

### III.

THE DANISH CLAIMS UPON ORKNEY AND SHETLAND. By  
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I am aware that, in general estimation, to reopen the old question of the claims of Denmark upon the British isles of the North Sea is but to attempt to revivify a dead subject. But, whatever practical value may attach to it as a question of international politics between Great Britain and Denmark, its interest for students of history has not terminated. It is not, however, my intention to argue the question. I am not sure that it would be of any material advantage to the islands that the *status quo*, as now existing, should be disturbed, unless every British impost were swept away, and the fiscal arrangements readjusted on the system formerly prevailing under Scandinavian rule. This, after the lapse of centuries, would, I imagine, be an impossibility. I propose, therefore, to treat the question simply as a matter of historical investigation, by the aid of authentic documents, from Danish and Scottish sources, never previously brought together. At the same time, there is

in my own mind little dubiety as to the side of the dispute on which the equities of the case preponderate.

I therefore pass by the long tale of oppression in the islands under Scottish rule, the subversion of the native laws, the imposition of the feudal system upon the odalism of the north, the appropriation of the greater part of the land by adventurers from Scotland; in short, the ruin of the native race.

Let me briefly recapitulate the facts of the impignoration to Scotland before introducing the original material now available in evidence of the reality and persistency of the Danish claim, which Scottish historians affect to regard as lapsed or relinquished.<sup>1</sup>

By the contract of marriage between King James III. of Scotland and the Princess Margaret of Denmark, dated at Copenhagen 8th September 1468, King Christian I. of Denmark and Norway (then united) undertook to provide a dowry of 60,000 florins of the Rhine for the bride. Of these 10,000 were to be paid in cash, and the islands of Orkney were pledged for the remaining 50,000 (*quingenta millium florenorum Rhenensium*). The words of the contract are—"damus, concedimus, impignoramus, ac *sub firma hypotheca et pignore* imponimus atque hypothecamus omnes et singulas terras nostras Insularum Orcadensium," &c. The cash payment of 10,000 florins having been forthcoming to the extent only of 2000, the Danish king, on the 20th May 1469, pledged Shetland, in the same way, for the remaining 8000 florins.<sup>2</sup> In the contract the right of redemption is expressly reserved by the stipulation that, on the payment being discharged, the isles should revert to the kings of Norway—"terræ insularum Orchaden. regi nostro Jacobo impignoratæ ad Norvegiæ Reges revertentur." No limitation is fixed for the time within which the redemption must be claimed.<sup>3</sup> Such are the simple facts of the impignoration, pawn, or

<sup>1</sup> The case between this country and Denmark has been clearly and forcibly stated by my countryman, Mr Arthur Laursen, in an article in *Macmillan's Magazine*, No. 184, February 1875.

<sup>2</sup> The value of the 58,000 florins has been computed at about £24,000 sterling.

<sup>3</sup> The deed "*Exemplum Contractus matrimonialis inter Serenissimum Scotiæ Regem Jacobum Tertium et Serenissimam Principem Margaretham Potentissimi Principis Christiani Primi Daniæ Norvegiæ et Sweciæ Regis filiam*," is given in full

*wadset*, then and later a customary form of heritable security in the law of Scotland as in that of Denmark.<sup>1</sup>

According to the continuator of Hector Boece, the right of redemption was renounced by the Danish king on the birth of his grandson, James IV.<sup>2</sup> Sir Thomas Craig repeats this story of the alleged renunciation as having been settled by the treaty between James IV. and King Christian II. confirmed by the Pope.<sup>3</sup> Sir George Mackenzie also refers to it,<sup>4</sup> as does Chalmers;<sup>5</sup> and Pinkerton asserts that the right of redemption is now lost.<sup>6</sup> Buchanan, confounding Orkney and Shetland with the Hebrides, says that their cession to Scotland was made complete and perpetual—"Danum omne jus suum in perpetuum cessisse."<sup>7</sup> Sir James Balfour, in his *Annales*, affirms that "amongst the conditions of the marriage one was the Danish king's renunciation of all right or claim that he or his successors could claim for ever to the Isles Orcades and Zetland."<sup>8</sup> Better informed, Abercromby, writing at the beginning of last century, states that the islands were made over "with express provision that they should return to Norway after complete payment of the whole sum for which they were pledged;"<sup>9</sup> but Scottish writers, as a rule, adopt the earlier misrepresentation of the facts, for which no evidence has been offered.

It is true that the Scottish crown speedily showed its aim and object to be the permanent possession of the islands. *So great a jewel of* by Torffæus.—*Orcades seu Rerum Orcadensium Historia* (Havniæ, 1715), liber ii., and is transcribed in Barry's *History of the Orkney Islands*.

<sup>1</sup> The Scottish *wadset* needs no illustration. In a paper contributed to the Society in 1879 (*Proceedings*, vol. xiv. p. 13), the writer gave some examples of Danish deeds of pawn of lands in Shetland.

<sup>2</sup> The continuation of Boethius by Ferrerius, printed in Paris in 1574, pp. 388, 389. The original work was brought down to the accession of James III. only.

<sup>3</sup> Craig, *Jus Feudale*, lib. i. dieg. 14.

<sup>4</sup> Mackenzie, *Observations on the Statutes*, p. 234 (edition of 1716).

<sup>5</sup> George Chalmers, *Caledonia*, vol. i. p. 345, note.

<sup>6</sup> Pinkerton, *History of Scotland*, vol. i. pp. 266, 267.

<sup>7</sup> *Rerum Scoticarum Historia*, auctore Georgio Buchanano, Scoto, apud Alexandrum Arbuthnetum, Edinburgh, 1582, liber xii. sec. xxvii.

<sup>8</sup> *Annales of Scotland*, by Sir James Balfour, vol. i. p. 194.

<sup>9</sup> *The Martial Achievements of the Scots Nation, to the Year 1514*, by Patrick Abercromby, Edinburgh, 1715.

*their Crown* (as they were termed many years later in the Act of Parliament, Charles II. c. 19, 1669) was not to be readily parted with, and the acquisition of the ancient earldom of Orkney and Shetland from Earl William St Clair, by deed of excambion in 1471, gave the crown an important heritable interest in the islands over and above the temporary sovereignty conveyed by the contract of marriage. But the natives did not regard the impignoration in the same light. They still looked to Norway as the mother country. They continued for some time to advocate causes, not to the courts of law in Scotland, but to courts with which they were more familiar in Norway ;<sup>1</sup> and the native system of law and justice, of udal succession and udal tenure of land, survived in some measure, through determined efforts at repression, for at least a couple of hundred years later.

Apart, however, from any speculations on the merits of the question from the Scottish point of view, there can be no doubt as to the attitude of Denmark in the past, and the persistency with which her claim to the redemption of the islands has been asserted. As pointed out in detail by the historian Torffæus, formal representations by letters to the Scottish Court and to the sovereigns of England and France, and on more than one occasion by special embassies, have been made in 1549, 1550, 1558, 1560, 1585, 1589, 1640, and 1660, and other intermediate years.

We shall look in vain to the historians of Scotland for accounts of these representations. It is true that no appreciable result in history followed, and there may therefore be a shade of justification for the circumstances being ignored, whether from ignorance or by design. There is fortunately, however, no lack of details, from Danish sources, regarding these international representations ; and I shall be able to show that there are also ample accounts to be traced in contemporary writings preserved in this country.

The Danish historian Thormodus Torffæus, whose great work the *Orcades* has already been referred to, devotes an entire chapter or book

<sup>1</sup> See "Decree by the Lawman of Bergen, in Norway, and also by the Lawman of Shetland and their Council, reversing a Sale of Land in these Islands, 1485," printed in the appendix to Mackenzie's *Grievances of Orkney and Shetland*.

to the question of the Danish claims. The chapter (liber iii.) is entitled "Concerning the unceasing efforts of the most potent Kings of Denmark and Norway for the pacific restitution of their rights to the Orkneys and the adjacent Shetland."<sup>1</sup> Torffæus states, in reference to the representations made in 1560, that on the 23rd of October of that year King Frederick the Second addressed a letter to the Government of Scotland, requesting the restitution of the Orkneys, and offering the redemption money. The letter, according to him, was in no respect special, and he therefore refrained from transcribing it. As, however, it is still preserved in this city (Advocates' Library, Denmylne MSS. 33, 1, 11), its text may be given (in translation from the Latin), attention not having been previously directed to it in connection with the present subject :—

Frederick Second, by the grace of God, of the Danes, Norwegians, Vandals, and Goths, King, Duke of Slesvig, Holstein, Stormaria, and Ditmarsh, Earl in Oldenburg and Delmenhorst :

Greetings, and kind readiness to please : Most illustrious Princes, Cousins, and our dearest friends, it hath been told to us that between the most Christian King of France, &c. and your Highnesses, and so the Scottish nation, concerning conditions of peace, it hath been nearly concluded : and that for some time past, upon reconciliation being made, there hath been a cessation from arms, which, indeed, to us was very pleasing, as we judge this to tend to the common tranquillity and peace of the Christian world : And we pray God, whose singular benefit we reckon this to be, to grant that those bases of peace now happily laid may, by firm and sincere concord, be preserved even to the most distant time.

While however matters are so, we wished in a friendly way to remind your Highnesses that the Lordship of the Orkney Islands, which now for some time your nation holds, belongs to us and to our kingdom of Norway. For our illustrious predecessor, King Christian First, when he gave his only daughter Margaret in marriage to James, then King of Scots, &c. fixed part of the dowry of fifty thousand Rhenish florins, and until that should be paid he appointed that the said Islands should in the meantime be retained by you in pledge,

<sup>1</sup> "De indefessis potentissimorum Regum Daniæ Norvegiæque studiis jus suum in Orcaðes adjacentemque Hetlandiam pacificè repetendi." The translation of this chapter, or indeed of the whole work, would be an invaluable contribution to the history of Scotland.

reserving, nevertheless, to himself, to us, and the other successors, kings of the kingdom of Norway, for ever, the powers of redeeming the same by the sum stated. This we can prove to have been so agreed by the letters executed in that matter, and, besides, we deem it not unknown to your Highnesses.

But now it is of the greatest importance that these Islands be at length, after so many years, restored and added to our kingdom; and we to this end do not decline payment of the money due; and, therefore, we in loving manner request your Highnesses that together you do your endeavour, and cause these said Islands to be delivered up and restored to us, in return for the payment of the money due, which we offer. This indeed is just, and this also would bring to pass without doubt, that the more we shall be united in nearer bounds, so the more secure peace, alliance, and good-will, shall thereby be cherished and increased between us on both sides, together with mutual intercourse of our subjects. For the establishing of which state of things, we to our utmost will not be wanting, deeming that the wishes of your Highnesses are not averse from the equity and justice which we ask.

And now with this our servant, whom for this cause we have sent as ambassador to your Highnesses, we expect, in friendship, your answer in this matter; wishing to please your Highnesses as much as may be, and faithfully praying for good health and all the best things to the same. From our Cimbrian hunting seat, the twenty-third of the month of October in the year after one thousand five hundred the sixtieth.

FREDERICK, KING.

To the most illustrious Princes, Cousins, and our very dear friends the Lord James, Duke of Hamilton, Earl of Arran, and the other Governors of the Kingdom of Scotland. (National MSS. of Scotland, part iii. No. xlv.)

There is, unfortunately, a gap in the Register of the Privy Council of Scotland, extending from 21st January 1553 to 4th September 1561, a tumultuous and excited period in Scottish history. There is therefore, so far as I am aware, no record in this country of the reception which the communication from the Danish king received. It is possible that the reply may be preserved in the archives of Denmark, which have recently been examined by an English record scholar; but under any circumstances, the letter itself remains its own best evidence.<sup>1</sup>

The next and principal point which I wish to illustrate is the

<sup>1</sup> A few years later than this Bothwell, "Duke of Orkney," in his Second Declaration, emitted at Malmoe 13th January 1568, states that, in his departure from Scotland the previous year, his object was to solicit the aid of the Danish King, with the offer of the surrender of Orkney and Shetland in return.

embassy to Scotland in 1585, twenty-five years after King Frederick's letter, again to urge the claim of redemption. It arrived nearly three years after the death of Buchanan, and is of course not referred to in his History. Sir James Balfour, in his *Annals*, makes no mention of it under the year 1585. It is barely alluded to by Maitland, but was known to Tytler and to Burton, who, however, give no details. We must therefore look for information to other sources. On the 4th May 1585 the despatch of the embassy was announced to the Queen of England (Elizabeth) in the following letter, extracted from the Royal Archives of Denmark. It is not quoted by Torffæus :—

Ad reginam Angliæ, &c.

Frederichsburgi 4 Maji anno 85.

Christian First, our great-grandfather, of most blessed memory, in the year of Christ 1468, pledged the Orkneys, a part of our Kingdom of Norway, to James III., king of Scotland, by way of mortgage, for a certain sum of money, with this condition that at whatever time, the debt being paid, the redemption of the pledge being accomplished, they might be redeemed by the said King Christian or any of his successors. But although an attempt was made to recover them by Christian III., our illustrious father, and even by ourselves some years ago, nevertheless the governor and councillors of the kingdom urged in excuse partly their own occupation in operations of war, and partly the minority of the queen, as the cause of the restitution being hitherto always deferred. Now therefore we, offering anew the required sum, demand, as in duty bound, that these islands, which are acknowledged indisputably to form part of our kingdom, should be restored to us. For which cause we have dispatched to the king of Scotland councillors of our kingdom, as ambassadors and pleaders (*oratores*). But as we are not clearly informed what are the relations between your Majesty and the King of Scotland at this time, and what the position of affairs is, and lest your Majesty may think that this is done by us from some other motive than that we have stated, we have thought it proper to signify to your Majesty the design of this embassy. Offering to your Majesty all devotion and goodwill and brotherly love.

The dispatch of the embassy is thus described by Torffæus :—

In the year 1585 a splendid embassy was directed to Scotland, under the charge of illustrious men, councillors of the kingdom of the highest rank, Mandrupius Passberg and Henricus Belovius, with whom was conjoined Doctor Nicholas Theophilus, bearing dispatches, dated 4th of May of that year, to the king of Scotland, in which the whole course of the demands for the islands, brought down to that time, was concisely restated.<sup>1</sup>

<sup>1</sup> *Orcades*, liber iii. p. 217.

Torffæus then relates the reception of the ambassadors, the account they submitted of the history of the mortgaging of the islands, and of the subsequent efforts made to close the transaction, urging the equity of his Danish Majesty's demands, and finally offering the redemption money, quoted as 50,000 florins. The arguments and excuses brought forward by the Scottish court are given at considerable length, with the evasive reply, and the fruitless return of the embassy.

Another Danish historian, Peder Hansøn Resen, relates the story similarly. I translate from the original :—

Early in spring the king began seriously to take up the long-protracted business of the redemption of the Orkney islands and Shetland. He appointed his embassy in two ships, the "Fortune" and "St Michael," with costly equipment ; and directed Mandrup Parsberg, Henrik Belou, councillors of the kingdom, and Doctor Nicolaus Theophilus, to Scotland, to King James the Sixth, to offer the promised marriage tribute (*udlovede Brudeskæt*), and in the most neighbourly and friendly way to demand and request again the forenamed land and isles. They sailed from Copenhagen the 13th May, and reached Edinburgh on the 15th June. They were at first received there, and thence conducted to the King, who was at Dur-ferlin [Dunfermline], where they obtained audience of his Majesty, in the presence of many of the council of the kingdom of Scotland, on the 20th of June. Doctor Nicolaus, in a brilliant and comprehensive oration, set forth the whole business and transaction, how the said isles and land were pledged by King Christian the First, for a portion of the marriage tribute of his daughter the Lady Margaret, to King James the Third, and in the time of subsequent kings had often been claimed for redemption. He requested that the money might be received, and the said islands be again delivered over to the King and nation. Whereupon, after some days' deliberation, it was in the most friendly way given for answer that the time, on account of several hindrances and difficulties, was too short and very inconvenient ; neither were all the councillors of the kingdom at hand, nor so ready to be convened or bespoken. So his Majesty could not at present so hastily give a final answer. The Scots had besides other more complicated affairs to discuss with their gracious Lord, and would therefore as soon as possible despatch their own embassy to his Majesty, and would then further discuss this and other matters.<sup>1</sup>

It is a singular fact that the Register of the Privy Council of Scotland

<sup>1</sup> *Kong Frederichs den Andens Krønike*, Kiøbenhaffn, 1680, pp. 338, 339. For this extract and also the letter to Queen Elizabeth, quoted above, I am indebted to the friendly aid of Dr Troels Lund, Copenhagen, a high authority in Danish history.

contains no reference to the important incident of this representation from the Danish King. The court were away from Edinburgh on account of the plague. The Council met at Holyrood on the 8th of June, and at Dunfermline on the 18th and 23rd of that month; passing on to Falkland, where several meetings were held in July, two meetings being held thereafter at the close of the month, on the 29th and 31st, at St Andrews.

While the Register of the Privy Council is unaccountably silent, there is no lack of contemporary evidence to substantiate the Danish accounts which have been quoted. There is noted in the Calendar of English State Papers relating to Scotland a letter from Robert Carvell to Sir John Forster, dated at Dunfermline, 22nd June, the subject of which is "a claim made by the Danish ambassador to the Isles of Orkney and Shetland"; and the wily Wotton, the English ambassador, addresses a letter to Sir Francis Walsyngham on the same subject, also from Dunfermline, on the 27th of the month.<sup>1</sup> But the fulness of the following details from Scottish sources leaves nothing further to be desired.

#### I. MOYSIE'S MEMOIRS.

Upone the tuelt day of Junij 1585, the King of Denmarkis ambassadouris thrie in number, quhair of ane wes a doctour of the lawis, and the uthir twa speciall men, come to Scotland and arryved at Leithe; propper men weill cled efter thaire owin faschioun; they wer in trayne four scoir personis, tuelf thairof in gold chenyceis. They come to Dunfermling within four or fyve dayis thereafter to the King, quhair they had presence and dischairgit thair Commission, quhilk wes that they desyred to redeime Orknay and Chetland, under reversioun as they alledgit of ane certane soume of mony, quhilk they had rady to consigne instantlie. The Kingis Majestie, with advyse of his Counsall at St Androis, thereafter gave thame this ansuer, That there was no such reversion knawin to thame, bot they sould try and send ansuer schortlie with there awin ambassadour. So they tuik journey at Dundie, and wer feasted at St Androis.<sup>2</sup>

#### II. HISTORIE AND LIFE OF KING JAMES THE SEXT.

1585. "The King in this yeir was becum a brave prince in bodie and stature, weill exercisit in reading that he could perfytlie record of all things that he

<sup>1</sup> *Calendar of English State Papers relating to Scotland*, vol. i. pp. 498, 499.

<sup>2</sup> *Memoirs of the Affairs of Scotland*, by David Moysie (Writer and Notary Public in Edinburgh), 1577-1603. Printed at Edinburgh for the Bannatyne Club, 1830. Previously printed by Walter Ruddiman, at Edinburgh, 1755.

had aither hard or red; his memorie and jugement war becum verie ryp and fyne. Therefore that noble King, Frederic the Second, King of Denmarc, finding sik opportunitie and occasioun be the credible report of famous gentlemen and marchants of Scotland, to congratulat the gude estait of our King his confederat, he essayit him twa wayis, be his renownit Ambassadors sent in Scotland in the month of Julii 1585. The first way was, that he proposit be his ambassadors that the *Ilis of Orknay and Zetland* war bot lent from the crown of Denmarc for the debt of a soume of money awin to the crown of Scotland; and for the redemption of thayme, thay had the money presentlie to rander to the King and his estaits for laughfull restitution and repossessioun, &c. The other way was"—(in brief, a suggestion of marriage of one of the King of Denmark's daughters to King James, which was eventually accomplished). "To the first, it was answerit that becaus the playg of pestilence was then verie vehement in Edinburgh, his capital parliament toun, and that tharein all his writtis whatsumever did ly, and thareunto thair was na sure acces, therefore the King besoght the ambassadors to tak in patience for that tyme, for he sould send an ambassador of his awin, with the first commoditie, who sould give a resolute answer in that purpose," (and likewise as to the second point, the projected marriage). "With these ansuers the ambassadors wer exceeding weill contentit, and departed from Scotland in the moneth of August with great joy."<sup>1</sup>

### III. MEMOIRS OF SIR JAMES MELVILLE OF HALHILL.

1585. "About this tym, the Quen of England, be hir intelligence from Denmark, was advertist of a gret and magnifik ambassade send be the King of Denmark in Scotland; thre ambassadours, with a sex score of personis, in twa brave schippis." So Elizabeth sent Mester Wotton "to use all his wyles" to prevent any greater amity between the Kings of Denmark and Scotland and their respective countries. "Sa schone as the Dense ambassadours arryvit be schip in this contre, his Majestie ordanit me to bear them company. Ther names wer, Manderupius, Henrych Bello, and Doctour Theophilus; the first twa wer consellours. First at Domfermeling they congratulat his Majeste in the King ther masters name, with a lang discours of the auld amytie, band and mutuall frendship between the twa Kingis and their kingdommes. And last of all, they requyred the yles of Orkeney to be restored again to the Crown of Denmark, allegit be them to ly in wedset, to be redeemed again for the sowm of fifty thowsand florins.

Ther comyng and demandis was dyversly skancit upon; some supposing warres suld ensue, onles the saidis yles wer not renderit; others thoct that

<sup>1</sup> *The Historie and Life of King James the Sext*, being an account of the affairs of Scotland, from the year 1566 to the year 1596, with a short continuation to the year 1617. (Author unknown.) Printed at Edinburgh for the Bannatyne Club, 1825.

ther intentions was, to bring on a marriage with the King of Denmarkis dochter.

Now albeit his Majestie was determinit to trait them weill and honorably, they wer nevertheles mishandled, ruffeled, triffelit, drifted, and delayed heir the space of monethes, to ther gret charges and miscontentement. For they lyved upon ther awen expensis, and wer not defrayed be his Majeste, as all other ambassadouris of that nation hes bene sen syn.

When they wer apponted to part out of Domfermeling towardis St Androwes, ther to get ther dispatche, his Majeste ordonit to tell them that he suld send them horse out of the court to ryd upon. The day of ther parting being com, they send away ther bagage and officers before them, and wer buted themselves, tareing lang upon his Majesties horse; quhilk because they cam not in dew tym, they tok ther journey forward upon fut. His Majeste was very miscontent, when he understod how they were handled, and caused his horse to folow fast efter them and overtak them. Then at ther being in Santandrowes, dyvers appointed dayes of consaill and convention wer broken unto them, quhilkis wer promysed to be keped for ther dispasche, quhilk they suttet continowally for to get. Then men wer appointed to skorn them at ther lodgingis, and before ther windowes, when they loked out to the streit; sa that nothing was left ondone that mycht annoyne them or kindle them up in choler. Only Mester Wotton the Englis abassadour vesited them oft, and bur them gud company, and conforted them at all occasions, seamyng to be sory that they wor sa misused; and offerit to lend them gold and silver largely, for the gret frendship that he knew to be betwen the Queen his mestris and the King of Denmark. For he was assured of gud payment, and thoct to conkis credit at ther handis be his apperant frendly deling. At lenth, under gret secret, he said he wald not hyd from them, how that he had hard the King speak disdanfull language of ther contre and customes; and also that some of his gentilman had hard the King speak evell of ther King as com of the race of merchandis; and that he and his consaill wer myndit to hald them lang heir, without any dispasche, to fasche and tyre them.

Then again the said ambassadour, and twa of his gentilmen, infourmed his Majeste of ther hard speaches of the reprochfull dealing of the King and consaill towardis ther maister, and also of ther rud manners, doldnes and dronkeness; and wer fortified and assisted be sic as wer about his Majeste, wha held the lyk scornfull langage of the King of Denmark, his contre and ambassadours: moving his Majeste to mak the les accompt of them. Werby they wer sterit up in sic a rage as I had na litle a do to perswad them in the contrary, and to stay them from stealing away tua severall tymes to ther schippis, to have returnit to ther King without any further answer, and to report of the gret lichtly and disdane and injury quhilk they said planly wes done unto ther King and contre.

The principall of the thre ambassadours was a wise, grave and ancien consellour. Henrich Bello wes furious in his speaches; and the doctour cryed out, "The King our mester is injured and wilbe revengit."

Then I took Manderupius apart, and requested him to heir me patiently, for he spak gud Dutche [German], bot myn wes not sa gud, therfore that he wald tak better tent to my meanyings, nor til any wrang word.

(Melville then explained to Manderupius the sinister motives of the English court and the ambassador Wotton, in their interference with the projects of amity with the Danish King, upon which the ambassadors, after long conference, consented to remain for a time to pursue the matter further. Melville then proceeded to explain to the King in the same way, clearing away, among other things, the imputation that had been conveyed to James that the King of Denmark "was com bot of marchandis, and that few maid accompt of him or his contre bit sic as spak the Dutch tong." Melville showed the highly respectable origin and connections of the Danish sovereign, to whom James himself was related, and then proceeds)—

"And wheras he requyres again the ylles of Orkeney, for the discharge of his aith, because every King of Denmark at his election, that is ane of the articles that is presented unto hym be the estaitis to swer, to claim again the saidis yles; quhilk he hes done for the fassion, and til na uther effect bot to draw on a gretter famylarite and frendschip, or elis he had not send sa honorable a company, bot rather a harrauld of arms, gif he had been earnestly bent other to get the sayd yllis, or to discord and feicht for them."

(The King was mollified by his discourse, and ordered a banquet to be prepared for the ambassadours, and every honor to be done to them, though Wotton and his abettors tried to thwart this being done. His Majesty "raise from his awen denner, and past to the banket house, and drank to the King, the Quen, and ambassadours of Denmark; and sa contented them ay the langer the better, and caused ther dispasch to be in a rediness conform to his promyse." A chain ("a great chengnze quhilk weyed a vije and fifty crowns") was procured and presented to the ambassadors, along with their "answer in wret," and they departed highly satisfied, assuring Melville that "they suld be gud instrumentis of amytie.")

"Albeit be evell using they wer anes myndit to do otherwayes; and that their commission tended not to discord bot to bring on greter frendschip. Nether war they commandit to speak of mariage, wherof ther was a vain bruit; thoch the King ther maister had fayre dochters, any of the quhilkis being suttet, as is requisit that gentilwemen be, they supponit the clame of Orkeney suld ga rycht."<sup>1</sup>

<sup>1</sup> Memoirs of his own Life, by Sir James Melville of Halhill, 1549-1593. From the original Manuscript: Printed at Edinburgh, for the Bannatyne Club, 1827, p. 335 *et seqq.*

I have been thus particular in giving the details of this embassy, because it is of supreme interest as evidencing the feeling and attitude of the Danish Government on the question at the time. Nor is apology offered for reproducing the particulars, because they have never been given by Scottish historians, and the MSS. in which these Scottish accounts of the embassy occur are printed privately as club issues, and are not readily accessible.

It does not appear from Melville what was the precise answer given to the Danish ambassadors. It was certainly evasive, with promises, as we know from other sources, of a definite answer by-and-by. According to Melville, "Mester Peter Yong, mester almowsser to his Majeste," was shortly after sent to Denmark "to thank that king and to see his dochters, that he mycht mak report again of his lyking of them; with a promyse that his Majestie suld send ther or it wer lang ane honorable ambassade."<sup>1</sup> Meanwhile the Scottish Court dealt with the islands as if their sway over them was undisputed. But the question was still in agitation. The project of marriage between James and the Danish Princess was taken advantage of as an excuse for delay, and while it hung in the balance it also restrained the urgency of the Danes, who could not afford to trifle with, or offend, so promising a suitor. In the Act of the Scottish estates, 8th July 1587, a commission was appointed

<sup>1</sup> Peter Young, the master almoner, was accompanied in his expedition to Denmark, in 1587, by Sir Patrick Waus [or Vans], the laird of Barnbarroch, who records in his Journal that they were courteously received, and a Doctor Paspelay assured them in the King's name that "gif we haid ane guid anser to geif anent Orknay he douitted nocht all uthir thingis we had ado or wald requeiyr of the Kingis majestie suld be verrie thankfullie ressavit and wald be grantit" (*Correspondence of Sir Patrick Waus of Barnbarroch*, Knight, 1540-1597, Edin., 1882, p. 397.) When it came to the point with the King himself the next day, the Scottish ambassadors pleaded that "as for the mater of Orknay we had na commissione thairof; bot at the tyme appointit, quhilk as yet was nocht cumyn, we douit nocht but the samin suld haif anser as appartenit, and thairfoir at that present we had na commissione to traitt thairof" (*Ibid.*, p. 398). The Danish King was shrewd enough to regard all this as "but fecles dealing, and dryving of tym, and faire langage without any power to conclud," and the ambassadors returned with small result. The eldest daughter was shortly after married to the Duke of Brunswick. The King died, and marriage with the second daughter was at last resolved upon, and accomplished in 1589.

“for the taxation to be grantit quhen it sall pleis that our soverane lord sall treat and conclude opoun his mariage.” The commission consisted of the Earls of Angus, Huntly, Crawford, Marischall, Montrose, and Rothes; the Archbishop of St Andrews; the Bishops of Dunkeld, Brechin, and Orkney; the Commendators of Deer and Newbattle; and the Commissioners of the burghs of Edinburgh, Perth, Dundee, Aberdeen, St Andrews, and Stirling. These were empowered also “to heir, treat determyne and conclude in the mater of the ansuer to the petitions of the King of Denmark anent Orkney,” to have the same effect as if done by the whole three estates in Parliament.<sup>1</sup>

The marriage with Anne of Denmark was solemnised in 1589; and in 1592 Parliament passed a “Ratification of the Earl of Merchellis proceedings in Denmark direct to treat the mariage betuix the King and Queen’s majesties and of his infeftments.” From this it appears that in 1589, at Upslo in Norway, in the matter of an “Attestation anent the iles of Orknay,” it was settled “that all further claim or repetitioun of the foirsaidis iles upon quhatsumever predendit richt or interesse allegit thairto be that croun [Denmark] salbe supersedit and continuit for thair pairtis unto the said electit princes perfite aige,” the then King, Christian IV. being in minority.<sup>2</sup> This agrees with the testimony of Torffæus, who relates the circumstances, but the text of the agreement (in Latin) between the two countries is given in full in the Register of the Privy Council. It is dated at Helsingborg, the 20th August 1589, and is indorsed “Copy of the Testimoniale gevin be his Hienes and ambassadouris to the Regentis of Denmark, anent Orkney.” It is here declared that the question of the claims should remain open to the sovereign of either country, and that the delay should cause no prejudice to either: in the meantime that the King of Scotland should be left in undisturbed possession on that condition. The terms of the condition are thus expressed:—“*Ita tamen eaque conditione, ne hæc suspensio seu moræ indulgentia juri quod Daniæ et Norvegiæ reges in dictas Orcades insulas prætendunt ulla ratione præjudicare vel possit vel*

<sup>1</sup> Acts of Parliament (1587), vol. iii. p. 437.

<sup>2</sup> Acts of the Parliament of Scotland (1592), vol. iii. p. 566.

debeat, sed utrique parti jura sua sarta tectaque et illæsa, non minus ac si hæc suspensio nunquam intervenisset, conserventur.”<sup>1</sup>

With this important convention, at which the conservation of the claims by Denmark was so explicitly recognised, the question passes finally from the politics of Scotland, and becomes an imperial one, King James the Sixth having ascended the throne of the United Kingdom fourteen years later.

According to Torffæus, Christian IV. visited James in England in 1606 and 1614, when James prevailed upon him to allow the Orkney question to stand over during their reigns, as was formally agreed to by the treaty of Steinberg, 20th July 1621. The same author relates that, in 1640, the claim was renewed by Danish representatives in England, who again offered the money payment or a military contingent to aid King Charles I., but the proposal once more fell through in the troubles of that sovereign. At the restoration of Charles II. in 1660 a Danish embassy, sent to congratulate him on his succession, again respectfully claimed the restitution of the isles, when the English, having nothing to fall back upon but prescriptive holding, allowed the negotiations to fall aside.

The claims were dealt with once more at the Treaty of Breda in 1667, when the Danes again urgently demanded the restitution. The English plenipotentiaries pleaded no instructions, and it was decided that the matter should be left open, with this stipulation—“That the suspension of the restitution of the foresaid islands should be without prejudice to the most serene and mighty King of Denmark and Norway, whose claims to recover them should not suffer thereby, but should continue entire, unenfringed and open, until a more fitting opportunity should arise.”<sup>2</sup>

Again, and for the last time, the restitution of the islands was demanded by King Frederick V., in the middle of the eighteenth century.

<sup>1</sup> *Register of the Privy Council*, vol. iv. p. 824. The essential extract is given by Torffæus.

<sup>2</sup> The words of the condition, as given by Torffæus, are :—“Ut suspensio restitutionis dictarum insularum, citra prejudicium Serenissimi et Potentissimi Danie Norvegiæque Regis fieret, ne quidquam eidem prætensioni hoc ipso derogaretur, sed eadem integra infracta patensque persisteret, donec melior occasio præberetur” (*Orædes*, liber iii.).

Burton, who barely alludes to the embassy of 1585, or the repeated demands by Denmark for the settlement of the question, remarks that it has been a subject fertile in ingenious speculations in international law, whether, if payment of the dower of the Princess Margaret should at any time be offered, Britain would be bound to restore the islands; also how much must be paid, and what Government is entitled to redeem the pledge.<sup>1</sup> In regard to the last point, it may be held as settled that the right of redemption under existing arrangements remains with Denmark, because when Denmark and Norway were disjoined in 1814, Denmark retained the islands of the North Sea, which must be held as including all rights of reversion to Orkney and Shetland.

The foregoing observations are only a contribution to the better understanding of this curious inquiry. The subject is not exhausted; and I should be glad if some one possessed of more leisure could pursue it further.