

ART. XIX.—*Two Documents relating to Shap Abbey.* By  
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Socy.

*Communicated at Appleby, September 10th, 1908.*

I.—**INDENTURE OF EXCHANGE BETWEEN PATRICK  
DE CURWEN AND THE ABBEY OF SHAP.**

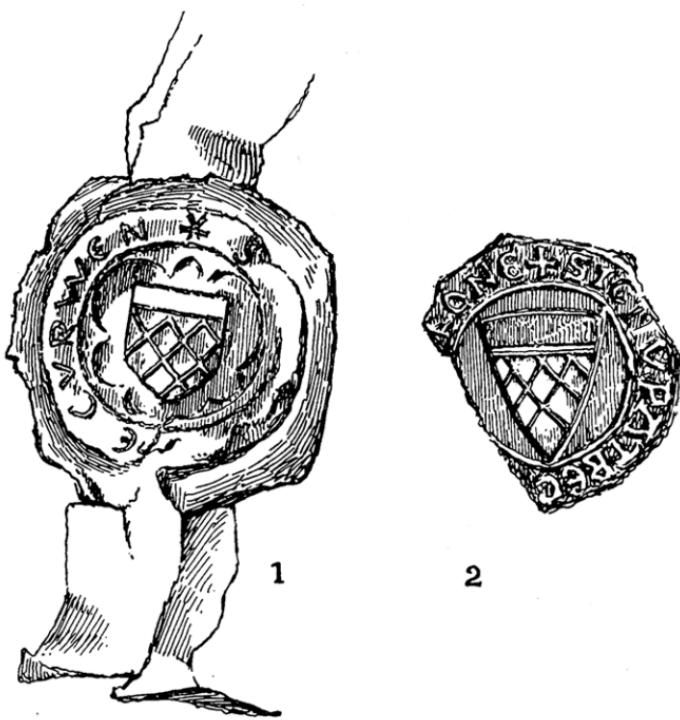
Anno Gratiae MCCL Septimo.  
Infra Octavas Sancte Trinitatis  
convenit inter dominum Patri-  
cium filium Thome, advocatum  
Abbatie Vallis Magdalene de  
Heppe ex una parte et Abbatem  
et Conventum dicte Vallis Mag-  
dalene ex altera parte: videlicet  
quod predictus Patricius con-  
cessit et dedit et presenti scripto  
confirmavit pro se et heredibus  
suis et eorum assignatis, predicto  
Abbati et Conventui quandam  
portiunculam terre in augmen-  
tum prati de Abbatie et conventu  
in Sleddale, cum pertinenciosis:  
inter scilicet has divisas: — a  
rivulo de Surmire desuper Sur-  
mire que est divisa dictorum  
canonicorum usque ad murum  
ultra angulum fossati de Sur-  
myre versus Aquilonem et sic  
directe usque ad murum infra  
magnum viam que venit de villa  
de Heppe et dicitur le Stayn-  
gate; ascendendo per eundem  
murum usque ad collem de Sled-  
dale, et sic per eundem murum  
ad divisas predictorum canoni-  
corum. Tenendam et habendum  
dictis Abbatii et conventui et

In the year of grace 1257. In  
the octave of the [festival of  
the] Holy Trinity agreement  
was made between Sir Patrick,  
son of Thomas, patron of the  
abbey of Val Magdalene of Hepp  
on the one part, and the abbot  
and convent of the said Val Mag-  
dalene on the other part: this  
namely, that the aforesaid Pat-  
rick granted and gave and by  
the present writing confirmed  
for himself and his heirs and  
their assigns to the aforesaid abbot  
and convent a certain por-  
tion of land with its belongings,  
in enlargement of the meadow  
land of the abbot and convent  
in Sleddale, viz. that which is  
within these bounds: going from  
the stream of Surmire above Sur-  
mire, which is the boundary of  
the said monks, as far as the  
wall beyond the corner of the  
dyke of Surmyre towards the  
the south, and so straight on, to  
the wall below the great road  
which comes from the vill of  
Heppe and is called the Stayn-  
gate; then ascending by the  
same wall to the ridge of Sled-

eorum successoribus sine aliquo retenemento, in puram et perpetuam elemosinam in perpetuum. Pro hac vero donatione et concessione predicti Abbas et Conventus concesserunt dederunt et quietum clamaverunt pro se et successoribus suis predicto Patricio et heredibus suis totam decimam feni de Swyndale sine aliquo retenemento et totam redemptionem pannagii sui de Preston quam habebant ex dono patris dicti Patricii quietam in perpetuum. Utraque vero pars alteri parti omnia predicta, sicut predictum est warantizabat acquietavit et defendit in perpetuum, et in hujus rei testimonium huic scripto cyrographato [huic] inde sigilla apposuerunt. His testibus domino Waltero de Ulvesby tunc Archidiacono Karliolensi domino Johanne de Moreville, Willo de Neuby, Matheo de Rossegyl, Rolando de Revegyl et aliis.

dale, and so along the same wall to the boundary of the land belonging to the said canons: To hold and to have, to the said abbot and convent and their successors, without any reservation in pure and perpetual alms for ever. And in return for this gift and concession the aforesaid abbot and convent granted, gave and quitclaimed for themselves and their successors to the aforesaid Patrick and his heirs the whole of the tithe of hay of Swyndale without any reservation, and the whole tithe of the tithe of the pannage of Preston which they had by the gift of the father of the said Patrick without more claim, for ever. Each of the parties warranted to the other the aforesaid grants as aforesaid, and promised quittance and defence for ever, and in witness of this they placed to this indenture their seals. As witnessed these: Sir Walter de Ulvesby, at the time Archdeacon of Carlisle, Sir John de Morevill, William de Newby, Matthew de Rosgill, Roland de Revegill, and others.

The addition to the abbey's meadow land made in this exchange, I imagine, was somewhere near to Sleddale Grange, but I can trace no such name as Surmire in the maps. The great road mentioned and called the Stayngate is probably represented now by the main road to Kendal. Interesting as giving information about customs so long ago is the difference between tithing and retithing which comes out. The abbey consented to give up the tithe of the hay in Swindale; this was their due from the



SEALS OF THE CURWENS.

1.—GILBERT DE CURWEN, 1384.      2.—PATRICK DE CURWEN, 1257.

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occupier of the land, owner of the crop. The pannage dues were paid by the owner of the swine to the owner of the forest land as a sort of rent for the permission to feed the swine on the mast in the forest. This payment to the owner of the land would seem from the language of the indenture to have been a tithe of the herd. And the owner of the forest land to whom this tithe had been paid as his dues had arranged to give a tithe of these his dues to the abbey. These the abbey consented to give up. No mention is made of the tithes payable to the church by the owner of the swine simply because they were not part of the exchange.

The seal attached to the indenture is the earliest that I have seen which has the Curwen shield. It is the simple armorial shield with the fretty and the chief. The fretty, composed of three laths each way and forming thus three junctions touching the lower border of the chief, is not arranged symmetrically in the field. The laths leave the chief at points a little too far to the left as the beholder looks at the shield. This is the case also in another Curwen seal, that of Gilbert de Curwen attached to a charter of 8 Richard II. (1384), wherein the fretty is also of three laths each way. But the shield is of a different shape.

The inscription on the obverse of Patrick's seal is

SIGILL PATREC[ ] RONE

*i.e.*, "Sigillum Patrec(ii de Cu)rone" (possibly "Corone"); and its reverse is actually touching, speaking across the interval of years. It has the motto

GRATIA DEI SVM ID QOD SVM

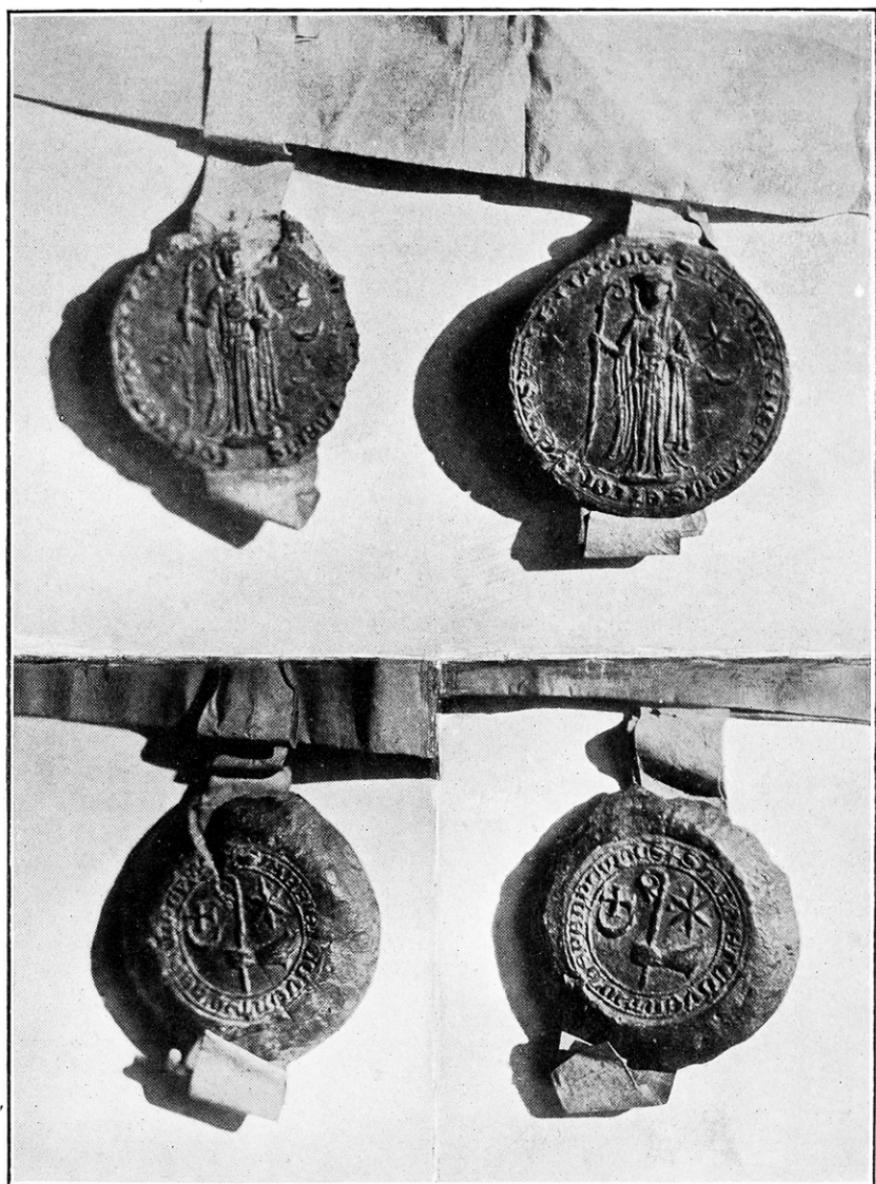
(the "Q" being inverted), "Gratia Dei sum id q(u)o dsum" — "By the grace of God I am what I am," the Vulgate rendering of 1 Cor., xv., 10.

There is another seal attached to the indenture, but it is not the seal of the abbey. Impressions of the abbey seal, which the editors of Dugdale's *Monasticon* (1846 ed.,

vol. vi., part ii., or vol. vi., p. 869) say they have not seen, are very few. Two fragments of the lower part of two seals of Richard Redmayne's charters—and if my memory is not wrong one other—and two fairly good ones, neither of them perfect and not so large nor so well cut as those of Bishop Redmayne's evidently were, are all I have seen. One of these is of 1340 attached to a charter which Abbot William granted, the other is of the date 1413 when Robert Marshall was the abbot. The obverse of the seal has a robed and hooded figure holding in the right hand a crosier, with the head turned in towards the figure; the left hand, placed in front of the breast, has resting on it a vessel with a short narrow neck and globular body, possibly meant to represent a cruse. On the left of the figure, but to the right as the observer looks at the seal, just below the shoulder and placed clear of the figure by an elbow's breadth, is a star of six rays, and underneath it is a crescent, its concave border upwards. On the reverse the star is repeated, but it has points between the rays; this also is to the right side as the beholder looks. A forearm and hand are below it holding up a crosier, with the head turned outwards away from the holder. The head of this crosier is more ornate than that on the obverse side, which is a plain curl; it has stiff foliage. To the left of this crosier, almost parallel with the star, is a square cross with the ends widened out, placed above a crescent which, like that on the obverse, has its concave border upwards. The inscription on the obverse is

S. MAGDALENE ET ABBIS ET CONVENTVS VAL MAGDAL  
in Lombardic characters—"Sigillum Magdalene et Abbatis  
et conventus Vallis Magdalene." The inscription on the  
reverse, also in Lombardic letters, is

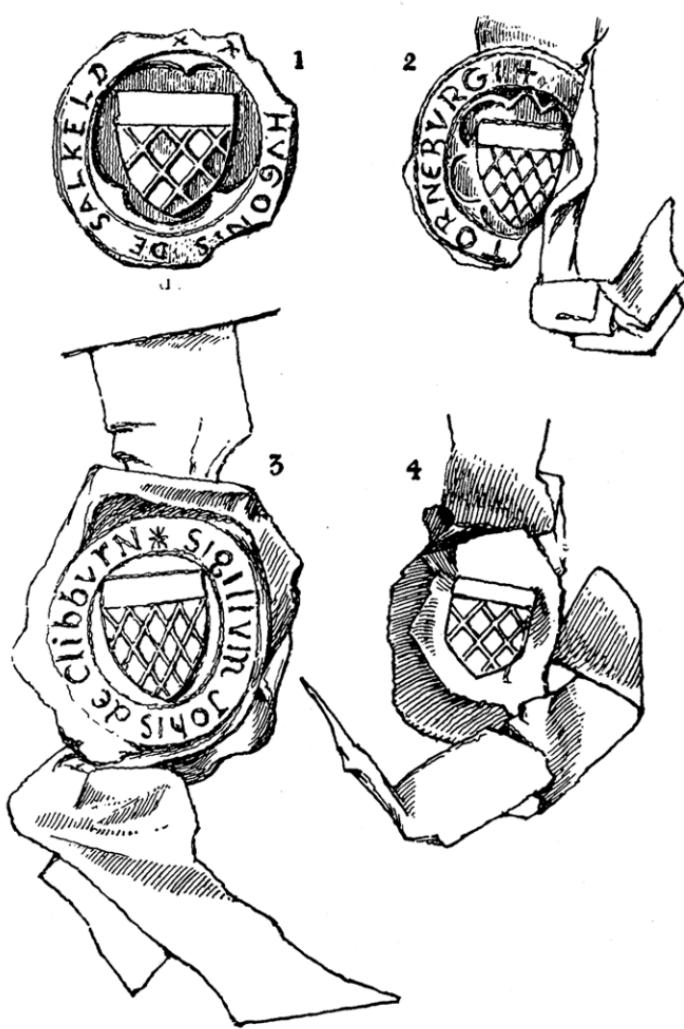
S' ABB' ET CÔVENT' D' HEP AD <sub>g</sub>PCVRAC S  
the last "s" being crowded between the "c" and the  
star which marks the point where the inscription begins.  
The first part of this is clear—"Sigillum Abbatis et con-



SEALS OF SHAP ABBEY.

*Photo. by Dr. Haswell.*

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SEALS TO LOWTHER CHARTERS.

- |                                    |   |
|------------------------------------|---|
| 1.—HUGH DE SALKELD, 1407.          | 3.—JOHN DE CLIBURN, 1436.                       |
| 2.—ROLLAND DE THORNBURGH,<br>1376. | 4.—MARGARET DE CLIBURN, widow<br>of John, 1446. |

*From drawings by Mrs. F. W. Ragg.*

TO FACE P.<sup>m</sup> 275.

ventus de Hep." To the latter part which, because of the curve at the side of the foot of the "p," ought to read "ad procurac s," I can give no satisfactory meaning. I have read through what legends I could find in mediæval English to try and find something which would suggest the meaning of the crescent and the star and the crescent and the cross, but I am sorry to say in vain.

Seals of three other families that bore the fretty and the chief occur amongst the Lowther muniments, and following up the description of the early Curwen shield it may not be out of place here to say something about these. Except for what might easily be differences in the skill and the style of the engravers the differences between these, where there is no hint of colour, are hardly to be told. Of each of two of these I passed only a single impression—de Thornburgh of September, 1376; and de Salkeld of Rosgill, of Ascensiontide, 1407. These were seals of Rolland de Thornburgh and Hugh de Salkeld. Of the third family Clibborn (Cliburn), I passed five. These began with February 1436 (John de Clibburn), Lent 1440 (Margaret, widow of John de Clibburn, daughter of Hugh de Salkeld of Rosgill), February 1489 (a later John de Clibburn), March 1549 (Thomas Cliburn), and ended with October 1549 (Richard Cliburn). All these shields—Thornburgh, Salkeld, and Clibburn—are composed of fretty with four laths each way under and touching a chief. In the Salkeld shield there is a near approach to symmetry in the arrangement of the fretty on the field. Both the Thornburgh and the Clibburn shields, like the Curwen described above, have the arrangement a little too much to the left to be symmetrical. The latest of these Cliburn shields (of 1549) has both of the outermost laths starting not from the underside of the chief at the corners, but starting from the sides of the shield just below the points where the chief touches the edge, an attempt it would seem to place the fretty symmetrically on the field, but it gives to one who looks hastily at it an impression, not

true, of having three laths only; three only coming from the chief. This is part way on to the "three chevronels interlaced in base" which were incised over the door of Cliburn Hall in 1567 as the armorial bearings of the same Richard Cliburn who in 1549 had used the fretty which his ancestors had used. There is a seal of his of 1575 which has, quartered with the Kirkbride Cross, the mistaken chevronels.

The shields of Gilbert de Curwen, Roland de Thorneburgh, and Hugh de Salkeld have the remains of foliation in the background surrounding the shield. That of the Cliburnes is in every case plain.

## II.—AWARD BY RICHARD REDMAYNE, BISHOP OF ST. ASAPH AND ABBOT OF SHAP.

Richard, bishop of St. Asaph, who made this award, was Richard Redmayne, bishop of St. Asaph from 1471 to 1496, and of Exeter from 1496 to 1502. There is another trace of him as abbot of Shap in a deed of July 6th, 1489, in which he gives his name as Richard Redmane, handing over to John Clibborn the water-mill of Bampton. This shows that he continued holding the two offices of bishop and abbot. The quarrels which his award of 1473 were to extinguish were, we can see, gradually developing into a sort of feud, through the iteration of annoyances. They were, in the first instance, caused by the "improwments" made in extending Thorntwaite Park. This curious word "improwment" answers to the later word "enclosure"; it represents the older term "approvement" (*approvementum*), making useful or profitable. The statute of Merton in 1236, and again the second statute of Westminster in 1285, gave to the lord who owned a manor a distinct sanction to "approve" waste land on his estate, provided that he left sufficient pasture and possibilities of wood—for fuel and building—for those who had rights of common (see Pollock and Maitland, *History of English Law*, i., p. 623). The

sanction was not left as an idle thing. There was a case before the Courts, e.g., in 1292, in which Thomas de Helton brought action against Richard de Musgrave for enclosing pasture and brushwood in Murton, and not leaving him sufficient common. Richard de Musgrave's defence was that as lord of the manor he had a right to approve himself in the land, and he appealed to the statute of Merton<sup>\*</sup> and to a still more recent statute (meaning doubtless that of Westminster the second) for his justification, and argued that sufficient open space had been left by him for Thomas de Helton for rights of common proportioned to his holding. By the verdict of the jury Thomas de Helton lost, so far as pasture was concerned; so far as wood was concerned, Richard de Musgrave lost (*Assize Roll*, 987).

The dispute between de Salkeld and de Curwen was not taken to a court of law, but to arbitration, and the "composition" resulting—as Bishop Redmayne calls it—is still existing. It is a drawn out and rather complicated piece of mediæval Latin, and for the understanding of the award, what it amounts to is best put into English and into fewer words. It was this. Hugh de Salkeld and his ancestors and their free tenants had rights of common in Shap to the west of the Louther river, between Swindale beck and Tothemanfeld dyke on the one side and Thorthwaite Park on the other. Christofer de Curwen and his grandfather Gilbert had made improvements (*i.e.* inclosures) on this common, in extension of the park which had been theirs from immemorial times. Disputes had thereby arisen. Four friends were chosen by the two parties to mediate—Sir Christopher de Moresby, Sir John de Lancaster, Sir Henry de Wherton, and John de Helton. These came to the conclusion that the enclosures had left to Hugh de Salkeld and his tenants too little of the common. They proposed a compromise which was accepted—the "composition" mentioned by Bishop Redmayne—that the enclosures should remain enclosures as

they were, and that if the fences should be out of repair and the cattle and other beasts of Hugh de Salkeld and his tenants got in they should be driven quietly out, and no claim for damage and no blame be laid on Hugh and his men. And as an equivalent return Christofer de Curwen should cease to have the yearly "woodmale" \* (4s.) paid to him by Hugh, and Hugh and his tenants should be freed from the "spade peny" and other dues which they had hitherto paid for digging peat in a part of the moors within a certain dyke.

The date of this composition is August 20th, 7 Henry VI. (1429), and when we look at the date of the bishop's award, February 26th, 1473, and realise the statement that the composition had been between Christopher de Curwen, father of Thomas Curwen, one of the parties in the dispute of 1473, and Hugh de Salkeld, great-grandfather of Thomas Salkeld, the other party, we have the fact before us that in forty-three and a half years two generations of the Salkelds had passed away, and that indeed while there was only one change in the inheritance by death in the Curwen family. But the investigation into the connections and relationships of these families and others interconnected of that period is too long for an introduction or a note and needs a separate essay, which I hope to contribute later.

From the award we see that Thomas Salkeld had allowed his kinsman Richard Salkeld of Corby to have cattle on Mosedale for depasturing; and it is implied in the words "premises" and "dewty" that Thomas had arranged to pay the "ageste"—the money agreed on for the depasturing, and had not done so. This he was to do at the same dates—Pentecost and St. Martin, as the other payments were to be made, and through the bishop or his prior. This is what is meant by the "fourme aboveseyde."

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\* Money for wood; for the component "male," compare "mail" in the word "blackmail."

## THE AWARD.

To all Crystein pepyll the present wryting endentyd seyng or heryng, Rychard Busschop of Saynte Asaphe and thabbott off Schapp sends gretynge in our lorde Jhu. Knowe ye that where as dyverce varyances causes querells and offences were had done and movyd betwene S<sup>r</sup> Thomas Curwen Kt, on that one partye and Thomas Salkeld off Rosgyll esquyre on that oder partye, as [well] for tytill and clayme off thayre Inhertytaunce as oder controversyes and offences; as yt opynly aperys in thayre compleynts gevyn unto me the sayde busschopp and abbott by wrytyng, off the which varyaunce causys trespace querells and offences the sayde S<sup>r</sup> Thomas Curwen K<sup>t</sup>, as for hys partye, hath compromytt<sup>1</sup> and fully agreyd hym to abyde thawarde ordinaunce and dome off me the sayde busschopp and Abbatt and my councell, and yt to perfourme be boundyn in the soume off a hundredth pounds, by hys escrypt obligatorye to me the sayde busschopp and Abbott: And also the sayde Thomas Salkeld esqyer as for hys partye hath compromytt and fully agreyd hym on thyse premisses, to abyde thawarde ordynaunce and dome off me the sayde busshop and Abbott and my councell, and yt to perfourme be boundyn in the soume aboveseyd; there<sup>2</sup> I the sayde busschop and abbott the xxvi day off the monethe of februar<sup>3</sup> the xii yere off the regne off oure soverane lorde Kyng Edward the fourte in the parysch Kirk of Penreth, callyng before me and my cowncell the sayde partyes, heryng the coumpleynts grevance and awnswers off every partye and upon gode delyberacion and rype communication had, by me and my cowncell, awardys ordeyns in the premysse in the fourme ensewyng: that is to say that the sayd S<sup>r</sup> Thomas Curwen, the sayde Thomas Salkeld and all thaire frends servants and tenaunds be full frends, and full frenschip bere, from hensforthe, <sup>4</sup>for any cawse or thyng done or movyd betwene thame fro the begynnnyng off the werd<sup>4</sup> to the date off the makyng off the present awarde: also where<sup>5</sup> I consayfe the sayde Thomas Salkeld claymys to hafe comon within Thornthwayte parke; affyr dew examination I fynd by a composition made betwene S<sup>r</sup> Christofer Curwen K<sup>t</sup> fader [to] the sayde S<sup>r</sup> Thomas Curwen, and Huchon Salkeld grete graunte fader to the sayde Thomas Salkeld, that the sayde parke off Thornthwayte sall be kepyde and closyd in severall,<sup>6</sup> to the sayde S<sup>r</sup> Christofer and his ayres for evermore, wherefore I awarde ordeyne<sup>7</sup> and demyyz that the said Parke off Thornthwayt so be kepyd severall and close<sup>7</sup> to the sayde S<sup>r</sup> Thomas Curwen and his ayres for evermore, with oute clayme tytill<sup>8</sup> or interruption off the sayde Thomas Salkeld or any off hys ayres: also where I fynd that the sayd S<sup>r</sup> Thomas Curwen

hathe improwyd<sup>9</sup> hym in closure<sup>10</sup> betwene the meresyke and the watter off Lowdyr on the westsyde off Swyndale bek in the whych grounde the sayde Thomas Salkeld hath comon; that is to say<sup>11</sup> two faldys<sup>12</sup> benethe the mere syke in the ocupacion of Hoghe Steuardson: a noder improvementt nere the gate off Toathmain in the occupacion off Robert Lowys: the which two faldys and improvement I awarde ordeinez and demyz to be layde<sup>13</sup> downe for evermore from the testie of the Invencion off the Holy Crosse next comyng: Also where I fynd ane improvementt in the sayde grounde late takyn by the sayde Thomas Salkeld, in the occupacion oft Rychard Colethwayt betwene hys tenement att Gothescroftt and watyr off Lowdyr I awarde ordeynez and demys the sayde Improvementt to be layde downe for evermore from the festie off the Invencion of the Holy Crosse next comyng: also where I fynd that certane hay takyn by the sayd Thomas Salkeld and his tenands off Johnne Jakson off Bondby was had away by the sayde Thomas Curwen and hys servands, I awarde ordeynes and demez the sayde S<sup>r</sup> Thomas Curwen to pay or make to be payde to the sayde Thomas Salkeld 2<sup>s</sup> att the festes off Pentecost and Saynte Martyn in Wynter next comyng, by evyn porcions; Also where I fynd certane corne byg<sup>14</sup> and hawer<sup>15</sup> off Johnne Clybburn hurte by the sayde Thomas Salkeld and his servands I awarde ordeynes and demez the sayde Thomas Salkeld to pay or make to be payde to the said S<sup>r</sup> Thomas Curwen 2<sup>d</sup> in forme abofe sayde; also where I find Herry Dobson tenand to the sayde Thomas Salkeld bett<sup>16</sup> and sore hurt by the sayde S<sup>r</sup> Thomas Curwen and hys seruaunds, I awarde ordeynez and demez the sayde S<sup>r</sup> Thomas Curwen to pay or make to be payde to the sayd Thomas Salkeld 13<sup>s</sup> 4<sup>d</sup> in forme abofe sayde: also where I fynd certane catall off Richard Salkeld off Corkby agestyd<sup>17</sup> by the sayd Thomas Salkeld in to Maysdale (Mosedale) the grownde off the sayde Sir Thomas Curwen I awarde ordennez and demyz the sayde Thomas Salkeld to pay or make to be payde the ageste<sup>18</sup> off the same catall to the fermours off the sayde Moysdale, acording to his premysse and dewty, in the fourme aboveseyde: also where I fynd that certane hurt was done in the medow off John Jakson of Bondby by the sayde Thomas Salkeld and hys frends tenands and servands I awarde ordeynez and demyz the sayde Thomas Salkeld to pay or make to be payde to the sayde S<sup>r</sup> Thomas Curwen 2<sup>s</sup> in fourme abofesayde: also where I find that Robert Lowys tenaund to the sayde S<sup>r</sup> Thomas Curwen was sore hurt atte the foteball by Willm Hegdaile seruaund to the sayde Thomas Salkeld I awarde ordeyne and demyz the sayd Thomas Salkeld to pay or make to be payde to the said S<sup>r</sup> Thomas Curwen 2<sup>s</sup> in fourme abofesayde. Also I awarde ordeynz and demez that the sayde S<sup>r</sup> Thomas

Curwen nor the sayde Thomas Salkeld fromehensforthe sall close nor improwe<sup>19</sup> from the meresyke to the wattyre of Lowdyr abofe sayde, with owt assent off bothe the partyes: Also where I fynd many odur complaynts on bothe the saide partyes, by the advyce off my councell I awarde ordeynez and demyz all such complaynts noght<sup>20</sup> here expressyd to stand fully endytt and amendytt; Also I awarde ordeynz and demyz that alle the payments abofe taxid att the days assygnde sall be payde to my handys or, in myne absence, to my prior in oure abbay off Schapp and yt to be receyved in lyke fourme. In to wytness of thys myne awarde ordynauice and dome I the sayde Rychard busschop and abbott abofe sayde to every partie off thys wryting indentyd hathe sett my seale. Gyfyn the day place and yere abofesayde. (Feb. 26, 1473.)

## NOTES TO BISHOP OF ASAPH'S AWARD.

- <sup>1</sup> Compromytt — submitted to arbitration.
- <sup>2</sup> There—therefore, answering “where as.”
- <sup>3</sup> For any cause—notwithstanding any cause.
- <sup>4</sup> Werd=world, as Mr. Collingwood suggests; Verden is Danish and Norwegian for the world.
- <sup>5</sup> Where—used for where as; it is so used to the end of the document.
- <sup>6</sup> In severall—for separate occupation enclosed so as to be no longer common.
- <sup>7</sup> Close—enclosed.
- <sup>8</sup> Tytill—title.
- <sup>9</sup> Improwyd hym — made the land more profitable for himself (hym).
- <sup>10</sup> In closure—i.e., in making an enclosure.
- <sup>11</sup> The sense here is completed by supplying the words “in making.”
- <sup>12</sup> Faldys—folds.
- <sup>13</sup> To be layde down—to have their dykes removed, levelled.
- <sup>14</sup> Byg—barley.
- <sup>15</sup> Hawer—oats.
- <sup>16</sup> Bett—beaten.
- <sup>17</sup> Agestyd—turned out on to the common to graze. Mediæval Latin, “agistare,” and Norman-French, “agister”—“to put in for depasturing.”
- <sup>18</sup> Ageste—is the payment per week, &c., for depasturing on the common.
- <sup>19</sup> Improve—to separate by enclosure from the common.
- <sup>20</sup> Noght—not.
- <sup>21</sup> Taxid—valued, assessed.