said persewar; and the said James being personallie present as said is confest the recept back agane fra the said Jone Nevein of the said chartour of confirmatioun and seasin thairupoun togetither with ane uther wryt in parchement, and maid faith that he haid na uther evident nor writ concerniing the said persewar; as wes cleirlie understand to the said schiref deput and thairfor he decernit as said is and ordanes preceptis etc.

〈 Sentence contra Espleines for thift 〉
Anent the dittayis and sentence thairintill continwit [from 28 September] aganes Nicoll and Christopher Espleines to this day, they reentering on pannall agane the said schiref deput and justicear decernes and ordanes the said Christopher Esplein efter none to be tane be the lockman to the west hill of Scalloway callit the gallow hill abone Houll, and thair to be hangit be the craig to the daith, and ordanit all his guidis and geir to be esheit and inbrocht to his hynes use for the guiltines of the saidis crymes; and decernit and ordanit the said Nicoll to be tane be the lockmane and scourgeit fra the castell yet to the west shoir, and to be banishit the parochines of Wallis, Aithsting and Sandsting, at the least fra duelling and making recidence thairintill during all the dayis of his lyftyme, and sicklyk of his awin consent incaise he sould be fund guiltie of ony thift in tyme cumming heirefter to be hangit without ony tryell of assayse; quhilck Mans Cromertie, dempster, gave for dome.
Anent the sentence continwit [from 3 October] to this day aganes Bothuell alias Buttie Erasmussone, Andro Stephansone, [2or] Johannes Andersone, Robert and Iver Manssounes, Laurence Castisone, Peter in Grobsnes and Mans and Olaw Jeillissounes, the said schiref deput decernes and ordanes the saidis Bothuell alias Buttie Erasmussone and Iver Manssone to be tane be the lockmane to the west hill of Scalloway callit the gallow hill abone Houll efter none, and thair to be hangit upone the geibitt to the death; and ordanes all thair moveable guidis and geir to be esheit and inbrocht to his majesties use for thair guiltienes of the said cryme of thift contenit [in] thair dittayis and declaratioun of assyse; and immediatlie thairefter decernis and ordanis the saidis Andro Stephansone, Yehan [es] Andersone, Laurence Castisone, Peter in Grobsnes and Mans and Olaw Jeillissones, for the particular poynthis of thift quhairintill they wer convict be the said assyse, to be tane be the lockmane and scourgeit fra the castell yet to the west shoir of Scalloway, and ilk ane of thame to be banishit the particular parochines eftermentionat, to wit – the said Andro Stephansone to be banishit the parochines of Tinguall and Brassay, at the lest fra duelling and making recidence thairin fra Hallowmes nixt during all the deyis of his lyftyme; the said Joahnnes Andersone the parochines of Brassay, Burray and Tinguall; the saidis Laurence Castisone and Peter in Grobsnes to be banished the parochines of Delting, Northmaving, Ayth- sting and Sandsting; and the saidis Mans and Olaw Jeillissounes to be banished in maner abonewrittin the parochines of Ayth- sting, Sandsting and Wais; quhilkis sentences in maner abone- writtin the dempster gave for dome; and sicklyk the said day the haill persones immediatlie preceiding, not condempnit to the death, becam actit of thair awin consent that incais thay salbe fund guiltie at ony tyme cumming of ony poynthis of thift quhat-
sumever, in that cai to be hangit to the death thairfor without ony tryell of assyse to be haid to that effect; quhairupoun the procuratour fiscall askit actis of court.

Curia justiciarie vicecomitatus de Yetland tenta apud castrum de Scalloway bankis per honorabilem virum Magistrum Willelmum Levingstoun vicecomitem depu-
tatum ac justiciarie eiusdem die nono Octobris anno 1615. Curia tenta et legitime affirmata.

< Thift contra Manssone >
Anent the dittay criminall intentit and persewit and given in be the said procuratour fiscall aganes Erasmus Manssone in Girlstay for certane poynitis of thift underwrittin, viz – in the first for the thifteous steilling and airt and pairt of the taking of tua sheip pertening to Mans in Wedbuster seiven or aucth yeiris syne, quhairof tua lambis qhilk haid bein in the yowis wombis wes fund in Chaldernes byir; item for airt and pairt of steilling of ane sheip out of the nes of Gr[imi]sta and chaissing of ane uther sheip thair xii or xiii yeiris syne; item for airt and pairt of the thifteous steilling of Mans in Wedbusteris kaill and certane fowlis out of Hambersland, and of tua galtis out of the air besyd Daill; item for airt and pairt of the steilling of ane barrell full of saltit mutton that wes fund in the dyk of Girlstay four or fyve yeiris syne and stolen at sindrie tymes and saltit; item for airt pairt [20v] and thifteous steilling fra David Forrester of Luna out of Keb-
[ldr]on¹ of tua sheip quhairof he send ane to William Fordyce and ane uther to Hew Tarrell aucht yeiris syne or thairby; item for airt pairt and thifteous steilling of ane wedder and ane yowe out of the nes of Wodbuster thrie yeiris syne or thairby pertening to Mans in Wodbuster; and last of all for the steilling of ane oyre, ane tow and tua fishing wandis out of Andro Gariochis

¹ Possible variants are Kebidion and Kebreron.
boit in August last, as the saidis dittayis at mair lenth beiris; the said procuratour fiscall being personallie present and the said defendar being lykwayis personallie present, quha enterit on pannall haveing na lawfull caus quhy he sould not pas to the knawledge of ane assyse wes content to abyd tryell thairof, quhairupoun the procuratour fiscall askit instrumentis desyring the saidis dittayis to be put to the knawledge of ane assyse and the pannall to be accusit thairupoun; efter accusatioun the said defendar denied the haill poyntis of dittay led aganes him except the taking of the aire, ane tow and tua wandis, quhilk he confest he and his companie tuik, haveing broken thair awin oyir and hummb[i]le bandis in ane storme; and thairfor the judge remittit and remittis the saidis dittayis to the knawledge of ane assyse quhom he ordanit to be callit.

Assisa
Alaxander Bruce in Skelberie
James Neven of Caldclift
Gilbert Thomassone in Suenesetter
Jerome Gilbertson in Balyista
Laurence Sinclair of Ustanes
James Kintoir, bailie of [Tinguell]
Jerome Halcro in Hambirsl
land
Jerome Nicolsone in North Caldclift
Mans in Goit
[blank] Tulloc in Howland
Henrie Frasser in Girdilstay
Johne Wishart of Burrofirth
William Tait in Tronafirth
Mans in Stenswall
Jone Eriksone in South Garth

Quhilkis persones of assyse being receaveit, suorne and ad-mittit and passing out of judgement but lawfull objectioun of
the pannall, all in ane voice nominat and ellectit Alexander Bruce in chancellar; and reentering in judgement agane efter dew deliberatioun haid anent the dittayis produceit, all in ane voice be the mouth of the said chancellar fand the said Erasmus guiltie in stailling of the kaill, air, to [sic] tow and wanndis contenit in the dittay; and for the remanent poynitis of dittay, in respect they wer nather confess nor provin, rais clauso ore and remittit sentence to the judge and dome to the dempster; quhilk determinatioun the judge than present acceptit and decernis and ordanis the said Erasmus Manssone of his awin consent to be banishit the cuntrey of Yetland, and to remove furt thairof betuix and the last day of Maii nixt in respect of the great slander he lyis under; quhairupoun the dempster gave dome.

The said Erassmus fand Laurence Sinclar of Ustanes cautioner for him, quha became actit that he sould fulfill the said sentence and never returne to the said cuntrey during all the dayis of his lyftyme, and for his lawteth during his remaneing thairintill, under the paine of fyve hundreth markis, and the said Erasmus became actit for the said Laurence his releiff etc.

[The next entry in this court book is dated 27 July 1616.]
GLOSSARY

abyd (n.) wait, stay
actit enacted, named in a record as being under an obligation
actore presente et reo in presence of pursuer and defender
adois affairs, business
ad pios usus for ecclesiastical purposes
air ayre, a spit of land or beach separating the sea from an inner water
air heir
air, aire oar
aitis oats
allanerlie only
almoise alms
als as, also
angel gold coin worth £5 to £6 Scots
anis once
annalie alienate, dispone, transfer to another
apud acta with acts, by orders pronounced in open court in presence of parties, requiring attendance without further citation
assedatioun lease, the act of letting on lease
assythment compensation, reparation
attour moreover, in addition (to)
auctore, auctour, authour, autour one who transmits a legal right to another, an ancestor
bind capacity, size
bismer, busmer weighing instrument operated on the principle of the lever
bluidwyrt fine or penalty for bloodshed
bogie sack made of skin or leather
bound, boundman, boundis mane one who has bound himself to another, adherent, tenant farmer
brankiss branks, bridle, instrument of punishment in form of iron framework for the head
bray brae, face of a hill, bank of a river, lake or sea
bruk, bruk enjoy use of, possess
brute, brut, rumour
buddis bribes, gifts intended as bribes
burdein, burding burden
busmer see bismer
but but, without
by by, without, besides
call (v.) call, drive
cannes measures of capacity
captioun, letteris of royal letters ordering the arrest of a debtor
caschie, cassie, caisie, kishie, creel or basket of woven straw or heather
chancelar (of a jury) foreman
clenges cleanses, acquits
clew ball (of thread, etc.)
cost bought
comontie, comountie common possession of pasturage
compeir appear formally
compt account
cors, cors cross, designation of the
cors—continued
signal or message for assembling the people
craig neck
crear small trading vessel
croe (n.) enclosure for animals or plants, sheepfold
croe, crove (v.) enclose in a croe
croussis ? small earthenware vessels
(c. 105)
cullour colour, pretext
cuttell a measure about the length of an ell
dampnifyit, dampnyfyit injured, especially by loss or inconvenience
dang beat, struck, assailed with violence
de calumnia of calumny, defines an oath affirming belief that statements made in a libel or defence are just and true
decerne (v.) judge, decree
decreet arbitrall decree by arbitrators
delait (v.) report
dempster court official who formally pronounced the sentence
dispone dispose, convey legally
dittay indictment
dogger fishing vessel
dollour dollar, coin worth about £2 15s. Scots in early seventeenth century
dome doom, formal judgment
duply (n.) rejoinder to a reply
duplyit (v.) made answer to a reply
dure door
duynung dwuning
earne erne, eagle
effeir be appropriate, fitting or customary
eelve ell (measure of length)
entres interest, concern, entry
ex confessione dicti by admission of the said (person)
ex confessione (partis) rei by admission of the defender
executorialis instructions or legal authority for executing a decree
farding land fourth part of a penny land (q.v.)
Fastingis Evin day before the fast of Lent, Shrove Tuesday
fear feuar, person possessing the property of an estate, over which another holds a right of liferent
fensit fenced, of a court constituted fern yeir, fern yeir last year
fier fier, fixed price of grain for the year
fleish, flesh fleece
fog moss, kind of grass
fraucht freight, fare
futtit (of an account) summed up, completed
fyll find guilty, convict
gairdcuill skirt, petticoat
galt boar, hog
gersum grassum, due paid for renewal of a lease (at times an annual exaction)
gif give, if
gist joist
gowing putting in the gows (a kind of pillory)
graithing cleaning, trimming, putting in order
grandschyrf great-grandfather (also grandfather)
grind gate
grytumlief greatly
GLOSSARY

**GLOSSARY**

gudame grandmother
gudling, gulyeoun gulden, guilder, florin, coin worth 24s. Scots or 24d. sterling (see p. 93)
guidis goods, cattle, livestock
guidschr grandfather

hand lingis handlines (for fishing)
hinc inde on either side, reciprocally
holme holm, small island
horneing, letteris of letters, usually in the sovereign's name, requiring the payment of a debt or the fulfilment of an obligation
hummble band loop of hide or rope for holding an oar

indorsation endorsement
infeft invest with heritable property, invested with the same
infeftment investment with heritable property, a document recording the same
instrument formal record, legal document in proof of a transaction
intentit raised, instituted
invasive offensive

joggis, jogis jougs, pillory in the form of a hinged iron collar
joging putting in the jougs
jois, jos enjoy, have use of, occupy, possess
juramentum judicial oath

kirneing churning
kyndnes apparently a claim to a holding or tack based on long possession, goodwill or friendship

Lambas, Lambes Lammas, 1 August

landmaillis see maillis
lating see lawting
lawborrowis legal security against intrusion and injury
lawteth good behaviour, integrity, loyalty
lawting, lating central court (p. xxi);
lating (p. 64) signifies 'at the time of the lawting'
leiding leading, conveying to the farmyard
leis pund measure of weight, 24 marks or one sixth of a meill, equivalent to a setting
lesum, lisum permissible, lawful ley untilled land, grazing ground
li., lib. abbreviations of libra or librae (a pound or pounds), now written £ or lb
lingis see hand lingis
link ? tie up, shut in (p. 107)
isum see lesum
lit dye
litiscontestatioun, act of warrant granted by the court in certain circumstances for proving conflicting allegations
lybell libel, written accusation, statement of a plaintiff’s case
lybellit libelled

maill meal
maillis, males mails, rents
mark the mark (or merk) Scots, a coin worth 13s. 4d. Scots or 133/4d. stg.; distinct from the mark stg. (13s. 4d. stg.)
mark measure of weight, one twenty-fourth of a leis pund or setting
mark land in the fourteenth and fifteenth centuries, land having a
mark land—continued
capital value of one mark sterling; the value was later modified
meill measure of weight, six leispunds or settings
meithis boundary marks, land marks
miln mill
misterfull needy, necessitous
moscop, moscope company, association
moyane means
mutone, mutoune mutton, sheep
mylne mill
nes ness, point of land
nolt cattle, oxen, cows
notar notary
ordineris fixed allowances, e.g. of food
outbrekis barren, uncultivated land
oyir, oyre oar
oylie oil
parochin parish
parochiner parishioner
partibus presentibus et confitentibus in presence of the parties under oath
partibus presentibus et reo confitenti in presence of the parties on the oath of the defender
Pashe Pasch, the Passover, Easter
peax peace
penny land unit of land value for the purpose of taxation
pirottis pirates
pleuch plough
pley plea
pro confesso as a confession; a defender’s failure to appear might be held pro confesso and decree pronounced against him
procuratour one who acts for another, an agent in a court of law
promitti promised
proponit proposed, propounded
pund the pund (or pound) Scots, worth is. 8d. sterling
pundler weighing instrument on the principle of the lever
pure poor
pyk pilfer
pyker pilferer
pykerie pilfering
quhilk which
quhitred, quhytred whitret, weasel
quoyis quoylands, land not in cultivation when skat, or land tax, was first imposed, and which, having escaped skat in the beginning, continued to do so when cultivated
quyt quit, acquitted
rancell, ransell search a house or place for stolen property
raithabitioyn approval, confirmation
red cleared, put in order
reidis roads (an anchorage)
reus defender in a legal action
rouing, ruing rooing, plucking
rowme space, holding of land
ruche rough
ruiff roof
ryot, ryott riot
rypelie, ryplie ripely
scattell scattald, land attached to a township
scrudgit scourged
seas put in legal possession, infest
sectis vocatis the suits having been called (see sutes)
sen since
sensyne since then
sententiandum procedure of sentencing
set, sett (v.) lease, let
setting measure of weight, 24 marks or one sixth of a meill, equivalent to a leispund
sey sea
shilling length (of cloth) equal to six cuttells (q.v.)
simpliciter simply, absolutely, unconditionally
skelt dispersed, dismissed
skeo, skeow open-built stone hut for drying fish etc. and storing produce
skrow skroo, corn-stack, corn-rick
spulyie spoil, plundering, illegal meddling
stocking putting in the stocks
stoikis stocks
stouth theft
sua, swa so
subdittis subjects
suitteris of court, sutteris of court suitors of court (see sutes)
sutes suits, suit roll, a list of ‘suitors of court’, i.e. land-holders required to give ‘suit and presence’ at court and serve on assizes and inquests
tak tack, lease
takisman, takman tacksman, lease-holder
thak thatch, material for thatching
threave, threiff thrave, 24 sheaves
throwch sheet (of paper)
tocherguid marriage dowry
toft site of a house, plot of land
toties quoties as often as, each time
tow rope
tumaill, townell toomal, ? unshared land, part of the infield (pp. 36, 112)
uddall udal, odal, (of land) acquired by undisturbed possession for several generations, without title-deeds and without a superior
uddaller, udaller person possessing land under udal tenure
ulie oil
umquhill the late, deceased
unbesetting besetting, assailing
unlaw (n.) fine
voir springtime, seed-time
vois voes, inlets or arms of the sea
waith ? goods cast up by the sea, what is strayed or ownerless (pp. 33, 71)
wedder wether
wedmell woollen cloth
wedset, wedsett (n.) wadset, mortgage, deed assigning rents to a creditor
wedset, wedsett (v.) wadset, mortgage, alienate land etc. under right of reversion
whinger dagger
wob web
webster webster, weaver
woll wool
wrake, wrailk ? seaweed cast up on the beach (pp. 33, 71)
ywt (n.) blame, wrong
yet gate
yow, yowe ewe
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SCOTTISH HISTORY SOCIETY

THE EXECUTIVE
1966 – 1967

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Scottish History Society

Report
of the 80th Annual Meeting

The 80th Annual Meeting of the Scottish History Society was held in the Rooms of the Royal Society, George Street, Edinburgh, on Saturday, 10 December 1966, at 11.15 a.m. Professor G. W. S. Barrow, Chairman of Council, was in the Chair.

The Report of the Council was as follows:

The Council has noted with satisfaction that the second volume of the new Fourth Series, Miscellany, volume X, has been well received. It was reviewed as ‘Book of the Week’ in The Scotsman on 13 August 1966. The next volume, Letters of John Ramsay of Ochtertyre, 1799-1812, edited by Miss B. L. H. Horn, is in proof and will be issued early in 1967. Following it will appear Court Books of Orkney and Shetland, 1614-15, edited by Dr R. S. Barclay. The Society has issued no volume dealing with the Northern Isles since Records of the Earldom of Orkney, 1299-1614, edited by J. Storer Clouston, published in 1914. Dr Barclay’s volume will be a continuation of his earlier work in Court Book of Orkney and Shetland, 1612-13 (Kirkwall, 1962) and will provide material for many aspects of northern history.

Members will have noted with regret the death in September 1965 of the Rt Hon. Thomas Johnston, C.H., L.L.D., who served the Society as its President from 1954 to 1956. A servant of Scotland in innumerable ways, he will also be remembered as the author of a pioneer work on the History of the Working Classes in Scotland (1923). The Council has heard with great sadness of the death of Sir William Arbuckle, K.B.E., who served on the Council from 1961 to 1965. His knowledge, both of official life and of many aspects of Scottish history and bibliography, was frequently of great benefit to the Council. As a man noted for his friendliness and helpfulness to others, he will be greatly missed in the field of Scottish historical research and beyond.

The Council has also learned with deep regret of the death of Dr Angus Macdonald, Senior Lecturer in the Department of English at the University of Newcastle upon Tyne. Dr Macdonald was joint editor of Inchcolm Charters (1938) and was, along with Dr Annie I. Dunlop, the senior surviving editor of the Society. As such, he was a guest of the Society at the Eightieth Anniversary Celebrations held in May 1966. It is a particular loss to the Society that he died before completing his volume of Records of the
**Knights Hospitallers in Scotland**, a subject of which he had a unique knowledge. The transcripts, notes and other papers collected and prepared by Dr Macdonald for this volume have been given to the Society by Dr Macdonald’s executors in order that this work may be completed. The Council hopes to find an editor to undertake this task.

Two short items have been accepted for publication in a future *Miscellany*. ‘Heinrich Kalmeter’s diary of his travels in Scotland, 1719–20’, to be edited by Dr T. C. Smout, contains detailed descriptions of Scottish industrial techniques, including lead-mining, salt-panning, sugar-making and soap-boiling. Mr C. Gulvin is editing a ‘Notebook of Henry Brown, woollen manufacturer, 1828–9’, which throws a vivid light on the habits and outlook of the country manufacturers of the Borders at a critical juncture in the history of the woollen industry. The Council hopes that these two items may form part of a *Miscellany* of documents dealing with the history of Scottish trade and industry and will be glad to hear from any member who knows of other short items which could suitably form part of a volume on this theme. A further item accepted for publication is a series of ‘Oldcambus Farm Accounts, 1596–’7, to be edited by the Rev. W. E. K. Rankin and Mr Alexander Fenton. These accounts give very full details of agricultural activities at an unusually early date.

The agreement with the Kraus Reprint Corporation for reprinting of the First, Second and Third series has now been concluded. The Corporation expect to make a public announcement of the reprints in Spring, 1967, and hope that production of the reprints will be completed in about eighteen months thereafter. Members are again reminded that it is to their advantage to purchase back volumes now, at the present cost of 30s. each, as the cost of reprints will be greater. An up-to-date list of volumes available will appear at the end of *Letters of John Ramsay*. Enquiries regarding back volumes should be directed to the Honorary Treasurer.

The eightieth anniversary of the Society’s foundation in 1886 was marked in Edinburgh on Saturday, 7 May 1966, at a gathering of about 100 members and their guests. The programme included addresses by the President of the Society and the Chairman of Council, a reception by the University of Edinburgh in the Senate Room of the Old College, and a lunch at the Carlton Hotel. The addresses, with a fuller report of the occasion, will be printed with the forthcoming *Court Books of Orkney and Shetland, 1614–15*.

The Council sponsored a Conference of Editors of Scottish Historical Societies, held at the University Staff Club, Edinburgh, on Saturday, 12 November 1966. Attendance at the Conference totalled sixty-eight, includ-
ing representatives of twenty-two societies. The purpose of this occasion was to enable those responsible for editing the publications of such societies to discuss problems and acquire up-to-date information about printing and publishing. Six short papers given by various experts produced much lively discussion. An exhibition of recent publications by societies was on display.

Members of Council who retire in rotation at this time are Professor A. A. M. Duncan, Sir James Fergusson of Kilkerran and Mrs M. O. Anderson, who has served for one year only in place of Professor Campbell, who resigned in 1964. The following will be proposed to the Annual Meeting for election to the Council: Mrs M. O. Anderson, Monsignor David McRoberts and Mr Stuart Maxwell.

During the past year fourteen members have died, nine have resigned, and fourteen have been removed from the list for non-payment of subscription. Forty-six new members have joined. The membership, including 192 libraries, is now 524. This year has seen a greater number of new members than any year since 1923. This is in part a result of the new brochure about the Society's activities. Members are urged to continue efforts to recruit others, as experience has shown that personal contact is the most effective means of bringing in new members. Copies of the brochure may be had from the Honorary Secretary or the Honorary Treasurer.

In presenting the Annual Report, Professor Barrow mentioned in particular the recent Conference of Editors, which had produced many home truths and provided good advice from printing and publishing experts. He hoped that it might prove to be the first of many such conferences. Commenting on the Annual Report, Mrs Rosalind Mitchison congratulated the Council on the arrangements made for the Anniversary Meeting in May 1966, and suggested that similar meetings of members should be held more frequently in future. Dr A. L. Brown proposed the adoption of the Annual Report. Mr John Dunbar seconded this proposal and the Report was duly adopted.

Mr R. W. Munro nominated for election to the Council Mrs M. O. Anderson, Monsignor David McRoberts and Mr Stuart Maxwell, who were seconded by Dr I. M. M. MacPhail and duly elected.

Monsignor David McRoberts then gave an address entitled 'The Scottish Church and Nationalism in the fifteenth century'. The meeting closed with a vote of thanks to Monsignor McRoberts, proposed by Dr Ian B. Cowan.
ABSTRACT ACCOUNT OF CHARGE AND DISCHARGE OF INTRO-
MISSIONS OF THE HONORARY TREASURER for the year from 1st
November 1965 to 31st October 1966

I. GENERAL ACCOUNT

CHARGE

1. Cash in bank at 1st November 1965:
   1. Sum at credit of Savings Account with Bank of Scotland: £44 14 6
   2. Sum at credit of Current Account with Bank of Scotland: 16 9 11
   3. Sum at credit of Savings Account with Edinburgh Savings Bank: 50 1 3
   4. Sum at credit of Special Investment Account with Edinburgh Savings Bank: 1,006 17 0
   5. Cash in hand of Bank of Scotland to meet postages: 16 4

   £1,118 19 0

II. Subscriptions received: 1,122 15 10

III. Donations: 35 0 0

IV. Anniversary Celebrations: 78 14 0

V. Past publications sold (including postages recovered from purchasers): 120 12 6

VI. Postages recovered from Bank of Scotland: 1 11 1

VII. Interest on Savings Account with Bank of Scotland and Edinburgh Savings Bank: 77 18 11

VIII. Income Tax refund: 76 10 5

IX. Sums drawn from Bank Current Account: £2,847 18 11

X. Sums drawn from Bank Savings Accounts: £1,540 0 0

£2,632 1 9
### DISCHARGE

I. Cost of Publications during year
   Cost of printing Annual Report, Notices and Printers’ postages etc.  
   \[ £1,606 \text{ 12 3} \]

II. Payments in furtherance of forthcoming publications  
   \[ 205 \text{ 12 8} \]

III. Miscellaneous Payments and refunds of subscriptions  
   \[ 133 \text{ 1 11} \]

IV. Anniversary Celebrations  
   \[ 83 \text{ 8 0} \]

V. Sums lodged in Bank Current Account  
   \[ £2,991 \text{ 13 9} \]

VI. Sums lodged in Bank Savings Accounts  
   \[ £1,829 \text{ 11 8} \]

VII. Funds at close of this account:

1. Balance at credit of Savings Account with Bank of Scotland  
   \[ £7 \text{ 5 8} \]

2. Balance at credit of Current Account with Bank of Scotland  
   \[ 143 \text{ 15 2} \]

3. Balance at credit of Savings Account with Edinburgh Savings Bank  
   \[ 51 \text{ 6 3} \]

4. Balance at credit of Special Investment Account with Edinburgh Savings Bank  
   \[ 230 \text{ 19 9} \]

5. Cash in hand of Bank of Scotland to meet current postages  
   \[ 0 \text{ 0 0} \]

\[ \text{Total: } £2,632 \text{ 1 9} \]
## II. DR ANNIE I. DUNLOP SPECIAL FUND ACCOUNT

### CHARGE

1. Cash in Bank at 1st November 1965:
   1. Sum at credit of Savings Account with Bank of Scotland  
   2. Sum at credit of Current Account with Bank of Scotland

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11. Interest on Savings Account with Bank of Scotland

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<th><strong>Total</strong></th>
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<td><strong>£767 0 1</strong></td>
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### DISCHARGE

1. Sums lodged in Bank Savings Account  

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11. Funds at close of this Account:

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<th>Amount</th>
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<td>2. Balance at credit of Current Account</td>
<td>19 6 0</td>
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<tr>
<th><strong>Total</strong></th>
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<td><strong>£767 0 1</strong></td>
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**Edinburgh, 23rd November 1966.** I have examined the General Account and Dr Annie I. Dunlop Special Fund Account of the Honorary Treasurer of the Scottish History Society for the year from 1st November 1965 to 31st October 1966 and I find the same to be correctly stated and sufficiently vouched.

**C. T. McInnes**  
*Auditor*
SCOTTISH HISTORY SOCIETY

1886-1966

A COMMEMORATIVE RECORD

EDINBURGH
printed for the Scottish History Society by
T. AND A. CONSTABLE LTD
1967
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Office-bearers of the Scottish History Society
1886–1966
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The Scottish History Society was founded at a meeting held in
the Signet Library, Edinburgh, on 21 April 1886. The Society
is now one of the oldest record-publishing bodies in Britain and
it has produced 140 volumes, which form an invaluable store-
house of the documentary evidence of Scotland’s past. The
Council felt that it was appropriate to commemorate this
anniversary and decided to follow the precedent set in 1936
when a lunch was held to celebrate the Society’s fiftieth anni-
versary.

On Saturday, 7 May 1966, about 100 members of the Society
and their guests assembled in Edinburgh for the programme of
celebrations. The proceedings began at Adam House, where,
after morning coffee, the Society heard an address by the new
President, Dr W. Douglas Simpson, Librarian of Aberdeen
University. At 12 noon a reception was given by the Univer-
sity of Edinburgh in the Senate Room of the Old College,
where Professor D. B. Horn welcomed the company. At lunch
in the Carlton Hotel, Mrs Annie I. Dunlop and Dr Angus
Macdonald, the senior surviving editors, were entertained as
guests of the Society. After lunch Professor G. W. S. Barrow,
Chairman of Council, spoke on the future role of the Society.

The addresses by Dr Simpson and Professor Barrow are
printed in the following pages. To present a background to Professor Barrow's address, a survey of the Society's past history has been added.
THOUGHTS
ON
SCOTTISH HISTORY
AND
ARCHAEOLOGY

an address by W. Douglas Simpson, CBE, D LITT, LL D, FSA
President of the Scottish History Society

Nowadays we are all too familiar with the vast development of thought and the sheer overwhelming burden of fact that confront the student in any of the major scientific disciplines in this third quarter of the twentieth century. Take for example the great and noble science of medicine, which touches all of us throughout our lives. Its ramifications have become so enormous that no one medical practitioner, be he family doctor, academic lecturer, hospital surgeon or house physician, can hope to be conversant with more than a segment of his science. Hence, the moment that we fall ill, we are forthwith committed to the care of a specialist in the particular ailment from which we are believed to be suffering.

Take also the case of geology—the only science (in the strictly limited sense of the term as commonly understood) in which I am at all competent to venture an opinion. If at this stage you will forbear with me in indulging myself in a few personal reflections—I began my career as a geologist; and the first academic post which I held, in fact the first salary I ever earned, was in the Geological Department of Aberdeen University, and that before the First World War. I am indeed the only servant of
my University whose first appointment dates from before that remote period. I have always kept up my interest in this great science, and indeed have found it of much help in my historical and archaeological work. Yet, as I read modern geological writings, I am constantly reminded of the fact that there are vast areas of the science about which I must be content to remain in blank ignorance.

Whether our own discipline of history is a science or an art may admit of discussion. Probably it is both. At all events, there is no doubt that history has shared in the increasing weight of fact and diversity of expertise that confronts its votaries, and the consequent necessity for ever-increasing specialisation, not only in the period or subject matter chosen, but also (for the medievalist at least) in such ancillary but vital studies as palaeography, and Roman and canon law – to mention only two among many. The result is that, in ours as in other fields, the historian is in some danger of becoming a narrow specialist, knowing more and more about less and less.

Today I can presume to address you only as a medievalist – for my own historical work has been mainly confined within this great and glorious stage in human development, to which the name of the Middle Ages has been so inappropriately given in our habitual terminology.

More and more the historian, if his period be the earlier part of the Middle Ages, has been forced to come to terms with the great sister science of archaeology. Thus, practically every general history of Scotland that has recently been published begins with some account of the prehistoric races about whom our knowledge depends, very literally, upon the spade-work of the archaeologist. In such books, too, wide acknowledgement is made of the historian’s debt to the archaeological research upon which our knowledge of the Roman period in Scotland so largely depends. In a standard work upon Scottish history,
published nearly half a century ago, this period is referred to as ‘the Roman episode’. Yet the Romans were involved in our country for almost four centuries – that is, for as long a period as separates the Scotland of Queen Mary and John Knox from the Scotland of our own times. Surely this is quite a considerable ‘episode’! And our knowledge of it today depends overwhelmingly upon the labours of the archaeologist.

Passing onward now to Celtic Scotland, one is glad to find that, whatever opinions may be held about the respective importance of the achievements of St Ninian, St Columba and other early missionaries, no serious student is content any longer to repeat the vague traditional generalities which for so long contented our historians as an assessment of St Columba’s work. It is now realised that a right understanding of the evangelisation of Scotland can be achieved only by a patient analysis of the ancient church dedications, a close study of the penetration lines which they reveal, and above all, skilled and meticulous excavation such as has been carried out on key sites like Whithorn, Iona and Ardwall Island. One can but hope that in due course the results of these important investigations will increasingly find their way into what our general historians have to say about Celtic Scotland.

It is when we come to the Middle Ages in the stricter or narrow sense – I mean the period between Malcolm Canmore and the Reformation, and more especially the three centuries preceding the conclusion of the Second War of Independence – it is in this period that one finds an unfortunate reluctance among historical writers to take account of what archaeological research has done to illumine their theme.

As an illustration of the point which I am trying to make, let me call your attention to the surprising number of thirteenth-century stone-and-lime castles which have now been identified on the far side of Drumalban, and indeed in the Hebrides. It is clear that the reguli or Celto-Norse rulers of these remote areas
were perfectly able to engage mason-craftsmen of the first rank from the great centres of Romanesque or Gothic construction to build for their patrons fortified dwellings in the most up-to-date fashion. Such a conclusion is in perfect harmony with the evidence now coming in from Norway itself—for example, in the excavation of the twelfth-century Sverresborg at Trondheim.

Another point of the first importance is that these early stone castles of the western seaboard and islands were not destroyed by the Scots when they were recovered from English garrisons or supporters of England. Indeed Barbour tells us expressly that when Bruce captured Dunstaffnage Castle from John of Lorne, instead of ‘tumbling it down’ according to the usual practice on the hither side of Drumalban, he installed in the castle a well-provisioned garrison. It is clear that King Robert was enforcing two castle policies, directly opposed to each other, on either side of Drumalban. Plainly his motive for preserving the fortalices on the western seaboard was fear of English naval power based on Antrim, and acting in cooperation with Bruce’s inveterate enemy, John of Lorne. The same fear led, it is manifest, to the building by Bruce of a new and important castle at Tarbert, barring the isthmus by which a sea-borne invasion could turn the Kintyre peninsula and take all the Firth of Clyde garrisons in rear. Contrary to what has often been said, I believe I am right in maintaining that there is no evidence for a castle at Tarbert before Bruce started building there in 1325. It was a new undertaking, and its significance is unmistakable. The founding of Tarbert should be viewed against the background of the projected invasion of Argyll by an English fleet under John of Lorne’s command in 1311; a similar project under Sir Robert Leyburn in 1322; and the clause of the Treaty of Northampton whereby England pledged herself not to aid the enemies of the king of Scots in Man and the Hebrides.

On the east side of Drumalban likewise, I feel that there is
room for our historians of the Wars of Independence to pay more attention to the results achieved since the First World War by the labours of the archaeologist. Let me illustrate my point by just one small example.

In recent months, many of us, I am sure, must have been reading, with deep appreciation, the brilliant and masterly study of Robert Bruce by Professor Barrow. I am sure he will not take it amiss if I venture to call your attention to one point of detail in which an acquaintance with recent archaeological research might have guided him to a different conclusion. In his account of Bruce’s winter campaign in Aberdeenshire in 1307, he suggests that the ailing king was carried from Slioch in Drumblade ‘first to Strathbogie, perhaps on the way to the safety of Kildrummy Castle’. But in December 1307 there was no safety for anybody in Kildrummy Castle. The year before it had been captured, after a gallant defence by Bruce’s youngest brother, by an English force under the prince of Wales. The castle had been set on fire by a traitor, and on gaining possession of the burnt-out shell the stonework was partly dismantled by the victors – ‘tumlit down’, in the vigorous language of Barbour. Evidence both of the burning and of the masonry destruction has been forthcoming in the conservation work and excavation carried out by the Ministry of Public Building and Works. Thereafter, so far as I know, there is no hint of Kildrummy as a going concern until the reign of David II. When Bruce was lurking at Slioch in Drumblade he was already within the ancient lordship of Strathbogie: and so when Barbour says that the king was carried from Slioch to Strathbogie he must surely mean to the capital messuage thereof – that is to say, the Norman motte of Strathbogie Castle, whose owner was Lawrence de Strathbogie, one of Bruce’s principal supporters.

Perhaps the most vividly realised event during this Aberdeenshire campaign is one of which our sole knowledge depends upon
the labours of the archaeologist. I refer to the capture, burning, and demolition of Coull Castle, in the Howe of Cromar. This was the principal stronghold of the great family of de Lundin, the Doorwards of Scotland, in the ample lordship that, in the thirteenth century, as the result of a famous lawsuit, they had acquired in the southern half of the ancient Celtic Mormaership or Earldom of Mar. You will remember that Alan the Durward was the virtual dictator of Scotland during part of the minority of Alexander III. A friend of kings, mated with a king’s daughter; lord of Atholl, as well as of his vast holding in Mar and the Mearns, owning also the stately castle and broad acres of Bolsover in Derbyshire, Alan Durward was a man of great influence and wealth – well able to house himself, in the capital of his northern demesne, within a stone-and-lime castle of the first rank and in the most up-to-date style of the thirteenth century.

At his death his estates were dispersed, and the manor of Coull became a mere appanage of the great Thanage of Aboyne. Elsewhere I have brought forward evidence which strongly suggests that the well-known references to Aboyne Castle in the records of the War of Independence in fact belong to the Castle of Coull – in much the same way as, at the same time, Balvenie Castle appears as the Castle of Mortlach – Mortlach, a long mile to the south, with its ancient church and former Celtic monastery, being the early nucleus of population. Exact parallels are available from England. Thus it has long been recognised that the Castellum Warham of Domesday Book is really Corfe Castle – Wareham being the local centre of population, four miles away. Similarly, Tickhill Castle in Yorkshire is often called the Castle of Blyth, a town in Nottinghamshire from which Tickhill is distant four miles.

Be this as it may, in the course of the nineteenth century the stonework remains of the great Durward stronghold had utterly
disappeared; and the 1902 edition of the 25-inch Ordnance Survey marks only the earthworks, under the designation ‘site of Coull Castle’. But between 1912 and the outbreak of the First World War, and again in 1923, the remains were excavated, and in places were found to survive to a height of 17 feet. As was to be expected, they revealed a large and strong castle of enceinte in the thirteenth-century manner, with thick curtain walls; bold drum towers, one of which, of great size, formed the donjon; a regular gate house; and a domestic range which included rich First Pointed detail.

As the excavations proceeded, it became increasingly and abundantly clear that the castle had come to a violent end. Traces of fire were everywhere found, particularly at the gatehouse, where much of the stone work was vitrified, and the charred oaken beams and melted or twisted nails of the bridge were found collapsed into the pit, together with the burnt debris of the fascines or brushwood (mostly hazel) which had been used to ignite it. Moreover, the solid masonry of the castle showed clear evidence of deliberate dismantling. On long sections the walls were overthrown, and the towers were breached. That the demolition was military rather than penal was shown by the fact that, while the front wall of the hall range was allowed to survive to a considerable height, its rearward wall, forming part of the curtain, had been overturned from the foundations, and its materials tumbled down the bank of the Tarland Burn.

A large assortment of relics was found, chiefly owing to the fortunate chance that the excavators of 1923 came upon three middens outside the castle, upon which its inmates threw out their broken pottery, tools and kitchen refuse. These relics included knives, skewers, and other implements in iron, fragments of an iron cauldron, iron hinges and bands for strengthening a door, arrow-heads, a sling-ball, roofing lead, large numbers of nails, and quantities of pottery. Valuable evidence for the
lower date of occupation was afforded by the last. No sherds were found later in date than the beginning of the fourteenth century. With the ceramic evidence may be taken the fact that in the eighteenth century silver pennies of Alexander III were dug out of the ruins.

Finally, and with all due apologies for introducing an unsavoury topic, I must mention the grimly suggestive discovery made by the excavators of 1923 when they came to clear out the vertical latrine shaft of the donjon, with its vent corbelled out over the spreading base. The vent was found to be choked up with a hard dark brown material, which also was thickly plastered over the tower base below the vent. So hard was this material that some of it had to be prised out or chiselled off. Samples brought in to Aberdeen University for chemical analysis revealed that the stuff was of excremental origin. It was in fact what the geologist would term a coprolitic mass, formed through induration, indeed fossilisation, by water, highly charged with lime, seeping in from the decaying walls.

The significance of this discovery is surely unmistakable. Had the garrison or household been free to come outside and clear out their drains, the sewer of their main tower would never have been allowed to get into such a filthy state. Obviously the burning and dismantling of the castle must have followed upon a siege, or at least a close blockade. This evidence from Coull casts a grim light upon the reality of medieval sieges which the historian, poring over his sources in the comfort of his armchair, may sometimes be apt to forget. But perhaps some of you may recall the fearful state in which the troops of Henry III found Kenilworth Castle when in 1265 they captured it from the Montfort faction after a six-months' siege.

All the evidence combines to suggest that the destruction of Coull Castle took place during, or shortly after, Bruce's campaign in Aberdeenshire in 1308. Indeed we are expressly told in
the Rotuli Scotiae that by May, 1309, the only castle remaining to England north of the Mounth was Banff, which was still in English hands in December of that year – perhaps because it could be reinforced and provisioned by sea.

From the evidence which I have thus set before you, I think it may fairly be claimed that the excavation of Coull Castle has added a new paragraph to the ascertained history of the struggle for independence. Yet, although a full account of the excavations has now been in print for two and forty years, with summaries and further discussion in my two works on the Province and the Earldom of Mar, published respectively in 1943 and 1949; neither in the second edition, which appeared in 1934, of the late Dr Barron’s well-known book on The Scottish War of Independence, nor in any subsequent work dealing with the period or theme, has any mention been made of the vivid light thus thrown upon Bruce’s northern campaign. Moreover, since the last war the large-scale operations conducted by the Ministry of Works upon key sites such as Dirleton, Bothwell and Caerlaverock have cast a searchlight beam upon how these castles fared in the Wars of Liberation. Yet here again our historians have ignored the evidence thus placed at their disposal by the spade.

No archaeologist would think of excavating a ruined castle or church without first of all mastering the documentary record. Yet our Scottish medievalists continue to turn out books and papers without paying adequate attention to the evidence provided for them by the labours of the archaeologist.

As a pendant to the story of Coull, may I invite your attention to what I submit may, without exaggeration, be described as ‘The Romance of a Potsherd’.

I have already said that the mass of pottery recovered at Coull belonged to the types of ware normally expected on a site that ceased to be occupied in the first decade of the fourteenth century. One sherd, however, was completely dissimilar from all
the others. It was very thin and hard, with a bold everted rim, and had been decorated with a geometrical painted pattern in blue, brown and yellow, all under a tin enamel glaze. None of those who in 1923 studied the Coull pottery could make anything of it, and in the end it was published in the inventory without comment and without an illustration. Thirty years later, however, the sherd was examined by Mr Gerald Dunning, now of the Ancient Monuments Inspectorate, and the late Mr Bernard Rackham of the Victoria and Albert Museum. They pronounced it to be Italian majolica of the early fourteenth century, probably from the potteries at Orvieto, and that ‘almost certainly’ it was part of the mouth of an albarello or drug jar.

How then, about the dawn of the fourteenth century, did a fragment of Italian majolica find its way on to a midden at a remote castle in the Howe of Cromar? May I venture to suggest a plausible hypothesis?

It is well known that Edward I was always in monetary difficulties. From his extravagant father he had inherited a load of debt, which was increased by the exigencies of his own vigorous foreign policy. In 1292 his troubles came to a head. He had promised to lead a Crusade, and for this purpose an Italian banking firm, the Ricciardi, who handled the papal finances, had arranged, at the request of Pope Nicholas IV, to advance to the king of England the sum of 100,000 marks, that is £66,666 - an amount equivalent, I believe, to something like £7,000,000 at the present day. This sum was secured upon half the yield of the Conciliar Tenth of 1274. Payment had been made to King Edward in 1291. Now, in the next couple of years, Edward found himself involved in two outbreaks of war at once: a rising in Wales, and an attack by the French king upon his possessions in Gascony. On top of all this came the disputed succession in Scotland. Faced with this sea of troubles, and at his wits’ end to find ready cash to pay his troops, the king seized upon this
money which had been advanced to him for his Crusade. To satisfy his Italian creditors, Edward gave them wholesale assigna-
tions of the revenues from Crown lands, including many baronies that had fallen into his hands as Lord Paramount of
Scotland. Among the rents so assigned by the hard-pressed
king, on 7 January 1293, were certain sums due on account of
the barony of Aboyne – to which, as we have seen, the demesne
of Coull was at that time attached.

Now the banking firm of the Ricciardi had their headquarters
in Lucca, which is close to Orvieto and in the heart of the
majolica country: and the London agent of the firm, Nicolas de
Colle, came from a town in the same area. To collect the arrears
of rent assigned to his firm from Scotland, Nicholas de Colle, to
whom the rentals had been specifically assigned, came down to
Berwick and established a sub-office there. From Berwick he
himself, or an agent on his behalf, will have had to travel round
Scotland collecting the revenues assigned to his firm by King
Edward. Doubtless much of these dues would be forthcoming in
kind – wool, hides, and other staple commodities which Nicholas
de Colle converted into specie, the sum total being accumulated
at Berwick for transmission to Italy. Does it not seem plausible
that Nicholas de Colle, or one of his assistants, may have visited
Coull, then the chief castle in the barony of Aboyne, bringing
with him in his baggage a drug jar made in his own country?
This jar, it may be supposed, got broken, and was thrown out
upon a midden outside the north-west tower – there to be dug
up, after more than six centuries, by a Boy Scout excavator.

Perhaps it would be wicked for me to suggest that the albarello
may have contained ointment for the itch – an ailment which
English writers of the Middle Ages asserted to be the national
affliction of the Scots!

With this ‘Romance of a Potsherd’ I must bring my remarks
to a close. My purpose has been to appeal for a closer cooperation
in Scotland between the medieval historian and the medieval archaeologist, and to press for greater recognition by the former of the results placed at his disposal through the labours of the latter. Indeed I would go further, and plead for more financial resources to be made available to the excavator on Scottish medieval sites. There are scores crying out for the spade. Among sites famous in the War of Independence, let me mention only a few – Buittle; Tibbers; the castle in the marsh at Caerlaverock; Kinclaven; and the Peel of Lumphanan.

Above all there is Roxburgh. Here we have a town site as well as that of a castle of the first rank. The whole area is fallow, and it is a disgrace to Scottish medieval studies that it has never been probed. Yet what is wanted here is not merely a probe, but the mounting of a major excavation – one comparable in scope and duration to Traprain and Inchtuthil.

Sometimes I have been tempted to think that in the volumes of our Scottish archaeological societies the balance tends to be unduly weighted in favour of prehistoric and Roman digs. Certainly this is the case in the matter of illustrations, where reports of medieval excavations seem to me all too often to come in as a poor third. But the plain fact is that there is just not enough money to go round. The position remains very much as it was once described by the late Sir George Macdonald, who remarked that the plight of the post-war archaeologist resembled that of the unjust steward in the parable: 'I cannot dig; to beg I am ashamed'.
When the Scottish History Society celebrated in 1936 the fiftieth anniversary of its foundation, Dr W. K. Dickson, then Chairman of Council, wrote a survey of its first fifty years, which was issued as a pamphlet and later bound up with *The Court Book of the Barony of Carnwath* (Third Series, volume xxix). His work was comprehensive and perceptive, and it would be foolish to re-tread the ground which he covered so well. It is enough to recall here that the Society was founded in 1886, at the instigation of Archibald, fifth Earl of Rosebery, who remained its President until his death in 1929. From its foundation, the Society was fortunate in having as its editors, councillors and office-bearers a body of remarkable men. The first three Honorary Secretaries, for example, who spanned a period of thirty-four years from 1886 to 1920, were Thomas Graves Law, Librarian of the Signet Library, David Hay Fleming, historian of the Scottish Reformation, and John Maitland Thomson, Curator of Historical Records at the Register House.

Those were the brave days, when two volumes a year came with great regularity from the presses, each costing a mere £150-200. Membership of the Society was limited to 400, and one local historian at least proudly described himself on his title-page as ‘Member of the Scottish History Society’. Lord Rosebery
remarked in 1905: 'Wherever I go in Scotland, and wherever I find a bookish or historical personage, and I ask them are they members of the Scottish History Society, they are apt to reply with a groan: "No; for us there is no hope; we were not original members, and we think it takes a lifetime to get into the Society"'.

The war of 1914-18 seriously affected the Society's activities. Publication continued, but money was short and post-war recovery was slow. In 1920, the limitation on membership was removed and an appeal for support issued in 1922 produced about ninety new members. Membership reached its highest point in 1927, when it stood at a figure of 655, including 125 libraries.

A high membership figure has always been the basis of the Society's prosperity. It is tempting to speculate about what may produce an increase in the roll - favourable economic conditions, increasing national sentiment, effective publicity or a broadly-based publications policy? Perhaps all play a part. Certainly the 1930s saw a fall in membership. When Dr Dickson wrote in 1936, the total was 544 members, including 132 libraries. In the thirty years since then the figures of membership have first declined and then risen, in an almost perfect curve. Numbers dropped throughout the war of 1939-45 and until as late as 1952, when the total stood perilously low at 375, and the Council warned that further losses would make it impossible to publish one volume each year. But from that point recovery began and in 1967 the membership stands at 559, including 199 libraries, and is therefore back to the level of 1936. There has been a net increase of 100 members in the five years 1962-67.

A decreasing membership meant a falling income and some of the Society's efforts had to be curtailed. From 1939 onwards it was impossible to issue more than one volume per year. War service drew away a generation of potential young editors.
Delays in publication are always liable to occur in a society which depends on the voluntary editorial work of busy men, but in wartime the delays became seriously troublesome. Volumes became slimmer, illustrations became rare and frequent Miscellaneous volumes were used as stop-gaps. Continued rises in the cost of printing added a further problem. By the late 1940s, each volume was costing about £350. (Now, in the late 1960s, each costs over £1,000.) Fortunately, the financial outlook was not entirely bleak, since the Carnegie Trust for the Universities of Scotland began in 1948 to give the Society annual grants in aid of publication, which have continued since then and have been warmly appreciated by the Council. In the difficult times of the early 1950s, this support may indeed have saved the Society from extinction.

In spite of all problems, the standard of editing to be found in the Society's publications since 1936 has remained commendably high. Perhaps the subject-matter of the volumes has been less adventurous than it was in the pioneering First Series. But this can be ascribed, in part at least, to the stand-still in historical studies brought about by the war of 1939-45 and its aftermath. The spread of published material over the centuries has changed a little, as compared with the publications of our first fifty years. Lord Rosebery was somewhat averse from volumes of medieval charters, on which he remarked in 1906: 'I view the publication of charters as rather a crutch than a prominent object of our being'. Down to 1936 the seventeenth and eighteenth centuries took much the largest share of print. Since that date, roughly one quarter of the volumes have come from the medieval period and the remainder have been fairly evenly spread over the sixteenth, seventeenth and eighteenth centuries. The nineteenth century has remained almost entirely neglected.

All the standard subjects of Scottish history have received some attention in the volumes issued since 1936. Political history
has not been especially evident, but *The Letters of James IV, 1505-13* (1953), calendared by R. K. Hannay and edited by R. L. Mackie, and *An Account of the Proceedings of the Estates in Scotland, 1689-90* (1954-55), edited by Dr E. W. M. Balfour-Melville, both provide first-rate political material. Constitutional studies have been few but important. Following his remarkable volume on *The Sheriff Court Book of Fife, 1515-22* (1928), Professor W. Croft Dickinson produced *The Barony Court Book of Carnwath, 1523-42* (1937) and *Early Records of Aberdeen, 1317, 1398-1407* (1957). To each of these three works he prefaced an introduction of vital importance for studies in the law and constitution of Scotland. Following these precedents, Professor George S. Pryde provided in the introduction to his *Court Book of the Burgh of Kirkintilloch, 1658-94* (1963) a thorough study of the long history of the Scottish burgh of barony.

Ecclesiastical history, for so long the staple of historical studies in Scotland, has remained to the fore in the Society’s list of publications. Two volumes of *Minutes of the Synod of Argyll, 1639-61*, edited by Duncan C. Mactavish, published in 1943 and 1944, helped to keep the publications programme moving forward during the war. In *Accounts of the Collectors of the Thirds of Benefices, 1561-72*, published in 1949, Dr (now Professor) Gordon Donaldson edited in admirably concise form a primary record source for the administration of the church in Scotland immediately after the Reformation. From a different era and origin arose the material in Mrs Annie Dunlop’s second volume of her *Calendar of Scottish Supplications to Rome* (1956), covering the period 1423 to 1428. Also of ecclesiastical interest have been the editions of two collections of medieval charters: *Inchcolm Charters*, edited by the Rev. D. E. Easson and Dr Angus Macdonald in 1938, and Dr Easson’s *Charters of the Abbey of Coupar Angus* (2 volumes, 1947). The latter work put into print,
with a wealth of editorial notes, the largest remaining group of unpublished monastic charters in Scotland.

Jacobite material has been much less prominent in the last thirty years of the Society’s activities than during its first fifty, and is represented by only one volume, Miss Henrietta Tayler’s *Jacobite Court at Rome, 1719* (1938), plus a few Miscellany items. Social history, which was particularly well represented in the First Series, has also been less in evidence, but Miss Barbara L. H. Horn’s *Letters of John Ramsay of Ochtertyre, 1799-1812* (1966) marks a return to this popular and valuable field of study.

Neglect of social material may be surprising and culpable, but to counterbalance this there has been a reasonably strong interest in economic history, in continuation of the Society’s early policies, which led to the production of pioneer works such as *The Minute Book of the Managers of the New Mills Cloth Manufactory, 1681-90*, edited by W. R. Scott in 1905. Before the war there appeared Miss Margaret M. McArthur’s *Survey of Lochtayside, 1769* (1936), and during it there followed Professor Henry Hamilton’s important edition of estate records, *Mony-musk Papers* (1945). Mr J. G. Kyd’s *Scottish Population Statistics* (1952) made available, under an unfortunately general title, Dr Alexander Webster’s pioneering analysis of the population of Scotland in 1755. Estate material from Highland areas has appeared in *John Home’s Survey of Assynt* (1960), edited by R. J. Adam, and *Argyll Estate Instructions (Mull, Morvern, Tiree), 1771-1805* (1964), edited by Eric R. Cregeen. Publications now in preparation will consolidate the list in the field of economic history and will strengthen it in the subject of social history.

The names of the Society’s office-bearers since 1936 will evoke thoughts and memories for anyone who has been aware of the personalities of the world of Scottish historical studies during the last two generations. It is remarkable that of the ten
Presidents of the Society since 1936 only four have been professional historians. The names of Thomas Johnston, Lord Clyde and Lord Cooper, Dr H. W. Meikle and Dr W. Douglas Simpson reveal that the worlds of politics, law and librarianship have lent eminent men to serve in the Society’s highest post. Of the many fine presidential addresses that the Society has heard, the most widely known, and perhaps the most seminal, have been the four which were delivered in 1946-49 by Lord Cooper and published by him under the title *Supra Crepidam* (1951).

In the list of Chairmen of Council, professional historians have naturally been more prominent. So many of the holders of the chairs of Scottish History at Edinburgh and Glasgow have held the office of Chairman that it almost appears to be an additional responsibility which comes to each, willy-nilly, along with his chair. Many members of the Council itself have served ably for long periods and the Society owes a special debt to the band of older members who acted as councillors during the war of 1939-45 and assisted the office-bearers to keep the Society in being. Dr H. W. Meikle and Professor J. D. Mackie successively held the office of Chairman of Council during the difficult days of the 1940s and it was a fitting expression of the Society’s gratitude to them that both should later have been honoured by election to the Presidency. Under a self-denying ordinance proposed by the late Professor George Pryde, since 1960 members of Council have not been automatically re-elected after each four-year term of office, and the gradual change in the composition of the Council in recent years has led to a wider representation of interests.

Throughout its history the Society has been fortunate in that many of its executive officers, the Honorary Secretary and Honorary Treasurer, have served for long periods. From 1886 to 1965 there were only six Honorary Treasurers, and the average length of tenure of that office was thirteen years. From
1886 to 1962 only eight men served as Honorary Secretary, and of these Dr T. G. Law, the first Secretary, held office for eighteen years and Dr E. W. M. Balfour-Melville for thirty-one years, from 1931 to 1962. Indeed the last thirty years of the Society's existence can most properly be described as 'the Balfour-Melville era'. He is the only man to have served successively as Honorary Secretary, Chairman of Council and President and was for more than a generation the very embodiment of the Society. The work of administration, editorial supervision and liaison with printers always lies in the background of the Society's affairs. All this he carried through with care, patience and determination. Professor D. B. Horn's memoir of Dr Balfour-Melville, published in Miscellany, volume x (1966), revealed with clarity, and to the surprise of many, that the Scottish History Society was only one of numerous bodies to which this remarkable man devoted a lifetime of voluntary service.

The recent history of the Society is too close to permit a balanced assessment. But a few important facts deserve to be recorded. Membership continues to increase each year and this helps to combat rising printing costs. The annual subscription stood at one guinea from 1886 until 1961. In that year a modest increase, to £1 5s, was introduced, but this proved inadequate and in 1965 the subscription was fixed at £2 2s. At this level income from subscriptions alone is still not sufficient to keep the Society solvent, but other sources of revenue, such as grants from the Carnegie Trust, the generous contributions of Mrs Annie I. Dunlop, and profits from sales of back volumes, all combine to enable the Society to meet its commitments, at least for the present. New sources of revenue should appear when, under an agreement reached in 1966 with the Kraus Reprint Corporation, all the volumes of the First, Second and Third Series are reprinted. Sales of these reprints are expected to produce both royalties for the Society and an increase in
library membership in the United States of America. But these developments lie in the future.

Visually at least, the most important recent change in the Society's activities has been the inauguration, in 1964, of the new Fourth Series, in a redesigned format. While even those who planned the change had feelings of regret at the demise of the well-known green cloth series, the brighter binding and the cleaner lines of the new typeface have been widely welcomed. A look forward to the volumes now in preparation for the Fourth Series suggests that it will belong to a new generation of editors, who will give more attention to social and economic history and will rescue the nineteenth century from neglect. But it is also fitting to look back to the conclusion of the Third Series and to salute the older generation who carried the torch for so long. From the end of the war to 1964, the only younger scholars to appear as editors of volumes were Dr Gordon Donaldson and Mr R. J. Adam. The stalwarts of pre-war days – Dr Easson, Mrs Dunlop, Professor Croft Dickinson and Professor Pryde – remained active long after the war and to them the Society owes much.

Several recent events suggest that the Society is now taking a wider interest in historical matters beyond its principal sphere, which must be publication. This marks a return to the ideas of the 1920s when the Society was active in drawing attention to official neglect of the national records. During the last thirty years, the Society has tended to decline any involvement in protests or celebrations, whether political or sentimental. But there are fields in which its voice is now being heard in public. The Council has given evidence in recent years to three government committees examining aspects of record policy. In November 1966, the Council took an initiative in sponsoring a technical conference for the editors of Scottish historical societies. This stimulating and successful occasion enabled more than sixty
individuals, including representatives of twenty-two societies, to gather up-to-date information about techniques of printing and publishing. The Council has also recently agreed to nominate a representative to the British National Committee of the International Congress of Historical Sciences and hopes in this way to press the claims of Scottish history upon a wider world.

To sum up the activities of the Society during the last thirty years is no easy task. But perhaps two achievements are the principal ones. First, the Society has survived. A negative virtue, perhaps; but many factors have been against us – the economic troubles of the 1930s, the war and its after-effects, the rise in printing costs. The loyalty of members and the hard work of the executive have brought the Society once more to a flourishing state. Secondly, the Society has printed since 1936 over 7,000 pages of record material. It has thus provided a channel for publishing historical evidence of a kind which few commercial publishers could afford to issue, even if they wished to do so. The writing of Scottish history is all the more soundly based as a result of the Society’s efforts.

Perhaps, at the same time, the last thirty years have sometimes tended to neglect that ‘element of readableness’ in the publications which appealed so strongly to Lord Rosebery. He held firmly that ‘the object of our Society [is] . . . to supply readable records of a past era in Scotland, and more especially those bearing on the social and domestic life of the people which otherwise would not be readily available’. Perhaps these words may be at least one of the keynotes for the next twenty years. Lord Rosebery would no doubt have felt that we had published too many formal records in the last thirty years. But if he was irritated by the sight of medieval charters, he would surely also have been pleased to find the prophecy fulfilled which he uttered when he proposed the foundation of the Society in 1886: ‘We should have a society in Scotland for printing the manuscript materials
for Scottish history, especially social history. . . . It would pre-
serve the perishable; it would form a collection valuable to the
literature of the whole world, but profoundly attractive to
Scotsmen; and it would raise a national monument, even more
consistent and durable than those spectral and embarrassed
columns which perplex the tourist on the Calton Hill’.
One of the advantages of being an historian is that he may look with a relatively detached eye upon the history of societies and comparable institutions formed by his own profession in furtherance of its aims and purposes. Little of that magic of history which consists in the survival of customs until their whole merit lies in their utter pointlessness, or the total obscurity of their origins, is to be found among associations of professional historians. They are only too well aware that, as a certain London newspaper reminded us earlier this week with all its accustomed gravity, 'change is the law of life'. It is not at all paradoxical, therefore, that I should be asking members of this society to look for a few minutes at the way ahead in Scottish history – that is to say, in the study, research, writing and publication of Scottish history.

This Society was founded, as we know, to discover and print unpublished documents illustrative of the civil, religious and social history of Scotland. In its original character, the Society, it is clear, saw itself as carrying out something in the nature of a rescue operation, to which the words of its motto bore witness:

**NOTE.** I wish to make it clear that what I have to say in this address represent my own personal views, and is not to be taken in any sense as representing the view of the Council of the Scottish History Society. G.W.S.B.
Colligite fragmenta ne pereant. The publication, despite two World Wars and rapid inflation, of nearly 140 volumes of unpublished record has been a great achievement for a small band of scholars. As we look forward to our centenary as a Society and perhaps to the second century of our volumes, we must ask whether our aims are still the right aims, and whether we are setting out to achieve our aims in the best possible way.

Speaking for myself, I have no doubt whatever that the discovery and printing of what have hitherto been regarded as typical pieces of historical record must remain one of our Society’s objects. If, for example, a hitherto unknown Domesday survey of eleventh-century Scotland, an unknown chronicle or cartulary, an unknown treatise by, say, Maitland of Lethington on the Management of Public Affairs in Scotland, or (to speak perhaps less fancifully) an unknown political diary of the post-Restoration or post-Union period, were to turn up in the sale room, the charter chest or salvage depot, the Society’s responsibility would be inescapable. But barring miracles the rescue of hitherto unknown documents is subject to the law of diminishing returns. As far, at least, as the medieval and earlier modern periods are concerned, the editing of such corpora as the Coupar Angus Charters or the Acta Facultatis Artium of St Andrews, or of such a unique memoir as the diary of Archibald Johnston of Wariston, is likely to form a steadily smaller proportion of our output. It also seems clear that, with some carefully chosen exceptions – among which one might mention records bearing on population statistics and structure – we should continue to leave to others the task of publishing the records of central government in the strictest sense, records produced by and for central government and still preserved in its custody. This still leaves us a large field in which to work, but we must recognise that this field lies more and more in the modern period, and that the modern period has not just grown
by eighty years since the Society was founded. With a notable historical sense, the Society printed as one of its earliest volumes a diary running to 1803, but with a few exceptions we have in the past operated not an ‘eighty-three year rule’ but something more like a ‘hundred and fifty year rule’. To me this seems to be carrying historians’ caution to excess, and if we ever had the opportunity of publishing the letters and papers of someone of outstanding importance in Scots affairs who has only recently died, or even of someone still living, I personally should be glad if we seized it eagerly. I am at all events extremely pleased that we are publishing, under the editorship of Mr Ian Macdougall, the Minutes of the Edinburgh Trades Council, 1859-76. Since the later of those two dates is not far short of a century ago, this may seem a modest venture into modernity. But I hope it will prove a pioneering venture not merely into a field where (I believe) no record-publishing society in Great Britain has gone before us, but also in getting us used to the idea of taking nineteenth- and twentieth-century records in our stride. This whole question of modern records raises of course one point of fundamental difficulty. A great many modern records are not susceptible of concise publication. To the extent that both central and local government have advanced inexorably into far broader fields of the life of modern society, and have themselves published in blue books and white papers and untold legions of reports some sort of record of their proceedings and achievements, we as an historical publishing society are not directly concerned. But what should interest us, as historians, is the beginnings of things, whether it be the Land Court or hydro-electric power, a new university, the Crofters’ Commission, cooperative movements or any of scores of aspects of Scottish life that are worth the historian’s attention. Such beginnings are rarely recorded in official publications, but may sometimes be traced in private or informal papers. Here we come
up against a further difficulty: the habit of writing coherently, of setting down on paper not intended, or at least not immediately intended, for public scrutiny, thoughts, ideas and proposals on serious matters, has been dying out steadily for the past two or three generations, and may have vanished entirely in our lifetime. The design of modern flats, houses and bungalows, to say nothing of current social custom, is hostile to the accumulation of sizeable private archives. Nevertheless, I do not think we should despair entirely of our own century: there is sure to be more than we imagine in the way of recent or present-day historical record in private possession, and if our Society can bring some of it to light and give it permanence, so much the better.

In our late President’s edition of the Proceedings of the Estates, we breached – rightly, I believe – our rule anent unpublished material (although I notice that the wording of the rule still stands). I think the rule has outlived its undoubted value, and that we should consider from time to time – more cogently, from available editor to available editor – publishing new editions of fundamental sources. We already have the Chronicle of Holyrood to light the way. We ought to have the Chronicle of Melrose (for a collotype facsimile, however fine, is not the answer to every need), and we ought to have a definitive edition of the Scotichronicon in all its versions, one of the most remarkable efforts in historiography produced anywhere in later medieval Europe. We might also consider an occasional volume of documents gathered from various sources, whether previously printed or not, designed – with the help of a more generous introduction than we have usually allowed – to illustrate some significant theme of history, especially perhaps of social, economic and ecclesiastical history. Scotland possesses a vast quantity of record relating to agrarian and peasant society and the manner in which it exploited its resources of arable,
pasture and forest. Much of this is in print, scattered through innumerable publications many of which are now rare and growing rarer. Much is still in manuscript, and will remain so (as far as we are concerned) if we look too severely on selections gathered from different sources. We have in any case, in the late Dr Reid’s calendar of Wigtownshire Charters, a recent precedent for such a collection, and we should not exclude other collections in which the documents might be printed in full but assembled to illustrate a particular theme.

In saying all this, I do not mean that we should lose sight of our responsibility for presenting the public and posterity with accurate record. We have moved far from the days when public record was held to preserve and enshrine inviolable truth, and when it was thought possible, in a rather solemn and Germanic fashion, to pin down a chronicler or a diarist or a letter-writer to one single, indefeasibly authentic text, rather as one might pin down one choice butterfly upon a board and keep it there for all time. But in too many quarters our realisation that ‘historical record’ is bound to be fluid because it reflects the inevitable fluidity of human thought and speech has been turned into a belief that ‘historical record’ has as much or as little value as the individual historian cares to place upon it. The true position, surely, is that the historian’s task has simply become more difficult than he used to think, or – to quote the gloomy but penetrating words of our distinguished Corresponding Member of Council – ‘the longer one studies history, the harder it gets to arrive at results which even the author, let alone the reader, can decently consider to be the truth’. But I am sure that Professor Galbraith would not mean this to justify an indifference towards historical fact, and it will be a long time before documents cease to form the bedrock of historical fact. I have myself been taken to task recently for spending too much effort and money on the minutiae of twelfth-century charters, and have been re-
minded that 'the reader today who has doubts about the text or a special interest in palaeography or diplomatic will always go past the printed version and obtain a microfilm or photostat'. I can only say that I wish this hypothetical reader the best of fortune and entertainment as he sets out to obtain his microfilm or photostat of a text at the bottom of a damp tea-chest under the billiard-room stairs of a mansion occupied only in August; in the Town House of a small northern burgh with a part-time town clerk, no photographers, and a strict rule that records may never be removed from the premises; or in a deed-box of a firm of country law agents whose professional scruples prevent alike the wasting of their own staff's time and the intrusion of a stranger for the purpose of making a search. More seriously, again to quote my friendly critic, 'an editor must have the courage of his convictions', and if he is convinced that facts of historical significance are contained in the very make-up and the precise wording and punctuation of the record he is publishing, it will be his duty to make this clear, and in such a manner that these points may be at once apparent. In so doing, he may not be saving himself and his publishers effort and expense, but he will undoubtedly be saving the effort and expense of others. In the matter of fidelity to the text, the Scottish History Society has been accustomed to set a very high standard indeed, and one example drawn from our own volumes will illustrate what I mean. Among the charters of Inchaffray abbey there are a number of original royal charters to which, as it happens, I have not so far been able to obtain access. Two in which I am interested were printed in facsimile, the rest not. But because of the punctuation and use of capitals, faithfully reproduced by the society's editor, I am able to say with some 99 per cent of certainty which of the royal scribes wrote two of the printed charters which I have not yet seen, either with my own eyes or in a photograph. To this sort of textual accuracy, making allowance of course for
the nature of the text concerned, and to the greatest editorial
candour towards readers, I hope and trust we shall always adhere.
Nevertheless, in spite of the severest efforts to be conscientious,
in spite of an abundance of photographic and mechanical aids,
in spite of the best printing skills, it remains a surprisingly diffi-
cult task for an editor to give his readers an honest and adequate
text of an historical document. We shall never attain to perfec-
tion, but I hope we shall always enjoy the reputation for publish-
ing our records in a reliable form, even if we know nowadays
that nothing in this respect is final.

It has frequently puzzled me how our older historians could
manage to produce so much, including some work of the high-
est quality, with the absolute minimum of technical aids and
equipment. In Scottish historiography, it is not just that we are
hardly yet out of the stage when every craftsman had to buy
and keep all his own tools—we are hardly out of the still more
primitive stage when he had to make them as well. Probably
the genealogist and family historian was earliest in this field, and
here of course we have the Scots Peerage and some useful works
on heraldry and on the registers of testaments, baptisms, mar-
riages, burials, etc. Some splendid work has been and is being
done on the Scottish coinage, although not enough notice has
been taken of it by historians. We have Dunbar’s Scottish Kings
and Dowden’s Scottish Bishops; but we have no really adequate
Handbook of Scottish Chronology, despite the valiant contri-
butions to the second edition of the Royal Historical Society’s
Handbook of British Chronology. What I should like to see is
a volume something along these lines containing a really useful
variety of basic information on systems of dating, rulers and
parliaments, major office-holders, etc., throughout the pre-
Union period, and with certain appropriate information carried
down to a much more modern time. I do not think such a vol-
ume need take more than about five or six years to produce, and
I do not see why its publication should not be undertaken by this society. I should also like to see much more modest volumes – perhaps even durable pamphlets – produced giving the essential particulars of such important tools of the historian’s trade as currency, weights and measures, including land measures, technical terms used in various trades and industries, etc. It may be that all this information is in fact available in print somewhere. My plea is that it should be made available in the most accurate and up-to-date form and more or less all together. Again, I do not see why this task should not be shouldered by our Society. If our assumptions with regard to our future financial position are not over-sanguine, and we actually manage to build up a modest balance of funds, then this would seem an entirely proper way of spending it.

I should like in conclusion to raise two more general points about our possible future activities, one domestic and the other as it were external. Sober and fruitful as the Society’s work has been in the past, I have a feeling that at times we have been too inward-looking and remote from any general or popular historical interest in society around us. I realise, of course, that we are far from being the only historical society in Scotland, and I have no wish for us to poach or to monopolize. But I am sure that we should make a positive contribution to what I believe is a growing public interest in and appreciation of Scottish history. In recent years there have been a number of highly successful conferences on different aspects of our history. There is no mistaking the fact that there is a real public demand for such gatherings, and this welcome trend should be encouraged. I am not out to tread on anyone’s toes when I ask whether in the future the Scottish History Society might not be associated with these conferences and come to regard the convening of them every few years as a normal part of its activity. The Society has always had close, though indefinite, links with the universities
and schools, through individual members. I should like to see these links made stronger, so that there might be some occasions when the appropriate teachers, pupils and students in the schools and universities might join with members of the Society in particular projects or week-end courses or summer schools. It might also be no bad thing, as far as concerns our contribution to the public appreciation of the history of Scotland, if the Society could be consulted in a friendly fashion by those whose notions of making our history come alive for us run to the revival of religious orders, the setting up of flagpoles and the staging of large-scale historical pageants – but perhaps I should not trespass across the march, duly perambulated by the men of old, which divides history from romance, and in any case, short of a professional secretariat and a permanent information bureau, there will always be limits to what we as a Society can do in this respect.

My final reflection concerns our standing in the wider world. My own professional career as an historian, not really through any fault of mine, has been spent wholly in English universities. I have never, unfortunately, had the opportunity to work as a teacher either across the Atlantic or on the continent of Europe, to say nothing of places farther afield. But I have met American and continental historians, and my impression has been that while they invariably shew a polite, sometimes an enthusiastic, interest in Scottish history, their starting point is a deep-rooted disbelief in its existence. A friend of mine, one of the most learned among the younger historians of western Europe, has recently produced a select guide to medieval historical source material – Kurze Quellenkunde des westeuropäischen Mittelalters – which will probably enjoy a wide circulation among continental universities and schools. It contains almost nothing for Scotland under any of the numerous categories of sources, texts and guides into which the work is divided. This book is more likely to be symptomatic than exceptional. It is only one of scores and
indeed hundreds of works of historical science which are being published under the impact of the European Community. It can hardly be seriously doubted that before this Society is a hundred years old Scotland will have been brought into some much closer association with the continental nations of western Europe than was the case in medieval times or in the sixteenth and seventeenth centuries. It will of course be argued that when Great Britain 'goes into Europe' most of British history since A.D. 410 will cease to be relevant, whether it be English, Scottish or anything else. This is not, I think, how it will be seen on the Continent, where there will be a quickening of interest in this island's history. It does not seem fanciful to predict that so far as the new larger Europe is concerned, 'British' history will be no more than the history of England, and that Scotland will suffer a not unfamiliar retrospective absorption which would find its justification in the view expressed by Professor Van Caenegem, in the book I have just mentioned, that 'the political, institutional and cultural unification of the British Isles has proceeded from England outwards'. So long as the Scottish History Society exists, there is some guarantee that historical phenomena of the utmost interest in many varied spheres of human life, which happen to have developed within a Scottish context and to have been moulded by Scottish minds, will not be entirely overlooked and will be available for study. But in this matter we need, as a Society, to exercise some positive vigilance. On occasions when historians meet internationally in conference or in congress we should try to see that it is not automatically assumed that when a representative English historian has sat down, the whole of British historiography has had its say.

Not everyone will wish the Scottish History Society to embark on all the activities which I have sketchily adumbrated. No-one will imagine that even if the Society takes up certain of these projects it will be able to carry them out without finding
rather more willing executants, whether as editors or as members of the Executive. Our rules have provided for a council of twelve since the earliest days, when our total membership was restricted to 400. Today we hope for, and are slowly but surely reaching, a considerably larger membership, and there might be a case for enlarging the council and allotting specialist or ad hoc tasks from time to time among its members. I believe that the outlook for the future is more hopeful now than it has been for a very long time. We have an increasing number of promising and scholarly young historians, and we have undoubtedly an increasing interest in our aims and activities on the part of the historically educated and sympathetic public. I believe that our aims, which have always been humane and enlightened, can without harm be slightly enlarged. The task and function of the Scottish historian, it seems to me, are precisely those of all historians, so aptly expressed by Marc Bloch: 'There is only one science of men in time, which constantly needs to bring together the life of the dead with that of the living'. If our work assists that 'bringing together' we shall deserve our hundredth birthday, and many happy returns beyond that.
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1886—1966

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1964  Dr Ian Borthwick Cowan, Joint
      Grant Gray Simpson, Joint

1965  Grant Gray Simpson