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The Family of
Burnett of Leys

WITH COLLATERAL BRANCHES

FROM THE MSS. OF THE LATE

GEORGE BURNETT, LL.D.

Lyon King of Arms

EDITED BY

COLONEL JAMES ALLARDYCE, LL.D.

ABERDEEN

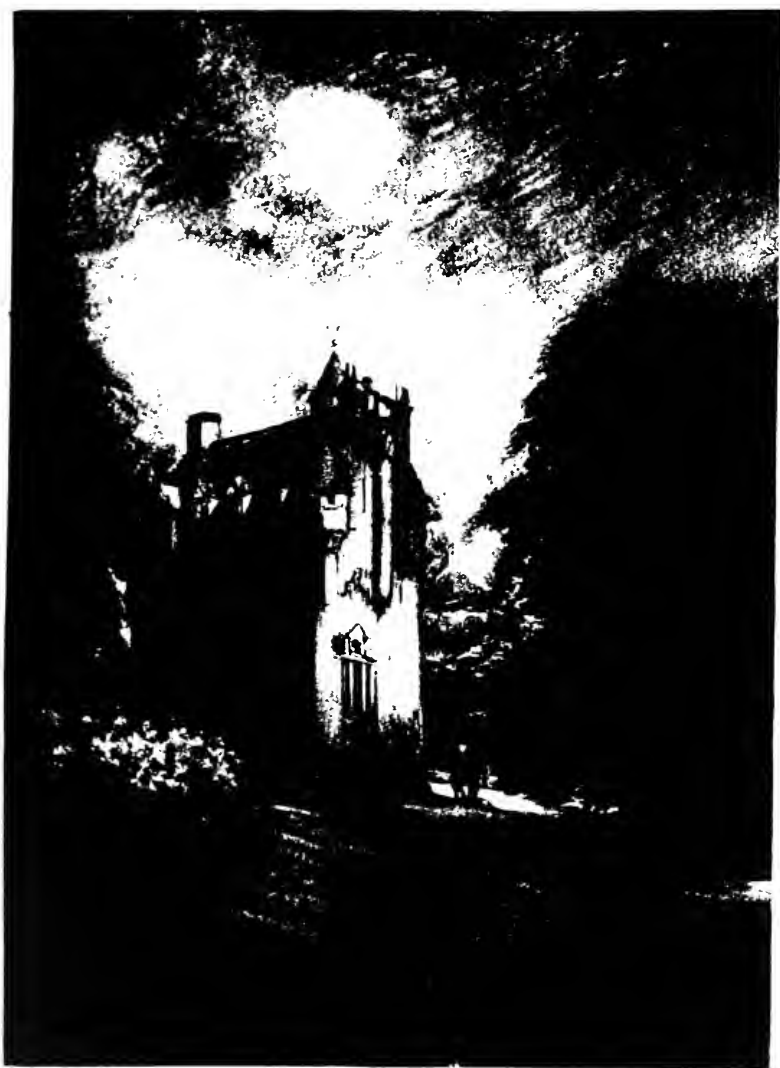
Printed for the New Spalding Club

MCM I

THE FAMILY OF
BURNETT OF LEYS

Only 525 Copies printed.

No. 1 .



The Castle in the Wood
A. J. C. S. S. S. S.

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P R E F A C E .

ONE of the first proposals of the Council of the New Spalding Club was to undertake the issue of a series of histories of ancient northern families, and it was hoped the "Memorials of the Family of Skene of Skene," the first volume issued by the Club, would shortly after be followed by "The Family of Burnett of Leys."

In the second report of the Editorial Committee, printed in the volume above referred to, the following statement appeared: "Mr. George Burnett, LL.D., Lyon King of Arms, has consented to compile for the Club a volume on the ancient baronial family of Burnett of Leys, amplified and illustrated by materials of great interest existing in this country and on the Continent. Sir Robert Burnett, in the most liberal and gratifying manner, has consented to give the Lyon unreserved access to his family papers. At the hands of the last-named gentleman as Editor, we need scarcely point out that we may look for a work peculiarly acceptable to our members."

Dr. Burnett intimated to the Secretary in May, 1887, that he would require at least three years to complete the work. He lost no time in proceeding with his researches into the history of the family—he had already collected a good deal of material suitable for the purpose. He selected many documents from the Crathes Charter Chest, which were carefully copied by the late Mr. James Anderson, M.A. These form a large part of the Appendix of the volume. The great mass of memoranda

and notes of searches made by Dr. Burnett show how thoroughly he had gone into a subject which was after his own heart. Unfortunately he was unable fully to utilize the data he had collected, and the history is incomplete.

To the great regret of the Council of the Club, Dr. Burnett fell into bad health long before the time he had stipulated for had expired. He had not nearly completed the work he had evidently sketched out in his own mind—he left no notes as to his intentions—and his untimely death, on the 23rd January, 1890, was deplored as a heavy loss, not only by his many friends, but by all the members of the Club.

His MS. was made over to the Club, for whose use it had been undertaken, and it was hoped that ere long an Editor would be found for it. After ten years, as no one was forthcoming, I consented, with no little diffidence, to edit the papers. The task has turned out to be a much more difficult one, and it has occupied more time, than I could have anticipated. On careful examination it became evident that the MS. was not in the state in which Dr. Burnett would have sent it to the printer. Several branches of the family had not been reached, for no extended notes regarding these were to be found. It was, however, considered desirable that what had been written out by him should be printed, and I consented to become the Editor.

The materials existing on the Continent, referred to in the report quoted above, Dr. Burnett had decided not to examine—he meant to restrict himself to what was available in the family records.

In submitting to the members of the Club the history of the ancient family from which the late Lyon was descended, and as nearly as possible just as he left it, it has seemed to me to be fitting that a short notice of that most excellent and accomplished man should appear in the Preface of a work to which, had he lived, he would have done every justice; and, at

my request, Sir James Balfour Paul, Lyon King of Arms, who succeeded Dr. George Burnett in that office, has most kindly contributed the following memoir. It will be read with much interest :—

“George Burnett was born in 1822, and was admitted a member of the Scottish Bar in 1845. The Parliament House, during the eighteen years he walked its boards, was the resort of many men whose names are intimately connected with Scottish history and literature. When Burnett first joined the Bar, Aytoun had just been made Professor of Rhetoric in the University of Edinburgh, Cosmo Innes in the year following was elected to the Chair of Constitutional History in the same University, Hill Burton was publishing his *Life and Correspondence of Hume*, and giving evidence of that industry and ability which afterwards made him famous as a historian. Not only so, the systematic study of records and of family history was ‘in the air.’ Joseph Robertson, an Aberdeenshire man like Burnett himself, had founded the Spalding Club for illustrating the history of the north-east counties, a task in which he was ably seconded by another Aberdeenshire man who was also to make a name for himself as a Record scholar, John Stuart : David Laing, the indefatigable secretary of the Bannatyne Club, was constantly adding to our knowledge of Scotland and its people from the deep stores of his learning. William Fraser, with whom Burnett was destined often to cross swords in after life, had not yet begun to write his series of histories of the noble families of Scotland.

“It will be understood that in conditions like these a young man with a taste for historical research was in no want of encouragement—and there can be no doubt that the bent of Burnett’s mind was always in that direction. History does not record whether his fee-book, during the years in

which he attended the Parliament House, ever showed any substantial total at the end of the session. Probably it did not : to earn the reputation of being literary, and to be thought capable of reading anything beyond the works of the Institutional writers and the authorised reports is fatal to a man's hopes of practice at the Bar, except in some very exceptional cases, like that of Jeffrey. Besides, Burnett had not the forensic aptitude : he was not of that smart, ready-witted, agile-minded and thick-skinned type to which the successful counsel belongs. He could argue strongly and hit hard when occasion arose, but to do it effectually he required to have a pen in his hand, and to arrange his thoughts in the quietness of his study. But the years which he spent in the Parliament House were by no means wasted. It would take a duller man than Burnett was to fail to appreciate the immense advantages which lay at his hand in the shape of the Advocates' Library. And so he worked on quietly and steadily, a shy and studious man, not much given perhaps to partaking in much of that rather boisterous humour which is characteristic of the junior bar, but esteemed by his contemporaries for his gentle nature and unassuming manner.

“That he did not waste his early years at the Bar is evident from the fact that, in 1863, after the death of Mr. James Tytler of Woodhouselee, a brother of the historian of Scotland, he was appointed Lyon Depute ; in this position he was practically the head of the heraldic executive in Scotland. His titular chief was the Earl of Kinnoull, whose father had got a grant of the office for two lives, as was then occasionally the practice, so far back as 1796. The second holder of the position under the patent then granted had been in possession for nearly sixty years, but had not taken any active interest in the work. On his death, three years later, the Lyon Office was re-organised on a new footing, and Burnett was appointed Lyon

King of Arms. His work in this capacity is well known to all searchers in genealogical byeways who had occasion to seek his assistance. It was an office for which he was pre-eminently qualified, and he did much to restore the prestige of a position which, owing to a variety of circumstances, had to some extent lost the confidence of pedigree scholars. For nearly a quarter of a century he administered the office wisely and well. Several important Peerage cases were decided during that period, and his assistance and advice were gladly sought and given in many of them. Few persons were so intimately acquainted with the Mar case as Burnett was, and in that and other instances his trenchant pen was always ready to defend what he considered to be the right. Two articles which he contributed to the *Journal of Jurisprudence* in 1883 and 1885 conclusively show what a profound knowledge he had of Peerage Law, and how clearly and incisively he could communicate his knowledge. The article on Jurisdiction in Scottish Peerages, which appeared in the first mentioned year, is a review of Mr. Hewlett's book on that subject, and points out with vigour and emphasis, though with perfect courtesy, the errors into which that author fell. The other, on the Earldom of Mar Restitution Act, which appeared in 1885, is an excellent *resumé* of the history of the title, and the circumstances which made it expedient that such an Act should be passed.

“ But perhaps the most readable and brilliant of anything that Burnett wrote was the little book published in 1865, entitled ‘ Popular Genealogists, or the Art of Pedigree Making,’ which was a scathing exposure of several perfectly mythical pedigrees which had appeared in some of Sir Bernard Burke's volumes, in the days when the productions of that accomplished and amiable Herald were not so carefully compiled as at a later date they began to be. It is safe to say that no more readable book on a somewhat dry subject was ever

written than the one just mentioned. Quiet and almost timid as Burnett appeared to the ordinary observer, he was never more at home than when, pen in hand, he could pitch into his adversary and rend his arguments and conclusions to tatters. He never shirked controversy, though he never invited it. In his 'Red Book of Menteith Reviewed' he turned the whole power of a pen that was epigrammatic and forceful against the errors of that redoubtable compiler of family histories, Sir William Fraser, in a manner which it is doubtful if the latter ever forgot—or forgave. Another very determined controversy was that with Mr. Joseph Foster on the subject of the Marjoribanks pedigree. Whatever the merits of the case may have been—it is useless to re-open the question now—Burnett defended himself against all attacks with a vigour which never failed to leave its mark, and often carried the war into the enemy's camp. But it would be unfair to represent him as a mere controversialist: he could, as we have said, hit, and hit hard, when occasion required, but his was the eye, not of an antagonist but of a patient scholar and expert. The Lyon Office is expected to be a kind of encyclopædia: people come to it from all quarters of the earth, expecting all sorts of questions to be answered. It was seldom that they were sent empty away. Beyond his strictly professional knowledge of pedigrees and heraldry the Lyon possessed a vast amount of varied information: it is said that the only time he ever confessed himself nonplussed was when an individual entered the office bearing a horoscope, and asked his interpretation of it. He was, amongst other things, an accomplished musician, and much of the musical criticism in one of the leading Edinburgh newspapers of the day was, it is believed, from his pen.

“ Burnett left his mark on the Lyon Office, and made it once more an efficient and reliable Heraldic Court. He would have made it still more useful had he left more permanent records of his

presence there ; but, like many other men, he trusted to his own ability, memory and power of research to guide him through each day's work, and did not leave on record so many memoranda as he might have done for the use of his successors in office. Not only in the Lyon Office, but in all public offices, it is of unspeakable importance to have recorded precedent to fall back on in time of need. But busy men have little time for such considerations, and Burnett was a busy man. Amid all his strictly professional work—work of an engrossing and arduous nature—he yet found time to undertake a task which, in itself, would have been no light one. Shortly before his death, in 1877, Dr. John Stuart had undertaken to edit the series of the Exchequer Rolls of Scotland, which were to be published by the Treasury in the Lord Clerk Register's series of Chronicles and Memorials. On Dr. Stuart's death Burnett was asked to undertake the task. In 1878 the first volume was published, prefaced by an introduction of 184 pages from his pen, and such was his industry and enthusiasm in the work that, at the time of his death, twelve years after, he had produced a like number of these very interesting volumes. It is not too much to say that, on the long period which they cover, 1264 to 1507, his introductions throw a light which has illumined the dark places of history in a way which has enabled subsequent writers to treat of the incidents which occurred as could not possibly have been done before. If it were for nothing else, Burnett has placed all students of Scottish history under a profound debt of gratitude to him for these prefaces.

“ Holding as he did the appointment of Lyon for so long a period, it was not to be expected that Burnett would not make some contribution towards the literature of that department of which he was the head in Scotland. The bent of his mind was more towards Genealogy than Heraldry, pure and simple, but of the latter he possessed more than a mere competent knowledge.

He had not, perhaps, a great appreciation of what may be called its artistic side ; of the decorative effects which may be produced by the noble and vigorous rendering of an armorial achievement. But this is merely to say that he was not in this respect in advance of his age. It is only in very late years that this side of Heraldry has come to receive the appreciation which it deserves, and that the splendid examples shown to us in the work of the artists of the 14th and 15th centuries are beginning to be followed. But as regards knowledge of arms, and especially the arms of Scottish families, few were superior to the late Lyon. Of his contributions to the subject, two may be mentioned here : to *Chambers' Encyclopædia* he contributed an admirable article on Heraldry, which, within the limits he had at his disposal, is a carefully thought out and excellently expounded summary of the 'Science.'

“ His other work demands more emphatic notice : for long he had been collecting material for a systematic treatise on Heraldry, but his death occurred before he was able to put this into shape. His MS. was then put into the hands of the Rev. Mr. Woodward, with the view of its being prepared for publication. This gentleman apparently found that there was not so much matter available as had been expected, and ultimately, according to his own statement, the MS. was handed over to him to be utilised in any way which he might think desirable. The result was the production of two large volumes, with a selection of Burnett's work (in brackets), and a great deal of Mr. Woodward's work (without brackets). The scope of the book was widely extended, and was really an introduction to general European Heraldry—the editor having made Continental armory a special study. It must be confessed that when the book appeared it gave rise to some feeling of disappointment in the minds of Burnett's friends. No doubt much of his work was there, but it was overlaid and interwoven with so much

work that was not his that it largely lost its value as an individual piece of exposition. It was published in 1892, with a somewhat patronising preface (in which the very year of Burnett's recent death was wrongly given), and with a cover which drew forth the scorn, not only of the critics in the press, but of all who had elementary notions of what was fit and proper for the clothing of such a work. Not to speak of a dreadful trophy of helmets and spears, which made the book look more like a popular Sunday School prize than a serious work on Heraldry, in the top corner appeared a shield, with what were supposed to be Burnett's arms on it, but which were really something very different! On the titlepage itself the name of him in whom the inception of the book lay, and on whose foundation it was built, was relegated to the second place, and the work appeared as 'Woodward and Burnett's Treatise on Heraldry.' In the next edition of the book, which appeared in 1896, Burnett's name disappears altogether, his special work was eliminated from the pages, and Mr. Woodward became wholly responsible for the contents. This he had a right to do, whatever may be thought of the taste shown in doing it, and he gives his reasons, satisfactory no doubt to himself, for it in his Preface, but many of Burnett's friends felt a not unjustifiable regret that in this way his work on Heraldry, which, though incomplete, was, so far as it went, scholarly and interesting, should so completely disappear. As an instance, may be mentioned the account of Heraldry in the Highlands, and the marshalling of Scottish arms, as illustrated in the Douglas seals, which is found in Chapter XVI. of the first edition, but which was omitted in the next.

"Another, though smaller and less important, piece of literary work which he did was the writing a series of biographical notices of the members of the Scottish Bench and Bar, whose portraits, sketched by Robert Scott Moncrieff of Fososway, appeared in a volume entitled 'The Scottish Bar Fifty Years

Ago.' The notices are necessarily slight, but are accurately and carefully done.

“A student, and almost a recluse, Burnett never sought for honours ; but it was felt by all his friends to be only a fitting acknowledgment of his labours when the University of Edinburgh conferred the degree of LL.D. on him in 1884.

“He died—after a strenuous and useful life—on the 23rd January, 1890.”

The families which Dr. George Burnett's MSS. embrace are those of Leys the chief line, of Balmain paternally Burnetts, of Craigmyle now extinct in the male line, of Kemnay and of Crimond. The Monboddo branch had not been reached, but a genealogical table of that family had been drawn up by the late Lyon, and particulars obtained from family papers have been added to make the account of this branch correspond, to some extent, with what had been written regarding the others. As regards Lord Monboddo, perhaps the most remarkable man of the race, his biography has yet to be written. I have referred in a foot-note to various works where a short sketch of his history is given. It will be noticed in the account of Bishop Burnet, of the Crimond branch, that his eldest son became Governor of New York, but left no male descendants. It is well known, however, that there are many families of the name in America who claim descent from Burnetts in the north-east of Scotland, and it is matter of regret that, for the reasons already given, none of the descendants of Burnetts who have settled in America came within the scope of Dr. George Burnett's researches.

For the use of the portrait of Lord Monboddo, of which a beautiful reproduction will be found amongst the illustrations, I beg to thank Capt. Burnett of Monboddo, who kindly placed it at my disposal. The other illustrations of the volume have

been presented by Sir Thomas Burnett, Bart., to whom the Club is much indebted, and to whom my own thanks are especially due for the great assistance he has rendered me.

I desire to record my obligations to the Secretary of the Club for the ready help at all times given me, and also for his kindness in furnishing abstracts of the various Latin documents which appear in the Appendix.

For the Index I am indebted to my daughter, Miss Mabel D. Allardyce.

The editing of such a MS. as has fallen to me to deal with can scarcely be satisfactory. I trust the members of the Club will make allowances for the difficulties that had to be met.

J. A.

CULQUOICH, *20th June, 1901.*

TABLE OF CONTENTS.

	PAGE
CHAPTER I.—Southern Ancestors	1
" II.—Deeside Burnetts, the Family of Burnett of Leys	6
" III.—The Ramsays of Balmain, paternally Burnetts	101
" IV.—The Burnetts of Craigmyle	112
" V.—The Burnetts of Kemnay	118
" VI.—The Burnetts of Crimond	130
" VII.—The Burnetts of Monboddo	143

APPENDIX.

No.	PAGE
I.—Charter by Alexander II., dated 16th October, 1247	151
II.—Charter by Robert I.	152
III.—Charter by David II., dated 17th November, 1358, confirming Charter by Robert I., dated 28th March, 1323	153
IV.—Charter by David II., of same date, confirming Charter by Robert I., dated 29th January, 1323-4	156
V.—Charter by Robert II., dated 26th December, 1378	157
VI.—Charter by Robert, Earl of Fife and Menteith, dated 17th March, 1390-1	158
VII.—Charter of Confirmation of the last by James, 2nd Earl of Douglas	159

No.	PAGE
VIII.—Charter by Robert III., dated 18th February, 1398-9	160
IX.—Retour of William Charteris of Kinfauns, dated 30th October, 1443 	162
X.—Charter of Excambion by Alexander Irvine of Drum, dated 2nd March, 1458-9 	163
XI.—Charter by James III., forming Barony of Leys, dated 25th April, 1488 	165
XII.—Attestation by Bishop of Aberdeen, dated 2nd May, 1488 	168
XIII.—Charter by Thomas Charteris of Kinfauns, dated 12th August, 1544 	169
XIV.—Charter by Cardinal Beaton, dated 17th April, 1545	171
XV.—Confirmation of above by Cardinal Beaton, dated 26th May, 1545 	176
XVI.—Confirmation of above grant, dated 30th June, 1545	181
XVII.—Inquest on Thomas Charteris of Kinfauns as heir to his grandfather, dated 17th April, 1546 ...	186
XVIII.—Lease of Invery by Archbishop of St. Andrews, dated 20th March, 1550-1 	187
XIX.—Testimonial ratifying Charters Nos. III. and XI., dated 18th February, 1552-3 	190
XX.—Charter of Invery by Archbishop of St. Andrews, dated 26th November, 1554 	191
XXI.—Charter of Resignation by Commendator of Arbroath, dated 11th August, 1557	195
XXII.—Dispensation by Archbishop of St. Andrews for marriage of William Burnett and Janet Chalmer, dated 19th August, 1558 	199

CONTENTS.

No.	xxi. PAGE
XXIII.—Precept of Sasine by John Charteris of Kinfauns to Alexander Burnet of Craigmyle, dated 6th October, 1563	200
XXIV.—Procuratory by John, Commendator of Arbroath, in favour of Alexander Burnett and his son, dated 6th September, 1566	202
XXV.—Charter by James VI., confirming No. XX., dated 11th May, 1585	203
XXVI.—Description of lands in Instrument of resignation, dated 13th July, 1609	205
XXVII.—Letters, 1 to 7, from Duncan Burnett to his brother and nephew, 1609-12	206
XXVIII.—Charter by James, Marquis of Hamilton, to Alexander Burnett of a feu duty, dated 13th May, 1614	216
XXIX.—Charter by the same to the same of tithes of Banchory, dated 13th May, 1614	219
XXX.—Charter of Novodamus by James VI. of Pittenkerie, &c., dated 17th March, 1617	222
XXXI.—Disposition of lands in Nova Scotia to Sir Thomas Burnett, dated 7th November, 1625	227
XXXII.—Patent of Baronetcy to Sir Thomas Burnett of Leys, from a translation in the Crathes Collection	232
XXXIII.—Contract of Marriage between the sons of Sir Thomas Burnett of Leys and the daughters of Mr. William Burnett, minister of Kinerny, dated 10th February, 1642	257
XXXIV.—Act of Committee of Estates in favour of Sir Thomas Burnett, dated 22nd May, 1650	260

No.	PAGE
XXXV.—Private Register of Sir Thomas Burnett, Nos. 1 to 7, 1651-52	261
XXXVI.—Will of Sir Thomas Burnett, dated 8th December, 1652	277
XXXVII.—Retour of Alexander Burnett to his grandfather, Sir Thomas Burnett, dated 10th March, 1654...	284
XXXVIII.—The Arms of Burnett of Leys (registered 1673) and branches, with an account of the Horn of Leys, contributed by Sir Thomas Burnett, Bart. ...	289
XXXIX.—Muster Roll of Capt. Wm. Burnett's Troop of Dragoons, 1691-92 ... (see p. 74)	294
XL.—Inventory and Appretiation of the Household Furniture of Crathes, 1760... ..	295
XLI.—Letter from Alexander Burnett of Kemnay to Sir Andrew Mitchell, dated 14th June, 1765 ...	315
XLII.—Letters, General William Burnett to his brother, Sir Robert Burnett, 1792-3, Nos. 1 to 5 ...	323
XLIII.—Account of Crannog in Loch of Leys... ..	328
XLIV.—Description of the old Ceilings and of Gallery at Crathes, by Sir Thomas Burnett, Bart. ...	330
XLV.—Account of the Family of Burnett of Shettocksley, from Notes left by the late Dr. George Burnett	344
INDEX	347

LIST OF ILLUSTRATIONS.

No.	<i>Frontispiece.</i> <small>PAGE</small>
I.—Crathes Castle from the West	2
II.—Seals of Roger, Odo and Richard Burnard	22
III.—Crathes Castle from the South	24
IV.—Stones on exterior of Crathes	32
V.—Stones on South front of Crathes	39
VI.—Stone on exterior of Crathes	41
VII.—Sir Thomas Burnett, 1st Baronet, from the portrait by Jameson at Crathes	134
VIII.—Bishop Burnett, from the portrait by McIlvraith in Marischal College	143
IX.—Lord Monboddo, from a drawing at Monboddo	147
X.—Miss Burnett of Monboddo, from a painting by Nasmyth at Monboddo	154
XI.—Facsimile of Charter of David II., anno 1358	157
XII.—Facsimile of Charter of Robert II., anno 1375	289
XIII.—Coat of Arms from Interior of Muchalls	292
XIV.—The Leys Hunting Horn	296
XV.—Oak Chair	298
XVI.—Oak Panel in Bed	307
XVII.—Scottish two-handed Sword at Crathes	330
XVIII.—Painted Ceiling of "The Muses" at Crathes	333
XIX.—Painted Ceiling of "The Nobles" at Crathes	336
XX.—Painted Ceiling of the Green Lady's Room at Crathes	338
XXI.—The Gallery, Crathes Castle	

THE FAMILY OF BURNETT OF LEYS.

CHAPTER I.

SOUTHERN ANCESTORS.

THOUGH the reign of Robert Bruce is the period when the Burnards (afterwards Burnetts) began first to be connected with the district of Scotland whose history and antiquities the New Spalding Club is intended to illustrate, it is hardly inappropriate to begin by touching briefly on what genealogical research has brought to light regarding the progenitors of the family in an earlier age in England and the South of Scotland.

There is proof, amounting to moral certainty, that the Saxon family of Burnard, which flourished in England before the Conquest, were the progenitors of the first Alexander Burnard who settled on Deeside. With the help of the Domesday Survey, the Chartulary of St. Neots, (MS. Cotton. Faust A. iv.), and certain Charters of the Abbey of Waltham, relating to their portion of the Manor of Alrichesey or Arlesey in Bedfordshire, we have materials for giving a genealogy of the family from the Conquest to the thirteenth century. A number of possessions, in different counties, which had belonged in the reign of Edward the Confessor to Athelstan of Boscombe (in Wiltshire), a thane of that king (including a portion of the above-named Manor of Arlesey), were transferred by the Conqueror to William de Ow, whose name is in various entries in the Domesday Survey, coupled with that of Burnard as his mesne tenant. Burnard held of the same lord the above-named Manor of Arlesey; in Hampshire an unnamed manor, in Rodedic hundred; in Wiltshire the

Manors of Cholderton (Celdraton, Chalvertoun), and Codford; and at Haneslawe, in Bedfordshire, he is named as the holder of a hide of land from Azelina, wife of Ralph Taillebosc.

The son in all probability of the Domesday tenant, "ROGERUS FILIUS BURNARDI," bestowed, in the reign of Henry I., on the monks of St. Neots various portions of the Bedfordshire and Wiltshire manors held by his father. The St. Neots Chartulary has preserved the Christian names of his two wives, Rohays, who predeceased, and Elita, who survived him. Two younger sons of this Roger are alluded to in the Waltham Charters, Gilbert and Stephen (with his sons, Walter and Nicholas), and from the St. Neots Chartulary we learn that another younger son founded a branch of the family seated at Beston, in the county of Bedford.

ROGER BURNARD, eldest son of this Roger, was at least equally with his father a benefactor to St. Neots, on which he bestowed the churches of Boscumbe, Cheldreton, Cotford, and Eddeworth, for the souls of his father and mother, whose bodies rest there. His wife's name is given as Margaret. Roger's son—

ODO BURNARD, confirmed the above gifts, granted various charters to Waltham, and was alive in 1192; and in Odo's seals attached to the Waltham documents lies the chief evidence that the Burnards of Wiltshire and Bedfordshire were progenitors of the Burnetts of the North. Armorial seals were then a novelty, and only used by families of more than ordinary consideration. Two seals of Odo are extant, the earlier has the device of a leaf not within a shield, but in the later seal of strictly armorial character are three leaves placed on an escutcheon.

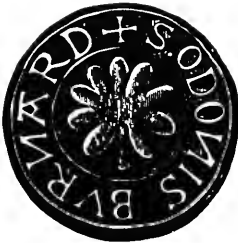
ROGER BURNARD, Odo's son and successor, had, we learn, remonstrated against the presentation by the Prior of St. Neots of an incumbent to the church of Eddesworth, and a letter has been preserved from his mother, Matilda Burnard, withdrawing his objection on becoming aware that that church had been bestowed on St. Neots by her husband's predecessor.

In 1230, we find in the St. Neots Chartulary, Matilda, widow of William Burnard of the Beston branch, and Robert and Richard, her sons.

Further mention is found in the Testade Nevill (p. 247) of Roger Burnard, holding various feus, partly those above-mentioned, in Bedfordshire and Wiltshire, of the Earl Marshal, who had come in place of William de Ow. Material may possibly exist for tracing the pedigree of those Burnards



1.



2.



3.



4.

SEALS OF ROGER (1), ODO (2 & 4), AND RICHARD (3) BURNARD.

further. For a long time past the name Burnard has not been connected with land in the counties alluded to: but it is still to be found in the common walks of life.

The most learned Scottish genealogist of the present century, John Riddell, referring to an article on the Arlesey estates of the Abbey of Waltham in the *Collectanea Topographica et Genealogica* (Vol. 6), from which much of the foregoing information is derived,* expressed himself thus in a letter of 10th February, 1857, to the late Sir James Burnett:—“These English authorities carry the family back to a more ancient period than that of the Norman Conquest, and earlier than in Scotland as yet known by existing vouchers. I have little doubt that, as stated in your pedigree, Burnard is of Saxon origin, and hence even prior to the Conquest, the surname first appearing in England.”

In the twelfth century Burnards appear among the numerous English who came to Scotland in the train of David I. They are found owning the very considerable barony of Farningdoun, or Fairnington, in the county and parish of Roxburgh, and figure during the 13th century as benefactors of Melrose and other religious houses. About the year 1200, Roger Burnard made two grants from his lands of Farningdoun to the monks of Melrose, one of them witnessed by his sons, Geoffrey, Ralph, Walter and Richard (Cart. Melr., 75, 76). These grants were afterwards confirmed by Alexander II. and Alexander III. About 1208, Ralph Burnard, son and heir of Roger, granted to the Bishop of Glasgow fuel from his peateries of Farningdoun for his house of Alnecrumb (Reg. Episc. Glasg., pp. 99, 100).

Walter Burnet occurs in the reign of William the Lion as witness to a charter of Stephen de Blair to the monks of Cupar (Rental Bk., i., 333). Sir Richard Burnard, and Symon of Fard, Steward of Farningdoun, witness a charter in 1250 (Cart. Melr., p. 306). A Patrick Burnard, probably one of the family, held lands near Gordon in Berwickshire in 1250. In 1252 (*Ibid.*, p. 299), Richard Burnard, “dominus de Farningdoun,” sold to the Abbey of Melrose his meadow of Farningdoun, called Eastmeadow, a sale which was confirmed the same year by Alexander III., the charter of sale having appended to it a seal with a single leaf, like the earlier seal of

* The reader who is specially interested in this subject is recommended to peruse, in detail, this valuable article, the writer of which seems to have known nothing about the Scottish Burnetts, who are never alluded to.

Odo Burnard. In 1264, one Henry Burnet, whose connection with the family is not known, was *serviens justiciarii* (Exch. Rolls, i., 4). The fact that we know this roll, and also the charter to the monks of Cupar, only from a copy of later date, may in both instances account for the modern orthography of the name.

The *Rotuli Scotiæ* [I., 10] contains a grant by Edward, as Superior of Scotland, to the Bishop of Glasgow, of date 11th September, 1292, of the custody of the lands of the deceased Roger Burnard of £10 15s. 9½d. per annum extent till the majority and marriage of his son and heir, and the marriage of his widow.

In 1338, 1354 and 1358 the name of John Burnard, "dominus de Farningdoun," appears as witnessing charters. After that date we lose any trace of the connection of Burnards with Farningdoun. In 1381, Richard II. claimed the barony of Farningdoun as his own, and in 1581 and 1585 James VI. ratified an infestment of Francis, Earl of Bothwell, in Farningdoun. In 1647 it became the property of Rutherfords.

The surname of Burneville appears in Scotland in the 12th century, and the Burnevilles have sometimes been wrongly supposed to be ancestors of the Burnetts. This idea seems to have originated with the Burnetts of Barns, in Peebleshire, who at one time contested the chieftainship with Leys. As far back as the 15th century this branch of the Burnett family possessed a small portion of land in the parish of Manor, in that county, named after them Burnetland, of which local name the Burnevilla occasionally appearing in charters (once only under the form of Burnetvilla) has been regarded as a translation. Such a latinization is, however, hardly accordant with analogy. Or Burneville was probably the equivalent of Burntoun. William of Burntoun was Mayor of Berwick-on-Tweed from 1333 to 1336. Nisbet alludes to the foundation of a chaplainry in the church of Manor of 1400 by John Burnet "of that Ilk," the founder being undoubtedly John Burnet of Burnetland, and the progenitor of the Burnetts of Barns. The lands of Barns, which seem to have belonged to this family from at least the closing part of the 15th century, and eventually became their principal possession, were alienated by the late representative, James Burnett of Barns, in 1838. His last surviving son, Mr. Montgomery Burnett, who died 19th March, 1887, was the author in 1845 (2nd ed., 1882) of a privately printed and carefully compiled account of the Burnetts of

Barns, which, excepting only the blemish in the adoption of the untenable Burneville theory, is an excellent family record.

The Burnetts of Burnetland and Barns were beyond reasonable doubt an offshoot from the Burnards of Farningdoun. The arms borne by them were those of the English Burnards, and we find them down to a late date (1585) called from time to time Burnard.

The house of Barns, like that of Leys, produced a prelate of some note, Alexander Burnett, who was Bishop of Aberdeen, 1663; Archbishop of Glasgow, 1664; of St. Andrews, 1679; and died 1684.

Before quitting the Burnetts of the South of Scotland, allusion may be made to one, John Burnard, probably of the Farningdoun family, owner of half Ardroy in Fife, and a third of Currie in Midlothian, who accompanied David II. in that ill-advised and unfortunate march southwards, which culminated in the crushing defeat of Durham and captivity of the King. In the course of the expedition David captured the fort of Liddell, held against him by Walter Selby. Burnard was severely wounded during the assault, and had to be left behind in a dying state at Roxburgh. The disaster at Durham was immediately followed by the surrender of Roxburgh Castle to the English—in which fortress Burnard died. In the disorganization of public affairs that followed, it came to be believed that Burnard was a traitor, who had voluntarily joined the enemy, and his estates were forfeited and bestowed on Alexander Manteland or Maitland (Robertson Missing Charters, 31, 39; 36, 40). On the true state of matters being represented to David after his return from captivity, the grant to Maitland was revoked, and the lands in question restored to Burnard's kinsman and nearest heir, William of Dishington. (Reg. Mag. Sig., I., p. 62, No. 197. Acts of Scots Parliament, I., p. 172.)

CHAPTER II.

DEESIDE BURNETTS.

I. ALEXANDER BURNARD.

AS soon as Bruce was firmly established in his kingdom, he began to recompense those adherents who had been faithful to him in the struggle for independence, both from the forfeited estates of the partisans of England and from what had hitherto been the Crown possessions. In Aberdeenshire and Kincardineshire there was a large inversion in the ownership of land, and among other new settlers were the ancestors of two families whose early history is, for a time, somewhat intermingled, and who are remarkable as having continued down to the present time to flourish side by side on the banks of the Dee, in possession to a large extent of the lands originally granted to them, namely, William of Irvine and Alexander Burnard. The former came from the south-west of Scotland, where his surname was a local one, and where a separate branch of his family has continued to survive at Bonshaw in Dumfries-shire. The latter, doubtless, was a member of the Farningdoun family, perhaps one of the sons of the Roger, the custody of whose lands had been committed to the Bishop of Glasgow; but we know little of his history, and can only judge by the extent of land granted him that he had rendered considerable services to the King, in other ways besides those about to be alluded to connected with the park of Drum. Of Irvine it is known (from the Exchequer Records) that he held the office of Clerk Register (*clericus rotulorum et register*). He is also believed to have been the King's secretary, and a man of unusual learning and culture for a layman.

Drum had been a royal forest before the War of Succession, and part of that forest had been converted into a park soon after Bruce's peaceable settlement. Another portion of this forest had been bestowed on Burnard before 1st February, 1322-3, as appears by a grant of that date in the Drum charter chest of that portion of the forest which is not included in the park to William of Irwyn and his heirs, "exceptis terris per nos datis Alexandro dicto Burnardo de eadem foresta" (Antiq. Ab. Banff, III., 292). On 28th March, 1323, a charter was granted to Alexander Burnard proceeding on the narrative that the custody of the Forest of Drum, at first granted to Burnard, had been transferred to William of Irwyn: and the King grants to Burnard for his aid in making the aforementioned park Killenachclerach, and certain other lands in the said forest, described by boundaries set forth at length; also, in compensation for the loss of the forestership, the six merk lands of Easter and Wester Cardney, also described by their boundaries. The reddendo is a chalder of oatmeal to be paid to the King for the keeping up of the park.

The name of Killenachclerach survives in Collonach and Canneglerach. Of the lands in the forest here conveyed, the Dee was the southern boundary from the ford of Durris to the mouth of the stream (now called Bennie), issuing from the Loch of Banchory (the now drained Loch of Leys). The west boundary, following the course of this stream, includes the loch and island of Banchory (Leys), and, though some of the landmarks given can no longer be identified, the northern boundary adjoins the marches of Tillibothville. Easter and Wester Cardney, extending towards the Loch of Skene, are a little disjointed from the other subjects, and are not distinctly asserted to have been royal property.*

Two years later, on 29th January, 1324-5, Alexander Burnard had a second charter, conveying apparently lands that had come into the King's hands by the forfeiture of the Cumyns, namely, Tullibothil, in the Sheriffdom of Kincardine, and the barony of Little Culter in that of Aberdeen, described as formerly belonging to John of Walchope, "pro homagio et servicio."

* A transcript exists of a Charter by Robert Bruce to Sir Alexander Fraser of Cluny, dated 18th June, 1325, of our lands of the Cardneys, with the tenantry in the same, belonging to Alexander Burnard, and the fishing on the Loch of Skene belonging to these lands (Antiq. of Aberdeen and Banff, III., 316, from Gordon Charter Chest).

Tullibothil, whose ancient boundaries are alluded to in the previous charter, is shewn by later charters to be identical in whole or in part with Kilduthie, lying two or three miles north of Crathes Castle. Little Culter, again, lay eastward of the lands conveyed to William of Irvine. A family of Wauchope can be traced as landholders on Deeside in the reigns of the Alexanders, and there are at Crathes several transcripts of a charter by Alexander II. to Robert of Walchope, son of Alan Walchope, for homage and service of the lands of Tulimacboythne. The boundaries are minutely described and extended, even as far as the Loch of Banchory.

The heiress of the Wauchopes married Comyn of Inverallochy, whose family, though unlike most of the Comyns, allowed to retain a large share of their possessions, seem to have had the portion taken from them which was bestowed on Burnard. There is, however, some obscurity as to the continued possession of Tilleboy and Little Culter by the Comyns as heirs to the Wauchopes, which will be alluded to below.

Neither of these two charters to Alexander Burnard has been preserved. Their exact tenor is known by confirmations of each granted by David II. to the same Alexander Burnard in 1358, quoting the original at length. The confirmation of the earlier writ is in the Crathes charter room, that of the latter is in existence only in a notarial transcript in the same repository. Both are printed in the Appendix, and the former facsimiled. King Alexander's charter to Robert Wauchope will also be found in the Appendix.

The only mention of Alexander Burnard in the extant Exchequer accounts of that date (which are very defective) is the note of a gift to him by the King of £13 4s. 8d. (in Account of Customs of Aberdeen, Jan., 1327-8, Exch. Roll, I., p. 99).

Incidental mention has been made of the island in the Loch of Banchory, which, with the loch itself, was conveyed in the charter of 1323. The loch, which had already been curtailed of its old dimensions in the earlier part of the last century, was completely drained in the year 1850. The foundations were then laid bare, both of the island itself and of an ancient building on it. The island was artificial, constructed of earth and stones laid on a substratum of oak and birch trees, a circuit of oak piles having been driven in to protect it from the action of the water. It measured about 200 feet by 100 feet, and rose about 10 feet from the

bottom of the loch, and had on it the foundations of the ancient dwellings called crannogs.

The word *crannog* may to some readers suggest only a structure of prehistoric times, but there is clear evidence that these ancient buildings, altered and modified so as to meet the requirements of later times, continued to be used as fortresses and habitations, not in Ireland only, but in some parts of Scotland, to as late a period as the seventeenth century. Directions are contained in an Act of the Scottish Privy Council in 1608 for the surrender to the King of the "hail houssis of defence, strongholds and *cranakis* in the Ylis," pertaining to McConnell of Dunyvaig and McLean of Dowart (Reg. Priv. Coun., viii., 737).

The building in question has been conjectured to have been a fortalice of the Wauchopes before the time of Bruce's wars, a supposition which there is some difficulty in reconciling with its inclusion in the charter of lands within the Forest of Drum, though Wauchope's lands as defined in a charter of Alexander II. certainly adjoin it.

An interesting account of the crannog was given in a paper by the late Dr. John Stuart in the *Proceedings of the Society of Antiquaries of Scotland*, Vol. 6. (see Appendix). But, whatever its early history, there is strong reason for believing that a building on the site of the old crannog was the seat or stronghold of Alexander Burnard and his successors down to the middle of the sixteenth century, when Crathes Castle was begun. Its occupation during that period was proved by the fact that in the course of the draining operations there were found buried below the bottom of the lake some bronze pots or cooking utensils, of which several were presented to the Society of Antiquaries, and four are now at Crathes. Those in the Museum of the Society of Antiquaries have been pronounced by archæological experts to be not earlier than the fourteenth, nor later than the sixteenth, century.

The successor and probably eldest son of Alexander was—

II.

SYMON BURNARD, whose son—

III.

WILLIAM BURNARD, had, on 26th December, 1378, a charter from Robert II. (now at Crathes and facsimiled), on the resignation of his

father, Symon, of all the lands held by the said Symon in the Forest of Drum, "faciendo inde servicium debitum et consuetum." The records of Parliament allude to a dispute between David of Græme and William Burnard about the possession of Kynnater, in which Burnard was in February, 1369-70, not found to have had lawful sasine.

The chalder of meal which is the reddendo in the charter of 1323 seems to have been assigned by the King to John Moygne. Among the Drum writs is a charter by Moygne to his friend, Alexander Irwyn of Drum, of a chalder of meal, payable by William, called Burnard, of date 1393. The name of William Burnet occurs in 1417, as one of the assize on a perambulation of marches between Tarves and Udney (Reg. Nig. de Arbr., p. 50), and in 1418 as one of the assize on the service of Murdoch Glaster in Glack (Reg. Episc. Aberd., I., 216), but this William, in one or both of these writs, may possibly be William Burnard of Gask.*

The next representative of the family—

IV.

ROBERT BURNARDE, very probably son of William, who in 1391 renders an account as Deputy-Sheriff of Kincardine, the principal Sheriff being Sir William Keith (Exch. Rolls, III., 264). Robert Burnat (probably the same) was on 24th April, 1400, one of the Assize on an inquest before the bailie of the regality of Arbroath on the succession of Alexander of Ouchterlony to his father (Reg. Nig. de Arbr., p. 47).

V.

JOHN BURNET "of Leyis" was present at a deposition of date 22nd September, 1446, regarding the mortgaging of Easter Skene to Sir William Keith Marischel (Antiq. Ab. Banff, III., 321). The designation of Leyis is met here for the first time—and Leyis in charters from

* That John Burnard, macer, who was made a connecting link in the pedigree in Burke's *Peerage*, may have been a son or grandson of Alexander Burnard, is rendered probable from his being mentioned in connection with this district. He had an annuity from the Two Carnousies, which was struck at (nominally) by David's revocation of 1367 (Acts of Parliament of Scotland, I., p. 144). The same annuity was, in 1370, granted on his resignation to Richard Comyn (Reg. Mag. Sig., I., 74, No. 257). In the account of the bailies of Aberdeen, dated 10th Feb., 1372-3, a payment of 26s. 8d. is made by mandate of the King, Johanni Burnard, clavigero (Exch. Rolls, II., 390).

this date onward is applied sometimes generally to the lands in the Forest of Drum, called Killenachclerach, in the charter of 1323, sometimes more specifically, to the portion of them immediately adjoining the Loch of Banchory. From about this date the surname of the family becomes less uniform—Burnat, Burnet, Burnate, and Bornat being all frequently found. John died between Whitsunday and Martinmas, 1454, and was succeeded by (probably his son)—

VI.

ALEXANDER BURNARD of Leys, who continued in possession for half-a-century (1454-1505), and was, as will be seen, the first "Baron of Leys" during the reigns of James II., III., and IV. Lord Keith, in his account rendered 9th July, 1455, debits himself with £6 13s. 4d., being one term's fermes, "liberi tenementi de Leyis," in the King's hands at the Martinmas term preceding, sasine not having been yet recovered, and with two chalders of meal as double blench ferme of Leyis on his sasine, the Sheriff being directed by the Exchequer Auditors to certify whether the blench ferme of one chalder meal was really the reddendo of Leyis, or a larger blench ferme that had been paid in times past (Exch. Rolls, VI., 83).

The blench ferme of a chalder of meal had, as has been seen, come to be paid by the Crown to Irvine of Drum as keeper of the Park of Drum; but, three years after his succession, on 2nd March, 1457-8, this laird of Leys acquired for himself a right to the chalder in question by the surrender of a portion of land to Drum. Among the Leys writs is a charter of excambion of date 2nd March, 1457-8, by Alexander Irvine of Drum, conveying to his dearest cousin, Alexander Burnet of Leys, a chalder of meal of annual rent due from Wester Cardney and Leys, belonging to the said Alexander, in exchange for a piece of land and water then belonging to the south side of the Park of Drum. The precept for Burnard's infestment of the same date has also been preserved.

The fatal conspiracy by which James III. lost his throne and his life is trite matter of history. The Earl of Angus and other chief actors in the *émeute* at Lauder Bridge, persuaded that, whatever outward reconciliation had been effected between them and the King, their conduct was really past forgiveness, set themselves, in 1488, with the help of England, to organize a fresh revolutionary movement; and gaining,

through the treachery of Schaw of Sauchy, the possession of the young Prince, now in his 15th year, inflamed his ambition with the prospect of a crown, and used every artifice in their power to poison his mind against his father. Abetted by the Humes and Hepburns, and Lord Gray, Lyle, and Drummond, Angus proclaimed war in the Prince's name against the King, and the southern part of the kingdom soon became a scene of violence and revolt. The northern nobles, however, were, as a rule, faithful and loyal: and James, by a sudden move, made his way through Angus to Aberdeen, where he found himself at the head of a large following, with whom he returned southwards. The sequel is well known; negotiations at Blackness, followed by a new outbreak, and the death of the King at the hand of one of the insurgents on the fatal St. Barnabas day, 11th June. Equally well known is the devotedness, after the disastrous day of Sauchie, of the people of Aberdeenshire to the cause of their late Sovereign—and Lord Forbes' progress through the country, displaying the bloody shirt of James III. to incite the multitude to rise against his murderers. The Crathes charter room contains evidence that when James thus retired northwards, the laird of Leys was among his friends and supporters. At Aberdeen, on 23rd April, 1488, Alexander Burnet resigned his whole lands into the King's hands, and two days later he received a charter under the Great Seal (then in the possession of Bishop Elphinstone, who had been appointed Chancellor in supersession of Argyll) uniting the lands of Leys, Killenaglerach, Cullonach, The Hill, Candahill, Crathes with mill, and Drumsallach with Loch of Banchory and Island, in the Sheriffdom of Aberdeen, with Wester Cardney, into one free barony, the reddendo being one penny silver at the head messuage of the lands and barony of Leys at the Festival of Whitsunday. There is a precept of the same date directed to the Bishop of Aberdeen, and an attestation in place of sasine, infesting him in the barony of Canegleroch, in the Sheriffdom of Kincardine, and Wester Cardney, in the Sheriffdom of Aberdeen, united into one free barony in terms of the King's charter and precept, and dated "apud villam de Leyis."

This charter of barony, like others of its date, is not in the extant Register of the Great Seal—but it was not (as will be seen) treated in after times as if struck at by the Act of the first Parliament of James IV. rescinding all gifts of James III. subsequent to 2nd February, 1487-8, in prejudice of "the crown that now is."

It was about this time that we first find a close connection subsisting between the Burnets and the Abbey of Arbroath. In former times the Burnards on both sides of the Border were best known by their benefactions to the monasteries—but the relations of the Burnets of the 15th century to the church were somewhat different in kind. The age of munificent church endowments was past; the Abbeys had reached their climax of wealth and influence; the period of the decline of their power being not far off. The monastery of Tyronensian monks, founded in 1178 at Arbroath by William the Lion, had been, during the pre-Bruceian period, gradually adding to the large possessions with which the King had endowed it by private benefactions, and held the whole in free regality, with Sovereign power over the people, and immense emoluments derived from criminal jurisdiction. One of the twenty-four churches with which its original founder had endowed it was Banchory-Ternan. The lands of this Abbey, which comprised a large part of Angus and Mearns, extended at one point as far northwards as Donside, and bordered on the possessions of the Burnets. They included various acquisitions from Thomas of Lundin, the Doorward, including the forest land at the junction of the Dee and Canny, known then, as part of it now is, as the “nemus de Trostauch.” It was the policy of this religious house to be on friendly terms with the magnates of the district, the greatest of whom were, during the fifteenth century, numbered among the vassals and tenants of the Abbot of Arbroath, the barons obtaining, on evidently favourable terms, the lands which they held on free charter or lease.

Incidental mention is made of this Alexander Burnet in the Arbroath Chartulary as early as 1460, as on an inquest regarding the multures of the Mill of Conweth belonging to the Abbey (Reg. Nig. de Arbr., p. 115), and in 1472, when, along with Alexander Fraser of Durris, he is bailie of the Abbot to execute a precept of sasine in Banchory (*Ibid.*, p. 167). In 1482 the same Alexander Burnet has a nine years tack from the Abbot David* of the greater tithes of the church of Banchory-Ternan, for a tack duty of £15 (*Ibid.*, p. 192). In 1485 he has a lease for life, from the same Abbot David, to himself and Elizabeth, his wife, of the lands and mills of Glenfarquhar (near Bervie Water, in the parish of Fordoun), of which he is said to have been in possession “temporibus

*The friendly relations with Abbot David Lechton (1482-1502) were cemented by the marriage of one of the Lechton family to Ley's grandson and heir.

retroactis" (*Ibid.*, p. 218). This lease is renewed in 1497 for the joint lives of himself, Alexander, his eldest son, and Alexander, his grandson, the tack duty being £8, to be raised after his death to £10, with other services and burdens, "ac eciam ducet sex onera equorum de lignis cinctiorum, videlicet le gyrrhsteyngis granitario nostro . . . vasis nostre brasine aptis" (*Ibid.*, 304).

From 1483 onwards we find Alexander Burnet of Leys witness to various charters, *e.g.*, in 1491, to a rather curious agreement regarding the bell of St. Ternan at Banchory, between the vicar and one John Stalkare (Reg. Episc. Aberd., I., 327); in 1487, to the marriage contract of one of the Drum family with a Gordon of Midmar; and, in 1493, along with his eldest son, to a provision made by the laird of Drum for his children by one Nanny Menzies (Drum Charter Chest, and Selections from the Burgh Records of Aberdeen, Spalding Club, I., 51). In 1490 he has a transaction with the same laird of Drum about water supply to a mill. A mill of Burnet's, near his march with Irvine, had—as frequently happened in those days—been destroyed by floods. Instead of rebuilding it, he agreed that Drum should erect on his own grounds a mill at Newhall, which was to come in its place, Drum giving a grant of common pasture for 16 oxen and cows and 32 sheep, at a reddendo of 1d., in return for the water supply to this newly-built mill. It is stipulated that if Drum or his heirs contravene, he is to pay a penalty of £40, and allow the water to run towards Burnet's old mill.

Elizabeth, the lady of Leys, mentioned in the 1485 tack of Glenfarquhar, seems to have been a Forbes of Echt,* and widow of one Alexander Riock. The omission of her name in the later Glenfarquhar lease suggests that she was dead before 1497. Alexander Burnet died shortly before 15th July, 1505 (Antiq. Ab. Banff, III., 341), leaving issue, besides his heir Alexander, a son Andrew, witness to a sasine in 1507 (*Ibid.*, IV., 740), and a daughter, Christian, who in 1480 or 1481 married, in terms of a papal dispensation on the ground of propinquity, Alexander Cumyn, eldest son of William Cumyn of Culter.† Notwithstanding this

* [Daughter of Alexander Forbes, 2nd of Echt, as appears from a MS. genealogy of the Forbeses of Echt in possession of the Editor.—J. A.]

† Nisbet gives the following account of this marriage, Appendix, p. 57. Cumin of Coulter.

"V. William Cumin, who married Elizabeth Meldrum, daughter to Sir William Meldrum of "Fyvie, Knight, and with her begot Alexander, his eldest son, and William Cumin his second ;

marriage, and the previous propinquity alluded to in the dispensation, the relations between the two families seem to have been by no means friendly. It has been seen that Tilliboy and Little Culter are described in the charter of 1324-5, conveying them to Alexander Burnard, as formerly the property of John of Walchop. It is rather left to be understood, than distinctly specified, that they had come into the King's hands by forfeiture, and it is not specified by whose forfeiture. A bounding charter was, as already noted, granted to Robert, son of Alan of Walchop, by Alexander II. in 1247 of Tilliboy, Culter, and Ardboik, including the lands in question. The heiress of the Walchop family had, late in the 13th century, married Comyn of Inverallochy, and the forfeiture may have been in his time, or his son's. But it is clear that—by some transaction of which we are ignorant—the Comyns soon recovered Culter and Tilliboy, the Burnets, however, not thoroughly acquiescing in their possession of these lands. William Comyn of Inverallochy and Culter was, at all events, so dissatisfied with his eldest son for uniting himself with a daughter of a family with whom he was at feud, that he threatened to disinherit him, and devolve both his paternal estates and those derived from the Wauchopes on a younger son, William. To defeat his father's purpose, Alexander Comyn entered to a Bond of Manrent and Maintenance with Alexander Irwyn of Drum, of date 19th August, 1478. That document set forth how his father had "shaped him of evil imagination and false suggestion" to disinherit him both as to his "auld heritage and new conquests," and Drum as his "chief," binds himself to defend him in both as he would defend his own heritage of Drum, and "fortify him both late and air in judgment as he should defend his man and kinsman."* As the price of this protection, Drum was to get 100 merks, the first payment to be made out of his "marriage gudis," and his marriage is "to be completed, God willing, in

"the eldest married Christian Burnet, daughter to the Laird of Leys, his near kinswoman, and
 "for the consanguinity procured a dispensation from the Pope, dated 11th January, 1480, now
 "in the hands of Cumin of Coulter. His father, William, disliking the marriage, did dispose
 "to his second son, William, the lands of Inverallachie and others he then had in Buchan, and
 "reserved only the barony of Coulter with the pertinents to his eldest son."

* Alexander Comyn's grandmother had been an Irvine. Drum, as has been previously observed, calls Leys as well as Comyn his kinsman. If the mother or grandmother of the latter had been an Irvine, the consanguinity between the Comyns and Burnets would be accounted for, which made the papal dispensation necessary.

all possible haste." There is a further provision that on the death of his father, and his entry to Tilliboy and Culter, he is to infest Drum in these lands (*Antiq. Ab. Banff*, III., 338).

Alexander Comyn's father died soon after this bond was entered into, but had, in his lifetime, succeeded, in despite of Drum, in alienating Inverallochy to his younger son. Christian Burnett's husband, however, got Tilliboy and Culter, and transmitted them to his son, another Alexander Comyn, who was served heir to him on 1st February, 1504-5 (*Ibid.*, III., 340). On 5th July following, this younger Alexander Comyn made a formal protest before Alexander Bannerman of Waterton, Sheriff-Depute of Aberdeen, that his charter of the baronies of Culter and Tilliboy, under the seal of Alexander II., had been deposited for security in the custody of his lately deceased grandfather, Alexander Burnet of Leys, and had, when in his possession, the seal abstracted, to his serious prejudice, a fact of which the Bishop of Aberdeen (Elphinstone) had made him aware.

Following a little further the fortunes of this Alexander Comyn, he resigned Culter and Tilliboy into the hands of James IV. just before Flodden, for a new charter incorporating them into the barony of Culter Cumyn, the precept being directed to the then lairds of Leys and Drum and their respective sons—and we hear of no more assertion of right to Culter by the Burnetts.

VII.

ALEXANDER BURNET of Leys (1505-1529), son of the last, is found in inquests and on services in his father's lifetime in 1493, 1495, and 1498 (*Antiq. Ab. Banff*, III., 301, 335 ; IV., 78). Before 1481 he was married to Janet Gardine, and had from his father on 28th May of that year a grant to himself and his wife of Canneglerocht, a pendicle of Leys, of which for some generations it became the practice to put the eldest son in possession. (A crown confirmation of this charter followed on 2nd June, 1481. *Reg. Mag. Sig.*) Both in his father's lifetime and afterwards his name is of frequent occurrence as witness to charters, and as on assize in services. His sasine in the barony of Leys, of date 10th November, 1505, on retour and precept, is at Crathes. He retained all his father's acquisitions by way of tack from the monastery of Arbroath, and added to them. He had Glenfarquhar under the lease of 1497 for his own life

and that of his eldest son. The tack of the tithes of Banchory was renewed to him in 1505, 1525, 1528, for terms 19, 11, and 19 years respectively (Reg. Nig. de Arbr., pp. 352, 449, 488). The tack duty was, as in his father's time, £93 6s. 8d. ; but he was taken bound to keep in repair the church and choir of Banchory. In the renewal in 1525 his sons, Alexander and "Master" Duncan, were conjoined with him ; that of 8th October, 1528 (shortly before which date his eldest son had died, leaving issue), was taken to Alexander Burnet of Leys, Master Duncan Burnet, his son, and Alexander Burnet of Canneglerocht, his grandson. Another subject held by him was Pettinkerry, in the barony of Banchory-Ternan, of which he had on 20th July, 1505, a 19 years' lease from the Abbot of Arbroath (*Ibid.*, p. 353). He died shortly before October, 1529.

The wife of this laird of Leys, Janet Gardine, belonged to a then flourishing family in Angus, Gardine of that Ilk, who had been notable benefactors of the monastery of Arbroath.

A younger son of the marriage, named Duncan, a churchman, has been mentioned in connection with his father's tacks of the tithes of Banchory. In 1529 (29th April) he gets a 19 years' renewal of his father's tacks of Pittenkerrie, as also tacks (16th July) from the Abbot of Arbroath of Brathenche and of Kinneskie, both in the parish of Banchory, one for seven the other for two merks, in each case conjointly with his nephew, Alexander Burnet of Canneglerocht, who is said to have before occupied Kynnesky, and a few weeks later became laird of Leys, and was the builder of Crathes Castle (*Ibid.*, pp. 490, 494). Duncan had been vicar of Kirkintilloch in the Lennox ; and on 8th July, 1529, he was presented by King James V. prospectively to the rectory of Methlick, which was a canonry or prebend of Aberdeen Cathedral, as soon as a vacancy should occur by the resignation of the then incumbent, Master James Lyn (Privy Seal Reg.). As early as 1537 his name often occurs in the chartulary of the Diocese of Aberdeen as canon of Aberdeen and rector of Methlick. In virtue of his office he had a manse in Old Aberdeen, which, according to Orem's *History*, was situated on the west side of the Chanonry, next to the manse of the rector of Kincardine. As a churchman, Duncan seems to have left a good repute behind him. The chartulary of Aberdeen contains a letter from James V., of date 23rd December, 1540, praying the Bishop to consent to a mortification of two

marks yearly from the prebend of Methlick for mass to be said for the King and for the said Master Duncan ; also, of date 29th April, 1541, the charter of a foundation in favour of the choral vicars and chaplains of two marks yearly out of the manse, canonry, and prebend of Methlick, for an annual mass to be said from the day of his death. The fee of the chaplain is to be 24s. ; of the sacrist for ringing the bells and placing the wax candles on the altar, 2s. ; and of the "præco," 8d.* (Reg. Episc. Aberd., I., 417). In the Obituary of Aberdeen Cathedral, probably by a nearly contemporary hand, the 22nd June, 1552, is given as the anniversary for the souls of Master Duncan Burnet and his parents, the emoluments of which are stated as above (*Ibid.*, II., 214). Due honour is done to Master Duncan in the Obituary of the Franciscan Convent at Aberdeen, where it is said that he was the pater specialis of the Minorite Friars, and every year, when he was rector of Methlick, presented ten merks to the Convent, with altarcloths for the high altar and other altars of their church (Spalding Miscellany, I., 64). In 1550 John Elphinstone, rector of Innernochie, was brought to trial for various offences, including, besides murder and adultery, a charge of having assaulted and several times felled to the earth Master Duncan Burnet, rector of Methlic, "with roungis and battounis," within the Cathedral of Aberdeen, while he was celebrating matins and divine service (Pitcairn's Criminal Trials, I., 356). The date of Duncan Burnet's death is given in the Obituary of the Franciscan Convent on 9th March, 1552 (*i.e.*, 1552-3). The mention of the name of "Duncan Burnet of Methlik" as one of the canons present on 31st March, 1563, at a collation by the Bishop of Aberdeen, following a presentation of one John Kennedy to the bursary of Civil Law in the University (*Fasti Aberdonenses*, p. 127), is probably a clerical slip, for "Thomas Burnet of Methlick" succeeded his grand-uncle, Duncan, in his prebend. In the *Breviary of Aberdeen*, of date 1575, mention is made of a mass for the soul of Duncan Burnet, rector of Methlick, and his parents.

VIII.

ALEXANDER BURNET, younger of Leys, is mentioned in many documents of the time. He was, along with his wife, Agnes Lechtoun,

* The personality and function of the "præco" in the case of an exactly similar foundation by Canon Hamilton is described as the common bellman of the town going through the streets with his bell, calling on the people to pray for the deceased.

put in possession by his grandfather of Collonach and The Hill, in the barony of Leys, of which they had sasine on 5th May, 1501 (Leys Charters). The previous year, on 27th July, 1500, he added to the always accumulating lands held by the Burnets from the monastery of Arbroath, Invercanny and its mill, with half the town of Banchory, with its ferryboat, the tack being for his lifetime and that of Agnes Lechtoun, his wife, the ferme paid for Invercanny being £3 6s. 8d. ; for the half of Banchory, 13s. 4d. (Reg. Nig. de Arbr., p. 331). On 17th June, 1525, the tack is renewed for 19 years to himself and his sons, Robert and Symon, the rent being the same (*Ibid.*, p. 448). The Symon here mentioned was perhaps the Symon Burnet who, on 8th January, 1558-9, appears in the Aberdeen Burgh Records as objecting (along with Menzies of Pitfoddels, the Provost, and others) to the proposal—soon afterwards carried into effect by some of the barons of the Mearns and townsmen of Aberdeen—of pulling down the Convents of the Black and the White Friars, and appropriating their property to the town, a purpose characterized by them as “manifest treason” (Burgh Records of Aberdeen, Spalding Club, I., p. 316).

Alexander was alive 2nd September, 1525, but died before 11th February following.

IX.

ALEXANDER BURNET of Leys (1529-1574). Alexander Burnet of Canneglerocht, as heir to his father, Alexander Burnet of Colonach, had, on 11th February, 1525-6, sasine on a precept from his still surviving grandfather, Alexander Burnet of Leys, of Colonach and The Hill. Under the same designation, “of Canneglerocht,” he had on 1st October, 1529, sasine of the barony of Leys on a retour to his grandfather and crown precept. He had by some means re-acquired Kilduthie (Acts and Decrees, 128, p. 378). This representative of the family lived through the period immediately preceding the Scottish Reformation, and during the crisis of that movement; and his history shews that the friends of the old church, as well as the zealous reforming Lords, occasionally reaped temporal benefit from its downfall.

The circumstance that the laird of Leys had an uncle a prebendary of St. Machar's Cathedral naturally brought him into friendly relations with the other members of the Chapter of Aberdeen. One of these

Robert Hamilton, held the wealthy prebend of Kincardine,* and belonged to the influential Sorne and Sanquhar branch of the house of Hamilton. It is on record, to his credit, that he built an altar in the Cathedral dedicated to St. Andrew, and that on 27th April, 1541, he founded a chaplainry for a yearly mass to be said after his death, the sums payable to the vicar, sacrist, etc., being similar to those mentioned in connection with Duncan Burnet's mortification, and the foundation also including some benefactions to the poor (Chartulary of Aberdeen, I., 417). But the laudable efforts of Bishops Elphinstone and Dunbar to reform the laxity of church discipline had been crowned with only partial success. Prebendary Hamilton had a daughter, and, that lady being richly endowed, it seems to have been thought no scandal that she became wife of the baron of Leys. It was about that period that the dignified clergy, foreseeing the coming storm, began systematically to dilapidate their benefices whenever they could command interest to obtain Crown confirmations of these gifts. The marriage of Alexander Burnet and Janet Hamilton must have taken place as far back as 1540. In 1542 good Bishop Dunbar was dead, and Hamilton's kinsman, the Earl of Arran, being regent, it is perhaps not wonderful to find Leys' father-in-law dealing with the rich prebend of Kincardine as if it had been his private property.

On 5th November, 1543, Canon Hamilton conveyed to Alexander Burnet of Leys and Janet Hamilton, his wife, in liferent, and Andrew, their son, in fee, with further remainders to Archibald, brother of Andrew, and John, son and heir apparent of Alexander and Janet, the lands of Strondraff (? Stranduff), in the barony of Kincardine, to be held of the rector of Kincardine. The reddendo was a feu-duty of £5 6s. 8d., with sheep, geese, capons, poultry, etc., as also three suits at Kincardine O'Neil. As a salve to the conscience of both parties, the condition was imposed that each heir must swear to defend the orthodox faith, and assist the prebendary in leading the tithes of Kincardine, Glentanner, etc. Another charter was the same day granted by Hamilton to

* A Hospital had been founded in the 13th century at Kincardine on the Dee by Alan the Doorward, and liberally endowed by that powerful lord: and both Hospital and Church of Kincardine were, in 1330, with consent of the Earl of Fife as Doorward's representative, incorporated with the Cathedral of Aberdeen, the rector being a prebendary, and having a manse on the west side of the Chanory of Old Aberdeen at its south end.

Leys and his wife, of Easter Slowy in the same barony, there being successive remainders to their sons—William, Alexander, and John (the heir apparent)—the feu-duty being £3 2s. 3d.; and the other conditions the same. Both these charters were duly confirmed by the Queen, as patroness of the prebend, on 24th February, 1543-4 (Reg. Mag. Sig.).

On 17th April, 1545, Cardinal David Beaton, Archbishop of St. Andrews, who had been thirtieth and last Abbot of Arbroath, and styled himself Perpetual Commendator of that Abbey, granted under the Seal of the monastery to Alexander Burnet of Leys and his heirs male bearing the arms and surname of Burnet, a charter of the various lands within the regality of Arbroath and barony of Banchory-Ternan, which he or the members of his family had hitherto held on lease, viz., Pittenkeiry, Brathinch, Invercanny with mill, half the town of Banchory-Ternan with boat, and Kinnesky, along with Deracroft not before mentioned, the feu-duty for each corresponding to the rent in times by-past, that of Deracroft being 10s., with additions of £5 16s. in lieu of grassums, £1 9s. of marts and wedders formerly paid, and 9s. 8d. by way of augmentation, in all £20 18s., there being a further obligation to give three suits at the Court of the Abbey. This charter was confirmed by the Crown on 25th May, 1545; on the following day the transaction acquired a further confirmation from the Cardinal in his capacity of Archbishop, sealed with his seal as legate and papal legate; and on 30th June it received the approval of three "judices commissarii et executores" appointed by the Cardinal, namely, Patrick Myretoun, Archdeacon of Aberdeen; Alexander Galloway, rector of Kinkell; and Alexander Kyd, succentor of Aberdeen Cathedral, whose confirmation is printed in the Appendix. Assurance had to be made doubly sure in all suchlike conveyances of church property. (See Appendix.)

An important acquisition made by this laird of Leys was Invery, with the remaining half of the town of Banchory. These subjects, described as in the barony of Rescobay and regality of St. Andrews, were first let on lease to Leys, by John Hamilton, Archbishop of St. Andrews, on 20th March, 1550-1, for a term of 19 years, at a rent of 53s. 4d. for Invery, and 20s. for Banchory. On 26th November, 1554, they were conveyed in feu-right to Alexander Burnet of Leys, and Janet Hamilton his wife; and there is at Crathes a receipt from Archbishop Hamilton for 400 marks paid for this grant by Leys and his wife, of date 22nd November, 1554.

From the same Archbishop, as Commendator of Arbroath, there is also a charter of resignation of Pittenkeirie, dated 11th August, 1557, including in the re-grant to Alexander Burnet, the Archbishop's kinswoman, Janet Hamilton, as well as Alexander, son of their eldest son; and also on 29th August, 1573, shortly before Leys' death, a renewed tack of the greater tithes of Banchory for three years at the previous rent of £93 6s. 8d., containing an obligation to maintain the choir of the church in buildings, covers, books, and other things "ad eam ratione rectoris pertinentibus"; which was confirmed under the Great Seal, 20th March, 1574-5.

Reference may be here made to two rather curious documents regarding this laird of Leys, printed in the Appendix. One is a testimonial by John Campbell of Lundy, justiciary depute, given under his Seal in a Court held at Brechin, 18th February, 1552-3, ratifying and approving the two charters produced before him by Alexander Burnet of Leys, one, that by David II., of Killinachclerach and the two Cardneys, with the reddendo of a chalders of oatmeal, the other the charter of barony from James III., with blench reddendo there stated; and ordering the fine imposed on him for not giving suit for these lands to be deleted from the books of adjournal. The other is a procuratory from John, Commendator of Arbroath, of date 26th September, 1566, re-pledging from the Sheriff Court of Kincardine to his Regality Courts Alexander Burnet of Leys as tenant, possessor, and inhabitant of Pittenkerie, and his son and heir, John, inhabitant of the town of Brathinche.

In the time of this laird it seems to have been felt that the modest lake-dwelling on the Loch of Banchory was no longer adequate to the requirements of the family, and that it was desirable that they should have a residence in a more agreeable situation, and on a scale more commensurate to the increased wealth and power of the Burnetts. Crathes Castle was begun in the year 1553, twenty-one years before the death of this Alexander, and finished under another Alexander, his great-grandson, in 1596, only four years after this Alexander's death. It stands on a pleasant and well-wooded spot, looking down on the valley of the Dee. Its harmony of design, marred only by an incongruous (if internally commodious) addition on its east side, of the beginning of last century, clearly proclaims it to be the conception of one architect, and not (what Billings seems to have regarded it) the gradual accumulation of additions to an old square tower. The Scottish Castles of that date have a type of



Cathedral, Santiago, Chile, 1891
From the collection of the author

their own, differing in many respects from the contemporary buildings of the same kind in France, which they most resemble. Crathes may be described as one of the earliest, as well as most beautiful, of what Messrs. McGibbon and Ross call the third period of Scottish castellated architecture. Improvements in artillery had caused the abandonment of the idea of building castles strong enough to resist a regular siege. All that was now aimed at was an amount of fortification sufficient for protection against a sudden attack; and Crathes, like other castles of the same date, was more an ornamental mansion than a proper fortress. It is, like other contemporary residences, planned in the old traditional form of a keep, but with the addition of a projecting wing to the east, giving a re-entrant angle in the south-east corner. The wall runs up conspicuously plain to a considerable height, breaking out in the upper stories into a profusion of picturesque corbelled turrets, some round, some square, with slated roofs, and finials and other elaborate decorations. So far it resembles other Scottish buildings of its date: but a few special features will be noted by an architectural eye, the rounding of the angles of the lower part of the building, the division of the south gable into two parts, while a corbelled turret, rising about half way up the wall, supports an embattled balcony. The ancient doorway on the east side and in the re-entrant angle remains, though closed up (the iron grating which was formerly the inner gate standing outside it), and to the left of it ascends what used to be the principal staircase, which stops short at the third floor, and is continued inside the already-mentioned turret which divides the east wing.

The basement floor is vaulted, and a narrow round stair communicates between the cellar and the hall. The great barrel-vaulted hall, 30 feet by 18½ feet, on the first floor, now the dining-room, occupies the western half of the old building. It is lighted by a triple window at the south end, but formerly had three windows on the west side, which were filled up last century, but whose outline can still be traced on the outer wall. Along with this change, the original fire-place at the north end of the hall was removed, and the present one on the west side substituted for it. The old stone pendants hanging from the vault have lately been deprived of the whitewash, which had hid their armorial carvings, and restored, and the whole room has been covered with a leather hanging in harmony with its surroundings.

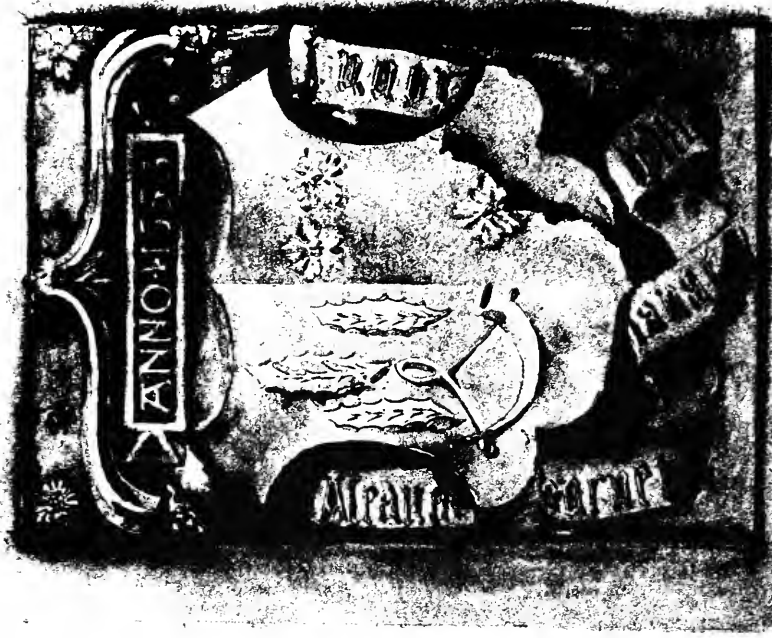
The ceilings of three bedrooms in the third floor, known as the Chambers of the Worthies, the Muses, and Green Lady, claim a special notice. In all, the joists and flooring of the upper story are exposed to view, and in the former are painted a series of representations of the nine worthies, Hector of Troy, Julius Cæsar, Alexander, Joshua, Judas Maccabæus, David, Charles the Great, King Arthur, and Godfrey of Bouillon, with a traditional coat of arms assigned to each, similar to what are to be found in some old illuminated armorial MSS. in the Lyon Office and elsewhere, there being a great deal of scroll work with mottoes, chiefly from Scripture, along the joists, *e.g.*, "As the dog turneth to his own vomit, so the foole to his own foolishness"; "Blessed is the riche who is found without blemish, and hath not gone after money and treasures." On the ceiling of the Chamber of the Muses are eleven emblematic figures with mottoes. These ceilings, which had been for more than a generation covered with lath and plaster, have been recently exposed to view and carefully restored by Sir Robert, 11th Baronet.

Above the Chamber of the Muses, and extending along the whole breadth of the building from east to west (44 feet 10 inches by 13 feet 3 inches) is a long gallery, popularly termed the "chapel." The ceiling extends into the roof, the slope of which is panelled in oak. In some of the bosses are coloured armorial coats, including the Royal Arms of Scotland; the arms of the Marquis of Hamilton; of the Chancellor Seton, Earl of Dunfermline (a nephew of Canon Hamilton); of Burnett impaled with Gordon of Lesmoir (the wife of the laird of Leys who completed the castle, Alexander Burnett [XII.]); and the holly leaf and hunting horn of the Burnett coat are used as occasional decorative features.

The armorial carvings outside the castle indicate that of the different ladies of Leys, Janet Hamilton, whether from the material wealth which she brought the family, or from her personal worth, was held in especial honour, but the arms impaled for her with the Burnett coat are always the pure coat of Hamilton. Though the husband of Janet had, as will be seen, a daughter of Lord Forbes for his second wife, no armorial memento of the last-named lady remains. Above the old doorway is a shield impaling Burnett with Hamilton, with the inscription, "Anno 1553" over it, and, near it, the monogram "A B K G," with the date "1596." On the south gable we have, surrounded by a label moulding, Burnett impaled with Hamilton, and Burnett impaled with



Burnett impaled with Moncreiff.



Burnett impaled with Hamilton.

From stones on the exterior of Gathies.

Gordon of Lesmoir, with the same two dates, 1553 and 1596. These cannot be the dates of the respective marriages with Janet Hamilton and Katherine Gordon, and can only be, what is almost proved by other evidence, the years when the castle was begun and completed. In the Chamber of the Muses is the date 1599.*

Janet Hamilton was alive, as has been seen, in 1557. Before 1567 she was dead, and her husband had entered into a second marriage with Marjory, daughter of John, 6th Lord Forbes, and widow of Forbes of Brux.† Of the second marriage it does not appear that there was any issue; but of Alexander Burnett and Janet Hamilton there is evidence of there having been seven sons and four daughters, viz. :—

I. JOHN, his father's heir.

II. Master THOMAS, who was presented on 12th March, 1550-1, to the canonry of Aberdeen and rectory of Methlick, when it should be vacant by the death, resignation, or demission of Master Duncan Burnet (Reg. Secr. Sig.). Duncan died two years later, and Thomas entered on his grand-uncle's benefice. His career curiously illustrates the gradual steps by which the new faith supplanted the old in the north-eastern parts of Scotland. In 1556 he witnessed, as one of the chapter and rector of Methlick, a feu-charter of the mill of Murtle by the Bishop of Aberdeen (Antiq. of Abd. and Banff, III., 354). The reformed religion was established and the exercise of the offices of the old religion prohibited by Parliament in 1560. Nevertheless, we find the pre-Reformation Bishop, William Gordon (son to the 3rd Earl of Huntly), continuing to exercise his functions, temporal and spiritual, till his death in August, 1577, and Thomas Burnet continuing to act with him as one of the chapter and parson of Methlick in 1566, 1570 and 1571 (Antiq. of Abd. and Banff, III., 255, 381; Fasti Aberdonenses, 129). This was the period of the so-called "Tulchan" Bishops — presbyterian ministers who got the titular office of Bishop on the condition

* Further particulars, with illustrations of these interesting rooms, will be found in the Appendix.

† This is stated on the authority of a MS. note by that most accurate Scottish genealogical antiquary, Mr. John Riddell, who quotes a mention of that marriage in the Acts and Decreets, Vol. 39.

of their assigning the temporalities of the see to some lay magnate ;* and, four months after Gordon's death (as we learn from the *Chronicle of Aberdeen*, Spald. Misc., II., 46), Master David Cunningham is "consecrated" Bishop of Aberdeen, and collated by Master John Craig, Knox's former colleague, "in presence of the haill congregation of Aberdeen." Thomas Burnet, under this new order, still continued parson of Methlick, and is, under that designation, party in 1579 to a lease of the Vicarage Tithes of the Mains of Leslie by John Leslie, perpetual vicar of Premnay, with the consent of the "precedent and chapter of Aberdeen," to John Leslie of that ilk, the signature "Aberdonensis Episcopus" being followed by that of "Mr. Thomas Burnet, personn of Methlick" (*Antiq. of Abd. and Banff*, III., 400). Thomas Burnet held from 1565 till his death the office of Commissary of Aberdeen. On 8th February, 1565-6, he had as Commissary of Aberdeen a grant of one-fifth of the "coitts" (rates due according to the value of the legacies), given him on the narrative that these "coitts" have been diminishing, and the collection of them greatly neglected, particularly within the diocese of Aberdeen. In 1580 he is one of the examiners of candidates for the office of teacher in the Grammar School of Aberdeen ; and the *Chronicle of Aberdeen* tells us that he died in Old Aberdeen, probably in the manse of his prebend, 24th February, 1582-3 (*Spald. Misc.*, II., 55).

III. ANDREW, who, under the charter of Robert Hamilton of 1543, had the fee of Stronduff, held from the rector of Kincardine. In 1560 he had a charter from Thomas Fraser of Durris of Cowcardie, also held from the parson of Kincardine, in exchange for Stronduff. He married Elizabeth Melville, widow of an Erskine, apparently of the Drum family, and was the first of a

* "A tulchan, an old Scots word of unknown origin, was applied to a stuffed calf skin which was brought into the presence of a recently-calved cow. It was an agricultural doctrine of that age, and of later times, that the presence of this changeling induced the bereaved mother easily to part with her milk. To draw what remained of the bishops' revenues, it was expedient that there should be bishops ; but the revenues were not for them, but for the lay lords who milked the ecclesiastical cow." (*Burton's History of Scotland*, V., p. 320.)

line of Burnetts of Cowcardie, who can be traced for about four generations.

- IV. WILLIAM, who had the fee of Easter Slowy under Robert Hamilton's charter of 1543. A dispensation was granted 19th August, 1558, by John Hamilton, Archbishop of St. Andrews, papal legate *a latere*, to remove a double impediment to his marriage with Janet Chalmers of the Cults family.* They are said to stand within the fourth degree of consanguinity on either side, besides which, William's mother (Janet Hamilton) was godmother to Janet Chalmers. It is stated in the dispensation that after promise *per verba de futuro* children had already been born to them. The direct posterity of William Burnet of Slowy and Janet Chalmers can be traced in a somewhat decadent state till the beginning of last century. Some Burnets of better position (Warriston and Inverleith) seem to have been descended from one of William's younger sons.
- V. ALEXANDER, to whom there is a remainder in Hamilton's charter of Easter Slowy. He married Elspeth, daughter of Alexander Chalmer of Cults, sister of his brother William's wife, probably without dispensation, and was put in possession of Kynneskie, which his posterity inherited for three generations.
- VI. ARCHIBALD, mentioned in several documents in the Leys charter chest, also married a Chalmers (Janet) of the Cults family.
- VII. JAMES, designed "in Cardney," was witness with Alexander Burnet of Leys and William Burnet of Slowy to the marriage of his niece, Margaret, and George Forbes, her second husband, in 1580.
- I. ISABEL, married in 1555 Robert Arbuthnot of Pitcarlies and Little Futhes, grandson to Sir Robert Arbuthnot of that ilk, and elder brother of the famous and learned Principal of King's College, Alexander Arbuthnot.† Alexander Burnet of Leys and his sons,

* This document, curious as being one of the latest of its kind in Scotland, is printed in the Appendix.

† "A chief among that small section of the Kirk who, themselves most learned, felt the necessity of reforming education as a means of religious reformation."—C. Innes' Preface to *Fasti Aberdonenses*, p. xxxii.

John and Thomas, were bound by the contract to pay 500 merks for her tocher (Register of Bonds, Vol. I.).

- II. JANET, married Master James Skene of Wester Corse and Ramore. (Skene Mem., p. 102.)
- III. AGNES, married, in 1551, Alexander Blackhall of Barra.
- IV. A fourth daughter married, 1st, Craigmyle of that Ilk; 2ndly, John Forbes of Sonnahinny, grandson of Sir John Forbes of Pitsligo (Lumsden's *Forbes MS.*, Adv. Library).

X.

JOHN BURNET OF LEYS (1574-75). In 1546, John Burnett, younger of Leys, was one of the assize in the service of Thomas Charteris of Kinfauns (Chancery Records), and, under the same designation, he, on 11th August, 1569, grants, as tutor testamentary of Alexander and Robert, sons of Alexander Jaffray, a lease of fishings on the Dee to one John Ewen (Aberdeen Register of Deeds). When re-pledged with his father in 1566 by the Commendator of Arbroath, he is called "dweller in Brathinche."*

His father being dead, he, on 2nd September, 1574, signed the Bond of Allegiance of the Barons of the north (Privy Council Register). On the 15th of the same month, he, as "John Burnet of Colonach," had sasine of the barony of Leys as heir to his father (Leys Charters), and he died less than a year afterwards.

* The younger Alexander Jaffray here mentioned afterwards married his guardian's niece, Christian, daughter of Alexander Burnet of Kynneskie, and purchased the estate of Kingswells, a few miles west of Aberdeen, in 1587, and the family of Jaffray of Kingswells seem to have been made gentlemen of coat armour as early as 1613. Of that date their arms (Paly of six, argent and sable on a fess of the first three mullets of the second) appear on the seal of Alexander Jaffray, bailie of Aberdeen (Laing's *Catalogue*, Vol. II., p. 91), either that Alexander or his son. Alexander Jaffray, son of Leys' ward, was elected Provost of Aberdeen in 1636 and on several subsequent occasions, was a prominent covenanter, and represented Aberdeen in the Scottish Parliament of 1639. Notwithstanding his armorial status and his maternal Burnet descent, and his being married to a daughter of Erskine of Pittodrie, Jaffray was, in respect of his paternal origin, looked down upon as a parvenu by some of the town aristocracy. "Mony," says Spalding, in allusion to his first election as Provost, "lichtleit both the man and the electioun, not being of the old blood of the toun, but the oy of ane baxter, and thairfor was set down in the provostis deas before his incuming to sermon ane bakin pye. This was dune divers times but he miskenit all and never querellet the .amen." This Alexander died in 1646 (his son's diary informs us), in the house of his cousin, Alexander Burnet in Aberdeen (a Burnet of the

By his wife Elizabeth, daughter of John Lumsden of Cushnie, he had a son Alexander, who succeeded him, and a daughter Margaret, who married (by contract dated 24th September, 1509) Alexander Forbes, son of the laird of Echt (who had formerly been married *s.p.* to Elizabeth Lyon, daughter of the laird of Glamis, and widow of John, Master of Forbes). George Forbes is mentioned in a contract of date 16th Nov., 1580, in the Leys charter room. Her son by her first husband was Robert Forbes of Echt.

XI.

ALEXANDER BURNET OF LEYS (1575-78). This laird of Leys was almost as short a time in possession as his father. He was, as "Alexander Burnet of Canneglerocht," retoured before the Master of Marischal in the old castle of Kincardine as heir to John Burnet, his father, in the barony of Leys, on 3rd October, 1575, and had sasine on Chancery Precept on 5th November following. Next year he made up titles on Precept of Clare Constat from John, Commendator of Arbroath, to the lands held from that Abbey, and he was dead before May, 1578. A passing allusion to him in a letter of his son Duncan (see Appendix), indicates that one of his ambitions was that his sons should be men of learning and culture, an aim in which it will be seen that he was successful with some, though not all, of them. He married his cousin-german, Katherine, daughter of Robert Arbuthnot of Pitcarlies; and we have in the Heralds' Visitation of Norfolk in 1613, and of Essex in 1634, a full enumeration in order of

Camphill line, whose mother was a sister of Provost Jaffray). His son, also named Alexander, was obnoxious to the Cavalier party for his connection with the death of Gordon of Haddo, as one of the charges for which Haddo was executed was the imprisoning of Jaffray in Auchindoun Castle in 1644. On the occupation of Aberdeen by Montrose in 1644, the younger Jaffray took refuge at Dunnottar. In the following year, he relates in his diary, on returning from a visit to Crathes in company with his brother and Andrew Cant (whose daughter he soon afterwards married), the party were encountered by the young laird of Harthill on his way home from the battle of Kilsyth. Harthill's party carried him prisoner to the garrisoned house of Pitcaple, whence he was released by his friends after seven weeks' confinement. He represented Aberdeen in the Covenanting Parliament of 1649, and was twice named as one of the Commissioners to negotiate with Charles II. for his return. In his later days he became a member of the Society of Friends, and has left a characteristic diary, edited 1833. Like Quaker diaries generally, it abounds in retrospections, including deep compunction at his share in forcing the Covenant on those who would not have it, and for zeal even unto slaying against both Prelatists and Friends, many of whom were men of a far more religious spirit than himself. A note by the editor (p. 568) states somewhat incorrectly his relation to the Burnets.

seniority of his six sons, some of them men of mark in their day, and, in the 1613 Visitation, of his three daughters also. His children were:—

- I. ALEXANDER, his heir.
- II. ROBERT, alluded to as a “divine” in a letter of his brother, Duncan Burnet, given in the Appendix.*
- III. THOMAS, M.A. of Cambridge, a physician of eminence, practising at Braintree in Essex at the time of the Visitation of 1634. He married Jane, daughter of John Foys † of London, and had two sons, Thomas, born 1612, and Alexander; and a daughter, Frances, who married the Rev. Thomas Timpler, rector of Weston, Co. Northampton.
- IV. GILBERT, Professor of Philosophy at Basle, afterwards at Montauban. He was, according to Middleton’s *Learned Men and Writers [of Aberdeen]*, in such esteem that a National Synod of the Protestants in France appointed his philosophical writings to be printed at the expense of the clergy; but, he dying before his MSS. were put in order, only his book of Ethics was printed. His “*Ethicæ Dissertationes, quibus perfecta et soluta philosophicæ moralis idea modo accuratissime exhibetur,*” forms a small octavo volume, printed at Leyden in 1649. In the Visitation pedigree of 1634 he is said to have had no issue. ‡
- V. DUNCAN was, like his brother Thomas, a physician, and practised at Norwich. He was, according to Middleton, a “learned, holy and good man.” A series of his letters, preserved at Crathes, fully bearing out the character which Middleton gives him, afford a delightful glimpse of the private life of the family at that period, and of the pleasant relations subsisting between Duncan and his kindred on Deeside. He married Jane, daughter of Robert Marsham of Little Melton, Co. Norfolk. In the Visitation pedigree of 1613 his arms are impaled with those of his wife;

* In 1608, Herbert Abercromby had sasine on a charter of New and Old Westhall from Robert Burnet, brother-german to Alexander Burnet of Leys (*Aberdeen Register of Sasines*).

† So in the original MS. of the Visitation in the College of Arms. In the Harleian Society’s edition of the Visitation, “Foys” is misprinted “Coys,” and Jane is married, not to Thomas, but to his brother Duncan.

‡ In the Harleian Society’s edition, Gilbert’s name is omitted.

and he had at that date had issue, Robert, who was dead, and Mary, there called his "sole daughter and heir." The latter, as his letters inform us, was born on Michaelmas day, 1609. It must have been soon after this Visitation that he had another son, named Thomas, who, when not more than fourteen years of age, visited his cousin, Sir Thomas, at Crathes; as we find in the Aberdeen Burgh Records that on the 29th September, 1629, "Thomas Burnet, filius legitimus venerabilis viri magistri Duncani Burnet, medicinæ doctoris, admissus fuit in liberum burgensem et fratrem gilde." The arms of this Thomas, as Thomas Burnet of Wood Dalling, Co. Norfolk, are on 3rd June, 1640, exemplified by William Le Neve, Clarenceux, in the books of the English College of Arms, with the middle holly leaf charged with an annulet, for difference, and the usual crest. Seven of Duncan Burnet's letters are given in the Appendix, one addressed to Duncan's eldest brother, the laird, and the rest to his nephew, afterwards Sir Thomas Burnet.

VI. JOHN. It would seem, from an allusion to him in one of Duncan Burnet's letters, that his father's efforts to make him a learned man like his brothers had failed of success. His name occurs in the Privy Council Records in 1593 as cautioner, along with his brother Leys, that Alexander Gordon of Lesmoir should not reset with the Earl of Huntly or the murderers of the Earl of Moray. He married (contract at Crathes, dated 30th April, 1603) Helen Wood, widow of Alexander Cumyn of Culter. In 1608 his eldest brother, Alexander Burnet of Leys, had once more acquired Tilliboy (and Kilduthie?) by purchase from Cumyn of Culter; and the same year Leys wadsetted Kilduthie to his brother John for 3000 marks. John Burnet and Helen Wood had a son, Master Alexander, who would seem to be the "Master Alexander Burnet in Edinburgh" alluded to in one of Duncan's letters. This Alexander, in 1642, under the designation of "minister of God's word at the Kirk of Buckingham Fence in the County of Norfolk in England," made up his title by Precept of Clare Constat from his cousin, Sir Thomas Burnet of Leys, as superior of Kilduthie, which he thereupon resigned to Sir Thomas.

- I. JANET, married (contract dated 10th February, 1578-9) Gilbert Keith of Auquhorsk.
- II. MARGARET, unmarried in 1613.
- III. ELIZABETH, married her cousin-german, Master Gilbert Skene, son and heir-apparent of Master James Skene of Wester Corse and Ramore (charter to him at Crathes, of date 15th December, 1592).

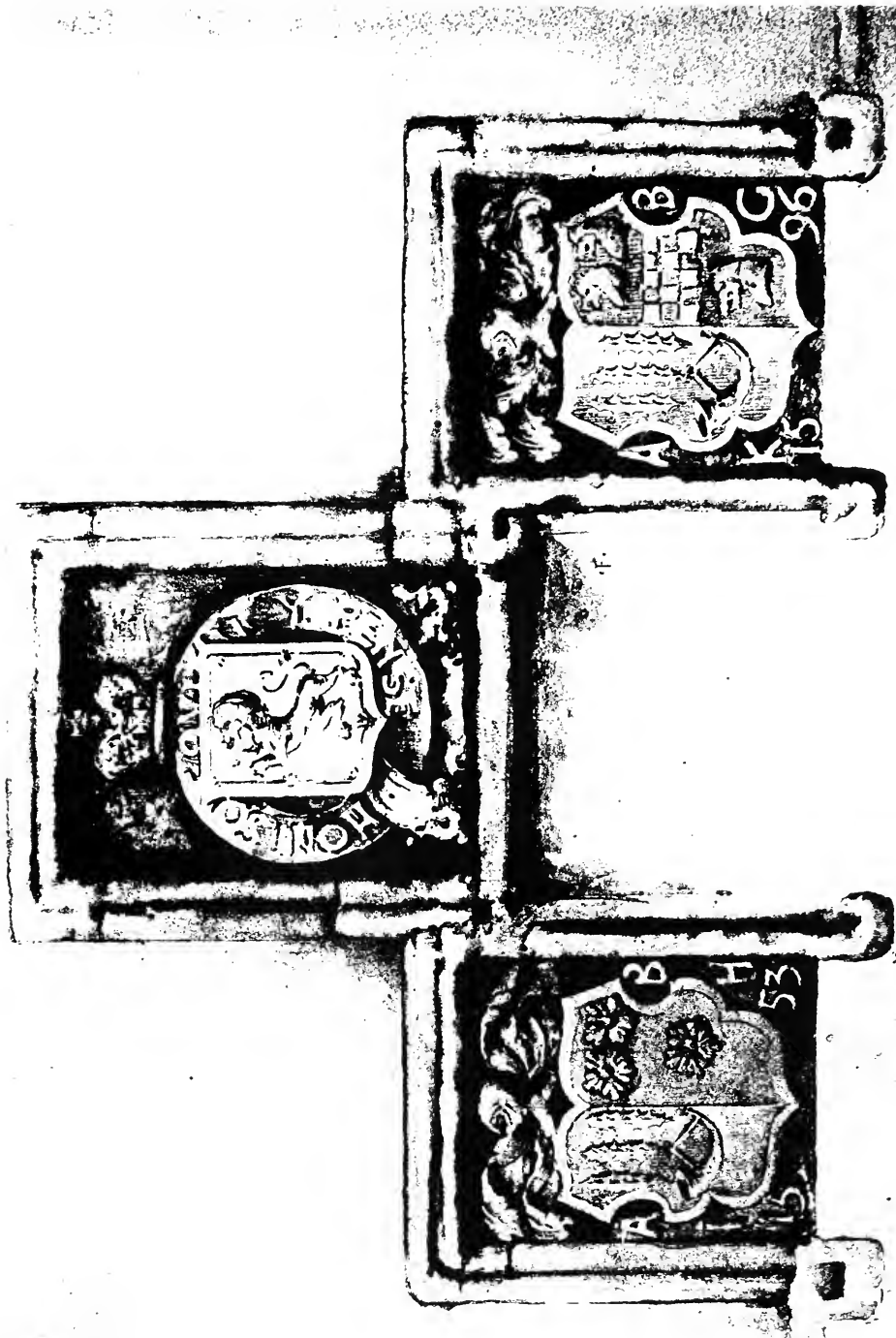
XII.

ALEXANDER BURNET of Leys (1578-1619). This Alexander succeeded his father in 1578, made up his title to the barony of Leys by service (sasine in Leys charter chest, dated 5th May, 1578, where he is called "providus adolescens"); to Pettenkeirie and other lands held from the Abbot of Arbroath by Precept of Clare Constat of date 26th October, 1581, from Esmé, Duke of Lennox, who had obtained the Abbey *in commendam* on the attainder of the Hamiltons; and to Invery and half Banchory in September of the same year, by Precept from Patrick Adamson, the titular Archbishop of St. Andrews. To the last named lands he obtained a more unquestionable title, by the King confirming to him, on 21st May, 1585, Archbishop Hamilton's feu-charter to his great-grandfather.* He married soon after, if not before, his succession, Katherine, daughter of Alexander Gordon of Lesmoir, by whom he had a numerous family. He had a tack of the vicarage tithes of Banchory for life and nineteen years after his death, from the minister, James Reid, with assent of David, Bishop of Aberdeen, of date April, 1584. On 13th October, 1598, "venerabilis vir Alexander Burnet de Leyis" was made an honorary burges of Aberdeen (Aberdeen Burgh Records).

This laird completed Crathes Castle, begun, as has been seen, by his great-grandfather, to whom he almost immediately succeeded. That Crathes was inhabited a few years before 1596 appears by the mention in the Record of the Privy Council of a bond executed at Aberdeen and Crathes on the 3rd and 4th September, 1588, in which Alexander Burnet of Leys became surety for Master Gilbert Keith in Auquhorsk (his brother-in-law), and others, in £200, that Janet Buchan, her tenants

* See Charter printed in Appendix.

Royal Arms of Scotland.



Burnett impaled with Hamilton Burnett impaled with Gordon of Lesmoir.

and servants, shall be skaithless of him. In January, 1594-5, Alexander Burnet resigned the barony of Leys to the Crown, and obtained a charter regranting it to himself and his heirs male, in which the tower, manor, and fortalice of Crathes are made the principal messuage of the barony.

Considerable additions were made by this laird to the family estates. In 1605 he had a Crown charter on a conveyance by "Sir Henry Lindsay *alias* Charteris"* of lands in the parishes of Lumfannan and Kincardine O'Neil, described as "Easter Camphill, Blairhead, Wester Camphill, Alehouse Croft thereof, Cormoir, Craigour, Fordye, Mill of Craigour, Milltown of Camphill, Croft in Lumfannan called Milcroft, Alehousecroft, presently occupied by Arthur Adam, and pasture of that part of the Hill of Fare formerly granted by John Charteris of Kinfauns to the late James Skene of that Ilk." Also feu-duties or annual rents of £24 Scots from these lands. The subjects, or great part of them, had been held for some time from the Charteris family by certain persons who, after this transfer, became vassals of Leys. The most considerable of these feu-holders were Alexander Burnet of Craigour and William Burnet of Camphill, grandsons of one William Burnet of Tillihaikie, who had held part of these lands from the Charteris family, under a title which had at first been a redeemable one, from the first half of the 16th century. This branch of the Burnet family will come to be considered later. Of half of Cormoir, Leys in the following year, by resignation of Elizabeth Lay, wife of Duncan Jaffray, obtained the property, as well as the superiority; and, in 1609, he obtained the two halves of Tillihaikie by Crown charter, on resignation of Robert Hunter and of Thomas Burnet of Craigmyle.

In 1608, Tilliboy or Kilduthie, one of the subjects conveyed to his ancestor by Robert Bruce, was re-acquired by Alexander Burnet, by purchase, for 8000 merks, from Cumyn of Culter, to whom he assigned Wester Cardney.

* The ancient, and once powerful, family of Charteris of Kinfauns, in addition to their possessions of Kinfauns in Perthshire, and Canglour in Stirlingshire, had, from the 14th century, owned Lumfannan, of which these lands formed part. John Charteris of Kinfauns, in 1584, adopted Sir Henry Lindsay of Carriston (who, in 1621, became 13th Earl of Crawford) as his heir, making over his whole estates to him on condition of his taking the name and arms of Charteris of Kinfauns, a transaction ratified in Parliament three years later. By this means there was brought into the possession of the Leys family a very interesting set of titles, to be noticed in the Appendix.

The most important new acquisition, however, was Muchalls, in the parish of Fetteresso, purchased from Francis, Earl of Erroll, of which he had, on 24th June, 1606, a Crown charter to himself and the heirs male of his body, whom failing, to his heirs whatsoever bearing his name and arms. In 1609, he resigned Leys and Muchalls, and other lands held by him of the Crown, and, by a charter of novodamus, had the latter incorporated into the barony of Leys, the reddendo being 1d. blench for Leys, £20 taxed ward for Muchalls, 1d. blench for Camphill, Craigour, etc., and 20s. feuferme for Tillihaikie. (See Appendix.)

Among the many vicissitudes through which the Abbey of Arbroath had passed, it was on 6th July, 1606, erected into a temporal lordship in favour of James, 2nd Marquess of Hamilton, with the dignity and title of a Lord of Parliament. By two charters, granted in 1614, James, Marquess of Hamilton, Earl of Arran, Lord Aven and Aberbrothock, in consideration of a sum of money received, commuted the feu-duty of £20 3s. 4d. paid by Leys for Pettinkeirie, Brathinche, Banchory, Kynnesky and Deracroft, into a blench duty of 1d., the greater tithes of Banchory being conveyed in addition, under the burden of paying the minister's stipend.* Then, in 1617, on a resignation by the Marquess and Burnett, the same subjects, property and superiority were reconveyed to Alexander Burnet of Leys for a blench duty of 6s. 8d. The charter alludes to the grantee's signal services to the King, and, in respect of his having, at great expense, built, repaired and decorated the Church of Banchory, and shewn in many other ways his zeal for the glory of God, and the propagation of the true religion, confers on him the patronage of that church. The whole of the lands formerly held of the Abbey of Arbroath were now held directly of the Crown.

In 1619, the year of his death, Alexander Burnet began a new castle at Muchalls, which, eight years later, was completed by his son and successor, Sir Thomas Burnet, 1st baronet.

In July, 1613, Leys had a charter of Blackhall, in the Garioch, with the offices of Coroner and forester of Garioch, lands and offices having been recognosced to the Crown by Alexander Blackhall of that Ilk, *i.e.*, forfeited by him through the breach of some feudal obligation, a

* At an earlier date, when he was only lessee of the tithes of Banchory, we find him engaged in a law plea regarding them with the parishioners of Banchory, against whom he had decree, on 6th July, 1587.

transaction to which rather too much importance has been attached, inasmuch as it has been surmised to have been the reason of the assumption into the family arms of the hunting-horn, which is found sculptured on the walls of Crathes Castle fifty years earlier. The then laird of Blackhall was, from facility or profession, under that sort of legal restraint called interdiction, his interdictor being John Leslie of Balquhain. Three years earlier, in 1610, he had, with Leslie's concurrence, conveyed the same lands and offices to his kinsman, Alexander Blackhall of Barra, also a near relation of Leys. Whatever may have led to the Burnet possession of Blackhall and the offices connected with it, it was very short-lived: in a few years they were again in possession of the Blackhalls. On 4th April, 1620, we find Alexander Blackhall of that Ilk conveying to his son, William Blackhall, and Christian Strachan, his wife, the lands of Blackhall, reserving his coronership and forestership (Reg. Mag. Sig.), and, on 29th September, 1643, John Blackhall is retoured heir male of William Blackhall of that Ilk, his father, in the same lands and both offices.

Like other people of position in these troublous days, Leys had often to undertake the obligation of suretyship in connexion with the misdeeds of his neighbours, relatives, and dependants. In November, 1586, for example, we find him surety for one Robert Burnet, in Drumneachie, and his son Thomas, against whom a serious complaint had been made to the Privy Council by Master Robert Lindsay, minister of Birse, and Janet Farquhar, his wife. On 4th July of that year, the Council record tells us, these two Burnets, regardless of Lindsay's sacred calling, came "by way of hamesucken, under cloud and silence of night, to the dwelling-place of the complainer, at the Kirk of Birse, where the said Jonnet then wes for the tyme in peceable and quiet maner, and there maist cruellie and unhumanlie invadit and pursewit her, and did strike her with ane battoun upon the head and otheris partis of her body, to the effusion of her blood in great quantitie, without any occasion of offence or injurie." Then, on the 20th July, the said Robert and Thomas Burnett, with some thirteen or fourteen other persons, armed with prohibited weapons, "came to the kirk glebe of Birs, quhair the said complenare was for the tyme in quyet manner of his study, trusting to have ressaved trouble nor injurie of na persone, and thair maist cruellie and unmercifullie invadit and persewit him for his bodily harme and slauchter, struke him upon the heid with

ane Jedburgh Staff, and clave his harne-pan therewith, like as the said Thomas brake ane Jedburgh Staff upoun him, and left him for deid, surelie beleiving he had been deid, utherwayes they had not left him quhill they had bereft him of his lyffe." The same persons are said to lie continually in wait for the minister and his wife, so that he cannot repair to the kirk to discharge his office for fear of his life. Leys became surety in 1000 merks for Robert Burnet and 500 for Thomas, that they shall abstain from molesting the incumbent of the parish, also in £200 that they shall answer for their offence. The assailants of the minister, however, seem to have been in dread of reprisals at his hands, for, two days later, John Lindsay of Covington has to find security in 500 merks for his namesake, a relative of the minister, that Robert Burnet in Drumneachie, his tenants and servants, shall be harmless of him. On another occasion Leys had to answer for the peace being kept between a large number of Burnetts and others, and the magistrates of Aberdeen, in a dispute regarding their right to fish in Dee and Don, Leys himself was engaged in contentions with the town authorities regarding the fishings in these rivers; and, in September, 1604, George Gordon of Inverie became his security that he would abstain from slaying salmon in these rivers within certain limits. Other quarrels, in which the laird of Leys was engaged, have left their trace in the Privy Council Records. In August, 1607, William Hay of Urie was bound over in £2000, and his brother, Alexander, in £1000, that they should not harm Alexander Burnett of Leys; and, in October of the same year, John Gordon, apparent of Lesmoir, and Alexander Burnet are bound over with their respective sureties not to harm Hay of Urie and his brother.

But the most acrimonious contention in which Leys was engaged was one handed down to him from his great-grandfather, the husband of Janet Hamilton, a controversy with the laird of Drum regarding the marches of their respective lands and mosses. There had, ever since 1562, been much bad blood between these two neighbours. There was, in 1586, communion for a perambulation of marches between the two neighbours, but no final settlement was come to. A paper in the Crathes archives contains the names of sixteen of the principal gentry of the district as friends of one side or the other. The Privy Council Record tells us that Alexander Burnet of Leys, the Master of Forbes being his surety, had, on 12th August, 1587, to find caution to the amount of

£2000 that Alexander Irving of Drum and Henry Irving at the Mill of Drum shall be skaithless of him. In 1611, however, Leys, now a man in mature age, and desirous of re-establishing friendly relations with his neighbour, with the advice, it is said, of the Master of Forbes, Ogilvy of Findlater, and Wishart of Pitarrow, resolved to refer the whole matters in dispute to Drum himself and his son. The reference by Leys, says the Inventory of Tithes at Crathes, "is well drawn, and is strong evidence of a peaceable disposition, and the folly of continuing their disputes at law." To students of heredity it is interesting to find that the father of three sons (the first baronet, the laird of Craigmyle, and Lord Crimond) whom friends and foes alike describe as peacemakers and peace-lovers, should have been noted for the like qualities in the ruder age in which he lived.

We find this laird's name occasionally mentioned in connection with matters ecclesiastical. In 1607 we find the lairds of Leys and Muchalls (the latter probably his eldest son) Commissioners named to see that constant moderators be received by the presbyteries (Reg. Privy Council), and, a year earlier, his evidence on a question connected with the Kirk was of material service to the Lord Chancellor Seton.

There existed a warm friendship between Leys and one of the most prominent public men of the time, the Chancellor Lord Dunfermline. Their estates lay not far off from each other, and they were kinsmen through the Hamilton side of the house. Lord Dunfermline's arms, as well as those of the Marquess of Hamilton, are prominent on the ceiling of the "Chapel" at Crathes. One good turn which Leys did the Chancellor was connected with the General Assembly held at Aberdeen in 1604. That Assembly, whose time and place of meeting had, according to the usual fashion, been appointed by its predecessor, was interdicted by the King, who resolved to make his right to regulate the meeting of Assemblies a trial of strength between him and the Kirk. The high party assembled in defiance of the royal prohibition. Mr. John Forbes and some others of them were committed to prison, and it was alleged that Lord Dunfermline, unaware how far James was disposed to push matters, had compromised himself somewhat in a conference with some of the ministers. The matter came before the Privy Council in 1606, and the evidence of Burnet of Leys, who was present at the conference in question, was considered conclusive against Forbes' account of what had passed, and in favour of the Chancellor's innocence.

The following letter from Lord Dunfermline, of a little later date, preserved at Crathes, shews the footing on which Leys stood with the courtly and scholarly Chancellor :—

“Right traist freynd and Loving Gossope my hairtiest commenda-
 tiounes premitted, I ressaut your Letter from Muchalls of ye 30 aprile,
 whairby ye Latt me knaw of the greatt contentment ye haiff of my
 fortunat and happie returne hayme whairoff I thank God, and how
 willing ye ar to be Employed efter ye auld maner As I shall haiff adoe to
 charge yow, I thank yow maist hartely y^rfoir, and will heirbye geiff yow
 assurance yat howlang I Leiff I will be laith to giff yow Anye other
 occasioun bot to esteyme of me as your most affectionat freynd In the
 auld maner The Marqueis of hammiltoun is Indeed werye schortlye
 efter I come hame returned, and went by yis Toun, to hammiltoun onlye
 vpon Tysday Last the first of yis instant. I renewit my acquentance
 withe him when I was with him Laitlie at Court, And I think I haiff
 ressonable good fassiounes of him, Always Anent thatt mater of ye
 Parochins of fyvie and tarwes, and Informatioun y^roff, It is not good
 yat I be ouer haistie or sudden in that mater, It shall be sufficient that
 ye haiff a parfyte Informatioun of ye Estaitt y^roff to be send heir to me
 Efter our Sessioun sitt down be some of your sonnes giff ye haiff no good
 erand of your awin that will not require your presens heir, I desyre yow
 also to Learne and to knaw parfytelye of ye Estaitt of ye superioritye of
 ye few Lands, yat Lyes wⁱn the twa kirks, yat at yat tyme also when ye
 send Informatioun of Ane ye may do the same of baith, And I doubt
 not bot I will gett that mater weill aneuche done. And what ewir I doe
 y^rin for myselff your kirk of banchrie shall be alsweill done as Myne,
 And be As my erand As to the charge gewin be the Sreiff Murray to
 your good sone for payment of the dewteis of ye Tugnet I can not
 merwell aneuche y^roff, for not onlye Is your good sone denudit bot I
 haiff continuallye sen I had (rycht) maid payment y^roff to the Exchecker
 and hes ye Clerk registrars Eque and discharge yearlye, Swa yat your
 goodsone shall be in no perrell, ffor albeit yat ye Sreiff hes nae powar to
 putt men to ye horne be vertew of yat charge yit I shall be ye first
 occasioun I can haiff of Anye gaes to Murray, Wryte to him And
 discharge him thairoff, As to that wheire syndrie your freyns and
 Tenents ar summoned for contravening ye acts of parliament In taking
 more nor ten for ye hundrethe &c., It is most certaine It is a mater not
 Inventit nor Usit for a boast or brage or that My Lord burley^t or anye
 In his nayme be yis meanes may stapp or seik geir aff parteis and
 compone w^t yame, Bot be ye contrair, he being constitute In this caice
 agent to his Ma^{tie} be his meanes seiks out and Caussis summond all that
 hes contraveynit ye actis, whome his Ma^{tie} will haiff pwnishit In thair
 goods thairfoir, Thair is for this effect Ane commissioun Sett down be



Monogram 98.

*Stone on exterior of Crathes
Monogram of Alexander Burnett
and Katherine Gordon.*

his Matie, To my self to ye President aduocat and Sr Jhone Arnote, And to the said Lord Burleyght wha maun alwayes be withe us, To compone and agrie w^t sic As ar convict be ye Law, or wha shall Come In willinglye and compone for transgressing the act, qlk I assure yow his Matie As he will not haiff ye rigor of ye act put in executioun Sua his highnes Intentione Is yat yaj shall not goe away vnpunisheit w^tout a good part of yair moyens, It is best y^rfoir that wha ar summoned or guyltye of your freyns and tenentis Come rather or send and agrye for remissiounes for bygaynes, lyk as at ye granting y^roff, Cawtioun maun be found yat yaj shall not contraveyne the actis heirefter. Giff yis yaj Doe not And that decreitts be renderit agaynes yame I assure yow great extremitye will be vsit agaynes thame, Bot ye may be assurit I will Doe for any belanges yow what I may, As I shall ewir remayne

“Your werye Loving freynd
“and gossope at command

“From Edinburgh ye 4 of Maij 1611.” “DUNFERMELJNE.”

Alexander Burnet of Leys married, soon after, if not before, his father's death, Katherine, eldest daughter of Alexander Gordon of Lesmoir. Allusion is also made to her in one of Duncan Burnet's letters. The records tell us that she was, in 1605, infest by her husband in the liferent of Tillydrine and the west half of Tillihaikie (Reg. of Sasines), and there is among the Leys charters a renunciation by her of her terce of certain lands. Mention has already been made of her arms, impaled with those of her husband on the outside wall of the castle, and depicted on the ceiling of the chapel. The principal bedchamber contains a large carved oak bedstead, on the roof of which, with the date 1594, is both the coat of Burnet simply and that of Burnet impaled with Gordon of Lesmoir, also the initials A. B. and K. G., figures taken from the armorial coats being introduced here and there in an ornamental form.

Alexander Burnet of Leys died at Muchalls (perhaps the old house superseded by the new one which he had lately begun) on 5th July, 1619 (St. Andrews Commissary Record). He seems to have had six sons, who reached manhood, and eight daughters, who married, viz. :—

I. ALEXANDER, who (according to the account of the family in Douglas' Baronage) “died in France, before his father, without issue.”

II. THOMAS, first baronet, of whom below.

- III. JAMES, of Craigmyle, of whom and his descendants below.
- IV. ROBERT, Lord Crimond, of whom and his descendants below.
- V. GEORGE, died s.p.
- VI. JOHN, in whose name, along with those of his brother, Robert, and sister, Mariot, the confirmation of his father's testament is taken out in 1619. A Scottish factor at Campvere, he seems to have married late in life, and had an only son, Obadiah, who first settled in Rotterdam as Scots factor, and was afterwards a merchant in London, and correspondent of his cousin, Thomas Burnet of Kemnay, in whose letters to Mrs. Cockburn he is mentioned as alive in 1701. Obadiah Burnet died in New Jersey without issue, and, in 1786, long after his death, Alexander Burnet of Kemnay made good a claim to some American property which had belonged to him.
- I. —, married George Baillie of Jerviswood.
- II. KATHERINE, married (Contract at Crathes, dated 27th September, 1607), Patrick Maitland of Auchincreef. Her tocher was 5000 merks.
- III. HELEN, married, 1st (Sasine on Marriage Contract, dated 3rd September, 1617), John Allardyce of Allardyce; 2nd Sir Robert Graham of Morphie.
- IV. BARBARA, married Robert Innes of Balveny. She had sasine from her husband of the liferent of Ardgathan, 1619, and of Buchrome in 1623 (Banffshire Register of Sasines).
- V. ISABEL, married (Contract at Crathes, dated 1615) James Cheyne, younger of Arnage.
- VI. —, married Robert Forbes of Echt (Lumsden's Forbeses, and Douglas' Baronage).
- VII. JANET, married, 1st, Alexander Skene of Skene (Skene Mem., p. 37); 2nd, c. 1642, Sir Alexander Cumyn of Culter. Her portrait is at Crathes. As widow of Skene, and intended wife of Sir Alexander Cumyn, she had, on 24th March, 1641-2, sasine of Robertstoun (Aberdeenshire Sasines).
- VIII. MARIOT, is confirmed one of her father's executors in 1619. She married George Symmer of Balyordie.



© Burnett and Lewis

Burnett of Lewis

XIII.

SIR THOMAS BURNET OF LEYS, 1ST BARONET (1619-53). "Thomas Burnaetus de Leyes" appears in the Records of University and King's College, Aberdeen, as a matriculated student, in 1603. The designation given him seems to indicate that his elder brother, who is said to have died in France, was not then alive; and he is expressly designed as "son and heir apparent" as a witness to sasines in 1604 and 1606. He succeeded his father in 1619, made up his titles to the now extended barony of Leys, and Pittenkeirie, Invercanny, half Banchory, with the tithes and patronage of Banchory, all held of the Crown, and to Invery and the other half of Banchory by Precept from John Spottiswood, Archbishop of St. Andrews, as superior. In 1619 he was made an honorary burghess of Aberdeen, and in 1620 he was knighted. He represented Kincardineshire in Parliament in 1621. He was one of the earliest recipients of the dignity of Baronet of Nova Scotia. His patent, dated Holyroodhouse, 21st April, 1626, grants to Sir Thomas Burnet of Leyis, knight, the usual quantity of lands in New Scotland, under the designation of the barony and regality of Leyisburnet "et heredibus suis masculis et assignatis quibuscunque hereditarie," and confers the dignity of Knight Baronet on him "suosque heredes masculos quoscunque de tempore in tempus perpetuo omni tempore futuro." The dates of the signature, and of its registration are 21st April and 8th May, 1626; the date of sealing the patent, 12th June, 1626; and of the sasine thereon, 13th June, 1626.

In the Act of 1621, for the plantation of new kirks, mention is made of Burnet of Leys having petitioned for the erection of a church at Fetteresso, the parish in which Muchalls lay.

The castle or mansion house of Muchalls, begun by his father, was completed by Sir Thomas Burnet in 1627. Standing on a rising ground, on the rather bleak tableland which forms the coast of Kincardineshire, but surrounded by a few ancient trees, such as are rare in the district, it is a favourable specimen of the smaller baronial residences of its date. It has happily escaped being modernized, and, though little cared for for a length of time, the strength of its walls and stone roof preserved it from falling into ruin. It has in more recent times been repaired in a reverential spirit; is the now summer residence of Mr. J. P. B. Robertson,

M.P., Lord Advocate,* and is kept in beautiful order. It is built in the not unusual form of two wings at right angles, forming two sides of a courtyard, of which the other two are surrounded by a wall. The crow-stepped gables are flanked by round and square turrets, with ornamental corbels; and the courtyard wall, in harmony with the rest, is in perfect preservation. The ground floor is roofed with groined vaulting. The ceilings of the great hall and the withdrawing room, on the first floor, are of the sort of renaissance plaster-work common at that date, the panels containing reliefs of scriptural and classical heroes. A large Egyptian figure stands on either side of the great fireplace of the hall. On a tablet on the outer wall are inscribed these words:—"This work, begun on the east and north by Ar. Burnet of Leyis, 1619, ended be Sir Thomas Burnet of Leyis his sonne, 1627."

Sir Thomas also did much to improve and beautify the surroundings of Crathes. Robert Gordon of Straloch, his contemporary, whose son was married to Sir Thomas' daughter, in describing Crathes, says:—"In qua [parochia de Banchory] non longe a ripa arx Crathes sedet: Thomas Burnetus baro loci dominus cura et operibus loci ingenium vicit; consitis enim abietibus, aliisque multifariam arboribus, horridas cautes vestivit, hortis instruxit, voluptatem paravit." (Collections for the Shires of Aberdeen and Banff, p. 25.) The noble fir trees in the woods of Crathes still challenge admiration, as do the old-fashioned but beautifully kept up gardens, with the almost unique hedges, 250 years old; and the "horridæ cautes," with the trees and shrubs growing in their interstices, are among the most beautiful features of the fine western approach.

In 1620, Sir Thomas Burnet acquired the lands of Wester Slowy and Haugh of Slowy, Over and Nether Tillydrine, Cardno, Borrostoun of Kincardine, the fishings of Wester Slowy, two-thirds of the fishings of Borrostoun and Cardno, and the fishings of Potarch, held by Master John Strachan, parson of Kincardine, as superior. On 6th May, 1625, Thomas Watson, "polentarius," conveyed to him a subject in New Aberdeen. In 1636, he acquired Arbeadie and Inchmarlo, and, in 1640, he apprized Cluny, in the parish of Banchory (which he had before had in wadset), from Alexander Burnet of Cluny, for a debt of 5255 marks. On 22nd August, 1642, he had a Crown confirmation of a charter of June preceding, from William, Earl Marischal, of Strachan and Culpersie,

*[Lord President, 1891.]

with fishings in Dec, Dye, and Feugh, patronage of the archdeaconry of Brechin or parish of Strachan, within the lordship of Inverugie (by annexation) and sheriffdom of Kincardine. The lands which he held of the Crown at his death were:—the barony of Leys, with a reddendo of 1d. blench; Muchalls, £20 taxed ward; Campbell, Craigour, &c., 1d. blench; Tullihaike, &c., 20s. feu ferme; Pittenkeirie, 6s. 8d. blench; patronage of Banchory, 1d. blench; Invery, £5 6s. 8d. feus, and Strachan and Culpersie, £60 taxed ward.

In 1646, a question was raised in Parliament as to whether Cannegleroch (part of Leys) was in Kincardineshire or Aberdeenshire (Acts of Parliament of Scotland, I., 518), and soon afterwards the lands of Crathes, which locally lay in Aberdeenshire, were, by Act of Parliament, annexed to Kincardineshire, on the ground that the laird of Leys had other lands and another residence in the Mearns.

When about nineteen years of age, the heir apparent of Leys had, as has been seen, visited his uncle at Norwich, when both Duncan Burnet and his wife were greatly attracted by the pure, earnestly devout, gentle, and yet manly, demeanour of their nephew: and the correspondence that followed affords some insight into his early life. Duncan's letters (see Appendix), though often touching on religious topics, give no indication that the changes just then going on in the Church polity of Scotland had any interest for either uncle or nephew.

In 1618-9, the year of his father's death, we find Thomas Burnet, younger of Leys, one of a body of Commissioners named by James VI., at the instance of Bishop Patrick Forbes, to visit the Universities of Aberdeen (*Fasti Aberd.*, p. 274). Patrick Forbes of Corse, of a Presbyterian family, had been a pupil of Andrew Melville for philosophy at Glasgow, and for theology at St. Andrews. While he had imbibed his master's love for learning, mature reflexion had led him to conclusions, both political and theological, opposed to the Presbyterianism of his day. He was made Bishop of Aberdeen in 1618. Spottiswood describes him as the best Scottish prelate since the days of Bishop Elphinstone; and he interested himself almost as much as Elphinstone in the welfare of King's College, of which, as Bishop, he was Chancellor. He had been no sooner appointed to his See than he obtained the Royal Commission alluded to, to enquire into its condition, in which he was conjoined with Lord Dunfermline, the Earl

Marischal, Sir James Skene of Curriehall, Thomas Burnet of Leys, and others. The reports of the Commission, made in 1619 and 1621, give by no means a favourable picture of the discipline of the University, the administration of its finances, or the condition of the fabric of King's College. Bishop Forbes undertook the task of reform with zeal and energy, and, during his episcopate, introduced into the theological and other chairs of the University, and into the pulpits of the town churches, a group of men distinguished alike for erudition, piety, and general accomplishments. The assumption by this prelate of Thomas Burnet as a coadjutor in schemes of University reform, in which the theological element had especial prominence, would suggest that there was then no very pronounced difference in their views on church topics; and we find Burnet's name appended to the Report of the Commission of date 1621.

About 1618, elements of religious contention, which before had been smouldering, became greatly intensified. The introduction of Bishops had been generally acquiesced in; but the Five Articles of Perth produced quite a popular ferment. These Articles proposed to sweep away certain forms and practices of worship introduced in the first heat of the Reformation, apparently from no higher principle than antagonism to every usage of the Church in past times. However little many of the more devout and thoughtful of both clergy and laity might be disposed to object to a more reverential posture at the Holy Communion and the observance of the days of the birth and passion of our Lord, popular prejudice was strong against what was regarded as an infringement of the liberties of the Kirk, more especially in respect that these liberties were being infringed by innovations imposed at the instance of the King. The general issue soon became political as well as religious, and, as events progressed, the one side became more and more associated with absolutism, the other with resistance to lawful authority. Sir Thomas Burnet sat in the Parliament of 1621, in which the Five Articles were passed amid great excitement outside, and during a thunderstorm of unusual violence, which was taken to be a manifest token of Divine displeasure. During the thirteen years that followed the strife steadily gained strength. The Articles, though sanctioned by General Assembly and Parliament, could with difficulty be enforced; and the dissatisfaction was increased by King Charles' disregard of public feeling on this subject at the time of his coronation visit of 1633, by the trial and conviction of

Lord Balmerinoch for presenting a mildly-worded petition against the unpopular novelties, and then by the highly impolitic introduction of a Book of Canons and Service Book imposed by royal authority, and at the instigation of an English prelate. Evidence is wanting of Sir Thomas Burnet's view of the situation between 1621 and 1637; but when the general excitement following the Edinburgh tumults began we find him a decided opponent of the Court party, and supporter of the Covenant, a document, it may be remarked, whose avowed respect for the royal office led many to join it who would otherwise have stood aloof.

The influence of Bishop Forbes and the learned and accomplished society which had grown up around the Cathedral and Universities of Aberdeen had made that town a little centre of loyalty and Episcopacy; and the University culture, with its Episcopal bias, had leavened that large district of the north-east of Scotland which looked on Aberdeen as its capital. A separate cause why the Covenant was looked on with disfavour in both town and county was the position held by the chief potentate of the district, the Marquis of Huntly. The first Marquis, an avowed Roman Catholic, could not have much weight in Church matters. But George, second Marquis, who succeeded in 1636, had been brought up a Protestant in the household of James VI. His loyalty was unbounded, and his open, chivalrous character rendered him a general favourite. Tempting offers were made by the leaders of the Covenant to secure him as an ally, which were courteously, but firmly, declined. "You may take," said he, "my head from my shoulders, but not my heart from my king." A minority of the gentry of these parts, including the Keiths, Forbeses, and Frasers, were, from motives of expediency, favourably disposed towards the Covenant, as an instrument for breaking down the Gordon ascendancy, of which they were envious. But it would be a mistake to class with them Sir Thomas Burnet, who had given his adhesion to the same side on purely conscientious grounds, and in opposition to his political instincts. Spalding describes him as "a faithful lover and follower of the house of Huntly, ane gryte Covenantanter also," an anomaly which evidently caused much perplexity to the good Town-Clerk of Aberdeen.

Immediately on the subscription of the Covenant in Edinburgh, the powerfully organized body, known as the "Tables," made arrangements for enforcing its acceptance throughout the whole country. It being

resolved that the district north of the Grampians, which was expected to offer most opposition, should be first dealt with, a Committee, consisting of some of the most distinguished adherents of the cause, lay and clerical, was despatched to Aberdeen. Of these the Baronet of Leys was one, his personal character, conciliatory disposition, and local influence being doubtless relied on to further their design. Some of the Commissioners, including Leys, paid a preliminary visit to Aberdeen in the beginning of July, 1638, when they were met by a polite declination on the part of both magistrates and citizens, on the ground that their visitors had no legal authority to exact the subscriptions demanded. The deputation returned in greater force on the 20th of the same month, headed by the Earl of Montrose, newly returned from abroad, who, whether carried away with the prevailing enthusiasm, or induced, as Mr. Mark Napier supposes, by the persuasions of persons craftier than himself, was at that time to all appearance one of the most earnest of the Covenanting Lords. Along with Montrose were Sir Thomas Burnet, Sir Arthur Erskine of Scotsraig, Lord Couper (brother of the Lord Balmerinloch whose trial may almost be said to have sealed the fate of the King's cause in Scotland), the Master of Forbes, and Sir Robert Graham of Morphy. Joined with them, as clerical delegates, were Alexander Henderson, one of the foremost organizers of the party; David Dickson, prominent in the polemical literature of the time; and Andrew Cant, then minister of Pitsligo,* the apostle of the Covenant, whose earnest zeal and fiery eloquence had already won great successes for the cause in Moray and Ross. On the arrival of the Commissioners the Aberdeen Magistrates, agreeably to use and wont, offered them the "Cup of Bon-Accord," of which every visitor to the good town was expected to partake, but they somewhat unceremoniously declined the proffered collation, holding that they would compromise themselves by drinking with any who had not yet subscribed the Covenant. The sequel was, as the Town-Clerk tells us, that the Provost and Magistrates "caused deal the wyne in the beid hous amongis the poor men, quihilk they so disdainfully had refusit, whereof the like wes never done to Aberdein in no man's memorie."

* Cant's eldest son, Andrew, afterwards married a daughter of Sir Thomas Burnet. He, however, deserted his father's colours, embracing Episcopacy, and was, at the time of his marriage, minister of Liberton, and afterwards Principal of Edinburgh University. The younger son, Alexander, minister of Banchory, steadfast to his father's principles, was ejected in 1662.

Next day, being Sunday, the Covenanting ministers had hoped to occupy the pulpits of the city churches, to which, however, the Magistrates and ministers refused them access. Not to be baffled, they betook themselves to the town residence of the Earl Marischal, where "the ladie of Petslego, his sister, was there dwelling, ane .rank puritan," and there, from extemporized galleries, Henderson, Dickson, and Cant held forth in succession to large audiences. On Monday they preached again, and obtained a few signatures, including, Spalding tells us, "Mr. Alexander Jaffray, sindrie of the name of Burnet, and utheris burgesses of Aberdeen." Dr. William Guild, one of the Aberdeen ministers, and Mr. Robert Reid, minister of Banchory, subscribed, with limitations and restrictions to the effect that they condemned not the Articles of Perth, nor Episcopal government, and retain all loyal subjection and obedience to the King.

The chief incident of this covenanting visit was a formal disputation between the clerical members of the Commission and the theological professors of the University and ministers of Aberdeen, beginning with a challenge from the Aberdeen doctors, and proceeding, according to the scholastic usage of the day, by way of demand, answer, and duply. The Covenanting ministers were somewhat overweighted by their opponents, who included, among others, the learned and saintly Dr. John Forbes of Corse, son of Bishop Patrick Forbes, and professor of theology in King's College, and Dr. Barron, little behind Forbes in learning, and a man of the most blameless life, on whose theological works the highest possible encomium has been pronounced by Bishop Jeremy Taylor.* The doctors took up and stood by the not very assailable position that, granting the National Covenant to be as excellent a document as its adherents regarded it, the Commissioners had no right or authority to force it on those who loved it not. In the course of the proceedings, Henderson and Dickson, on whom it chiefly devolved to conduct the controversy, made, as the parson of Rothiemay tells us, a temporary retreat to the "Castell of Muchells in Mearnes, the dwelling-house of Sir Thomas Burnett of Lyes, . . . and in that conveniencye

* In 1640, after Barron's death, on the plea that there were unsound passages in his writings, his widow was made prisoner by order of the General Assembly, and dragged in custody of a body of military from her retreat in Strathilay to enable them to search for her husband's letters and manuscripts.

(he being one who was aequally zealous towards the purity of the reformed religion and the advancement of the Covenant at that tyme) they took some dayes leisour for to draw upp an ansuer to the doctors of Aberdeen's replies, which they lykewayes were necessitated to cause printe, but not without a complainte to the reader (as they had good cause) that they were brought upon the stage, and, contrary to ther expectation, putt in print. And leaving a cobby therof to the doctors, they went south, without ever expecting or calling for a duple, or tacking notice of the duplyes of the doctors of Aberdeen to ther second answers, which not long afterwards the doctors of Aberdeen printed in ane booke by themselves, of about sixteen sheetes of paper. But ther the dispute ended, for these duplyes gott never an answer to this daye." It was with other than forensic weapons that the strife had now to be carried on.

But there was first a short interlude of negotiation. The Marquis of Hamilton was appointed King's Commissioner, and Charles had been gradually and no doubt unwillingly induced to issue a proclamation which conceded the demands of the Covenanters to the extent of recalling the innovations that had given most offence, and appointing a day for the convening of a General Assembly and of a Parliament. The Covenant of the "Tables" was to be superseded by the King's Covenant, namely, the Confession of Faith of 1581, without the postscript lately appended to it, and with an obligation superadded to defend his Majesty's person. To this Covenant the King's Commissioner was enjoined to obtain subscriptions. The King's Covenant had a more favourable reception at Aberdeen than elsewhere; but even there, the doctors would only sign it with reservations in favour of Episcopacy and the Articles of Perth. All hopes of compromise were ended by the attitude assumed by the Assembly that met in Glasgow in November, which, continuing its sittings in defiance of the Royal Commissioner's orders to disperse, proceeded to depose and excommunicate the Bishops and abolish their office.

The Tables resolved that a Committee should be sent to Aberdeen to publish the Acts of Assembly at the Market Cross, and also to "visit the College of Old Aberdeen and repair the faultes thairof." As has already been noticed, Sir Thomas Burnet of Leys was on the most friendly footing with Huntly; and Spalding tells us of an interview between them

on this subject "To whome the Marques gave no contentit ansver as done aganes the King's command. Then Leyis ansuerit, I feir thir thingis wilbe done be ane army."

The note of war was already sounded. Numerous Scots who had fought in the German wars offered their services to the Covenanting lords; and in every county a Committee of War was formed to raise and discipline troops under the German veterans. Some 4000 men under Montrose and Leslie were told off to reduce the northern districts to subjection. On the 12th March the following letter (among the Crathes papers) was written by Argyll, Montrose, and the other leaders of the party to Sir Thomas Burnet:—

"Most honorabill

"This trustie beirer will impairt vnto yow such conclusiones as are agried heir by commone advyse to be necessarie for the good of our commone caus, whose relatione we are confident yow will not only beleive But lykwayes follow the wayes he will impairt vnto yow as verie expedient for preventioune of imminent dangers, and accordinglie will joyne your best assistance in the executione of what is determined, as yow wald give tymous proof of your affectione to religioune, the King's honor and liberties of the Kingdome; So we shall evir rest

"Edr 12 March 1639.

"Your loving friendes

" ARGYLL MONTROSE
" BALMERINO J. BURGLEY

" Mr HARIE POLLOK Mr GIBSONE DURIE
" ALEX. HENDERSON SHEPBURNE."

On 16th March a Commission which Huntly had received some time before as King's Lieutenant in the north, but which he had been desired to keep secret till some emergency occurred, was proclaimed at the Cross of Aberdeen, and all men from sixteen years old to sixty were ordered to join his standard. But owing to the supineness (some say treachery) of Hamilton some considerable succours expected by Huntly were withheld; and Montrose, whose activity had been greater than Huntly's, had collected a force of 11,000 men, too powerful to be resisted. James Burnet of Craigmyle, Leys' brother, likewise a Covenanter, but a friend of moderate counsels, made a strong representation of the *status quo* both to Huntly and to the town of Aberdeen, the result of which was that the Marquess dissolved his army and retired to Strathbogie, and the Aberdonians came to the resolution that they would do best to admit the

Covenanting army peaceably into their town, and allow them every accommodation. Most persons of rank on the non-Covenanting side having fled, Montrose entered Aberdeen in triumph on the 30th March, when the inhabitants were compelled to subscribe the Covenant, but no great damage was inflicted on the town. Sir Thomas Burnet was one of a tribunal that sat in the Greyfriars Church on 2nd April and following days, before which the doctors and citizens and the "malignants" among the nobility and gentry were arraigned, and required to subscribe under pain of confiscation of their goods. The Covenanting ministers too at their diets of worship required the assembled audience to declare with uplifted hands that they subscribed willingly from their hearts and not from fear or force. "The Lord knowis," remarks Spalding, "that the toune's people were brocht under perjurie for plane feir, and not from a willing mynd, by tyranny and oppressioun of thir Covenanters, who compelled them to sweir and subscribe, suppose they knew it was aganes thair hairts."

Montrose on the afternoon of the day of his arrival in Aberdeen had started for Inverury with a body of 1500 men in pursuit of Huntly. The latter, finding his position desperate, opened negotiations, when a hollow truce was concluded, Huntly and his people subscribing the old Covenant with an equivocal docquet which might be interpreted as binding them equally to Presbyterianism and to Episcopacy. Montrose, however, on his return to Aberdeen, sent for Huntly, no longer on his guard, to have a friendly consultation about future plans; when Huntly, to his surprise, was first watched, then kidnapped and carried off by the Covenanting leader to Edinburgh, where he was kept for some time in durance, an act of bad faith in which there is no reason to believe that the laird of Leys was implicated.

Huntly's seizure, as might be expected, roused his friends to action. His second son, James, Viscount Aboyne, assembled a body of men from the Gordon country ready for revenge. After attacking and dispersing a body of the adherents of the Covenant at Turriff, they marched into Aberdeen, where they made a few days' stay, plundering the houses of those citizens who had become converts to the Covenant. The "Barons," as Huntly's party were called, apprehensive of a hostile move on the part of the Earl Marischal, were resolved, unless they had assurances of his friendliness, to waste his lands. The two most moderate men however

on either side, Burnet of Craigmyle and Gordon of Straloch, anxious to avoid bloodshed, endeavoured to bring about a peaceful settlement, and for that purpose had an interview with the Earl Marischal. Over confident in the success of the negotiation, the Barons disbanded their army; and next day Aberdeen was occupied by the Earl Marischal, immediately followed by Montrose, their combined force numbering 6000 horse and foot, besides artillery. Montrose, who had obtained written evidence that the citizens were ready on the first opportunity to repudiate their acceptance of the Covenant as having been obtained by force and fear, imposed on them a fine of 10,000 merks, and gave his soldiers free permission to pillage. A rumour having arisen of an invasion by sea of the King's party, the authorities were commanded to block the harbour by sinking ships on the bar; but the order was recalled in consequence of a strong remonstrance made by a few of the nobles and gentry of the county and inhabitants of the burgh, one of the signatories being "Alexander Burnet younger of Leyis."

On the 6th June, Aboyne, with a commission as King's lieutenant, arrived by sea with a body of followers at Aberdeen, which had been previously evacuated by Montrose. His army, of course, plundered the houses of citizens believed to be Covenanters. Several leading Covenanters were captured in the Mearns by his "outwatchis," among them James Burnet of Craigmyle, who, however, got his liberty on taking the oath of allegiance. Aboyne's army, marching out of Aberdeen, encamped on the 14th at Muchalls, which house, says the parson of Rothiemay, "was rifled by them the next day in ther returne; and the night that they lay ther the cornes abused and anything else, as ther humors served them, whereupon they could lay their handes, for many of the countrie people were fledde, and ther best goods transported into the stronge holde of Dunnoter, not far distant." Next day a battle was fought near Stonehaven, where Montrose was victorious; and four days later he was again master of Aberdeen, after a fierce struggle at the bridge of Dee. Montrose had a warrant from the Tables to give up the town to indiscriminate pillage, and reduce it to ashes, and while he hesitated to give effect to it, news arrived of the pacification of Berwick, on receiving which he restored the keys to the magistrates, and, after exacting a tribute, took his departure.

The peace was of short duration, and the Covenanters preserved their

ascendency. In the early part of 1644 Aberdeen was visited first by a Cavalier army under Huntly, who, as usual, pillaged both the town and the country around. Young Irvine of Drum, who was one of the more fiery spirits of the party, "plunderit his own cusing John Irving of Kincouseis armes out of Auchquhorties, and James Burnett of Cragmyllis armis out of Blackhillis." Craigmyle also figures at this time as one of four Commissioners from the Committees of War for Angus and Mearns, whose mission was to bring pressure on Huntly to disband his troops. The Cavalier army had hardly left the town when a Covenanting force arrived under Argyll and the Earl Marischal, a visitation which brought still further miseries in its train. During that occupation, a Committee of the Estates for Northern Business met at Aberdeen, to which a petition was presented by Lord Fraser, Sir Thomas Burnet of Leys, his brother of Craigmyle, Patrick Leslie, provost, and Alexander Jaffray, baillie of Aberdeen, and the provosts of Banff and Montrose, complaining of their losses in victual, horses, household plenishing, etc., by the quartering of troops, and desiring redress out of the first and readiest effects of the "malignants" that should come to hand. The matter was remitted to the next meeting of the same Committee at Aberdeen, which took place on 25th July following, but with what result does not appear.

Later in the year Montrose, now a Marquis, and devoted to the King, marched northwards, no longer to enforce the Covenant, but to suppress it, the Covenant, however, not being now that of 1638, but the Solemn League and Covenant, one of whose provisions was that a Scots army should be despatched into England against the King. After fording the Dee at Mills of Drum, on 11th September, he encamped at Crathes, and, as the Aberdeen Town Clerk informs us, "with his gaird soupit with the laird of Leyis, after he had summoned him to render his house." He did no harm, but took some arms and horses and promise of some men. "Leyis offerit him som five thousand merks of money, which he nobly refused." Lord Airlie and his sons, Lord Dupplin and the Master of Spynie, we elsewhere learn, were of the party. Again, a month later, Montrose, with his forces, arrived by the same route at Crathes, spent the night with his hospitable opponent, and the same chronicler tells us that the laird of Leys "gave contentment to Montrose." We next find Montrose passing through Aberdeenshire,

burning, spulzicing and plundering the lands of the supporters of the Covenant, but "on Saturday, the 19th October, he dined in Monymusk with the lady," this lady being Sir Thomas Burnet's daughter, "and, upon fair conditions, he spared him at this time." He then went on his way, harrying the lands of the Covenanters. On Montrose's visit next year, it is also said that "he spairit be the way the laird of Monymusk and Leyis' lands unplundered upon some privie conditions." Leyis and his son-in-law, be it remarked, are the only Covenanters who are thus protected and defended; and it is quite clear that it was the instinct of old friendship and personal regard, creditable to both parties, that led the Marquess to single them out for exemption from the rigorous treatment dealt to others.

But in the distracted state of these northern parts, occupied alternately by hostile Irish and Highland forces, it was not to be expected that Sir Thomas Burnet's domains should be exempt from plundering and harrying. Spalding alludes to highlanders from Cromar, Birse, Strachan, and Aboyne plundering the lands of the laird of Drum and other enemies of the Covenant; but there is evidence at Crathes that the lands of Leyis were subject to like visitations, and that Sir Thomas armed and organised half of his retainers to put down their depredations (Leyis Barony Court Book; Spald. Club. Misc., v., 227). The Estates meantime found it necessary to impose an excise and other heavy taxes for the maintenance of the army to be sent in terms of the new Covenant into England, exactions which produced much discontent among the adherents of both sides; and we find Sir Thomas Burnet petitioning for an exemption from these imposts, and for aid against the highlanders. General Middleton, commander of the intended expedition, by order of the Committee of Estates, writes to him as follows:—

"By Major Generall Middletone Commander of the forces for the Present expedition.

"Wheras thair wes ane supplicatioun gevin in to the parliament be Sr Thomas burnet of Leyes and others heritours and gentlemen within the parochines of banchory straquhan and kincardyne Shewing the hard estate of that Countrey by the continewall dounfalling of the neighbouring hielanders of birss Cromar glentanner aboyne Strathdone And desyring the estates of Parliament To consider th^rof and to prouyd remeid th^rto for th^r security And withall undertaking vpon th^r exemptioun from other publict leavies and birthens to put out the Just haiff of th^r wholl men both

horse and foote for th^r effect As at length is contenit in the supplicatioune Quhilk being remitted be the parliament to the Committee of estates and the said desyre being found reasonable be the said Committee and recommended be you to me for th^r liberatioun from new leauvies and securing of the countrey from Infalls of the forsaid hielanders and rebels I do heireby declair that the forsaid horse and foote put out be you for the effect hes beine and is necessar and expedient and hes beine a powerful meane for quyeting that part of the countrey from the saids hielanders And th^rfor doe exeeme and frie thame of any new leavies or other publict deuis furth of th^r saids lands within the saids thrie parochines in tyme coming conforme to the Committeis reference to me theranent and do heirby Discharge all officers and soldiers belonging to the Army from troubling you th^rfor as they will be ansuerable vpon th^r perrel.

“Given at Aberdeen the 10 of June 1645.

“JO. MIDDLETONE.”

It seems to have been about this time that Leys sent his whole silver plate to Edinburgh to be melted down for the good of the cause, by way of loan to be hereafter repaid, and, at the request of the Marquess of Argyll, made other large advances in money, for which he next year obtained the following promise of payment, a promise, however, which was not followed by performance:—

“Edinburgh 18th July 1646.

“Anent the supplicatioun presented to the Commitie of Processes and money be Sr Thomas Burnet of Leyes Maikand mentioun That whair in his affectioun to the publict cause he did voluntarily without so much as desyred send over to Ed^r his wholl silver worke and reseaved two bands therfor extending to the sume of an thousand seven hundreth threttie three punds And sensyn he has advanced to Johne Denholme Commissary Conforme to his bands Nyne thousand merks And lately advanced fourescoire sextein bolls of victuall partly to Generall Maior Middletoun and partly to the Treasurer of the army off which soumes and annuall rents therof he hes reseaved no satisfioun Albeit an great part of the siluer worke of the kingdome be payed and intended not to have been troublesome at this tyme in the disyreing therof if necessity did not vrge, his wholl lands being brunt and wasted by the rebels Which forces him now for his present subsistence Humbly to desyre that sum effectual meane might be thought vpon for his satisfioun and the pryce of his victuall might be condiscended vpon With the quhilk supplicatioun and desire theroff the said Committie being well and ryplie advised And having appoynted some of thair owne number for fitting of the supplicants accompts of his victuall They find that the supplicant hath deluyired to Hew Sternour servitour to the Lord Humby in Junij

1645 for the use of the army the number of fourscore bolls ait meall conforme to his receipt therof As also that he hath delivered for the use of the forces under the command of Generall Maior Middeltoun the number of sextein bolls ait meall in Aprile last as appeares vnder the band of the said Generall Maior And the said Committie allowes for the pryce of ilk boll of the said victuall the sume of fyve pund Scots, Extending in the haille to the soume of four hundreth and fourescore pund And declares that they will cause the samyn with such other soumes as shall be fund restand to the supplicant for his siluer worke And the bygane annuall rents of the forsaid soume of nyne thousand merks advanced by the supplicant to the publict and for which soume the supplicant hath two severall bands of John Denholme Commissary be payed And for that effect with the first conveniency will grant precept for the samyn.

“Extractum per me

“JA. PRYMROSE.”

The story is well known of the episode called the “Engagement,” a proposal made in 1648 at Newport that Charles I. should become a covenanted king over a covenanted people. It was unsupported by Argyll and the more influential Covenanters generally, who feared being brought by it into a questionable alliance with the Cavaliers and the old parliamentary party in England. The engagers collected a force, marched into England, headed by the Duke of Hamilton, but were signally defeated by Cromwell. A few months later followed the beheading of Charles, followed by the execution of the Duke of Hamilton in London for the engagement invasion, and of Montrose and Huntly in Scotland for treason to the Covenant.

Charles II. had been proclaimed King in Scotland as soon as the news arrived of his father's death; and a Parliament of the most uncompromisingly covenanting character was assembled in his name. In the records of this Parliament of 1649 occurs a complaint of Sir Thomas Burnet to the effect that, a levy of horse and foot having in 1648 been ordered to be raised from the disaffected and “engagers” in each shire, an attempt had been made to include his lands in those assessed, notwithstanding that he was one of the few gentry of the Mearns who were well affected to the Covenant and opponents of the engagement, and setting forth his losses already alluded to, and estimated at £67,000, as a special reason why he should not be thus inequitably dealt with. The result was an Act in favour of Sir Thomas Burnet,

declaring his exemption from this levy, and recommending the Committee of Money to take steps regarding his "lent money" and "silver works" (Scots Acts, VI., ii., 404). There seems to be no evidence that this recommendation was carried into effect more than the former one.

On 3rd July, 1650, Charles II., having agreed to be the Covenanting King of a Covenanting people, landed at Elgin,* and taking in his way Huntly's now garrisoned castle of Gight, he went on, by Aberdeen, to Dunbar. In October following, the Earl Marischal writes the following letter to Sir Thomas Burnett :—

"Honored freind,

"I doubt not bot yow know his Mat^{ie} is now in the feilds and heath comanded me to caus all within this shyr to be in redines to attend him therfor seing yow ar not abell your selph for the feilds I disyr yow will send yowr best horses men and arms here to dunoter on Munday be tyms w^t Sr Robert Duglas whoum I heaue particularly aduertsed my selph lykwayes this expecting you will not feall I am

"Dunoter 5

"October

"1650."

"Your affectionat and

"asured freind

"MARISCHALL."

The next public events, which speedily followed each other, were Cromwell's defeat of Leven's army at Dunbar, the coronation in haste of Charles II. on 1st January, 1651, the King's march with Leven's army into England, the defeat of Worcester, and Charles' flight. Cromwell had left General Monk in command in Scotland, with an army of 50,000 men. Of date 12th April, 1651, the following holograph letter, now at Crathes, was written by King Charles II., granting the land of Leys an exemption from the quartering of soldiers :—

"Charles R.

"Wheras it hath beane represented vnto us in the behalfe of our welbeloved the Laird of Leys Burnett that upon the pretence of ane band given by him to Coll. Henry Mauld or to some of his officers to produce some men were deficient to his regiment (which men were afterwards really and effectively sent to the regiment and receaved into it) you nowe quarter for the money contained in the said band which if it be true as is averred in the name of the said Laird is a very greate oppression Therefore and vntill the matter shall be hearde and considered we apoynt and command you to w^ddrawe and take off the soldiers soe

* Of date 5th July, 1650, in the records of Parliament is an entry, "Report of laird of Leys read and approved" (Scots Acts, VI., ii., 606).

quartered vpon the Laird of Leys his lands and not to trouble or molest him or any of his Tennants vpon the pretence of the band and this as you will answeare the contrary vpon your highest perril Given att our Court att Dumfermelyne the 12 of aprile 1651.

“For Cap^t English

“in Coll. Henry Maulds Regiment.”

Two days before the battle of Worcester, on 1st September, 1651, Monk stormed Dundee, where, encountering a prolonged resistance, he, contrary to his wont, slaughtered the garrison and a large number of the peaceful inhabitants, and pillaged the town to such an extent that each of his soldiers received nearly £60 sterling.

The Commonwealth was now established in Scotland, and an ordinance of indemnity was passed by the Lord Protector, from which, however, there were very wide exemptions made, including the Royal family, the Earls Marischal, Lauderdale, and Loudoun, all the “resolutioners,” all who had served in Hamilton’s army, who had taken part in the coronation of Charles II., or taken arms for him. Sir Thomas Burnet’s exemption was secured by the following letter from Monk, dated from Dundee :—

“For my honoured friend Sir Thomas Burnett of Leys, Barronett there.

“Sir, I thought good to assure you that your dwellinghouse shall not be made garryson of, and assure yourselfe I shall be ready to doe you all the lawfull favors that lyes in the power of him who is

“Your assured friend and servant,

“GEORGE MONCK.”

“Dundee 26th December 1651.”

The following protection from another of Cromwell’s officers, Colonel Overtoun, is also in the Crathes archives :—

“These are to require all officers and soldiers under Command of his excellence the Lord Generall Cromwell to forbear to molest or trouble the person of Sir Thomas Burnet his houses Lands or take away his Corn, Cattell, or anything belonging to him, (except by order) and acting nothing preiudiciall to the state of England.

“RT. OVERTON.”

In earlier days we found Sir Thomas Burnett co-operating with Bishop Patrick Forbes in removing abuses in King’s College and amending its

discipline. There is no trace of his having had a hand in its "purgation" at the instance of the more violent spirits of the party in 1640, a measure which happily was not altogether successful in extinguishing the academical learning of the north. We find in the records of the Parliament of 1649 the name of Sir Thomas Burnet as one of a proposed Commission to visit Aberdeen University (Scots Acts, VI., ii., 509). His continued love of his Alma Mater, notwithstanding its prelatie leanings, is shewn by his endowing three bursaries of philosophy in King's College. The deed of foundation,* dated 6th and 12th October, 1648, is in the form of a contract mortifying four crofts near Aberdeen for the maintenance of the bursars, and providing that the presentation is to be in the hands of himself and his successors, lairds of Leys. There is a provision that these bursars are to be educated according to the same manner in which the rest of the bursars of philosophy in the said College already founded are educated and entertained. The yearly revenue of the four crofts mortified was originally under £10, corresponding pretty nearly with the income enjoyed by Bishop Elphinstone's bursars alluded to in the deed of foundation; but in course of time, by the extension of building operations about Aberdeen, an income of about £300 was derived from them. The increased rent, however, thus derived from the crofts the University applied, not to improve the position of the bursars, but for College purposes. In 1843, Sir Thomas Burnett, 8th baronet, came forward with great public spirit to vindicate the right of the bursars, of whom he was patron, to something better than what had become a mere illusory provision, and raised an action in the Court of Session, calling on the College authorities to pay over the whole of the improved rents of the Leys crofts to the Leys bursars. The Court of Session on 23rd February, 1844, and the House of Lords on 28th August, 1846, affirming the judgment of the Scottish Court, pronounced in favour of Sir Thomas Burnett's contention, and the Leys bursaries, from being the least valuable, are now one of the more valuable foundations of the kind belonging to the University of Aberdeen.

Another educational foundation by Sir Thomas Burnett was an endowment, by a bond dated 29th October, 1651, of 5000 marks to the Grammar School of Banchory-Ternan.

* See Appendix.

He had, on 15th January, 1614-15, been, with his father, a party to a grant of annual rent of 200 merks to six poor men of the parish of Banchory. At a later period he had built a hospital at Banchory for the support of the aged dwelling on his own estates and elsewhere within the parish, and, in October, 1651, he mortified 6300 merks secured on certain lands held by him in wadset in the parish of Crimond, for the maintenance of the inmates of that hospital.

Sir Thomas Burnett was twice married, and had a family by each wife. His first wife, whom he married in 1610, was Margaret, eldest daughter of Sir Robert Douglas of Glenbervie,* to whom allusions are made in the letters of his uncle, Duncan. Excellent advice is contained in these letters on the duties of a husband. In the same bed-chamber at Crathes where is the large oak bedstead of Sir Thomas's father and mother, already described, there is a handsome wardrobe with carved doors, which must have been of the date of the marriage of Thomas Burnett and Margaret Douglas. On one of the upper panels is the coat of Burnett with the initials T. B.; on the other Burnett is impaled with the quartered coat of Douglas (the heart uncrowned) and Auchinleck, with initials M. D. On the two lower panels the four initial letters are united in a monogram. The issue of this marriage were two sons and two daughters.

- I. ALEXANDER, Younger of Leys, admitted an honorary burgher of Aberdeen in 1633, and in the same year married Jean, eldest daughter of Sir Robert Arbuthnot of that Ilk, and sister of the 1st Viscount Arbuthnot. Her tocher was 20,000 marks,† and her father-in-law gave her the life-rent of Pittenkeirie, Brathinche and Invercanny, of Tillihaikie and Brigend, and of Wester Slowie, Borrowstoun and Cowcardie. We have found him in May, 1639, a petitioner against Montrose's proposal to block up the harbour of Aberdeen in order to oppose the landing of a Royalist force, and his name appears on the

*Second son of the 9th Earl of Angus, whose right of succession King James VI., in the capacity of heir of law, unsuccessfully contested on the plea of the invalidity of the exclusion of heirs female in the settlement of 1547, which the King stigmatised as "against the law of God, the law humane and of nature."

†MS. note by John Riddell of discharge of the same by Alexander and his father in the Arbuthnot charter chest, of date 24th September, 1633.

Committees of War for Kincardineshire in 1644 and 1646. He died in June, 1648; and his widow, in 1651, married Patrick Gordon of Glenbucket. The issue of Alexander Burnett and Jean Arbuthnot were three sons and two daughters, each (except the eldest son) provided for by their grandfather, Sir Thomas, to the extent of 40,000 marks, viz. :—

1. Sir ALEXANDER, afterwards 2nd Baronet.
2. THOMAS, designed "in Pittenkeirie," afterwards had Sauchen in wadset from his uncle from 1668 to 1672; was made an honorary burghess of Aberdeen, 1678; and in 1688, as "Thomas Burnett of Clerkseat," subscribed £20 to the new buildings of King's College (*Fasti Aberd.*, p. 554). He died without issue, and his nephew, Sir Thomas Burnett, was served heir in general to him on 24th March, 1691.
3. Mr. ROBERT, at King's College in 1664, where he graduated, 1668. In 1674 he was made an honorary burghess of Aberdeen; and in 1675 he purchased Glenbervie from his father's cousin-german, Robert, eldest son of Sir William Douglas, Bart. (to whom Glenbervie had been conveyed by his father), and a few years afterwards married Katherine, daughter of this same Sir William Douglas (by Janet, daughter of Alexander Irvine of Drum). On the death of her brother, Sir Robert Douglas, at Sternkirk in 1692, Katherine became heir of line of that branch of the Angus family. Mr. Robert died in 1699, having had by Katherine Douglas three sons and two daughters.* His eldest son, Thomas Burnett of Glenbervie, married, 1701, Agnes, second daughter and co-heir of Mr. Robert Burnet of Cowtoun, "tutor of Leys"; and died, January, 1712, leaving two children under age, a son, Thomas, who died shortly afterwards, and a daughter, Katherine, who married, circa 1728, George Gordon of Buckie. When a minor,

* These were—1. Thomas, his heir. 2. John, alive 1704. 3. Robert, merchant, Montrose, married, 17th December, 1724, Elizabeth Dunbar (according to the Montrose parish register, which also contains the record of the baptism of the following children :—Elizabeth, 28th September, 1725; Margaret, 5th January, 1727; William, 16th June, 1729; Jean, 26th December, 1729; Mary, 31st October, 1731; and Christian, 29th May, 1733). 4. Margaret, 5. Elizabeth.

Katherine, with consent of her curator and under authority of the Court of Session, sold Glenbervie (a transaction ratified when she was of age) to William Nicolson, afterwards Sir William Nicolson of Kemnay, Bart., who married Katherine's mother for his fourth wife. Glenbervie now belongs to the descendant in the female line (but by a previous marriage) of this Sir William Nicolson, who is married to a Burnett of Monboddo.

1. MARGARET, mentioned in Sir Thomas Burnett's will.
2. JEAN, married (sasine on marriage contract dated 2nd September, 1661) John Skene of Skene; "a lady of uncommon conduct and frugality." She "built the new middle part of the house of Skene in her widowhood, and put the roof on the old tower. She died at Crathes in harvest 1688, somewhat more than eight years after her husband's death" (Memorials of the Family of Skene, p. 38).

II. Mr. ROBERT, who became a member of the Faculty of Advocates, 22nd June, 1642,* and was, like his father, attached to the Covenanting party. In 1649 we find him a Parliament Commissioner for visiting the University of St. Andrews. He married on 16th February, 1643, Katherine, daughter of Alexander Pearson, advocate, a senator of the College of Justice from 1649 to 1656 under the title of Lord Southhall. The Edinburgh parish registers contains entries of the baptism of five sons and three daughters of this marriage.

1. THOMAS, 31st December, 1646. On 15th April, 1676, Master Thomas Burnet was served heir general of Master Robert

* Four advocates of the name of Robert Burnett, about whom there has been some confusion, require to be carefully distinguished from each other.

1. Robert Burnett of Crimond, brother of the 1st Baronet of Leys, admitted to the bar, 1617; raised to the bench as Lord Crimond, and died in 1661.

2. Robert (apparently one of the family of Barns), admitted 1622; seems to have died about 1634; called in respect of his juniority to Lord Crimond "Robert Burnet, younger."

3. The present Robert, called "younger" from 1634 to 1661, when he becomes simply Robert Burnet, the addition of elder being given him after 1657.

4. Robert, son of Lord Crimond, admitted to the bar, 1657; inherited the designation of younger in 1661; died, 1662.

Burnet, advocate, his father ; but there seems to be no further trace of the continued existence of Robert Burnet's issue male.

2. ALEXANDER, 30th December, 1649.
3. Another ALEXANDER, 2nd June, 1653.
4. WILLIAM, 26th October, 1656.
5. ARCHIBALD, 29th April, 1660.
1. JEAN, 6th February, 1644.
2. RACHEL, 4th January, 1655.
3. ELIZABETH, 29th September, 1658. Married William Hamilton, writer in Edinburgh, as appears from his confirmed testament, 19th December, 1685, given up by her as executrix dative, in virtue of marriage contract between her and said William, with consent of Katherine Pearson, her mother.

I. JEAN, married, 1st, in 1632, Sir William Forbes of Monymusk, 2nd Bart., who died, 1654,* and by whom she had issue ; 2ndly, Robert Cumyn of Altyre, s.p.

II. KATHERINE, married, in 1638, Robert Gordon of Pitlurg.†

Sir Thomas Burnett, having become a widower, remarried (contract dated at Carnbee, 9th August, 1621, as appears from Sir Thomas' "private register") Jean, daughter of Sir John Moncreiff of that Ilk, and widow of Sir Simon Fraser of Inverallochy, 3rd son of Simon, 6th Lord Lovat. Her arms are to be seen impaled with those of her husband on a tablet, formerly at Muchalls, but now built into the outer wall of Crathes. There are a huntsman and a dog for supporters, the usual crest, but for motto *Alterius non sit qui potest esse suus*.‡ To this lady Sir Thomas

* 21st May, 1632, sasine to Jean, eldest daughter of Sir Thomas Burnet of Leys, by Sir William Forbes of Monymusk (her future husband) of Torrie. (Kincardineshire Sasines).

† 11th April, 1638, sasine to Robert Gordon, eldest son of Mr. Robert Gordon of Straloch and Katherine, daughter of Sir Thomas Burnet of Leys, his future spouse, of teinds of Straloch. (Banffshire Sasines.)

‡ This motto is referred to by Sir George Mackenzie :—"The Earl of Galloway has for his crest a Pelican feeding her young ones in a nest, or ; and the motto is, *Virescit Vulnere Virtus*. And yet Burnet of Burnetland, who has for his crest, a hand holding a pruning knife, pruning a Hollin-tree all proper, hath the same motto : and having pursued Burnet of Lees before Lindsay of The Mount, then Lyon, to change his motto, Lees did thereupon take for his motto, *Alterius non sit qui potest esse suus*, alluding to the occasion." (*Heraldry*, Chap. xxxii.)

seems to have been deeply attached, and there is no appearance of any such slight matrimonial breezes as are hinted at in one of Duncan Burnet's letters in reference to the first wife. Honourable mention is made of her in Samuel Rutherford's letters. The minister of Anwoth was banished to Aberdeen in 1636 by the Court of High Commission for contravening the Articles of Perth ; and, though allowed to go at large within the town, he found his surroundings most uncongenial ; but while he knew of only "one pious family in the town of Aberdeen," he had evidently experienced comfort and sympathy from the excellent lady of Crathes. "Madam," says he, in writing to Lady Kenmure, "I have been that bold as to put you and the sweet child into the prayers of Mr. Andrew Cant, Mr. James Martin, the lady Leyis, and some others in this country that truly love Christ."

Of Sir Thomas' second marriage there were three sons and four daughters :—

I. THOMAS, of Sauchen. In February, 1642, when this Thomas could not have been above seventeen years of age, his father was party to a contract for his marriage (or that of one of his younger brothers) on conditions which at the present day appear rather singular. (See Appendix.) The other contracting party is Mr. William Burnet, laird of Sauchen and Cairnday, and parson of Kinnerny (a parish now conjoined with Cluny), who had two daughters, Bessie and Helen. The elder of the two young ladies is, when of a marriageable age, to be offered to Thomas, and in the case of his refusal or of his predecease, to William, next younger brother to Thomas, and on William's refusal or predecease, to the youngest brother, James. On the contingency of the refusal or predecease of Bessie, Helen is to be substituted for her. Whichever brother accepts the lady offered to him is to get his father-in-law's inheritance ; and in the case of the non-acceptance of all the brothers, that inheritance is to go to Bessie, or, failing her, to Helen, provided these young ladies marry in accordance with Sir Thomas' wishes. If the sisters die, the whole is to go absolutely to Sir Thomas Burnett. Mr. William reserves his own liferent of Sauchen, and his own and his wife's liferent of Cairnday. On 22nd March following Sir Thomas was

duly infest in Sauchen and Cairnday on a charter by Mr. William embodying the terms of this contract. Thomas and Bessie were duly married in 1648,* and the former was put in possession of Sauchen, which he held from the Huntly family. There seems to have been some litigation regarding Cairnday, probably with his mother-in-law. Thomas also owned Tillicairn, formerly the property of Matthew Lumsden, author of the "Genealogie of the House of Forbes," eventually wadsetted to and afterwards approved by James Rose of Findrack. He seems to have acted as factor for his father. His two younger sons, William and Alexander, seem to have died young, and he had a daughter married to Master Lodovic Gordon, minister of Aboyne.

I. ROBERT, the eldest son, at King's College in 1664, and M.A. 1668, was in 1686 presented by his cousin, the 3rd Baronet of Leys, to the incumbency of Banchory, from which he was deposed by the General Assembly for non-jurancy in 1695. Reponed three years later, he became parson of Fintray in 1699. The same year he became laird of Sauchen by his father's death, but survived him only two years. Half of his tombstone is to be seen in the part of Banchory Churchyard which formed the site of the old church. His male line seems to have become extinct in the second generation. By Jean Reid, his wife, daughter of his predecessor in the incumbency of Banchory, he had issue :—

(1) ROBERT, last laird of Sauchen. He had sasine on Precept from the Marquess of Huntly as heir to his father in Sauchen, where he is called "generousus juvenis." The same year he married Jean, daughter of John Barclay in Eslie. He died in 1768, aged 84, and his widow in 1780. His only son, Andrew, predeceased him, unmarried; his daughters were—Jean, died unmarried, 1st July, 1801, aged 73; Mary, died 1784, aged 85; Margaret, married James Martin, merchant in Aberdeen, afterwards in Rotterdam;

* Thomas Burnet of Sauchen is on 6th October, 1648, witness to the foundation contract of the Leys bursaries.

Katherine, married David Scott, factor on the estate of Craigievar; and Janet, died unmarried, 1791. To one of the descendants of Mrs. Scott, Mrs. Gibson, wife of the Rev. J. W. Gibson, minister of Dysart, the author has to acknowledge his obligations for leave to inspect various papers of interest regarding the Sauchen Burnetts, including the marriage contract alluded to in the text and given at length in the Appendix.

- (2) ALEXANDER, who had a bond from his father in 1691 calling him second son.
- (3) JOHN, who was minister of Cluny from 1719 to 1741, married Agnes, daughter of George Skene, minister of Kinkell, and died in 1741, his wife surviving him till 1785. In his will, to which his widow had confirmation in 1742, seven sons of the marriage are enumerated—Charles, Robert, George, Francis, Andrew, Alexander, and John; and five daughters—Jean, Mary, Margaret, Catherine, and Agnes. The sole survivor of the sons in 1791 seems to have been Alexander, who had been minister of Footdee from 1765 to 1773, and with him expired the descendants in the male line of the Sauchen line of the family.
- (1) ANNE, married, 1st, Andrew Burnet, physician in Aberdeen; 2ndly, Dr. John Gordon, minister of St. Paul's, then one of the licensed Episcopal chapels in Aberdeen. That lady had, on 13th April, 1772, as widow of Dr. Andrew Burnet and wife of Dr. John Gordon, sasine on a post-nuptial contract of an annuity from Clopelle (?), parish of Fetteresso. Her will, to which her niece, Mrs. Scott, was confirmed executrix, contains much of the information here given about this generation of the Burnetts of Sauchen.
- (2) KATHERINE, married, before 1732, Robert Calder.
- (3) JEAN, married, before 1739, John Lunan.

- II. WILLIAM, at King's College in 1645, and M.A. 1649, is designed "Master William" in his father's will.
- III. JAMES, in the proceedings in a family lawsuit, is mentioned as alive in 1666 (*Burnet v. Fraser*, 7th February, 1673; *Mor.* 13470), and is probably the "James Burnet of Leyes" encountered by General Patrick Gordon, first in the train of the Waywode of Kiew in 1659, and afterwards (in 1665), apparently in pecuniary straits. "James Burnet of Leyes has most earnestly entreated me for the lend of five pound Sterling. I send a note to Mr. Peter Webster to deliver him the money" (*Diary of General Patrick Gordon*, pp. 30, 94).
- I. MARGARET, married John Kennedy of Kermucks (Sasine, 22nd July, 1673, to Mr. Robert Burnett of Muchalls. Aberdeenshire Sasines).
- II. ELIZABETH, married, 1st, Sir Robert Douglas of Tilliwhilly (Sasine to her, 31st May, 1666. Aberdeenshire Sasines, and *Burnet v. Fraser ut supra*); 2ndly, Fullerton of Kinnaber.
- III. ANNE, married almost immediately after her father's death Andrew Cant, son of the famous Covenanting minister. The younger Andrew was then minister of Liberton, embraced Episcopacy and became one of the clergy of Edinburgh, and principal of Edinburgh University.
- IV. HELEN, unmarried at the time of her father's death. According to Douglas, Sir Thomas' youngest daughter married "Colonel Barron of Strachan."

In June, 1648, Sir Thomas Burnett's eldest son died, leaving his three sons and two daughters (already enumerated) under his guardianship.

In 1651 and 1652 Sir Thomas employed himself much in settling the affairs of his family, making provisions to the extent of 10,000 marks for the sons and unmarried daughters of his second marriage, secured to them after the fashion of the time by leases of lands, which he held in wadset; and entering all these writs verbatim in a "private register" kept by him in his own handwriting. In December, 1652, a year before

his death, he made his will.* Composed and written by himself, it combines the most businesslike precision with the most characteristic individuality. Wills in those days often began with a profession of faith, but the exordium is here unusually full and emphatic. "I leave my soul to God the Father Almighty, maker of heaven and earth, and to Jesus Christ his only Sonne our Lord (and I believe my Lord and Redeemer and Only Saviour), and to the Holy Ghost (my Sanctifier and Comforter), proceeding from the Father and from the Sonne, One God and Three Persones, Co-essentially, Co-equally and Co-eternally, Blessed for ever and ever: and my body to be buried in my predecessour's Ile and buriall-place, now adjoynd to the church of Banchory-Ternan." He makes his oye and apparent heir Alexander his executor, or failing him and the heirs male of his body Alexander's brother Thomas, or failing them his next heir male "that falls to succeed by the lawes of this Kingdom." There is an enumeration of his debts to strangers, to his children and grandchildren in virtue of deeds of provision, to the "man's scoole" and "woman's scoole" and hospital of Banchory, &c. Then comes the following provision as to his tenantry:—"Furthermore, becaus partly throw evill seasones and evill cropes, partly also throw the great troubles in the country, divers tenants diversely trubled and molested by burning, plundering, quarterings, have been made unable to pay their full duities yearly according to their severall assedationes: so that many rests and byrun duities are in their hands, which all, if they should be exactly taken up by my aires and exequitours, they should not only be unable to labour the ground, but also altogether depauperat themselves, and their children forced to begg; therefore I ordain be ther presents that all byrune duities, ffarmes, sowmes of money, or whatsoever comptes and reackoning betwixt me and them for ground duty, be simpliciter and full discharged, lyk as I be the tenor hereof simpliciter and fully and wholly discharges them all, excepting only the wholl and full yeir's duty wherin I happin to die and depart this lyfe; with this special provision and condition that such tenants as gets all their byrune duities thus quytt and wholly forgiven them remove not out of my ground without my aire and successour his leive asked and given, otherwayis such as will needs remove without leive asked and given, I ordeene them to pay all their

*The full text, printed in the Appendix, may be referred to for the family provisions made by it.

duities before their remouall ; for my intention in quytting the byrun duities is to make them the more able to labour my ground, and the more thankfully to pay my aire and successour his ground duty in tyme cumming, and not that they should depart and inrich uther men's ground with the goods and gier due to me and myne. And least good tenants, who shall not be resting byrune duities, should have occasioun to grudge and compleane that they got no benefit for good payment, but that the wost payers faire best at my hands, therfor for their incouriadgment to continew still good payers, I ordein by ther presents, that all such as shall be resting no byrun duities preceeding the yeire I happin to die and depairt this lyfe in, gett that wholl yeir's duty which of right would belong to my exequitrie, quytt and frie to themselves, or the halfe thairofe be quytt to such as are resting the halfe, or within the half of the former yeir's duty together with the said resting duty less or more, being alwayes within or no more than halfe of the former yeir's duty as said is." What follows suggests, if not a misgiving about the character of his oye and heir, at least an anxiety that he should be under efficient guardianship. " And becaus my present eldest oye and apparent heir and successour is of tender yeirs, minor, of non-age and not attained to the age of majority, unable to governe be him selfe, and not of solid, rype, judgment, nor knowledge to decerne whoes counsell to use for the well of the house and family he is to succeed to, therfor I ordein him (if it be needfull for order of law to choise curatours) that he choise non other but this following, as he would wishe his owen good and my blessing, and to eschew my curse, being approven frends to me and my hous, lyk as I be thir presents nominat them tutours and curatours testamentalls, and non others, viz., my son Mr. Robert Burnet, advocate, whom I nominat curatour *sine quo non*, and in caise of his deceise the tyme of his minority, Thomas Burnet of Sauchen in his vice curatour *sine quo non*, and still one of his curatours howsoever, Mr. William Burnet and James Burnet, my sonnes, Sir Robert Douglasse of Tilliquilly, Knycht, Sir Alexander Cuming of Coulter, Knycht, the leard of Skeen, the leard of Eght, the leard of Inneralochie, and the leard of Pitlurge, by whoes advyce and counsell I ordein him to rull all his affairs, and without whos counsell had and obteneed at least the most part of them, togither with my said sonne Mr. Robert Burnet, advocat, or in caise of his death (which God forbid) Thomas Burnet of Sauchen,

curatours *sine quo non*, I ordeen him to do nothing, either concerning his estat, or the waring of his owen person in marradge or at scool, or in decision of any question, if any shall happen to aryse, between him and my children males or fameles, or my deere and loving spouse Dame Jeane Moncreiffe." For prevention of dispute between "her and him and his mother Jean Arbuthnot, who stands in present possession of the most part of her conjunct fie lands wherein she was infest by me," Sir Thomas puts it in the option of his widow to accept 1000 merks yearly in lieu of the rent of these lands, in which she is to continue infest for her security. If she accept this alternative, a sum not exceeding 200 merks yearly is to be paid as her house rent "in any borrestoun shee pleaseth to dwell in within Scotland." She is also to have 1000 pounds of the readiest money found "in any of my studdies," or out of the executry, "together also with sex bedden of clothes and two stand of napprie for plenishing of her owen house, and that of the nixt best clothes (sex of the best bedden being laid by to my said air and successour first), and two stand of napprie of the nixt best (two stand being first laid by to him)," and that by advice of his curators "in case of bairnes heranent," and in satisfaction of all she can claim, excepting a certain provision of 500 merks rent of Balbrydies, as already secured by lease "which I had added to her former conjunct fie lands for her good behaviour." What follows would be spoiled by abridgement. "And beecause female children often miscarie after their father's decease by seduction, or by unkyndly rapt, or by willfull selfe choises, or some such unlucky way to the dishonour of the parents and houses they are come off, and to their owen hurt, shame, and infamy, whereby God is offended, and their parents and frends greeved, therfor I ordeen by thir presents my daughters which shall happen to be unmarried the tyme of my death, to stay and remain with their mother the said Dame Jean Moncreiffe, and she to have for their interteentment in meat and clothes yeirly, so long as they remain with her unmarried, 300 merks money forsaid . . . and after her deceise so long as they or any of them happines to remain unmarried, to stay and remain with my said air and successour upon the lyke conditiones on either syde : And I ordeen my saids daughters to marry be the speciall advyse of their said mother, their brethren both on their mother and father's syde, and with the speciall consent, counsall and advyse of the above my approved friends and now nominal curatours

testimonials to my said air and successour, at least the most part of them consenting, and that under no lesse pain than the annulling and annichelatting their above written assedationes and takis of the lands sett to them for their provision and patrimony (which of them soever faileth herein) as though the saids assedations (or such of them failzeing herein) had neaver been made. Finally, all the gold and silver within any of the two boxes of iron within any of my studdies or papers in them, or in any leatheren baggis, declaring any borrowed gold, or moneyis out of them, I ordain to be distributed be my said air and successour with advyse of the curatoures above written, to the most misterfull, poore labourers within all my lands, wherever they be, as their severall need and necessities shall be found to requier, and any other poore householders, widowes, or fatherles, within my whole lands and specially within the parochin of Banchory Ternan above mentioned and to such misterfull poore as criple, blind, lame as shall fall to be at my corps interring and buriall the same day ; and the said gold and silver not to be employed any other way, under a curse and malediction, becaus I had dedicated the same and laid it by for that use. Lastly, I declare and ordein my bookes of my collectiones of preachings be distributed among my wholl children and oyes male and femele to ech as they shell find their severall names written, the first figured leaffe of every ons booke to whom I have ordeen it to be given ; and if there fall any of them to be undirected by any name on the first figured folio as said is, let it be given to my said air, and successour, his eldest brother or sister next to him selfe unserved befor: requiring every on that gets any of them, that as they wish the blessing of God and myne, that they read them once or twyce over in recompence of my pains in writting and directing them to their good, if it be the will of God to blisse thes my silly travells to the comfort and eternall good of their souls, that the glory of all may be only to God. And withall I declare that every on of my owen childrens' provisiones and assedationes shall be found in the first of the foresaids bookes wherein their names are first written folio 1. Moreover I leave to Thomas Douglass, son lauchfull to umquhell Alexander Douglass sometye in Balbrydie, begotton on his second wife Katherine Skeen, fouer scor pundis Scotts money ; also I leave to Katheren Blackhall, daughter to umquhill Jean Clark (all sometye in Leyis), fouer scor pundis Scotts money ; moreover I leave to the gentleman

ryder that shall happin to be my servant in the first rank for the tyme at my death, an hunderth merks usual money of this realme, to my wyfis gentlewoman for the time forty pundis money aforesaid, to the Stewart for the tyme alsmuch, to the cooke for the tyme alsmuch, to my grieve or principall officiar for the tyme alsmuch ; to every on of the rest of my household servants men and women a peice, or to ech of them twenty pounds overhead ; and this to be payed to them of the readiest of my exequitry goods and gear, my said spous Dame Jeane Moncreffe being first payit of the foresaid thousand pundis left to her, as said is, and that by and attouer their severall fees which shall happen to be resting to them the tyme of my deceasse, which I ordeen to be thankfully payit to them without hearing, as lykwayes merchant compts and small unwritten debts that can be proven justly owing to any living, I ordeen all to be payed be my said air and successour without hearing, as he would wish God to blisse him, and my blissing to overtake him and his. And this I doe declare to be my testament and latter will, which I ordeen my said air and successour be advyse forsaid to fullfil and put to dire execution in all points (especially in as far as concerns my said spouse, Dame Jean Moncreffe), that he would neither wrong her himselve nor suffer her to be wronged by any, but that he defend her and not greive her, as he would wish the blissing of God and myn, and as he would eschew the cursse of God and my malediction, and as he would wish to be obeyed himselve by his owen children (if any he shall have) in the lyk cause according to the tenour of this present will, which I declare to be seasoned with no double or doubtosome curiosity (which I did ever abhorre in myselve and others), but with trew sincerity and simplicity, as the words in my ignorant and rude maner are set downe, having God and a good conscience befor my eyes. And if any doubt shall happen to aryse, I ordeen the same to be resolved and composed by the amicable decret and determination of my sonnes being of perfect age, with any thrie or fouer of my forsaidis approven frends nominat by me curatours forsaidis, and in cause of not agreement, I ordeen Mr. Robert Burnet my sonne above written *sine quo non* curatour forsaid, to be oversman for the final decerning and decreeting and concluding any such doubt and controversie."

The date of Sir Thomas Burnett's death is given in the retour of his grandson and heir as 27th June, 1653. His portrait at Crathes—by the eminent Scottish painter, George Jamesone—represents him with a

thoughtful and refined but earnest and manly face. It might probably be about 1632 that Jamesone painted this portrait, as well as four others at Crathes, representing Sir Thomas' sister, Janet, Lady of Skene, and his daughter, Jean, Lady of Monymusk, with their respective husbands.*

XIV.

SIR ALEXANDER BURNETT OF LEYS, 2nd BARONET (1653-63). "When I heard," the laird of Brodie in his Diary says, "that the lord of Leyis Burnet, being a sober, grave man, had a successor so profane, dissolute, and naughty, my hart said, 'What doe I travel for under the sun. How is it true of Solomon, men know not what shall come after them, whether a wyse man or a fool.'" As the young laird of Leys who succeeded his grandfather in 1653, and was in possession but ten years, was then but a second year's student at King's College, let us charitably hope that Brodie's language was stronger than the occasion warranted.

Sir Alexander Burnett was served heir 10th March, 1654. He had not succeeded, as his grandfather did, to an unembarrassed estate. Sir Thomas' debts and obligations both to strangers and to his own family were considerable, and to discharge them it was found necessary to wadset parts of the property. One of these wadsets, given when Sir Alexander was under age, with advice and consent of his curators, tells us who the curators whom he had chosen were, namely, his maternal uncle, Lord Arbuthnot, Sir Robert Douglas of Tillewhilly, William Coutts of Cluny, and Mr. Alexander Burnett of Craigmyle. They are, with one exception, not those whom his grandfather had directed him to choose; but the absence of his uncle, Thomas Burnett of Sauchen (who had been named,

* Mr. Bulloch, the author of the life of Jamesone, states that the painter returned to Scotland in 1620, and founds this statement upon the fact that we find well-authenticated portraits by him all through the twenties of the 17th century. Amongst others, there is another portrait of Sir Thomas Burnet, an undoubted Jamesone, in the Hall of Marischal College, Aberdeen. This portrait is thus described by Mr. Bulloch in his catalogue of Jamesone's works:—"18. Sir Thomas Burnet of Leys ('anno 1624; actatis 33'). A characteristic portrait, representing a ruddy-bronzed country gentleman, with crisp auburn hair, wearing the conventional, stiff, white linen ruff, with lace edging. In the upper right corner is a shield, emblazoned with a saltier, crenated, gules, between a bugle horn, a rake (or Y-shaped figure), a trident, and a fleur-de-lis." The account of the subject of this portrait which follows is unfortunately very incorrect. If this portrait was painted in 1624, when Sir Thomas was thirty-three years old, the portrait at Crathes must have been painted about twenty years later, as it represents a man between fifty and sixty.

failing his uncle, Robert Burnett, a *sine quo non*), is accounted for by the circumstance that he is the wadsetter, and that the lands are those of which he had a tack in security of his portion of 10,000 marks. Mismanagement, however, or extravagance is suggested when the debt to Alexander Burnett of Countesswells, stated in Sir Thomas' will at 8000 marks, has risen to 20,000, for which sum, in 1658, Sir Alexander, newly of age, has to give him a wadset over Leys. In 1662, the year before his death, Sir Alexander gives a redeemable conveyance of Muchalls to Master Robert Burnett of Cowntoun (fourth son of James Burnett of Craigmyle, the 1st Baronet's brother), of which the latter had actual possession for the next sixteen years, and was generally styled Robert Burnett of Muchalls. "Heard," writes Brodie on 8th May, 1663, "that Leys Burnet was dead. Youth, strength, and vigour could not preserve from death." Dying at the early age of 26, he left six children by his wife, Elizabeth Coutts, of the family of Coutts of Auchtercoull,* who afterwards married David Ramsay of Balmain. The exordium of his testament, dated 30th January, 1663, recommends his "soul to God to be presented in Jesus Christ in readiness to the great God His grace, by whose mercies I hope to be saved," and ordains his body to be "honourably buried in the quire of the Kirk of Banchory." Mr. Robert Burnett, advocate, his uncle, and Mr. Robert Burnett of Muchalls, are appointed executors, and also tutors to his children. He leaves to Robert, his second son, 8000 marks; to William, his third son, 6000 marks; to his daughters, Elizabeth, 6000, Jean, 4000, and Margaret, 4000 marks. The amount of his executry as given up is £1108 13s. 4d.

I. THOMAS, third baronet, of whom below.

II. ROBERT, being unmentioned, except in his father's will, probably died young.

III. WILLIAM, Sir Alexander's third son, acquired the lands of Balfour and Woodtoun, in the parishes of Fettercairn and Edzell, in 1685, by purchase from Stratoun of Lauriston. On 8th December, 1687,

* "The lands of Auchtercoull, which formed part of the Earldom of Mar, were granted by the King in 1433 to Mr. William Coutts and his heirs. They were held by the family, who intermarried with Irvine of Drum, Forbes of Towie, Ross of Auchlossen, Burnett of Leys, etc., till 1635, when the Earl of Mar recovered them from William Coutts."—Stodart's *Scottish Arms*, II., p. 298.

he infested his wife, Margaret Douglas, in an annual of 13 chalders of victual from the Mains of Balfour and Newdosk. That lady was daughter and co-heir of William Douglas, advocate, and Margaret, daughter of Gilbert Kirkwood of Pilrig.* She died in 1690; and her husband married in England a second wife, Margaret Easton. William Burnett seems to have been a man of a rather choleric temperament. In 1688 he figures in a brawl in Fettercairn church. Claiming for his lands of Balfour not only the seats in Fettercairn church, which Straton had used, but certain further accommodation, namely, a "laigh desk" occupied by the Earl of Southesk, he one Sunday assembled his thirty-three tenants, marched them into the church, and took possession of the "laigh desk," a proceeding for which he was summoned before the Privy Council and fined. In the standing army raised by authority of Parliament in 1689, he had a commission as lieutenant of the troop commanded by Lord Newbottle. It appears from the records of Parliament that in the rising of the Jacobite Highlanders his lands of Balfour were three times plundered and laid waste—first by Farquharson of Invery and his men, then by the Earl of Dunfermline, and lastly by the laird of Keppoch's brother, when he (Burnett) came over with the prisoners taken at Cromdale, also that his furniture, books, etc., were on one of these occasions burned. A Commission was granted to the Sheriffs within whose jurisdictions the persons liable for the damage dwelt, to take evidence and report; and eventually, in 1693, the damage sustained by him and his tenants was modified to £1000 Sterling. In 1700, Major William Burnett was killed in a duel with a Captain Maclean in the fields near Marylebone. The following memorial and opinion from Sir Edward Northey, attorney for Major Burnett's second, Colonel Rice, give some account of the circumstances which brought about his death:—

"Major Burnet, Captain Maclean, and Captain Winram, being in a coach together ready to goe out to the feilds, Colonel Rice passing by was called in by Major Burnet, who was his

* The marriage contract of William Douglas and Margaret Kirkwood, dated December, 1671, is at Crathes.

freind, to goe along with him, which he accordingly did, and went into the coach, and, after quitting the same, they all four walked towards Marybone. As they walked along, Captain Maclean and Major Burnet, after some words between them, drew their swords, which Colonel Rice perceiving, he run to part them with his sword in his hand, but before he came up to them Burnet was killed, whereupon Maclean and Captain Winram went away; but Colonel Rice stayed to look after his dead friend, and received his papers, money and rings. *Quære*, whether Colonel Rice, on the presumption of his being second to Burnet that was killed (making the worst of the case), is guilty of murder or manslaughter?

“I conceive the second to the person that is killed is not in any sort to answer for the death, and is neither guilty of manslaughter nor of murder; for what he did was to defend him and not to hurt him; therefor there is no reason to indict him for the death of the person killed; indeed, all the four were doing an unlawful act; but the second, being in aid of the person killed, did neither murder, kill, nor assent to the killing him.

“EDWARD NORTHEY.

“1 June, 1700.”

A letter to the deceased's brother, Sir Thomas Burnett, from his cousin, the Bishop of Salisbury, has been preserved at Crathes:—

“BRADFORD 1 June 1700.

“Right Honorable

“I cannot expresse to you how much I was struck with the sad account of your poor Brothers unhappy end which Mr. Mills writ to me that very night. I dare not let my selfe think too much of it. He was not in a state fit to die suddenly and the manner is dismall, but God's waies are past finding out. I have dealt often very roundly with him, and have seen him but very little of late. By what I understand from Mr. Mills he is deep in debt to whom I writ immediatly offering him all sort of assistance as he needed it. He is a very honest and a very diligent able man so I am confident he will deal faithfully by the poor young orphans. I understand at least one halfe of the 3000 li^{rs}. is engaged. You do very worthily to look after them, since they have none to take care of them besides your selfe. I beleive I shall not see the King but I do not apprehend any pardon will be granted. I pray God to blesse and preserve you and your family. I wish the rising generation would consider the sad example of a poor Gentleman that gave fair hopes and had a prosperous beginning but grew to be sadly engaged. I

am with all possible Respect Right honorable Your most humble
and most obedient servant

“GL. SARUM.”

The children referred to in the foregoing letter, all by his
first marriage, who were taken charge of by Sir Thomas Burnett,
were :—

1. THOMAS, served heir portioner general, 9th December,
1701, to his maternal grandmother, Rachel Kirkwood,
and, on 6th June, 1706, heir portioner special to his
grandfather, William Douglas, in £2000 Scots, secured
over the lands and barony of Chirnside. There are
numerous papers at Crathes regarding the affairs of this
Thomas and his sisters, including the sale of Balfour and
litigations arising out of it, also claims made in connexion
with a mortgage for £1400 over lands in Shropshire.

1. ELIZABETH, who married Mr. Alexander Shanks, minister
of Drumoak.

2. RACHEL, born 1690.

I. ELIZABETH, married Alexander Ogilvie, son of John Ogilvie of
Kempcarne. Contract at Crathes, dated 22nd and 24th April,
1679.

II. JEAN.

III. MARGARET, Sir Alexander's youngest daughter, married, 1st, in
1686,* her cousin, Alexander Burnett of Monboddo, by whom
she was grandmother of Lord Monboddo ; and in her widowhood
she married Dr. Andrew Burnett, one of the clergy of Aberdeen,†

* 22nd September, 1686. Sasine to Margaret Burnett, sister to Sir Thomas Burnett of Leys,
by her intended husband, Alexander Burnett, eldest son of James Burnett of Monboddo, with
consent of his father, of liferent of Lagavin. Aberdeenshire Sasines.

† I have not been able to trace the pedigree of this Andrew Burnett with any certainty. He
may perhaps have been identical with Andrew, son of Andrew Burnett (known as “Dunkirker”),
merchant in Aberdeen, and purchaser of Kirkhill, who is recorded to have been baptised August
9th, 1663. It was the fashion among Presbyterians to ignore degrees such as his, which had
been conferred by the theological faculty of Aberdeen University, who had been ejected at the
Revolution. Andrew Burnett seems to have had also a degree as Doctor of Medicine. [Dr.
Andrew Burnett was son of James Burnett, burgess. See *Fasti Acad. Marisc.*, ii., 240. For
his medical degree, see *Off. and Grad. of King's Coll.*, p. 122.]

whose career is a curious illustration of the state of ecclesiastical affairs there. Dr. Burnett, who was an uncompromising adherent of Episcopacy, was appointed one of the ministers of St. Nicholas Church in 1687. On the re-introduction of Presbyterianism, in 1689, Parliament and the General Assembly found Aberdeen as unmanageable as it had been in Covenanting times. It was found necessary to appoint a Committee of the Assembly to erect Presbyterianism in the north, with power to take the oaths of such ministers as were willing to conform. For protesting against the appointment of this Committee, Dr. Burnett was suspended or deposed on 1st July, 1695, by an Act of Parliament, which prohibited him from exercising his functions anywhere till he had taken the oath of allegiance and subscribed the assurance, and sentenced him to imprisonment till he found security not to pass north of the Forth. After finding the required caution, he got the restriction of residence taken off, returned to Aberdeen, where, sheltered no doubt by his brother-in-law, Leys, and by the general feeling of the country, he officiated regularly in Trinity Church, and opposed the settlement of two different ministers, on the ground that there was no vacancy, inasmuch as his sentence was only one of suspension. On 29th December, 1715, he was one of those who presented, at Fetteresso, to "his Majesty King James the Eighth" a "humble address of the Episcopal clergy of the diocese of Aberdeen." A contemporary authority tells us that, in September, 1715, "the new magistrates went to St. Nicholas Church, where Dr. George Garne preached in the forenoon, and Robert Blair in the afternoon, and ever since, with Dr. Burnet, have done the same" (*Analecta Scotica*, II., 234). The result was the libelling and deposition of Burnett; but the strong Episcopal leanings of the inhabitants of Aberdeen obliged the Presbytery to apply for the aid of the magistrates to compel the attendance of the witnesses who appeared against him. The Presbytery records, however, shew that the sentence of deposition was disregarded by Burnett and others who were in a similar position, who "continue in and about this city of Aberdeen, though now under sentence of deposition from the holy ministry, to convene congregations of people, and to preach

and exerce other parts of the ministeriall function in the said meetings, and that without praying for our rightful sovereign King George, which unaccountable practice the Presbytery cannot but look upon to be of very dangerous consequence to the interest of both Church and State ; they did therefore and do appoint the Reverend Mr. Francis Melvill and Principal Blackwell to apply as soon as may be to the honourable magistrates of the said burgh for their prosecuting according to law all the foresaid persons, so that such dangerous practices may be effectually prevented in time coming." The baptisms of "five children of Mr. Andrew Burnett and Margaret Burnett his lady" appear in the register of Nicholas Parish, Aberdeen, in the years 1692, 1693, 1694, and 1703. Dr. Burnett married, as a second wife, Elizabeth Reid, widow of Adam Maltman, merchant in Aberdeen. He was dead, as also was his eldest son Robert, who survived him, before 1723.

XV.

SIR THOMAS BURNETT OF LEYS, 3rd BARONET (1663-1714). Sir Thomas was in pupillarity on his father's death, in 1663. The Earl Marischal had a gift of his ward and marriage, 22nd March, 1663. On 21st April, 1664, a dispensation and commission under the quarter Seal was granted to the Earl Marischal and his deputies the Sheriffs of Aberdeen and Kincardine to serve him heir to his father, Sir Alexander, at Stonehaven. He was served heir on 19th May, 1664, Invery and Cluny, however, which had been in his father's retour, not being in his. Invery had been wadsetted in 1652 to Moir of Kermucks, but was redeemed in 1673. In 1666 he made up his titles by Precept of Clare Constat from Mr. George Burnett to Wester Slowie and the other lands held of the parson of Kincardine. His estates were in a very encumbered state from the debts and extravagances of his predecessor ; but the younger of the two Master Robert Burnetts, under whose guardianship his father had placed him, seems to have faithfully discharged his trust, both as tutor and apparently also as curator after his ward had attained pupillarity, so that Sir Thomas' affairs, on his reaching majority, were in a tolerably prosperous condition. This guardian was fourth son of

James Burnett of Craigmyle, brother of the first baronet, and variously designed as of Muchalls, of Elrick, of Colpny, of Cowie, of Cowtown, and of Creggie, but was perhaps best known as the "Tutor of Leys." He will be further alluded to in connexion with his relations with the next baronet.

In 1677, being still under age, Sir Thomas married, in opposition, it would seem, to his guardian's wish, his cousin Margaret, second daughter of Robert, 2nd Viscount Arbuthnot (by Lady Elizabeth Keith, daughter of William, 7th Earl Marischal), whom, on the 29th June of that year he infest in the liferent of Muchalls. Through Arbuthnot influence he was induced to raise a suit against the tutor to account for rents and profits, which ended very favourably for the latter, a large balance being found due to him, which he recovered from Sir Thomas, obtaining a full discharge of his receipts and accounts, signed by Lord Arbuthnot and his other curator.

Sir Thomas was Commissioner to the Scottish Parliament for Kincardineshire throughout the reigns of William and Anne, from 1689 to 1707, in the former reign in conjunction with Alexander Arbuthnot of Knox, his wife's uncle. As a firm supporter of King William and the Revolution settlement, he was appointed to posts of responsibility, indicating that he was much in the confidence of the Government. We find him, in 1689, subscribing the Act declaratory of the legality of the Meeting of Estates summoned by the Prince of Orange, and the letter of congratulation to King William; and in the proceedings of this convention we find him one of the Committee appointed to put the country in a state of defence, and also for deciding disputed elections. In consideration of the alleged arbitrary interference with the elections of burgh magistrates by King James, new elections are appointed to be held for each burgh, to be supervised by certain "overseers," those for Aberdeen being Sir Thomas Burnett of Leys, along with Sir Alexander Bannerman of Elsick, Sir John Forbes of Craigievar, James Moir of Stonywood, and George Paton of Grandholm. In the Parliament of 1690 he was one of a Committee of nine of each estate for the plantation of kirks and valuation of teinds; and of a commission appointed to see that the Principal, Professors, and Regents of the Universities subscribe the Confession of Faith, take the oath of allegiance, and be persons of pious, peaceable, and loyal conversations; and, the various offices of State

having been put into commission, he was one of four persons chosen to administer the office of Clerk Register. On the discovery of plots for the King's assassination, he was one of the signatories to the association in defence of King William. On 27th July, 1698, the records of Parliament tell that Sir Thomas Burnett was excused from necessary absence; but the following letter was sent him on 9th August following by the Earl of Tullibardine (afterwards Duke of Athole), one of the principal Secretaries of State for Scotland:—

“Edr 9 August 1698.

“Sir,

“I received yours concerning the money I owe yow, but being past the tearme of lambas befor I had your letter, I could not gett it in time, but against Martimas next or soon after the tearme yow may expect it. But I desyre yow will mind me again sometyme befor.

“I am very glad your Lady is safly brought to bed, and since I understand the parliament will yet sitt a 4th night, I wish yow would come here so soon as yow can, for I cannot forgett what I have heard Duke Hamilton say, that members that desyre the good of their country ought not to be absent, for tho they cannot gett all the good done they wish, yet they may prevent hurt; wee have a designe of bringing in severall good laws, which I know yow would be sorie not to have a hand in, which is all I shall now add hoping to see yow soon, who am

“Your affectionate humble servant

“TULLIBARDINE.”

In 1701 he opposed the proposal of making an addition to the standing army which Parliament adopted; and in the same Parliament, during the discussions regarding the colony of New Caledonia in Darien, when the question was raised whether the Company's right should be made the subject of an address to the King or of an Act of Parliament, and the former alternative was carried by a majority of 108 to 84, Sir Thomas Burnett was one of the dissentients and protestors. Shortly before the death of King William there was an intention of raising him to the peerage. This appears from the following excerpt from a letter from Robert Pringle, one of the Secretaries of State, to the Earl of Marchmont, then Chancellor:—

“Whitehall June 5 1701.

“We are in expectation every day of some more creations, as of Argyle to be Duke, Lothian and Annandale to be Marquesses, the two Secretaries Earls, and, its said, Lees Burnett a Lord. The King I hear has condescended to these, but delays signing the patents.”

In 1703 Sir Thomas made a protest against the Act allowing the importation of French wines and brandies as dishonourable to her Majesty, inconsistent with the grand alliance in which she is engaged, and prejudicial to the honour, safety, interest, and trade of this kingdom. His votes recorded in connexion with the Union are in favour of the first article and of the whole measure as carried ; and his name appears as one of the opponents of a clause proposed, but not carried, that all Peers of Scotland, whether representative Peers or not, should be entitled to sit covered in the House of Lords of Great Britain. On February 13th, 1707, he was elected a member of the Parliament of Great Britain, but he seems never to have presented his commission or sat. Regarding his election as a member of the Scottish Privy Council, constituted in terms of the Union, the following letter has been preserved from the afterwards attainted Earl of Mar, then Keeper of the Signet :—

“ Sir,

“ The Queen has been pleased to Grant a new Commission for Constituting a Privy Council in Scotland Conform to the Articles of the Union, And you being of the number, her Maty has ordered me to signify to you and the rest of the Councilors who are named, That 'tis her pleasure that you meet at Edin^r and qualify yourselves as soon as possible, That the publick affairs may not Suffer thro' the want of a Council to whom all Proclamations and Orders concerning the Government are to be directed and published by you in Scotland. I write this by Command, and I am,

“ Sir,

“ Your most humble servant,

“ Whitehall, May 21st, 1707.

“ MAR.”

“ Sir Thos. Burnet of Leyes.”

In July of the same year Sir Thomas received the following letter from Lord Loudon, Joint Secretary for Scotland :—

“ Sir,

“ The Queen has been pleased to grant a new Commission for Constituting the Court of Excheq^r in Scotland conform to the Articles of Union, and you being of the number I am directed by Her Maty to give you notice thereof, to the end you may qualify yourself as soon as

conveniently can that affairs which lye before that Court may have the necessary despatch for the benefit of all concerned.

“ I am,

“ Sr,

“ Y^r most humble servant,

“ Whitehall, July, 1707.”

“ LOUDOUN.”

In the following year Mar writes to Sir Thomas in somewhat mysterious terms, the expression “ what was designed for you did not succeed,” probably referring to the rumoured peerage :—

“ Sir,

“ I think myself obliged to let you know that y^r concern at London was not forgot, tho’ what was designed for you did not succeed as we wisht, wh was rather the Treasurer’s fault nor ours. I know my Lord Seafeld wryts the particulars of it to you, therefore I shall not trouble you with them til meeting, and then I’m sure you will be satisfied of it y^rself. When it was seen that what was designed for you could not be done my Lord Treasurer assured us that you should be taken cair of another way as much to y^r advantage, w^{ch} I think you may depend on. I assure you when its in my power to do you any service it shall not be wanting, and I shall keep my Lord Treasurer in mind of his promise, for I’ll see him ere long. I will never forget y^r friendship for us who are in friendship together and we were to blaim if we do not all in our power to serve you. I hope we’ll see you here ere long, and I am sincearlie

“ Y^r most humble servant,

“ Edinb., May 26th, 1708.”

“ MAR.”

From 1695 to 1702 Sir Thomas Burnett was engaged in an unpleasant dispute with the Earl of Sutherland regarding the affairs of the Arbuthnot family. Lady Burnett’s brother, Robert, 3rd Viscount Arbuthnot, after marrying a daughter of George, Earl of Sutherland, had died in August, 1694, leaving a large family. In 1695 the Earl, then, and for some years later, unable, from illness, to take his place in Parliament, adopted the unusual step of bringing before Parliament, instead of before the ordinary Courts of law, a complaint against Leys and his colleague in the representation of Kincardineshire, Robert Arbuthnot of Knox, granduncle of the children, for mismanaging the family estates and neglecting the education of the young people. Then

after all seemed satisfactorily settled by an arrangement in pursuance of which Knox was served tutor-at-law, coming under certain stipulations with regard to accounts, a fresh complaint was made the next year that the stipulations in question had not been adhered to, and that the tutor-at-law had, through misrepresentation, procured from the Privy Council an unnecessary restriction of the children's aliment from 5000 marks to 2500. It was further alleged that Knox and Sir Thomas had accused the Earl of having "embezzled and carried away goods and moveables from Arbuthnot in lock-fast trunks," and that "when the Earle in obedience to a charge given him to go north for seeing the writs and evidents of the estate inventared, he the said Sir Thomas, did, after the Earle's arrival, shift the matter for eleven dayes time with so many ridiculous pretences and affected scruples, and with more banter and laughter than did become," that, the tutor having at length inventoried the whole estate, he took possession of the writs of the personal estate without inventory or seal. The petition contained a further assertion that Knox was "notoriously insolvent," and that Sir Thomas "is said to have given the fee of his estate to his son." Leys and Knox in their reply wondered "how any one can have the confidence in the Earl's absence to give a representation to the Parliament in the Earl's name stuffed with so many calumnious and unjust reflections." They denied the breach of agreement, pointed out the causes which necessitated the modification of the aliment, explained the so-called personal insinuations against the Earl to be no more than an assertion by the tutor of his right to have an inventory of the plenishing which had been carried away, and suggested that the proper forum for deciding any questions between them and the Earl was not Parliament, but the Court of Session. Parliament accordingly referred the dispute to the common course of law. The legal proceedings that followed are briefly reported by Lord Fountainhall, to the effect that the acts of the tutor-at-law, and of Leys as his adviser and cautioner, were approved, and that the carrying off of the lock-fast boxes with Lady Arbuthnot's wearing apparel had not been represented by either of them in any such light as could be the foundation of an action of damages for defamation at the Earl's instance.

Sir Thomas' habitual intercourse with the Court and higher nobility of Scotland had naturally accustomed him to the comforts and luxuries

which, in the course of the seventeenth century, had been gradually finding their way into the mansions of the south of Scotland; and he was thus led to desiderate at Crathes many of those requirements of a modern mansion which were not thought of at the time of its erection. He consequently built a large three-storeyed symmetrical addition to the eastward, containing, *inter alia*, a new doorway and entrance hall, a wide straight or scale staircase, extending up to the top of the building, a drawing-room, business room, and spacious bedrooms. The architect of the "Laigh house," as it was called, had certainly no thought of making it harmonise in design with the old castle. He had, indeed, so completely emancipated himself from the last surviving traditions of the old Scotch style that his work looks at first sight more like a building of the beginning of the nineteenth, than the beginning of the eighteenth, century. The stair is rather a handsome one of its kind; and the absence of all pretence of mediævalism about the drawing-room almost enhances the effect of the fine old hall, now the dining-room, when approached from it.

By Dame Margaret Arbuthnot Sir Thomas had the following sixteen children. His whole issue, including those that died young, are said to have been twenty-one in number:—

- I. ALEXANDER, his successor.
- II. ROBERT, an honorary burghess of Aberdeen, 8th January, 1689; dead before 1697.
- III. WILLIAM of Criggie, baptised 10th December, 1683, married Jean, third daughter and co-heir of Robert Burnet, the "tutor of Leys," and was father of—
 - (1) Sir Thomas Burnett, 6th baronet.
 - (2) James, who married Anne, daughter of Sir William Purves of that Ilk.
 - (1) Margaret, who married, 27th April, 1735, Rev. John Aitken, minister of Montrose (Montrose Parish Register).
 - (2) —, married — Smith, merchant, Aberdeen.
 - (3) Helen, who married, 1st (1733), William Fraser, advocate in Aberdeen, younger son of Francis Fraser of Findrack;

2ndly (contr. 16th September, 1758), Peter Reid, merchant in Aberdeen.

- IV. THOMAS, baptised 27th May, 1686 (Banchory Parish Register), made an honorary burghess of Aberdeen, 8th January, 1689.
- V. JOHN, baptised October 10, 1688 (Aberdeen Register), honorary burghess of Aberdeen, 8th January, 1689.
- VI. CHARLES, baptised 1st August, 1691 (Aberdeen Register), advocate at the Scottish Bar. Alive 1717; died unmarried.
- VII. JAMES, baptised 16th October, 1693 (Aberdeen Register).
- VIII. ROBERT, baptised July 6, 1697 (Aberdeen Register).
- IX. LEWIS, baptised 6th February, 1700.
- John, James, Robert and Lewis seem all to have died young.
- I. KATHERINE, married, 31st August, 1712, Sir William Seton of Pitmedden, Bart., and had issue; died 1749.
- II. MARY, married, 2nd October, 1712 (Banchory Parish Register), Sir John Carnegie of Pitarrow, Bart. (contr. at Crathes, dated 31st August, 1712, where she is called *second* daughter).
- III. ELIZABETH, baptised 10th April, 1685 (Aberdeen Register); died young.
- IV. ELIZABETH, baptised 11th August, 1692 (Aberdeen Register), married (1715) George Beattie, merchant, Montrose (contract at Crathes).
- V. JEAN, born 1698; married 7th October, 1722 (Banchory Register), George Lauder of Pitscandle, second son of Robert Lauder of Beilmonth.
- VI. MARGARET, baptised 20th July, 1696 (Aberdeen Register), married (1721) James Ogilvie of Melros, Co. Banff.
- VII. HELEN, baptised 23rd July, 1698 (Aberdeen Register). Her birth is alluded to in a letter of Lord Tullibardine, above quoted. According to the Burnett pedigree in Douglas' Baronage, which gives but three daughters to Sir Thomas, the youngest daughter (unnamed) married Allardice of that ilk.

On 5th March, 1700, Sir Thomas entailed his whole lands on a series of heirs male, only bringing in his own heirs female on the failure of the whole series of descendants of the first baronet, and of his brothers, James of Craigmyle and Robert.* While there were the usual irritant and resolute clauses, the entailer reserved to himself power to alter or cancel. The deed was recorded in the Register of Tailzies soon after its date; but, as the original was not found on Sir Thomas' death, it was held by the Court, in 1720, that he must be presumed to have cancelled it.

Whatever may be said of Sir Thomas' management of the affairs of the country, or of the Arbuthnot family, he cannot be acquitted of a reckless expenditure in his own concerns that brought them into a state of great confusion. That he had some time before his death become conscious that his affairs were in a very embarrassed condition is indicated by provisions in one of the settlements made by him on his daughter-in-law (in 1705) for the contingency of the total exclusion of his eldest son from the succession.

Sir Thomas died, January, 1714; his widow outlived him 30 years, dying at Aberdeen in July, 1744, aged 82.

XVI.

SIR ALEXANDER BURNETT OF LEYS, 4th BARONET (1714-1758). Born in 1679, Alexander Burnett, younger of Leys, married, in 1697, at the age of eighteen, Helen, eldest daughter of the then deceased Robert Burnett of Cowtoun, who had been guardian of his father in pupillarity and minority.

The "Tutor of Leys," who has been already alluded to, is so much mixed up with the affairs of the head of the family, that, though his proper genealogical place is later, some account of him is due here. His father, James Burnett, immediate younger brother of the 1st Baronet of Leys, acquired Craigmyle and other considerable estates by marriage. Robert was born in 1620, apparently at Muchalls; and, though but a fourth son, seems to have had a considerable patrimony. He acquired

* The genealogical order of succession is strictly observed, with one exception—the omission of the laird of Sauchen. Yet he and his son, as long as the line of Sauchen subsisted, were heirs male and heirs to the baronetcy.

further means through his first wife, whom he married on 22nd December, 1646, Jean, daughter of Mr. John Mortimer, bailie of Aberdeen, by whom he had no issue. From 1650 onwards the public records shew him acquiring one estate after another, sometimes in property. Elrick, in the parish of New Machar, which afterwards fell into the hands of a different line of Burnetts, was impignorated to him by Sir Walter Innes of Balveny in 1650; Colpnay, in the parish of Belhevie, by Elphinston of Glack; and he had, as has been seen, possession of Muchalls, on a similar title, from 1662 to 1678. He apprized Cowie in 1674; acquired Cowtoun, in the parish of Fetteresso, his principal estate, in 1683, and Criggie (now known as Ecclesgreig) by adjudication from Robert Graham in 1686. For a younger son, his career was a successful one. In 1664 he entered on his tutory of Sir Thomas Burnett. In the same year he sat, along with Patrick Forbes, Bishop of Aberdeen, Lord Pitsligo, James Gordon, the parson of Rothiemay, and others, under a Commission, dated Whitehall, 16th January, 1664, to visit King's College, and was one of the most active and constant in his attendance of the Commissioners (*Fasti Aberd.*, 315). In or before 1680,* he had become a convert to the tenets of Quakerism: but he is not to be confounded with his namesake, Robert Burnett of Lethenty and Countesswells, whose sufferings for his adhesion to the Society of Friends are narrated in Jaffray's Diary. His first wife, Jean Mortimer, was alive in May, 1678, but dead before 1682, when, at the age of 62, he married Helen Arbuthnot (after his death, wife of John Sandilands, merchant in Aberdeen). The issue of this second marriage were three daughters, Helen, Agnes, and Jean; and their father seems to have early made up his mind that he was to have no son, and that his inheritance was to become by marriage the property of the heir of Leys. On 28th November, 1685, when he had been but three years married, and only two of his three daughters had been born, he entered into an agreement with Sir Thomas Burnett, obliging himself and his heirs to pay to Alexander, eldest son of the latter (or, in case of his death, to his second son) a marriage portion of £60,000 Scots with his elder daughter (or failing her by decease, with his second daughter), the said apparent heir

* On 28th February, 1680, in the case of Robert Burnett, tutor of Leys, the Lords found that Quakers should not be held confessed on account of refusing to swear, but allowed them to declare the truth in their own terms as in the presence of God.—*Fountainhall Reports*, i., 94.

of Leys being put into possession of the fee of Leys. A year and a half later, and within a fortnight of his death, Mr. Robert Burnett, having now three daughters, the eldest aged four, made the following will :—

“The Testament and Latterwill of Robert Burnett, designed of Cowtoun, made and subscribed with his Hand, the sixteenth day of Aprile, 1687 years. I, Robert Burnett of Cowtoun, being presently sick, [but] both of moderate Health and of ripe Understanding, but not knowing the day of God’s visitation, when it shall please him to call me out of this outward Life, doe dispone of all my worldly affairs as after follows. And first I declare That I am and has been an great Sinner, and does beg Mercy and Pardon of the merciful eternal Creator and being of all, That in and through Jesus Christ his son he will be reconciled with me, upon my unfeigned repentance, and true Resolutions of Ammendment, And that he will Assist me to get the Victory over the Devill, the World, and the Flesh, to persevere in true faith, Repentance and Obedience unto the End of the Combat In the strength of his dear Son, without whom I can do nothing ; And as to my Profession I do declair myself to be of the profession of the people called Quakers in derision, Owning Revelation, without which I cannot know neither the ffather, the Son, nor the Spirit, with[out] whose guidings all my thoughts, Words, Deeds, Prayers are dead, and will perish with me, and whosoever without this Guide undertakes to do, work, preach and praise God, with and in their own will are rejected till he come in upon their Hearts with true Repentance and Obedience to his will and Faith in Jesus Christ our Saviour, the word and the Son of God. And I beleeve that all those who give themselves up to be guided by him, the light of the world, shall daily increase, and come at last to cease from their own Works, and shall enjoy an Serene Sabbath of Rest, and then in such an one all outward types are Ceased, and God to them is all in all. Unto the mercy and Will of God I sink down, renouncing my own works, faith and duties, beseeching him out of his tender mercy to penitent sinners to pardon all my sins and mispent Life in Rebellion against his Light, and to be reconciled with me through the life, Sufferings, Death and Resurrection of Jesus Christ his Son my Saviour, to whom I flee for mercy.

“And as to my worldly affairs, I leave my body to be interred where ffriends shall think convenient, And Sir Thomas Burnett of Leyes, Robert Burnet of Glenbervie, and James Burnett of Kair my Executours, and I leave to Helen, Agnes, and Jean Burnett, my Daughters and Airts to my Estate and Lands, if my Wife be not with an man Child, and the said Robert to be Intromittour and Comptable to the other two Tutours, and Elsick and John Cowie, and in respect upon the Conditions following I am willing That the said Sir Thomas Burnet marry his eldest son, Alexander or Robert Burnett in Case of his Decease, or the succeeding

Heir to Leyes haill Estate at her age of fourteen years or sooner, and he to leave [have] with her all the Lands of Cowtoun, Monquichy, Glentoun, and pendicles, Together with seven years rent of my Lands of Creigie, Bridgtoun, Methers, Snadoun, Spittell, and all I possess in the Parochin of Ecclesgreig and Aberluthnot, To whom I do Grant an Tack and assedation thereof and the said Helen Burnet, and failing of her by death, to ane of the surviving sisters, whom the said Alexander or Robert Burnett his sons shall marry, the entry to be and begine at Whitesunday or Martinmas immediately after my Death, She or they paying yearly to my Heirs male or female [] half marks of dutie yearly with the payment of publick Burdens and Law Expenses, the two part and the other two Daughters the third part, and if any of our Bairns die their Portion to come to Leys, and if they all live and y^t proportionally the rest their part of her Jointure, And this I do in respect I have long ago burdened my Heirs female with the payment of Sixty thousand pounds to Sir Thomas Burnett of Leyis In case my Daughter Helen, Agnas or Jean do refuse to marry the son of the said Sir Thomas as said is who shall be heir to all his father's Estate and Heritage, And In case the heir of the said Sir Thomas at his Age of Eighteen years refuse to marry any of my said Daughters, being living eldest son for the time, I declair the said Bond of Sixty thousand pounds null and void In respect it is granted only upon thir Terms whilk is of the Date at Creigie the twenty eight day of November, one thousand six hundred and eighty five years, And as for my other two Daughters I ordain Agnes to marry Robert Burnett, eldest son to Glenbervie, and Jean to marry Robert Burnet, son to James Burnet foresaid of Kair, at the age of Eighteen years or sooner, And if they refuse to marry the said Robert Burnets Then I burthen their proportion of the Lands that shall fall to them by my decease with payment of Twenty thousand pounds to be paid to Sir Thomas Burnett as said is if his heir and son marry my said eldest daughter living at her twelve or fourteen years of age or sooner, And I leave my said three Daughters to be educate in Bed, and board and Cloathing and Education with their mother, Helen Arbuthnot, till their age of seven years, and after that to be educate with Glenbervy or the Laird of Leyes for the whilk I ordain an hundred merks to be paid yearly to my said wife, and her to maintain them the first Two years for my household and plenishing, whilk I ordain my Executours to give her, Except Jewells, Silver Work, and Cabinets, but her to have six silver spoons, and for that Cause also I ordain her to get five hundred merks of money at and within fourteen days after my Death, and her to gett all my gold to be only kept by her and equally distributed to my Daughters at their marriage. Also I ordain her to gett the House and Inner [maner] place of Creigie, with the Garden and Inclosures, free there to dwell in ay and while within an month after she shall marry, and the samen to be pryed at my Death to

her, and she bound to leave all as sufficient at her removall, Debts resting by me whilk I ordain my Executours to pay Item I am resting to Brothertoun two thousand ane hundredth and three sex merks money and an Quarter's annuall at Whitsunday next Item I am resting to Abergeldie when he releeves Creigie of Cowill to Lord Carss six thousand and seven hundred merks Item I am resting to John Gordon — pounds Scots money Item to Agnes Gordon upon Band an hundreth pound Item to Anne Keith in Edinburgh spouse to William Taillor ane thousand merks to be given to an poor ffriend to whom I promised it and none to Controall or have Claim to this Donation But the person to whom Anne Keith shall give it either publickly or privately Item I am resting the yearly annuall rent of an thousand merks to be paid to Bailie Skeen and be him distributed yearly to needed and poor friends in and about Belhelvie, and after his Decease to be paid to an honest friend yearly for that effect Item I leave the Children of Umquhile Mr. David Anderson and Katharine Blackhall, who was minister in Middleburgh in Zealand, four hundred merks Item I leave to ilk Servant within my House ten merks, Except James Lighton, whom I ordain to get only fourty shillings Scots, and to pay them the ffees that is resting to them. Moreover I ordain my Executours to Buy Over Crigie from Major Keith, and [make] payment [out] of my money and Eik to Agnes and Helens Portions, And I ordain Robert Burnet, Kair's son, to marry Jean Burnet, my youngest Daughter, Conditionally my Brother make him out Twenty Chalder of victual of free rent as he promised to me, and him to gett all the Lands of Crigie, Methers Hill of Crigie, Greenhills Milne and Lands of Crigie and Gaupieshaugh and multures of Over Crigie itself. Also I ordain Robert Burnett, Glenbervie's son, to get with my Daughter Agnes Bridgtoun, Snadoun, Spittell and pertinents, And to get from my Brother or his son Fifteen thousand merks in Compensation of the other Eight Chalder of victual, whilk makes out Kair twenty Chalder, also when the Seven years' Tack granted by thir presents to the Laird of Leyes is run out I ordain the yearly rent of my Lands to come into the hail living Daughters proportionallie till they be married, and if any of them be by Death called, her portion to be equally distributed and given to the Living, and if it please the Lord to Call them all let Leyes, Glenbervie and Kair brook according to this Division, Except Three hundred merks of additional Jointure, which I ordain them to give my Wife To witt ilk one Chalder of Victual or Money. Sic subscribitur. R. Burnett, Sir Thomas Burnett consents, Mr. R. Burnet consents, J^a Burnet consents. Alex^r Thom, witness ; James Lightone, witness."

The laird of Cowtoun died in the same month, and confirmation was obtained of his will in the Commissariat of St. Andrews on 6th August, 1687. His eldest daughter, Helen, was (as above) married in 1697, at

the age of 14, to Alexander Burnett, younger of Leys, and her "share of her father's fortune amounted to £7000 sterling, her father having left her the barony of Cowtoun, and seven years' full rent of his other estate, a very opulent fortune in those days."*

On the 3rd November, 1704, a postnuptial contract was entered into between Alexander and Helen Burnett, to which Sir Thomas was a party, by which Helen made over Cowtoun (then of the yearly rent of 30 chalders of victual) and her third as heir-portioner of her father's other lands, to Sir Thomas, who, in consequence, became bound to infest her, in the event of her surviving her husband, in 33 chalders of victual out of his own estate, and to give her husband the fee of Leys, and to put both spouses in immediate possession of 36 chalders yearly out of Muchalls. It was probably his growing conviction of the encumbered state of his own affairs that led Sir Thomas, in the following year (16th April, 1705), to enter into an obligation that, in the event of his doing any fact or deed by which his son should be excluded from his succession, he should be recompensed for his surrender of Cowtoun by 40,000 Scots paid to him, his heirs, or assignees.

Sir Samuel Forbes of Foveran, describing Crathes in 1714, immediately after the death of Sir Thomas Burnett, says, "The house of Crathess is well built, well planted with natural and artificial wood; the gardens produce delicate fruit; the soil is warm, the victual substantial and weighty. Sir Thomas entered with a faire and free estate, by the assistance of a kindlie tutor; had ample casualties from the Government, yet left his affairs diffculted to his son, Sir Alexander, whose commendation 'twill be to retrieve the incumbrances" (Collections for the Shires of Aberdeen and Banff, i., 38). Sir Thomas Burnett's affairs indeed turned out, on his demise, in 1714, to be in a worse condition than had been contemplated. At a family council, held a few days after his death, the full extent of the embarrassments being as yet unknown, Sir Alexander became a party to an agreement with his mother and wife that he should

* The second daughter, Agnes, married, in 1701, in accordance with her father's will, Thomas Burnett of Glenbervie. The third daughter, Jean, unable to fulfil her father's wish in consequence of the death, in 1695, of her destined husband (younger son of her uncle, James Burnett of Monboddo), married William, younger son of Sir Thomas Burnett of Leys, afterwards known as William Burnett of Criggie, and was ancestress of the sixth and later baronets of Leys.

serve heir to his father in his whole lands, disburden them by the sale of Muchalls, that the Dowager lady should assign to a trustee one-third of her fortune to pay her late husband's most pressing creditors, that the younger Lady Burnett should renounce 1300 marks of her jointure for the maintenace and education of her children, and that Sir Alexander should settle the whole real estate belonging to him at the time of his wife's death on himself and the heirs male of his body, whom failing his other heirs male. But it soon transpired that the debts exceeded the estate; and Sir Alexander, acting by legal advice, gave up all thoughts of making up his title to his father's estate in the usual way, and betook himself to the expedient of a service *cum beneficio inventarii* (the effect of which is that the heir thus serving cannot be subjected to payment of debts beyond the extent of the estate given up in inventory), followed by a claim for the £40,000 Scots (£2000 sterling) due to him under his father's obligation of 16th April, 1705, made through means of a confidential trustee and in the character of an adjudging creditor. With the £2000 sterling received under this adjudication, and £6673 received as the price of Muchalls, sold to Thomas Fullerton, the trustee in question, James Ferguson of Pitfour was enabled to purchase, on favourable terms, the more considerable debts affecting the estate. The decree of adjudication and lands were conveyed by Pitfour to Sir Alexander Burnett and his assignees whatsoever. The estate of Leys was thus saved, but Muchalls (as well as Cowtoun) sacrificed, a result not attained without a considerable amount of litigation with creditors, and a suit with the Dowager lady, who offered strenuous opposition to the sale of Muchalls, on which her jointure was secured.

Shortly after Sir Alexander succeeded to the property the rebellion of 1715 broke out, and he received the following letter from the Earl Marischall:—

“To the Hon. Sir Alexander Burnett
of Leyes, Barronett.

“Sr,

“These are in his Maj. name and aũthe, by vertue off a power given me by ye Earle of Marr, whom his Maj. hath been pleased to intrust with the direction of his affaires in this his ancient Kingdome of Scotland, to require you with your best horses and armes, and what

men you can raise to meet me at Stonhyve on Saturday next, October 1st, at one o'clock, ffor which this shall be your warrand. ffrom

“ Sr,

“ Your hum. Serv^t,

“ Ellon, Sept 25, 1715.”

“ MARISCHALL.”

From what we know of Sir Alexander's political opinions and leanings, we may safely assume that he did not attend at the appointed rendezvous at Stonhyve! The state of his own affairs would have effectually precluded any idea of raising horses and men for King James, even if he had the wish to do so.

Thomas, the elder son, a youth of great promise, was killed by a splinter of rock in the course of operations carried on by Sir Alexander with the view of draining the Loch of Leys. The remaining son, Robert, was unmarried, and the question began to be mooted, which emerged in the next generation, whether the family estates, which Sir Alexander had saved through his wife's fortune, and his own good management, should, failing Robert, go to Sir Alexander's daughters, or to his brother, William Burnett of Criggie. Both the old investitures and Sir Thomas' entail of 1700 gave the preference to heirs male. Criggie, prompted, it is said, by his mother, the elder Lady Burnett, a lady of much vigour of character, endeavoured, in 1709, by means of an action of Proving the tenor to resuscitate the entail of 1700, not to the extent of bringing its irritancies into effect, but to that of securing the succession to heirs male. After much very persistent litigation, the Court found that, inasmuch as the Entail was not found in Sir Thomas' repositories at the time of his death, he must be presumed to have exercised his reserved power of cancelling it. Sir Alexander's views may perhaps be gathered from the fact of the adjudications under which he held being taken to heirs of line, from his opposing the revival of the entail, and from the circumstance that, in bestowing the fee of certain parts of the estate, including Crathes and lands adjacent, on his son Robert, in 1740, 1745, and 1746, he disposed them to him, his heirs and assignees.

Sir Alexander's success in clearing the estate from debt was probably less due to his personal business capacities than to his choice of competent advisers. He was not, like his father, a public character or man of the world, nor can he be numbered among the more gifted members of the

family. He seems to have been a kind-hearted, benevolent man, with much simplicity of character, and some ludicrous peculiarities, including a nervous dislike to anything to which he was unused, and what was locally called "boodie fear," a dread of ghosts.

Sir Alexander died at Crathes on the 4th February, 1758, in his 80th year. His wife, the Tutor of Leys' daughter, had predeceased him, also at Crathes, on 2nd March, 1740; and his mother, Margaret Arbuthnot, had survived till July, 1744, when she died at Aberdeen at the age of 82. Both his daughters were also dead, each having left a son.

Sir Alexander and Helen Burnett had the following children:—

- I. Thomas, killed as explained above.
- II. Robert, baptized 17th May, 1720 (Banchory Register), successor to his father as 5th Baronet.
 - I. Helen, married, 21st June, 1733, George Burnett of Kemnay (great-grandson of the often already mentioned James Burnett of Craigmyle, brother of the 1st Baronet of Leys), died at Kemnay 21st September, 1750, having had issue as below (Banchory Register).
 - II. Jean, baptized 18th October, 1714 (Banchory Register); died young.
- III. Katherine, baptized 27th February, 1716 (Banchory Register); died young.
- IV. Mary, baptized 2nd April, 1719 (*Ibid.*); married (contract dated 24th June, 1742), Alexander Aberdein of Cairnbulg, provost of Aberdeen. Their only son, Robert Aberdein, long the oldest member of the Faculty of Advocates, died in London at a great age.

XVII.

SIR ROBERT BURNETT OF LEYS, 5th BARONET (1758-59). The only surviving son of Sir Robert, born 1720, succeeded his father 4th February, 1758. In consequence of the confusion that existed about the state of the succession, he made up his titles to his father's estates by

service as heir male and of line. He survived his father little more than a year, dying unmarried in August, 1759.

George Burnett of Kemnay, on behalf of his son, then abroad as Chargé d' Affaires at the Court of Berlin, claimed the succession; so did Sir Thomas, the new Baronet, son of William Burnett of Criggie, who was now dead. Both were at Crathes at Sir Robert's funeral; and it is said that each, regarding the other as his guest, treated him with the most polite hospitality. This, however, could not last; and, one day, Kemnay locked up the Castle, and carried off the great door key, which has ever since remained in possession of his descendants. Then came a protracted lawsuit, or rather three lawsuits, between the heir male and the heir of line. Robert Aberdein, the junior heir-portioner, appears nowhere in the proceedings, as he had settled any claim that he could make by a compromise with Sir Thomas. One of Kemnay's suits was founded on Sir Alexander's title by adjudication. The £40,000 Scots settled on Sir Alexander as a surrogate for Cowtoun was payable to his heirs and assigns, and these, it was pleaded, gave the heir of line a claim on the estates, even supposing them to be carried in virtue of Sir Alexander's service *cum beneficio inventarii* to the heir male. Then the fee of a large portion of the estate, including Crathes, had been conveyed by Sir Alexander to his son Robert and his heirs whatsoever. A separate claim was made as to Standingstones, conveyed by Sir Alexander to his son Robert, his heirs and assigns, and conveyed by Sir Robert, during his short period of possession, to his nephew, Alexander Burnett, his heirs and assigns, by a disposition originally meant to confer a vote. But seven days before his death, the back-bond being unsigned, Sir Robert gave a mandate to his factor that the conveyance should be made absolute, and the intended back-bond should not be granted. The three cases were hotly litigated in the Court of Session, and decided in favour of the heir male. That, founded on the title by adjudication, was carried by appeal to the House of Lords, and the judgment of the Court below affirmed on 30th April, 1766, with costs. The key was doubtless soon replaced by Sir Robert Burnett, but the original remains at Kemnay, like the hunting horn at Crathes, a symbol or memento of as shortlived a possession of Crathes Castle as Alexander Burnard's was of the forestership of Drum.

XVIII.

SIR THOMAS BURNETT OF LEYS, 6th BARONET (1759-83). Thomas, son of William Burnett of Criggie, by Jean, youngest daughter of the "Tutor of Leys," was served heir special to his father in Criggie on 6th May, 1748, and heir male special to his cousin, Sir Robert Burnett in Leys and Pittenkeirie, on 17th January, 1761. His possession ceased to be contested in 1766; and on 7th August, 1767, he obtained from the Court of Session a decree against Alexander Burnett, younger, of Kemnay, and Robert Aberdein, as the late Sir Robert's heirs of line, finding the estates to belong to the pursuer as heir male under the investitures. Standingstones was re-disposed to him by Kemnay, junior, reserving his superiority. An inventory of household furniture, taken immediately on Sir Thomas' succession, which may have interest for some readers, will be found in the Appendix. He married, in 1754, Katherine, daughter of Charles Ramsay, third son of Sir Charles Ramsay of Balmain, and had issue:—

- I. ROBERT, his successor.
- II. ALEXANDER, of whom separately as Sir Alexander Ramsay, Bart., of Balmain.
- III. THOMAS, b. 1757, twin to Alexander.
- IV. WILLIAM (General), b. 1762. Was appointed to a company in the 14th Regiment in 1784, with which he served in the campaign in Flanders in 1793, under the Duke of York. In January, 1796, he was promoted Lieut.-Colonel, and in April, 1797, commanded the regiment in the attack on Porto Rico under Sir Ralph Abercromby. In 1803 he was promoted Colonel in the army and A.D.C. to the King, George III.; Major-General, July, 1810; Lieut.-General in June, 1814; General, January, 1837. He acquired Arbeadie, on the north side of the Dee, from his brother, Sir Robert Burnett, and half the estate of Blackhall, on the south side of the Dee, by a transaction with the trustees of Sir Edward Bannerman of Elsick. General Burnett settled on Deeside on his retirement from the army, and died unmarried, in 1839. The letters of the General from the seat of war, in 1793, to his brother,

Sir Robert Burnett, and his description of the manoeuvres carried out at a camp of exercise near Bagshot, in the previous year, are interesting to the military reader, as containing incidents which came under his own observation. The scene of the peace manoeuvres which he describes is the same as that on which our own troops exercise at present, and is in the immediate vicinity of the great camp at Aldershot. The mistakes committed there one hundred years ago, which he criticizes, are precisely those which call forth the reprobation of the Umpire staff of the present day. The military history of 1792 repeats itself in 1892, with, perhaps, the single exception of a position being carried "at the bayonets' point, with the band playing the Grenadiers' march," a performance hardly applicable to modern warfare.

I. CATHERINE, married Alexander Forbes of Schivas.

Sir Thomas Burnett died at Crathes, 26th July, 1783.

XIX.

SIR ROBERT BURNETT OF LEYS, 7th BARONET (1783-1837). Born 20th December, 1755. Entered the army on the 23rd December, 1771. Appointed to the 21st Royal North British Fusiliers, 21st February, 1772, and served with the regiment in the first American War. Was taken prisoner at Saratoga, when General Burgoyne surrendered to General Gates, in 1777.

On his father's death Sir Robert left the army, and, on the 16th September, 1785, he married Margaret, 4th daughter of General Robert Dalrymple of Westhall. In 1807 Sir Robert purchased Mills of Drum, part of the upper barony of Culter, from the trustees of James Duff, Esq., of Fetteresso. He died, January, 1837, and his widow on 18th March, 1849. They had issue :—

I. THOMAS, who succeeded his father as 8th Baronet.

II. ALEXANDER, 9th Baronet.

III. ROBERT, born 24th January, 1793. Killed by an accident, 5th September, 1801.

IV. WILLIAM, born 1st August, 1798. Entered the Royal Navy in 1811, and served in the *Northumberland* and *Ramillies* during the French and American wars, under Sir George Cockburn, Sir Henry Hotham, and Sir Thomas Hardy. In the attacks on the towns of Washington and New Orleans he was employed in the boats of the squadron. Promoted to the rank of Lieutenant after the peace, he was appointed to the *Seringapatam* frigate, and mentioned in despatches for gallant conduct in attacking and capturing with the boats of that frigate a superior force of Greek pirates. As first Lieutenant-Commander of the *Blanche* frigate, under Commodore Farquhar, in the West Indies, he was again mentioned in despatches for meritorious service on shore, in the Island of Jamaica, with the seamen and marines of the *Blanche*, during an insurrection in that island. On his return home, in 1834, he was promoted post captain. He died at Portsmouth, unmarried, on the 16th April, 1840, whilst fitting out *The Magicienne*, 24 guns, to which he had been appointed. A monument is erected to his memory in the garrison church there.

V. JAMES HORN, 10th Baronet.

I. MARY, born 16th September, 1786, died, unmarried, 9th February, 1856.

II. KATHERINE, born 16th December, 1791.

III. MARGARET, born 9th April, 1796, married, 28th April, 1826, her cousin-german, Thomas, second son of Sir Alexander Ramsay, Bart., of Balmain, and died 17th January, 1828.

XX.

SIR THOMAS BURNETT OF LEYS, 8th BARONET (1837-49). Born 22nd August, 1788, and succeeded his father, January, 1837. Before succeeding to the family property, he contested the parliamentary representation of Kincardineshire, in 1832, against the sitting member, General the Hon. Hugh Arbuthnott. For his services on that occasion he was presented with a silver centre piece by the Liberal electors of the county. Sir Thomas was a prominent agriculturist and breeder of

Aberdeenshire polled cattle. He held the post of Lord Lieutenant of Kincardineshire from 1847 till his death. He died, unmarried, 16th February, 1849, and was succeeded by his brother.

XXI.

SIR ALEXANDER BURNETT OF LEYS, 9th BARONET (1849-56). Born 17th December, 1789. In the H.E.I.C. Service. Died, unmarried, 20th March, 1856.

XXII.

SIR JAMES HORN BURNETT OF LEYS, 10th BARONET (1856-76). The youngest son of Sir Robert Burnett, 7th Baronet. He was born 22nd June, 1801, admitted a member of the Society of Writers to the Signet, 9th July, 1824, and succeeded his brother, Sir Alexander, 20th March, 1856. He held the post of Lord Lieutenant of Kincardineshire from December, 1863, till his death, 17th December, 1876. He married (1st), 3rd February, 1831, Caroline Margaret, daughter of Charles Spearman of Thornley Hall, Co. Durham, by whom he had:—

I. ROBERT, 11th Baronet.

II. CHARLES SPEARMAN, born 6th July, 1835; died 21st June, 1836. He married (2nd), on the 12th July, 1837, his cousin-german, Lauderdale (who died 4th November, 1888), youngest daughter of Sir Alexander Ramsay of Balmain, and widow of David Duncan, Esq., of Rosemount, Co. Forfar, by whom he had:—

I. THOMAS, 12th Baronet.

II. ALEXANDER EDWIN, born 17th December, 1842; died 8th August, 1897. Member of the Society of Writers to the Signet.

I. ELIZABETH BANNERMAN, married, 2nd February, 1869, George John Pitt Taylor, 78th Highlanders, and has one son and three daughters. She died 22nd February, 1877.

Sir James died 17th September, 1876.

XXIII.

SIR ROBERT BURNETT OF LEYS, 11th BARONET (1876-1894). Born 28th August, 1833. Educated at Christ Church, Oxford. Married, 1864, Matilda Josephine (who died 25th April, 1888), daughter of James Murphy, Esq., of New York, and had issue :—

I. JAMES LAUDERDALE, died, 1874, in infancy.

Sir Robert died 15th January, 1894.

XXIV.

SIR THOMAS BURNETT OF LEYS, 12th BARONET, succeeded his brother in 1894. Born 27th November, 1840; Lieut.-Colonel and Colonel, Royal Horse Artillery; married, 2nd June, 1875, Mary Elizabeth, eldest daughter of James Cumine, Esq., of Rattray, Co. Aberdeen, and Harriet Hay Cumine, daughter of Thomas Burnett, of the Monboddoo branch, and has issue :—

I. JAMES LAUDERDALE GILBERT, born 1st April, 1880. 2nd Lieutenant, Gordon Highlanders.

II. ALEXANDER EDWIN, born 26th April, 1881.

I. ETHEL.

II. MARY BERTHA.

CHAPTER III.

RAMSAYS OF BALMAIN.

PATERNALLY BURNETTS.

I.

SIR ALEXANDER RAMSAY OF BALMAIN, 1st BART. Through the already mentioned marriage of Sir Thomas Burnett, 6th Baronet of Leys, with the sister of Sir Alexander Ramsay, 6th Baronet of Balmain, the Burnetts became heirs of line of the Ramsays of Balmain. The last named family were the descendants of John Ramsay, the favourite of James III., who, being with that King at Lauder Bridge, in July, 1482, escaped, on the plea of his youth, the doom of execution dealt out by the Earl of Angus and his adherents to Cochrane, Roger, and the rest of that King's attendants. The King soon afterwards created him Lord Bothwell. After being, along with other adherents of his predecessor, forfeited by James IV., he was allowed to return to Scotland, restored to a large part of his estates, though not to his title, and received into royal favour, he still, however, keeping up a confidential correspondence with Henry VII., informing him of all the secrets of the Scottish Court. The lands of Balmain, Fasque, and others, in Kincardineshire, erected into a barony in his favour in 1510, were inherited by his descendants, of whom Sir Gilbert was made a Baronet of Nova Scotia in 1625. Sir Alexander Ramsay, 6th baronet, died s.p. in 1806; and in virtue of his settlement his estates passed to the immediate younger brother of his heir of line, viz., Alexander, second son of Sir Thomas Burnett of Leys. Born 31st July, 1757, he was admitted to the Scottish Bar, and became Sheriff of Kincardineshire in 1779. On 14th October, 1782, he married Elizabeth

(who survived till December, 1844), daughter of Sir Alexander Bannerman of Elsick, 4th Baronet, and after the death s.p. of Sir Edward Bannerman, 5th Baronet, co-heiress with her sister, Mrs. Russell, of extensive lands in the valley of the Feugh, including the whole parish of Strachan, of which the southern portion was Mrs. Burnett's. "Both sisters," says the late Cosmo Innes in his memoir of Dean Ramsay, "were eminently handsome. I have a tradition of the young ladies, when they first came from their York school to Edinburgh, being followed and gazed at by passengers in the streets for their beauty; and there are many still living in Edinburgh who long after gazed with admiration on the fine old lady, the Dean's mother, bending over her embroidery frame in her window in Darnaway Street."* The Sheriff, on the ground of delicate health, travelled a good deal in the south of Europe, but was suddenly drawn northwards by the outbreak of the French Revolution. On his succession to Balmain he gave up his Sheriffship, in which Adam Gillies succeeded him, and settled for the short remainder of his life at Fasque, where he built an almost palatial mansion, at a cost of £30,000. He assumed the surname of Ramsay by royal licence, and corresponding arms, by warrant of the Lord Lyon, and was created a Baronet of the United Kingdom on 13th May, 1806, as Sir Alexander Ramsay of Balmain.† He died at Fasque on 17th May, 1810, having had the following issue, who, in general, retained the surname of Ramsay, altogether dropping Burnett:—

I. ALEXANDER, 2nd Baronet.

II. DAVID, died between 1807 and 1816.

III. THOMAS, born 24th February, 1786. Captain, 47th Regiment. He married (1st), 9th November, 1816, Jane (who died Nov., 1823), second daughter of Patrick Cruickshank, of Stracathro, and had by her:—

* C. Innes' Memoir of Dean Ramsay, prefixed to 22nd edition of "Reminiscences of Scottish Life and Character."

† The old Balmain Baronetcy continued to exist down to 1859 in the person of a collateral relation, Sir Thomas Ramsay, probably the last descendant in the male line of the forfeited Lord Bothwell. On his death, the Ramsay Baronetcy of 1625 became, as far as is known, extinct.

1. WILLIAM, born 1820, who resumed the name of Burnett before Ramsay. Succeeded, by settlement of his grand-uncle, General William Burnett, to Arbeadie, on the north side of the Dee, and to the southern half of the Blackhall estate, extending towards Strachan. Captain, Rifle Brigade; Lieut.-Colonel, Forfar and Kincardine Militia; married, 24th July, 1854, Anne, daughter of Duncan Davidson of Inchmarlo, and died 6th November, 1865, having had issue:—

(1) THOMAS BURNETT-RAMSAY, of Banchory Lodge, born 29th March, 1862; Captain, Rifle Brigade.

(1) FRANCES MARY, married, 20th August, 1879, W. D. Robinson-Douglas of Orchardtoun, Co. Kirkcudbright.

(2) KATHERINE JANE.

(3) ANNIE ELIZABETH.

(4) INA MARGARET, died 15th April, 1889.

1. ELIZABETH MARGERIE, married, 1858, Rev. Alexander J. Murray, Jersey, and has issue.

2. CATHERINE FORBES, killed by an accident, 1843.

3. JANE, married, 1852, Dr. Thom, and has issue.

Captain Thomas Ramsay, married, 2nd, 28th April, 1826, his cousin-german, Margaret, second daughter of Sir Robert Burnett of Leys, 7th Baronet, and had issue, a son Thomas, born 1828, died 1856.

- IV. ROBERT, Captain, 14th Foot, married, May, 1817, Margaret (who died 1840), third daughter of Patrick Cruickshank of Stracathro, and died 20th December, 1846, having had issue:—

1. ROBERT, born 1818, married, 1855, Susan, youngest daughter of William Fullerton-Lindsay-Carnegie of Spynie and Bogtack, and has issue:—

(1) MARMADUKE FRANCIS, born 1860.

(2) ROBERT CHRISTIAN, born 1861.

(3) EDWARD LAUDERDALE, born 1865.

(4) ARTHUR DOUGLAS, born 1868.

(5) NORMAN, born 1869.

(1) AGNES MABEL ALICE.

(2) MINA MARY.

(3) EDITH PATRICIA.

2. ALEXANDER, born 1823, died 1857.

3. MARMADUKE, born 1834, died 1865.

1. ELLEN.

2. ELIZABETH PATRICIA, married, 1877, Major Francis Fenwick Laye, 90th Regiment, who died 1881.

V. EDWARD BANNERMAN, LL.D., in holy orders, dean of Edinburgh, born 30th January, 1793, married, in 1829, Isabella, daughter of Rupert Cochrane of Halifax, Nova Scotia, who died 23rd July, 1858. He died s.p. 27th December, 1872. Edward was educated at Durham School and Cambridge University, and was ordained in 1816. After serving as curate at Rodden and Buckland in Somersetshire, he removed to Edinburgh, where he spent the rest of his life. His first appointment there was as curate to the Rev. R. Q. Shannon, St. George's, York Place, where he remained for five and a-half years; then he became incumbent for one year of the curious old church, St. Paul's, Carrubbers Close, now replaced by a new and handsome edifice, and finally settled down in 1827 at St. John the Evangelist, Princes Street, first as curate to Bishop Sandford, and afterwards as incumbent, being also made Dean of the Diocese in 1846. Dean Ramsay was a man of considerable accomplishments; he wrote with great facility and excellent style; was an admirable reader and elocutionist; an ardent florist in his youth, and to the very last an enthusiastic as well as a highly cultivated musician. He possessed great skill as a flautist, sang well, and understood perfectly the construction and mechanism of the organ, while as an authority on all matters connected with the works of Handel he was considered hardly second to any man of his day. His lectures on that composer, whose genius he admired beyond measure, delivered to the members of the Edinburgh Philosophical

Institution, and published in 1862, will be found well worthy of a careful perusal. Added to these gifts, the Dean possessed very courteous, genial manners, a strong sense of humour, and a singularly tolerant, kindly disposition to those who held different religious opinions from his own, so it is not to be wondered at that he soon became very popular in Edinburgh, and his house the resort of many distinguished strangers, as well as the most able and learned of his fellow citizens of all creeds. It is only right to mention that he was no less loved and esteemed as a clergyman, than liked as a companion and friend. His sermons were able and careful compositions, and his beautiful voice and thorough knowledge of elocution added much to their effect: he took a keen interest in the welfare of his congregation, knowing each member personally, while the sick and poor never appealed to the good Dean in vain. Although he had taken orders in England, he completely identified himself with the church of his adoption, and was practically the founder of the Scottish Episcopal Church Society, which, though afterwards superseded by another and more comprehensive organization, did excellent work in its day. Perhaps the general public best know Dean Ramsay by his "Reminiscences of Scottish Life and Character," which is admitted to be, upon the whole, the best collection of Scotch stories ever published. But it must be admitted that the book owes much of its popularity to the skill with which the author has made a kind of connected narrative to run through the whole, turning it more into a pleasant account of old Scotch life and manners than a mere string of stories not always of equal merit. First delivered in the form of a lecture, the "Reminiscences" were published in book form in 1857; edition after edition was called for, each containing much new matter, till the 22nd was reached, in the preparation of which the author died; it was published in 1874, with an interesting memoir of the Dean by the late Professor Cosmo Innes. In 1829, Dean Ramsay married Miss Isabella Cochrane, a lady of marked talent and strength of character, who died without issue in 1858, predeceasing her husband, whose death did not occur till 27th December, 1872, by fourteen years; few

men have been more missed in the Scottish Episcopal Church, or in Edinburgh Society. Besides the Reminiscences and Lectures on Handel before referred to, he was author of a Church Catechism, at one time much used, "The Christian Life" (1861), "Pulpit Table Talk" (1866), and many published sermons. It is worthy of note that in 1844 Dean Ramsay was offered and declined the Bishopric of New Brunswick, in 1847 the Bishopric of Glasgow, and in 1862 the Coadjutor Bishopric of Edinburgh.

VI. MARMADUKE. Fellow and tutor of Jesus College, Cambridge. He died s.p.

VII. WILLIAM, Rear Admiral, R. N., and K. C. B., born 27th May, 1793.

"Admiral Sir Wm. Ramsay, K.C.B., received his early education at Durham School and Gosport Naval Academy. When only thirteen years of age he entered the Royal Navy, and on board H.M.S. *Albion* was present at the battle of Navarino. Subsequently, as a lieutenant he commanded the brig *Black Joke*, and in that vessel, on the 22nd April, 1831, captured off the coast of Africa a large slaver named the *Maranerito*, and was thus enabled to release 496 slaves. The story of this capture is interesting, and occupies a prominent place in "Giffard's Deeds of Naval Daring." While the *Black Joke* was at Fernando Po Lieutenant Ramsay learned that a large Spanish slave brig, carrying one large pivot and four broadside guns, and having a complement of 70 picked men, was in the Old Calabar river. Notwithstanding that the *Black Joke* had only one pivot gun and one canonade, with a complement of 44 officers and men, Mr. Ramsay made sail for Old Calabar, and commenced a strict blockade. The blockade lasted for three days, and, on the fourth day, after a running fight, Mr. Ramsay boarded and captured the Spanish slaver. Of the men on board the slaver, 15 were killed or drowned, 4 severely wounded, and several slightly wounded, while the *Black Joke* lost only one man, Mr. Ramsay and his mate being wounded. The captured slaves were in a deplorable state, no less than 26 of them being found suffocated. In recognition of this daring act Mr. Ramsay and his mate were speedily promoted. In 1845 Mr. (then Captain) Ramsay was appointed to the command of *The Terrible*, which was at that time the largest steam vessel in the navy. He retained that

appointment for four years, during which time he acted as senior naval officer in the Adriatic. During the Crimean war he commanded *The Hogue*, line of battle ship, in the Baltic, and was present at the capture of Bomarsund. At the conclusion of the war he was made Companion of the Bath, and was thanked by the Secretary of War, and, in 1854, he was granted a Captain's good service pension. The letter from Sir James Graham, conveying intimation of the pension, contained the following words:—'You have served long, honourably, and well, and this unsolicited reward is due in justice to your merits and honourable good conduct on many and trying occasions.' In 1857, Captain Ramsay was chairman of the Committee on Steam Machinery. His promotion in the Navy was as follows:—Lieutenant in 1821, Commander in 1831, Captain in 1838, Vice-Admiral in 1864, and Admiral in 1870. In 1869 he received the distinction of K.C.B., and still more recently he had conferred upon him an Admiral's good service pension, the first which had fallen vacant since his promotion to that rank. Sir William was the author of the article on 'Seamanship' in the eighth edition of the 'Encyclopaedia Britannica.' During the latter part of his life he resided in Edinburgh, with his brother the Dean, and took an active interest in many of the city's philanthropic institutions, and was well known for the generosity of his disposition. He was a director of the Institution for Training Homeless Girls, and of the Industrial Brigade. He died in Edinburgh on the 3rd December, 1871."

The above sketch of the Admiral's services is taken from the *Scotsman* of the 4th December, 1871.

VIII. EDWIN HEWGILL, born 1804, died unmarried.

I. ELIZABETH, born 17th September, 1783, married 7th April, 1808, Alexander Renny Tailyeour of Borrowfield, Co. Kincardine, and had issue.

II. CATHERINE, died in infancy.

III. HELEN, died in infancy.

IV. MARY, died in infancy.

V. ISABELLA, died in infancy.

VI. FRANCES, died in infancy.

VII. LAUDERDALE, married (1st), 10th July, 1832, David Duncan of Rosemount, Forfarshire; (2nd), 12th July, 1837, Sir J. H. Burnett, 10th Baronet of Leys; died 4th November, 1888.

II.

SIR ALEXANDER RAMSAY, 2nd BARONET, born 14th February, 1785. He married (1st), 1st August, 1811, Jane, eldest daughter and co-heiress of James Russell of Blackhall, Co. Kincardine. She died in 1819. By this lady he had three sons and two daughters :—

- I. ALEXANDER, 3rd Baronet.
- II. WILLIAM, born 1814, died 1840.
- III. FRANCIS, born 1815. Served in the Royal Artillery. He married, in 1848, Georgina Hay, third daughter of William Foreman Home of Wedderburn, and has :—
 1. WILLIAM ALEXANDER, born 5th December, 1848. Colonel, 4th Hussars. Married, 2nd September, 1873, Susan Newcombe, daughter of William Minchiner of Clontarf, Co. Dublin.
 2. FRANCIS FARQUHARSON, born 28th July, 1855 ; died 7th April, 1898. Captain, Gordon Highlanders (92nd).
- I. FANNY JANE.
 - I. MARY, married (1st), in 1837, the Rev. Bruges Lambert of Misterton, Co. Somerset, who died 1843 ; and (2nd), 25th February, 1845, John Sparks of Crewkerne, Somerset.
 - II. ELIZABETH, married (1st) John Carr, second son of John Carr of Dunstanhill, Co. Durham, who died 1856 ; (2nd), in 1860, Charles Murray Barstow, who died in 1885. She died 14th February, 1887.

Sir Alexander Ramsay married (2nd), 26th December, 1822, Elizabeth, second daughter of William Lord Panmure, by whom he had four sons and three daughters. She died 12th September, 1852 :—

- I. FOX MAULE, born 18th March, 1824. Captain in the 56th Regiment ; died, unmarried, 15th March, 1860.
- II. EDWARD BANNERMAN, born 16th February, 1830. Major-General, Madras Staff Corps ; died, unmarried, 25th December, 1883.

- III. GEORGE DALHOUSIE, born 23rd May, 1828. Secretary to his uncle, Lord Panmure, then Secretary of State for War ; Director of Army Clothing Department, and a K.C.B. ; married, 23rd April, 1864, Eleanor Julia Charteris, daughter of John Cranford, F.R.S., and has issue :—
1. ALEXANDER PANMURE OSWALD, born 15th April, 1867 ; died 16th February, 1897.
 1. ELIZABETH EDITH, born 27th July, 1865 ; married, 11th January, 1894, the Rev. Barton R. V. Mills, and has issue.
- IV. MARMADUKE, born 1837 ; died 1893. Colonel, Bengal Staff Corps ; married, 1858, Anne, daughter of Lieut.-General Innes, and has :
1. MARMADUKE, born 1859.
 2. ALEXANDER, born 1866.
 1. ELIZABETH MAULE.
- I. PATRICIA, married, 14th May, 1872, W. John de Courcey Agnew, Commander, R.N.
- II. CHRISTINA, married, 14th February, 1859, Major Charles Elliot, C.B., Madras Staff Corps, youngest son of James Elliot of Wolflee, and died 13th March, 1873.
- III. GEORGINA HARVEY, married, 20th April, 1861, Lieut.-General Sir R. J. Hay, K.C.B., R.A., second son of Admiral Hay of Belton, Co. Haddington.

Sir Alexander died 26th April, 1852, and was succeeded by his son.

III.

SIR ALEXANDER RAMSAY, 3rd BARONET, born 26th May, 1813, some time M.P. for Rochdale. He married, 29th December, 1835, Ellen Matilda, eldest daughter of John Entwisle of Foxholes, Co. Lancashire, and had :—

- I. ALEXANDER ENTWISLE, who succeeded him as 4th Baronet.

II. HUGH FRANCIS, born 23rd September, 1838; married, 24th February, 1868, Jane Maria, daughter of General F. H. Sundys, Bengal Army, and has :—

1. HUGH ENTWISLE, born 1871.
2. NORL BANNERMAN, born 1875.
1. RHODA BEATRICE.
2. SYBIL.
3. OLIVE.

III. JOHN, late Captain, Royal Engineers, born 30th June, 1843; married 5th September, 1876, Florence Mary, daughter of Richard J. Hilton of Preston House, Faversham, and has :—

1. HECTOR ALEXANDER, born 1878.
2. NORMAN, born 1880.
3. JOHN RICHARD, born 1883.
1. ETHEL.
2. HILDA.
3. EVELYN.

IV. BERTIN, born 13th October, 1850; married, 1881, Kate, daughter of Dr. David King, U.S.A., and has issue—Hallie, Ellen, and Ethel.

I. ELLEN AUGUSTA, married, 2nd December, 1885, Ernest de S. Hamilton Brown, son of Major George Brown, D.L., of Comber House, Co. Londonderry.

Sir Alexander died 3rd March, 1875.

IV.

SIR ALEXANDER ENTWISLE RAMSAY, 4th BARONET. Born 14th January, 1837; married, 22nd January, 1863, Octavia, youngest daughter of Thomas Haigh of Elm Hall, near Liverpool, and has :—

I. ALEXANDER HAIGH, born 1st January, 1866; died 30th December, 1870.

II. HERBERT, born 9th February, 1868.

III. ARTHUR, born 9th January, 1871.

I. HELEN GEORGINA.

II. NORA MABEL.

III. FLORENCE AUGUSTA.

He married (2nd), 10th August, 1880, Caroline Charlotte, youngest daughter of Thomas James Ireland, of Owsden Hall, Co. Suffolk, and has:—

I. GILBERT IRELAND, born 31st May, 1881. 2nd Lieutenant, Royal Artillery.

CHAPTER IV.

BURNETTS OF CRAIGMYLE.

I.

JAMES BURNETT OF CRAIGMYLE. James Burnett, son of Alex. Burnett of Leys, and immediate younger brother of Sir Thomas Burnett, 1st Baronet, could have been little younger than his brother Thomas. In terms, apparently, of a family compact made in 1598, when both were in pupillarity, he married, in 1608, when he could not have been above eighteen, Elizabeth Burnett, daughter and heir of Thomas Burnet of Craigmyle and Tillihaikie. This Thomas was grandson and representative of William Burnett of Craigour, Campbell, and Tillihaikie, who fell at Pinkie in 1547, ancestor (through a younger line) of the Burnetts of Campbell, Elrick, &c. These lines of Burnetts are often alluded to as cadets of Leys, and they doubtless were so, though the compiler has failed to trace them further back than William, who fell at Pinkie. Thomas Burnet abovenamed seems to have acquired Craigmyle through his mother, heiress of a family of Craigmyle of that ilk, who appear on record in the 15th century as holding Craigmyle directly from the Crown, though they afterwards had the Earls of Huntly interposed as superiors. In November, 1608, Thomas Burnet resigned his lands of Craigmyle, Pitmedden, and the Mill of Craigmyle into the hands of the Earl of Huntly, superior, in favour of his daughter, Elizabeth, and her husband, James Burnet, on their marriage. They had sasine on the 9th of the same month, reserving the liferent of half to Thomas. By this marriage James Burnet was enabled to add to Craigmyle and Pitmedden large property in the parishes of Kincardine O'Neil, Skene, and Fetteresso, partly in absolute property, partly in wadset, from the Earl Marischal,

Sir William Douglas of Glenbervie, and others ; he seems, in fact, to have become almost as considerable a laird as his brother, Sir Thomas. The parish records of Fetteresso shew him resident in, and (along with his brother, Sir Thomas) an elder of, that parish, where the baptisms of six of his family were registered between 1620 and 1633. It does not, however, appear whether his place of residence was then Muchalls or Auquhorthies, wadsetted to him by the Earl Marischal for 3000 marks. On 20th July, 1633, he had a grant of the ward and non-entry of the lands of the deceased Sir Simon Fraser of Inverallochy.

Like Sir Thomas, he sided with the Covenant, and during the time of the "Troubles" his name often occurs, as has been already seen, but nearly always in the capacity of an adviser of moderate counsels, a peacemaker and negotiator, and an enemy of bloodshed. The cavalier parson of Rothiemay described him as "a gentleman of great wisdom, and one who favoured the King, though he dwelt among the Covenanters, and was loved and respected by all." The Town-Clerk of Aberdeen, who has rarely a good word to say for a Covenanting laird, describes Craigmyle as a "peciabill weil set gentleman." Among occurrences of 1644, in which Craigmyle was concerned, Spalding records the plundering of his armory of Blackhills, and his effort to make Huntly disband his troops, events dating shortly before his death, which occurred in the latter part of 1644 or beginning of 1645.

Besides other issue, who died young,* James and Elizabeth Burnett had the following four sons and two daughters:—

- I. ALEXANDER (Mr.), his successor in Craigmyle.
- II. THOMAS, of Kemnay,
- III. JAMES, of Lagavin and Monboddò, } of whom separatim.
- IV. ROBERT (Mr.), of Cowtoun, Muchalls, and Criggie, of whom some account has been given as Tutor of Leys (p. 86). The parish register of Fetteresso records his baptism as on 18th April, 1620. He married (1st), 22nd December, 1646, Jean, daughter of Mr. John Mortimer, bailie of Aberdeen (Aberdeen Parish Register),

* The Fetteresso parish register contains the baptisms of the following children of James Burnet of Craigmyle:—Robert (the Tutor of Leys), 18th April, 1620; Helen, 21st January, 1623; William, 10th February, 1624; Margaret, 9th September, 1625; George, 10th April, 1628; and John, 6th June, 1633. None of the sons in this list, except Robert, appear to have reached maturity.

by whom he had no issue, and (2nd), c. 1682, Helen Arbuthnot, afterwards wife of John Sandilands. He was tutor testamentary, and afterwards guardian in his minority of Sir Thomas Burnett of Leys, 3rd Baronet, in our notice of whom (pp. 86-90) reference is made to some details regarding his history, and the deed of provision and will by which he arranged the marriages of his three daughters, the children of his old age, who were in infancy on their father's death, in 1687. These daughters were (1) Helen, who inherited far the largest share of his property, including Cowtoun, and married, in 1697, as provided in her father's will, Alexander Burnett, younger of Leys, afterwards Sir Alexander, 4th Baronet; (2) Agnes, who married (1st), 1701, according to her father's wish (p. 91), Thomas Burnet of Glenbervie; and (2nd) Sir William Nicolson of Glenbervie; (3) Jean, who, instead of the husband provided for her, who died in 1695, married William Burnett (afterwards designed "of Criggie"), and was mother of Sir Thomas Burnett of Leys, 6th Baronet.

I. JEAN, married Robert Arbuthnot of Little Fiddes.*

II. MARY, married (sasine on marr. contr., 1661) Alexander Forbes of Corsinday—alluded to in a letter of Thomas Burnett of Kemnay (p. 123), died at Kemnay, and was buried at Midmar, 1st November, 1700.†

II.

MR. ALEXANDER BURNETT OF CRAIGMYLE. Eldest son of James Burnett of Craigmyle; was admitted to the Bar 12th July, 1642 (MS., Adv. Lib.). We find him in 1646 a Commissioner of Supply for Aberdeenshire, and on the Committee of War for Kincardine. In the adjustments connected with the Indemnity Act in 1662, the name of Alexander Burnett of Craigmyle occurs among many others in an enumeration of persons who were allowed to purchase their indemnity for acts that might be construed as treason, by the payment of fines, the fine in his case being £2400 (Acts of P.S., vii., 425). He married, in 1649,

* Bishop Keith's Biography (Spottiswoode Society).

† Kemnay Parish Register.

Christian, daughter of Thomas Fraser of Strichen, and died c. 1677, having had issue :—

- I. ALEXANDER, his successor.
- II. THOMAS, to whom his brother, Alexander Burnett of Craigmyle, was served tutor on 3rd April, 1678. In 1685 his brother reduced as irregular an Act before the bailies of Aberdeen, by which he chose his curators, on the ground that the next of kin, who were cited, were not within the jurisdiction of the bailies. He died unmarried.
- I. ELIZABETH, married (contr. 8th Feb., 1688), James Gordon of Corfarroch.
- II. ANNE, married George Gordon of Terpersie, died, leaving a son, Charles.
- III. JEAN, born 1667. Her brother, Alexander, was served tutor to her, 3rd April, 1678. She married her cousin-german, Andrew Burnett, son of Thomas Burnett of Kemnay.

III.

SIR ALEXANDER BURNETT OF CRAIGMYLE. Eldest son of Mr. Alexander Burnett, succeeded his father c. 1677. His lands, to which he made up his titles soon after his succession (besides expeding a general service to his grandfather), were Craigmyle and Pitmedden, held of the Earl of Huntly ; Easter Skene, Milboy, Hill of Keir, Rogershill, Garlogie, &c., held of the Crown, and, in 1678, incorporated in his favour into the barony of Easter Skene, Craigour, and Mill of Campbell, as also Fordyce, Cormoir, and Croft of Wester Campbell, called Alehousecroft ; all held of Sir Thomas Burnett of Leys. In 1678 his arms were thus recorded in the Lyon Register :—Quarterly : 1 and 4, Argent, three holly leaves in chief vert, and a hunting horn in base sable, garnished gules ; 2 and 3 (for Craigmyle) Azure, two garbs in chief and a crescent in base or. Crest, a dexter hand holding the branch of a palm tree, with the motto, *Quae vernant crescent.*

On 7th September, 1681, he obtained authority from Parliament to hold two yearly fairs and a weekly market at Kirktown of Skene (Acts

viii, 441), and towards the close of 1682 or beginning of 1683 he was knighted by Charles II. In Mr. William Robertson's description of the parish of Kincardine O'Neil (A.D. 1725) he is said to have "built a very fine loft in the church of Kincardine, fairly coloured and to be seen intire."

By his wife, Nicolas, daughter of Peter Young of Auldbar, he had three daughters, Isabel, Anne, and Margaret, and his settlements gave rise, on his death, to considerable litigation. In 1684, when only two of the three were born, he settled his lands on them by will, provided they married respectively Thomas and Andrew Burnett, sons of his uncle, Thomas (of Kemnay).^{*} Then, in 1686, he entailed his lands on the heirs male of his body, with remainder (passing over his bachelor brother, Thomas) successively to Thomas Burnett of Kemnay, his eldest uncle, and the heirs male of his body, to his second uncle, James Burnett of Monboddo, and the heirs male of his body, whom failing to his third uncle, Robert Burnett of Criggie (the "Tutor of Leys"), and the heirs male of his body, whom failing to his own heirs male whatsoever. In April, 1688, when in Edinburgh, he signed a declaration and obligation to the effect that, as his uncle Thomas had offended him, he annuls the entail, and obliges himself, as soon as he returns home, to cancel, destroy, and tear his name from it. A few months later the uncle at whom he had taken umbrage died; and Sir Alexander went home, lived six years, without carrying out his purpose of cancelling or altering the entail, which, as well as the obligation, but no later entail, was found in his repositories at his death. On that event, which occurred in 1694, there was a competition for the succession to his estates, which lasted several years. Thomas Burnett of Kemnay, the heir expectant, held that the refraining from cancelling the entail involved that he had departed from his hasty resolve, and he applied to the Court for an exhibition of all entails made by his cousin on heirs male, that he might deliberate whether to enter heir. "The lords, on the one hand, thought it unreasonable to expose charter chests to view where such a document as a revocation indicated the alteration of the tailzier's mind, and on the other hand it was dangerous to let parties judge on dubious and ambiguous clauses; therefore they took a middle way, ordaining the defenders to produce all tailzies lying beside the defunct upon oath, and the reporter

^{*} Andrew, it has been seen, married instead the testator's sister, aunt of these young ladies.

to peruse the same, and if he finds they do not fall under the revocation or may be debatable, he is to allow the pursuer inspection thereof, and to hear them how far they are revoked." (Fountainhall, I., 785, July 15, 1697.) Monboddo contended that the revocation, if good, could only exclude Kemnay, and not the remaining heirs of entail, and founded on the provisions for daughters in the deed of revocation as implying that the heirs of entail were to be burdened with these provisions. On 7th December, 1701, a decision was at length given in favour of the daughters. Sir Alexander Burnett's widow had been appointed tutrix testamentary during her viduity, but that condition ceased in 1696 on her re-marriage to Sir Charles Maitland of Pittrichie, Bart. Sir Charles then applied to be appointed tutor-dative to his stepdaughters, in respect that the nearest agnate, Thomas Burnett of Kemnay, did not serve, in which application he met with some opposition from Thomas's brother, Andrew (Sess. Papers, Adv. Lib., vol. iii., p. 3375).

Of Sir Alexander Burnett's three daughters, the second, Anna, died three years after her father, in 1697, and her inheritance was divided among her sisters. Isabel, the eldest, married, in 1695 or 1696, John Farquharson of Invercauld. All her children died young, and her husband had three subsequent wives, Christian, daughter of Robert Menzies of that Ilk; Margaret, daughter of Lord James Murray; and Jean Forbes of Waterton. He died in 1750, and his brother, Alexander Farquharson of Monaltrie, became owner of Craigmyle by purchase. Sir Alexander Burnett's youngest daughter, Margaret, married (contract dated 1705, in possession of the town of Aberdeen), (1st) Sir Charles Maitland of Pittrichie, son of her stepfather, (2nd) 1705, Sir Thomas Erskine of Pittodrie. Her only child, William Erskine, being of weak mind, was excluded from the succession of Pittodrie, which went to her husband's daughter (by a second marriage, with Anne, daughter of James, 15th Lord Forbes), who married Colonel Henry Knight.

CHAPTER V.

BURNETTS OF KEMNAY.

I.

THOMAS, second son of James Burnett of Craigmyle, is designed writer in Edinburgh. He married, c. November, 1655, Margaret, only child of John Pearson, merchant, Edinburgh, by whom he had two sons, Thomas and Andrew, and a daughter, Rachel (born 1679). In 1688, the year in which he died, he purchased the estate of Kemnay, on Donside, from Sir George Nicolson, a Lord of Session, under the title of Lord Kemnay; and on 20th July, 1688, had a Crown charter to Thomas Burnett, writer in Edinburgh, and Thomas, his eldest son, and the heirs male of his body, whom failing, Andrew, his second son, and heirs male of his body; whom failing, the heirs whatsoever of the said Thomas Burnett of the barony of Kemnay, on the resignation of Sir George Nicolson of Kemnay and his eldest son. The mansion-house of Kemnay, where he took up his residence, was built by Sir Thomas Crombie in the middle of the 17th century, in place (on a higher area to the south-east of it) of an older residence of the time when it belonged to the Auchenlecks and Douglasses of Glenbervie. In its original form it somewhat resembled Muchalls in plan. Its distinguishing features were an uncommonly wide spiral staircase, a dining-room with a curious embossed roof, which has been modernized, and though Kemnay House has been deprived of much of its original character by exterior changes and additions made at different times, a few antique rooms remain, as well as the remarkable staircase alluded to. In the following year Thomas Burnett died, and was buried in the church of Kemnay, on the 19th February, 1689. His wife, who had predeceased him by a few months, was also buried at

Kemnay, on 16th November, 1688. The only children who survived infancy were—

I. THOMAS, his successor ; and

II. ANDREW, who married (1697) Jean (daughter of Alex. Burnett of Craigmyle), his first cousin. He was a W.S. in Edinburgh, and died in 1726. He and his wife are both buried in St. Nicholas, Aberdeen (Drum's Aisle).

The Edinburgh baptismal register shews that they had also the following issue, who died young :—Robert, born 1662 ; Alexander, born 1668 ; James, born 1672 ; Margaret, born 1676 ; and Rachel, born 1679.

II.

THOMAS BURNETT OF KEMNAY, son of the last, born 1656, after studying abroad, was admitted a member of the Scottish Bar. He does not seem to have practised much as a lawyer, but came soon to be known in the literary and political circles abroad, as well as at home. He was one of the remarkable little Court circle at Hanover in the time of the Electress Sophia. According to Mr. J. M. Kemble, his letters to the Electress, in the Hanoverian Archives, would fill a volume, and are full of the most curious gossip on the most various subjects, politics, theology, philosophy, poetry, literature, and the small talk of the day. His correspondence with Leibnitz, Locke, and Miss Trotter (afterwards Mrs. Cockburn) is of a more solid and serious description, and exhibits Thomas Burnett as a man of original thought, very high principle, and a vast amount of experience, gained by reading, foreign travel, and intercourse with distinguished men at home and abroad.

The following letter, selected from a number of others couched in similar terms, although not of very general interest, will suffice to show the kindly relations which existed between Thomas Burnett and the Royal lady and her family.

“ A Hannover ce $\frac{1}{2}$ de 9bre (Nov.) 1695.

“ Je ne dois pas me plaindre de votre long silence, puisque vous l'avez recompensé par une si longue lettre, ou de toutes les Louanges que vous me donnez, je n'ay mérité que celle de la reconnaissance envers les personnes comme vous, qui me témoignent leur estime. Pour les beaux livres

dont vous me parles de religion et de morale, je crois qu'on n'a pas besoin de celle qui prouvent la verité de la religion Chrestienne, puisque dans tous les pays Chrestiens, les Princes et les Republicques sont convenus quelle soit veritable; et pour la morale jay trouvé qu'un bon temperament est plus utile qu'un beau precepte, l'un est pour la pratique et l'autre pour la speculation; pour moy come vous l'aves vue je troualle l'apres diner pour m'enpecher de dormir, ou une bonne conversation m'est toujours agréable, come vous vous en estres apercu come vous estres avec moy. Ma fille me prie aussi de vous faire des amities de sa part et tésmoigne aussi bien que moy qu'elle est affectonnée pour vous come sa mere.

" SOPHIE ELECTRISE."

" A Monsieur Burnet
" à Londres."

Regarding the succession to Craigmyle (see p. 116), in which matter he considered he had been very badly treated, and with reference to his affairs generally, he wrote to Sir Thomas, the 3rd Baronet, the following letter:—

" London—Westminster,
" 12 Sep: (1696).

" ho Sir,

" I received yours at Tunbridge-wels and being upon the coming back to London could not return you my thanks sooner. I received non since I was in Holland from you bot this: And I had written to Monymusk and Mr. Johne Burnet about that tyme to intreat them (in conjunction with yourself) to tak such exact account of Mr. Mareshals actings in my affairs whatsomever as they thought fitt. I never had any answer. My comeing to Scotland was most resolutely determined about the tyme I received informatione of Craigmyles death; Bot hearing whow unnaturally I was passed by, this blast of unkyndnesse did beat me back more then any storme could have done that was not insuperable. Since that tyme the alterationes of the climat and weather seasing upon me I am become much changed in my state of health which does not permit me to ramble much more back and forwards even though it were bot to Scotland. My melancholy and hypocondriaque temper heth contributed much to this bodily indispositione, And ill treatment from some I reckoned upon for my best freinds heth riveted that uneasie natural temper which I endeavoured all maner of wayes to root up. My interest is much the same iff my affairs be rightlie managed and my inclinationes are indeed much stronger for remaining in this cuntrey at least for some tyme, and it is the surest rule in medecin that one is left for body and mynd in the place which they lyk most. I lyk Scotland well, and wish it well more then any other place, Bot I should be false and dissembling if I said my love to it were from the

maner of living in it which no wayes suits my humor. I doe acknowledge the honor I have in being descended of your famelie And wold in gratitude serve the interest of your house with all the passione that animats both love and ambitione to anething thats great and good. The decays and extinctions of our name of late heth made also too sensible impressiones upon me not to wish the flourishing of the furthest of your branches. It is natural for the stock to support any of its branches and for them to adorne and beautifie the common stemme they spring from. I hope I shall be still myndfull of this and whatever I doe with relatione to the disposal of my affairs or persone aither never to doe any thing contrary to the honor of your famelie. Efter the death of Craigmyles brother as there wes nothing appeared so natural to expect as the successione of his estate in the greatest part, with his daughter: So nothing was more earnestlie desyred by me, and had I not been fixed at that tyme so much that way that I could not be diverted, I had not only in my view (bot I may say almost in my offer) ane opportunitie of making an accessione to my fortune above any thing I justlie judged his estate could make: Bot I thought the preservatioune of his famelie aught to prevail whilst he considered litle the support of his oun estate or my oun. I cannot say I shall ever meet again with anything that may mak my interest greater; But I hope by the blessing of god to preserve what I have w^t. as much care as my father did purchase. Thus far I have made reflectiones on severall things not so much out of any pleasant remembrance as to satisfie you with ane account of what temper of mynd I have had, and retains with relatione to past occurrences and the future conduct of my affairs and persone. In the next place as I reckon your advyce for a proof of your kyndnesse and of your freindlie interesting your self in my affairs, So I doe heartelie thank you therfore and do most frielie accept of your Mediatione in the first place, of Sr John Forbes of Monymuskes, our Cusing Thomas Hay, the parson of Monymusk, Glenbervie, or any others lesse or more you think fittest to examine the accounts and manadgments of Mr. Marshel, or any others that deals in my businesse. It is bot reasonable that he give account of his stewardship. I cannot be blamed to have trusted one whom my father and the whole famelie confided so much into, whom with Provost Binning they had raised from the first seeds of educatione to any degrees of capacity and whom I myself thought whyle I was in Scotland honest and diligent. Iff it be otherwayes since, I wish I had been helped sooner to sett things to right for I was a stranger both to the cuntrey and to a cuntrey life: And even though I were upon the place wold committ the care of all to a factor. Iff my litle estate were bot looked to with moderat care and skill I think I wold find it almost all one of being here or there. Iff James Mareshall hath manadged honestlie he may be fairly discharged, if you think fitt; and one appoynted that can have more

immediat inspectione and have lesse of avocationes to other businesse. I fear his unskilfulnesse and pluralitie of offices maks him more insufficient for my affairs bot of all this you can easelie discover the whole mistery. I am so out of humor with my present circumstances That I will be still more and more pivish and melancholy till I can (by the blessing of god) change my position till which tyme I cannot think of any other businesse bot settlement and then it will be ane easier mater to goe to Scotland or anywhere else with a choise companion. They are not my freinds bot the cruelest of enemies who will take pleasure to represent to me ane bad picture of my affaires without reaching a charitable hand to help them at the same tyme: And therefore even the trewest informationes are bot unkynd news out of there mouths, there words are sharp swords and yours are softer then oyle. I wold not mak me self uneasie even for the losse of all I have iff there were no fault in my self to procure that misfortune And ane other should not tak pleasure lyk the fly upon the soare to feed upon ane others misfortunes. The tyme is now expyring of right of Tutor in Law to Craigmyles daughter and it is almost ane year since I did renunce in my brothers favors. I know not what is come of itt for I sent it to Mairshel now as I wold not even envy any of my Cusins, nor Pitrichie all the estate of Craigmyle which they have caried away from me by any trew title of Law, so I wold not think it ather just or generous in any of them to dispute with me anything I have a right clame to: nather doe I expect they will. It should be strange if Sir Charles Maitland should become lesse my freind by becoming more a relation. I know not why he might not (if he would) doe his oun, the pupils and my businesse, all three with satisfacione to all unlesse interest blind the eyes and byasse the judgment which I trust in god no particular concern shall make me deal so with others. I hope also I shall not be so dealt by nather. Iff you think I may renunce to him or any other and that my interest may not suffer therby you need but to let me know your mynd y^ranent as also concerning the comission to examin Mr. Mareshels accounts by a line as soon as you please. Iff you send me the draught of the comission with the names you think fitt to insert I shall cause send it doun as you shall appoynt subscribed. For I intereerly confide in your kyndnesse and freindship which maks me not to mention particulars bot trust all to your care in the general. I think I am secure enough in your honour But the interest you have in the welfare of a cadet of your famelie gives me ane other ground of reliance. I think also I may expect a kynd concernment in all the other freinds I have named before who I think may assist you. I think the cheifest thing to examin is whow the setting of the tacks heth bein improven or fallen by male administration or the victual sold at for the other burdings or incumbrances upon the land are known, And the money remitted to me or drawn by me will exhaust the greatest part of

his intrusions. I am become more tender at the age I am off then ever my father was at ane old age and utterly unfitt for any businesse certain dayes (as he was) according as the weather rules ; so that I need much the help of some kynd freind ; And that my affaires were put into ane good hand ; And it wold be ane furder satisfaction that they were so manadged in Scotland as not only to please myself bot you especially. I should be glad to have ane more exact account of the estate both of Craigmyles and my Cusing Monbodos famelie since there deaths. Iff you think it were advyseable to sell the right of lawe to the old estate of Craigmyle which is now part of the joyntour lands of the lady you may give me your oppinion. I should think if the lady have sufficient security for her joyntour aliunde that it wer unreasonable a joyntour should exhaust the whole of ane old estate bot I know the law is most favourable to womens joyntures that I know not what advantage I shall mak of that tailzed estate unlesse by selling the right. I am sure whowever it stands to reason and all reasonable law that the tailzed estate cannot be burdened with more than the proportionale part of the debt. I doe not think I need say anything to you of my brother only I desyre not to give him the truble of manadging my affaires upon account of a reason easier supposed then to be named I may give you a general one That I never knew a brother manadge to ane other brothers mynd bot we all knew one Andrew manadge for ane other Thomas of our name to his sorrow and ruine. I am greived exceedinglie for his cariage to his aunt Corsindae wherof she lamenteth to me bitterly. We are fallen certainly into the last and worse tymes. I ad no more at present bot my dewtiful respects to your worthie lady and all other freinds.

“deir Cusen

“Your most humble and obleidged servant

“T. BURNETT.”

“There is no discourse heir bot of the real designs and inclinations of the frensh to a general pace in so much that I had ane account from a person that saw a letter from on of the deputies to the States in Holland to one of the eminent merchands heir telling in terminis, he had employed his tyme, freinds, and money this long tyme to get the best intelligence of the result of the treatment with the frensh ministers this summer ; that the particulars were kept secret, Bot that certainly the last meeting the great article of acknowledging the king of England by the Frensh was agreed to.”

“Sir T. B. fr. Mar. of Tul.”

When the death of the Duke of Gloucester opened to the Electress the possible prospect of succession to the throne, he returned home charged with secret instructions to carry her sentiments to some of the

leading men in England. He went thence to Paris a few months before the war of the Spanish Succession broke out. The recognition by Louis XIV. of the Pretender, on James II.'s death, had caused a great ferment in England, and was the immediate cause of Anne's declaration of war against France in May, 1702. At the instance of some of the adherents of the Court of St. Germain's, to whom he had become obnoxious from his relations with the Electress, Burnett was suddenly arrested on some frivolous pretext whilst copying a monumental inscription, and hurried off to the Bastille, where he remained for a year and a half. Accidents at length made his situation known to the Electress, and through the powerful advocacy of her niece, the Duchess of Orleans, he was restored to liberty about the close of 1703.

On his release from the Bastille, Thomas Burnett went to Geneva, where he received letters of congratulation from his powerful patronesses in reply to his thanks for their exertions on his behalf. The Electress writes :—

“ A Hannover 16th de Fevrier 1704.

“ La nouvelle que vous m'avez mandee, Monsieur, touchant votre elargissement de la Bastille, aussi bien que votre heureuse arrivée à Geneve, m'a été d'autant plus agreeable que je suis ravie de vous savoir à l'abri de ceux qui vous ont traité avec tant d'injustice. Je vous suis cependant fort obligée des sentimens obligeans que vous me témoignés à ce sujet, et en même temps fort aise d'avoir eu moyen de marquer à quel point je m'interesse pour vous. Vous ne devés pas non plus douter que je m'embrasse encore volontiers les occasions qui se presenteront de vous donner des preuves de mon estime.

“ Votre tres-affectionnée

“ SOPHIE ELECTRISE.”

The Queen of Prussia writes :—

“ A Hannover ce 16^e de Fevrier 1704.

“ Les remercimens que vous me faites, Monsieur, surpassent de beaucoup le plaisir que j'ai pu vous faire en contribuant par mes offices à votre elargissement, et cela d'autant plus que c'est aux bontés de Madame que vous devez principalement attribuer vôtre liberté. Je ne laisse cependant pas de me rejouir avec vous de vous savoir si heureusement sorti de ce labyrinthe, et me reserve de vous en feliciter de bouche, quand je vous verrai l'été prochain à Lutzebourg, ou je vous invite d'avance. Au reste, vous devés être persuadé que je prendrai toujours part à ce qui pourra vous regarder, et que j'aurai une joye particuliere de vous obliger dans les occasions qui s'en presenteront.

“ SOPHIE CHARLOTTE.”

The Duchess of Orleans, daughter of the Elector Palatine, and married to the Duke of Orleans, brother of Louis the fourteenth, to whom he was principally indebted for his release, also writes to him :—

“ Monsieur, J'ai reçu la lettre que vous m'avez écrite, les sentimens de reconnoissance que vous avez du soin que j'ay pris de contribuer a la liberté dont vous jouissez me renouvellent le plaisir que j'ay eu alors de vous en faire ; mais je n'avois garde de manquer à m'employer pour vous, m'ayant este recommandé par des personnes qui me sont si chere, et qui vous estiment. Je souhaite que votre contentement ne soit alteré par aucune traverses, et vous assure qu'en toutes occasions je vous temoigneray que je suis veritablement,

“ Monsieur,

“ Votre bien bonne amie,

“ ELISABETH CHARLOTTE.”

“ A Monsieur Burnet de Kemnay.”

In the year 1713, at the age of about 57, Thomas Burnett of Kemnay married a young and beautiful wife, Elizabeth, daughter of Richard Brickenden, of Inkpen, Berks, known in her family as “ Betty Brickenden,” and settled at Kemnay. The remarrying of this lady, after his death, with her sons' tutor, gave offence to Mr. Burnett's relations, and her children were taken to Crathes and brought up by Sir Alexander Burnett. In course of time the tutor, Dr. George Lamont, became a distinguished physician in London, and at his death, at a great age, in 1795, his property passed to Mrs. Lamont's grandson, Secretary Burnett of Kemnay. This partly consisted of property in Kent, which Mr. Burnett immediately sold, but, if retained, would have been of great value, as Tunbridge Wells has since been built upon it. There are portraits at Kemnay of “ Betty Brickenden,” her second husband, Dr. Lamont, and her brothers, one known as “ Beau Brickenden,” the richness of whose costume illustrates the style affected by the exquisites of that age. “ Betty Brickenden ” lies in St. Pancras Churchyard with her daughter. Mr. Burnett died on the 26th February, 1729, leaving, besides a daughter, Anne (b. 1717, d. 1787), a son, born 29th September, 1714.

III.

GEORGE BURNETT OF KEMNAY, Thomas's only son, married (1), at the age of 20, the daughter of his cousin and guardian, Sir Alexander

Burnett of Leys, a lady whose worth and accomplishments were long remembered in the country, and have been celebrated in verse. The following lines describing her, after the fashion of the day, under a pseudonym of "Peggy," occur in a poem called "Don," said to have been originally written in 1655, but reprinted with addenda, and dedicated to Hugh Rose of (? Kilravock), by a Colonel Forbes, in 1742 :—

"Mind Kemnay's seat, how beautifully placed,
With shady woods and flowery gardens graced ;
See how the feathered choir extend their throats
By nature taught—hark how they swell their notes.
Yet when fair Peggy, mistress of the grove,
Joins her sweet voice to sing the praise of love,
The birds sit listening to the wondrous song ;
The river calms and smoothly glides along ;
The gentle zephyrs with her tresses play,
And from her balmy breath steal sweets away."

The lady died 21st September, 1750. He married (2) (October 25, 1751), Janet, daughter of James Dyce of Disblair, who died 16th July, 1802, without issue. Both wives lie in the same grave in Kemnay churchyard.

Kemnay House, when George Burnett took up his residence there, was bleak and cheerless in its surroundings ; before his death the pleasure grounds were reputed to be among the most beautiful in Scotland.

The Wilderness, an ornamental plantation of fine trees, including larches, then a novelty, with a labyrinth of grass walks, a pond and a "hermitage," was an excellent specimen of the style of the day. This, as well as the formal parterres and flower gardens, got into a neglected condition in the beginning of the present century, during the minority of the late Mr. Burnett, and the changes since made in them have taken from their quaint character. The long straight avenue of beech trees, meeting overhead, which now forms the principal approach, is still unequalled in the district. George Burnett had also a great reputation in his day as an agricultural improver. A man of active temperament and strong will, he took a leading part in politics and county business, and was reputed to be a strict disciplinarian in his own house and elsewhere.

On the death of Sir Robert Burnett of Leys, only son of Sir Alexander, who was in delicate health at the time of his father's death, and only survived him for about a year, a competition for the succession

to the Leys Estates arose between Sir Thomas Burnett and the only son of George Burnett of Kemnay, as heir of line through his mother, the question turning on whether Sir Alexander had effectually altered the investiture from personal to heirs general. The protracted litigation which ensued has been fully dealt with in the history of the main line of the family.

George Burnett left issue (1) Alexander, his successor ; (2) Helen, 1734-1810 ; (3) Anne, 1736-1782 ; (4) Jane, 1739-1764 ; (5) Elizabeth, 1738- ; (6) Mary, 1747-1802. These five daughters were reputed beauties in their day, and were sent *on horseback* from Kemnay to Edinburgh every year to a school there, with a man servant to take care of them ! Jane was the only one married (to Alexander Dunbar of Boath), and is buried at Auldearn.

IV.

ALEXANDER BURNETT OF KEMNAY was born 3rd July, 1735, and succeeded his father in 1780. He had received part of his early education at Leyden, and, in 1756, when Mr. Mitchell of Thainston (afterwards Sir Andrew) was appointed Ambassador to the Prussian Courts, he went abroad with him as Secretary. He attended Frederick the Great, by whom he was held in high regard, during the campaigns of the Seven Years' War, conducted the correspondence during Mitchell's absence in 1765, and after Mitchell's death remained for a year at Berlin as *Chargé d'Affaires*. There is a beautiful full-length portrait of him at Kemnay, by Angelica Kaufmann. He married, in 1781, Christian (who died 14th February, 1842), daughter of John Leslie, Professor of Greek in Aberdeen University, by Christian, daughter and heiress of Hugh Fraser of Powis, Co. Aberdeen. Besides his successor, John, born in 1786, Mr. Burnett had a son George, who died in infancy, and four daughters—

I. HELEN, born 19th December, 1784, married, April, 1805, Dr. James Bannerman, Professor of Medicine in the University of Aberdeen, second son of Sir Alexander Bannerman of Elsick, and died s.p. April, 1864.

II. ELIZABETH, born 9th December, 1788 ; died, unmarried, 18th July, 1806.

III. CHRISTIAN, born 17th October, 1789; died, unmarried, 9th May, 1874.

IV. LAMONT, born 2nd June, 1791; died, unmarried, 27th September, 1842.

He died 30th December, 1802.

JOHN BURNETT OF KEMNAY, father of the present proprietor, did much by judicious improvements and encouragement of his tenantry to increase the value of his property, and by the extensive woods which he planted added greatly to its amenity.

He married, in 1814, Mary (who died March 1, 1872), daughter of Charles Stuart, of Dunearn, Co. Fife, and died 22nd of December, 1847, having six sons and two daughters—

- I. ALEXANDER GEORGE, born 6th November, 1816, the present proprietor.
- II. CHARLES JOHN, born 18th August, 1820.
- III. GEORGE, born 9th March, 1822, admitted to the Scottish bar 1845, appointed Lyon King of Arms 1866; married, at Dresden, 13th August, 1870, his cousin Alison, daughter of John Alexander Stuart, son of Charles Stuart of Dunearn, and has a son, John George [now of Powis, Aberdeenshire], born 30th March, 1876, and a daughter Alice Christina, born 19th September, 1874.
- IV. STUART MOUBRAY, born 5th July, 1824; died, unmarried, 9th January, 1893.
- V. HENRY MARTYN, born 2nd April, 1826; died 12th July, 1881.
- VI. ERSKINE WILLIAM, born 16th December, 1828; died, unmarried, 31st October, 1848.
- I. MARY ERSKINE, born 5th May, 1815; died 25th April, 1890.
- II. CHRISTINA LESLIE, born 1st September, 1818; died, unmarried, 20th October, 1866.

VI.

ALEXANDER GEORGE OF KEMNAY, the present proprietor, succeeded his father in 1847. He married, 4th September, 1849, Letitia Amelia

(who died 30th April, 1855), daughter of William Kendall of Bourton, Gloucestershire, by whom he had two sons and two daughters :—

- I. JOHN ALEXANDER, born 12th August, 1852; married, in 1877, Charlotte Susan, daughter of Arthur Forbes Gordon of Rayne, and has four sons and two daughters.
- II. WILLIAM KENDALL, born 6th February, 1854. Admitted Advocate in Aberdeen, 1880. Married, in 1883, Margretta Mary, daughter of Dr. J. C. L. Carson of Coleraine, and has one son and three daughters.
- I. LETITIA WILKINS, born 27th November, 1850.
- II. AMELIA, born 22nd April, 1855.

Mr. Burnett married (2nd), 1877, Anna, daughter of the Rev. E. Pledge, who died September, 1885 (by whom he had three sons and one daughter); and (3rd), 1893, Emily Julia, daughter of Joseph Burch, Tuddenham Hall, Ipswich.

CHAPTER VI.

BURNETTS OF CRIMOND.

ROBERT BURNETT, LORD CRIMOND, 1592-1661. Besides James of Craigmyle, the first Baronet of Leys had another brother of note, the father of the celebrated prelate, whose name is more widely known than that of any of the other members of the Burnett family. Robert Burnett of Crimond was an eminent lawyer at the Scottish bar, of great learning, and high moral and religious principle. Unlike his two brothers, he was an opponent of the Covenant, and that although his wife was a sister of Johnston of Warristoun.

He was born in 1592, and was sent abroad at an early age to prosecute his study of the law. He spent seven years in France, and in 1611 writes to his elder brother, Thomas, complaining of the difficulties he found in maintaining himself abroad :—

“Louing Brother

“I meruell werie much that sene I am in france ze haue neuer daingzeid to wreit vnto me, I hauing wreit vnto zow so oft, albeit I knaw ze nicht haue haid the commoditie and occasion werie oft. I am now no more w^t Mr Gilbert bot left him the 16 of September, efter I haid passed my courss ouer againe, quhairin I profited werie weil God be praised. I haue gotten ane condition of my meat and 40 libb, qlk will not in this countrey founrise me cloths for half ane zeir. And zit it is as good ane condition as is in this countrey for ane priuat condition. The natur of it is such (as of all vthirs in france) that I haue not half ane hour in the day to reid in ane priuat studie, and so I am compelled to tyne and spend the best of my age, and most meit for studies in teaching bairns, quhen I sould imploy it in studieing to the Lawis, bot I protest befor God the causs is not in me, for I must rather tyne my time so, then die for hunger. My father dealls our hardlie w^t me, and haid rather I

neglected my studies, then that I cost some siluer til him in imploying my tyme veill. Give he continue in that resolution, he will compell me to take ane resolution that will not please him, and bind my self for euer in france, qlk I haid done or now haid not my vnclie impesched me. I haue not leasour now to wreit vnto zow langer. I haue wreit ane letter to my father quhilk if he consider weil, will moue him to send me siluer. I pray zow most earnestlie wreit vnto me at the nixt occasion all zour awin estat and if ze be married or no, and desyr my brother James to wreit to me, seeing I wrot so oft till him. I rest recommending zow and all zour trauels to the protection of God.

“I pray zow recommend me to my sisters.

“Zour most Louing brother

“from Castres

“R. BURNET.”

“the 24 of Novemb. 1611.”

He was admitted to the Scottish bar on the 20th February, 1617, and married his first wife in 1620. That his career at the bar was a successful one is evinced by the fact that in 1628 he acquired Banachtie and Mill of Bourtie from William Seton of Meldrum, and, in 1634, Crimond (which afterwards became his residence, and from which he took his territorial appellation), in Aberdeenshire, from John Johnston of that Ilk. When the “troubles” in Scotland broke out in 1637, Robert Burnett (we are told by his grandson in his life of Bishop Burnett), although he had censured the conduct of the Bishops with much warmth, soon saw that instead of the reformation of the Episcopal order, it was the order itself which was struck at, and opposed the violent and unjust proceedings of the Assembly, and refused to subscribe to the Solemn League and Covenant. In consequence of this opposition, he had to leave the kingdom on three occasions, and to remain in exile at one time for five years. Whilst the General Assembly was sitting at Glasgow in 1637, engaged in passing sentences of deposition and excommunication against the Bishops, Robert Burnet, who was then in Paris, wrote to his brother-in-law, Archibald Johnston of Warristoun, protesting against the injustice of the sentence passed upon Sydserfe, Bishop of Galloway. This letter will be found in a note to Gordon’s Scots Affairs, Vol. II., p. 97 (Spalding Club Series), and is taken from Lord Hailes’ Memorials and Letters relating to the Reign of Charles the I. It is well worthy of reproduction here, as breathing that spirit of toleration and impatience of injustice

which he transmitted to his son Gilbert, Bishop of Salisbury. He writes as follows:—

“For Mr. Sydeserf, sometime Bishop of Galloway, he came here five or six weeks ago, and by [without] my knowledge, by the address of other Scotsmen, he took his chamber in the house where I am, and has been since my being here. I could have wished he had not come here, as long as I had been here, rather to have satisfied other men’s scruples, whom I have no intention to offend, than my own; for the Lord is my witness, to whom I must answer in the last day, I think there was never a more unjust sentence of excommunication than that which was pronounced against some of these Bishops, and particularly against this man, since the creation of the world; and I am persuaded, that those who did excommunicate him did rather excommunicate themselves from God, than him; for I have known him these twenty-nine years, and I have never known any wickedness or unconscientious dealings in him; and I know him to be a learned and more conscientious man (although I will not purge him of infirmities more than others) than any of those who were upon his excommunication. And, alas, Brother! what would you be at, that now when you have beggared him, and chased him by club-law out of the country, would you have him reduced to despair, and will you exact that every man, yea against his conscience, shall approve your deeds, how unjust soever, yea out of the country? . . . As I wrote to you before, none of the ministers of Paris would believe me, that you would or durst excommunicate any for not subscribing that Covenant; and the ministers declared to him, that, notwithstanding his excommunication, they would admit him to the communion, since his excommunication was not for any crime, but *par raison d’etat* seulement; but he communicates with the English. All Scots and English here, both of one party and other, respect him; and I assure you he defends the Protestant religion stoutly against Papists, and none of our Scots Papists dare meddle with him, after they had once essayed him. Be not too violent then, and do as you would be done to, for you know not how the world will turn yet.”

On his return to Scotland, which was connived at probably owing to his relationship with Warristoun, he lived in retirement on his estate in Aberdeenshire, as his principles would not permit him to accept employment offered him under Cromwell. At the restoration he was made a Judge of the Court of Session in 1661, under the title of Lord Crimond, but he lived only a few months to enjoy his judicial dignity, dying in August of the same year. Brodie of Brodie in his diary pays the following tribute to his memory:—“27th August, 1661. I heard that

Good Mr. Rob. Burnet, Crimond, was removed by death ; 'The righteous are taken away and perishing, none considering or laying it to hart, that they ar taken away from the eucl to come.'

Lord Crimond's will is curious and characteristic, and abounds in praise of his wife, and good advice to his sons. He leaves his books to be divided amongst his three sons, and his widow, who is to have one-third of his moveables, is left tutrix to his sons.

He married, in 1620, Beatrix (who died in 1622), youngest daughter and co-heir of William Maule of Glaster, son of Robert Maule of Panmure, and had by her one daughter, Bethia (born 1622, died 1624). Lord Crimond married, 2ndly, Rachel, daughter of James Johnston, merchant in Edinburgh (by Elizabeth, daughter of Sir Thomas Craig, the distinguished jurist), and sister of Sir Archibald Johnston, Lord Warristoun, and had by her five sons and three daughters—

- I. ALEXANDER, born 1629 ; died young.
- II. ROBERT, born 1630. Admitted to the Scottish bar, 1656 ; died, unmarried, 1662.
- III. JAMES, born 1635 ; died young.
- IV. (Sir) THOMAS, born 1638. Physician successively to Charles II., James II., William III., and Anne. Was author of various medical works of repute in their day, particularly "Hippocrates Contractus," and "Thesaurus Medicinæ Practicæ Breviarium." He married, in 1662, Janet, daughter of Robert Bruce of Blairhill, and sister of the Countess of Kincardine, and had a son, Gilbert, an advocate, and one of the Commissioners of Excise, who married a daughter of Sir William Hamilton of Preston, and had a daughter, Anna—the only child that survived him—married to James Halyburton of Pitcur. Of Sir Thomas' daughters, one, Helen, was married (1st) to William Crawford, younger of Auchinarnes, and (2nd) to Ralph Dundas of Manor (with numerous descendants). The other, Euphemia, married James Robertson, advocate, and P. C. S. (one of the Bedlay family), with issue a daughter Janet, who became Countess of Kincardine, and from whom the Elgin family are descended.

V. GILBERT, Bishop of Salisbury, was the youngest son of Lord Crimond and Rachel Johnston of Warristoun.

It would be beyond the scope of the present narrative to enter into a detailed history of this celebrated prelate. A life of Bishop Burnet would mean a history of the Revolution of 1688, and of the stirring times before and after that event, so interwoven was it with the political and religious history of the day. Still, a volume devoted to the Burnett family would hardly be complete without something more than a passing mention of its most distinguished member. The Deeside family may well be proud of having produced a son of such eminent talents, unswerving honesty of purpose, and, above all, toleration, in a corrupt and intolerant age.

Honesty was certainly not the prevailing fashion amongst politicians of his time, and in that respect the Bishop stood out in bold relief amongst those who, whilst holding office under William and Mary and their successor, were more or less involved in treasonable correspondence with the exiled family. The foibles and weaknesses of the Bishop's character have been handled with such virulence by his enemies that posterity can afford to treat them with leniency, counter-balanced as they are by his many virtues. Many of the most violent lampoons and satires of the day were directed against him on account of the tolerant spirit he displayed towards other religious bodies—a trait in his character which would hardly be considered deserving of censure at the present time.

Gilbert Burnet was born in Edinburgh on the 18th of September, 1643, and baptized on the 21st of the same month. He received his early education from his father, Lord Crimond, who was then in retirement owing to his refusal to accept preferment under Cromwell, and under his tuition made marvellous progress. At nine years of age he could read Latin with ease, and was sent to Marischal College, Aberdeen, where he studied with great success Greek, Mathematics, and Philosophy, and was made Master of Arts in 1657, before he was fourteen years of age. At the age of eighteen, his cousin, Sir Alexander Burnett of Leys, offered him a family living, which he declined on the grounds that he was too young to undertake such a charge.

In 1663 he spent six months in England, and visited the Universities of Oxford and Cambridge, and in the following year he travelled in



George Robert Burnett

Holland and France. During this tour he mixed with men of all religious denominations, and acquired that intense hatred to all form of religious persecution which distinguished him through life. On his return to Scotland, Sir Robert Fletcher of Saltoun offered him the living of Saltoun in East Lothian, and in 1665 he was ordained a priest by the Bishop of Edinburgh, and entered upon his charge. In 1669 he was appointed Professor of Divinity at the University of Glasgow, and removed to that town, where he remained for four years and a half. His position there was by no means a pleasant one, as a man of his moderate views was acceptable neither to the violent Presbyterians nor to the bigoted Episcopalians. During his residence at Glasgow, Gilbert Burnet married, in 1669, Lady Margaret Kennedy, daughter of John, 6th Earl of Cassillis, by whom he had no family. This lady was an intimate friend of the Duchess of Hamilton, at whose house he was a frequent guest, and where he made her acquaintance.

In 1672 he wrote "A Vindication of the Authority, Constitution, and Laws of the Church and State of Scotland," and was offered a bishoprick in Scotland, which he declined. In 1673 he went to London, where he was received with great favour, and appointed one of the King's chaplains. This honorary appointment was, however, of brief duration, as his name was struck off the list the following year, owing to the representations of the Duke of Lauderdale that the failure of the Court measures in Scotland was due to his opposition. The hostility of this powerful nobleman, then at the head of affairs in Scotland, rendered his residence in Glasgow and retention of the professorship a matter of considerable danger to Burnet's personal liberty, and in 1675 he resigned his chair at the University, and settled in London. Here he remained nine years, during which time he became celebrated as a preacher, and was appointed Chaplain to the Rolls and Lecturer at St. Clement's. In 1679 he published the first volume of his "History of the Reformation." At this time, when the enquiry into the so-called "Popish plot" was proceeding, he was much consulted by the King, who offered him the Bishoprick of Chichester. Charles, however, attached such conditions to the office, as made it impossible for a man of Burnet's independence of character to accept, and he accordingly declined it. It was about this time that he felt it his duty to write to the King a letter of remonstrance on his mode of life and conduct. This letter strikes the

keynote of Burnet's character. In the letter, which is couched in perfectly respectful and appropriate language, he boldly rebukes the King for his mode of life, points out to him how he has lost the affection of his subjects, and earnestly implores him to reform his Court by dismissing those about him, "especially the women," who are the causes of his sin. There is little cause for wonder, after this outspoken utterance, that Burnet had few friends in high places. He continues in lofty and eloquent language his appeal to the King:—

"Sir, This counsel is almost as necessary for your affairs as for your soul; and altho' you have highly offended that God who has been infinitely merciful to you in preserving you at Worcester fight and during your long exile, and who brought you back so miraculously, yet He is still good and gracious, and will upon your sincere repentance, and change of life, pardon all your sins and receive you into favour. Oh! Sir, what if you should die in the midst of all your sins? At the great Tribunal, where you must appear, there will be no regard for the crown you wear; but it will aggravate your punishment that, being in so eminent a station, you have so much dishonoured God."

And the writer of this letter is the man upon whom the venal politicians of the day heaped all the coarsest abuse in their extensive vocabulary, and accused, forsooth, of being a time server and a place hunter!

1683, the year of the Rye House plot, found Burnet strongly opposed to the Court party. His friendship for Lord Russell, whom he attended on the scaffold, and his subsequent vindication of his memory, were offences not to be forgiven. On his return from a tour in France in 1684, he was deprived of the Chaplaincy of the Rolls, and discharged from lecturing at St. Clement's. On the death of Charles II. he obtained permission to leave England, where his position had become almost intolerable, and, after travelling on the Continent for some time, settled at the Hague, when he formed an attachment to William of Orange, and his wife Mary, which lasted for the remainder of his life. At the Hague, in 1688, Gilbert Burnet married his second wife, Mrs. Mary Scott, who is thus described by her son:—"A Dutch lady of large fortune and noble extraction. Her ancestor on the father's side was a younger brother of the family of Buccleugh, who upon a quarrel in Scotland went over to Holland; his son was a Brigadier General at the siege of Middleburgh in 1574, and afterwards Deputy for the Province of

“Zealand in the Assembly of the States General; his grandson, Appolonius Scot, who was the lady’s grandfather, was President of the High Court of Justice at the Hague. On the mother’s side, who was a De Ruyter, she was related to the principal families in Guelder.”

The successful issue of the Revolution of 1688, to which Gilbert Burnet’s zeal and energy had in no small degree contributed, landed him once more on the shores of his native country. In 1689, William appointed him to the See of Salisbury, after giving a curt refusal to his application in favour of his friend Dr. Lloyd, then Bishop of St. Asaph, a characteristic trait in the King’s character. He also made him Chancellor of the Order of the Garter. During the whole of the reign of William and Mary, Bishop Burnet occupied a high position in the estimation of both, although on several occasions his inconvenient habit of speaking his mind to the King on subjects which did not immediately concern him, must have sorely tried the patience of that reserved monarch. While adversity had not depressed the indomitable spirit of the Bishop, prosperity did not abate his zeal for religious toleration. An instance of this occurred in his own diocese: he obtained the Royal permission to connive at the existence of a non-juring meeting house under the shadow of the Cathedral of Salisbury, and after the preacher there, Dr. Beach, had delivered a sermon which brought him within a sentence of the law, not only saved him from punishment, but obtained his pardon without the form of a public recantation. In matters of religious and civil toleration the Bishop was at least 150 years in advance of his age.

In 1698 the Bishop lost his second wife by small-pox, and in the same year undertook the education of the young Duke of Gloucester. He shortly afterwards married his third wife, Elizabeth (who died 1708), eldest daughter of Sir Richard Blake, Kt., and widow of Robert Berkeley of Spetchley, Co. Worcester. This lady was authoress of “A Method of Devotion,” edited, after her death, by Dr. Goodwyn, Archbishop of Cashel. In 1699 the Bishop published his “Exposition of the 39 Articles of the Christian Religion.” During the last five or six years of his life he retired from public affairs, and resided at St. John’s Court, Clerkenwell, where he died of pleurisy, on the 17th of March, 1715, in the 72nd year of his age.

The event was announced to Sir Alexander Burnett of Leys by

Gilbert, the Bishop's nephew, in the following letter, preserved at Crathes :—

“ Sir,

“ I am desired by my Cussine, Mr. William Burnet, to send you the melanchollie account of the Bishop of Salisbury's death, which hapned the 17 instant, about five in the morning, after six days illness of a pluryisy. You have lost a good friend, for he had laid the present circumstances of your family much to heart. I should be glad of having any occasion to serve you. My humble service to your mother and lady. Be pleased to acquaint Kemnay, his brother, and Montboddo.

“ Edenb., March 23,
“ 1715.”

“ I am, with great respect, Sr,
“ Your most humble servant,
“ GI. BURNET.”

The Bishop bequeathed a sum of twenty thousand merks Scots to the parish of Saltoun, and a like amount to the Marischal College of Aberdeen, “ in remembrance of my education there, and I order the Lairds of Lyes, as long as that Estate is in the Family of Burnets, to have every year a Scholar in the first Class of the College . . . as I do also desire, that to the said Scholarships one of the Name of Burnet may be preferred, if he is duely qualified for it” (*Fasti Acad. Marisc.*, i., 392).

Gilbert Burnet was buried beneath the altar in the old church of Clerkenwell ; a plain blue slab marked his resting place, on which slab were his arms carved in relief, surrounded by the Garter, bearing upon it the familiar motto, “ Honi soit qui mal y pense.” Beneath this was inscribed in Roman characters, “ Here lies interred the Right Rev. Father in God, Gilbert Burnet, D.D., Lord Bishop of Salisbury, Chancellor of the Most Noble Order of the Garter, who departed this life, March 17, 1714-15, in the 73rd year of his age.” This slab, which is still entire, the sculpture upon it being well preserved, is in the vault beneath the church, at the east end.* On the 7th of September, 1788, the corpse of Burnet was

* The following interesting description of the Bishop's monument is taken from “ The History of Clerkenwell ” :—

“ In the vestibule of St. James Church, on the south side, is a beautiful monument of white marble, to the memory of Bishop Burnet, which was erected at the expense of the parish. ‘ At a Vestry held November 13th, 1715, it was moved a monument should be erected to Bishop Burnet, in consideration of twenty guineas paid to the poor—Granted.’ The pediment of the monument is circular, supported by pilasters of the composite order, on the extremities of which

found in a leaden coffin, the outer one of wood having decayed. The inscription was much corroded, and through an aperture at the top of the coffin the skull and some hair were visible. The coffin of his granddaughter, Mrs. Mary Mitchell, lay on his coffin. On the south side was that of his son Thomas, with a plate inscribed, "The Hon. Sir Thomas Burnet, Kt., one of His Majesty's Court of Common Pleas, died 17th May, 1753, in the 59th year of his age." "On going into the vaults of St. James' Church, about the year 1814," says Mr. Warner, "I discovered the monument of Bishop Burnet. Felt considerable regret at finding it in such a place, and immediately set about making some interest with some of the Board of Trustees, for the purpose of getting it removed to

are urns, and in the centre are the arms of the See of Salisbury and Burnet, impaled on a shield. On the frieze are cut in relievo several books and rolls, among which is one entitled 'Hist. Reform.' The inscription is as follows:—

"H.S.E.

"GILBERTUS BURNET, S.T.P.

"Episcopus Sarisburiensis, & Nobilissimi Ordinis a Periscelide Cancellarius. Natus Edinburgi 18 die Septembris, Anno Dom. 1643, Parentibus Roberto Burnet Domino de Cremont, ex antiquissimâ Domo de Leyes, & Rachele Johnston, Sorore domini de Waristoun : Aberdoniae Literis instructus : Saltoni Curæ animarum invigilavit. Inde juvenis adhuc, SS. Theologiæ Professor in Academia Glasguensi electus est.

"Postquam in Angliam transiit, rem sacram per aliquot annos, in Templo Rotolorum Londini administravit, donec nimis acriter, ut iis qui rerum tum potiebantur visum est, Ecclesiæ Romanæ malas artes insectatur, ab officio submotus est.

"E Patria temporum iniquitate profugus Europam peragravit : et deinceps cum Principe Auriaco reversus, primus omnium a Rege Gulielmo & Reginâ Maria Praesul designatus, & in summum tandem fiducia Testimonium, ab eodem Principe Duci Gloucestriensi Praeceptor datus est.

"Tyrannidi & Superstitioni semper infensum scripta eruditissima demonstrant, necnon Libertatis Patriæ veraeque Religionis strenuum semperque indefessum Propugnatorem : Quorum utriusque conservandæ spem unam jam a longo tempore in Illustrissimâ Domo Brunsvicensi collocarat. Postquam autem Dei Providentia singulari Regem Georgium Sceptro Britano potitum conspexerat, breve jam, annorum & Felicitatis satur, a vivis excessit.

"Duxit uxorem Dominam Margaritam Kennedy, Comitissæ Cassiliæ filiam : Dein Mariam Scot, Haga Comitissæ, Quæ ei septem Liberos peperit, Quorum adhuc in vivis sunt, Gulielmus, Gilbertus, Maria, Elisabetha & Thomas : Postremo Vxorem duxit viduam Elisabetham Berkelii, Quæ duos Liberos suscepit, fato praemature non multo post extinctos.

"Amplissimam pecuniam in pauperibus alendis, & in sumptibus ad utilitatem publicam spectantibus, vivus continuo erogavit : Moriens duo Millia Aureorum, Aberdoniæ Saltonoque ad juventutem pauperiore instituentandam, Testamento legavit. Obiit 17 Martii, Anno Dom. 1714-15. Ætat 72."

some more suitable place. The result was its removal to the place it now occupies." *

By his second wife, Maria Scot, Bishop Burnet had three sons and two daughters (all his family, except two daughters by his third wife, who died in infancy), viz. :—

- I. WILLIAM. Educated at Trinity College, Cambridge, as a gentleman commoner. Governor of New York and New Jersey in 1720, afterwards of Massachusetts in 1728, and New Hampshire. He married (1st) Maria (who died in 1714), daughter of Dr. George Stanhope, Dean of Canterbury, and (2nd) Mary, daughter of Abraham Vanhorn of New York. By his first wife he had a son, Gilbert, born 1714, who left a son, Thomas, born 1740, a surgeon at Chigwell, Co. Essex, married to Margaret — (who died at Chigwell 27th August, 1811, aged 83), and had a daughter, Mary, who died unmarried in 1795, the last descendant in the male line of Bishop Burnet. By his second marriage, Governor Burnet had two sons, William in holy orders, and Thomas in the army, who both died unmarried, and a daughter, Mary, married to the Honourable William Brown of Salem, New England, in 1737. Governor Burnet died at Boston 17th September, 1729.
- II. GILBERT. Educated at Merton College, Oxford. In holy orders, chaplain to George I., and rector of East Barnet; died, unmarried, in 1726.
- III. (Sir) THOMAS, born 1694. Educated at Merton College, Oxford. Was employed in the diplomatic service, and appointed secretary for the King to the Diet at Ratisbon. He was afterwards consul at Lisbon for several years, and whilst there is said to have played a practical joke upon the ambassador, Lord Tyrawley, somewhat in the style of Theodore Hook. Hearing that the ambassador, who is said to have been a pompous man, and who laid great stress on Court etiquette, was to appear at a birthday levée in a particularly gorgeous dress, Burnett appeared at the levée in question with his footmen attired in liveries exactly like it, he himself wearing a perfectly plain suit. The result was a

* MS. Notes on Clerkenwell.

complaint to the home government, and the recall of both ambassador and consul. On his return he applied himself to a more serious study, that of the law, and in November, 1741, was made one of the Judges of the Common Pleas in room of Judge Fortescue, who was appointed Master of the Rolls. On Novr. 23rd, 1745, when the Lord Chancellor, Judges, and legal profession waited on the King with their address on the occasion of the rebellion, Burnett received the honour of knighthood. Sir Thomas was known as one of the best lawyers and most upright judges on the English bench. He edited his father's work, "The History of his own Time," and was author of a memoir of the Bishop appended to that work. He died of gout in the stomach at his house in Lincoln's Inn Fields on the 7th January, 1753. He was unmarried. Sir Thomas Burnet made the following declaration in his will:—"I think proper in this solemn act to declare that as I have lived so I trust I shall die in the true faith of Christ as taught in the Scriptures, but not as taught or practised in any one visible Church I know of, tho' I think the Church of England is as little stuffed with the inventions of man as any of them, and the Church of Rome is so full of them as to have destroyed all that is lovely in the Christian religion."

- I. MARY, married, 1712, David Mitchell, nephew of Admiral Mitchell, and had a son and a daughter. She and her children were dead without issue in 1788.
- II. ELIZABETH, married Lord Chancellor West of Ireland, and had a son, Richard West, the poet, and friend of Gay and Horace Walpole, who died without issue, and a daughter Mary, who married John Williams of Pembroke, and had a son, who in 1789 was Vicar of Wellisbourne in Warwickshire, and father of three children. If any of his descendants survive, they would seem to be the sole remaining descendants of Bishop Burnet.



Photographie by J. N. Annan & Sons Glasgow

Lord Herkules

CHAPTER VII.

BURNETTS OF MONBODDO.

THE Monboddo branch of the family descends from James Burnett of Craigmyle, the immediate younger brother of Sir Thomas Burnett, 1st Baronet.

Monboddo, in Kincardineshire, had been in the possession of a branch of the powerful family of Strachan for a long period—it subsequently belonged to the Wisharts of Pittarrow, and after them to the Carnegies. Sir John Carnegie of Monboddo married a daughter of Irvine of Kingcausie, and sold Monboddo to a brother-in-law, Captain Irvine, who is said to have served with Gustavus Adolphus, and commanded a troop of horse at the battle of Lutzen. On leaving the service in which he had been employed, he returned to this country, and took possession of Monboddo in 1633, and in 1635 built the “Manor Place” on the site of an older building (most likely the keep long occupied by the Strachans). Captain Irvine married Elizabeth Douglas, eldest daughter of Sir Robert Douglas of Glenbervie, by whom he had two sons and three daughters. One of these daughters, Elizabeth Irvine, as stated below, became the wife of James Burnett of Lagavin, to whom Monboddo was eventually sold, circa 1671, by his brothers-in-law, the sons of Captain Irvine.*

I.

JAMES BURNETT of Lagavin, Co. Kincardine, who purchased Monboddo, was the third son of James Burnett of Craigmyle and

* At St. Palladius' Chapel, Fordoun, there is a sarcophagus over the remains of Captain Robert Irvine and his wife, Elizabeth Douglas, with a latin inscription to their memory.

Elizabeth Burnett, his wife (see p. 112). James Burnett married (1st), in 1642, Isobel Forbes, who died without issue; (2nd) Elizabeth, daughter of Robert Irvine of Monboddo. Besides Monboddo, he acquired Kair, Whitefield, Sillyflat, Hallgreen, Johnshaven, and Ballandro. The new acquisitions he settled on himself in liferent, and on his second son, Robert, in fee. James Burnett died in 1699, having had by his second marriage two sons and three daughters—

- I. ALEXANDER of Monboddo. See below.
- II. ROBERT of Kair and Ballandro. He died s.p. before 1695.
 - I. ELIZABETH, married, in 1673, George Garioch of Kinstair.
 - II. MARGARET, married (1st) Alexander Steele, and (2nd) David Wyse of Lunan.
- III. JANE, married Sir D. Carnegie of Pittarrow.

II.

ALEXANDER BURNETT of Monboddo married, in 1686, his cousin, Margaret, daughter of Sir Alexander Burnett of Leys, 2nd Baronet. He died in the lifetime of his father, leaving an only son, James Burnett, who succeeded him. Two other children died in infancy. His widow married Dr. Andrew Burnett (see p. 76).

III.

JAMES BURNETT of Monboddo, born 1688. His name appears as a student at Marischal College, 1702-06, "Jac. Burnet a Monboddow." (*Fasti Acad. Marisc.*, II., 281.) He married, on 3rd November, 1709, Elizabeth Forbes, daughter of Sir William Forbes of Craigievar. They had eleven sons and three daughters; all of these died young, or in infancy, except two sons, James and William, of whom below. James Burnett was a supporter of the Stuart cause, and was "out" in 1715. He was wounded and taken prisoner at the battle of Falkirk. From Stirling Castle he was taken to London for trial, but was liberated, after a long confinement, through powerful influence exerted on his behalf.

The following letter from a cousin, William Burnet, advising him what course to adopt to obtain a pardon, is amongst the family papers:—

“To James Burnet, Esqr.,
“of Monbodo,
“in the Castle of Carlisle.

“Dear Cousin,

“London, Nov. 20th, 1716.

“I have been very carefull to find out if such a memorial as you mention in your last could have any effect and I am told it cannot since you must either make some confession your self, or it cannot be of any weight. Upon the whole you have no other way, than to stand your tryall and obtain a favourable stating of your case by the judges, which they will do upon any reasonable mitigation that can be offered by you. I find Major Skene stays for a letter from my Lord Stair in your favour. I hope that may add to the instance that may come from Carlisle in your favour. I have writ again to the Bishop, who I dare say will do as much as he can.

“I am,
“d. c. your obedient servant,
“W. BURNET.”

On his return to the Mearns, James Burnett became involved in lawsuits with the heirs of his tutor, and his estates had to be sold, with the exception of Monboddo, which he was able to retain, and Lagavin, which he disposed of to his eldest son, James, who succeeded him in Monboddo.

IV.

JAMES BURNETT of Monboddo and Lagavin, the well-known Lord Monboddo, was born at Monboddo on 14th October, 1714. From an old document in the possession of the Monboddo family, it appears that “the rudiments of his future eminence in learning were laid by one Robert Milne (designated in some deeds *Tutor to Monboddo's Bairns*).” In 1722, when the boy was only eight years old, his father, then in Edinburgh, wrote to his mother, fearing the danger of home indulgences, “Jemmy will be lost if you don't send him to school.” He was accordingly sent to the Parish School of Laurencekirk, formerly taught by the learned Ruddiman. On the completion of his fourteenth year he went to College at Aberdeen, under the special care of Mr. Francis Skene (afterwards Professor in Marischal College), and there he imbibed that taste for Greek which he cultivated through life. After leaving

Aberdeen, he proceeded to Groningen, where he spent three years studying law. He returned to this country in 1736, and was admitted to the Scottish bar in 1737, where he soon acquired a great reputation. He took a prominent part in the great Douglas Cause. He was appointed Sheriff of Kincardineshire, and in 1767 he was raised to the Bench, taking the title of Lord Monboddo. He was an eminent lawyer, and a man of varied accomplishments; and in his treatise "On the Origin and Progress of Language" he may be said to have anticipated the speculations of Darwin.

Many notices exist giving an account of Lord Monboddo. Soon after his death in 1799, a biographical account of him appeared in the *Scots Magazine* for November of that year. Other references to Lord Monboddo and his works are given in footnote.* There is a portrait of him in the great window, Mitchell Hall, Marischal College.

Lord Monboddo married Elizabeth Farquharson, a relative of the Earl Marischal (of what family is not stated), and by her had one son and two daughters—

- I. ARTHUR, predeceased his father at the age of 11 years (1763-74).
- I. HELEN BURNETT of Monboddo. She married Kirkpatrick Williamson, who assumed the name of Burnett, and died in 1833. They had a family of three sons and four daughters—
 1. JAMES BURNETT BURNETT of Monboddo, of whom below.
 2. JOHN, who died in India, unmarried.
 3. ARTHUR, born 1797; a member of the Scottish bar, Sheriff Substitute of Peebles; died 1877.
 1. ELIZABETH, born 1781; married, 1808, Adam Cumine of Rattray. She died 1815, with issue.
 2. GRACE, born 1794; died, unmarried, 1864.
 3. MARGARET, born 1798; died unmarried.
 4. HELEN, died unmarried.

* Tytler's *Memoirs of Lord Kames* (1814), i., 243-50. Kerr's *Memoirs of William Smellie* (1811), i., 409-27; ii., 418. Kay's *Original Portraits and Caricature Etchings* (1842), i., 18-21, 350; ii., 20, 368, 436, 438. Boswell's *Life of Johnson* (Croker's edit., 1831), ii., 311-17, et pas. *Encyclopaedia Britannica* (9th edit.), xvi., 179. Brunton and Haig's *Senators of the College of Justice* (1833), pp. 531-3. Chambers's *Biographical Dictionary of Eminent Scotsmen* (1868), i., 248-50. Chalmers's *Biographical Dict.* (1813), vii., 389-93. *Dictionary of National Biography*. Professor Knight's *Lord Monboddo*, with portraits, 1900.



Miss Burnett of Burn-
THE BEAUTIFUL BURNETT OF BURN-

- II. ELIZABETH BURNETT, whose beauty and accomplishments were celebrated by Burns in his Address to Edinburgh, and in his Elegy on her death. She died, unmarried, 17th June, 1790. The article in *Scots Magazine*, above referred to, gives a very interesting account of Elizabeth Burnett. Lord Monboddo never ceased to mourn her death.

Lord Monboddo died, aged 85, on the 26th of May, 1799. He and his daughter were buried in a tomb in Greyfriars Churchyard, Edinburgh, belonging to the family of Grant of Elchies on Speyside. How this came about is unknown—the fact is recorded, but nothing more. (*Information obtained from Records of Parish.*)

V.

JAMES BURNETT BURNETT, born 1792, married Jane, daughter of John Carter. He died in 1864, having had two sons and two daughters :—

- I. JAMES CUMINE, H.E.I.C.S., who succeeded to Monboddo.
- II. ARTHUR COFFIN, born 1840, died unmarried, at Southampton, on his way home from India, in 1871.
- I. ELIZA, married, in 1864, the late James Badenach Nicolson of Glenbervie, and had issue—Arthur, now of Glenbervie ; Edward, Advocate, Edinburgh.
- II. HELEN AMY, married William Disney Innes of Cowie, and died 1891, leaving issue—Alexander.

VI.

JAMES CUMINE BURNETT, born 21st March, 1835 ; married, 12th February, 1863, Georgina Keith. She died in 1897, leaving issue—

- I. JAMES SHANK, born 23rd December, 1868 ; married, 1897, Cecilia Barnes, and has issue.
- I. MARY BERTHA VIOLET, married C. F. Wright. She died in 1891, leaving issue—Charles, James, Stewart.
- II. LILIAN MAY.
- III. GEORGINA.

The younger son of James Burnett No. III. and Elizabeth Forbes was WILLIAM BURNETT, born 1731. He married Margaret, daughter of John Taylor, Advocate in Aberdeen. He died 8th March, 1811, having had (with other children who died young) two sons and two daughters :—

- I. JOHN BURNETT, an eminent lawyer, and author of a treatise on the Criminal Law of Scotland. He was admitted to the Scottish bar in 1785, was appointed Advocate-Depute in 1792, Sheriff of Haddington in 1803, and Judge of the Admiralty Court of Scotland in 1810. He married Deborah Paterson, daughter of Dr. John Paterson of Jamaica, and died 7th December, 1810, having had two sons and three daughters, the youngest daughter posthumous.
 1. WILLIAM, died, unmarried, 1852.
 2. JOHN, Indian Army, died unmarried.
 1. ELIZABETH, married Colonel Twopenny, 78th Highlanders, died 1856.
 2. ANNE (twin of John), married William Grant, son of Alexander Grant of Redcastle ; died 1874.
 3. ROBERT DUNDAS, married Joseph North.
- II. THOMAS BURNETT of Park, Co. Kincardine, and Kepplestone, Co. Aberdeen, was many years County Clerk of Aberdeenshire, and Purse Bearer to the Lord High Commissioner to the General Assembly of the Church of Scotland ; born 6th March, 1773 ; married (1st), 30th June, 1800, Anne Rebecca Paterson, born 31st March, 1779, eldest daughter of Dr. John Paterson of Jamaica. He had, by his first marriage, three sons and one daughter :—
 1. JOHN, born 26th June, 1802 ; entered the Bombay Civil Service ; married Harriet, daughter of Samuel Bouchier of the E.I. Civil Service, and died 3rd March, 1834, having had two sons, Henry and Peter, who died young, and one daughter, Marianne.
 2. NEWELL of Kyllachie, born 12th June, 1803 ; died, unmarried, 1878 ; was Clerk of Supply of Aberdeenshire.

3. THOMAS, born 30th October, 1804 ; killed by an accident on board the "Buckinghamshire," East Indiaman.

1. MARGARET, died, unmarried, 1837.

Thomas Burnett married for his second wife, on 26th August, 1806, Mary, daughter of Peter Garden of Delgaty and Katherine Balneaves (who, by her mother, Miss Campbell of Glenlyon, became heiress of Glenlyon). Peter Garden succeeded his brother, Lord Gardenstone, in the estate of Troup. He took the name of Campbell, and became Peter Garden Campbell of Troup and Glenlyon. Thomas Burnett (who died on the 1st Dec., 1854) had, by his second marriage, three sons and six daughters:—

1. FRANCIS, M.D., born 13th April, 1810 ; died in 1843, unmarried.

2. WILLIAM FARQUHARSON, born 18th February, 1815 ; served in Royal Navy at siege of Sebastopol ; was drowned in the wreck of his ship, the "Orpheus," off New Zealand, 7th February, 1863.

3. JAMES, born 17th February, 1820 ; went to New South Wales ; was accidentally drowned, 1851.

1. MARIANNE, married, 1833, Rev. Edward Charles Birch, rector of Wiston, Suffolk—with issue.

2. HELEN CHRISTIAN, married, 1839, Thomas Innes of Learney, Aberdeenshire, second son of William Innes of Raemoir—with issue.

3. CATHERINE, born 1811 ; died 1814.

4. PENELOPE, married, in 1834, Major Napier Turner Christie, formerly in 79th Highlanders and 11th Regiment, son of James Christie of Durn, Co. Fife—with issue.

5. HARRIET HAY, married, 1842, James Cumine of Rattray, Co. Aberdeen, E.I. Civil Service—with issue.

6. ELIZA DEBORAH, married, in 1844, John Paton of Grandholm, Co. Aberdeen, formerly of 91st Highlanders. She died 1860, leaving issue.

I. MARY, married John Taylor. She died 1838.

II. MARGARET, died unmarried.

APPENDIX.

I.

CHARTER by Alexander II. to Robert of Walchope of the lands of Tulimacboythne, Culter and Ardboik, 16th October, 1247. From a transcript at Crathes. Compare *Coll. Aberd. and Banff*, p. 298; *Antiq. Aberd. and Banff*, iii., 337.

ALEXANDER Dei gracia Rex Scotorum omnibus probis hominibus tocius terre sue salutem. Sciant presentes et futuri nos dedisse concessisse et hac carta nostra confirmasse Roberto de Wachehop filio Alani Wahehop pro homagio et seruicio suo terram de Tulimacboythne per has divisas videlicet de Blairmacogamgor versus terram Episcopi Sanctiandree de Glascul et sic vsque ad lacum de Benchoir et de eodem lacu vsque Tuberusky et sic vsque Starnamanath intrando et exeundo per viam de Starnamanath et per medium forestum nostrum vsque Burn et illam piscariam de Burn quam bondi nostri habere solebant dum eadem terra fuit in manu nostra et sic ex alia parte de Starnamanath vsque Pulnacoy et sic per vnum sicum de Pulnacoy vsque in riolum de Peferyn et sic ex aquilonari parte eiusdem rioli ascendendo per vnum sicum vsque Kilmaclerauche et sic de Kilmaclerauche vsque ad terram de Gormeg que est Alani histiar. Preterea dedimus et concessimus et hac carta nostra confirmauimus eidem Roberto de Wahehop terras de Culter et de Ardboik per has diuisas videlicet de Achmasoliche vsque Setnabradiauch et de Setnabradiauch vsque in riolum de Cardany et sic ascendendo vsque ad speluncas vulpium versus terram Episcopi de Aberden. Tenendas et habendas eidem Roberto Wahehop et heredibus suis de nobis et heredibus nostris in feodo et hereditate per diuisas predictas cum omnibus alijs iustis pertinentijs suis in boscho et plano in terris et aquis in pratis et pascuis in moris et marresijs in stagnis et molendinis cum socco et sacca cum furca et fossa cum thol et them et infachandtheef et cum omnibus alijs ad predictas terras iuste pertinentibus

libere quiete plenarie et honorifice. Faciendo nobis et heredibus nostris tertiam partem seruicij vnus militis ad exercitum scoticanum quantum pertinet ad predictas terras. Testibus Alexandro Cummynge Comite de Buchan, Roberto de Ros, Nicholaio de Sulis, Roberto de Memeis, Bernardo de Ripellan et Wilhelmo Olifard. Apud Mekilburgh Sexto decimo die Octobris anno regni Domini Scotorum tricesimo tertio.

ABSTRACT OF I.

KING ALEXANDER grants to Robert, son of Alan Walchope, for his homage and service, the land of Tulimacboythne, from Blairmacogamgor towards the land of Glascul, belonging to the Bishop of St. Andrews, to the Loch of Banchory, and thence to Tuberusky and Starnamanath, and through the mid forest to Burn (with the fishing thereof), and on the other hand from Starnamanath to Pulnacoy, and thence to the burn of Perferyn, and northwards therefrom to Kilmaclerauche and thence to the land of Gormeg, belonging to Alan Durward ; also the lands of Culter and Ardboik, from Achmasoliche to Setnabradiauch, and thence to the burn of Cardany, and along it to the Wolves' dens towards the land of the Bishop of Aberdeen : to be held of the King by the said Robert, rendering the third part of the service of one Knight to the Scottish army. Dated at Mekilburgh 16th October, 1247. Witnesses : Alexander Cumming, Earl of Buchan ; Robert of Ros, Nicholas of Sulis, Robert of Memeis, Bernard of Ripellan, William Olifard.

II.

CHARTER by Robert I. to Duncan, Earl of Fife, of Oneil, Kinnoul, and Calder. From a notarial copy at Crathes.

ROBERTUS dei gracia Rex Scotorum omnibus probis hominibus tocius terre sue salutem. Sciatis nos dedisse concessisse et hac presenti carta nostra confirmasse dilecto consanguineo nostro Duncano comiti de Fyfe pro homagio et seruicio suo omnes terras et baronias subscriptas videlicet totam baroniam de Onele in vicecomitatu de Aberdeine et totam baroniam de Kenule in vicecomitatu de Perth necnon et totam baroniam de Calder in vicecomitatu de Edinburgh cum omnibus suis pertinencijs sine aliquo retinemento. Habendas et tenendas predicto Duncano et heredibus suis de corpore suo legitime exeuntibus de nobis et heredibus nostris cum homagijs et seruicijs omnium libere tenentium aduocacionibus ecclesiarum bondis bondagijs natiuis et eorum sequelis molendinis

multuris boscis piscarijs aucupacionibus venacionibus moris pascuis pasturis marresijs turbarijs petarijs stagnis aquis vijs semitis et cum omnibus alijs et singulis libertatibus commoditatibus aysiamentis et iustis pertinencijs suis in omnibus et per omnia tam non nominatis quam nominatis ad predictas terras et baronias pertinentibus seu qualitercunque pertinere valentibus in feodo et hereditate adeo libere quiete et integre in omnibus sicut aliquis antecessorum dicti Duncani dictas terras et baronias liberius quocius aut integrius aliquo tempore tenuit seu possedit. Faciendo nobis et heredibus nostris omnia seruicia inde debita et consueta. Et si contingat dictum Duncanum absque herede de corpore suo legitime procreato in fata discedere quod absit volumus et concedimus pro nobis et heredibus nostris quod post eius discessum omnes predictae terre et baronie cum homagijs et seruicijs omnium libere tenentium aduocacionibus ecclesiarum bondis bondagijs natiuis et eorum sequelis ac cum omnibus alijs libertatibus commoditatibus aysiamentis et pertinencijs supradictis dilecto nepoti nostro Thome Ranulphi comiti Moraue domino Vallis anandie et heredibus de corpore suo legitime procreatis plene et integre remaneant imperpetuum. Faciendo inde nobis et heredibus nostris omnia seruicia inde debita et consueta. In cuius rei testimonium huic carte nostre sigillum nostrum precepimus apponi, &c.

Hec est vera copia principalis carte suprascripte contente in registro Supremi Domini nostri Regis extracta copiata et collationata in omnibus cum originali concordans nil addito vel remoto quod substantiam mutaret aut sententiam variaret per me dominum Joannem Hamyltoun de Magdalenis militem clericum Rotulorum Registri ac concilij Supremi Domini nostri Regis Sub meis Signo et Subscriptione manualibus.

J. HAMILTON Cls Regri.

ABSTRACT OF II.

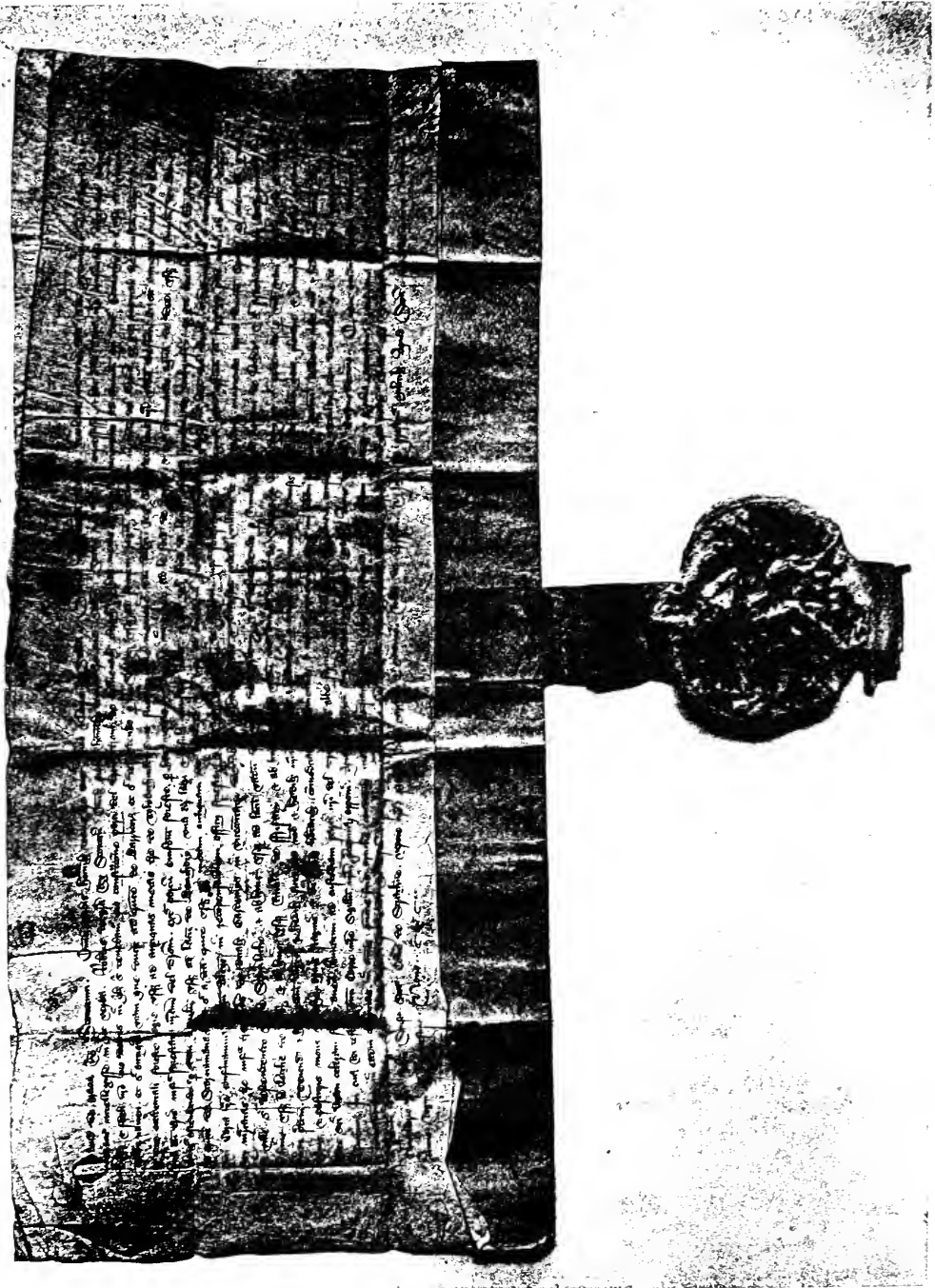
KING ROBERT grants to Duncan, Earl of Fife, for his homage and service, the barony of Oneil in the shire of Aberdeen, the barony of Kinnoul in the shire of Perth, and the barony of Calder in the shire of Edinburgh; to be held of the King by the said Duncan, rendering services used and wont; and, in the event of the said Duncan dying without legitimate issue, to pass to Thomas Ranulph, Earl of Moray.

III.

CHARTER by David II. to Alexander Burnard, 17th November, 1358, confirming Charter by Robert I. to the same Alexander, of

Kellienachclerach and the Cardneys, 28th March, 1323. Original, at Crathes, facsimiled in this volume.

DAVID Dei gracia Rex Scottorum omnibus probis hominibus tocius terre sue clericis et laicis salutem. Sciatis nos quandam cartam recolende memorie domini Roberti progenitoris nostri inspexisse ac veraciter intellexisse in hec verba. ROBERTUS dei gracia Rex Scottorum omnibus probis hominibus tocius terre sue salutem. Sciatis nos dedisse concessisse et hac presenti carta nostra confirmasse Alexandro Burnard dilecto et fideli nostro pro debitis in quibus sibi tenebamur pro constructione parci del Drom terram de Kellienachclerach per has metas et diuisas incipiendo ad riuum qui dicitur Gonnochy et sic vsque ad fontem de Tubirnanen et sic antiquam viam que ducit ad crucem de Barricor et sic descendendo per le Sclaye vsque ad fontem regium currentem in lacum del Drom ex parte orientali terre eiusdem Alexandri et sic ex parte occidentali foreste regie vsque ad antiquas metas terre de Tolybothuill sicut fuerunt bone memorie domini Alexandri Regis Scottorum predecessoris nostri vltimo defuncti et sic antiquas metas de Culernely vnacum terris infra forestam nostram del Drom extra parcum eiusdem foreste per has metas et diuisas incipiendo ad le ford de Durres et sic continuando aquam de Dee vsque ad riuum de Banevy et sic ascendendo per dictum riuum vsque ad Lacum de Banchory vnacum lacu et insula eiusdem Lacus et sic del ford dicti lacus vsque ad fontem de Tuberusk ex parte boreali et sic a dicto fonte vsque ad crucem de Starnamanach et sic a dicta cruce vsque ad metam antiquam de Badinse et sic vsque ad borealem partem de Badindessy et sic vsque in lacum del Drom. Dedimus eciam et concessimus et hac presenti carta nostra confirmauimus eidem Alexandro in recompensationem officij forestarij et foggagij terre Wilhelmi de Irwyn infra forestam de Drom quodquidem officium cum foggagio predicto cepimus ab eodem Alexandro sex marcatas terre infra terras nostras de duabus Cardeyns in vicecomitatu de Abirdene per has metas et diuisas videlicet villam de Westercardeny incipiendo apud Dumum Spinarum ex orientali parte dicte ville sic descendendo vsque le Stainlethe et ab hinc vsque ad latum vadum dicte ville de Cardeny et sic descendendo per riuum vsque ad aquam de Locher et sic ascendendo vsque Badyennach et ab hinc vsque le lecche de Gask et ab hinc vsque riuum de ffrifady et ab hinc vsque ad vadum inter dimidiam dauatam de Skene de Westercardeny et sic redeundo per vnam viam plaustorum vsque ad dumum spinarum predictum. Tenendas et habendas eidem Alexandro et heredibus suis de nobis et heredibus nostris in feodo et hereditate per omnes rectas metas et diuisas suprascriptas libere quiete plenarie honorifice in boscis et planis pratis pascuis et pasturis moris marresijs aquis stagnis et cum omnibus



Charter by King David II 11th November 1358.
Confirming a Charter by King Robert Bruce in favour of
1358

libertatibus commoditatibus aysiamētis et iustis pētinentijs suis in liberam forestam in perpetuum. Reddendo inde nobis et heredibus nostris dictus Alexander et heredes sui vnam celdram farine auenarum annuatim ad custodiam parci nostri del Drom nomine albefirme tantummodo pro omni alio seruicio consuetudine seculari seu demanda que de dictis terris exigi poterunt in futurum. In cuius rei testimonium presenti carte nostre sigillum nostrum precepimus apponi apud Berewycum super Twedam xxviii^o die marcij Anno Regni nostri octauo decimo. QUAM QUIDEM cartam donacionemque et concessionem in eadem contentas in omnibus punctis suis articulis condicionibus modis et circumstancijs suis quibuscunque forma pariter et effectum in omnibus et per omnia approbamus ratificamus et pro nobis et heredibus nostris in perpetuum confirmamus saluo seruicio nostro. In cuius rei testimonium presenti carte confirmacionis nostre sigillum nostrum precepimus apponi. Testibus venerabilibus in Christo patribus Wilhelmo Episcopo Sancti Andree Patricio Episcopo Brechinensi Cancellario nostro Roberto Seneschallo Scocie Comite de Stratherne nepote nostro Patricio Comite Marchie et Morauię Roberto de Erskyn et Johanne de Preston militibus Apud Sconam septimo decimo die Nouembris Anno Regni nostri vicesimo nono.

ABSTRACT OF III.

KING DAVID confirms a charter dated at Berwick on Tweed, 28th March, 1323, by which King Robert granted to Alexander Burnard, for his aid in making the Park of Drum, the land of Kellienachclerach, from the Gonnochy burn to the well of Tubirnanen and the old road leading to the cross of Barricor, and downwards by the Sclaye to the King's Well running into the Loch of Drum to the east of the said Alexander's land, and on the west of the King's forest to the old boundaries of the land of Tolybothuill, and of Culenerly; and the lands within the King's forest of Drum outwith the Park thereof from the ford of Durris along the Dee to the Banevy burn and up the said burn to the Loch of Banchory, together with the Loch and island therein, and from the ford of the Loch to the well of Tuberusky on the north, and thence to the cross of Starnamanach, and thence to the old boundary of Badinse, and thence to the north of Badinessy, and thence to the Loch of Drum; also, in compensation for the loss of the forestership of the Forest of Drum, the six merk lands of the two Cardenys in the shire of Aberdeen, from the Thornbush east of Wester Cardeny down to the Stainlethe, and thence to the high road of Cardeny, and down the burn to the water of Locher, and up to Badyennach, and thence to the bog of Gask, and thence to the burn of Frifady, and thence to the road

through the midst of Skene of Wester Cardeny, and back by a cart road to the said Thornbush : to be held of the King by the said Alexander, paying a chalder of oatmeal yearly. Confirmation dated at Scone, 17th November, 1358. Witnesses : William, bishop of St. Andrews ; Patrick, bishop of Brechin, chancellor ; Robert, Earl of Stratherne, seneschal ; Patrick, Earl of March and Moray ; Robert Erskine and John Preston, knights.

IV.

CHARTER by David II. to Alexander Burnard, 17th November, 1358, confirming Charter by Robert I. to the same Alexander of Tolyboill and Little Culter, 29th January, 1323-4. From a notarial copy at Crathes.

DAVID Dei gracia Rex Scotorum omnibus probis hominibus tocius terre sue clericis et laicis salutem Sciatis me quandam cartam recolende memorie Domini Roberti progenitoris nostri inspexisse et veraciter intellexisse in hec verba. ROBERTUS Dei gracia rex Scotorum omnibus probis hominibus tocius terre sue salutem Sciatis nos dedisse concessisse et hac presenti carta nostra confirmasse Alexandro Burnarde dilecto et fideli nostro pro homagio et seruicio suo totam baroniam de Tolyboill cum pertinencijs infra vicecomitatum de Kyncardyne et baroniam de Parva Culter cum pertinencijs infra vicecomitatum de Abirdene que fuerunt quondam Johannis de Walchope. Tenendas et habendas eidem Alexandro et heredibus suis de nobis et heredibus nostris in feodo et hereditate in liberas baronias per omnes rectas metas et diuisas suas cum omnibus libertatibus commoditatibus aisiamentis et iustis pertinencijs suis quibuscunque adeo libere et quiete plenarie et honorifice sicut dictus quondam Johannes predictas baronias cum pertinencijs de nobis tenuit seu possedit Faciendo nobis et heredibus nostris dictus Alexander et heredes sui seruicia inde debita et consueta. In cuius rei testimonium presente carte nostre sigillum nostrum precepimus apponi apud Abirbrothoc vicesimo nono die Januarij anno Regni nostri nonodecimo. QUAM QUIDEM cartam donacionemque et concessionem in eadem contentas in omnibus punctis suis articulis condicionibus modis et circumstancijs suis quibuscunque forma pariter et effectum in omnibus et per omnia approbamus ratificamus et pro nobis et heredibus nostris imperpetuum confirmamus saluo seruicio nostra In cuius rei testimonium presenti carte confirmacionis nostre sigillum nostrum precepimus apponi Testibus venerabilibus in Christo patribus Willelmo episcopo Sancti andree Patricio episcopo



*Charter by King Robert II in favour of
William Burnard 26th December 1378.*

Brechinensi Cancellario nostro Roberto Seneschallo Scocie comite de Stratherne nepote nostro Patricio Comite marchie et morauie Roberto de Erskyne et Johanne de Prestovne militibus Apud Sconam septimo decimo die Novembris Anno Regni nostri vicesimo nono.

Copia originalis litere scripta per manum Thome Skene notarij publici.
Sub signo suo manuali. T. SKENE, notarius publicus.

ABSTRACT OF IV.

KING DAVID confirms a charter dated at Arbroath, 29th January, 1323-4, by which King Robert granted to Alexander Burnard the barony of Tolyboill in the shire of Kincardine and the barony of Little Culter in the shire of Aberdeen, formerly belonging to John de Walchope: to be held of the King by Alexander as by John, rendering services used and wont. Place, date, and witnesses as in III.

V.

CHARTER by Robert II. to William Burnard, of lands in the Forest of Drum, 26th December, 1378. Original, at Crathes, facsimiled in this volume.

ROBERTUS dei gracia Rex Scottorum omnibus probis hominibus tocius terre sue clericis et laicis salutem. Sciatis nos dedisse concessisse et hac presenti carta nostra confirmasse Willelmo Burnard filio Symonis Burnard omnes et singulas terras cum pertinencijs in foresta de Drum infra vicecomitatum de Kyncardyn que fuerunt dicti Symonis patris sui et quas idem Symon non vi aut metu ductus nec errore lapsus sed mera et spontanea voluntate sua nobis per fustum et baculum sursum reddidit pureque et simpliciter resignavit ac totum ius et clameum que in dictis terris cum pertinencijs habuit vel habere potuit pro se et heredibus suis omnino quietum clamavit in perpetuum. Tenendas et habendas eidem Willelmo et heredibus suis de nobis et heredibus nostris in feodo et hereditate per omnes rectas metas et diuisas suas cum omnibus et singulis libertatibus commoditatibus aysiamentis et iustis pertinencijs suis quibuscunque ad dictas terras cum pertinencijs spectantibus seu quoquo modo iuste spectare valentibus in futurum adeo libere et quiete plenarie integre et honorifice in omnibus et per omnia sicut dictus Symon pater suus dictas terras cum pertinencijs de nobis ante resignacionem suam nobis exinde factam liberius quiecius plenius integrius et honorificencius iuste tenuit seu possedit. Faciendo inde seruicium debitum et consuetum. In cuius rei testimonium presenti carte

nostre nostrum precepimus apponi sigillum. Testibus venerabilibus in Christo patribus Willelmo et Johanne Cancellario nostro Sancti Andree et Dunkeldensis ecclesie episcopis Johanne primogenito nostro de Carric Seneschallo Scocie Roberto de Fyff et de Menteth filio nostro dilecto Willelmo de Douglas et de Marr consanguineo nostro Comitibus Jacobo de Lyndesay nepote nostro carissimo et Alexandro de Lyndesay consanguineo nostro militibus. Apud Abirbrothok vicesimo sexto die mensis Decembris anno Regni nostri Octauo.

ABSTRACT OF V.

KING ROBERT grants to William, son of Simon Burnard, the lands in the Forest of Drum in the shire of Kincardine resigned by the said Simon: to be held of the King, by William as by Simon, rendering services used and wont. Dated at Arbroath, 26th December, 1378. Witnesses: William, bishop of St. Andrews; John, bishop of Dunkeld, chancellor; John, Earl of Carrick, seneschal; Robert, Earl of Fife and Menteith; William, Earl of Douglas and Mar; James of Lindsay and Alexander of Lindsay, Knights.

VI.

CHARTER by Robert, Earl of Fife and Menteith, to William Charteris, confirming a grant of lands of Lumphanan by Thomas Ranulph, Earl of Moray, to Patrick Charteris, 17th March, 1390-1.

OMNIBUS hoc scriptum visuris vel audituris Robertus Comes de Fyf et de Menteth dominus baronie de Coule et Onele salutem in domino sempiternam Noueritis nos pro nobis heredibus et successoribus nostris dominis dicte baronie ratificasse approbasse et imperpetuum per presentes confirmasse Wilhelmo de Carnoto et heredibus suis illam donacionem et concessionem quas quondam dominus Thomas Ranulphi Comes Morauię dedit et concessit quondam domino Patricio de Carnoto militi auunculo dicti Wilhelmi de terris de Lunfanane cum pertinencijs expressis in carta dicti domini Thome eidem domino Patricio facta infra baroniam nostram predictam infra vicecomitatum de Abirdene ffaciendo inde nobis et successoribus nostris dominis dicte baronie prefatus Wilhelmus et heredes sui seruicia debita et consueta quousque veri et legitimi heredes prefati quondam domini Thome Ranulphi ad heredum et successorum nostrorum dicte baronie eadem facere seruicia recuperauerint Volumus eciam pro nobis heredibus nostris et successoribus dominis eiusdem baronie quod quandocunque heredes legitimi dicti quondam Thome dicta seruicia sic facere recuperauerint quod idem Wilhelmus et heredes sui seruicia in sua carta

contenta eisdem heredibus dicti quondam domini Thome faciat et faciant nullum preiudicium interim dicto Wilhelmo aut heredibus suis in dictis seruicijs faciendis quomodolibet

In cuius rei testimonium sigillum meum presenti scripto nostro fecimus apponi apud Perth decimo septimo die mensis marcij anno domini millesimo trecentesimo nonagesimo.

ABSTRACT OF VI.

ROBERT, Earl of Fife and Menteith, Lord of the Barony of Coule and Onele, confirming to William Charteris a grant of the lands of Lumphanan in the said barony, made by the late Thomas Ranulph, Earl of Moray, to Patrick Charteris, uncle of the said William ; the said William rendering to the granter the services used and wont to be rendered to the said Thomas. Dated at Perth 17th March, 1390-1.

VII.

CHARTER by James, afterwards 2nd Earl of Douglas, to William Charteris, confirming the grant of Lumphanan by Thomas Ranulph, Earl of Moray.

OMNIBUS hoc scriptum visuris vel auditoris Jacobus de Douglas filius et heres domini Wilhelmi comitis de Douglas et de Marr dominus baronie de Onele in Marr salutem in domino sempiternam Noueritis nos pro nobis et heredibus nostris seu successoribus vel assignatis ratificasse approbasse et confirmasse Wilhelmo de Carnoto illum donacionem concessionem seu alienacionem quam Thomas Ranulph comes Morauię dominus Vallis Anandie et Mannie fecit hereditarie domino Patricio de Carnoto militi de omnibus terris de manerio suo de Lunfanane cum pertinencijs eiusdem vnacum viginti vna libratis terre de suis proprijs adiacentibus vt plenus continetur in carta dicti domini comitis Morauię Tenendas et habendas omnes terras predictas cum omnibus suis pertinencijs in feodo et hereditate predicto Wilhelmo et heredibus suis in perpetuum de nobis et heredibus nostris successoribus seu assignatis Faciendo inde idem Wilhelmus et heredes sui nobis et heredibus nostris successoribus vel assignatis seruicium debitum et consuetum In cuius rei testimonium huic scripto nostro confirmationis apponi fecimus apud . . .

ABSTRACT OF VII.

JAMES, son and heir of William, Earl of Douglas and Marr, Lord of the Barony of Onele in Marr, confirms to William Charteris a grant of the lands of Lumphanan, with twenty-one pound lands adjacent ; to be held of the granter by the said William, rendering services used and wont.

VIII.

CHARTER by Robert III. to John Senest, 5th March, 1398-9, confirming Charter by Robert, Duke of Albany, to the said John of the Barony of Coule and Oneill, 18th February, 1398-9.

ROBERTUS dei gracia Rex Scotorum omnibus probis hominibus tocius terre sue clericis et laicis salutem Sciatis nos quandam cartam carissimi fratris nostri Roberti Ducis Albanie comitis de Fyfe et de Menteith cum consensu et assensu Mordaci Senest militis filij sui et heredis de mandato nostro visam lectam inspectam et diligenter examinatum non rasam non abolitam non cancellatam nec in aliqua sui parte viciatam intellexisse ad plenum sub hac forma OMNIBUS hanc cartam visuris vel audituris Robertus dux Albanie comes de Fyfe et de Menteith salutem in domino sempiternam Sciatis nos cum assensu et consensu Mordaci Senest filij nostri et heredis dedisse concessisse et hac presenti carta nostra confirmasse dilecto filio nostro Joanni Senest totam et integram baroniam nostram de Cowle et Oneill cum pertinencijs suis omnibus infra vicecomitatum de Aberdene Tenendam et habendam dictam baroniam cum omnibus suis pertinencijs dicto Joanni filio nostro et heredibus suis masculis de corpore suo legitime procreandis de nobis et heredibus nostris in feodo et hereditate imperpetuum Quibus deficientibus Andree Senest filio nostro et heredibus suis masculis de corpore suo legitime procreandis Roberto Senest filio nostro et heredibus suis masculis de corpore suo legitime procreandis Quibus forte deficientibus filijs nostris quibuscunque inter nos et Muriellam sponsam nostram procreandis Et ipsis deficientibus veris et propinioribus heredibus nostris quibuscunque Per omnes rectas metas suas et diuisas in boscis et planis pratis pascuis et pasturis in moris marresijs vijs et semitis aquis et stagnis venacionibus aucupacionibus et piscacionibus cum molendinis multuris et corum sequelis cum curijs escaetis et curiarum exitibus cum bondis bondagijs et natiuis cum tenandrijs et libere tenencium seruicijs cum aduocacionibus ecclesiarum et capellaniarum cum sok et sak tholl et theme infangtheffe et outfangtheffe et cum omnibus alijs libertatibus commoditatibus aysiamentis et iustis pertinencijs suis quibuscunque tam non nominatis quam nominatis tam prope quam procul tam sub terra quam supra terram ad dictam baroniam spectantibus seu quomodo libet spectare valentibus in futurum libere quiete bene sine aliquo retinemento imperpetuum Soluendo inde annuatim predictus Joannes filius noster et heredes sui quibus deficientibus ceteri sui fratres filij nostri et heredes sui antedicti vnum denarium argenti apud capitalem locum dicte baronie in festo pentecostes nomine albefirme tantum si petatur Et domino nostro Regi seruicia debita et consueta

pro omni alio seruicio seculari exaccione vel demanda que de dictis terris cum pertinencijs aliquoaliter per nos vel heredes nostros exigi poterunt vel requiri Nos vero dux Albanie predictus et heredes nostri dictam baroniam de Coule et Onele cum omnibus suis pertinencijs predicto Joanni filio nostro et heredibus suis predictis quibus deficientibus ceteris filijs nostris predictis fratribus suis et heredibus suis prenomatis in omnibus et per omnia vt supra scripta sunt contra omnes mortales warrantabimus acquietabimus et imperpetuum defendemus In cuius rei testimonium presenti carte nostre sigillum nostrum vna cum sigillo prefati Mordaci filij nostri et heredis est appensum Presentibus testibus Malcolmo de Drumound domino de Mar Thoma de Erskyne domino eiusdem Patricius de Grahame consanguineo nostro Roberto de Keyth fratre nostro militibus Dauid Flemyng domino de Bygar consanguineo nostro Roberto de Keyth nepote nostro Dauid Barclay et multis alijs Apud Striueline decimo octauo die mensis februarij Anno domini millesimo trecentesimo nonagesimo octauo QUAM QUIDEM cartam donacionem et concessionem in eadem contentas in omnibus punctis suis et articulis condicionibus modis ac circumstancijs suis quibuscunque forma pariter et effectum in omnibus et per omnia approbamus ratificamus et pro nobis et heredibus nostris vt premissum est imperpetuum confirmamus saluo seruicio nostro In cuius rei testimonium presenti carte nostre confirmacionis sigillum nostrum precepimus apponi Testibus venerabilibus patribus vt in alijs cartis continetur Datum apud Lithgeo quinto die mensis Marcij Anno Regni nostri nono.

Hec est vera copia principalis carte suprascripte contente in Registro S.N.D. Regis extracta et collationata in omnibus cum originale concordans nil addito vel remoto quod substantiam mutaret aut sententiam variaret per me dominum Joannem Hamiltoun de Magdalenis militem Clericum Rotulorum Registri ac concilij S. D. N. Regis Sub meis Signo et Subscriptionem manualibus.

J. HAMILTON Cls. Regri.

ABSTRACT OF VIII.

KING ROBERT confirms a charter, dated at Stirling 18th February, 1398-9, Witnesses: Malcolm Drummond, Thomas Erskyne, Patrick Graham, Robert Keith, Knights; David Fleming, Robert Keith, David Barclay, etc.; by which Robert, Duke of Albany, with consent of his son, Murdoch Senest, granted to his son, John Senest, the barony of Coule and O'Neill in the shire of Aberdeen; to be held of the granter by the said John, whom failing, by his brother Andrew, whom failing, by his brother Robert, whom failing, by sons whomsoever of the granter and his spouse Muriel, whom failing, by heirs whomsoever of the granter; paying therefor a silver penny yearly. Confirmation dated at Linlithgow 5th March, 1398-9.

IX.

RETOUR of William Charteris of Kinfauns to his grandfather, Thomas, 30th October, 1443. From notarial copy at Crathes. Compare *Antiq. Aberd. and Banff*, ii., 39.

IN nomine domini Amen Per hoc presens publicum instrumentum cunctis pateat euidenter quod anno incarnationis dominice millesimo quadringentesimo quadregesimo tercio mensis vero octobris die penultimo indictione septima pontificatus Sanctissimi in Christo patris ac domini nostri domini Eugenij diuina prouidentia pape quarti anno decimo tercio in mei notarij publici et testium subscriptorum presentia personaliter constitutus honorabilis vir dominus Andreas de Ogilve miles quandam literam retornacionis sigillis diuersis sigillatam sibi copiarī instanter petijt Cuiusquidem literę tenor sequitur et est talis Hęc inquisitio facta apud burgum de Aberdene coram Alexandro de Forbes de eodem ac deputato vicecomite de Aberdene die primo mensis Octobris anno domini millesimo quadringentesimo quadregesimo tercio per hos fideles homines subscriptos videlicet Alexandrum de Irwyn Gilbertum de Hay milites Alexandrum de Meldrum de Fvyv Thomam Alyrdes Jacobum de Sken de eodem Wilhelmum Norvele Johannem Mowat Gilbertum Meignes Alexandrum Coupland Alexandrum de Camera Robertum de Camera Georgium Fraser Daud Ross Alexandrum de Strathechin Qui iurati dicunt quod Thomas Charteris auus quondam Wilhelmi Charteris latoris presentium objit vltimo vestitus et saisitus et de feodo ad pacem et fidem domini nostri regis de terris de Lunfanan cum pertinencijs iacentibus in baronia de Onel infra vicecomitatum de Aberdene et quod dictus Wilhelmus est legitimus et propinquior heres eiusdem quondam Thome au sui de dictis terris cum pertinencijs et est legitime etatis et quod dicte terre valent nunc per annum viginti marcas et valuerunt tempore pacis viginti libras et tenentur in capite de barone de Onel per wardam et releium et nunc sunt in manibus domini nostri regis et quod dicta baronia in manu eius existat recognita per marum ob mortem dicti Thome a tempore obitus sui qui objit quatuor annis elapsis In cuius rei testimonium sigilla quorundam qui dicte inquisitione intererant sunt appensa Clausum sub sigillo dicti Alexandri deputati vicecomitis supradicti anno die et loco supradictis DE et super cuius literę copia ac omnibus alijs et singulis vt premittitur dictus dominus Andreas a me notario publico sibi fieri petijt publicum instrumentum Acta erant hec apud Edynburghum sub anno die mense indictione et pontificatu quibus supra presentibus ibidem discretis viris Alexandro de Castilcaris domino Thoma Tod presbiteris et Gilberto Comfrane . . . testibus ad premitta vocatis specialiter et rogatis.

ABSTRACT OF IX.

INQUISITION held at Aberdeen, 1st October, 1443, before Alexander Forbes of that Ilk, Sheriff Substitute of Aberdeen, by Sir Alexander Irvine, Sir Gilbert Hay, Alexander Meldrum of Fyvie, Thomas Alyrdes, James Skene of that Ilk, William Norvele, John Mowat, Gilbert Meignes, Alexander Copland, Alexander Chalmers, Robert Chalmers, George Fraser, David Ross, Alexander Strachin; who testify that Thomas Charteris, grandfather of William Charteris, was infest in the lands of Lunfanan in the barony of Onel in the shire of Aberdeen, valued now at twenty merks yearly, and in time of peace at twenty pounds yearly; and that the said William is nearest heir of the said Thomas. Instrument thereupon dated at Edinburgh 30th October, 1443.

X.

CHARTER OF EXCAMBION by Alexander Irvine of Drum to Alexander Burnet of Leys of a chalder of meal of annual rent in exchange for a piece of land and water, 2nd March, 1458-9. With precept for infestment.

OMNIBUS hanc cartam visuris vel audituris Alexander Irwyne dominus de Drwm salutem in domino sempiternam Sciatis me dedisse et ex vi excambij pro perpetuo alienasse et hac presenti carta mea confirmasse dilecto consanguineo meo Alexandro Burnat domino de Leijs vnam celdram farine auenarum mihi annuatim debitam et hereditarie pertinentem ad modum annui redditus de terris de Westercardeny et de Leijs cum pertinencijs dicto Alexandro Burnat iure hereditario pertinentibus in recompensacionem cuiusdam perticate terre cum piscaria aque de Dee que fuit ipsius Alexandri Burnat jacentis infra terras meas de parco de Drum Incipiendo a le braide furde de Durrys super dicta aqua de Dee ascendendo in longitudine tam in aqua quam terra vsque ad How slak ad capud de Ouchquhor et ab hinc ascendendo per eandem aquam vsque ad os torrentis de Crathas currentis in eandem aquam de Dee cum libera licencia piscandi trahendi et rethia reficiendi super dictis terris de Crathas que fuerunt perprius Alexandri Burnat vsque ad os torrentis supradicti Tenendam et habendam et percipiendam dictam celdram farine per modum cuiusdam annui redditus prefato Alexandro Burnat et heredibus suis et suis assignatis de me heredibus meis et meis assignatis in feodo et hereditate in perpetuum adeo libere

quiete plenarie integre honorifice bene et in pace in omnibus et per omnia sicut ego dictus Alexander Irwyne aut predecessores mei dictam celdram farine cum pertinencijs ad modum annui redditus tenui aut possedi tenuerunt seu possederunt sine reuocacione reclamacione aut contradiccione mei aut heredum meorum seu assignatorum aut aliorum quorumcunque nomine nostro aut ex parte nostra inde futuris temporibus qualitercunque facienda Reddendo inde annuatim dictus Alexander Burnat mihi heredibus meis et meis assignatis vnum denarium argenti super solum dictarum terrarum de Westercarny ad festum pentecostes nomine albe firme si petatur tantum pro omni alio seruicio seculari exaccione seu demanda que de dicta celdra farine cum pertinencijs aliquo modo exigi poterit aut requiri Et si contingat dictum Alexandrum Burnat heredes suos aut suos assignatos inquietari perturbari aut molestari in leuacione et percepcione dicte celdre farine cum pertinencijs per me heredes meos et meos assignatos sic quod pacifice huiusmodi celdre farine gaudere non poterit seu poterunt quod absit obligo me heredes meos et meos assignatos in strictissima forma obligationis ad persoluendum et satisfaciendum dicto Alexandro Burnat heredibus suis et suis assignatis de centum libris vsualis monete scocie pro suis expensis dampnis et laboribus circa presentem materiam perpetratis et factis antequam audiantur in iudicio presenti carta nichilominus in suo robore pro perpetuo duratura Et ego vero prefatus Alexander Irwyne heredes mei et mei assignati totam et integram dictam celdram farine ad modum annui redditus in excambio vt premititur prefato Alexandro Burnat heredibus suis et suis assignatis per omnes terras et possessiones nostras habitas et habendas in forma pariter et effectu vt predictum est contra omnes mortales warantizabimus acquietabimus et in perpetuum fideliter defendemus In cuius rei testimonium sigillum meum huic presenti carte mee est appensum apud Abberdene secundo die mensis martij anno domini millesimo quadringentesimo quinquagesimo octauo Testibus honorabilibus viris Jacobo Skene de eodem Alexandro Skene filio et apparente herede ipsius Jacobi Thoma Forbes Gilberto Skene Alexandro Turing Alexandro Dauison Dauid Rat armigeris et domino Roberto Leis capellano vt notario publico cum multis alijs.

Precept.

Alexander Irwyne dominus de Drwm dilecto nostro Alexandro Sken balliuo nostro irreuocabili in hac parte salutem Quia dedi et concessi in excambio carissimo consanguineo meo Alexandro Burnat de Leys vnam celdram farine ad modum annui redditus mihi annuatim debitam de terris suis de Wester Carny et de Leijs cum pertinencijs pro vna perticata terre cum aqua pertinente ad eandem iacentis ex parte australi parci de Drum prout in carta mea eidem confecta latius continetur Quare vobis precipio et mando quatenus dicto Alexandro Burnat aut

suo certo actornato latori presentium saisinam et possessionem hereditariam dicte celdre farine ad modum annui redditus deliberetis secundum vim formam et continenciam et carte desuper confecte saluo iure cuiuslibet Ad quod faciendum vobis tenore presentium meam plenariam potestatem committo per presentes Et in signum saisine et possessionis per vos traditarum sigillum vestrum in secunda cauda appendatis Datum sub sigillo meo apud Abberdene secundo die mensis martij anno domini millesimo quadringentesimo quinquagesimo octauo.

ABSTRACT OF X.

ALEXANDER IRVINE of Drum conveys to Alexander Burnet of Leys a chalder of meal of annual rent from the lands of Wester Cardney and Leys, in exchange for a piece of land, with fishings in the water of Dee, lying within the lands of Park of Drum, from the Braid Furde of Durris to the How Slak at the Head of Ouchquhor, and thence to the mouth of the Burn of Crathes, with right of fishing, etc., on the lands of Crathes to the mouth of the said Burn: to be held of the granter by the said Alexander Burnet, paying a silver penny yearly. Dated at Aberdeen 2nd March, 1458-9. Witnesses: James Skene of that Ilk, Alexander Skene, his heir apparent, Thomas Forbes, Gilbert Skene, Alexander Turing, Alexander Davison, David Rat, Robert Leis.

XI.

CHARTER by James III. to Alexander Burnet uniting lands into Barony of Leys, 25th April, 1488. With precept of same date directed to the Bishop of Aberdeen.

JACOBUS Dei gracia Rex Scotorum omnibus probis hominibus tocius terre sue clericis et laicis Salutem sciatis nos dedisse concessisse et hac presenti carta nostra confirmasse dilecto nostro Alexandro Burnard omnes et singulas terras de Kellienachclerach iacentes infra vicecomitatum nostrum de Kincardin ac terras de Westercardeny iacentes infra vicecomitatum nostrum de Abirdene cum omnibus antiquis bondis diuisis et pertinencijs earundem prout exprimitur in carta quondam serenissimi predecessoris nostri Roberti Regis Scotorum predecessoribus eiusdem Alexandri super eadem confecta Quequidem terre cum dictis suis bondis diuisis et pertinencijs fuerunt dicti Alexandri hereditarie et quas idem Alexander non vi aut metu ductus nec errore lapsus sed sua mera

et spontanea voluntate in manibus nostris apud Abirdene per fustem et baculum sursum reddidit pureque simpliciter resignauit ac totum ius et clameum iuris que in dictis terris suis bondis diuisis et pertinencijs habuit seu habere potuit pro se et heredibus suis omnino quietumclamauit imperpetuum Et quas omnes et singulas terras cum suis antiquis bondis diuisis et pertinencijs pro singulari fauore quem gerimus erga dictum Alexandrum in vnam meram et liberam baroniam perpetuis futuris temporibus Baroniam de Leyis nuncupandam creauimus vniuimus annexuimus et incorporauius Tenoreque presentium creamus vnimus anneximus et incorporamus pro perpetuo Tenendas et habendas omnes et singulas predictas terras de Kellienachclerach et Westercardeny cum omnibus suis antiquis bondis diuisis et pertinencijs prout exprimitur in carta dicti quondam Regis Roberti predecessoris nostri et nunc per nos creatas vnitas annexatas et incorporatas in vnam meram et liberam baroniam perpetuis futuris temporibus Baroniam de Leyis vt predictum est nuncupandam dicto Alexandro et heredibus suis quibuscunque de nobis et successoribus nostris in feodo et hereditate imperpetuum per omnes rectas metas suas antiquas et diuisus prout iacent in longitudine et latitudine in boscis planis moris marresijs vijs semitis aquis stagnis riuulis pratis pascuis et pasturis molendinis multuris et eorum sequelis aucupacionibus venacionibus piscacionibus petarijs turbarijs carbonarijs lapicidijs lapide et calce fabrilibus brasinis bruerijs et genestis cum curijs et carum exitibus herezeldis bludwictis et merchetis mulierum cum communi pastura ac libero introitu et exitu cum furca et fossa sok sak thol theme infangthief outfangthief pyt et galouss ac cum omnibus alijs et singulis libertatibus commoditatibus et asiamentis ac iustis pertinencijs suis quibuscunque ad predictas terras et baroniam cum pertinencijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace sine aliqua reuocacione aut contradicione aliquali Reddendo inde annuatim dictus Alexander et heredes sui nobis et successoribus nostris illam albam firmam in eadem carta dicti quondam Regis Roberti predecessoris nostri insertam et prout ipsa carta plenius testatur et proportat In cuius rei testimonium presenti carte nostre magnum sigillum nostrum apponi precepimus Testibus Reuerendissimis in Christo patribus Willelmo Episcopo Abirdonensi cancellario nostro Andrea Episcopo Morauisiensi Andrea Episcopo Orchardensi Dilectis consanguineis nostris Dauid Comite Craufurdie Domino Lindesay magno Camerario nostro Georgio Comite de Huntly Domino Gordoun Willelmo Comite de Eroll Domino le Hay constabulario Regni nostri Willelmo Comite Mariscalli Domino Keith Jacobo Comite Buchane Domino de vchtirhous Iohanne Domino Glamnys Alexandro Domino Forbes Thoma Domino Inuermeith et Willelmo Domino Ruthven

Apud Abirdene vicesimo quinto die mensis Aprilis anno domini millesimo quadringentesimo octuagesimo octauo et Regni nostri vicesimo octauo.

Precept. 3

JACOBUS dei gracia Rex Scotorum Reuerendo in Christo patri Willelmo Episcopo Aberdonensi Cancellario nostro salutem Quia dedimus et concessimus hereditarie dilecto nostro Alexandro Burnard de Leyis omnes et singulas terras de Leyis Kellienachclerach Cullannach le Hill Candashill Crathas et molendinum eiusdem Drumschallach ac lacum de Banchory cum insula eiusdem cum omnibus suis bondis metis et pertinencijs iacentia infra vicecomitatum nostrum de Kincardin necnon terras de Westercardeny cum suis bondis metis et pertinencijs iacentes infra vicecomitatum nostrum de Aberdene Que terre molendinum lacus et insula cum suis bondis metis et pertinencijs fuerunt dicti Alexandri hereditarie et quas idem Alexander non vi aut metu ductus nec errore lapsus sed sua mera et spontanea voluntate in manibus nostris apud Aberdene per fustem et baculum sursum reddidit pureque simpliciter resignauit ac totum ius et clameum &c. Quas omnes et singulas terras molendinum lacum et insulam antedicta in suis bondis metis et pertinencijs pro singulari fauore quem gerimus erga prefatum Alexandrum creauimus annexuimus et incorporauimus in vnam meram et liberam baroniam perpetuis futuris temporibus Baroniam de Leyis nuncupandam &c. Reddendo inde annuatim dictus Alexander et heredes sui nobis heredibus et successoribus nostris vnum denarium argenti apud capitale mesuagium dictarum terrarum et baronie de Leyis ad festum pentecostes nomine albefirme si petatur tantum Vobis precipimus et mandamus quatenus cartam nostram sub magno sigillo nostro in forma capelle nostre debita dicto Alexandro et heredibus suis fieri faciatis super nostra donacione et concessione antedictis Datum sub nostro secreto sigillo apud Abirdene vicesimo quinto die mensis aprilis anno regni nostri vicesimo octauo.

ABSTRACT OF XI.

KING JAMES confirms to Alexander Burnet the lands of Kellienachclerach in the shire of Kincardine, and of Wester Cardeny in the shire of Aberdeen, granted by King Robert I. to the ancestors of the said Alexander (*v. III. supra*), and now resigned by him into the King's hands; and further unites and incorporates the said lands into the Barony of Leyis, to be held of the King as in the charter by King Robert. Witnesses: William, Bishop of Aberdeen; Andrew, Bishop of Moray; Andrew, Bishop of Orkney; David, Earl of Crawford; George, Earl of Huntly; William, Earl of Erroll; William, Earl Marischal;

James, Earl Buchan ; John, Lord Glamys ; Alexander, Lord Forbes ; Thomas, Lord Invermeik ; William, Lord Ruthven. At Aberdeen, 25th April, 1488.

The Precept enumerates the lands of Leys, Kellienachclerach, Cullannach, the Hill, Candashill, Crathes, with the mill thereof, Drumschallach, and the Loch of Banchory with its island ; and gives a silver penny as the Reddendo.

XII.

ATTESTATION by way of sasine infesting Alexander Burnet in Ganocleroch and Wester Cardney, 2nd May, 1488.

VNIUERSIS et singulis ad quorum noticias presentes litere peruenerint Willelmus Aberdonensis burgensis burgi de Aberdein salutem in auctore salutis Cum piorum sit et meritorum testimonium perhibere veritati et maxime in casu quo veritatis occultatio preiudicium seu grauamen generare poterit innocenti ac malorum figmentorum aditus precludere ne subintrent Hinc est quod testificor per presentes quod venerabilis vir Alexander Burnet de Leis secundo die mensis maij anno domini millesimo quadringentisimo octuagesimo octauo quasdam literas formam et tenorem carte et sasine in se continentes sigillo supremi domini nostri regis cera alba impendenti sigillatas mihi vni balliuorum in hac parte specialiter constitutorum exhibuit et presentauit me cum ea qua decuit reuerencia requirendo iuxta vim formam et tenorem predictarum mihi traditarum literarum ad vniendas annectendas creandas et incorporandas terras suas de Ganocleroch iacentes infra vicecomitatum de Kincardyn et terras suas de Vester Cardeny iacentes infra vicecomitatum de Aberden in vnam meram liberam et perpetuam baroniam perpetuis futuris temporibus Baroniam de Leis nuncupandam Ac etiam ipsum Alexandrum in statum et possessionem hereditariam dictarum terrarum cum pertinencijs inducendum et inuestiendum Quasquidem literas mihi traditas cuidam capellano nomine Henrico diligenter tradidi perlegendas et ad noticiam presencium pro tempore inducendas Quibus lectis et ad noticiam astancium deductis accessi ad domum habitacionis Roberti Burnet in villa de Leis sitam et ibidem per tradicionem terre et lapidis ipsum Alexandrum in statum possessionem corporalem et sasinam hereditariam dictarum terrarum de Ganochcleroch et Vester Cardineis cum pertinencijs corporaliter induxi inuestiui et actualiter insaisiui Ac predictas terras de Vester Cardineis cum pertinencijs vniui incorporauì annexui et creauì in vnam meram liberam et perpetuam baroniam perpetuis futuris temporibus Baroniam de Leis nuncupandam saluo iure cuiuslibet secundum vim formam et tenorem supremi domini nostri regis literarum mihi desuper

directarum Et hoc omnibus quorum interest intererit aut interesse poterit innotesco per presentes Datum apud villam de Leis predicto die coram hijs testibus videlicet Hugone Roberti Thoma Pyat Thome Cormtowne Willelmo Aberdonensi in le Hill commoranti Thome Brunet Alexandro Willelmi Jacobo Cummyng Thome Patesone Thome Nore cum diuersis alijs et ad maiorem rei euidenciam sigillum meum presentibus est appensum apud Crathas anno mense et die supradictis.

ABSTRACT OF XII.

WILLIAM [bishop] of Aberdeen, burges of Aberdeen, certifies that on 2nd May, 1488, at the house of Robert Burnet, in Leys, he did duly infest, by earth and stone, Alexander Burnet of Leys in the lands of Ganocleroch and Wester Cardeny, and did incorporate the same in the Barony of Leys: in virtue of the charter and the precept addressed to him (No. XI.), which had been duly examined by his chaplain, Henry. Instrument dated at Leys, 2nd May, 1488, before witnesses, Hugh Robertson, Thomas Pyat, Thomas Cormtowne, William of Aberdeen living on the Hill, Thomas Burnet, Alexander Williamson, James Cummyng, Thomas Patersone, Thomas Nore; and sealed at Crathes on the same day.

XIII.

CHARTER by Thomas Charteris of Kinfauns to William Burnet of Tullihykke, of the lands of Craigour, Fordy, &c., 12th August, 1544.

OMNIBUS hanc cartam visuris vel auditoris Thomas Chartris de Kynfawnis eternam in domino salutem Noueritis me vtilitate mea in hac parte vndique preuisa et diligenter considerata ex certis causis rationabilibus animum meum ad hoc mouentibus vendidisse et alienasse et hac presenti carta mea confirmasse necnon tenore presentium vendere et alienare et hac presenti carta mea confirmare dilecto meo Villelmo Burnat de Tullihykke suis heredibus et assignatis omnes et singulas terras meas de Cragour Fordy et Myltoun de Camfell cum molendinis et terris molendinarijs eiusdem vnacum astricta multura tocuis et integre baronie de Lunfanane solita et consueta cum suis pendiculis et pertinencijs iacentes in parochia de Kyncardin de Oneyl in baronia de Lunfanane infra vicecomitatum de Aberdene pro quadam certa summa pecunie quam dictus Villelmus mihi tempore confeccionis presentis carte mee in pecunia numerata in mea cognita et vrgenti necessitate bene et fideliter pre manibus persoluebat De quaquidem summa

pecunie teneo me bene contentum et plenarie persolutum ac eundem Vilhelmum suos heredes executores et assignatos pro me heredibus executoribus et assignatis meis exinde quieteclamo imperpetuum et exonero per presentes Tenendas et habendas omnes et singulas dictas terras de Cragour Fordy et Myltoun de Camfell cum molendino et terris molendinarijs eiusdem vncum astricta multura tocuis et integre baronie mee antedictae cum suis pendiculis et pertinencijs dicto Vellelmo Burnat suis heredibus et assignatis a me heredibus et assignatis meis de suprema domina nostra Regina et suis successoribus regibus seu reginis Scocie in feodo et hereditate imperpetuum per omnes rectas metas suas antiquas et diuisas prout iacent in longitudine et latitudine in bondis et limitibus earundem in boscis planis moris marresijs vijs semitis aquis stagnis riolis pratis pascuis et pasturis molendinis multuris et eorum sequelis aucupacionibus venacionibus piscacionibus petarijs turbarijs carbonibus carbonarijs cuniculis cunicularijs columbis columbarijs lapicidijs lapide et calce fabrilibus brasinis bruarijs et genestis domibus edificijs siluis nemoribus virgultis ortis lignis pomarijs cum curijs et earum exitibus et eschaetis herezeldis bludevictis et merchetis mulierum cum communi pastura cum libera eciam potestate et facultate dicte ville de Myltoun de Camfell ad pasturanda bona sua super terris de Wester Camfell cum bonis de Vester Camfell pastura solita et consueta cum libero introitu et exita ac cum omnibus alijs et singulis libertatibus commoditatibus asiamentis ac iustis suis pertinencijs quibuscunque tam non nominatis quam nominatis tam subtus terra quam supra terram ad predictas terras et molendinum cum astricta multura antedicta cum pendiculis et pertinencijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace sine impedimento obstaculo aut reuocatione quibuscunque Reddendo inde annuatim dictus Vellelmus sui heredes et assignati supreme domine nostre regine et suis successoribus regibus siue reginis Scocie iura et seruicia dictarum terrarum et molendini ante prefatam alienacionem prius debita et consueta tantum pro omni alio seruicio seculari exaccione seu demanda que de predictis terris et molendino cum pertinencijs aqualiter exigi poterint aut requiri Et ego vero dictus Thomas Charteris heredes mei et assignati omnes et singulas dictas terras de Cragour Fordy Myltoun de Camfell cum molendino et terris molendinarijs eiusdem vncum astricta multura tocuis et integre baronie mee antedictae cum suis pendiculis et pertinencijs dicto Vellelmo Burnat suis heredibus et assignatis in omnibus et per omnia forma pariter et effectu. vt premissum est per omnes terras et possessiones meas contra omnes mortales varantzabimus acquietabimus et imperpetuum defendemus omnibus dolo et fraude seclusis In cuius rei testimonium sigillum meum proprium mea subscriptione manuali presentibus est appensum apud Abirdene duodecimo die mensis Augusti anno domini millesimo quingentesimo

quadragesimo quarto Testibus Villomo Rolland seniore Johanne Lamb magistris Hectore Myrtoune Johanne Kennedy et Johanne Nicholsoun notario publico cum diuersis alijs.

THOMAS CHARTRIS of K.

ABSTRACT OF XIII.

THOMAS CHARTERIS of Kinfauns sells to William Burnet of Tullihykke the lands of Craigour, Fordy, and Milltown of Camfell, with the mills and mill-lands thereof, and the astrict multure of the whole barony of Lumphanan, lying in the parish of Kincardine Oneil in the barony of Lumphanan and shire of Aberdeen: to be held from the granter, of the King, with the right of pasturage, for Milltown of Camfell, on the lands of Wester Camfell: rendering therefor the services used and wont. Dated at Aberdeen, 12th August, 1544. Witnesses: William Rolland the elder, John Lamb, Hector Myrtoune, John Kennedy, John Nicholsoun notary.

XIV.

CHARTER by Cardinal David Beaton to Alexander Burnet of the lands of Pettinkeir, Brathinch, Invercanny, etc., 17th April, 1545.

OMNIBUS hanc cartam visuris vel audituris Daud miseracione diuina tituli Sancti Stephani in Celio monte Sancte Romane Ecclesie presbyter Cardinalis Sanctiandree Archiepiscopus totius regni Scotie primas Apostolice sedis legatus natus ac per vniuersum regnum predictum eiusdem sedis de latere legatus necnon Mirapicensis ecclesie in Gallia administrator ac monasterij Sancti Thome Marthiris de Aberbrothok perpetuus commendatarius salutem in domino sempiternam Noueritis nos cum expressis consensu et assensu conuentus nostri monasterij de Aberbrothok antedicti ad hoc capitulariter congregati vtilitateque nostra et dicti nostri monasterij vndique preuisa pensata et considerata diligenti et longo tractatu ac matura deliberatione desuper prehabitis in euidentem vtilitatem dicti nostri monasterij et successorum nostrorum et annuam rentalis eiusdem augmentationem ad summam nouem solidorum et octo denariorum vsualis monete regni Scotie plusquam vnquam terre subscribe prius nobis aut predecessoribus nostris persoluerunt ac ad decorem et policiam reipublice regni et contemplationem statutorum parliamenti desuper editorum ac pro magnis pecuniarum summis et diuersis alijs gratitudinibus nobis et dicto nostro monasterio

per Alexandrum Burnett de Leyss pre manibus persolutis prestitis et impensis Dedissee concessisse assedasse arrendasse locasse et ad feudifirmam ac perpetuam emphiteosim dimisisse et hac presenti carta nostra confirmasse necnon pro nobis et successoribus nostris dare concedere assedare arrendare locare et ad feudifirmam ac perpetuam emphiteosum dimittere et hac presenti carta nostra confirmare prefato Alexandro Burnet et heredibus suis masculis de corpore suo legitime procreatis seu procreandis quibus forte deficientibus heredibus suis masculis arma et cognomen de Burnett gerentibus et portantibus quibuscunque Omnes et singulas terras nostras de Pettinkere Branthange Inuercanny cum molendino eiusdem et dimediam partem ville nostre de Banquhariterne cum cymba eiusdem Kinnesky et Deracroft cum singulis earundem pendiculis et pertinentijs solitis et consuets jacentes infra regalitatem nostram de Aberbrothok baroniam de Banquhoriterne et vicecomitatum de Kyncardyn Tenendas et habendas omnes et singulas prenominas terras de Pettynkere Branthange Inuercanny cum molendino eiusdem et dimidia parte ville de Banquhariterne cum cymba eiusdem Kynnesky et Deracroft cum singulis earundem pendiculis et pertinentijs solitis et consuets prefato Alexandro Burnett de Leyss et heredibus suis masculis de corpore suo legitime procreatis seu procreandis quibus forte deficientibus heredibus suis masculis arma et cognomen de Burnett gerentibus et portantibus quibuscunque de nobis et successoribus nostris de Aberbrothok abbatibus seu commendatarijs in feudifirma et perpetua emphiteosi ac hereditate imperpetuum per omnes rectas metas suas antiquas et diuisas prout iacent in longitudine et latitudine in domibus edificijs boscis planis moris marresijs vijs semitis aquis stagnis riulis pratis pascuis et pasturis molendinis multuris et eorum sequelis aucupationibus venationibus piscationibus cimbis et earundem proficuis petarijs turbarijs carbonibus carbonarijs cuniculis cunicularijs columbis columbarijs fabrilibus brasinis Bruerijs et genestis siluis nemoribus forestis et virgultis lignis lapidicijs lapide et calce cum curijs et earum exitibus amerciametis herieldis bluduetis et mulerum marchetis cum communi pastura liberoque Introitu et exitu ac cum omnibus alijs et singulis libertatibus commoditatibus proficuis asiamentis ac iustis suis pertinentijs quibuscunque tam non nominatis quam nominatis tam subtus terram quam supra terram et tam procul quam prope ad predictas terras cum pendiculis et pertinentijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace sine aliquo impedimento reuocatione contradictione aut obstaculo aliquali Reddendo inde annuatim dictus Alexander Burnet de Leyss et heredes sui suprascripti nobis et successoribus nostris de Aberbrothok abbatibus seu commendatarijs nostrisve et eorum pro tempore camerarijs et factoribus summas respectiue sequentes videlicet pro Pettinkere quinquaginta trium solidorum et

quatuor denariorum pro Branthange quatuor librarum tredecim solidorum et quatuor denariorum pro Inuercanny et molendino eiusdem et dimidia parte ville de Banquhariterne cum cimba eiusdem quatuor librarum pro Kynnesky viginti sex solidorum et octo denariorum et pro Deraycroft decem solidorum vsualis monete Regni Scotie respectiue summam tanquam pro firmis supraspecificatarum terrarum cum earundem pendiculis et pertinentijs prius et ab antiquo annuatim persolui solitis et consuetis extendentes in toto quoad firmas earundem ab antiquo solui solitis ad summam tredecim librarum trium solidorum et quatuor denariorum dicte monete scotie Necnon summam quinque librarum sexdecim denariorum dicte monete annuatim in solutionem et contentationem grassume omnium et singularum terrarum molendine cymbe et crofte predictorum cum suis pendiculis et pertinentijs solitis et consuetis ad ratam firmarum duorum annorum pro omni quinquenniali locatione earundem prius omni quinquennio solui solitarum et consuetarum et proportionaliter annuatim diuisarum Necnon viginti nouem solidorum summam pro lie Ryn mart et Wedder annuatim in omnibus et singulis terris suprascriptis persolui solitam et consuetam prout in specie et particulariter de supraspecificatis terris respectiue videlicet de Pettinkere summam septem solidorum de Branthange duodecim solidorum de Inuercanny cum molendino eiusdem et dimidia parte ville de Banquhariterne cum cimba eiusdem sex solidorum et octo denariorum de Kinnesky trium solidorum et quatuor denariorum extendentes in toto ad summam viginti nouem solidorum dicte monete pro lie Rin mart et Wedder custumalibus Necnon etiam soluendo et reddendo annuatim summam nouem solidorum et octo denariorum pro annua augmentatione rentalis nostri pro concessione et locatione supraspecificatarum terrarum in feudifirma et emphiteosi ac perpetua hereditate vt premititur Extendentibus in omnibus firmis grassumis ac custumis predictis in pecunia vt premititur computatis cum annua augmentatione rentalis nostri predicta ad summam viginti librarum trium solidorum et quatuor denariorum dicte vsualis monete Regni Scotie ad duos anni terminos consuetos festa videlicet Penthecostes et sancti Martini in hyeme per equales medias portiones Ac faciendo tres sectas annuatim ad tria nostra placita capitalia apud Aberbrothok annuatim tenenda Necnon heredes masculi dicti Alexandri suprascripti duplicando dictam feudifirmam pecuniarum vnus anni in introitu cuiuslibet heredis ad omnes et singulas prenominate terras de Pettinkere Branthange Inuercanny cum molendino eiusdem et dimidia parte ville de Banquhariterne cum cimba eiusdem Kennesky et Deraycroft cum pendiculis et pertinentijs earundem solitis et consuetis nomine feudifirme tantum pro omni alio onere exactione questione demanda seu seruicio seculari que de supraspecificatis terris cum molendino cimba ac suis pendiculis et pertinentijs solitis

et consuetis per quoscunque iuste exigi poterunt quomodolibet vel requiri Et si contingat quod absit dictum Alexandrum Burnet de Leyss et heredes suos masculos prefatos aut eorum aliquem hac nostra infeodatione et in perpetuam emphiteosim locatione pro tempore gaudentem seu gaudentes in annua solutione dicte integre summe viginti librarum trium solidorum et quatuor denariorum predicti vsualis monete Regni Scotie deficere vel negligentes esse sic quod firme trium terminorum dictarum terrarum in toto remaneant insolute tunc eo in casu et ob non solutionem huiusmodi pecuniarum summe per dictos tres terminos debite licebit nobis et successoribus nostris de Aberbrothok abbatibus seu commendatarijs de singulis prefatis terris de Pettinkere Branthange Inuercanny cum molendino eiusdem et dimidia parte ville de Banquhariterne cum cimba eiusdem Kynnesky et Deraycroft cum pendiculis et pertinentijs earundem solitis et consuetis libere et ad nostre voluntatis libitum absque aliquo iuris vel facti processu disponere hac nostra presenti in feudifirmam et perpetuam emphiteosim locatione in aliquo non obstante Insuper memoratus Alexander et heredes sui suprascripti iuramentum fidelitatis successiue in quolibet eorum introitu ad feudifirmam predictarum terrarum cum pendiculis et pertinentijs solitis et consuetis earundem prestabunt nobis et successoribus nostris abbatibus seu commendatarijs de Aberbrothok pro tempore existentibus ac ad fidele et speciale consilium nobis et eijs cum ad hoc requisiti fuerint prebendum Necnon auxilium assistentiam et mantutionem nostri et eorundem ac monasterij nostri de Aberbrothok et libertatis ecclesiastice tuitionem proteccionem et omnimodam defensionem contra quoscunque eiusdem libertatis inuasores seu perturbatores pro tempore medio iuramento impendendo obligabuntur et tenebuntur perpetuis futuris temporibus Vterius non licebit Alexandro Burnett de Leiss nec heredibus suis masculis prefatis predictas terras cum molendino earundem ac cymba et pendiculis et pertinentijs prefatis aut aliquam earundem partem impignorare assignare vendere aut quouismodo alienare cuicunque seu quibuscunque persone seu personis sine nostra aut successorum nostrorum prefatorum speciali licentia ad hoc prius petita habita et obtenta Quod si contrarium prefatorum in toto vel in parte fecerit vel fecerint presens nostra infeodatio nullius sit roboris vel momenti Et eo in casu seu illis in casibus simul vel respectiue licebit nobis et successoribus nostris prefatis de singulis predictis terris cum molendino cymba pendiculis et pertinentijs earundem solitis et consuetis ad nostri et eorundem voluntatis libitum libere disponere hac nostra carta et infeodatione in aliquo non obstantibus Saluis tamen et reseruatis nobis et successoribus nostris in singulis terris molendino et cimba cum pendiculis et pertinentijs prefatis solitis et consuetis omnimodis regalitate et superioritate vt prius et ac si presens nostra infeodatio et in perpetuam emphiteosim locatio minime facta fuisset Et nos vero Dauid Cardinalis

Archiepiscopus Legatus et Commendatarius ac Conuentus dicti nostri monasterij de Aberbrothok et successores nostri dicti monasterij Abbates seu Commendatarij et Conuentus pro tempore existentes omnes et singulas prenominatas terras nostras de Pettinkere Branthange Inuercanny cum molendino eiusdem et dimidia parte ville de Banquhariterne cum cimba eiusdem Kynnesky et Deraycroft cum singulis earundem pendiculis et pertinentijs prefato Alexandro Burnett de Leiss et heredibus suis masculis prefatis libere et quiete in omnibus et per omnia vt premissum est varantizabimus acquietabimus et contra omnes mortales imperpetuum defendemus In cuius rei testimonium presenti carte nostre manu nostra ac manibus religiosorum virorum conuentus dicti nostri monasterij respectiue subscripte sigillum nostrum rotundum necnon et sigillum commune dicti nostri monasterij sunt appensa apud iam dictum nostrum monasterium die decimoseptimo mensis Aprilis anno domini millesimo quingentesimo quadragesimo quinto et nostre consecrationis anno septimo Coram his testibus magistris Roberto Reid episcopo Orchadensi Andrea Dury episcopo Candide Case Georgio domino de Setowyn Malcolmso domino de Flemyn magistris Iohanne Lauder Georgio Cok Andrea Flemyn notarijs publicis cum diuersis alijs.

DAUID Card^{lis} Sti Andree Legatus Commendatarius de Aberbrothok.

Thomas Uby Superior	Thomas Rutherford
Robertus Durward	Nicholaus Purwess
Dauid Tryndar	Thomas Scot
Valterus Baldewy	Johannes Anderson
Andreas Barde	Georgius Monchryf
Christopherus Moncur	Dauid Trayle ad id
Joannes Logy	Willelmus Wedderburne
Alex ^r Gyb	Joannes Peirson
Alex ^r Huby	Ricardus Craik
Willelmus Rannie	Alanus Marteyn
Johannes Rane	

ABSTRACT OF XIV.

CARDINAL DAVID BEATON, Archbishop of St. Andrews, and Commendator of the Monastery of St. Thomas Martyr of Arbroath, with consent of the Chapter thereof, grants to Alexander Burnet of Leys and the heirs male of his body, whom failing his heirs male whomsoever bearing the arms and name of Burnet, the lands of Pettinkere, Branthange, Invercanny with the mill thereof,

half of Banquhariterne with the ferry thereof, Kinnesky and Deracroft: to be held of the granter and his successors, abbots or commendators of Arbroath: paying therefor the fermes used and wont, viz., for Pettinkere 2 *lib.* 13*s.* 4*d.*, for Branthange 4 *lib.* 13*s.* 4*d.*, for Invercanny and its mill and the half of Banquhariterne and its ferry 4 *lib.*, for Kinnesky 1 *lib.* 6*s.* 8*d.*, for Deracroft 10*s.*, in all 13 *lib.* 3*s.* 4*d.*; also by way of grassum 5 *lib.* 1*s.* 4*d.*; also the customs of Ryn Mart and Wedder used and wont, viz., for Pettinkere 7*s.*, for Branthange 12*s.*, for Invercanny, etc., 6*s.* 8*d.*, for Kinnesky 3*s.* 4*d.*, in all 1 *lib.* 9*s.*; also by way of augmentation of rental 9*s.* 8*d.*; total 20 *lib.* 3*s.* 4*d.*: and making three suits yearly at Arbroath: with a duplicand of one year's fermes at the entry of every heir: the grantee, and his heirs at their entry, to swear fealty to the granter and his successors, and to undertake to aid and protect against all oppressors the monastery of Arbroath and the freedom of the Church: all alienations of the said lands to be forbidden without sanction of the granter and his successors: and all failures to implement the conditions aforesaid to render the grant null and void. Signed at the said Monastery, 17th April, 1545, by Cardinal David Beaton, and twenty-one members thereof [as above]. Witnesses: Robert Reid, bishop of Orkney; Andrew Dury, bishop of Galloway; George, lord Seaton; Malcolm, lord Fleming; John Lauder, George Cock, Andrew Fleming, notaries.

XV.

CONFIRMATION by Cardinal David Beaton of his grant of date 17th April, 1545: 26th May, 1545.

DAVID miseratione diuina tituli sancte Stephani in Celio monte sancte Romane ecclesie presbyter Cardinalis Sanctiandree Archiepiscopus totius regni scotie primas Apostolice sedis Legatus natus ac per vniuersum regnum predictum eiusdem sedis de latere Legatus necnon Mirapicensis ecclesie in Gallia administrator et commendatarius perpetuus monasterij sancti Thome martiris de Aberbrothok ordinis sancti Benedicti nostre sanctiandree diocesis discretis viris Archidiacono et succentori Aberdonensibus ac Alexandro Galloway canonico ecclesie Aberdonensis salutem in domino sempiternam Hijs que monasteriorum omnium et aliorum religiosorum locorum commodo et vtilitate prouide facta fuisse noscuntur vt firma perpetuo ac illibata persistant sedes apostolica cum ab ea petitur libenter apostolicam mandat adiici firmitatem Exhibita siquidem nobis nuper pro parte dilecti nobis in Christo Alexandri Burnet de Leyes laici Aberdonensis diocesis petitio continebat Quod alias nos vt dicti monasterij de Aberbrothok commen-

datarius perpetuus cum expressis consensu et assensu religiosorum virorum conuentus dicti nostri monasterij ordinis sancti Benedicti et Sanctiandree diocesis predictorum propter hoc capitulariter congregatorum matura deliberatione et longo desuper tractatu vt moris erat prehabitis pro cuidenti vtilitate eiusdem nostri monasterij nostrique et successorum nostrorum dicti monasterij abbatum seu commendatariorum et illius conuentus pro tempore existentium et annuo nostri et eorundem rentalis augmento ad summam nouem solidorum et octo denariorum vsualis monete regni Scocie plusquam vnquam terre et molendinum ac cymba cum earundem pendiculis et pertinencijs subscripta prius nobis aut predecessoribus nostris dicti monasterij de Aberbrothok abbatibus seu commendatarijs et illius conuentui tunc pro tempore existentibus in pecuniarum firmis ac grassumis canis customis et alijs deuorij persoluerunt Ac policia in dicto regno Scocie habenda necnon intuitu statutorum parlamenti desuper editorum Ac pro magnis et diuersis gratitudinibus per Alexandrum exponentem prefatum nobis et dicto nostro monasterio prestitis et impensis verumetiam pro nonnullis magnis pecuniarum summis nobis per Alexandrum exponentem prefatum pre manibus gratanter persolutis et seu ex alijs causis rationabilibus animum nostrum mouentibus Omnes et singulas terras nostras de Pettinkere Branthange Inuercanny cum molendino eiusdem et dimedian partem ville nostre de Banquhariterne cum cimba eiusdem Kynnesky et Deraycroft cum singulis earundem pendiculis et pertinencijs solitis et consuetis infra regalitatem nostram de Aberbrothok baroniam de Banquhariterne et vicecomitatum de Kincardin iuxta suos confines consistentes et iacentes et ad nos et monasterium nostrum predictum legittime spectantes dicto Alexandro Burnett de Leiss et heredibus suis masculis de corpore suo legittime procreatis seu procreandis Quibus forte deficientibus heredibus suis masculis arma et cognomen de Burnett gerentibus et portantibus quibuscunque de nobis vt moderno dicti monasterij de Aberbrothok commendatario et eiusdem conuentu et successoribus nostris dicti monasterij abbatibus seu commendatarijs et eiusdem conuentu pro tempore existentibus prefatis in feudifirma emphiteosi et hereditate imperpetuum tenendas et habendas per omnes rectas metas suas antiquas et diuisas prout consistebant et iacebant in longitudine et latitudine in domibus edificijs boscis planis moris marresijs vijs semitis aquis stagnis riualis pratis pascuis et pasturis molendinis multuris et eorum sequelis aucupationibus venationibus piscationibus cimbis et earum proficuis petarijs turbarijs carbonibus carbonarijs cuniculis cunicularijs columbis columbarijs fabrilibus brasinis bruerijs et genestis siluis nemoribus forestis et virgultis lignis lapidicijs lapide et calce cum curijs et earum exitibus amerciametis herieldis bluductis et mulierum marchetis cum communi pastura liberoque introitu et exitu ac cum omnibus alijs et singulis libertatibus commoditatibus proficuis asiamentis

et iustis suis pertinencijs quibuscunque tam non nominatis quam nominatis tam subtus terram quam supra terram et tam procul quam prope ad predictas terras cum pendiculis et pertinencijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace sine aliquo impedimento reuocatione contradictione aut obstaculo aliquali sub annuo canone seu censu summe viginti librarum trium solidorum et quatuor denariorum dicte monete Scotie quinque libras sterlingorum vel circa constituentium omnibus et singulis supradictarum terrarum molendini et cimbe pecuniarum firmis ac earundem grassumis necnon lie Rin mart et Wedder custumalibus in pecunia computatis prius annuatim persolui solitis ac annua rentalis augmentatione in dicta summa comprehensis per Alexandrum exponentem et heredes suos prefatos nobis vt dicti monasterij de Aberbrothok perpetuo commendatario et eiusdem conuentui et successoribus nostris dicti monasterij abbatibus seu commendatarijs et eiusdem conuentui pro tempore existentibus pro vna videlicet in Penthecostes et alia medietalibus annui census pecuniarum huiusmodi in Sancti Martini episcopi mensis nouembris festiuitatibus annis singulis equalibus portionibus integre persoluendo Et in primo anno introitus cuiuslibet heredis ad omnia et singula terras molendinum et cimbam cum pendiculis et pertinencijs prefatis dictum integrum annum censum siue canonem duplicando Ac quod exponens et heredes prefati tres sectas annuatim ad tria nostra et successorum nostrorum predictorum placita capitalia apud dictum monasterium de Aberbrothok tenenda faciant nomine feudifirme tantum pro omni alio onere exactione questione demanda seu seruicio seculari que de supraspecificatis terris molendino et cimba cum pendiculis et pertinencijs solitis et consuetis per quoscunque iuste exigi possent quomodolibet vel requiri Et quod aliquo tempore Alexandro exponente et heredibus suis masculis prefatis in annua solutione dicti canonis siue census annui in terminis supraspecificatis deficientibus vel negligentibus ita quod canon ipse in toto per tres terminos continue decurreret insolutus eo in casu liceret nobis et successoribus nostris prefatis pro tempore existentibus de omnibus et singulis terris molendino et cimba supraspecificatis cum singulis earundem pendiculis et pertinencijs prefatis ad nostri et eorundem voluntatem et libitum absque aliquo iuris vel facti processu desuper habendo disponere predicta nostra locatione emphiteotica in aliquo non obstante Ipseque Alexander exponens et heredes sui masculi prefati in quolibet eorum introitu ad feudifirmam et perpetuam emphiteosim dictarum terrarum molendini ac cimbe cum earundem pendiculis et pertinencijs iuramentum fidelitatis nobis moderno dicti monasterij commendatario et successoribus nostris prefatis dicti monasterij Abbatibus seu commendatarijs et eiusdem conuentui pro tempore existentibus prestare Et cum ad hoc requisiti forent nobis et eijs ad fidele et speciale consilium Necnon auxilium assistentiam

manutationem tuitionem protectionem et omnimodam defensionem nostri et eorundem successorum ac monasterij predictorum et libertatis ecclesiastice contra quoscunque illius inuasores destructores et perturbatores pro tempore medio iuramento impendendo tenerentur nec liceret Alexandro exponenti nec heredibus suis masculis prefatis terras et molendinum ac cimbam prefata cum suis pendiculis et pertinencijs aut eorum aliquam partem impignorare assignare vendere aut quouismodo alienare cuicunque persone seu quibuscunque personis sine nostri et successorum nostrorum predictorum licencia speciali ad hoc prius petita habita et obtenta Et si contrarium premissorum in toto vel in parte factum foret predicta locatio emphiteotica nullius esset roboris vel momenti et eo casu ac eijs casibus simul vel respectiue liceret nobis et successoribus nostris dicti monasterij abbatibus seu commendatarijs et conuentui prefatis de omnibus et singulis prenominais terris molendino ac cimba cum pendiculis et pertinencijs ad nostri et eorundem successorum voluntatis libitum libere disponere huiusmodi locatione prefata in aliquo non obstante Saluis tamen et reseruatis nobis et successoribus prefatis in singulis terris molendino ac cimba cum pendiculis et pertinencijs supraspecificatis omnimodis regalitate in superioritate vt prius et ac si dicta nostra infeodatio et in perpetuam emphiteosim locatio minime facta fuisset Nos vero modernus dicti monasterij commendatarius et successores nostri prefati omnia et singula prenominais terras molendinum ac cimbam cum eorundem pendiculis et pertinencijs Alexandro Burnet exponenti et heredibus suis masculis prefatis libere et quiete in omnibus et per omnia forma pariter et effectu vt premissum est contra omnes mortales varantizare acquietare et imperpetuum defendere teneremur et tenerentur Ac forsā sub alijs pactis legibus conditionibus declarationibus et limitationibus tunc forsā expressis saluo sedis apostolice in premissis beneplacito dederamus concesseramus arrendaueramus locaueramus et ad feudifirmam ac perpetuam emphiteosim hereditarie dimiseramus prout in carta nostra manu nostra ac manibus religiosorum virorum conuentus dicti nostri monasterij subscripta Et nostro rotundo ac communi dictorum nostrorum conuentus et monasterij de Aberbrothok sigillis respectiue sigillata seu alijs literis instrumentis et documentis publicis desuper confecta seu confectis plenius dicitur contineri Ipseque Alexander exponens prefatus dationis concessionis locationis arrendationis et dimissionis earundem vigore possessionem singularum terrarum molendini ac cimbe predictorum cum pendiculis et pertinencijs forsā assecutus extitit cum autem sicut eadem subiungebat petitio datio concessio locatio et dimissio huiusmodi in euidentem cesserint et cedant dicti nostri monasterij vtilitatem cupiatque exponens prefatus illas pro earum subsistentia firmiori apostolice confirmationis munimine roborari Quare supplicari fecit humiliter dictus exponens sibi super hijs per dictam sedem apostolicam de opportuno

remedio misericorditer prouideri Nos igitur ad infrascripta sufficienti apostolica facultate muniti singularum terrarum et molendini ac cimbe predictorum cum pendiculis et pertinencijs eorundem situationes veros annuos valores qualitates quantitates et circumstancias Ac veriora vocabula necnon carte et literarum seu instrumentorum aut aliorum documentorum desuper confectorum huiusmodi veriores tenores presentibus pro sufficienter expressis habentes Ac attendentes quod in hijs in quibus monasteriorum et aliorum religiosorum locorum euidentis procuratur vtilitas fauorabiles esse debemus atque benigni auctoritate apostolica nobis concessa et qua fungimur in hac parte discretioni vestre committimus et mandamus quatenus si et postquam vocatis qui fuerint euocandi de datione concessione locatione arrendatione et dimissione ac alijs premissis vt prefertur factis Et quod ille in euidentem dicti nostri monasterij de Aberbrothok ac nostri eiusdem moderni commendatarij et successorum predictorum et illius conuentus pro tempore existentium vtilitatem cedant Vobis aut duobus vestrum coniunctim procedentibus legitime constiterit Super quibus conscientiam vestram oneramus easdem dationem concessionem locationem arrendationem et dimissionem Ac prout illas concernunt omnia et singula in carta et literis seu instrumentis predictis contenta licita tamen et honesta apostolica auctoritate approbetis et confimatis eijsque perpetue firmitatis robur adiiciatis Ac illa valida et efficacia existere suosque effectus sortiri et perpetuo inuiolabiliter obseruari Sicque per quoscumque iudices quauis auctoritate fungentes sublata eijs et eorum cuilibet quauis aliter iudicandi et interpretandi facultate et auctoritate iudicari et diffiniri debere Ac quicquid secus attemptari contigerit irritum et inane decernatis omnesque et singulos iuris et facti defectus si qui forsitan interuenerint in eisdem suppleatis non obstantibus premissis ac felicitis recordationis domini Pauli pape secundi de rebus ecclesiasticis non alienandis et quibuscumque alijs apostolicis ac in prouincialibus et sinodalibus concilijs editis generalibus vel specialibus constitutionibus et ordinationibus necnon monasterij et ordinis predictorum etiam iuramento confirmatione vel quauis firmitate alia roboratis statutis et consuetudinibus privilegijs quoque indultis et literis apostolicis nobis vt commendatario moderno ac nostris in dicto monasterio successoribus ac conuentui monasterio et ordini prefatis sub quibuscumque tenoribus et verborum formis ac cum quibusuis etiam derogatorijs derogatorijs alijsque fortioribus efficacioribus et insolitis clausulis irritantibusque et alijs decretis etiam iteratis vicibus concessis approbatis et innouatis Quibus omnibus illorum tenores ac si de verbo ad verbum nihil penitus omisso insererentur presentibus pro sufficienter expressis habentes illis alias in suo robore permansuris hac vice dumtaxat specialiter et expresse derogamus ceterisque contrarijs quibuscumque Datum Sanctiandree sub sigillo nostro legationis anno incarnationis dominice millesimo quingentesimo quadragesimo

quinto Septimo kalendas Iunij pontificatus sanctissimi in christo patris et domini nostri domini Pauli diuina prouidentia pape tertij anno vndecimo.

ABSTRACT OF XV.

DAVID, Archbishop of St. Andrews and papal legate, &c., at the request of Alexander Burnet of Leys, confirms, in virtue of the authority entrusted to him by the papal See, the charter (No. XIV.) in favour of the said Alexander. At St. Andrews, 26th May, 1545.

XVI.

CONFIRMATION of Cardinal Beaton's Grant, by Patrick Myretoun, Alexander Galloway, and Alexander Kyd, 30th June, 1545.

VNIUERSIS et singulis sancte matris ecclesie filiis presentes literas inspecturis visuris lecturis pariter et audituris Patricius Myretoun ecclesie cathedralis Aberdonensis archidiaconus Alexander Galloway rector de Kingkell et Alexander Kyd succentor dicte cathedralis ecclesie canonici iudices et executores ad infrascripta per reuerendum in christo patrem Daudid miseratione diuina tituli sancti Stephani in Celio monte sancte Romane ecclesie presbyterum Cardinalem Sanctiandree archiepiscopum totius regni Scotie primatem apostolice sedis legatum natum ac per vniuersum regnum Scotie predictum eiusdem sedis a latere legatum necnon Mirapicensis ecclesie in Gallia administratorem ac commendatarium perpetuum monasterii sancti Thome martiris de Aberbrothok ordinis sancti Benedicti Sanctiandree diocesis specialiter constituti salutem in domino sempiternam et nostris ymmouerius apostolicis firmiter obedire mandatis Literas prefati reuerendissimi in christo patris cardinalis legati eius sub sigillo legationis cera rubea capsula ferrea inclusa cordula rubea filis canapis impendenti more Romane ecclesie sigillatas Necnon cartam feudifirme prefati reuerendissimi patris vt commendatarii perpetui dicti monasterii de Aberbrothok cum consensu et assensu religiosorum virorum conuentus dicti monasterii de Aberbrothok sigillis respectiue sigillatam sanas siquidem et integras non vitiatas non cancellatas nec in aliqua sui parte suspectas sed omni prorsus vitio et suspicione carentes nobis per honorabilem virum Alexandrum Burnet de Leyis in ipsis literis principaliter nominatum coram notario publico et testibus subscriptis nos cum ea qua decuit reuerentia noueritis recepisse huiusmodi sub tenore [Here follows Cardinal Beaton's Confirmation, dated 26th May, 1545, xv., *supra*.] Sequitur

tenor carte de qua superius fit mentio [Here follows Cardinal Beaton's Charter, dated 17th April, 1545, xiv., *supra.*] Post quarum quidem commissionis et carte feudifirme literarum preinsertarum presentationem et receptionem nobis et per nos vt premittitur factas fuimus per prefatum Alexandrum Burnet de Leyis principalem in dictis literis et carta principaliter nominatum debita cum instantia requisiti quatenus ad executionem dictarum literarum et contentorum in eisdem iuxta traditam seu directam nobis formam procedere curaremus Nos igitur iudices commissarii et executores delegati antedicti attendentes requisitionem huiusmodi fore iustam annuimus Prout prius et ante omnia prefatum reuerendissimum patrem Daud cardinalem archiepiscopum vt commendatarium dicti monasterii de Aberbrothok et eiusdem loci conuentum in prefatis literis et carta principaliter nominatos specialiter et in specie omnesque alios et singulos sua communiter vel diuisim interesse habentes seu habere putantes et quos presens tangit negotium seu tangere poterit quomodolibet in futurum generaliter et in genere per literas nostras sub nostris sigillis et subscriptionibus manualibus ac signo et subscriptione Magistri Ioannis Bell notarii publici subscripti roboratas de data apud Aberdene vltimo Maii anno domini millesimo quingentesimo quadragesimo quinto ad comparandum coram nobis infra ecclesiam cathedralem Aberdonensem vigesimo primo die iuridico ad videndum et audiendum dationem concessionem locationem arrendationem ac feudifirme seu emphyteosis perpetuam dimissionem omnium et singularum terrarum de Pettinkere Branthange Inuercanny cum molendino eiusdem et dimedie partis ville de Banquhariterne cum cimba eiusdem Kynneskie et Deracroft cum singulis earundem pendiculis et pertinentiis solitis et consuetis infra regalitatem de Aberbrothok baroniam de Banquhariterne et vicecomitatum de Kyncardin iuxta suos confines et limites consistentium et iacentium prefato Alexandro Burnet de Leyis et heredibus suis masculis de corpore suo legitime procreatis seu procreandis quibus forte deficientibus heredibus suis masculis arma et cognomen de Burnet gerentibus et portantibus quibuscunque in preinsertis literis et carta alias mentionatis ac alias per prefatos reuerendissimum patrem Daud commendatarium perpetuum dicti monasterii de Aberbrothok et eiusdem conuentum pro se et suis successoribus dicti monasterii abbatibus seu commendatariis legitime per augmentationem rentalis earundem concessas in dicti monasterii vtilitatem cecisse et auxisse iuxta tenorem carte preinserte Ipsumque commendatarium perpetuum de Aberbrothok et eiusdem conuentum modernum pro se et suis successoribus dicti monasterii abbatibus seu commendatariis ad concessionem et locationem predictas perpetuis futuris temporibus obligatos et astrictos teneri Ac omnia et singula in carta literis seu instrumentis desuper confectis contenta licita et honesta autoritate predicta ymmouerius apostolica approbari et confirmari eisque perpetue firmitatis robur adiici Ac illa valida et

efficacia existere suosque effectus sortiri et perpetuo inuiolabiliter obseruari Sicque per quoscunque iudices quacunque auctoritate fungentes sublata eiis et eorum cuilibet quauis aliter iudicandi et interpretandi facultate et auctoritate iudicari et diffiniri debere Ac quicquid secus attemptari contigerit irritum et inane decerni omnesque et singulos iuris et facti defectus siqui forsan interuenerint in eisdem suppleri iuxta tenorem vim formam et effectum preinsertarum literarum nobis desuper directarum auctoritatemque nostram et decretum in premissis interponi Et vltcrius ad videndum et audiendum testes fidedignos et alia probationum genera pro verificatione et probatione narratorum in preinsertis literis nostraque in premissis omnibus informatione per nos recipi iurari et examinari Aliaque per nos fieri que in ipsis literis preinsertis precipiuntur et mandantur vel ad allegandum causam quare premissa fieri non deberent legitime et peremptorie citari fecimus cum intimatione et certificatione debitis et consuetis Quibus quidem die et hora aduenientibus nobis in Sacello diui Mauricii infra ecclesiam cathedralem Aberdonensem pro tribunali sedentibus comparuit coram nobis in iudicio prefatus Alexander Burnet de Leyis et prefatas nostras citationum literas legitime executas reportauit et exhibuit Nosque in huiusmodi negotio rite procedentes perlectis huiusmodi citationum literis et vocatis prefatis reuerendissimo patre commendatario de Aberbrothok et conuentu eiusdem aliisque omnibus et singulis interesse habentibus seu habere putantibus ad diem datum predictum legitime et peremptorie citatis Et quia nulli comparuerunt ad dicendum contra premissa in toto vel in parte idem Alexander Burnet contumacias citatorum accusauit et ipsos prout merito erat reputari petiit prout eosdem contumaces reputauimus Et in penam contumacie eorundem ad petitionem eiusdem Alexandri ad vltcriosa decreuimus procedendum deque premissis omnibus et singulis et eorundem circumstanciis punctis et articulis que in dictis commissionum literis ac carta feudifirme continentur per nonnullos testes fidedignos ad hoc legitime citatos ad numerum sex personarum vocatos et in penam contumacie predictae iuratos et postea secrete seorsum et respectiue interrogatos et examinatos Et quia per inquisitionem huiusmodi comperimus omnia et singula in prefatis commissionum literis et feudifirme carta antedicta coram nobis cum earum sigillis et subscriptionibus legitime et sufficienter recognitis ita fore prout in eisdem continetur et veritati fulciri Et propterea per predictum Alexandrum Burnet nobis supplicatum fuit vt sibi super premissis omnibus et singulis secundum tenorem preinsertarum commissionis literarum ymmouerius apostolicarum prouidere de apostolica nobis desuper concessa potestate dignaremur Nos igitur Patricius archidiaconus Alexander Galloway et Alexander Kyd canonici antedicti iudices commissarii et executores prenominati ad infrascripta specialiter deputati attendentes supplicationem huiusmodi fore iustam in causa et causis huiusmodi procedentes

seruatis terminis et solempnitatibus de iure et regni consuetudine seruandis solum Deum pre oculis habentes eiusque nomine sanctissimo primitus inuocato auditis dicti Alexandri principalis allegationibus de et super omnibus et singulis premissis aliisque iuribus visis rimatis et discussis de iurisperitorum secuto et communicato consilio quibus relationem in premissis fieri fecimus per hanc nostram sententiam quam vigore commissionis preinserte ymmouerius apostolice nobis desuper directe et facte in his scriptis ferimus Pronunciamus decernimus et declaramus dationem concessionem locationem arrendationem ac feudifirme seu emphiteosis perpetuam dimissionem omnium et singularum terrarum de Pettinkere Branthange Inuercanny cum molendino et dimedie partis ville de Banquhariterne cum cimba eiusdem Kynneskie et Deracroft cum singulis earundem pendiculis et pertinentiis solitis et consuetis infra regalitatem de Aberbrothok baroniam de Banquhariterne et vicecomitatum de Kyncardin iuxta suos confines et limites consistentium et iacentium prefato Alexandro Burnet de Leyis et heredibus suis masculis de corpore suo legitime procreatis seu procreandis quibus forte deficientibus heredibus suis masculis arma et cognomen de Burnet gerentibus et portantibus quibuscunque per prefatum reuerendissimum patrem Daud commendatarium perpetuum dicti monasterii de Aberbrothok et eiusdem conuentum modernum pro se et suis successoribus dicti monasterii abbatibus seu commendatariis canonice intransibus legitime per augmentationem rentalis earundem concessas et in dicti monasterii euidentem vtilitatem cessisse et auxisse et cedere Propterea dationem concessionem locationem arrendationem ac feudifirme seu emphiteosis perpetuam dimissionem predictas ac omnia et singula in carta preinserta contenta auctoritate predicta ymmouerius apostolica approbando ratificando et confirmando prout approbamus ratificamus et confirmamus eisque perpetue firmitatis robur adiicimus ac illa valida et efficacia existere suosque effectus sortiri et perpetuo inuiolabiliter obseruari Sicque per quoscunque iudices quacunque auctoritate fungentes sublata eisdem et eorum cuilibet quauis aliter iudicandi et interpretandi facultate et auctoritate iudicari et diffiniri debere Ac quicquid secus attemptari contigerit irritum et inane fore et esse Omnesque et singulos tam iuris quam facti defectus si qui in concessione locatione arrendatione seu feudifirme dimissione predictis interuenerint eadem predicta auctoritate supplemus Et preterea dictum reuerendissimum patrem Daud commendatarium dicti monasterii de Aberbrothok et conuentum eiusdem modernum et eorundem successores in dicto monasterio ad obseruationem concessionis locationis arrendationis et feudifirme seu emphiteosis dimissionis predictarum omnium et singularum terrarum cum molendino cymba et pertinentiis suis teneri astrictos et firmiter obligatos eadem etiam auctoritate decernendo prout decernimus decretumque et auctoritatem nostram ymmouerius apostolicam in premissis omnibus et singulis

interponendo prout interponimus per presentes non obstantibus constitutionibus ordinationibus statutis privilegiis indultis consuetudinibus et aliis in contrarium facientibus que prefatus reuerendissimus pater in preinserta sua commissione voluit non obstare Et hoc omnibus et singulis quorum interest intererit aut interesse poterit per presentes notum facimus In quorum omnium et singulorum fidem et testimonium premissorum has presentes literas siue hoc presens publicum instrumentum processum predictum in se continens exinde fieri et per notarium publicum subscriptum coram nobis in presenti negotio scribam subscribi et publicari mandauimus ac manualibus nostris subscriptionibus subscriptum sigillorum nostrorum iussimus et fecimus appensione communiri Data et acta erant hec in prefato sacello diui Mauricii infra ecclesiam cathedralem antedictam hora vndecima ante meridiem die trigesimo mensis Iunii anno domini millesimo quingentesimo quadragesimo quinto indictione tertia pontificatus sanctissimi in christo patris et domini nostri domini Pauli diuina prouidentia pape tertii anno vndecimo Presentibus discretis viris Arthuro Douglass Voltero Blinsele Willelmo Cummyn magistris Thoma Fores vicario de Keltoun et Roberto Burnet notariis ac venerabili viro magistro Duncano Burnet rectore de Methlik canonico Aberdonensi cum diuersis aliis testibus ad premissa vocatis pariterque rogatis Et ego Ioannes Bell clericus Sanctiandree diocesis publicus apostolica autoritate notarius curieque consistorialis Aberdonensis tabellio principalis ac in premissis scriba Quia preinsertarum literarum commissionis et carte presentationi et acceptationi citationisque decreto eiusdemque citationis execute reportationi testium productioni ac verificationi et informationi et confirmationi decretique autoritatis interpositioni ceterisque premissis omnibus et singulis dum sic vt premittitur dicerentur agerentur et fierent vnacum prenominatis testibus presens fui ideoque hoc presens confirmationis instrumentum manu mea propria fideliter scriptum processum predictum in se continens de mandato dictorum dominorum iudicum suis sigillis et manualibus subscriptionibus roboratum exinde confeci signoque nomine et cognomine meis solitis et consuetis signaui in fidem et testimonium premissorum omnium et singulorum rogatus et requisitus.

Patricius Myretone	Alexander Galloway	Alex ^r Kyd
Archidiaconus	a Kynkell	Succentor Abd.

ABSTRACT OF XVI.

PATRICK MYRETOUN, archdeacon of the Cathedral of Aberdeen, Alexander Galloway, rector of Kingkell, and Alexander Kyd, succentor of the said cathedral, constituted judges and executors by Cardinal Beaton, having received from Alexander Burnet of Leys the Charter, No. XIV., and the Confirmation, No. XV.,

and having summoned, by letters of date 31st May, all interested to compear in the Cathedral of Aberdeen, and none compearing to oppose the grant, do confirm the same. In the Chapel of St. Maurice, in the cathedral aforesaid, 30th June, 1545, in presence of Mr. Arthur Douglas, Mr. Walter Blinsele, Mr. William Cummyn, Thomas Fores, vicar of Keltoun, and Robert Burnet, notaries, and Mr. Duncan Burnet, rector of Methlick. Attested by John Bell, notary.

XVII.

INQUEST on Thomas Charteris of Kinfauns as heir to his grandfather, Thomas, 17th April, 1546.

CURIA vicecomitatus de Aberdene tenta in pretorio eiusdem decimo septimo die mensis Aprilis anno domini millesimo quingentesimo quadragésimo sexto per honorabiles viros Johannem Leslie de Balquhane et magistrum Joannem Gordoun de Talleauch vicecomites deputatos dicti vicecomitatus coniunctim et diuisim pro tribunali sedentes &c.

Nomina inquisitorum et assise

Thomas Menzes de Petfoddeles	Robertus Irving de Belte
Jacobus Gordoun de Methlik	Joannes Burnet Dominus Junior de Leyis
Patricius Gordoun de Drummeis	Joannes Meldrum de Estowy
Georgius Crechtoun de Touhe	Alexander Hunter de Tuliekis
Alexander Cragmyll de Eodem	Joannes Stewart
	Johannes Settoun de Disblair
	Magister Alexander Kempe
	Jacobus Jaffray de Brogend
	Alexander Chalmer burgensis de Aberdene
	Vilhelmus Burnet de Cragour

Qui iurati dicunt quod quondam Thomas Chartoris de Kinfaunis auus Thome Chartoris de Kinfaunis latoris presentium obiit vltimo vestitus et saisitus vt de feodo ad pacem et fidem Supremi Domini nostri regis de totis et integris terris et barronia de Lunfannane cum pertinencijs iacentibus in barronia de Oneill et infra vicecomitatum de Aberdene et quod dictus Thomas est legitimus et propinquior heres eiusdem quondam Thome aui sui de dictis terris cum pertinencijs et quod est legitime etatis et quod dicte terre et baronia cum pertinencijs valent nunc per annum quinquaginta libras et quod valuerunt tempore pacis annuatim decem libras et quod tenentur in capite de Suprema Domina

nostra regina per seruicium varde et releuij et quod fuerunt in manibus eiusdem et suorum predecessorum regni Scocie per spacium viginti septem annorum aut eocirca ratione minoris etatis ipsius Thome et non introitus per decessum dicti quondam Thome in defectu veri heredis ius suum hucusque minime prosequentis Datum et clausum Extractum de libro actorum curie vicecomitatus de Aberdene per me scribam eiusdem subscriptum pro tempore Teste mea subscriptione manuali.

Ita est magister Gilbertus Murray notarius publicus et scriba curie antedictæ pro tempore ad hec manu propria.

ABSTRACT OF XVII.

At a sheriff court held at Aberdeen, 17th April, 1546, by John Leslie of Balquhane and Mr. John Gordon of Talleauch, sheriffs depute, it is attested by Thomas Menzies of Petfoddels, etc. (as above), that Thomas Charteris of Kinfauns is grandson of the late Thomas Charteris of Kinfauns, who was infest in the lands and barony of Lunfannane in the barony of Oneill and shire of Aberdeen; that the said Thomas is nearest lawful heir of the said late Thomas; and that the said lands, now valued at fifty pounds and in time of peace at ten pounds, are held of the Queen by ward and relief, and were in the hands of her and her predecessors for twenty-seven years of the minority of the said Thomas. Certified by Mr. Gilbert Murray, notary.

XVIII.

LEASE OF INVERY, &c., by John Hamilton, Archbishop of St. Andrews, to Alexander Burnet, 20th March, 1550-1.

VNIUERSIS et singulis sancte matris ecclesie filijs ad quorum notitias presentes litere peruenerint Johannes miseratione diuina Sanctiandree Archiepiscopus totius regni Scotie primas et apostolice sedis legatus natus ac Abbas monasterij de Pasleto Glasguensis diocesis Salutem in omnium saluatore Noueritis nos cum expresso consensu et assensu Capituli nostri Ecclesie nostre metropolitane et primatialis Sanctiandree propter hoc capitulariter congregati diligentique et longo tractatu desuper habitis vtilitateque et commodo nostri et dicte nostre ecclesie Sanctiandree vndique preuisis pensatis et consideratis assedasse arrendasse locasse et ad firmam dimisisse tenoreque presentium assedare arrendare locare et ad firmam pro nobis et successoribus nostris Sanctiandree Archiepiscopis dimittere

dilecto nostro honorabili viro Alexandro Burnet de Leys suis heredibus et assignatis pluribus aut vni non maioris auctoritatis aut potentie quam ipse principalis Totas et integras terras nostras de Invery necnon et dimedietatem omnium et singularum terrarum nostrarum de Kirktoon de Banquhary cum earundem pendiculis et pertinentijs iacentes in baronia nostra de Roscoby et infra regalitatem nostram Sanctiandree Quasque terras cum pendiculis et pertinentijs dilectus noster quondam Willelmus Fresar sibi heredibus suis et assignatis dum viueret de bone memorie quondam domino Dauide dum in humanis ageret miseratione diuina Sanctiandree Archiepiscopo et Cardinali nostro immediato predecessore sub suis rotundo ac communi dicti capituli Sanctiandree respectiue sigillis pro terminis nouemdecim annorum a die octauo mensis Februarij anni domini millesimi quingentesimi quadragesimi quinti inclusiue in locatione et arrendatione habuit et quarum terrarum de Invery ac dimedietatis terrarum de Kirktoon de Banquhary cum earundem pendiculis et pertinentijs locationem arrendationem et ad feudifirmam dimissionem pro terminis in dicta locatione contentis et nondum defluxis dilectus noster Alexander Fresar filius et heres dicti quondam Willelmi sui patris in manibus nostri domini proprietarij earundum apud burgum de Iedburgh Glasguensis diocesis per seipsum personaliter coram notario publico et testibus ad hoc vocatis ac litteris desuper confectis necnon omni iuri et iuris titulo proprietatique et possessioni sibi in dictis terris cum earundem pendiculis et pertinentijs ratione locationis et arrendationis dicto quondam Willelmo patri suo ac heredibus suis et assignatis vt premittitur desuper factarum seu alias quouismodo competenti seu in futurum competere valenti penitus et omnino ac simpliciter et in totum vt filius et legitimus heres dicti quondam Willelmi sui patris renuntiauit et quieteclamauit imperpetuum Pro omnibus et singulis terminis et diebus nouemdecim annorum datam presentium proxime et immediate sequentium Quequidem data presentium est terminus introitus dicti Alexandri Burnett de Leys suorum heredum et assignatorum plurium aut vnus predictorum in et ad totas et integras prenominatas terras nostras de Invery ac dimedietatem omnium et singularum terrarum nostrarum de Kirktoon de Banquhary cum earundem pendiculis et pertinentijs Et sic abhinc et deinceps simulque et successiue duraturam vsque ad completum exitum nouemdecim annorum predictorum Prout dicte terre cum earundem pendiculis et pertinentijs iacent in longitudine et latitudine in domibus edificijs hortis et horreis cum communi pastura solita et consueta liberoque introitu et exitu Ac cum omnibus alijs et singulis suis libertatibus commoditatibus asiamentis proficuis asiamentis et iustis suis pertinentijs quibuscunque ad singulas predictas terras cum pendiculis et pertinentijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace

sine aliquo retinemento reuocatione contradictione aut obstaculo aliquali Cum potestate et licencia dicto Alexandro Burnatt de Leys suis heredibus et assignatis prefatis subtenentem seu subtenentes plures aut vnum in dictis terris nostris seu aliqua earundem parte totiens quotiens eijs videbitur expediens et opportunum imponendi et instituendi ac eum vel eos ad eorundem voluntatis arbitrium remouendi et loco amoti vel amotorum alium seu alios subtenentem seu subtenentes de nouo imponendi dummodo ipsi subtenentes non sint maioris auctoritatis aut potentie quam ipsi principales nostri tenentes prefati Reddendo inde annuatim propterea dictus Alexander Burnett de Leys heredes sui et assignati prefati nobis et successoribus nostris Sanctiandree Archiepiscopis nostrisue aut eorundem camerarijs nunc et pro tempore existentibus pro totis et integris prefatis terris nostris de Invery cum pertinentijs summam quinquaginta trium solidorum et quatuor denariorum vsualis monete regni Scotie et pro dimedietate terrarum nostrarum de Kirktoon de Banquhary cum pertinentijs annuatim summam viginti solidorum dicte monete ad duos anni terminos vsuales festa videlicet Penthecostes et sancti Martini in yeme per equales medias portiones vnacum omnibus alijs et singulis oneribus et seruicijs de predictis terris cum pertinentijs debitis et consuetis secundum formam et tenorem rentalis nostri Et si contingat (quod absit) dictum Alexandrum Burnatt de Leys suos heredes vel assignatos prefatos aut eorum aliquem hac nostra locatione pro tempore gaudentem seu gaudentes in annua solutione firmarum prefatarum nobis et successoribus nostris prefatis annuatim vt premittitur de dictis terris cum pertinentijs respectiue debitarum in terminis supraspecificatis deficere vel negligentes esse sic quod firma cuiuslibet termini decurrat insoluta per quadraginta dies post quemlibet terminum in tota vel in parte tunc eo in casu et ob non solutionem huiusmodi firmarum per quadraginta dies post quemlibet terminum debitarum licebit nobis et successoribus nostris Sanctiandree Archiepiscopis pro tempore existentibus de singulis prenominateis terris cum pendiculis et pertinentijs libere ad nostre et eorundem voluntatis libitum et arbitrium absque aliquo alio iuris vel facti processu disponere hac nostra presenti locatione in aliquo non obstante Et nos vero Johannes Archiepiscopus primus et legatus natus antedictus totas et integras prenominateas tertas nostras de Invery ac dimedietatem omnium et singularum terrarum nostrarum de Kirktoon de Banquhary cum suis pendiculis et pertinentijs prefato Alexandro Burnett de Leys suis heredibus et assignatis pluribus aut vni prefatis in omnibus et per omnia vt premissum est pro nobis et successoribus nostris Sanctiandree Archiepiscopis contra omnes mortales varantizabimus acquietabimus et durantibus dictis terminis nouemdecim annorum prout iura volunt defendemus In cuius rei testimonium presentibus manu nostra subscriptis sigillum nostrum rotundum necnon et sigillum commune dicti capituli

nostri Sanctiandree in signum expressi consensus et assensus eorundem ad premissa sunt appensa Apud dictam nostram metropolitanam et primatiam ecclesiam Sanctiandree die vicesimo mensis Martij anno domini millesimo quingentesimo quinquagesimo nostre consecrationis quinto et ad regni primatiam sedem translationis anno secundo.

JOANNES Archiepiscopus.

ABSTRACT OF XVIII.

JOHN, Archbishop of St. Andrews, etc., with consent of the chapter of the metropolitan church, grants on lease to Alexander Burnet of Leys the lands of Invery and half of the Kirktown of Banchory in the barony of Roscoby and regality of St. Andrews, which lands were granted on a lease of nineteen years from 8th February, 1545-6, by David, Archbishop of St. Andrews, to William Fresar, and were resigned at Jedburgh into the hands of the present granter by Alexander Fresar, son and heir of the said William; the lease to Alexander Burnett to subsist for the remainder of the said nineteen years, he having power to sublet, and paying yearly 53s. 4d. for Invery and 20s. for Banchory. At St. Andrews, 20th March, 1550-1.

XIX.

TESTIMONIAL by John Campbell of Lundy, justiciary depute, ratifying Charters III. and XI., *supra*, 18th February, 1552-3.

JOANNES CAMPBELL de Lundy miles iusticiarius deputatus nobilis et potentis domini Archibaldi comitis Ergadie domini Campbell et Lorne et iusticiarij generalis Supreme Domine nostre Regine tocius regni sui vbilibet constituti Vniuersis et singulis ad quorum noticias presentes litere peruenerint salutem Sciatis quod comparuit eoram nobis in curia itineris iusticie dicte Supreme Domine nostre Regine vicecomitatus de Kyncardyn tenta et inchoata in pretorio burgi de Brechin die Sabbati decimo octauo die mensis Februarij anno domini millesimo quingentesimo quinquagesimo secundo Alexander Burnet de Leyss et ibidem ostendebat quandam cartam confirmacionis quondam nobilissimi principis Daudis dei gracia Scotorum Regis super alia carta factam per quondam nobilissimum etiam principem Robertum dei gracia Scotorum regem suum progenitorem in prefata carta confirmacionis inserta quondam Alexandro Burnard de terra de Killienachclerach iacenti infra vicecomitatum de Kincardin antedictum; necnon de sex marcatis terre infra terras de duabus Cardenis iacentibus in vicecomitatu

de Abirdene per nonnullas metas et diuisas in eadem carta contentas et expressatas Reddendo inde vnam celdram farine auenatice annuatim ad custodiam parci del Drom nomine albefirme tantum de data apud Sconam septimodecimo die mensis Nouembris anno regni dicti Dauid regis vicesimonono Ac etiam ostendebat aliam cartam factam per quondam illustrissimum principem Iacobum dei gracia Scotorum regem quondam Alexandro Burnard de omnibus et singulis prefatis terris de Killienachclerach ac eciam de terris de Wester Cardeny creatis vnitis annexatis et incorporatis in vnam integram et liberam Baroniam de Leys nuncupandam Reddendo illam albam firmam in prefata carta dicti quondam Roberti insertam et prout ipsa carta plenarie proportat et testatur de data apud Abirdene vicesimoquinto die mensis Aprilis anno domini millesimo quadringentesimo octuagesimooctauo et regni dicti quondam Iacobi regis vicesimo octauo Quasquidem de mandato nostro in iudicio perlectas admisimus et easdem in omnibus et singulis suis punctis et articulis condicionibus et modis ac circumstancijs quibuscunque ratificauimus et approbauimus mandauimusque americiamenta in quibus dictus Alexander Burnet de Leyss americiatus fuit pro non presentatione sectarum pro dictis terris de libro adiornalis deleri In cuius rei testimonium presentibus manu clerici iusticiarie subscriptis sigillum officij eiusdem est appensum anno mense die et loco suprascriptis.

JOANNES BILLENDE
Clericus Iusticiarie.

ABSTRACT OF XIX.

JOHN CAMPBELL of Lundy, justiciary depute of Archibald, Earl of Argyll, ratifies the charter granted by David II. to Alexander Burnard on 17th November, 1358 (No. III., *supra*), and the charter granted by James III. to Alexander Burnard on 25th April, 1488 (No. XI., *supra*), which charters were produced by Alexander Burnet of Leys in a court of Justice Ayre held at Brechin; and remits the fine incurred by the said Alexander for non-presentation of suits for the said lands. Signed by John Bellenden, Clerk of Justiciary. 18th February, 1552-3.

XX.

CHARTER by John Hamilton, Archbishop of St. Andrews, to Alexander Burnet and Janet Hamilton of the lands of Invery, &c., 26th November, 1554.

OMNIBUS hanc cartam visuris vel auditoris Johannes miseratione diuina Sanctiandree Archiepiscopus totius regni Scotie primas apostolice sedis legatus

natus ac eiusdem sacrosancte sedis a latere legatus monasterijque de Pasleto abbas perpetuus &c. Salutem cum benedictione diuina Quia distructa et demolita primatiali nostra arce ac solo funditus equata ad reparationem eiusdem necnon ad alia ecclesie nostre metropolitane necessaria resarcienda non minimis pecuniarum summis nobis opus fuit quocirca nonnullas terras dicte metropolitane sedis presertim terras subscriptas in emphiteosim veteri rentali non diminuto sed aucto locandas decreuimus nobis et nostris successoribus nostris duplicem inde proficuum percipientibus nempe et rentalis nostri annum augmentum et summam quadringentarum mercarum vsualis monete regni Scotie compositionis seu perpetue grassume nomine nobis per dilectum nostrum Alexandrum Burnct de Leyis persolutam et in reedificationem dicte nostre arcis applicatam de qua fatemur nos satisfactos et persolutos ipsumque Alexandrum de ea exoneramus imperpetuum Noueritis igitur nos hijs atque multis alijs nostre sedis metropolitane rebus vndique turbatis in nostram et successorum nostrorum euidentem vtilitatem rentalis augmentationem et arcis rudificationem cum expressis consensu et assensu capituli dicte nostre ecclesie metropolitane dedisse concessisse assedasse arrendasse locasse et ad feudifirmam seu emphiteosim hereditarie dimisisse et hac presenti nostra carta confirmasse necnon tenore presentium dare concedere assedare arrendare locare et ad feudifirmam seu emphiteosim dimittere et hac presenti carta nostra confirmare prefato Alexandro Burnett de Leyis et Ionete Hammiltoun eius coniugi eorumque alteri diutius viuenti in coniuncta infeodatione et heredibus masculis inter eos legitime procreatis seu procreandis quibus deficientibus legitimis et propinquiioribus heredibus masculis dicti Alexandri quibuscunque totas et integras terras nostras de Invery necnon dimidietatem omnium et singularum terrarum nostrarum de Kirktoun de Banquhary cum pendiculis lee outsettis et pertinentijs earundem iacentes in regalitate nostra Sanctiandree baronia nostra de Roscoby infra vicecomitatum de Kincardin que nobis et nostris predecessoribus firmas annuas et deuoria subsequencia annuatim tantum persoluerunt scilicet dicte terre de Invery quinquaginta tres solidos et quatuor denarios et dimidietas terrarum de Kirktoun de Banquhary viginti solidos et integre terre singulo quinquennio vndecim mercas pro grassuma et alijs seruicijs et deuorijs Que integre firme ambarum terrarum simul computate cum ipsa quinquennia grassuma et deuorijs ad numerum capitum annorum seu singulos annos reductis et simul cum ipsa annua firma supputatis annuatim extendunt in nostro veteri rentali ad quinque libras duos solidos et nouem denarios vsualis monete regni Scotie prout rentalis intuentibus lucidius patet Tenendas et habendas totas et integras prefatas terras de Invery necnon et dimidietatem omnium et singularum prefatarum terrarum de Kirktoun de Banquhary cum pendiculis lee outsettis et pertinentijs earundem dictis Alexandro Burnett de Leyis et Ionete

Hammiltoun eius coniugi eorumque alteri diutius viuenti in coniuncta infeodatione et heredibus masculis inter eos legitime procreatis seu procreandis quibus deficientibus legitimis et propinquieribus heredibus masculis dicti Alexandri quibuscunque de nobis et nostris successoribus Sanctiandree archiepiscopis in feudifirma et hereditate imperpetuum per omnes rectas metas suas antiquas et diuisas prout iacent in longitudine et latitudine in boscis planis moris marresijs vijs semitis aquis stagnis riuulis pratis pascuis et pasturis molendinis multuris et eorum sequelis aucupationibus venationibus piscationibus petarijs turbarijs carbonibus carbonarijs cuniculis cunicularijs columbis columbarijs fabrilibus brasinis bruerijs et genestis cum curijs et earum exitibus herezeldis bludewitis et mulierum merchetis cum communi pastura liberoque introitu et exitu ac cum omnibus alijs et singulis libertatibus commoditatibus proficuis et asiamentis ac iustis suis pertinentijs quibuscunque tam non nominatis quam nominatis tam subtus quam supra terram procul et prope ad predictas terras cum suis lie outsettis pendiculis et pertinentijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace absque reuocatione reclamatione aut contradictione aliquali Reddendo inde annuatim dicti Alexander et Ioneta eius coniux eorum alter diutius viuens et heredes sui prescripti nobis et nostris successoribus Sanctiandree archiepiscopis nostrisue aut eorum camerarijs et factoribus pro tempore antedictam summam quinque librarum duorum solidorum et nouem denariorum firmam scilicet et grassumam et deuoria de antedictis terris cum pertinentijs prius solui solita et in vetere rentali nostro contenta necnon tres solidos et quatuor denarios in augmentationem nostri rentalis plusquam vnquam dicte terre nobis aut nostris predecessoribus prius persoluerunt Veteribus igitur firmis grassumis et deuorijs in nostro vetere rentali contentis et augmentatione prescripta simul et integre computatis soluent prefatus Alexander et Ioneta eius coniux eorum alter diutius viuens et heredes sui prescripti nobis et successoribus nostris annuatim in integro quinque libras sex solidos et denarium vsualis monete regni Scotie ad duos anni terminos festa videlicet Penthecostes et sancti Martini in hieme per equales portiones nomine feudifirme Prestabunt preterea tres sectas curie annuatim ad tria placita capitalia baronie nostre de Roscoby et heredes dictorum Alexandri et Ionete duplicabunt dictam integram feudifirmam vnus anni primo eorum introitu ad predictas terras prout vsus est feudifirme tantum pro omnia alio onere exactione questione demanda seu seruicio seculari que de predictis terris cum suis pendiculis lie outsettis et pertinentijs per quoscunque iuste exigi poterint seu requiri Non licebit tamen dictis Alexandro et Ionete nec eorum heredibus antedictas terras aut vllam ipsarum partem absque nostra aut successorum nostrorum speciali licencia desuper obtenta cuicunque vendere aut alienare seu quouis modo hereditarie disponere Quod si secus fecerint

presentem nostram infeodationem et feudifirme locationem ipso facto amittent Etiam si contigerit prefatos Alexandrum et Ionetam aut eorum heredes in solutione dicti annui census per tres terminos continuos deficere sic quod duo termini in tertium currant non soluti tunc et eo casu cadent a suo iure presentis infeodationis et de cetero licebit nobis et nostris successoribus super singulis antedictis terris ad nostre voluntatis libitum et arbitrium absque villo alio vel iuris vel facti processu hac nostra infeodatione in aliquo non obstante Et nos vero Iohannes Archiepiscopus et successores nostri totas et integras prefatas terras de Invery ac dimidietatem omnium et singularum predictarum terrarum de Kirkton de Banquhary cum singulis suis pendiculis et pertinentijs ac lie outsettis earundem antedictis Alexandro Burnett de Leyis et Ionete Hammiltoun eius coniugi eorumque alteri diutius viuenti in coniuncta infeodatione et heredibus masculis inter eos legitime procreatis seu procreandis quibus deficientibus legitimis et propinquioribus heredibus masculis dicti Alexandri quibuscunque in omnibus et per omnia forma pariter et effectum vt premissum est contra omnes mortales warantizabimus acquietabimus et imperpetuum defendemus In quorum fidem et testimonium huic presenti carte nostre manu nostra subscripte sigillum nostrum rotundum vnacum sigillo communi capituli nostri Sanctiandree in signum eorum consensus et assensus est appensum apud dictam nostram ecclesiam metropolitanam Sanctiandree vigesimo sexto die mensis Nouembris anno domini millesimo quingentesimo quinquagesimo quarto nostre consecrationis [nono] ac ad regni primatiale sedem translationis [sexto].

JOANNES Archiepiscopus
Sanctiandree.

ABSTRACT OF XX.

JOHN, Archbishop of St. Andrews, etc., with consent of the chapter of the metropolitan church, in consideration of a sum of four hundred merks paid by Alexander Burnett of Leys, and applied to the restoration of the archiepiscopal buildings, grants to the said Alexander and his spouse, Janet Hamilton, in conjunct fee, and to the survivor, and to their heirs male, whom failing to the heirs male whomsoever of the said Alexander, the lands of Invery and half of the lands of Kirkton of Banchory, with the "outsettis," in the regality of St. Andrews, barony of Roscoby, and shire of Kincardine, which lands previously paid yearly a rent of 53s. 4d. for Invery, and 20s. for Banchory, with a grassum of 11 merks every fifth year; to be held of the granter and his successors, archbishops of St. Andrews; paying therefor yearly 5 *lib.* 2s. 9d. as an equivalent

of the old rent and grassum, and 3s. 4d. by way of augmentation, in all, 5 *lib.* 6s. 1d., with three suits yearly, and a duplicand of one year's rent at the entry of the heirs of the said Alexander and Janet; the grantee to have no power to alienate without special licence, and to forfeit the grant by failing to pay the rent for three terms. At St. Andrews, 26th November, 1554.

XXI.

CHARTER of resignation of Pettenkeir by John Hamilton, as Commendator of Arbroath, in favour of Alexander Burnett of Leys, Janet Hamilton, and Alexander Burnett, their grandson, 11th August, 1557.

OMNIBUS hanc cartam visuris vel audituris Iohannes permissione diuina Commendatarius perpetuus monasterij diui Thome Martyris de Abirbrothok et conuentus eiusdem ordinis diui Benedicti Sanctiandree diocesis Salutem in domino sempiternam Noueritis nos vnanimi consensu et assensu ad hoc capitulariter congregatos dedisse concessisse et hac presenti carta nostra confirmasse necnon tenore presentium dare concedere et hac presenti carta nostra confirmare dilectis nostris Alexandro Burnett de Leys et Ionete Hammiltoun eius coniugi eorumque alteri diutius viuenti in coniuncta infeodatione et vitali redditu et Alexandro Burnett iuniori nepoti ex filio primo genito dicti Alexandri senioris et heredibus suis masculis de corpore suo legitime procreatis seu procreandis quibus deficientibus legitimis et propinquioribus heredibus masculis dicti Alexandri senioris quibuscunque cognominis Burnett et insignia eiusdem gerentibus omnes et singulas terras nostras de Pettinkere cum omnibus et singulis suis pendiculis et pertinencijs solitis et consuetis iacentes infra regalitatem nostram de Abirbrothok baroniam de Banquhrieterne et vicecomitatum de Kincardin Que antea eidem Alexandro seniori per quondam recolende memorie Daudem miseratione diuina cardinalem Sanctiandree archiepiscopum eiusdem monasterij pro tempore commendatarium et cum consensu conuentus eiusdem in eorum euidentem vtilitatem hereditarie in feudifirma locate fuerunt prout in feudifirme carta desuper confecta plenius continetur et quas idem Alexander senior non vi aut metu ductus nec errore lapsus seu dolo circumuentus sed sua mera pura et spontanea voluntate in manibus nostris tanquam in manibus domini sui superioris earundem per procuratores suos ad hoc legitime constitutos sursum reddidit pureque et simpliciter resignauit ac totum ius et clameum proprietatem et possessionem que et quas in et ad easdem

habet aut quouismodo in futurum habere poterit Tenendas et habendas omnes et singulas prefatas nostras terras de Pettinkere cum singulis suis pendiculis et pertinencijs solitis et consuetis prefatis Alexandro Burnet de Leys et Ionete Hammiltoun eius coniugi eorumque alteri diutius viuenti in coniuncta infeodatione et vitali redditu et Alexandro Burnett iuniori nepoti ex filio primo genito dicti Alexandri senioris et heredibus suis masculis de corpore suo legitime procreatis seu procreandis quibus deficientibus heredibus dicti Alexandri supradictis cognominis Burnett et insignia eiusdem gerentibus de nobis et successoribus nostris de Abirbrothok abbatibus seu commendatarijs in feudifirma et perpetua emphiteosi et hereditate imperpetuum per omnes rectas metas suas antiquas et diuisas prout iacent in longitudine et latitudine in domibus edificijs boscis planis moris marresijs vijs semitis aquis stagnis riulis pratis pascuis et pasturis molendinis multuris et eorum sequelis aucupationibus venationibus piscationibus cimbis et earundem proficuis petarijs turbarijs carbonibus carbonarijs cuniculis cunicularijs columbis columbarijs fabrilibus brasinis bruerijs genestis siluis nemoribus et virgultis forestis lignis lapicidijs lapide et calce cum curijs et earum exitibus amerciamenti herzeldis bludwittis et mulierum merchetis cum communi pastura liberoque introitu et exitu ac cum omnibus alijs et singulis libertatibus commoditatibus proficuis asiamenti et iustis suis pertinencijs quibuscunque tam non nominatis quam nominatis tam subtus terra quam supra terram procul et prope ad predictas terras cum pendiculis et pertinencijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace sine aliquo impedimento reuocatione contradictione aut obstaculo aliquali Reddendo inde annuatim dicti Alexander Burnett de Leys et Ioneta Hammiltoun eius coniux eorumque alter diutius viuens in coniuncta infeodatione et vitali redditu et post eorum decessum dictus Alexander Burnett iunior nepos ex filio primo genito dicti Alexandri senioris et heredes eorum suprascripti nobis et successoribus nostris abbatibus seu commendatarijs dicti monasterij nostrisve et eorum pro tempore camerarijs et factoribus summam quinquaginta trium solidorum et quatuor denariorum vsualis monete regni Scotie tanquam firmam antiquam inde solui solitam et in nostro veteri rentali contentam necnon viginti vnum solidos et quatuor denarios eiusdem monete in solutionem et contentationem grassume dictarum terrarum ad ratam firmarum duorum annorum pro omni quinquennali locatione earundem prius omni quinquennio solui solitarum et consuetarum et proportionabiliter annuatim diuisarum necnon septem solidos antedecte monete pro lie Ryn mart et wedder annuatim ex dictis terris persolui solitis et consuetis ac etiam duos solidos monete prescripte pro annua augmentatione nostri rentalis ad ratam dictarum terrarum de Pettinkere deductos de integra augmentatione in principali carta feudifirme contenta

extendentibus in integro firmis grassumis Ryn mart et lie wedder customis in pecunia vt premittitur computatis vnacum annua augmentatione predicta ad summam quatuor librarum trium solidorum et octo denariorum dicte vsualis monete regni Scotie ad duos anni terminos consuetos festa videlicet Penthecostes et Sancti Martini in hyeme per equales medias portiones ac faciendo tres sectas auuatim ad tria nostra placita capitalia apud Abirbrothok annuatim tenenda Necnon heredes dictorum Alexandri iunioris et senioris antedicti duplicando dictum feudifirmam pecuniarum vnus anni in introitu cuiuslibet heredis ad predictas terras de Pettinkere cum pendiculis et pertinencijs earundem solitis et consuetis nomine feudifirme tantum pro omni alio onere exactione questione demanda seu seruicio seculari que de predictis terris cum pendiculis et pertinencijs solitis et consuetis per quoscunque iuste exigi poterint quomodolibet vel requiri Et si contingat (quod absit) dictos Alexandrum Burnett seniore et Ionetam Hammiltoun eius coniugem et Alexandrum iuniorem et heredes suos suprascriptos aut eorum aliquem hac nostra infeodatione et imperpetuum emphiteosim locatione pro tempore gaudentem seu gaudentes in annua solutione dicte integre summe quatuor librarum trium solidorum et octo denariorum predictae vsuales monete regni Scotie deficere vel negligentes esse sic quod firme trium terminorum dictarum terrarum in toto remaneant insolute tunc eo in casu et ob non solutionem huiusmodi pecunie summe per dictos tres terminos debite licebit nobis et nostris successoribus de prefatis terris de Pettinkere cum pendiculis et pertinencijs earundem solitis et consuetis libere et ad nostre voluntatis libitum absque alio iuris et facti processu disponere hac nostra presenti in feudifirmam et perpetuam emphiteosim locatione in aliquo non obstante Insuper memorati Alexander senior et Ioneta eius coniux et Alexander iunior et heredes eorum suprascripti iuramentum fidelitatis successiue in quolibet eorum introitu ad feudifirmam predictarum terrarum cum pendiculis et pertinencijs solitis et consuetis earundem prestabunt nobis et nostris successoribus abbatibus seu commendatarijs de Abirbrothok pro tempore existentibus ac ad fidele et speciale consilium nobis et eijs cum ad hoc requisiti fuerint prebendum Necnon auxilium assistentiam et manutionem nostri et eorundem ac monasterij nostri de Abirbrothok et libertatis ecclesiastice tuitionem protectionem et omnimodam defensionem contra quoscunque eiusdem libertatis ecclesiastice inuasores seu perturbatores pro tempore medio iuramento impendendo obligabuntur et tenebuntur perpetuis futuris temporibus Vterius non licebit dictis Alexandro Burnett seniori et Ionete eius coniugi nec Alexandro iuniori nec heredibus suis suprascriptis predictas terras de Pettinkere cum pendiculis et pertinencijs earundem aut aliquam earum partem impignorare assignare vendere aut quouismodo alienare cuicunque seu quibuscunque persone seu personis sine

nostra aut successorum nostrorum prefatorum speciali licentia ad hoc prius petita habita et obtenta Quod si contrarium premissorum in toto vel in parte fecerit vel fecerint presens nostra infeodatio nullius sit roboris vel momenti et eo in casu seu illis in casibus simul vel respectiue licebit nobis et successoribus nostris prefatis de predictis terris cum pendiculis et pertinencijs earundem solitis et consuetis ad nostri et eorundem voluntatis libitum libere disponere hac nostra carta et infeodatione in aliquo non obstantibus Et nos vero dictus Iohannes commendatarius et conuentus dicti monasterij et nostri successores pro tempore existentes omnes et singulas prefatas terras de Pettinkere cum pendiculis et pertinencijs earundem prefatis Alexandro Burnett de Leys et Ionete Hammiltoune eius coniugi eorumque alteri diutius viuenti in coniuncta infeodatione et vitali redditu et Alexandro Burnett iuniori nepoti antedicti et heredibus suis superscriptis libere et quiete in omnibus et per omnia forma pariter et effectu vt premissum est contra omnes mortales warantizabimus acquietabimus et imperpetuum defendemus Quare vobis et vestrum cuilibet coniunctim et diuisim Alexandro Reith in Leys Thome Ranne balliuis nostris in hac parte stricte precipimus et mandamus quatenus visis presentibus indilate statum et sasinam possessionemque realem actuaalem et corporalem omnium et singularum dictarum terrarum de Pettinkere cum suis pendiculis et pertinencijs prefatis Alexandro Burnet et Ionete Hammiltoun eius coniugi eorumque alteri diutius viuenti in coniuncta infeodatione et vitali redditu necnon dicto Alexandro iuniori hereditarie vel eorum certis actornatis latoribus presentium per terre et lapidis fundi donationem vt moris est tradatis et deliberetis seu alter vestrum tradat et deliberet secundum tenorem presentium et hoc nullo modo omittatis ad quod faciendum vobis et vestrum cuilibet coniunctim et diuisim balliuis nostris in hac parte predictis nostram plenariam irreuocabilem tenore presentium committimus protestatem In cuius rei testimonium presentibus manibus nostris subscriptis sigillum commune capituli dicti nostri monasterij est appensum apud idem monasterium vndecimo die mensis Augusti anno domini millesimo quingentesimo quinquagesimo septimo.

(Signed) IOHANNES Commendatarius de Aberbrothok.

Robertus Durward, superior	Valterus Baldowy
Dauid Aryndar	Andreas Bardy
Thomas Melwing	Nycholaus Purwess, Cus.
Thomas Scot	Alex ^r Gyb
Ioannes Peirsone	Alex ^r Hube
Ioannes Anderson	Ninianus Clement
Christopherus Moncur	Thomas Lyndesay
Nicholaus Howesone	Ioannes Quhyt
Thomas Gormak	Dauid Scot
Thomas Stey—	Ricardus Craik
Dauid Blak	Vmphredus Thomson

ABSTRACT OF XXI.

JOHN, Commendator of Arbroath, &c., grants to Alexander Burnett of Leys and his spouse, Janet Hamilton, and the survivor, in conjunct fee and liferent, and to Alexander Burnett (son of the eldest son of the said Alexander the elder) and the heirs male of his body, whom failing the heirs male whomsoever of the said Alexander the elder bearing the name and arms of Burnett, the lands of Pettinkere, which had been granted by Cardinal David Beaton to the said Alexander the elder (XIV. *supra*), and were now resigned by him; to be held of the granter and his successors, abbots or commendators of Arbroath: paying therefor yearly as before 53*s.* 4*d.*, together with 21*s.* 4*d.* in lieu of grassum, 7*s.* for Ryn Mart and Wedder, and 2*s.* by way of augmentation, in all 4 *lib.* 3*s.* 8*d.*; and making three suits yearly at Arbroath; with a duplicand of one year's fermes at the entry of every heir: the grantee and his heirs to swear, &c. (as in XIV.); with precept of sasine directed to Alexander Reith in Leys and Thomas Ranne. Signed at Arbroath, 11th August, 1557, by John, Commendator, &c. (as above).

XXII.

DISPENSATION by John Hamilton, Archbishop of St. Andrews, for marriage of William Burnet and Janet Chalmer, 19th August, 1558.

IOANNES miseratione diuina Sanctiandree archiepiscopus Regni Scotie primas ac cum potestate legati a latere sanctissimi domini nostri pape et sancte sedis apostolice legatus &c. dilectis nostris magistro Willielmo Burnet laico et Ionete Chalmer mulieri Aberdonensis diocesis salutem in domino Sedis apostolice prouidentia circumspecta nonnunquam rigorem iuris mansuetudine temperat et quod sacrorum canonum prohibent instituta de gratia benignitatis indulget prout personarum et temporum qualitate pensata id in domino salubriter expedire agnoscit Oblate nobis nuper pro parte uestra petitionis series continebat quod vos certis ex causis rationabilibus desideratis inuicem matrimonialiter copulari sed quia quarto et simplici quarto consanguinitatis gradibus simul estis coniuncti necnon in cognatione spirituali ex eo quod mater dicti Willielmi dictam Ionetam de sacro fonte leuauit matrimonium inter vos per uerba de futuro contraxistis illudque carnali copula consummastis et proles forsan exinde procreastis desiderium uestrum in hac parte adimplere non potestis dispensatione apostolica desuper non obtenta et si diuortium fuerit inter vos grauia exinde scandala

possent veresimiliter exoriri Quare pro parte vestra nobis fuit humiliter supplicatum ut vobis super hoc de debite absolutionis beneficio et opportune dispensationis gratia misericorditer providere auctoritate apostolica dignaremur Nos igitur vestris in hac parte supplicationibus inclinati auctoritate apostolica nobis concessa et qua fungimur in hac parte quatenus si est ita vos a reatu incestus et generalis excommunicationis sententia ac alijs censuris et penis ecclesiasticis quas propter premissa quomodolibet incurristis absolvimus in forma ecclesie consueta vobiscum dummodo tu Ioneta propter hoc ab aliquo rapta non fueris ut impedimento quarti et simplicis quarti consanguinitatis graduum necnon cognationis spiritualis huiusmodi ac quibusuis apostolicis necnon in prouincialibus et synodalibus concilijs editis generalibus vel specialibus constitutionibus et ordinationibus ceterisque in contrarium facientibus nequaquam obstantibus ad vltiora procedere matrimonium inter vos publici contrahere illudque in facie ecclesie solemnizare et in eo postquam contractum fuerit remanere libere et licite valeatis prolem et proles inter vos exinde suscipientes et suscipiendas legitimam et legitimam decernentes auctoritate apostolica tenore presentium misericorditer in domino dispensamus Datum Edinburgi nostre Sanctiandree diocesis anno incarnationis dominice millesimo quingentesimo quinquagesimo octauo decimo nono Augusti pontificatus sanctissimi domini nostri pape Pauli quarti anno.

ABSTRACT OF XXII.

JOHN, Archbishop of St. Andrews, primate of Scotland, legate *a latere*, &c., extends the clemency of the Holy See to William Burnet and Janet Hamilton, who, notwithstanding that they were within the fourth degree of consanguinity, and that William's mother was godmother to Janet, had contracted a matrimonial alliance and procreated children; and grants them absolution from the ecclesiastical penalties they had incurred, and permission to have their marriage solemnized in due form. At Edinburgh, 19th August, 1558.

XXIII.

PRECEPT of Sasine, John Charteris of Kinfauns, on feu charter to Alexander Burnet of Craigmyle, of the lands of Craigour, 6th October, 1563.

IOANNES CHARTEROWS de Kynfawnis dilectis nostris Ioanni Forrest . . . et eorum cuilibet coniunctim et diuisim balliuis meis in hac parte specialiter et irrevocabiliter constitutis salutem Quia assedaui arrendaui locaui et ad feudifirmam

seu perpetuam emphiteosim hereditarie dimisi dilecto meo Alexandro Burnatt de Cragmyll suis heredibus et assignatis omnes et singulas terras meas de Craghour et Fordee cum molendino et terris molendinarijs de Camphell vna cum astrictis multuris terrarum mearum [] ente de Carny versus oriens videlicet terrarum de Craighour Fordee molendinum de Camphell cum terris molendinarijs Cromoir Eister Camphell Blairhead et Wester Camphell cum vniuersis suis pendiculis et pertinencijs de antiquo solitis et consuetis iacentes in dominio de Oneill et in baronia de Lumfanane et infra vicecomitatum de Abirdeyne Tenendas in capite de me heredibus et assignatis meis in feudifirma seu emphiteosi hereditaria prout in carta mea sibi desuper conficienda latius continebitur Vobis igitur et vestrum cuilibet coniunctim et diuisim balliuis meis in hac parte antedictis precipio do in mandatis et firmiter mando quatenus saisinam et possessionem hereditariam realem actuaalem pariter et corporalem omnium et singularum dictarum terrarum de Craghour et Forde cum molendino et terris molendinarijs de Camphell cum suis pendiculis et pertinencijs vna cum astricta multura terrarum antedictarum cum pertinencijs prefato Alexandro Burnat suis heredibus et assignatis suove certo actornato vel procuratori latori presentium per terre et lapidis donationem tradatis et deliberetis seu alter vestrum tradat et deliberet secundum tenorem carte feudifirme conficiende visis presentibus sine dilatione et hoc nullo modo omitatis ad quod faciendum vobis et vestrum cuilibet coniunctim et diuisim balliuis meis in hac parte antedictis meam plenariam et irreuocabilem tenore presentium committo potestatem In cuius rei testimonium presentibus subscriptione mea manuali subscriptis sigillum meum proprium est appensum apud Ester Camffell sexto die mensis Octobris anno domini millesimo quingentesimo sexagesimo tertio coram testibus Ioanne Forbes in Souhynny magistro Roberto Skayne Roberto Runscheman Iacobo Strachine cum diuersis alijs.

JOHNE CHARTRIS of K.

ABSTRACT OF XXIII.

JOHN CHARTRIS of Kinfauns directs John Forrest to give to Alexander Burnett of Craigmyle sasine of the lands of Craghour and Fordee, with the mill and mill lands of Camphell, together with the astrict multures of the lands of Carny towards the east, namely, the lands of Craghour, Fordee, the mill of Camphell with the mill lands, Cromoir, Easter Camphell, Blairhead, and Wester Camphell, lying in the lordship of Oneill, the barony of Lumfanane and sheriffdom of Aberdeen; all which he had granted to be held of himself as set forth in a charter to be expedite thereon. At Easter Camphell, 6th October, 1563. Witnesses: John Forbes in Souhynny, Mr. Robert Skayne, Robert Runscheman, James Strachine, &c.

XXIV.

PROCURATORY by John, Commendator of Arbroath, repledging Alexander Burnet and his son John, 6th September, 1566.

VNIUERSIS pateat per presentes Nos Ioannem permissione diuina commendatarium Monasterij de Aberbrothoc et eiusdem loci tenentium vnanimo consensu et assensu fecisse constituisse et ordinasse atque tenore presentium facere constituere et ordinare honorabiles Alexandrum Cullan burgensem de Aberdyn . . . et eorum quemlibet coniunctim et diuisim nostros legitimos et indubitatos procuratores commissarios et factores ac etiam ad infrascripta nuncios speciales et generales Dantes et concedentes dictis nostris procuratoribus commissarijs et factoribus ac nuncijs prescriptis coniunctim et diuisim nostram plenariam potestatem et mandatum speciale ad comparendum et presentandum et pro nobis et loci nostri nomine coram vicecomite de Kyncardin seu eius deputatis quibuscunque in curia eiusdem tenenda apud . . . de Kyncardine vltimo die instantis Septembris seu alijs quibuscunque diebus et locis et ibidem nomine nostro Alexandrum Burnet tenentem nostrum atque possessorem et inhabitatorem terrarum de Pettinkere et Ioannem Burnet eius filium et apparentem heredem inhabitatorem terrarum de Brathinsch infra nostram regalitatem iacentium per officarios prescripti vicecomitis ad instantiam Archibaldi Douglas liberi tenementarij et Wilhelmi Douglas feodarij de Glenbervy et aliorum quorumcunque citatos atque summonitos replegiandos et reducendos atque ad curiam seu curias nostre regalitatis reduci et replegiari petendos priuilegia et iura nostre regalitatis proponenda alleganda et in medium producenda atque plegia vnum seu plura de iustitia in curijs nostris administranda inuenienda et prestanda diem etiam seu dies ad hoc assignandos et prefigendos instrumentum seu instrumenta desuper petenda et leuanda ac omnia alia et singula facienda gerenda et exercenda que in premissis necessaria visa fuerint et oportuna et que ad officium procuratorum seu commissariorum de iure et regni consuetudine dinoscuntur pertinere et que nosmet faceremus si premissis personaliter interessimus ratum gratum firmum atque stabile habentes et habituri quicquid per nostros dictos procuratores seu commissarios in premissis actum factum seu gestum fuerit sub hypotheca omnium bonorum nostrorum presentium et futurorum Datum sub sigillo officij nostre regalitatis apud idem nostrum Monasterium sexto die mensis Septembris anno supra sesquimillesimo sexagesimo sexto.

ABSTRACT OF XXIV.

JOHN, Commendator of Arbroath, constitutes Alexander Cullan, burgess of Aberdeen, his procurator, authorising him to compear on his behalf before the Sheriff of Kincardine on the last day of the month current, and to repledge to his Regality Courts Alexander Burnet his tenant, possessor of and dweller in the lands of Pettinkere, and his son and heir, John Burnet, dweller in the lands of Brathinsch, cited by the officers of the said sheriff at the instance of Archibald Douglas, free tenant, and William Douglas, feuar of Glenbervy. At Arbroath, 6th September, 1566.

XXV.

CHARTER by James VI., confirming to Alexander Burnet the charter of 26th November, 1554, to his great-grandfather (XX. *supra*), 11th May, 1585.

IACOBUS dei gratia rex Scotorum omnibus hominibus totius terre sue clericis et laicis salutem Sciatis nos quandam cartam feudifirme factam per quondam Ioannem Sanctiandree archiepiscopum cum consensu et assensu capituli ecclesie Sanctiandree metropolitane dilecto nostro Alexandro Burnet de Leyis et quondam Ionete Hammyltoun sue sponse pro tempore et eorum alteri diutius viuenti in coniuncta infeodatione et heredibus masculis inter eos legitime procreatis seu procreandis quibus deficientibus legitimis et propinquioribus heredibus masculis dicti Alexandri quibuscunque de totis et integris terris de Invery necnon dimidietate omnium et singularum terrarum de Kirkton de Banquhary cum pendiculis lie outsettis et pertinentijs earundem iacentibus in regalitate Sanctiandree baronia de Roscobay infra vicecomitatum nostrum de Kincardin Tenendas de dicto quondam archiepiscopo et suis successoribus Sanctiandree archiepiscopis in feudifirma et hereditate de mandato nostro visam lectam inspectam et diligenter examinatum sanam integram non rasam non cancellatam nec in aliqua sui parte suspectam ad plenum intellexisse sub hac forma (Here follows copy of charter granted by John, Archbishop of St. Andrews, in 1554.) Quamquidem cartam feudifirme locationem assedationem et concessionem hereditariam in eadem contentas in omnibus suis punctis et articulis conditionibus et modis ac circumstanciis suis quibuscunque in omnibus et per omnia forma pariter et effectu vt premissum est ratificamus approbamus ac pro nobis et

successoribus nostris pro perpetuo confirmamus Saluis et reseruatis nobis et successoribus nostris iuribus et seruitijs nobis et predecessoribus nostris de totis et integris prefatis terris de Invery et dimidietatem omnium et singularum prefatarum terrarum de Kirktoon de Banchorie cum pendiculis lie outsettis et pertinentijs earundem ante prefatam nostram confirmationem debitis et consuetis Preterea nos damus et concedimus ac tenore presentium pro nobis et successoribus nostris disponimus et confirmamus dicto Alexandro Burnet ac heredibus suis masculis antedictis totas et integras prefatas terras de Invery et dimidietatem omnium et singularum prefatarum terrarum de Kirktoon de Banchorie cum pendiculis lie outsettis et pertinentijs earundem vnacum omnibus iure et iuris titulo clameo proprietate et possessione que et quas nos nostri predecessores aut successores habuerunt habuimus habemus seu quouismodo ad easdem pretendere et clamare poterimus omnibus temporibus futuris ob quamcunque causam vel occasionem preteritam cum supplemento omnium defectuum In cuius rei testimonium huic presenti carte nostre confirmationis magnum sigillum nostrum apponi precepimus Testibus predilecto nostro consanguineo et consiliario Iacobo Aranie comite domino Evane Hammyltoun Dirltoun &c. cancellario nostro reuerendissimis et venerabilibus in christo patribus ac nostris consiliarijs Patricio Sanctiandree archiepiscopo Waltero commendatario prioratus nostri de Blantyre nostri secreti sigilli custode dilectis nostris familiaribus et consiliarijs Ioanne Maitland de Thirlstane milite nostro secretario Alexandro Hay de Eister Kennet nostrorum rotulorum registri ac consilii clerico Ludouico Bellenden de Auchnoul milite nostre iusticie clerico et Roberto Scot nostre cancellarie direttore Apud Halyrudhous vndecimo die mensis Maij anno domini millesimo quingentesimo octuagesimo quinto et nostri regni decimo octauo.

ABSTRACT OF XXV.

KING JAMES confirms the charter of date 26th November, 1554, by which John, Archbishop of St. Andrews, granted to Alexander Burnet of Leys and his spouse, Janet Hamilton, the lands of Invery and half the lands of Kirktoon of Banchory; reserving to the King and his successors all rights and services used and wont on account of the said lands. Confirmation dated at Holyroodhouse, 11th May, 1585. Witnesses: James, Earl of Arran; Patrick, Archbishop of St. Andrews; Walter, Commendator of Blantyre; Sir John Maitland of Thirlstane; Alexander Hay of Easter Kennet; Sir Lewis Bellenden of Auchnoul; and Robert Scot.

XXVI.

DESCRIPTION of lands in Instrument of Resignation of Leys and Muchalls,
13th July, 1609.

ALL and sindrie the Landis baronie tennandrie wodis milnes fishingis tennentis tennandreis and otheris efterspecificit w^t th^r pertenenentis Thay ar to say All and hail the Landis and baronie of Leys contening the speciall townes Landis and vtheris vnderwritten, viz. all and sindrie the Landis of Killenochclerauch w^t the mylne myllandis multures suckin outsettis partis pendicles and pertinentis thairof And speciallie the outsettis biggit within the boundis and meithis y^of callit Cullanoch Glashmoir and Dammis w^t all thair pertinentis, And all and sindrie the townes and landis Lyand w^tin the forest of Drum outw^t the park of the said forest Viz. all and hail the maness of Crathes w^t the toure fortalice maner place houssis biggingis zeardis orchezeardis wodis parkis partis pendicles and pertinentes thairof, W^t salmond fishing in the water of Die adiacent thairto, and the walkmylne of Crathes w^t the myllandis profitis and deuteis thairof, the Landis and townes of Leys, Drumsheillach, Lochtoun w^t the loch of Banquhorie Ile with the fishingis of the said Loch, Wodend, Kerleith, and Candishill w^t all thair partis pendicles and pertinentis, The cornemylne of the saidis landis and baronie of Leys callit the Nethir Mylne, W^t the multures suckin myllandis houssis biggingis toftis croftis and pertinentis thairof, With all vtheris mylnes and outseattis alsweil biggit as to be biggit vpon the saidis Landis and baronie W^t the pertinentis lyand w^tin the Schirrefdome of Kincairdin: All and Sindrie the Land and townes of Wester Cairdny w^t houssis biggingis partis pendicles outsettis mylnes multures alsweil biggit as to be biggit and all thair pertinentis lyand w^t in the said schirrefdome be annexatioun: All and sindrie the Landis and tennandrie of Mwchellis comprehending the townes Lands and vtheris respective efterspecificit Viz. all and sindrie the Landis and townes of Mwchellis w^t the maniss and maner place thairof houssis biggingis zeardis orchezeardis toftis croftis partis pendicles thairof and all thair pertinentis; All and hail the townes and Landis of Pettyot, Contlawhills, Blakbuttis, Montgatheid, Stranathro, Stralathin, Dennabuk, Quartennis and Greneheids, W^t the fische boittis fishingis and fischerlandis belanging thairto, Togidder w^t all and sindrie houssis biggingis zeardis toftis croftis milnes multures myllandis annexis connexis partis pendicles tennentis tenandries service of frie tennentis of all and sindrie the townes and Landis respective forsaidis w^t thair pertinentis, lyand in the baronie of Cowie, parochine of Ffetteresso and within the said schirrefdomme of Kincairdin: All and hail the toune and Landis of Eister

Camphill, Blairheid, Wester Camphill, Ailhouscroft th'of, Coirmoir, Craigour, the mylne th'of, myllandis astrictit multures knaifschip and suckin th'of, ffordie Mylne-toun of Camphill and the croft of land in Lumphannane callit — occupyit be Arthour Adame, and the part of the Hill of Fair w^t the foggage and pasturage thairof gevin and disponit be vmquhill Johne Charterhous of Kinfawnis To vmquhill — Skene of that ilk in fewferme, with all and sindrie annexis connexis toftis croftis partis pendicles and pertinentis of the hail landis mylnes myllandis and vtheris abouespecifiet with tennentis tennandreis and service of frie tennentis thairof lyand within the baronie of Lumphannane and schirrefdome of Abirdene: And all and sindrie the Landis of Wester Sloway, Barrowstoun Coard— croftis of the callit croft Cochrane and croft Ros w^t the hail fishing vpon the water of Die callit the fishing of Pottarche w^t tennentis tennandreis service of frie tennentis thairof, with the wode callit the Craig of Sloway lyand on the west part of the saidis landis of Sloway w^t all thair pertinentis lyand wⁱⁿ the baronie of Kincairdin Oneill and the said schirrefdome of Abirdene: With all richt title interes clame of richt propertie and possessioun quhilkis he his airis or assignais forsaidis had hes or onywayis may clame or have th^to in tyme cumming.

XXVII.

LETTERS from Dr. Duncan Burnett to his brother and nephew, 1609-12.

1. *To Thomas Burnet younger of Leys, 16th August, 1609.*

WANT of opportunitye (Loving Cooseene) not of willingness hathe caused my long silence. Nowe Coosene I know the Lord (blessed be His name therfor) hathe sawene the seed of His word in youre harte, and sett His feare befor youre eyes for th^t I doubt not butt you waite withe all youre harte for the appearance of oure Lord and Savioure Christe Jesus. Nowe mark Coosene withe what kynd of people you muste of necessitye converse you muste take carefullye head th^t you cause not youre blessed professionne to be disgraced by thoes whoes hartes are not sanctified. Remember what Christ's words are Caste not youre pearles befor swyne leaste they trad them wnder foot and turne agayne and taire you, it will not be fitt for you to be alwayes schawing youre mislyk to euerye kynd of people of yer behavioure (althoe you may grone secretly to God for them) for I knowe moste of them will onlye mock you for youre laboure to ther gryter iudgment. Wherfor you shall carye youre self wyslye withe courage and grace in youre place. Be wys as the Serpene and simple as a dowe, for ther may be a godlye gentlemane

and a religious Captane and soldioure as well as a dewote simple divine, and when God hathe maid you a maister in youre owne house then you may say withe Joesphe I and my house will fear the Lord : for you being a priwat man are noe further bound. *Verbum sapienti sic sisto.* All your friends remember you especiallye youre Aunte who lookethe euerye houre to be broght to bed whiche God in his tyme grant comfortablye to ws all. Commend me to all oure frends, to my Coosene James* of whome I desyre to hear how he doethe intelligis. Soe the Lord Blisse and direct you in th^t speciall bissines to the glorie of His owne name and your comferte this xvi. of Auguste 1609 yers.

Tuus dum sapis,

DUNCANE BURNET.

The nixte I will send you my actes and wryte euerye thing more lairglye.

2. *To the same, 15th August, 1610.*

Yf Loving Coosene you reed youre father's letter I hope you shall be satisfied for my silence : the Lord knowethe my hart to you ward, and how glaidlye I see youre Letters and hear of your well. I am glaid the Lord hathe confirmed vnto you by experience my consell in behawing youreself in reprovng of sine : wherfor good Cooseene seing the iniquitie of the tyme forbiddethe you to speake, lett youre lyfe, youre godlye and righteouse conversatioune preache as it were vnto ther conscience, and it may pleas God th^t you may doe muche good by youre good exemple ; *exempli enim tanta est efficacia ut Plato propterea idæam omnium verum principium putaret.* In the mean whill watche cairfully ouer youreselfe leaste the multiplicitie of euill whiche on euerye syd I knowe compassethe you about schould att any tyme mislead you : and giue not the leaste libertie to youre owne affectiounes to follow wickednes least Satane schould tak occasiounes agaynst you to tempe you and soe you schould dishonoure the honorable professionne of Christe. Yf you were hear Coosene I would desyr you to schawe me the place wher I did promeese you to come to Scotland th^t I might vnpromeese it agayne : for I assure you althoe my bissines (whiche you knowe will not suffer me) were not, yett youre Aunte hathe takene such ordoure, and will still take for any thing th^t I can see, th^t I can not possibly come ; for about Michaelmas was a twalfmonethe schoe was broght to bed of a mother, and is nowe reddie to be broght to bed agayne withe in this ix. or x. weekes of a boye we hopes, nowe

* James Burnet of Craigmyle, of whom below.

iudge you yf schoe doethe not hender me or nott, yett schoe willet me to tell you th^t her brotties stay soe longe that schoe fearethe you shall haue need of them youreself, as for ye border schoe prayed you yf you could to take such ordoure th^t schoe might receive it and the other things befor her lying in. Yf you have a trustie frend you might send them from Edinborrowe to Londone (yf you cann not to Norwiche) to be directed to George Whyt M^{re} Dobsones man (for William Playford is not ther) or to Thomas Free M^{re} Reymontoones man (whoe was withe you att Yarmouth) at the George in Lumbards Street to be sent to me in Norwiche. Youre water youre book and pilles I would willinglye haue sent but it was not possible to haue done it at this tyme per ambages to Londone, and then I was not certaine whither M^{re} Boner was gone. Concerning the wrettes you writt of on the toes of youre sister they are extraordinarie (yf they be wrettes) being so gryt, and dangerous being on the ioynte, soe th^t I may iustlye be affrayed to applye any thing being absent: yett becaus I would glaidlye help my litle Cooseene Mark yf they hange by a necke as it were or any wayes you cann tye about ther root a silk threed and tye it euerye day harder till it eicher cutt and consume it asunder or els hender nurishment frome cumming to them whiche you shall knowe by ther wanting or changing of ther colloure, whiche yf you perceave to be soe (yf it be needfull) you may be litle and litle cutt them of: after they ar of whether it be by cutting or withe the threed then anoynt the rootes iij tymes a daye withe scalding hott oyll till the rootes be consumed then you may skinn them with any plaster, yf you haue not take rosine one pownd, scheepes sewed half a pownd, melte them together and straine into coald water and work them ther till they look whyt lyke snowe, then make it upe in roules and keepe in blether or papere. This will heal any wond or sore yf you first strowe in it some powder of rosine and then lay on youre plasterye on a clothe. Yf you cann not tye a silk [threed] about it then anoynt it euerye daye withe scalding hott oyll for a good whill or els see yf you cann fynd a litle herbe growing in corne or wood-land called Titimallus paralius, in Englishe sea spurg or wartwort take the milk (for the iuse when it is pulled is lyk milk) therof and anoynt them often. Vse theis things and God give a blessing; after lett me hear. I merwell of James vnkynndnes th^t I neuer hear of him yett I desyre to knowe howe he doethe concerning th^t you knowe. Youre Aunte I thank God is well butt her big bellye will not lett her come to Scotland. I assure you schoe repayethe you withe trewe lowe for youre kyndnes, for I am persuaded (I being excepted) ther is noe man in the world schoe louethe better then you and desyrethe to see you withe all her harte wischethe to you accordinglye: my fater, my mother, M^{re} Dobsonne, M^{re} Newhouse, M^{re} Furnas withe all the reste of oure Christiane frends doe continuallye remember you moste kindlye wisching and praying to God to blesse

you and keep you vpright befor him what I doe the Lord knowethe my harte and occasioun shall trye it. Your Aunte hathe sent you ij paire of the beste stockings schoe could fynd for a tokene, yf they fitt schoe will be glaid. Hereafter (nos habitamus ad fontes) vpon iuste warning schoe will provyd you stockines of what fynes or pryce you desyre, only send the iuste measure of youre lege and foot. Yf God hathe provyded you a christiane mate commend vs vnto her and kisse her once for vs. Thus hora xii. noctis conniventibus oculis vela contraho, and commend you and vs all to oure good God his blessing in Christe this xv. of August 1610.

Your euer loving Vnckle

I see not Alex^r Arbuthnot.

DUNCANE BURNET.

3. *To Alexander Burnet of Leys, 15th August, 1610.*

You may iustlye merwell Loving Brother what should be cause of my longe silence: yett assure youreself ther is nothing more ioyfull to me then to writt to you and hear of you althoe many tymes (as my Cooseene Thomas knowethe) my affaires are soe many as I cann not writt in any caise. But knowe for certaintye that ther hawe beene noe Scottishmen att Norwiche tuyse sence I came home out of Germanie and not any Aberdeines men at all soe th^t althoe I langed grytlye to writt yett I could neuer find the occasioun. Nowe I receaved none of all youre Letters butt them sent by my Cooseene Alex^{re} and by M^{re} Boner, when you cann easelye gisse. As concerning my consell for youre sones I wrott breeflye by M^{re} Bonner, neuer could find occasioun since. Yett I lyk well of th^t you hawe done and the Lord blesse bothe ther studies th^t they may be one day profitable members in his Church; as for ther reste the Lord direct you alsoe to take th^t course whiche may be for his glorie and ther comfort and good. Yett I wishe you to marke ther inclinatioun leaste you loose youre charges and they ther labour in waine, for all are not made to be scollers and yett euerye one is fitt for something. You knowe what a deall of tyme and charges oure Brother Jhone lost in vaine. Such therfor as are not fitting for learning after they cann writt and reed and vnderstand Latine a litle, sett them to suche a kynd of lyf as they are moste fitting whill they are yonge, capable and framhable. It is a custome in England and all other countreyes for gentlemen to make ther second sones merchantes and of all kynd of occupatiounes and trades th^t according to God His ordinance they may liue of ther owne laboures, wher as suche as take not th^t course, they bring upp ther childrene to be vnprofitable burthenes to the contrey and commonewealthe, ydle drones living of other menes laboures and ther vpon came youre ould proverbe the ould lairdes father brother is the pooreste

man about the place, wheras yf this course wer taken the yongeste might liue as well as ye eldeste and many tymes better. Bege it of the Lord hartelye and he will direct you heerin and first be trewlye thankfull to him for his extraordinare blessinges vpon you and youres and th^t not in word butt in dead; for Christe sayeth he th^t louethe me will keep my commandementes; and watche warilye over youre owne harte and wayes leaste too gryte caire of this world drowne the better thinges in you, and leaste whill you seame to be too cairfull for youre childrene you fall into a mistruste of God his providence whoe is as hable to provyd for the yongeste of them as for you yf he be his in Christ. Lett that then be youre cheefeste caire to bring them vpe in the feare of God and in the knowledg of his word, for howe cann they feare God yf they knowe him not as he hathe reweeled himself in his word or how cann they keep his commandementes or doe his will yf they know it not; his will is reweeled in his word, soe th^t they practeece his will in holynes and righteousnes of lyf being fare frome swaring, drunkinnes, filthie liuing, malice, hatred, inuey, pryd &c. Secondlye bring them vpe verteouslye to some honeste trade of lyf, and thirdlye yf the Lord giue you some overplus of riches distribute it discretlye and wyslye amonge them, so as you may leawe withe them brotherlye lowe a speciall note of trewe chrystianite: and soe yf you leawe them never a pennie yett you haue giuene them a good patrimonie. I hope you shall find conforte in bring my Coosene Thomas vpe somewhat liberallye and freelye, for soe you shall keep him frome seaking many bad schiftes for charges, and I knowe he is noe royet nor spendthrift: his lyf was suche hear th^t he was not onlye belowed butt admired of the best, and I pray God mak you and oure frendes thankfull for him, for I hop the Lord hathe established youre house in him because he hathe sett his feare in his harte: well the Lord blesse him and finishe th^t good work he hathe begunne in him to ye glorie of his owne name and ye good of his Church. The Lord hathe blessed me about Michaelmes laste withe a daughter and the child prosperethe well and he hathe visited my wyf agayne and schoe hathe conceaued the second tyme and I hope by God his blessing schoe shall be broght to bed withe in this ix. or x. weakes. I thank God schoe is a good wyf godlye and verteous and lowethe my frendes better than her owne. My father and mother doe remember you, my sister and all the reste continuallye werye kyndlye and thank you for youre commendatioues. My wyf doethe and I doe remember oureselves hartlye to you my sister and all oure frendes and desyre one day to see you butt my calling is suche as I can not. Well oure hartes are withe you, and so we commend youe and youres to the protexioun of oure mercifull God in Christ.

Youres euer loving Brother

DUNCANE BURNET.

Norwiche this

xv. of Auguste 1610.

4. *To Thomas Burnet, younger, of Leys, 22nd September, 1610.*

I DOE not a litle reioyse (good Cooseene) att the good reporte I heare of you, and desyre you, vt *virtus laudata crescit*, soe to endeouore yourself to walke still worthie suche a reporte. As I wrott you by M^{re} Bonner, soe nowe I pray you good Cooseene come schawe me wher I did promeese you to come to Scotland th^t I may in th^t place vnpromeese it agayne : for trewlye as I haue written to youre father I knowe not howe nor when I canne come. My wyfe receaued the xii. Cussens and border frome my sister verye thankfullye and kyndlye as a tokene of a loving sister : and assure youre moother, althoe oure habilyte is not hable to requyt *quid pro quo*, yet schoe hathe as loyall and faithfull harte touard her as any sister or frend schoe hathe in Scotland, and yf schoe had not been soe byssey occupied preparing her nest (for schoe lookethe euerye houre to be broght to bed) schoe would not lett the messenger away witheout some tokene, for I prayse God whoe hathe blessed me withe a wyf th^t louethe my frendes rather better than here owne. I haue sent you purging pilles of whiche you may take ij or iij as you find them worke withe you, when you go to bed or in the morning werye tymlye, and when you ryse take some warme brothe : they will keepe many yeers, yf they be ij softe you may make them vpe withe a litle suger or liquerice powder. I haue alsoe sent you some water for the eche whiche you should vse thus : *alternis diebus partes scabiose lauentur et per se siccari permittantur, prima et secunda lotio scabiem plerumque extrahunt tertia exsiccatur et sanat.* Your book you shall alsoe receawe yet I see noe thing worthie the marking in it and it is all false writtene butt I shall one daye send you some better receptes for Chyrurgerie. Your desyne for stockines is satisfied by M^{re} Bonner. I prayse God he doethe still blesse me as you know he was wont and I hope he will continowe his mercie towards me, *etiam frementi inuidia*, for Christes cause as long as I liue and then when he doethe putt an end to all my troubles he will receawe me to his eternall mercie in Christe Jesus my Lord and Savioure. I merwell I cann not hear of my Coosene James howe he doethe. As for my Brother Robert, I heare say he standethe vpon it th^t I the yonger schould writt first to him. I merwell of th^t mynd in a diuine and soe commend me to him and tell tu *nosti qui sim ego*. Suirley I haue noe suche mynd but plaine necessitye keepethe me from performing frendly offices, I seldom writt to you butt about x. or xi. at night : nether haue I then a free mynd. My wyfe, M^{re} Dobsone, M^{re} Furnas, M^{re} Newhouse, my father, mother and all your good frend doe oftene remember you werye kyndlye. I pray you remember ws to all oure frendes and particularly to D. Liddle to whome I

will writt soe soone as I canne. Soe Coosene the Lord blesse and increse his mercie towards you.

Your loving Coseene

this 22 of Septemb. 1610.

DUNCANE BURNET.

I wrott my opinioune concerning youre legge in a letter by M^{re} Bonner.

5. *To the same, 8th February, 1612.*

LOVING and kynd Coosene the suddane knowledg of this carier hathe sent yow an emptye letter, yf a letter stufft withe a trewe and loving hart may be counted emptye. My estait I prayse God is good, I haue this yeer boght a fair house wher a maior dwelled, my wyf is big withe child and reddye to lye downe, my God blesseth^e my laboures euerye wher, and he giue me a sanctified hart th^t I may mak right vse of his blessing and glorifye him in a godlye lyf. My wyfes harte is excedinglye tyed to you and I think wishethe better to you, nixte to me, then to any one man in the world. I hop God will consider oure wishes for youre good, and mak you one day a worthy instrument of his glorie among thoes wher you liwe. Oure hart is vpright towards youre wyf thoe vnknowene for youre saik, God mak her a trew and obedient Sara to you and you a iuste Abraham to her. We long to hear in particular of you and youre. Tell Alex^r Burnet of Edinborrowe I reccaued his letter allmost a yeer after it was written but yf I cann possible gett occasioun he shall hear of me this spring, yf he haue any particulare lett him writt. Commend me to youre brother Jhon tell him he shall hear of his letter when I hear from M^{re} Guthrie. Commend vs bothe to youre kynd wyf to whom my wyfe hade sent a tokene but this messenger we think not suire, when you doe oure commendatiounes forget not youre self. Soe I commend you and youre to God his eternall mercie in Christ this viii. of Feb. 1612.

Your loving Vnckle

DUNCANE BURNET.

Schowe this messenger some kyndnes.

6. *To the same, 23rd July, 1612.*

I AM sorie Loving Coosene you seame to haue cause to compleane of my schortnes of writting but to flatter my self I think it proceeds from a good

concept you haue of my writting rather then from any want that is in my letters : yett how soeuer it be I shall endeauoure to amend it soe muche as I cann. Yet I craue pardonne att this tyme being much occupied : for assure youre self wer it not th^t theis last letters of youres haue beene too long vnansuered you schould not haue hard of me att this tyme. Yet you must knowe th^t the fault is not in me for your letters wer written in Octob. 1611, and I receawed them not befor the letter end of June, 1612, because as M^{re} Bonner wrott to me he meant continuallye to haue broght me them himself. And therfor I pray you haue me excused to oure Coosene Alex^r Burnet and by the way lett him know th^t (Lord) is no vsuall title for a physicioune heare. For this cause I cann not satisfye youre request nor M^{re} Alex^{res} vpon a suddant, but be you persuaded and assur him the same alsoe I will be myndfull of you bothe, althoe as you knowe my distractiounes ar gryt. Blessed be God Loving Coosene who hath kepte you for so good a choise and he for Christes saik blesse you together th^t you may ioyne trewlye to set his glorie befor youre eyes. I meane th^t the vnfeyned lowe of youre harts may soe appeare in youre practeese and cariadg one towards another in youre seuerall places, the one commanding the other obeying, th^t the world may sea th^t you liwe not after the commone custome of the world (whoe liwe for the moste parte rather lyk good nightbours, then lyk man and wyf) but rightly according to God his owne ordinance one helping another, one bearing withe another (for lowe cowerethe a multitud of offences) and one loving cheerresing another as ther owne flesche, for glorifyeing youre loving and mercifull God by youre godlye conversatioune, whoe is the authoure of lowe and ordoure. To this end Loving Coosene you must learne to gowerne withe gryt discretioun putting a syd all bitternes, and althoe schoe schould erre muche yett in any caise schawe noe grytlye angrie coontenance and cheeffye befor others (yea lett th^t be concluded betuene you th^t noe man nor woman euer sea or hear you grytlye angrie or bitter one to another, whiche easelye blouethe the coles of discord in generosis pectoribus) but secretly admonishe her withe all moyldnes first according to the word of God, then withe humane wisdom schawing her the necessitye of youre liwing together bothe youre profects and what gryt dangers and inconveniences may fall out yf suche and suche thinges be not amended, confirming the same by some nighboure exemple of disagrieing cupples (as I fear you may haue anewe) and always conclud withe a lowing kisse, adding gentle, courteouse persuasiounes, saying I knowe you doethe it of ignorance or of forgetfulnes and therfor I thocht good to putt you in mynd secretly because thy good is my good and thy credit is my credit and the contrarie, and therfor I desyr ye to admonishe me alsoe secretly yf need be, and lett ws wathe in the fear of God one ower another th^t we giue not others occasiounes to talk of ws or th^t we dishonoure not oure good God.

And yf schoe admonishe you at any tyme first tak it kyndly, praising her for her christiane caire and dewtye and yf need be reforme it cairfully, otherwyse schawe her withe all moyldnes wherin schoe is deceaued not denying yf need wer to reforme, and yf schoe be somewhat wilfull rather yeld to her a litle then too muche to crosse her. For when schoe seethe th^t you haue bothe wisdome to gouerne her and youre familie and alsoe to reule and maister youre owne affectiounes you shall easely prewall withe her in meaknes especiallye yf all youre actiounes and cariage be withe a zeall of God his glorie. Nam mite imperium graue imperium, for gouernoures who reule with moyldnes may command a gryt deall more att ther subiects handes then churles tyrants. Lastlye lett youre godlye christiane cariadg in word and deed doing right to all; euen to the meanest boy you keepe, be as a good scoolmaster for youre familie. And as God hitherto hathe blessed youre forbears especiallye youre father, soe as he hathe kept his credit and dignitie of his place withe the best of his nightboures soe nowe seng you beginne to liue you must cairfullye watche ouer youre wayes in the fear of God, th^t you beginne to build a good name vpon the fundatioune they haue laid and not by negligence and vndiscreet cariage seame to raise th^t good fundatioune whiche hathe stand and incresed soe many kinges reignes, to your owne discredid and the ouerthrowe of youre house. I could say much more Coosene coram but I hope this wil be ut verbum sapienti the whill I shall commend you in my prayers to oure mercifull God in Christe. As for my comming to Scotland God hathe not yet giwene occasiounes. I thirst after it as the hynd after water in the drye summer. My wyf longethe excedinglye to se you, suirly her affectiounes is gryt to all my frends especiallye to you. I haue some good hopes of a third concepciounes God be blessed. My father, mother, M^{re} Plafford and all oure frends doe continually remember you kyndlye. Remember ws most kyndly to youre father and mother to whome I cann not writt att this tyme. I pray you Coosene remember ws after the most kynd maner to oure Loving Coosene youre wyf; forget not vpone all occasiounes to commend me to D. Liddell to whom I cann not yett writt, but assure him antiquum obtineo, and bid him vse me as one of his most faithfull frends in what lyethe in my power. Thus Loving Coosene withe the best affectiounes of a loving harte I commend you and youre to the mercifull protexiounes and eternall blessing of oure loving God in Christe this 23 of Julie 1612.

Our faithfull pastor M^{re}
Newhouse hathe departed this
lyf of a dropsie almost a yeer agoe.

Your not onely Vncle but alsoe assured
loving frend in the best bond Christ Jesus

DUNCANE BURNET.

You may ask M^{re} Bonner for the stockines my wyf sent. M^{re} Dobsone said

he hath not lightly scene better. You may ask yf he payed me the money, yet say not much till you heare from me agayne, becaus he hath writt he will pay it in my name at Londone. I sent directiones befor for youre sister warts. Now it must be delayed till the spring. Let me knowe her age and yf they haue long neckes small or brod belowe, and yf they keep a iust course in tyme in rinning and what else you obserue, as howe schoe goethe to the stooill, yf her leges swell.

7. *To the same.*

I RECEAVED youre Letters Loving coosene althoe somewhat lait sent by the Scotsman th^t cam from Norwiche, who did report well of youre vsage and of youre fathers. The news in youre letter war partly comfortable propter spem fecunditatis but grytly grevous propter abortum fructum, yet I hop you and schoe bothe hawe learned of Job patiently to say God giueth and God taketh and blessed be his name. Nowe to the purpose (tyme is verry pretious) it seameth youre wyf did fall into a feauer after her delyeurye and perhappes womanes natural courses (menstrua vocant) came not orderlye or sufficientlie and therypone came all her trouble. It is hard for me to reasonne of an vnknown trouble without a tedious discours. Yf the lyk hapene agayne (quod Deus avertat) then I cann prescrywe you noe generall thing soe good and soe saif without danger as this. Tak x. peonie blackberries, tak of the black huskes and bruse the kernelles well in a mortar withe a litle suger, and giue her them to drink withe a litle whyt wine warmed withe suger; giue her soe ech morning and euening first and last for v. or vi. dayes till schoe fynd ease, and cause mak her brothe withe Borago, Buglosseum, Malva, violet leafes and strawberrie leafes without spyce; for fear of an ague lett her drinke be small, no wyne but with her medicine. Lett her smell at noe sweet thing but at strong smelling things as rewe or suche, and yf the mother ryse muche it will be good to boyll mugwort and rewe in whyt wine to a pultes and lay hot to her nawell in a clothe. That payne in her backe kidnes sornes in her bodye cometh only of the stone whiche troubling the back breadeth wynd in the bodye. Nam dolor colicus qui flatuosus est plerumque semper comitatur calculum vnde vulgus sic dicit the colick and the stone, and it was the stone th^t procured the vomiting when schoe lay in. The reason why schoe grvida is more troubled is quia viæ (vreteres dicte) a renibus ad vesicam coarctantur ab incumbente vtero distento fœtu, wheras in non prægnante viæ patentiores non facile sentiunt arenulas descendentes, and therfor D. Strawqhvene is deceawed quia putat ex calore in nimio coitu arenulas indurari, nam calor non generat lapides nisi ex idoneo semine et stultum est putare calorem

in coitu proprietatem hanc magis habere quam alias. Tyme will not giue me leawe to satisfye you and to tak away th^t fond concept, for nullus externus calor generat lapidem potest adiuuare sed internus lapidis calor, for we see verye hott men not troubled at all therwithe and agayne waik faynt men muche troubled, agayne we see iuuenes et in florente et in calidissima aetate not troubled, decrepidos et frigidos senes tunc primum incipere grauissime laborare ut inde appareat quid potest externus vel calor dorsi in generatione calculi, aliquantulum minimum eum promovere non autem generare, ut sol semen marcidum nunquam generare fœcundum vero et calore interno plenum cum scilicet exitando, efficere potest, and therfor you need not for th^t cause abstinere ab amplexu mutuo, yet my consell is ut moderate vtaris ne ab agitatione vtus assuetus dimittere fœtum precipue circa illud tempus quo antea abortiat. Lett her vse for easing of the gravell wild mallows in her brothe, fawrefyuge, betonie, nettles and strawberri-leafes; lett her tak head of walking suddantlye after meat but rather lay downe a whill, but sleep not; lett her not walk vpe hilles or staires muche, lep, iump or rathe fare and bewar of all thinges th^t may muche strane her bodye. I would willingly further what I could but tyme will give noe leawe. I will not forget her at another tyme but messengers ar so raire and vncertane as th^t I cann not tell when nor howe to writt to you or Alex^r Burnet whiche I would willingly doe. I thank God

XXVIII.

CHARTER by James, Marquis of Hamilton, to Alexander Burnett, of an annual rent from Pittenkeirie, &c., 13th May, 1614.

OMNIBUS hanc cartam visuris vel audituris Iacobus marchio de Hammiltoun comes Arranie dominus Aven et Abirbrothok &c. Salutem in domino sempiternam Noueritis nos pro perimpletione cuiusdam contractus hac in parte eiusdem penes presens infeofamentum inter nos ab vna et honorabilem virum Alexandrum Burnett de Leyis partibus ab altera initi et confecti virtute cuius ac pro pecuniarum summis in dicto contractu specificatis prefatum Alexandrum suos heredes masculos et assignatos hereditarie in feudifirme firma et deuoria subsequentibus infeodare tenemur prout in dicto contractu de data presentium plenius continetur vendidisse tituloque pure venditionis alienasse et hac presenti carta nostra confirmasse necnon tenore presentium vendere tituloque pure venditionis alienare et hac presenti carta nostra confirmare prefato Alexandro Burnett de Leyis et heredibus suis masculis et assignatis quibuscunque hereditarie

et irredimabiliter absque vlla reuersione redemptione aut regressu Totum et integram illam feudifirme firmam et deuoriam viginti librarum trium solidorum et quatuor denariorum vsualis monete regni Scotie quam habemus annuatim levandam et percipiendam ad duos anni terminos consuetos festa videlicet pentecostes et Sancti Martini in hieme per equales portiones de totis et integris terris et villis de Pittenkerie Brathange Inuercanny cum molendino eiusdem Kynneskie et Diracraft cum omnibus et singulis suis partibus pendiculis et pertinentijs iacentibus in dominio nostro de Abirbrothok baronia de Banchorie Ternan et infra vicecomitatum de Kincardin Que terre aliaque prescripta cum pertinentijs per nos dicto Alexandro et suis antedictis virtute dicti contractus disposita sunt et quamquidem feudifirmam et devoriam ipsi nobis nomine feudifirme pro eisdem terris et alijs antedictis soluere tenebantur Tenendam et habendam totam et integram predictam feudifirme firmam et devoriam viginti librarum trium solidorum et quatuor denariorum monete antedecte annuatim levandam et percipiendam ad terminos antedictos per equales portiones de totis et integris terris molendino alijsque antedictis cum pertinentijs vt premittitur iacentibus prefato Alexandro heredibus suis masculis et assignatis de nobis heredibus et successoribus nostris in feodo et hereditate imperpetuum cum libero introitu et exitu ac cum omnibus alijs et singulis libertatibus commoditatibus proficuis asiamentis ac iustis suis pertinentijs quibuscumque ad dictam feudifirme firmam spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace sine aliquo impedimento contradictione aut obstaculo aliquali Reddendo inde annuatim prefatus Alexander Burnet de Leyis heredes sui masculi et assignati antedicti nobis et successoribus nostris vnum denarium vsualis monete regni Scotie super solum dictarum terrarum in festo Pentecostes nomine albefirme si petatur tantum pro omni alio onere exactione questione demanda seu seruitio seculari que de dicta feudifirme firma et deuoria per quoscunque exigi poterint quomodolibet vel requiri Et nos vero et successores nostri totam et integram dictam feudifirme firmam et deuoriam viginti librarum trium solidorum et quatuor denariorum monete antedecte annuatim levandam et percipiendam ad terminos antedictos per equales portiones de totis et integris terris molendino alijsque suprascriptis cum pertinentijs vt premittitur iacentibus prefato Alexandro Burnet de Leyis heredibus suis masculis et assignatis hereditarie et irredimabiliter absque vlla reuersione redemptione aut regressu in omnibus et per omnia forma pariter et effectu vt premissum est (a nostris proprijs factis tantummodo) et non alias aliter neque alio modo in warrantatione dicte feudifirme firme et devorie quouismodo astringemur secundum tenorem dicti contractus in omnibus contra omnes

mortales warrantizabimus acquietabimus et imperpetuum defendemus Insuper dilectis nostris . . . et vestrum cuilibet coniunctim et diuisim balliuis nostris in hac parte specialiter constitutis salutem vobis precipimus et firmiter mandamus quatenus visis presentibus sasinam hereditariam ac possessionem corporalem actualem et realem totius et integre dicte feudifirme firme et devorie viginti librarum trium solidorum et quatuor denariorum monete antedicte annuatim leuande et percipiende ad terminos antedictos per equales portiones de totis et integris terris molendino aliisque suprascriptis cum pertinentijs vt premittitur iacentibus prefato Alexandro Burnett de Leyis vel suo certo actornato latori presentium per terre et lapidis fundi dictarum terrarum lie Clap dicti molendini ac vnus denarij (vt moris est) traditionem secundum vim formam et tenorem antescripte carte nostre iuste haberi faciatis tradatis et deliberetis et hoc nullo modo omittatis Ad quod faciendum vobis et vestrum cuilibet coniunctim et diuisim balliuis nostris in hac parte antedictis nostram plenariam irreuocabilem presentium tenore committimus potestatem In cuius rei testimonium huic presenti carte nostre preceptum sasine in se continenti manu Thome Wilsoun scribe in Hammiltoun nostri seruitoris conscripte manuque nostra subscripte sigillum nostrum est appensum Apud Abirbrothok decimo tertio die mensis Maij anno domini millesimo sexcentesimo decimo quarto coram his testibus Dauide Carnegy de Kynnaird milite domino Ioanne Hammiltoun de Lettrik milite domino Ioanne Carnegy de Athie milite et dicto Thoma Wilsoun scriba.

HAMMILTON.

Kynnard witnes
I. Carnegy Athie witnes
I. Lettrik witnes
Tho. Wilsoun witnes

ABSTRACT OF XXVIII.

JAMES, Marquis of Hamilton, in consideration of a sum of money received, commutes in favour of Alexander Burnett of Leys a feu-duty of 20 *lib.* 3s. 4d. from his lands of Pittenkeirie, Brathange, Invercanny, with the mill thereof, half of Banchory Ternan, with the ferry boat thereof, Kynneskie and Diracraft, in the lordship of Arbroath, barony of Banchory Ternan and sheriffdom of Kincardine; into a blench duty of 1d. At Arbroath, 13th May, 1614. Witnesses: Sir David Carnegy of Kynnaird, Sir John Hamilton of Lettrik, Sir John Carnegy of Athie, and Thomas Wilson, writer in Hamilton.

XXIX.

CHARTER by James, Marquis of Hamilton, to Alexander Burnett, of the greater tithes of Banchory, 13th May, 1614.

OMNIBUS hanc cartam visuris vel audituris Iacobus marchio de Hammiltoun comes de Arrane dominus Aven et Abirbrothok salutem in domino sempiternam Noueritis nos pro perimptione cuiusdam contractus (hac in parte eiusdem penes presens infeofamentum) inter nos ab vna et honorabilem virum Allexandrum Burnett de Leyis partibus ab altera initi et confecti virtute cuius ac pro pecuniarum summis in dicto contractu specificatis prefato Allexandro suis heredibus masculis et assignatis hereditarie in terris molendino decimis garbalibus alijsque subsequentibus infeodare tenemur prout in dicto contractu de data presentium latius continetur concessisse vendidisse tituloque pure venditionis alienasse et hac presenti carta nostra confirmasse necnon concedere vendere tituloque pure venditionis alienare et hac presenti carta nostra confirmare prefato Allexandro Burnett de Leyis suisque heredibus masculis et assignatis quibuscunque hereditarie et irredimabiliter absque vlla reuersione redemptione seu regressu totas et integras terras nostras subsequentes videlicet totas et integras villas et terras de Pittinkere Brathange Inuercanny cum molendino eiusdem et dimidietatem partem ville de Banchorie Terny cum cymba lie ferry boat eiusdem Kynneskie et Deracroft cum omnibus et singulis suis partibus pendiculis et pertinentijs iacentes in dominio nostro de Abirbrothok baronia de Banchorie Ternan et infra vicecomitatum de Kincardin (Que terre aliaque suprascripta nobis perprius in superioritate et dicto Alexandro in proprietate pertinuerunt) Ac etiam omnes et singulas decimas garbales totius et integre parochialis ecclesie et Parochie de Banchory Ternan cum omnibus et singulis suis pertinentijs iacentium infra diocesim de Abirdene et vicecomitatum de Kincardin antedictum Tenendas et habendas totas et integras predictas villas et terras de Pittinkere Brathange Inuercanny cum molendino eiusdem et dimidietatem partem dicte ville de Banchorie Terny cum cimba lie ferry boat eiusdem Kynnesky et Deracroft cum omnibus et singulis suis partibus pendiculis et pertinentijs necnon omnes et singulas dictas decimas garbales totius et integre dicte parochialis ecclesie et parochiæ de Banchory Ternan cum omnibus et singulis suis pertinentijs vt supra iacentes prefato Alexandro Burnet de Leyis heredibus suis masculis et assignatis quibuscunque hereditarie et irredimabiliter absque vlla reuersione redemptione seu regressu vt premissum est de nobis heredibus et successoribus nostris in feodo hereditate et libera alba firma imperpetuum per omnes rectas metas suas antiquas

et diuisas prout dicte terre aliaque prescripta cum pertinentijs iacent in longitudine et latitudine in domibus edificijs boscis planis moris marresijs vijs semitis aquis stagnis riuolis pratis pascuis et pasturis molendinis multuris et eorum sequelis Aucupationibus venationibus piscationibus petarijs turbarijs carbonibus carbonarijs cunniculis cunnicularijs columbis columbarijs fabrilibus brasinis bruerijs et genestis siluis nemoribus et virgultis lignis tignis lapicidijs lapide et calce cum curijs et earum exitibus herezeldis bluduetis et mulierum merchetis cum communi pastura liberoque introitu et exitu ac cum omnibus alijs et singulis libertatibus commoditatibus proficuis asiamentis et iustis suis pertinentijs quibuscunque tam non nominatis quam nominatis tam subtus terra quam supra terram procul et prope ad dictas terras decimas garbales aliaque antedicta cum pertinentijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace sine aliquo impedimento reuocatione contradictione aut obstaculo aliquali Reddendo inde annuatim dictus Allexander Burnet de Leyis heredesque sui masculi et assignati nobis heredibus et successoribus nostris vnum denarium vsualis monete regni Scotie in die festi Pentecostes nomine albefirme si petatur necnon soluendo ministro curam habenti apud dictam ecclesiam de Banchorie Ternan presenti et futuro suisque successoribus annum stipendium hactenus assignatum vel ipsis assignandum secundum regis ecclesie delegatorum decreta vulgo lie Platt super ministrorum stipendijs annuis et perpetuis in omnibus et liberando nos nostrosque predictos de eisdem omni tempore futuro et similiter relevando nos nostrosque prescriptos de mansione et gleba hactenus designatis vel designandis ministro de Banchorie Ternan suisque successoribus presentibus et futuris et etiam liberando nos omni tempore futuro de emendatione reparatione et sustentatione totius ecclesie de Banchorie Ternan et lie Queir eiusdem cum pertinentijs toties quoties necesse fuerit necnon relevando nos heredes et successores nostros ac etiam dictum ministrum de Banchorie Ternan et suos successores ac omnes alios interesse habentes de omnibus quibuscunque taxationibus magnis et parvis tam ecclesie quam regis impositionibus et de omnibus alijs oneribus ordinarijs et extraordinarijs quibuscunque que imponentur super dictum dominium nostrum de Abirbrothok omni tempore futuro prout extendentur aut correspondentur predictis terris molendino et decimis garbalibus dicte ecclesie parochialis de Banchory Ternan secundum indictionum rotulas dicti dominij nostri de Abirbrothok desuper conficiendas in omnibus secundum tenorem contractus antedicti in hac parte eiusdem tantum pro omni alio onere exactione questione demanda seu seruicio seculari que de dictis terris molendino et decimis garbalibus cum pertinentijs per quoscunque iuste exigi poterint quomodolibet in futurum vel requiri Et nos vero heredes et successores nostri totas et integras dictas villas et terras de Pettinkere

Brathange Inuercanny cum molendino eiusdem et dictam dimidietatem partem dicte ville de Banchoriety cum cimba lie ferrieboat eiusdem Kynneskie et Diracroft cum omnibus suis pertinentijs necnon omnes et singulas dictas decimas garbales totius et integre dicte ecclesie parochialis et parochie de Banchorie Ternan cum omnibus suis pertinentijs prefato Alexandro Burnett de Leyis suisque heredibus masculis et assignatis quibuscunque hereditarie et irredimabiliter absque vlla reuersione redemptione aut regressu vt premissum est in omnibus et per omnia forma pariter et effectu vt premittitur contra omnes mortales a nostris proprijs factis tantummodo et non alias aliter neque alio modo indicto warrantizatione earundem quouismodo astringemur secundum tenorem antedicti contractus in omnibus punctis warrantizabimus acquietabimus et imperpetuum defendemus Insuper dilectis nostris et vestrum cuilibet coniunctim et diuisim balliuis nostris in hac parte specialiter constitutis salutem vobis precipimus et mandamus quatenus visis presentibus indilate statum sasinam hereditariam pariter et possessionem corporalem actualem et realem totarum et integrarum dictarum villarum et terrarum de Pettinkere Branthange Inuercanny cum molendino eiusdem et dicte dimidietatis partis dicte ville de Banchorie Terny cum cimba lie ferry boat eiusdem Kynneskie et Diracroft cum omnibus et singulis suis partibus pendiculis et pertinentijs necnon omnium et singularum dictarum decimarum garbaliu totius et integre dicte ecclesie parochialis et parochie de Banchory Ternan cum omnibus et singulis suis pertinentijs vt supra iacentium prefato Alexandre Burnett de Leyis vel suo certo actornato latori presentium (vt moris est in similibus) secundum tenorem antescripte carte nostre iuste haberi faciatis et hoc nullo modo omittatis ad quod faciendum vobis et vestrum cuilibet coniunctim et diuisim balliuis nostris in hac parte antedictis nostram plenariam et irreuocabilem presentium tenore committimus potestatem In cuius rei testimonium huic presenti carte nostre preceptum sasine in se continenti manu Thome Wilsoun scriba in Hammiltoun nostri seruitoris conscripte manaque nostra subscripte sigillum nostrum est appensum Apud Abirbrothok decimo tertio die mensis Maij anno domini millesimo sexcentesimo decimo quarto coram his testibus domino Dauide Carnegy de Kynnaird milite domino Ioanne Hammiltoun de Lettrik milite domino Ioanne Carnegy de Athie milite et dicto Thoma Wilsoun scriba.

HAMILTON.

Kynnard witnes
 I. Carnegy Athie witnes
 I. Lettrik knicht witnes
 Tho. Wilsoun witnes

ABSTRACT OF XXIX.

JAMES, Marquis of Hamilton, in consideration of a sum of money received, grants to Alexander Burnett of Leys the lands of Pittenkeirie, &c. (as in XXVIII.), together with the greater tithes of the Parish Church and Parish of Banchory Ternan: to be held of the granter for a blench duty of 1*l.*, and payment of the stipend of the minister of the said church, of all outlays necessary for the upkeep of the church, manse, and glebe, and of all burdens incident thereon. Place, date, and witnesses as in XXVIII.

XXX.

CHARTER of novodamus by James VI. to Alexander Burnett, of the lands of Pittenkeirie, Brathinch, Invercanny, &c., 17th March, 1617.

IACOBUS dei gratia magne Britannie Francie et Hibernie Rex fideique defensor omnibus probis hominibus totius terre sue clericis et laicis salutem Sciatis nos dedisse concessisse et hac presenti carta nostra confirmasse tenoreque eiusdem dare concedere hereditarie disponere ac pro nobis et successoribus nostris pro perpetuo confirmare dilecto nostro Alexandro Burnet de Leyis suisque heredibus masculis et assignatis quibuscunque totas et integras villas et terras de Pittenkerie Brathange Inuercannye cum molendino eiusdem et dimidia parte ville de Banchorie Ternan cum lie ferrieboitt eiusdem Kynneskie et lie Deracraft cum omnibus et singulis suis partibus pendiculis et pertinentijs vnacum superioritate earundem iacentes infra dominium de Abirbrothok baroniam de Banchorie Ternan et vicecomitatum nostrum de Kincardin quarum quidem proprietates per prius ad dictum Alexandrum per ipsum suosque predecessores de abbatibus de Aberbrothok in feudifirma immediate tenta pertinebat Necnon omnes et singulas decimas garbales totius et integre ecclesie parochialis et parochie de Banchorie Ternan cum omnibus et singulis suis pertinentijs iacentium infra diocesim de Abirdene et vicecomitatum nostrum predictum Quequidem ville terre molendinum crofte aliaque prescripta cum superioritate earundem vnacum dictis decimis garbalibus predicte ecclesie parochialis et parochie de Banchorie Ternan cum omnibus et singulis suis pertinentijs ad predilectum nostrum consanguineum Iacobum marchionem de Hammiltoun comitem de Arrane dominum et Evane et Aberbrothok tanquam partes et pendicule abbacie de Aberbrothok et patrimonij eiusdem nunc in temporale dominium erecte per ipsum de nobis libera albafirma immediate tente per prius pertinerunt et quas idem noster consanguineus et

dictus Alexander Burnet de Leyes pro se ipso suoque iure et interesse per eorum legitimos procuratores literasque patentes ad hunc effectum legitime constitutos in manibus dominorum secreti concilij huius regni nostri Scotie tanquam in manibus nostris immediati superioris earundem nostramque specialem potestatem et commissionem habentium omnes resignationes recipiendi et desuper nova infeofamenta concedendi per fustim et baculum vt moris est apud Edinburgum resignaverunt renunciauerunt et simpliciter extradonaverunt cum omnibus iure titulo interesse et iurisclameo proprietate et possessione que seu quas ipse vel eorum aliquis in et ad easdem habuerunt habuit seu quouismodo habere vel clamare poterint in futurum in specialem fauorem dicti Alexandri Burnet ac pro hoc nostro infeofamento sibi suisque heredibus masculis et assignatis sub nostro magno sigillo in debita et competenti forma modo subsequenti desuper concedendo prout autentica instrumenta inde suscepta latius proportant Preterea pro bono fideli et gratuito seruicio nobis prenobilibusque nostris predecessoribus dicti regni nostri de nouo dedimus concessimus disposuimus et hac presenti carta nostra confirmauimus tenoreque eiusdem de nouo damus concedimus hereditarie disponimus ac pro nobis et successoribus nostris pro perpetuo confirmamus prefato Alexandro Burnet suisque heredibus masculis et assignatis quibuscunque totas et integras dictas villas et terras de Pittenkerie Brathange Inuercannye cum molendino eiusdem et dimidiam partem dicte ville de Banchorie Ternan cum dicto lie ferrieboitt eiusdem Kinnesky et lie Deracroft ac omnes et singulas suas partes pendiculas et pertinentias tam proprietatem quam superioritatem necnon omnes et singulas dictas decimas garbales totius et integre dicte ecclesie parochialis et parochie de Banchorie Ternan cum omnibus et singulis suis pertinentijs iacentes respectiue vt supra vnacum omnibus iure titulo interesse iurisclameo proprietate et possessione que nos predecessores aut successores nostri habuimus habemus seu quouismodo habere clamare aut pretendere poterimus aut poterint in et ad eadem vel ad aliquam partem pendiculam aut portionem earundem firmas canas proficua et deuorias custumas et casualitates eiusmodi quorumcunque annorum vel terminorum presentium aut futurorum ratione warde nonintroitus releuij forisfacture recognitionis purpresture disclamationis bastardie escaete vitalis redditus appretiationis non confirmationis non productionis iurium titularum et infeofamentorum non solutionis preteritarum deuoriarum reductionis infeofamentorum et retornatum vel annullationis earundem non confirmationis aut virtute quorumcunque actorum nostri parlamenti legum vel constitutionum huius regni aut pro quacunque alia causa facto aut occasione preterita diem datamque presentium precedenti renunciando quieteclamando et simpliciter exonerando eisdem cum omnibus actione instantia et executione nobis vel successoribus nostris desuper competentibus prefato Alexandro Burnet suisque

heredibus masculis et assignatis ac in eorum fauorem pro nunc et imperpetuum cum pacto de non petendo et cum supplemento omnium aliorum defectuum obiectionum et imperfectionum quorumcunque tam non nominatorum quam nominatorum que nos tanquam pro expressis in hac presenti carta nostra haberi volumus ac cum eisdem pro nobis et successoribus nostris dispensamus in perpetuum Et similiter nos intelligentes quod dictus Alexander Burnet sui que heredes et successores virtute suorum iurium titularum dictarum decimarum garbaliū specialiter tenentur et astringuntur in solutionem ministro dicte ecclesie de Banchorie Ternan suisque successoribus ministris cure ibidem inseruientibus bone sufficientis et constantis provisionis et stipendij atque etiam dictus Alexander suis magnis sumptibus et expensis hactenus edificavit reparavit et decoravit dictam ecclesiam et multis alijs modis testimonium sui amoris et affectionis ad gloriam Dei et propagationem vere religionis iam professe et ad tuitionem eiusdem Igitur ac pro multis alijs bonis respectibus et considerationibus nos mouentibus cum auisamento et consensu antedictorum necnon cum consensu magistri Roberti Reid presentis titularij et ministri cure apud dictam ecclesiam de Banchorie Ternan inseruientis secundum suas literas consensus et dimissionis ad hunc effectum factas et concessas dedimus concessimus disposuimus et hac presenti carta nostra confirmauimus tenoreque eiusdem damus concedimus disponimus et pro nobis et successoribus nostris pro perpetuo confirmamus dicto Alexandro Burnet suisque heredibus masculis et assignatis quibuscunque aduocationem donationem et ius patronatus dicte ecclesie de Banchorie Ternan tam rectorie quam vicarie eiusdem ac facimus constituimus et ordinamus dictum Alexandrum suosque predictos indubitatos et irreuocabiles patronos eiusmodi cum potestate ipsis semper et quotiescunque dicta ecclesia rectoria et vicaria eiusdem per mortem dimissionem depriuationem inhabilitatem possessorum presentium aut futurorum aut aliter quovismodo vacare contigerit tunc et toties aptos idoneos et qualificados personas ad easdem legitime nominandi et presentandi omniaque alia et singula ad dictam aduocationem donationem et ius patronatus spectantia vtendi fruendi et exercendi eodem modo adeoque libere ac quivis alter patronus infra dictum nostrum regnum fecerit seu in simili casu facere poterit in futurum Ac etiam tenore presentis carte nostre cum consensu antedictorum pro nobis et successoribus nostris vnivimus annexavimus et incorporauimus omnes et singulas decimas garbales predictas totius et integre dicte ecclesie parochialis et parochie de Banchorie Ternan vnacum dicto iure patronatus et omnibus suis pertinentijs in et ad dictam villam et terras de Pittenkerie et reliquas terras supraexpressas cum eisdem omni tempore futuro inseperabiliter remanentes Necnon volumus et concedimus et pro nobis et successoribus nostris decernimus et ordinamus quod vnica sasina nunc per dictum Alexandrum et omni tempore futuro per suos

heredes masculos et assignatos super fundo dictarum terrarum de Pittenkerie seu apud maneriem eiusdem capienda stabit et erit tam valida et sufficiens pro omnibus et singulis particularibus villis terris alijsque supraspecificatis ac si singule et particulares sasine desuper caperentur et ac si dicte ville terre molendinum decime garbales aliaque prescripta simul et contigue iacerent et non in diuersis partibus et locis et non obstantibus eiusdem super quibus omnique alia obiectione que in contrarium proponi poterit nos pro nobis et successoribus nostris per presentis carte nostre tenorem dispensamus imperpetuum Tenendas et habendas omnes et singulas predictas villas et terras de Pittenkerie Brathange Inuercannye cum molendino eiusdem et dimidiam partem ville de Banchorie Ternan cum dicto lie ferry boitt eiusdem Kynneskie et lie Deracraft cum omnibus et singulis suis pertinentijs tam proprietatem quam superioritatem earundem necnon omnes et singulas dictas decimas garbales totius et integre dicte ecclesie parochialis et parochie de Banchorie Ternan cum omnibus et singulis suis pertinentijs iacentes respectiue ut dictum est vnacum dicta aduocatione donatione et iure patronatus dicte ecclesie de Banchorie Ternan et rectorie et vicarie eiusdem alijsque predictis prefato Alexandro Burnet suisque prescriptis de nobis et successoribus nostris in feodo hereditate ac libera albafirma imperpetuum per omnes rectas metas suas antiquas et diuisas prout iacent in longitudine et latitudine in domibus edificijs boscis planis moris marresijs vijs semitis aquis stagnis riuolis pratis pascuis et pasturis molendinis multuris et eorum sequelis aucupationibus venationibus piscationibus petarijs turbarijs carbonibus carbonarijs cuniculis cunicularijs columbis columbarijs fabrilibus brasinis bruerijs et genestis siluis nemoribus et virgultis lignis tignis lapicidijs lapide et calce cum curijs et earum exitibus herezeldis bluduitis et mulierum merchetis cum communi pastura liberoque introitu et exitu ac cum omnibus alijs et singulis libertatibus commoditatibus proficuis asiamentis ac iustis suis pertinentijs quibuscunque tam non nominatis quam nominatis tam subtus terra quam supra terram procul et prope ad predictas terras aliaque respectiue et particulariter supramentionata cum pertinentijs spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace absque vlla reuocatione impedimento aut obstaculo quocunque Reddendo annuatim dictus Alexander suiue predicti nobis et successoribus nostris pro omnibus et singulis dictis villis terris molendino tam proprietate quam superioritate earundem et etiam pro omnibus et singulis dictis decimis garbalibus dicte ecclesie parochialis et parochie de Banchorie Ternan summam sex solidorum et octo denariorum vsualis monete dicti regni nostri Scotie in die festi Penthecostes nomine albefirme si petatur Necnon solvendo ministro cure inservienti apud dictam ecclesiam de Banchorie presenti et futuro suisque successoribus curam ibidem habentibus annum

stipendium hactenus assignatum vel ipsis postea assignandum secundum ecclesie delegatorum decreta vulgo lie Platt super ministrorum stipendijs in omnibus et relevando dictum nostrum consanguineum Iacobum marchionem de Hammyltoun suosque predictos de eisdem omni tempore futuro et similiter relevando ipsos de mansione et gleba hactenus designatis vel postea designandis ministro de Banchorie Ternan et suis successoribus presentibus et futuris necnon etiam liberando dictum nostrum consanguineum suosque predictos omni tempore futuro de emendatione reparatione et sustentatione dicte ecclesie et lie Queir eiusdem toties quoties opus fuerit et liberando dictum nostrum consanguineum suosque predictos et dictum ministrum de Banchorie Ternan et suos successores ac omnes alios interesse habentes de omnibus et quibuscunque taxationibus magnis et paruis tam ecclesie quam regijs impositionibus et de omnibus alijs oneribus ordinarijs et extraordinarijs quibuscunque que imponentur seu imponi poterint super dictum dominium de Aberbrothok omni tempore futuro prout extendentur seu correspondentur predictis terris molendino et decimis garbalibus dicte ecclesie parochialis de Banchorie Ternan secundum indictionum rotulas dicti dominij de Aberbrothok desuper conficiendas in omnibus Necnon reddendo annuatim nobis nostrisque successoribus predictus Alexander pro aduocatione donatione et iure patronatus dicte ecclesie de Banchorie Ternan rectorie et vicarie eiusdem vnum denarium monete predicte nomine albefirme si etiam petatur tantum In cuius rei testimonium huic presenti carte nostre magnum sigillum nostrum apponi precepimus Testibus predilectis nostris consanguineis et consiliarijs Iacobo marchione de Hammyltoun comite Aranie domino Evane &c. et Georgio Mariscalli comite domino Keith &c. regni nostri Mariscallo Alexandro comite de Dumfermling domino Fyvie et Vrquhart &c. Cancellario nostro Thoma domino Bynnyng nostro secretario dilectis nostris familiaribus consiliarijs dominis Ricardo Cokburne seniore de Clerkingtoun nostri secreti sigilli custode Georgio Hay de Nathercliff nostrorum rotulorum registri ac concilij clerico Ioanne Cokburne de Ormestoune nostre iusticie clerico militibus et magistro Ioanne Scott de Scottistavett nostre cancellarie direttore Apud Roystoun decimo septimo die mensis Martij anno domini millesimo sexcentesimo decimo septimo regnorumque nostrorum annis quinquagesimo et decimo quarto.

ABSTRACT OF XXX.

KING JAMES grants de novo to Alexander Burnett of Leys the lands of Pittenkeirie, &c. (as in XXVIII.), formerly held by the said Alexander and his predecessors in feu farm of the abbots of Arbroath, with the superiority thereof, also the greater tithes of Banchory Ternan (as in XXIX.), all of which belonged

to James, Marquis of Hamilton, as parts and pendicles of the Abbey of Arbroath now erected into a temporal lordship held of the King in blench farm, and were resigned by the said Alexander and Marquis of Hamilton for new infestment to the said Alexander; and, in respect that the grantee of the tithes is burdened with payment of the stipend of the minister of Banchory Ternan, and has spent great sums in building, repairing and decorating the church, the King, with consent of Mr. Robert Reid, present titular and minister, grants to the said Alexander the patronage of the said church; and incorporates the said tithes and patronage with the said lands: to be held of the King for a blench duty of 6s. 8d., and payment of stipend, &c. (as in XXIX.), and, for the patronage, of a blench duty of 1d. At Roystoun, 17th March, 1617. Witnesses: James, Marquis of Hamilton; George, Earl Marischal; Alexander, Earl of Dunfermline; Thomas, Lord Binning; Sir Richard Cockburn of Clerkington; Sir George Hay of Nethercliff; Sir John Cockburn of Ormeston; and Mr. John Scott of Scotstarvet.

XXXI.

DISPOSITION of lands in Nova Scotia to Sir Thomas Burnet, Knight,
7th November, 1625.

BE it kend till all men be thir present letters, me, Sir William Alexander of Menstrie, knyght, heretabill proprietor of the landis and vtheris vnderwritten, lyand in the countrie and dominioune of New Scotland in America, ioyning to the boundis of New England thair, ffor certane sowmes of money, vtheris gratitudes, pleisours and guid deidis peyit and done to me, be Sir Thomas Burnet of Leyis, knyght, for making and granting of thir presentis, and for vther caussis onerous moving me, to haif sauld annaliet and disponit, lyke as I be the tennour heir of sell annalie and dispone fra me, my airis and successours, and vtheris my assigneyis, to and in favour of the said Sir Thomas Burnet, his airis maill and assigneyis quhatsumeuir, heretable and irredimable, but ony maner of reversioun or redemptioun regres band promeis or conditioun of reversioun or redemptioun quhatsumeuir, all and haill that part and portioun of the saidis landis, countrie and dominioune of New Scotland, particularlie boundit and limitat as follows: to witt, haifing the landis and barony of Ilvingstoun Donypace on the west, and from thence going eistward alongis the seacant foiranent Argull Bay, and thairefter going northwart in the mayne land sex myllis, keiping alwayis thrie myllis in breid betuix eist and west and sex myllis in lenth betuix south and north,

till the quantitie thairof extend to sextene thowsand aikeris of land, with castellis, touris, fortalices, maner places, houssis, bigingis, extractit and to be extractit, yairdis, orchardis, plantit and to be plantit, toftis, croftis, parkis, leasouris, medowis, mylnes, mylnelandis, multouris, and suckin wodes, fischings, alsweill of reid as of quhyte fisches, salmond and vtheris, great and small, baythe in fresche and salt wateris, advocatioune and donatioune of benefices, kirkis and chaplanries and rychtis of patronages of the samen, annexis, connexis, dependances, tennentis, tenandries, service of frie tennentis of the landis and vtheris abouewrittin, togidder with all and syndrie teynd scheuis and otheris teyndis, alsweill personage as vicarage of the landis, fischingis and vtheris abouespecifeit includit, with all and syndrie mynes, minerallis, vaynes, rokis and quarrellis thairof, alsweill of metallis and minerallis, regall and royall of gold and silver within the saidis boundis and landis, as vtheris mynes of yrone, steill, tyn, leid, copper, bras, lattoun and vtheris minerallis quhatsumeuir, togidder with all and syndrie precious stones, gemmes, pearlis, crystall, alome, corall, and vtheris; and full power, priviledge and iurisdictione of frie regalitie within all and hail the forsaidis boundis and landis, and all and syndrie partis, pendicles, priviledges and commodities of the samen landis and vtheris abouementionat, and with all and syndrie vther and the lyke priviledges, iurisdictiones, liberties, immunities, exemptiounes, commodities, customes and vtheris quhatsumeuir within the boundis of the saidis landis heirby disponit or concerning or belanging to the samen, or the plantatioune thairof, or to the heritours or inhabitantis of the samen particularlie and generallie contanit in the infestment grantit be His Maiestie, vnder his hienes great seill, to Sir Robert Gordoun, knycht baronett, his airis maill and assigneyis, of ane portioune of land in the said countrie of New Scotland, under the lyke provisiounes and restrictiounes as is thair exprest, quhilkis ar and sall be haldin as particularlie exprest heirintill, and sall be particularlie and at length exprest and set doune in the infestmentis to follow heirvpoun; lykeas I bind and obleis me, my airis and successouris with all convenient diligence to dewlie and lauffullie infest, and seis be chartour and seising titulo oneroso in dew and competent forme, the said Sir Thomas Burnet, his airis maill and assigneyis foirsaidis, heretable and irredimable as said is, in all and hail the pairt and portioune of the saidis boundis, countrie and dominioune of New Scotland, particularlie boundit and limitat as is abouewrittin, with castellis, toures, maner places, houssis, bigingis extractit and to be extractit, yairdis, orchardis plantit and to be plantit, toftis, croftis, parkis, leasouris, medowis, mylnes, mylnelandis, multoris and suckin wodes, fischingis, alsweill of reid as quhyte fisches, salmond and vtheris great and small, bayth in fresche and salt wateris, advocatioune and donatioune of benefices, kirkis and chaplanries, and

rychtis of patronages of the samen, annexis, connexis, dependances, tennentis, tennandries, service of frie tennentis of the landis and vtheris abouewrittin, togidder with all and syndrie the foirsaidis teynd scheuis and vtheris teyndis, alsweill personage as vicarage of the landis, fischingis and vtheris abouespecifeit includit, with all and syndrie mynes, minerallis, vaynes, rokis and quarrellis thairof, alsweill of metallis and minerallis, regall and royall of gold and silver; within the saidis boundis and landis as vtheris, mynes of iron, steill, tyn, leid, copper, bras, lattoun and vtheris minerallis quhatsumeuir, togidder with all and syndrie precious stones, gemmes, pearlis, cristall, alome, corral and vtheris; and full power, privedge and iurisdictione of frie regalitie within all and hail the forsaidis boundis and landis, and all and syndrie pairtis, pendicles, privedges and commodities of the samen landis and vtheris abouementionat, and with all and syndrie vther and the lyke privedges, iurisdictiones, liberties, immunities, exemptiounes, commodities, customes and vtheris quhatsumeuir within the boundis of the saidis landis heirby disponit or concerning or belonging to the samen or plantatioune thairof or to the heritouris or inhabitantis of the samen generallie abouementionat, and vnder the provisiounes and restrictiounes generallie abouespecifeit, quhilkis ar and sall be haldin as particularie exprest heirintill, and sall be particularie and at length exprest and sett doune in the infetmentis to follow heirvpoun, be dowbill infetmentis, the ane thairof to be haldin of me, my airis and successouris in frie blensche for peyment of ane penny Scottis money at the feist of Witsunday yeirlie, in name of blensche ferme gif it be askit allendarlie, and for peyment to His Maiestie and his successouris of sic dewties for the royall mynes and minerallis of gold and silver, as I and my airis ar subiect to pey for the samen, be the infetmentis grantit to me of the said countrie and dominioune of New Scotland, and the vther of the saidis infetmentis to be haldin fra me, my airis and successouris, of ourre said Soverane lord and his successouris, my immediat lauffull superiouris, of the samen lykewayis in frie blensche for peyment of ane penny money abouewrittin at the said feist of Witsunday yeirlie in name of blensche ferme gif it beis askit allendarlie, with sic dewties for the royall mynes and minerallis of gold and silver as I and my airis ar subiect to pay for the samen, be the infetmentis grantit to me of the said countrie and dominioune of New Scotland, be resignatioune or confirmatioune as best sall pleis the said Sir Thomas Burnet and his abouewrittin, I provyding that the expenssis and charges of the passing and expeding of the saidis infetmentis be maid and debursit be the said Sir Thomas Burnet and his abouespecifeit, and ffor that effect I be thir presentis maik, constitut and ordane James Douglas and ilk ane of thame coniunctlie and seuerallie my verie lauffull, vndoubtit and irrevocabill procuraturis, actouris, factouris, eirand beiraris and speciall messingeris to the effect vnder-

writtin, givand, grantand and committand to thame and ilk ane of them coniuictlie and seuerallie as said is my verie full, frie, plane power, speciall mandament, express bidding and chairge for me, and in my name, to compeir befori oure said Soverane lord or his successouris, or befori his or thair commissioneris constitut or to be constitut be him or thame haifand his or thair power and commissioun to ressaue the resignatioun vnderwrittin at quhat day or dayis, place or places convenient, and thair, with all humilitie and condigne reverence as becumis, to resigne, surrander, vpgive and ouergive, lykeas I be the tennour heirof, resigne, surrander, vpgive and ouergive, all and hail the foirsaid pairt and portioune of land and boundis abouementionat, particularlie boundit and limitat as abouewrittin ; with castellis, toures, fortalices, maner places, houssis, biggingis extructit and to be extructit, yairdis, orchardis plantit and to be plantit, toftis, croftis, parkis, leasouris, medowis, mylnes and mylnelandis, multouris and suckin wodes, fischingis, alsweill of reid as quhyte fisches, salmond and vtheris great and small, bayth in fresche and salt watteris, advocatioun and donatioun of benefices, kirkis and chaplanries, and rychtis of patronages of the samen, annexis, connexis, dependances, tennentis, tennandries, service of frie tennentis of the landis and vtheris abouewrittin, togidder with all and syndrie the foirsaidis teynd scheuis and vtheris teyndis, alsweill personage as vicarage of the landis, fischingis and vtheris abouespecifeit includit, with all and syndrie mynes, minnerallis, regall and royall of gold and silver within the saidis boundis and landis, as vtheris mynes of iron, steill, tyn, leid, copper, bras, latoun and vtheris minerallis quhatsumeuir ; togidder with all and syndrie precious stones, gemmes, pearlis, cristall, alome, corall and vtheris, and full power, priviledge and iurisdictione of frie regalitie within all and hail the foirsaidis boundis and landis, and all and syndrie pairts, pendicles, priviledges and commodities of the samen landis and vtheris abouementionat, and with all and syndrie vther and the lyke priviledges, iurisdictiones, liberties, immunities, exemptiounes, commodities, customes and vtheris quhatsumeuir within the boundis of the saidis landis heirby disponit or concerning or belonging to the samen or plantatioun thairof, or to the heritouris or inhabitantis of the samen generallie abouementionat, and vnder the provisiounes and restrictiounes generallie abouespecifeit, quihikis ar and sall be haldin as particularlie exprest heirintill, and sall be particularlie and at length exprest and sett doune in the infestmentis to follow heirvpoun, in the handis of oure said Soverane lord or his successouris, or of his or thair commissioneris foirsaidis constitut or to be constitut be him or thame as in the handis of His Maiestie or his successouris, my immediat lauffull superiouris foirsaidis, in favoures and for new infestment of the samen to be maid and grantit be His Maiestie, vnder his hienes great seill, to the said Sir Thomas Burnet of Leyis, knycht, nis airis mail

and assigneys forsaidis heritable, in dew forme, actis instrumentis documentis neidfull theirvpon to tak, ask, lift and rais as neid beis, and generallie all and syndrie vther thingis in the premissis that to the office of procuraturie in sic caissis of the law and consuetude of this realme necessarlie ar knowin to apperteane, to doe, vse and exerce siclyke and als frelie in all respectis as I might doe thairin myself gif I wer personallie present, promising to hald firme and stabill all and quhatsumeur thingis my saidis procuraturis or ony of thame in my nayme in the premissis lafullie dois, and am content, and be thir presentis consent that the landis and vtheris forsaidis be vnit and erectit in ane haill and frie barony and regalitie to be callit the barony and regalitie of Leyis Burnet, or be vtherways devydit, vnit or callit as the said Sir Thomas Burnet or his foirsaidis sall think expedient, quhilkis infestmentis abouewrittin and ather of thame sall beir and conteane this special and express claus of warrandice following: Lykeas I (now as gif the said infestment wer alreddie maid and past and than as now) bind and obleis me, my airis and successouris, to warrand, acquyet and defend the samen infestmentis and landis abouespecifeit, with the pertinentis, to be contentit thairintill, to the said Sir Thomas Burnet and his foirsaidis fra myne and my airis proper factis and deidis allenarlie: that is to say, that we haif not maid nor sall mak na vther dispositioun, resignatioun, rycht nor securitie of the landis and vtheris foirsaidis heirby disponit, in maner abouexpremit, to na vther persone nor persones in na tyme bygane nor to cum, and gif I or my foirsaidis sall happin heirefter to haif or acqyre any new rycht of the landis and vtheris foirsaidis heirby disponit to the said Sir Thomas Burnet and his abouewrittin, the samen sall alwayis accres and pertene to thame; and I bind and obleis me and my foirsaidis to denude us in thair favouris omni habili modo quhatsumeur the said Sir Thomas Burnet and his foirsaidis sall desyre the samen with warrandice fra oure awin proper factis and deidis as is abouewrittin vnder the exceptiounes and reservatiounes abouespecifeit; and for the mair securitie I am content and consent that the presentis be registrat in the buikis of counsall and sessione, thairin to remane ad futuram rei memoriam, and for registrating heirof I constitut — my procuraturis promittendo de rato, &c. In witness of the quhilk thing I haif subscrivrit thir presentis with my hand, and writtin be Robert Wallace, servitour to Maister Francis Hay, writer to His Maiestie's signet, at Musselburgh, the sevint day of November, the yeir of God i^m vi^c tuentie-fyve yeris, befor thir witnessis, Williame Maxwell of Kukhous, Maister Williame Drummond of Halthernedene, and Patrick Scott, servitour to Sir John Scott of Scottistarvet, knycht directour of his hienes chancellarie.

W. ALEXANDER.

Williame Maxwell, witness.

W. Drummond, witness.

P. Scott, witness.

XXXII.

PATENT of Baronetcy, in favour of Sir Thomas Burnett of Leys, Knight, 21st April, 1626, from an old translation in the Crathes Collection.*

CHARLES, by the grace of God, King of Great Britain, France and Ireland, and Defender of the Faith, to all upright men of the whole of his land, clerks and laymen, greeting. Know ye that we, with the advice and consent of our well beloved cousin and councillor, John, Earl of Mar, Lord of Erskene and Gareoch, &c., our principal treasurer of our accompts, comptroller collector and treasurer of our new augmentations of our realm of Scotland, Moreover confiding in our familiar councillor, the Lord [Sir] Archibald Naper of Merclingstoun, knight, our deputy treasurer in the same offices, and also in the rest of the lords, our commissioners by us nominated and constituted for the withinwritten intention, For the propagation of the Christian religion within the limits, lands and dominion of Nova Scotia, lying in America near the limits of New England, lately discovered and explored by our faithful councillor, the Lord [Sir] William Alexander of Menstrie, knight, at his great cost and expense as well by sea as by land, now hereditary proprietor of the same region and dominion, and our lieutenant and deputy therein, and for the advantage and increase of the same plantation and colony within the said limits and the reduction thereof under our obedience, and also for the good and gratuitous service unto us by our beloved the Lord [Sir] Thomas Burnet of Leis, knight, performed, and for divers other great and grave considerations us thereunto moving, have given, granted, disposed and by this our present charter confirmed, and by the tenor thereof do give, grant, dispose and for ourselves and our successors for ever do confirm to the aforesaid Lord Thomas Burnet of Leyis, knight, his heirs male and assigns whomsoever hereditarily, all and whole that part or portion of the said lands, region and dominion of Nova Scotia as follows bounded and meared in detail, namely, to have the lands and barony of Levingstoun Donypace, on the east, and thence continuing westwards along the shore of the sea over against Le Argallis Bay, and from thence proceeding towards the north in the mainland for six miles, keeping in all three miles in breadth from the east to the west, and six miles in length from the south to the north, until the quantity thereof amount

* It has been thought better to print this translation (though not invariably accurate) than to give the original Latin. The Latin form of such patents is accessible in Pixley's *History of the Baronetage*, pp. 59-89; and an example of the Scotch "Signature" appears in the *Skene Memorials* (New Spalding Club), pp. 197-224.

to sixteen thousand acres of land, with castles, towers, fortresses, places of manors, houses, edifices constructed or to be constructed, gardens, orchards planted or to be planted, tofts, crofts, meadows, feedings, mills, mill lands, grindings and suits, woods, fishings as well of red as of white fishes, salmons, and other fishes as well large as small, as well in salt waters as in fresh, advowsons and donations of benefices, churches and chapelries and rights of patronages thereunto annexed, connected and appertaining, tenancies of free tenants and prescribed services of lands and other matters ; together with all and singular tithes of garbs and other tithes, both of rectories and vicarages, included in the above specified lands, fisheries and other things ; together with all and singular mines, minerals, veins as well of metals and minerals royal of gold and silver within the said boundaries, as of other minerals of iron, steel, tin, copper, brass, lead, alloy and other minerals of whatsoever kind ; together with all and singular precious stones, gems, pearls, crystal, alum, corals, and others ; And also with full power, privilege and jurisdiction of free regality within the said lands and bounds, and all and singular the parts, dependencies, appurtenances, privileges and commodities of the aforesaid lands and other places abovementioned, with plenary power and privilege to the before-named Sir Thomas Burnet and his heirs male and assigns, of making experiments, trying, digging and investigating the soil of the same lands for mines, minerals, precious stones, gems, pearls and other things abovementioned, and of using all lawful and ordinary methods for the recovery thereof, and of acquiring, extracting, expressing, cleansing, refining and purifying the aforesaid metals, as well gold and silver as other metals, precious stones, pearls, and other things abovementioned, and of putting the same to his own proper uses, and applying them thereto in similar manner and as freely as the said Sir William Alexander and his heirs and assigns, by virtue of his original enfeoffment to him in this behalf granted dated at Windsor on the tenth day of the month of September in the year of the Lord one thousand six hundred and twenty-one, or by virtue of the enfeoffment by us made in this behalf to the said Sir William Alexander under date of Oatlands on the twelfth day of the month of July in the year of the Lord one thousand six hundred and twenty-five, could have made, one or more ; Reserving only unto ourselves and our heirs and successors a tenth part of the aforesaid royal metals, commonly called the ore of the gold and silver, to be extracted at all future times from the said lands, and all the rest of the aforesaid metals, minerals, precious stones, gems, pearls, and other things aforesaid, to the abovesaid Sir Thomas Burnet and his heirs male and assigns shall appertain, and to his own proper uses for ever shall be applied, together with all and singular the profits, dues and advantages thereof: With power also to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid of transporting and carrying

away from the said limits and district to any other part whatever, or to any other parts whatever, as shall seem fitting to them all, and all kinds of metals, minerals, precious stones, gems, pearls, gold, silver and all kinds of coinage as well struck as not struck which shall be found within the said boundaries, and shall be extracted from the same land or unto the same land shall be imported from elsewhere: With power also to the aforesaid Sir Thomas Burnet, his heirs male and assigns, of building, erecting and constructing within the boundaries of his said lands any whatever kind of cities, towns, burghs of barony, free burghs, ports, harbours, stations of ships, castles, towers, fortresses, bulwarks, mounds of earth, guards, cities, burghs, harbours of shipping and other places both near the sea-shore and also on the mainland, and to be defended by soldiers to be maintained for fortifications and maintenance and preservation thereof: And in like manner of erecting and establishing market places, shambles and sites of shambles in the aforesaid cities, burghs, towns, villages and burghs of baronies, or in any part of the aforesaid lands, as well within the towns as without, the same holding and observing them on any whatever especial days of the year at the periods, places and occasions of any kinds just as unto the said Sir Thomas Burnet and his heirs male and assigns shall seem to be most fitting and expedient, And of imposing, demanding, levying and receiving all and every kind of tolls, customs, anchorages, Le prymegilt and docksilver and other dues of the aforesaid cities, burghs, towns, ports of towns, stations of ships, market places and shambles, just as shall seem expedient unto the aforesaid Sir Thomas Burnet and his heirs male and assigns, with all and singular the privileges, liberties and advantages thereunto appertaining; And in like manner of appointing and commissioning captains, leaders of soldiers, emperors and governors in chief, officers, provosts and bailiffs of the aforesaid cities, burghs, towns, villages and burghs of barony, regalities, ports, stations of ships, castles and fortresses, justices of the peace, constables and other officers and judges, as well in all civil causes as also in criminal causes, for the government of the aforesaid lands, and for the due and lawful administration of Justice within all the limits of the same lands, and, as shall seem most expedient unto them, of altering and changing the same magistrates and officers for the better government of the same lands, and of giving attention to the government thereof just as unto them shall appear expedient: And in like manner of constituting, making and ordaining such particular laws, statutes and constitutions to be observed in the same lands at all future times within all the said limits and boundaries, as well within the towns as without as shall appear to be expedient, and of correcting, punishing and chastising the infringers and violators thereof conformably to the same laws: With power in like manner of building and constructing ships, vessels and boats, both great and small, as well ships of war as of merchants, both

within the said region of Nova Scotia, the boundaries and parts of the aforesaid lands especially hercinbefore assigned to the aforesaid Sir Thomas Burnet, his heirs male and assigns appertaining and in the said our realm of Scotland, or any other our dominions or lands, at all fitting times, and of using the same ships and boats, and of voyaging therein under our own proper flags, colours and ensigns, sufficiently equipped with sailors, seamen and seafarers, governors, captains and soldiers, to be set therein by the said Sir Thomas Burnet, his heirs male and assigns, with all kinds of ammunition, both great and small, gunpowder, shot, arms, weapons, and all other warlike instruments, as well of offence as of defence, and with all other warlike engines: And in like manner of transporting by the same or by any whatever other ships to the aforesaid region of Nova Scotia, and to the especial boundaries above indicated, machines of war of greater or less size, bombards, cannons, demicannons, Zetlinges, and other munitions for the defence and safety of the same land: And also with especial power and licence to the said Sir Thomas Burnett, his heirs male and assigns, and their deputies or others in their names of transporting from the said our realm of Scotland, or any other our jurisdictions or dominions, or from any other place whatsoever, as it shall seem fitting to them, all and all manner of persons, soldiers, husbandmen, artificers, or any others whomsoever of any estate, degree, or condition whatsoever, willing to repair unto the said region of Nova Scotia, with their goods and furniture, horses, cattle, sheep, ammunitions both greater and less, arms, provisions and victuals to the said lands of Nova Scotia for the better increment and augmentation of the said plantation: And in like manner of using and exercising all lawful kinds of merchandize for the better advantage of the country within the said boundaries and lands: And of shutting out, prohibiting, forbidding, resisting, repelling and withstanding by force of arms all and singular those who shall presume to plant in the said lands and boundaries, or to possess and occupy the same, or to exercise therein any whatever arts or merchandizes without the especial permission and consent of the said Sir Thomas Burnet and his heirs male, assigns or deputies: And of confiscating, detaining, intercepting and reserving to themselves all and singular the ships goods and chattels, as well by sea as by land, of those who shall have acted in opposition to him, the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, to be applied to their own proper uses, utility and profits: With especial warrant also and command to all our sheriffs, stewards and bailiffs of regalities, justices of the peace, mayors, aldermen, provosts, bailiffs and magistrates whomsoever, and of whatsoever limits, cities, burghs, towns, both within and without cities, and to their officers, serjeants, constables and ministers of justice whomsoever, of agreeing with, strengthening and assisting the said Sir Thomas Burnet and his aforesaid [heirs

male and assigns] in the due and lawful execution of all and singular the paragraphs and articles of this our present charter : And that they may have prepared a navigation on all occasions whatsoever for themselves and their men, stores, goods, chattels, ammunition, arms, armaments, victuals and necessities to and from the said lands and region of Nova Scotia, as need shall arise, for their reasonable expenses as is befitting : With power also to the aforesaid Sir Thomas Burnet and his heirs male, assigns and deputies, if there shall have arisen any rebellion, tumult or sedition within the said limits and lands, or in their courses and voyages to the said lands or from the same, or if any one or more persons within the said boundaries and lands, or any happening there to dwell under their rule shall have refused to obey their commands, in any of these cases, of using and exercising the power and privileges of all military laws against such delinquents and offenders, and of punishing and correcting the same by the said laws as shall to them seem most expedient ; Excepting by the tenour of our present charter our said Lieutenant and all others whomsoever from the execution and exercise of any military law whatsoever against the aforesaid persons or any one thereof within the said boundaries or in their courses and navigations to or from the same lands : except only to the said Sir Thomas Burnet and his heirs male and assigns and their deputies : And in like manner We, for ourselves and our successors, with the advice and consent aforesaid, by the tenour of our present charter, exempt and for ever set free the said Sir Thomas Burnet and his heirs male and assigns from all penalty, arrest, torture, and execution of military laws which could be used and exercised against them or any one of them by us and our Lieutenant or by any one or any thing : And, moreover, if it shall have happened that any one or more of those persons, who shall be subject to the rule and government of the said Sir Thomas Burnet and his aforesaid [heirs male and assigns], so withdraw themselves or their goods or chattels, or depart from their obedience to the said Sir Thomas and his aforesaid [heirs male and assigns], or from their service in the said plantation and the maintenance thereof, whether by sea or by land, or in their journeys to the said region of Nova Scotia or from the same, or to remove themselves or their goods and chattels from the said lands, or from such parts and portions thereof as shall be unto them assigned, or to ally themselves with the natives, inhabitants and savages of the said region, or to inhabit any whatever remote or deserted places of the said region of Nova Scotia without the especial advice, licence and consent of the said Sir Thomas Burnet and his aforesaid [heirs male and assigns] first had and obtained, Then and in those cases, one or more, they shall lose and forego, by that very deed, all and singular the lands, possessions, goods and chattels existing for the time being in the said lands, belonging to them or to any one of them, or to the same

appertaining ; And it shall be lawful to the said Sir Thomas Burnet and his heirs male, assigns and deputies, to confiscate, take up and take possession of the said lands, goods, chattels and possessions, and to apply the same to their own proper uses freely, without any peril of law or any other declaration of law : And in like manner, if any contracts, agreements or conditions [shall have been entered into], as between the said Sir Thomas Burnet, his heirs male, assigns or deputies, with any persons whomsoever, whether natives of the said region or others, for the transportation of any whatsoever goods, chattels or wares, ammunition, arms, victuals and any other necessities whatsoever, or for the fulfilment of any whatever deed or any whatever deeds with the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, as well within the said region of Nova Scotia as by sea, or in the course and passage to the said region or from the same, under any whatever penalties or sums of money, and it shall have happened that they have broken and violated the same contracts, or the same obligations and conditions, or that they be wanting in the fulfilment thereof, whereby loss and detriment be inflicted upon the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, and also delay and impediment [be caused] to so noble and laudable an intention of plantation and foundation aforesaid therein, Then and in those cases, or in any one thereof, it shall be lawful unto the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, to attach, enjoy, possess and apply to his own proper use the same goods, chattels and wares, sums of money and other things without further process or declaration of law : And in like manner, with plenary power and privilege to the said Sir Thomas Burnet, his heirs male, assigns and deputies, and their men, tenants and servants within the said limits and lands, of exercising trade with the native aborigines of the abovesaid region, of contracting agreements, compacts, peace truces or relations, and of entering into peace and friendship with the same, and of taking up arms with their leaders, chiefs and governors, or in case of attack or rupture of peace, promise or friendship on the part of the savages against them, in every warlike manner as well by sea as by land ; With power also and privilege to the said Sir Thomas Burnet and his aforesaid [heirs male and assigns], at all future times, of carrying away from the said lands and region of Nova Scotia all wares and other commodities whatsoever, and of importing the same to the said our realm of Scotland, and in like manner of exporting from the said our realm of Scotland, or other places whatsoever, all wares and all commodities whatsoever, and of importing the same to the said region of Nova Scotia upon payment of five pounds of the money of the said our realm of Scotland, as custom for each one hundred pounds value, and no more, without any further payment of any custom whatsoever, or impost or due upon the same to be levied or exacted by us, or our

heirs and successors, or our custom-officers deputed by the officials or by any other person whomsoever, either in the said our realm of Scotland or in the said region of Nova Scotia : Forbidding, by the tenour of our present charter, all our officers of customs and officials to exact a greater custom or impost in that respect, and to exercise their duties otherwise in this behalf : With power also to the said Sir Thomas Burnet and his aforementioned [heirs male and assigns] of levying, receiving and demanding by themselves, their deputies, officials, or other persons in their names, from all the subjects of us and of our heirs who shall have happened to exercise trade in the said places hereinbefore pointed out, or in the ports and shipping stations thereof, the sum of five pounds of money aforewritten by way of customs for each one hundred pounds value of all the goods, wares and commodities, either to be imported therein by them or by any one of them or to be exported from the said lands, and the sum of ten pounds of the same money from all strangers for each one hundred [pounds value] of all goods and wares to be exported or imported by them or by any one of them, and this above and beyond the said sum of five pounds due as is aforesaid unto us and our successors : And, moreover, We, for ourselves and our heirs and successors, with the advice and assent aforesaid, by the tenour of our present charter, will, grant, ordain, and declare that the said sum of five pounds of money aforesaid, appointed to be paid to us and our heirs and successors, and our officers of customs and deputies for all goods, wares and commodities either to be exported out of the said region of Nova Scotia or to be imported into the said region of Nova Scotia, shall be paid and delivered unto the said Sir William Alexander and his heirs and assigns, being our Lieutenant in the said region, and unto no other person, for the space of sixteen years after the day of the dating of our present charter, And for the proper effecting of the same, it shall be lawful to the aforesaid Sir William Alexander and his aforesaid [heirs and assigns] to levy, seek, exact and receive the said custom [and] to grant exonerations and acquittances in that respect, which we, by the tenour of our present charter, for ourselves, our heirs and successors, will and declare to be sufficient for the receivers and payers of the said sum of five pounds : And with power to the said Sir William Alexander and his [heirs and assigns] aforesaid, during the said space of time, of impounding and converting the said sum of five pounds for each one hundred, thus to be levied, to their own proper use and utility, as to them shall appear most expedient, for the better supply and support of the expenses of the government of the said region and for the increase of the said plantation : And although it be in no wise lawful to any nobleman or gentleman of the country possessing lands in the said our realm of Scotland to depart therefrom without our especial licence, Nevertheless, We, for ourselves and our successors, will and grant, and by the tenor of the

present our charter, declare that this our present deed of Enfeofment is and shall be sufficient licence and warrant at all future times to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, and to any other persons whomsoever (provided only that they be not guilty of treason nor inhibited by any other especial warrant) who shall have been willing to set out with him (or to any one of them) to the said region of Nova Scotia, that they may freely depart from the said our realm of Scotland and make their way to the Land of Nova Scotia without any peril to them in their persons, goods, lands or possessions whatsoever, as we, by the advice and consent aforesaid, have permitted and, by the tenour of this our present charter for [ourselves] and our heirs do permit for ever: Moreover we have given, granted and declared, and by the tenour of this our present charter, We, for ourselves and our successors, with the advice and consent before said, do give, grant, will, declare and ordain that all our subjects and other persons whosoever subjecting themselves under the obedience of us and our successors, who at any future time make their way to the aforesaid lands disposed to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, or them or any part thereof shall happen to inhabit, with the licence, consent and permission of the said Sir Thomas Burnet, his heirs male, assigns and deputies, That all and every one of them and their children and posterity respectively shall have, hold, enjoy and possess all and every kind of liberties, privileges and immunities of the free and natural subjects of the said our realm of Scotland and of other our dominions, just as if they had been born in the said realms and dominions; And for the establishment of greater authority, rule, power and jurisdiction in the person of the said Sir Thomas Burnet, his heirs male, assigns and deputies at all future time, We, for ourselves and our successors, by the advice and consent aforesaid, have given and granted, and by the tenour of this our present charter, do give and grant in heredity to the said Sir Thomas Burnet, his heirs male and assigns whomsoever, the offices of Justiciary and Sheriffdom of all the aforesaid boundaries and lands abovementioned: And we have made and constituted, and by the tenour of this our present charter, we do make and constitute the said Sir Thomas Burnet, his heirs male and assigns, our hereditary Sheriffs and Justiciaries hereditarily for ever within all the aforesaid boundaries and lands abovementioned, particularly above designated, with all and singular the liberties, privileges, immunities and advantages belonging to the same offices of Sheriffdom and Justiciary: With power to the said Sir Thomas Burnet and his heirs male, assigns, and their deputies, of sitting, judging, taking cognizance of, and determining all and every kind of causes, both civil and criminal, within all the said boundaries and jurisdiction of the said lands just as and as freely in all respects as any other Sheriff and Justiciar whosoever at any

whatever past or future time has done or by that right could do or shall have been able to do : And lest any question should arise in the time within which the said Sir Thomas Burnet and his aforesaid [heirs male and assigns] shall have been able as Sheriffs and Justiciars to sit and enquire into criminal causes, and to determine the same after crimes committed, we, for ourselves and our successors, with the advice and consent aforesaid by honour of this our present charter, will, grant and declare that it shall be lawful and legal for them to summon, prosecute, attach and arrest all offenders whatever, being criminals within the said boundaries and lands, for all kinds of crimes by them committed, to take cognizance thereof, to judge and determine them at any time within the space of six months after the commission of the said crimes, during which period of time it shall be lawful alone to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, and to no other person, to investigate, take cognizance of, judge, and determine concerning the same crimes, Excluding during that period of time our Lieutenant and all other persons whomsoever from the exercise of any manner of judgment or jurisdiction in that behalf [and] from attachment, arrest, summons, vouching or convention of the said persons criminally offending or perpetrating crimes in any way whatever : Provided only that if by reason of the said period of six months having elapsed the said crimes and criminal offenders shall not have been examined or adjudged by the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, in that case it shall be lawful forthwith to our said Lieutenant and his heirs and assigns for the time being our Lieutenants and their deputies, to summon, attach, arrest, call to vouch, and cite the same guilty persons, and to adjudge and take cognizance of the same crimes by them perpetrated, as it shall appear most expedient unto them : With power also to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, notwithstanding the above-written provisions, at all times after the expiry of the said period of six months, in the absence of the said Sir William Alexander and his heirs and assigns being our Lieutenants, or their deputies, of adjudging, taking cognizance of, and determining all criminal causes, and of punishing all persons criminally offending within the said boundaries, according to their good pleasure ; And in like manner, during their absence from the said region, or within the period of six months or from thenceforth, at all times whatsoever, of remitting and pardoning the same crimes and the same persons criminally offending within the said boundaries and lands, for such reasonable causes and considerations as shall appear unto them to be expedient : And further, with power to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid of sitting, adjudging and taking cognizance of all crimes and criminal offenders within the said boundaries, And also of punishing, remitting or condoning the same crimes and persons criminally

offending, as shall seem good to them, at all times after the said period of six months, before that the said Sir William Alexander and his heirs and assigns, our Lieutenants for the time being and their deputies, shall have called to judgment before them, cited or arraigned, the said persons criminally offending, and they are to appear before their court of judicature wherever they may be for the time in the said region of Nova Scotia, without prejudice, however, to the said Sir William Alexander and his heirs and assigns, being our Lieutenants, and their deputies, provided that they shall have been the first to serve the citation after expiration of the said period of six months, of sitting, adjudging, taking cognizance of, punishing or remitting the said crimes and persons criminally offending, according to their good pleasure as is aforesaid: And in like manner We, by the honour of our present charter, do ordain that if it shall have happened that the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid have condoned and remitted any crimes or any criminal offenders as is aforesaid, that in that case their remission and letter of forgiveness thus to be to them granted shall be published within the said boundaries on the same day and date of the grant thereof by certain ones their own particular officials to be appointed to this effect: And after publication thereof, that the same remission shall be registered in the register of the said Sir William or his heirs and assigns, our Lieutenants in the said region for the time being, within the space of sixty days after publication thereof, provided that the same shall be tendered and presented before two trustworthy witnesses to the keeper of the said register, if the clerk or keeper of the same registry for the time being shall have been in the said region of Nova Scotia: With plenary power and privilege in like manner to the said Sir Thomas Burnet and his heirs male, assigns and deputies for ever, of sitting, affirming, holding and causing to be held in their names, courts of Justiciary, Sheriffdom, free regality, barons and burghs within and upon all the said boundaries and lands above described, or upon any part thereof, at all times and occasions as shall appear to themselves to be expedient; of making and creating clerks, officials, serjeants, adjudicators and all other members of the court whomsoever; of ordaining, exacting, levying and receiving penalties, fines and amercements of court, and of applying the same to their own proper uses, as shall appear to them expedient; With all and singular other the privileges, liberties, advantages and casualties belonging or able to belong to the said offices and jurisdictions of free regality, Sheriffdom and other things abovementioned; With full power also and privilege to the said Sir Thomas Burnet, his heirs male and assigns, of selling, alienating and disposing hereditarily or otherwise all and singular the aforesaid boundaries and lands abovementioned at their will and pleasure, with all and singular the privileges, liberties, advantages and immunities hereinbefore and hereinafter

mentioned, by the tenour of this our present charter, to them granted, or with so many of those liberties, immunities and other things as to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid shall have seemed fit, to any person whatever or to any persons whatever, and to their heirs and assigns, being under obedience to us, to hold of us and our heirs and successors, or of the said Sir Thomas Burnet and his heirs male and assigns, just as shall have seemed most fitting to the said Sir Thomas and his [heirs male and assigns] aforesaid : Which lands indeed, boundaries, privileges and other things abovementioned, or any part thereof, now may be by the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid disposed of to any person whomsoever or any persons whomsoever to hold of us and our successors ; We and our heirs and successors will receive and admit them or any of them to be free tenants and tenants immediate thereof, and to them and to any one of them we will grant, whensoever they shall have sought for the same from us, such valid enfeoffments thereof, and with such manner of intent, as by the tenour of this our present charter is granted to the said Sir Thomas Burnet and his heirs male and assigns : With power also to the aforesaid Sir Thomas Burnet, his heirs male and assigns, and to all others whomsoever being under our obedience to whom they shall dispoine their said lands or any part thereof, of entitling the same at all future times by any names which may seem to them to be expedient ; And also that it shall be lawful to any heirs male and successors whomsoever of the said Sir Thomas Burnet and their assigns that as heirs to their predecessors they may enter into the said lands and boundaries, and any whatever other things granted and conceded by virtue of this our present charter to the said Sir Thomas, or any part thereof, and this either by order of the chancery of the said our realm of Scotland, services, writs, returns, and precepts directed concerning the same, and by order therein observed and employed, or otherwise by order of the chapel and chancery of the said region of Nova Scotia, according to the good pleasure and choice of the said heirs male and successors of the said Sir Thomas Burnet and his heirs any whomsoever ; With power likewise to the said Sir Thomas Burnet, his heirs male and assigns, and their deputies, in all time to come of calling together all their men, tenants, servants and inhabitants whomsoever of the said boundaries and lands abovementioned at all times and occasions, as shall appear to them expedient, for the advantage, defence, and maintenance of themselves or of the said boundaries and lands, and the repulse of strangers and enemies, insolences, seditions, tumults, and withstanding of rebel tribes and repression of aborigines and reduction of native savages to conformity and due obedience, and for any other lawful and necessary causes whatsoever : And moreover we have given and granted, and by the tenour of this our present charter, We, for ourselves and successors, with

advice and assent abovescribed, do give, grant, will, declare and ordain that the said Sir Thomas Burnet and his heirs male and assigns at all future times shall have a vote in the establishment and constitution of all laws concerning the public weal and government of the said region of Nova Scotia, and in all conventions and assemblies and councils to be called, convened, and held for this behalf; And that they shall be summoned duly and lawfully on this behalf; And that no laws shall be made established or valid in that respect without the advice and consent of the said Sir Thomas and his heirs male and assigns, and without the advice and consent of the rest of the Baronets having as great a proportion and quantity of lands within the said region of Nova Scotia belonging to them and their heirs hereditarily as is now granted to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, by the tenour of this our present charter, that is to say, each one of them sixteen thousand acres of land, At least without the advice of the greatest part of so many of them as may happen to have met for giving their votes upon due and lawful summons to be given to them after the manner and form which may be instituted in their first meeting and assembly with our said Lieutenant and his heirs or successors, being our Lieutenants for the making of laws or statutes to be observed in the said region: And that no one, who shall not be an hereditary proprietor of sixteen thousand acres of land in the said country, shall have a voice in the constitution of laws concerning the same country without the mutual advice and consent of our said Lieutenant and his heirs and assigns, being Lieutenants of us and of our successors, and of the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, and of the rest of the Baronets before said: And further, if it shall have happened that the aforesaid Sir Thomas Burnet and his heirs male and assigns have not been present in such councils, assemblies and convocations as shall be held for the abovescribed object in the said region of Nova Scotia, Then and in that case their deputies or attorneys, having been charged with their power and authority, and being in possession of the amount of one thousand acres of land belonging to them hereditarily in the said region, shall have just such a vote as if they themselves had been personally present; But if it shall have happened that any kind of meetings or assemblies are held for the object aforesaid in the said our realm of Scotland, In that case, if they shall have been personally present for the time in the said our realm, they shall only have a voice and vote therein by themselves, and not by their deputies or attorneys: But if it shall have happened that they were absent from the said our realm at such times, in that case their deputies and attorneys holding power and warrant from them shall have just such a vote as if they had been personally present: And that the said Sir Thomas and all others our subjects inhabiting the said region of Nova Scotia at all future

times shall be judged, ruled and governed in all causes, as well civil as criminal, by the laws of the said our realm of Scotland alone and by no other laws, without prejudice in any way to the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid, by themselves and their deputies, to grant and establish such particular laws, statutes and constitutions in their boundaries particularly set out hereinbefore, as shall seem most expedient to them, for the better rule, good and government of the same and of those therein dwelling, and for the observance of good order, and for the administration of laws and justice within the same, without prejudice, however, to the said Sir Thomas Burnet and his [heirs male and assigns] in respect of any other particular liberty, privilege, advantage, paragraph or condition whatsoever hereinbefore or hereinafter mentioned couched in terms favourable to them: Provided always that all and all kinds of general laws now abovementioned concerning the public weal, good and government of the said region, or to be framed and established by the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid in their particular boundaries, be as like and as conformable to the laws of the said our realm of Scotland as may conveniently be made, respect being had to the circumstances, time, place and situation of the said region and of the inhabitants thereof, and of their quality and condition: And further, although by express condition of the original enfeoffment granted to the aforesaid our Lieutenant, it is appointed and it is lawful that they and their heirs and assigns may call together all and singular the inhabitants in the said region of Nova Scotia by proclamation or other manner therein mentioned, Nevertheless, we have given, granted and ordained, and by the tenour of this our present charter for ourselves and our successors, with the advice and consent aforesaid, we will, grant, declare and ordain that it shall in no wise be lawful to the said our Lieutenant and his heirs, successors and assigns, or to any other officials whomsoever of us or our successors, to cite, assemble, or by proclamation or any other manner to call together the said Sir Thomas Burnet and his heirs male, assigns, successors, deputies, men, tenants, servants, or inhabitants of the particular boundaries beforewritten, except for such lawful and necessary causes which shall appear to lead to the public benefit of the [said] region, by the said our Lieutenant and his [heirs male and assigns] aforesaid, with the advice and consent of the said Sir Thomas Burnet and his heirs male, assigns and deputies, and with the advice and consent of the rest of the persons abovementioned who are authorised to have voice and vote in framing the laws, who, one or more, shall be subject, both they themselves, their heirs, successors, assigns, deputies, men, tenants, servants, and inhabitants of the particular boundaries belonging to them, by or to a similar condition; And in like manner, that it shall neither be lawful nor legal to the said our Lieutenant and his [heirs,

successors and assigns] beforementioned, or to any other officers of us or of our successors whomsoever, to exact, demand or levy any whatever taxes or imposts from the said Sir Thomas Burnet and his heirs male, assigns, deputies, men, tenants, servants, or inhabitants of the said lands and boundaries particularly above set forth, or from the lands, rents or goods in any way appertaining or belonging to any of them, without the consent of the said Sir Thomas and his heirs male and assigns, Notwithstanding any power formerly granted to the said our Lieutenant and his [heirs, successors and assigns] aforesaid by virtue of his original enfeoffment abovementioned, or of any other title or right whatever made and granted, or hereafter to be made and granted by us or our heirs or successors to the said our Lieutenant or to any other person whomsoever, without prejudice in any way whatever to the said Sir Thomas Burnet and his heirs male and assigns and deputies within their own particular boundaries hereinbefore pointed out and apportioned to them by the tenour of this our present charter, to call, call together and assemble their men, tenants, servants and inhabitants at all times and on all occasions in the manner and for the objects contained in the especial paragraph hereinbefore mentioned: And, moreover, we have given, granted and disposed, and by the tenour of our present charter, for ourselves and our successors, with the advice and consent aforesaid, do give, grant and for ever hereditarily dispose to the said Sir Thomas Burnet, his heirs male and assigns, all and every other privileges, advantages, benefits, profits, easements, prerogatives, dignities and casualties, as well in general as in particular, within the aforesaid original deed of enfeoffment to the said Sir William Alexander mentioned and expressed, And this in as full, free and ample a form and manner as if the same privilege and prerogatives, advantages, dignities, liberties, benefits and other things therein contained, with all clauses and conditions thereof, were inserted in this our present charter as if they had been particularly expressed and contained in the same, in so far only as they can apply to be extended to the said particular boundaries and lands hereinbefore pointed out and disposed by the tenour of this our present charter to the said Sir Thomas Burnet, his heirs male and assigns, as hereditary proprietors of the same: Except, however, and reserved to the said Sir William Alexander and his heirs and assigns, Lieutenant of the whole of the said region and dominion of Nova Scotia, the privilege and power of striking money, and the office of principal Justiciary general of the said region in criminal causes, the office of Admiralty, the creation of Officers of State, and the conferring of titles and honours, With plenary power and jurisdiction of free regality of the chapel and chancery of the said region, and privilege of constituting laws concerning the public, state and government of the same region granted to them by the said their original enfeoffment; Provided that the same reservation and

exception, now expressed in favour of the said Sir William and his [heirs, successors and assigns] abovementioned, shall in no way be to the prejudice of the said Sir Thomas Burnet and his [heirs male and assigns] aforesaid with regard to all and any particular privileges, liberties, advantages, benefits, or any other things whatever, by the tenour of this our present charter to the said Sir Thomas and his said [heirs male and assigns] now in general and in particular hereinbefore and hereinafter mentioned to be granted: Which lands in deed, boundaries, advowsons, and gifts of benefices, churches and chapelries, and rights of patronages thereof, with tithes of garbs and other tithes, rectories as well as vicarages thereof included, mines and minerals, metals, gems, pearls, precious stones, woods, fishings, mills, grindings, offices, privileges and jurisdictions of free regality, justice and justiciary, Sheriff and Sheriffdom, and all other liberties, advantages, privileges, benefits, customs, casualties and other things whatsoever in particular and in general hereinbefore mentioned to the before mentioned Sir William Alexander heretofore hereditarily appertained, held by him immediately of us, and by the aforesaid Sir William Alexander by his lawful proctors constituted in his name especially for this purpose, and by letters patent in the hands of the said lords, commissioners nominated and appointed by us for this purpose, as though at our hands and at the hands of the said Sir William Alexander, immediate and lawful superior thereof, purely and simply by rod and staff, according to custom, duly and lawfully they had been designated and granted at Holy-rood-house, with all right, title, interest, claim of right, property and possession which the said Sir William Alexander or his heirs or successors in and to the same or any part thereof have had, have, or in any way whatever could have claimed or taken to and in favour of the said Sir Thomas Burnet and his heirs male and assigns whomsoever, in the manner and with the provisions, limitations, exceptions and reservations abovementioned; And this for making, giving and granting our new hereditary enfeoffment thereof by us to the aforesaid Sir Thomas Burnet and his heirs male and assigns whomsoever, that they may be altogether at the same time erected, united, annexed and incorporated into one whole, full and free Barony and regality for ever, at all future times to be called the Barony of Leisburnet, To be held of us and our successors of our crown and realm of Scotland in free white farm for the yearly payment of one penny of the usual money of the said our realm of Scotland, on the ground of the said lands and boundaries, or any part thereof, on the feast day of the nativity of our Saviour, by the name of white farm, only if it be demanded, with dispensation also of new entry of the same lands, Barony and boundaries, rents, profits, farms and dues during the same new entry; Moreover, we have given, granted and disposed, and by the tenour of our present charter for ourselves and our successors of our certain knowledge and

proper motion, with the advice and consent aforewritten, and for divers good and grateful services to us by the said Sir Thomas Burnet tendered and performed, and for other grave causes and considerations us thereunto moving anew, do give, grant and dispose to the said Sir Thomas Burnet and his heirs male and assigns hereditarily for ever all and whole the aforesaid boundaries, lands, mills, woods, fisheries, advowsons and gifts of benefices, churches and chapelries, and rights of patronages thereto, and tithes of garbs and other tithes, as well rectories as vicarages therein included, mines, minerals, metals, precious stones, with power, privilege and jurisdiction of free regality, the offices of Justiciary, together with the privilege, power and jurisdiction of Justiciary and Sherifffdom in all causes, civil and criminal, with courts, mulcts, ameracements, escheats and all other and singular the liberties, exemptions, immunities, casualties, customs, profits, dues and other things whatsoever particularly and generally abovementioned, which we for ourselves and our successors, with the advice and consent aforesaid by the tenour of our present charter will to be had and hold to be had just as if they were in this our present charter especially inserted, repeated and expressed, with the particular exceptions, limitations and provisions respectively and particularly abovementioned; And we do anew erect, unite, annex and incorporate all and singular the said lands, boundaries, mills, woods, fisheries, advowsons and gifts of churches, benefices and chapelries, and rights of patronages thereof, tithes of garbs, and other tithes, as well rectories as vicarages therein included, mines, minerals, metals, precious stones, pearls, offices of regality, justiciary and sherifffdom, liberties, immunities, privileges, customs, profits, commodities, dignities, powers, jurisdictions, and other things whatsoever particularly and generally abovementioned, which we for ourselves and our successors hold as though expressed and particularly repeated in this our present charter with the especial exceptions, limitations and reservations especially abovementioned, dispensing for ever with generality, into one full, free and entire barony and regality called and to be called the Barony of Leisburnet; To have and to hold to the said Sir Thomas Burnet and his heirs male and assigns of us and our successors of our crown and realm of Scotland in free white farm hereditary barony and regality for ever by all their right ancient metes and boundaries, just as they lie in length and breadth, in houses, buildings, woods, plains, moors, marshes, ways, paths, waters, ponds, streams, meadows, feedings and pastures, mills, grindings, and their suits, fowlings, huntings, fishings, petaries, turbaries, coals, coal works, coneys, coney warrens, doves, dove-cotes, workshops, breweries, brambles and brooms, woods, wooded places and bushes, timbers, logs, stoneworks, stone and lime, with courts and the issues thereof, hereyeldis, bloodwites, and merchets (or maiden-fees) of women, with gallows, foss, sock, sack, toll, team, vert, waik, waith, wair, venison,

infangthief, outfangthief, pitt and gallows, and with common of pasture and free ingress and egress, and with all other and singular the liberties, privileges, advantages, profits, easements, prerogatives, dignities, and casualties by us or our predecessors to any Baron greater or less, commonly called Lord or Laird within the said our realm of Scotland heretofore granted, and with all the other things contained within the said original enfeofment hereinbefore granted, and which we, or any of our well-beloved progenitors or ancestors, by virtue of any charter of enfeofment, letter patent, grant or gift to any one of our subjects of any whatsoever condition or estate or to any society, company, or any particular members thereof, in petition, draft, acquisition or complaint, and maintenance of any whatever lands of strangers or colonies (with the exceptions, limitations, reservations and provisions abovementioned) have given, granted and disposed, and in as full, free and ample a form as if the same privileges, liberties, advantages and immunities, with all and singular paragraphs, conditions and provisions thereof in this our present charter were particularly contained, together with all right, like interest and claim at law, as well claimative as possessory, which we, our predecessors or successors, have had, have or in any way can have, claim, or take to the same, or to the rents, farms, profits and dues of the aforesaid lands of barony and others especially and generally abovementioned, for any whatever years or terms past, for any whatever cause and occasion past; Renouncing and discharging the same with all action and instance, to and in the favour of the said Sir Thomas Burnett and his heirs male and assigns for ever, as well for non-payment of dues specified in the said original enfeofment as for the non-delivery of due homage to the same conformably, or for the non-fulfilment of any part of the said original enfeofment, or for the commission of any deed of omission or commission prejudicial thereto, or whereby the same original enfeofment could be lawfully infringed, impugned or in any way whatever brought into question, condoning and exonerating the same for ever, with all action thereto competent, or which could be competent to us and our successors, and renouncing the same to right cause and process with undertaking of not suing, and with supplement of all defects and imperfections, both not specified and specified, which we will should be had in this our present charter; Moreover we, with the advice and consent aforesaid, do will and grant, and for ourselves and successors, do decree and ordain that the lands, barony, and other things aforesaid, be extended and returned at twenty shillings' worth of lands of the usual money of the said our realm of Scotland, as well of new as of old extent, at all future times, for this object, for returns, and precepts of chancery of the old form observed in our chancery of the said our realm of Scotland may be expedited, in conformity, in favour of the heirs and successors of the said Sir Thomas Burnet and his [heirs

male and assigns] abovesaid, And if it shall have pleased the heirs and successors of the aforesaid Sir Thomas Burnet to be served, returned, empowered and saisined in the lands and other things aforesaid within the said our realm of Scotland, then and in that case, We, with the advice abovementioned, do will, grant, declare and ordain that writs to this effect, to be addressed to our sheriff of our sheriffdom of Edinburgh and his deputies, be directed and returned to the chancery of our said realm of Scotland, and precepts of saisines thereupon to be addressed to the said our sheriff of Edinburgh and his deputies be directed, and by them be demanded for due execution; Which returns in deed, precepts, and saisines, to be in this manner expedited, shall possess such strength, validity, efficacy and effect in all respects as if the lands and other the things aforesaid lay within the said our sheriffdom of Edinburgh; the said Sir Thomas Burnet and his heirs male and assigns yielding therefor yearly to us and our successors to the said our crown and realm of Scotland the aforesaid free farm of white farm of one penny of the usual money of the said our realm of Scotland upon the ground of the said lands and barony, or of any part thereof, on the feast of the nativity of our Lord, by name of a white farm, only if it be demanded, for all other dues, services, questions or demands which could be exacted or required from the same lands and barony; And by reason of the interval and distance of the said boundaries and region of Nova Scotia from the aforesaid our ancient realm of Scotland, and whereas the same region of Nova Scotia is still wholly unprovided with tabellions and notaries public, requisite for the authorisation of saisines and instruments respecting the same, and considering, moreover, the great and manifold inconveniences which may arise by defect of due and lawful resumption of saisine or saisines in pursuance of this our present charter and other enfeoffments of the same lands and barony granted or to be granted to the said Sir Thomas Burnet and his heirs male and assigns, and whereas the said region of Nova Scotia and the original enfeoffment thereof is held in chief of the aforesaid our ancient realm of Scotland, and has been newly discovered, explored and acquired by the said Sir William Alexander, our Lieutenant thereof, by his own proper expenses aforesaid, and he indeed is a native of the said our realm of Scotland, and now has been and is to be planted in part by colonists and natives of the same realm, and for that reason has rightly acquired for itself the name, style and title of Nova Scotia, or New Scotland, wherefore the same is a region of Nova Scotia and, as it were, deserved to be considered as a part of the said our realm of Scotland, Therefore We, with the advice aforesaid, do decree, declare and ordain that a single seisin, to be taken at our Castle of Edinburgh, as being the most open and eminent part of the said our realm of Scotland, at the choice and option of the said Sir Thomas Burnet and his heirs

male and assigns aforesaid, upon the ground of the aforesaid lands of the barony and regality of Leyisburnet, or of any part thereof, is and shall be in all future time a sufficient saisin for all and singular the privileges and other things specially and generally abovementioned as we have dispensed and do dispense by the tenour of this our present charter for ever ; And whereas, by the holding of the said lands and barony in free white farm as is aforesaid, and because in case of defect of lawful and opportune entry of the heir or heirs male of the said Sir Thomas Burnet and their assigns succeeding to the same barony and other things aforesaid—which can with difficulty be put into effect as duly and in as due time as it should, by occasion of the long distance of the same from our said realm of Scotland—whereby the aforesaid barony and boundaries might fall and devolve into the hands of us and our successors by reason of non-entry at any time, and until the lawful entry of the true male heir and male heirs of the said Sir Thomas and of their assigns, We, therefore, in no wise desiring that the aforesaid lands and barony at any future time should fall into non-entry, nor that the said Sir Thomas or his heirs male or assigns should be in the meantime deprived of the benefit and profits thereof, have therefore, with the advice aforesaid, for ourselves and our successors, dispensed with the said non-entry, and, by the tenor of our present charter, do dispense therewith for ever, renouncing the same wholly, and also discharging and quitclaiming the said Sir Thomas Burnet and his heirs male and assigns from the said non-entry simply whensoever the aforesaid lands and barony shall happen to have fallen into the hands of us, our heirs or successors, by reason of a non-entry, and from all action and instance thereupon to right, process and cause with all things which may be sued thereupon ; Provided, nevertheless, that the heirs male of the said Sir Thomas Burnet and their assigns, within the space of seven years after the decease of their predecessors, or after entry into possession of the aforesaid lands and barony, tender due homage for the same, by themselves or their proctors, who are to be appointed for this purpose and provided with their power, to us and our successors of the said crown and our realm of Scotland, And shall enter and be received by us and our successors unto the aforesaid lands, barony and other aforesaid things now hereinbefore mentioned ; In which case the heir or heirs male of the said Sir Thomas Burnet and their assigns shall have, enjoy, and possess all and singular the benefits and privileges thereof, together with all and the whole of the said lands and barony, rents, farms, profits, and dues thereof, and other things whatsoever particularly and generally abovementioned in similar manner and as freely as if there had never been such a non-entry, or they had never fallen into a non-entry ; Furthermore, considering that virtue and industry are by no other means more advanced and stimulated than by honour and dignity, and that from that fount noble minds

are principally aroused and animated to the undertaking and prosecuting of noble and generous actions and efforts, and that all splendour and excellence of dignity and honour derive their origin and increase from the king as from the fountain head thereof, to whose highness and eminence it properly appertains to create and institute new titles of honours and dignities, as being the one from whom the old titles at first emanated, And thereupon being willing to imitate our well beloved progenitors and ancestors of eternal memory, who instituted actually new dignities and degrees of honours among their well-deserving subjects, We, therefore, of our royal authority and power, have erected, created, made, constituted and ordained, and by the tenour of our present charter, for ourselves and our successors of our especial grace, favour, certain knowledge, and proper motion, and deliberate mind, with the advice and consent aforesaid, do make, erect, constitute, create and ordain the certain hereditary state, degree, dignity, name, order, title and style of Baronet to be, about to be and remain for ever in all future time in the said our realm of Scotland, and the aforesaid region of Nova Scotia, to be held and enjoyed by such persons whom we and our successors, for the advantage and increase of the said plantation of the same region of Nova Scotia, and for their other eminent merits, shall create Baronets, or advance to the said degree and style: Therefore we, for the aid and assistance hitherto given by the said Sir Thomas Burnet for the advantage and increase of the said plantation, and for divers other good and gratuitous services by him to us rendered, and for other grave causes and considerations us thereunto moving, have erected, and by the tenour of this our present charter of our especial grace, favour, certain knowledge, proper motion and deliberate mind, with the advice and consent aforesaid, do erect, advance and create the said Sir Thomas Burnet and his heirs male of all kinds from time to time in all perpetual future time in and unto the said hereditary state, degree, dignity, name, order, title, and style of a Baronet, with all and singular the prerogatives, privileges, precedences, conditions, and other things particularly and generally herein written, and we have made, created, and appointed, and by the tenour of our present charter, do make, create and appoint the aforesaid Sir Thomas Burnet and his heirs male of all kinds from time to time hereditary Baronets for ever, to enjoy and to have all and singular the prerogatives, privileges, and other things particularly and generally herein written conceived in their favour; And we have given, granted, willed, ordained, and declared, and by the tenour of our present charter, We, for ourselves and our heirs and successors, of our especial grace, favour, certain knowledge, proper motion, and deliberate mind, with the advice and consent abovementioned, do give, grant, will, declare and ordain, that the said Sir Thomas Burnet and his heirs male aforesaid from time to time for ever, by virtue of our

present charter, and of the same degree, dignity, name, order, title, and style of a Baronet, to them granted by the tenour of our present charter, shall have, hold, enjoy and assume at all future time after the day of the date of this our present charter, as well in the said our realm of Scotland as in the said region of Nova Scotia and elsewhere, the place, priority, pre-eminence, and precedence in all and all manner of commissions, writs, letters patent, directions, writings, appellations, nominations, sessions, assemblies, meetings, places, and at all times and occasions whatsoever, before all knights (*equites auratos*), commonly called *knichtis*, lesser barons commonly called *lairdis*, and gentlemen of all kinds commonly called *gentillmen* (except the said our Lieutenant and his heirs male of his body lawfully about to issue, and our Lieutenants who are existing in the said region of Nova Scotia, and in no case otherwise); And their wives and children in like manner shall have and enjoy the places and precedences conformably and similarly, except such knights (*equites aurati*) bannerets commonly called *knychtis bannarettis* whom we or our successors may happen to have created under our Royal Standard unfurled in army royal and open war, and in presence of the sovereign, and not otherwise, and that during the lifetime of the said knights bannerets only, and not longer, and before all other Baronets whomsoever about to be created at any future time by us, our heirs or successors, also before their heirs and successors respectively, although it may arise that some other Baronet or some other Baronets have been created by us at some future time, and to them and their heirs and successors some certain grants, gifts, letters patent, or signatures of the said state, degree, dignity, name, order, title or style of Baronet granted, and the same in due form ratified under our great seal of the said our realm of Scotland, before that the said Sir Thomas Burnet shall procure this present diploma to be duly ratified to himself under the said our great seal of Scotland, notwithstanding any whatever law, practice or constitution to the contrary made; And in like manner, We have granted, willed, declared, and ordained, and by the tenour of this present charter for ourselves and our heirs and successors, with the advice and consent aforesaid, of our especial grace, favour, certain knowledge, proper motion, and deliberate mind, we will, grant, declare, and ordain that the wife and wives respectively of the said Sir Thomas Burnet and his heirs male respectively aforesaid from time to time for ever, by virtue of the present our charter and of the said degree, state and dignity of their males, shall have, hold, enjoy and assume at all future time the priority, place, precedence, and pre-eminence, during the lifetime of their husbands, and also after their decease, so long as they themselves are living, if they shall happen to have outlived them, before the wives of all others whomsoever, before whom the said Sir Thomas Burnet and his heirs male aforesaid, by virtue of our present

charter, or of the said degree, state, dignity, name, order, title or style of Baronet to them by the strength of the said our charter granted, can or ought to enjoy, have, hold, or assume place, priority, precedence and pre-eminence, And before the wives of the said knights bannerets, commonly called *knychtis bannarettis*, above excepted, because the said degree of Baronet is a degree hereditary in blood ; And in like manner, that the sons and daughters respectively of the said Sir Thomas Burnet and his heirs male aforesaid for ever, by virtue of the present our charter, and of the said degree, dignity and title of Baronet granted by the tenour of the present our charter to the said Sir Thomas and his heirs male aforesaid, shall have, hold, enjoy, and assume the place, priority, pre-eminence, and precedence before the sons and daughters respectively of all persons whomsoever before whom the said Sir Thomas Burnet and his heirs male aforesaid, by virtue of our present charter, or of the said degree, dignity, title or style of Baronet to them granted, can assume place or precedence, and before the sons and daughters respectively of the said knights bannerets hereinbefore excepted ; And in like manner, that the wives of the sons of the said Sir Thomas Burnet and his heirs male abovementioned respectively at all future times shall have, enjoy, hold, and assume place, priority and precedence before the wives of all persons whomsoever before whom their husbands can and ought to assume place or precedence, and this as well during the lifetime of their husbands as afterwards ; Furthermore, We, of our especial favour, certain knowledge, mere motion and deliberate mind, by the tenour of our present charter for ourselves and our successors, with the advice and consent aforesaid, do will, grant, declare, ordain and promise that at the time when and whensoever the son, eldest by birth or heir male apparent, of the said Sir Thomas Burnet, or of any other heir male succeeding to him, shall have attained to the age of one and twenty years, that they and each one of them respectively shall be created knights (*equites aurati*) by us or our heirs or successors, notwithstanding that their fathers be still for the time living, whensoever they themselves, or any one of them, shall desire the same, without payment of any fees and without any expenses ; And that the said Sir Thomas Burnet and his heirs male aforesaid shall have and can have and bear for ever in the corner or canton of their coat of arms "*Le coat of armes,*" or in a shield commonly called "*ane inescutchioun,*" at their choice, the armorial bearings of the said region of Nova Scotia, which are silver "*Lie Argent,*" the ancient armorial bearings of Scotland, on a blue cross, commonly called "*on ane saltoire azure,*" supported by our unicorn on the dexter side and a savage proper on the sinister side, and for a crest a branch of laurel and a thistle issuing from an armed and a naked hand, conjoined with this motto : *Munit hæc et altera vincit* ; And that the said Sir Thomas Burnet and his heirs male aforesaid from

time to time for ever shall have place in all the armies of us and our heirs and successors in the middle division thereof, near to and about the standard of us and our heirs and successors, for the defence thereof, and that the beforesaid Sir Thomas Burnet and his heirs male beforesaid for ever at all future times can have and shall have two assistants of the body for supporting the stay commonly called *ane paill*, one principal black and four assistants at his funeral, And that the abovenamed Sir Thomas Burnet at all future times shall be styled, called, entitled and designated by the name and title of Sir Thomas Burnet, Baronet, And that the aforesaid heirs male of the beforementioned Sir Thomas Burnet for ever also shall be styled, called, entitled, placed, and designated by the name of Baronet, And that the style, name and title aforesaid of Baronet be added and subjoined to the end of the name of the aforesaid Sir Thomas Burnet and his heirs male beforewritten respectively for ever in all our and our heirs' and successors' writs, letters patent and commissions, and in all and singular other charters, writings, papers, documents and letters whatsoever, as a true, lawful and necessary addition of dignity, And that in all Scottish edicts, allocutions, and writings this addition Sir, and in all other discourses, pleadings and writings the same meaning word of the said "Sir" Thomas Burnet and his heirs male respectively for ever be prefixed, and that the said style, name and title of Baronet be added to the end of their surname; And also that the wife and wives of the said Sir Thomas Burnet and his heirs male aforesaid for ever shall hold, use, enjoy and have at all future times the style, title, and appellation of *Ladie*, *Madame* and *Dame* respectively, according to the use of speaking and writing the phrase; Furthermore, we, of our especial grace, favour, certain knowledge, mere motion, and deliberate mind, by the tenour of the present our charter, for ourselves and our successors, with the advice and assent aforesaid, do give, grant and ordain, to the said Sir Thomas Burnet and his heirs male respectively aforesaid for ever, that the number of Baronets in the said our realm of Scotland and in the region of Nova Scotia, neither at the present time nor at any future time, shall exceed in all the number of one hundred and fifty: Moreover, We, of our especial grace, favour, certain knowledge, and proper motion and deliberate mind, have given, granted, declared, and promised, and by the tenour of the present our charter for ourselves and our successors, with the advice and consent aforesaid, do give, grant, ordain, constitute, declare, and promise to the said Sir Thomas Burnet and his heirs male respectively aforesaid for ever, that neither we nor our heirs and successors at any future time will erect, ordain, make, constitute, create or designate any other dignity, degree, estate, name, order, title, or style whatsoever, nor will we give, grant, promise, ordain, or designate a place, priority, pre-eminence or precedence to any person or to any persons whomsoever, under

and beneath the style, dignity and degree of a lord of the Parliament of the said our realm of Scotland, which shall be or be presumed to be higher than, superior to, or equal to the said degree, estate, dignity, name, order, title, or style of Baronet, now by the tenour of our present charter by us given and granted to the said Sir Thomas Burnet and his heirs male respectively aforesaid, And that the aforesaid Sir Thomas and his heirs male respectively aforesaid for ever may assume and can assume freely and quietly all and singular the aforesaid their dignities, places, priorities, pre-eminences, precedences, prerogatives, and privileges, before all others whomsoever, who from henceforth for ever shall be created of any such estate, degree, dignity, name, order, title or style, or any whatever such place, precedence, or pre-eminence as shall be granted after the day of the date of the present our charter, And that the wives, sons, daughters, and sons' wives respectively of the said Sir Thomas Burnet and his heirs male respectively for ever shall have, enjoy, and hold the aforesaid places, priorities, prerogatives and precedences conformably; Furthermore, that no one person whosoever, at any future time, of the said our realm of Scotland or region of Nova Scotia shall be created a Baronet unless he first of all shall fulfil conditions for the advantage and increase of the said plantation of the region of Nova Scotia, and have certified the same unto us, or our commissioners, by the said our Lieutenant whom we appoint to see such conditions fulfilled; Moreover, we will that this our present charter is and shall be valid, sufficient and effectual at all future times in all points, as is hereinbefore written, to the said Sir Thomas Burnet and his heirs male respectively aforesaid for ever, and their wives, sons, daughters, and sons' wives respectively, and to any whomsoever of them, in law against us or our heirs or successors, and against all others whomsoever, in all the courts of us and our heirs and successors, and in all other places whatsoever, at all times and occasions, notwithstanding any whatever law, practice, custom, prescription, use, decree, or constitution whatsoever whether heretofore made, used, published, ordained and provided, or for the future at any whatever time to come to be published, constituted, used, ordained or provided, notwithstanding any other cause, matter or occasion whatsoever; And in like manner, We, for ourselves and our heirs and successors, with the consent aforesaid, do will, decree, declare, and ordain that this our present charter, with all and singular the privileges, liberties, paragraphs, articles, conditions, and other things aforesaid, be ratified, approved and confirmed in the next our parliament of the said our realm of Scotland, or in any other parliament hereafter to be held in the same our realm, at the choice of the said Sir Thomas Burnet and his heirs male hereinbefore written, and have the vigour, strength, and efficacy of a decree of supreme judicature thereof, in company wherewith we, for ourselves and our heirs and successors, will and

declare the same charter and clause therein contained shall be a sufficient warrant for the effect aforewritten, and we promise on the word of a king that it shall be conformably fulfilled ; Moreover, to our beloved [

] and to each one of you jointly and severally our sheriffs on this behalf especially appointed, greeting, We command and order you that you give over and deliver to the abovesaid Sir Thomas Burnet, or his certain attorneys bearers of the presents, the estate hereditary seisin and also actual, real and bodily possession of all and the whole aforesaid lands, barony and regality of Leyisburnet, with all and singular the tithes of garbs and other tithes, as well in rectories as vicarages, and all and singular parts, members, privileges, liberties, immunities, and other things whatsoever abovementioned thereunto appertaining, as well particularly as generally above mentioned, at the said our Castle of Edinburgh, without delay, and this ye may by no means omit, to the performance whereof we confer by the tenour of this our present charter, plenary and irrevocable power on you and any one of you jointly and severally our sheriffs on this behalf aforesaid ; Which said seisin in deed abovementioned, with the advice and consent aforesaid, for ourselves and our successors, by the tenour of the present our charter we will, decree, declare and ordain shall be as lawful and sufficient as if precepts of seisin had been to that effect in our abovesaid charter directed severally and ordinarily out of our chancery, in which we, for ourselves, our heirs and successors, with the advice and consent aforesaid, have dispensed, and by the tenour of the present our charter, do dispense therewith for ever. In witness whereof we have ordered to this, our present charter, our great seal to be appended. Witness our well-beloved cousins and councillors James, Marquess of Hammiltoun, Earl of Arran and Cambridge, Lord of Aven and Inverdaill, &c. ; William Earl Marshal, Lord Keith, &c., marshal of our realm ; our well-beloved councillor, Lord George Hay of Kinfawnis, knight, our chancellor ; our well-beloved cousin and councillor Thomas Earl of Melrois, Lord Binning and Byris, &c., our secretary ; our beloved privy councillors Lords Richard Cockburne of Clerkingtoun, keeper of our privy seal ; John Hammiltoun of Magdalenis, registrar of our rolls and clerk of council ; George Elphinstoun of Blythiswode, our Justice-clerk ; and John Scott of Scottistarvet, our chancery director, knights. At Holyrood-house, on the twenty-first day of the month of April, in the year of our Lord one thousand six hundred and twenty-six, and the second year of our reign.

Endorsed :—The Charter of Sir Thomas Burnet of Leyis, Knight Baronet of the Lands, Barony and Regality of Leisburnet in Nova Scotia in America, &c.

XXXIII.

CONTRACT OF MARRIAGE between the sons of Sir Thomas Burnet of L^eys and the daughters of Mr. William Burnet, minister at Kinerny, 10th February, 1642.

AT L^eys, the tenth day of Februarii, j^m vj^c fortie-tuo yeirs, It is contrackit and agreid betwixt Sir Thomas Burnet of L^eys knight barronet, for himself and tacking the burden one him for Thomas Burnet his eldest lafull sone procreat betwixt him and Dame Jean Moncreiffe his spous, and Mr. William Burnet, minister at Kinerny, for himself and tacking the burden one him for Bessie Burnet, his lafull dochter, on the one and uther partis, in forme and maner following : That is to say, the said Sir Thomas Burnet obleiss him faithfullie that, God willing, the said Thomas Burnet his son sall marie and take to his spous the said Bessie Burnet, and in caice of his death or refusall that William Burnet his immediat younger brother germane sall marie the said Bessie, and in caice off the deceas of the said William or refusall that James Burnet his younger brother germane sall spous the said Bessie, and in case of deceas of said Bessie or refusall to marie any of the saidis three brethren, that one of three brethren sall marie Helen Burnet, sister germane to the said Bessie ; and the said Mr. William obleisse him that the said Bessie, and in caice of her deceas or refusall the said Helen, sall accept in marriage one of the saidis three brethren as said is, and solemnize the said band of matrimonie in face of holie kirke be wordis of the present tyme, and therafter to do all mutuall dutie as God's word prescryves in all poyntis. In contemplatione and solemnizatione of the quhilk marriage the said Mr. William Burnet oblidges him and his aires and successors quhatsomevir to dewlie, heritable and irredemable infest and sease the said Thomas Burnet and his aires maill to be lafullie procreat betwixt him and the saidis Bessie or Helen Burnet, quhilkis failzeant his aires maill quhatsomevir, and in caice of his deceis or refusall to accomplise the said marriage, to infest and sease the said William Burnet and the aires maill lafullie procreat betwixt him and the saidis Bessie or Helen Burnets, quhilkis failzeant his aires maill quhatsomevir, and in caice of the deceas of the said William or his refusall, to infest and sease the said James Burnet and his aires maill to be procreat betwixt him and the saidis Bessie or Helen Burnets, quhilkis failzeing his aires maill quhatsomevir, and failzeinge the aires maill of ony of the saidis three brethren quha happens to marie one of the saidis tuo sisters, the said Sir Thomas Burnet, his aires maill and successours to

the surname and armes of Burnet, and in caice of the deceas of the saidis hail three brethren (quilk God forbid), without anie of them being married with anie of the saidis tuo sisters, to infest and sease the said Bessie or, in caice of her deceas befor her marriage or refusall with ane of the saidis three brethren, the said Helen, ther airs and assignayes the saidis tuo sisters, or either of them marreing alwayes any uther persone with consent and advyse of the said Sir Thomas Burnet and his foresaidis, utherwayes to have no richt to the lands and others wnderwrettin, and in caice of both the saidis sisters thir deceis befor thir mariage, for certain good considerationes to infest and sease the said Sir Thomas Burnet and his forsaidis heritable and irredimably in all and hail the townes and landis of Meikle Sauchen, Muirtown, Dockinwall, milne, milne landis, multures, sequellis, houses, biggings, yardis, partis, pendicles, maner place, commontie, common pasture of the bestiall of the saidis landis on the forrest of Correnie, as also in all and hail the townes and landis of the Maynes of Carnday, callit comonlie Auld Carnday, with the maner place, as also the landis of Ower Carnday, the landis callit Lyn and Milne of Carnday, milne landis, astrict multuris, and sequellis, houses, biggings, and pertinents, conform to his infestmentis of the samyn, lying within the barronry and parochin of Cluny and schireffdome of Aberdene, reservat alwayes the said Mr. William his lyfrent of the saidis landis of Auld Carnday, maner place, Ower Carnday, Lyn, milne, milne landis, multuris, sequellis, pertinentis, and to Catharene Reid, his spous, her lyferent of the saidis lands of Meikle Sauchine, Muirtowne, Dockinwalls, new milne, milne lands, multures, sequels, and pertinents, and that during the not mariag of one of the said three brethren with one of the saids two sisters, and efter ther mariag they alwayes to hawe full ingres therunto not obstance of the said reservacione, and sick lyke reservand to the said Bessie, iff she marie any of the saidis three brethren, her lyferent of the said landis off Meikle Sauchine, Muirtowne, Dockinwallis, new milne, milne landis, multures, sequellis and pertinentis, and in caice of her deceas befor the said mariage or refusall, reservand to the said Helen her lyfrent theroff, if she marie any of the saidis three brethren; and that be sewerall infestmentis to be hauldin of the said Mr. William blense for payment of ane pennie yeirlie iff the samyn beis requyrit of his immediat superior, as he holdis the same himself, and to mark, seall, subscrivye, and deliver to the saidis hail persons sufficient chartors of alienacione, conteneane preceptis of seasing, procuratories of resignation, and all other securities requisite, bearand all clauses necessar and profitable upon the conditions, reservations and restrictions abow vrettin; and for the farder securitie theranent, the said Mr. William makes and constitutes them his lafull assignayes to all richt and titill, tacks, assedations, decreits of platt, acts of prorogacione and other

richtis quhatsoewir quhilk he hes or sall happin to acqyre of or concerning the teind sheawis or wiccarage of the haill lands abow wretten, reservand the abow vrettin lyfrents of the lands abowereservit and als in and to all and quhatsoewir contracks, dispositions, infestments, apprysings, inhibitions, and uthir rights of and concerning the haill lands, milnes, and uthiris abowe vrettin grantit to him or any of his authors, or whilks may be competent to him, of quhatsoewir decreits or contracts, clauses of warrandice and all uthiris therin containit, and to all actione, persuite, and instance quhilk is or may be competent be vertew therof, and serve for the corroboracione of the heritable rycht of the lands, milnes and uthiris forsaidis. It is specielle aggreit that during the not marriage of one of the saidis sisters in maner abow vrettin that the said Sir Thomas Burnet and his forsaidis, efter deceas of the said Mr. William, sall have full right and titill of setting and raising of the lands, milnes and uthiris forsaidis, outputting and inputting of tennants, uptaking of the mailles and duties, discharges giving theron, and to persew therfor as neid beis, haulding of courtis toties quoties as beis necessar, and that yeirlie, alsweill the saidis persons not being infest and seasit as being infest and seasit, with full and frie jurisdictione of bailzieries and office of chalmerlaurie for that effect, and the saidis yeirlie duties to be furthcommene to any of the saidis sisters, the said Sir Thomas sall think meitt to helpe and provyde therwith, to quhais discretione, visdome and consideratione the samyn is referrit heirby, and the saidis bairnes to him as their parent. Lykas the said Sir Thomas Burnet obleiss him and his foresaidis at the next terme efter the marriage betwixt aither of the saidis sisters with any of the saidis three brethren to pay to the said Mr. William, his aires, executors or assignayes the sowme of five thowsand marks monie, and if he leive tuo yeirs after the dait heiroff, to pay to him and his forsaidis the sowme of thrie thowsand marks monie, and if the said Mr. William leive three yeirs onlie, the sowme of tuo thowsand marks at the next terme after the said marriage, and that by and attour the sowme of fyve thowsand marks obleist be the said Sir Thomas in maner abow mentionatt, quhilks sowmes obleist to the said Sir Thomas sal be in the said Thomas Burnet, if he outlive his said father and marrie one of the saidis sisters, in part of payment of ten thowsand pundis oblist be the said Sir Thomas to the airs of his marriage with his saidis spous be their contrack matrimoniall, and in caice of the said Thomas his deceis before his said father, the samen sal be alwayes to the said William Burnet or James Burnet, quha beis air of the said mariage outleiving the said father and mareing any of the saidis tuo sisters, in part of payment of the said ten thowsand pundis obleissit be the same contrack protanto. And for the better securitie for fulfilling of all the saidis conditions the saidis parteis are content, and consents that thir presents be insert in the buikis of counsall, commissar, or schireff buiks

of Aberdene, to hawe the strenthe of ane confesd ack and judicial decret, with extract of warding, poynding, and horning to pas therupon upon ane single charge of sex dayes, and to that effect constitutis thir lauffull procurators promittendo rato. In faith and witnes quherof the saids parties hawe subscriyvit thir presents with their handis, wrettein be me, Robert Burnet, servitor to the said Sir Thomas, day, yeir, and place respective forsaidis, befor thir vitnesses, James Burnet of Craigmyll, Mr. Robert Reid, minister at Banchorie ; Mr. George Burnet, minister at Strachan ; Robert Burnet, servitor to the said Sir Thomas ; Symon Fraser of Inverlochic, and Thomas Burnet of Camphill. Sic subscribitur:

Mr. R. Reid, witnes.	J. Burnett, witnes.	Mr. W. Burnett.	T. Burnett of Leyes.
Mr. G. Burnett, witnes.	S. Fraser, witnes.	Catharen Reid.	Thomas Burnett.
R. Burnett, witnes.	T. Burnett, witnes.		Bessie Burnett.

XXXIV.

ACT of Committee of Estates in favour of Sir Thomas Burnett, 22nd May, 1650.

Edinburgh, 22 Maij, 1650.

THE Committee of moneyis and accomptis, considdering that Sr Thomas Burnet of Leyis has formerlie lent to the vse of publick in Anno 1644 yeeres the soume of Six thousand pundis Scottis money, ffor which soume Johne Denholme, than Commissar for the north, gave his owne private surety, and whilk soume they find charged in the said Johne Denholme his accomptis, thairfore, and for the said Sr Thomas Burnet his securitie anent the reayment of the said soume, and the said Johne Denholme his liberatioune th'of, by vertew of the power and warrand granted to the said Committee of moneyis and accomptis, they doe by these presentis bind and obleidge the estaites of this kingdome to refund and pay againe to the said Sr Thomas Burnet of Leyis the said soume of Six thousand pundis Scottis money out of whatsomever soumes of money belonging or that sall happen to belong to the publick, or sall be gottin in for publick vse heirefter, togidder with the ordinar annuall rent th'of, conforme to the lawis of this kingdome, frome the terme of Mertimesse, 1644 yeers, till the reayment of the samyne ; and be thir presentis, ordaines the said generall Commissar and vtheris collectouris of the soumes belonging to the publick, or to be gottin in for publick vse, to ansuer and pay to the said Sr Thomas Burnet and his foirsaidis the annuall rent of the said principall soume yeerlie and termelie since the said terme

of Mertimesse, 1644 yeeres, and ay and quhill the repeyment of the samyne out of the first and reddiest of the foirsaidis soumes. Whairanent thir presentis sall be to thame ane warrand, and the samyne sall be allowed to thame in th^r accomptis. Whairvpone the said Committee ordained this present act to be maid. Extractum, &c.

W. DOWNIE.

XXXV.

PRIVATE REGISTER of Sir Thomas Burnett, 1651-52.

[1]

BE IT KEND till all men be thir presentis me, Sir Thomas Burnet of Leyis, Knycht Barronet, w^t expresse consent and assent of Alex^r Burnet, my eldest oye and apparent aire, and he for him selfe, his owen right, and entresse, when he coms to his maioritie, and perfect age, as apparent successour to me, in the lands and others vnderwritten, to be bound, and obleged: Lyke as we be the tenour heroff, binds, and feathfully obledges vs, our aires male, and successoures to the lands and Barony of Leyis, w^t the pertinentis, lyand w^tin the Barony of Leyis, the Parochen of Banchorie Ternan, and Shirrefdome of Kincardin, in the Mearnes: As lykwayes to the wedset lands of Broadland, lyand w^tin the Parochen of Crimond, Shirrefdome of Aberdene, redeemable for the sowme of Sex thousand and thrie hundereth merkis, Scottis money: which sowme of Sex thousand thrie hundereth money forsaid I, the said Sir Thomas, have mortified, for the speciall vse of the Hospitall, built by my selfe, for the helpe and support of old indwellers, depauperat and decrepid persones, w^tin my owen lands, and others, w^tin the said Parochen, present, and to come, and in good exemple of love and charity to others to supplie the indigence and necessity of the weake and distressed poore, as God shall give them grace to doe; Which sowme of Sex thousand thrie hunderth merkis, money forsaid, on the saids lands of Broadland, lyand as said is, I bind, and obledge me, my aires male and successoures whatsoever, to imploy, and bestow, for the vse of the said Hospitall and poore of the said Parochen of Banchory, in maner vnderwrittin, and th^t how often so ever the said sowme of Sex thousand thrie hundreth merkis, monney forsaid, beis lifted: In caise of redemptioun of the saids lands of Broadland, to be as often wared upon land or band, and the rent or annuall rent thereof still to access and be furthcomeand to the hospitall foresaid and poor of the pariochine of Banchory in manner following,

that is to say, to the four waults under the school of Banchorie built be me, to each wault or house or chamber of the saids four, nyne bolls victuall sufficient oatmeall yearlie out of my ginnell of Leyis, to be payed be me, my airis male and successouris whatsomever for the sustentation of ane old persone and a young body to attend them in every one of the four waults, hous or chamber under the said school ; and it is expresslie provydit be thir presents that the young persones attending the old as said is goe a part of the day, for sex houres at least, either to the man's school, if males or boyes, or to the woman's school, being females and maids, to be instructed and educat, and the rest of the day and all the night tyme to waite upon the old persones ; If the old be men, th^t they haue males or boyes to attend them, and if the old persones be women, that they haue famels or maids to attend them, and in caise the old fail in hauing their attenders, or in holding them the space of sex houres (as said is) at least at the scooles, as befor, then, and in th^t caise, whosoeuer faillis, to want thrie of their nyn bollis meill abow mentionat, for suffering them to neglect their education, and learning which I haue ordeened to be giuen them, gratis, or for nought, onpaying any thing therfor to the masters of the mans scool, or to the mistresse of the womans scool ; Furthermore, becaus I, the said Sir Thomas, as air to my said vnquhill Father, am bound by ane band of mortification, as for the anuall rent of two hunderth merkis, Scottis money, dotted by my said vnquhill Father, and of one hunderth merkis, money forsaid, dotted and mortified be vnquhill Mr. Thomas Burnet, portioner of Curmoir, to giue yeerly, to the number of tuelve poore folkes, in the said parachen of Banchory, as follows, viz., to sex poore, whether men or women, for my vnquhill father, sex bollis oate meill yeerly, and other thrie, thrie suitis of clothes yeerly, and to other thrie poore, for the said vnquhill Mr. Thomas Burnet, thrie bollis of meill forsaid yeerly : For impliment herof, I, for love and charity, and for their better support, I, the said Sir Thomas Burnet of Leyis, binds and obledges me and my forsaidis, to giue to euery on of the saids poore folkes yeerly (being depauperat and wanting meanes to liue, and being old indwellers in the said Parochen of Banchory, at the least for the space of seaven yeers, and being of honest reputation and good fame, and louers of the trueth, and of Christian behaiour) as followes, viz. :—Ane boll meill yeerly to every one of the three which befor gott the cloathes, and that together with the saidis cloathes, and to the other nyne that gott the meall befor, nyne suites of cloathes, together also with ther saids nyne bolls meall, and, moreover, to every one of said tuelve poor eight, four pounds Scots money yearlie to help them to buy shoes or other necessares, or half boll meall foresaid yearlie to every one of them instead of the saids four pounds, because moneyis cannot alwayes be readily gotten, and all to be payd out of the garner of Leyis, and be the laird of Leyis for the tyme,

and that at fouer tymes in the yeere, by equall portiones, and that vnder the paines of infamy, and the perrel of the wrath of God, if he defraud the said poore of their diuty, as said is: And to the end he may know, th^t it is their diu indeed, and not preiudiciall to him, nor his estat: I ordeene him, whoeuer beis my air male, and our airs male successoures, to midle, and intromet w^t the saids wedsetis lands of Broadland, wherin I stand infest, and whervnto he is to succeed as my air, and our forsaidis, and in caise of redemption, w^t the saids sex thousand thrie hunderth merkis, money forsaid, to recompense the saids wictuall to the said poore, young and old, in the said Hospitall, and wictuall money and cloathes forsaidis to the tuelve poore abow mentionat, becaus they cannot gouerne land, nor moneyes, nor haue they power, nor strenth to goe so farr to fech it: And for the better obseruing of all the premissis, I, the said Sir Thomas, for me and my forsaidis, ordeens and giues speciall power be thir presentis to the minister present of the said Parochen of Banchorie, Mr. Alex^r Cant, and to all the ministers th^t shall succeed to him in the said Paroche, togither w^t such of the trustiest and faithfulest elders of the said Paroche of Banchorie for the tyme, present and to come, whom the present minister, or to come, shall nominat, and choose to concurr w^t him, to cause all the forsaidis conditiones, and mortified pensiones to be yeerly payed, and put in diu execution against the Leard of Leyis for the tyme; And for the more security I am content and consentis th^t thir presentis be insert and registrat in the Commissaries or Shirrefbooks of Aberdene, there to remane ad perpetuum rei memoriam, and to haue the strenth of ane decret of the saids Judges, th^t executionallis of poiding and horning may pass vpon an single charge of ten dayes, And for that effect constitutis Mr. Alex^r Davidson, my lauchfull procuratour. In testimony wherof, thir presentis, written w^t my owen hand, is subscribed be me at Leyis, the nynteen day of October, i^m vi^c fifty-one yeers, befor witnessis Sir Robert Douglass of Tilliquihilly, knyght; Alex^r Burnett in Creagtoun; Mr. Wm. Burnet, my lauchfull sonne; Mr. James Skeen of Ramoir, and Jhon Burnet in the Leyis.

T. BURNETT of Leyis.

[2]

BE IT KEND till all men be thir presentis me, Sir Thomas Burnett of Leyis knyght barronet, to haue sett, and in tacke, and assedation letten, lyke as I be thir presentis settis, and in tacke, and assedation for diuty vnderwritten lettis, to Dame Jeane Moncriefe, my deare and well-beloved spouse, for me, my airs male and successouris, and for speciall loue, and fauour I carie to her, for her diutifullnes to me, in our tyme, All and hail the towne and lands of Eyster

Balbrydie, as it is presently occupied be James Fraser, present occupier of the samen, All and hail Midd Balbrydie, as it is presently occupied be William Douglass, present labourer of the samen (called by his vnquhill father that painfull paffill), All and hail the towne and lands of Wester Balbrydie, as it is now presently occupied be Robert Douglass, present indweller there, and labourer of the samen, and All and hail the towne and lands of the Knappoch, as it is presently occupied be Alexander Hogge, present possessour of the same, w^t all and hail their housses, biggings, yeardes, toftes, croftis, outseatis, inseatis, partis, pendicles, and pertinentis of the same, mosses, morres, and all th^t euer was knowen to belong to thes tounes and lands, all lying wⁱⁿ the Parishes of Banchory Tarnan, and Doores, and Shirrefdom of Kincardin, in the Mearnes, for all the dayes, yeers, and tearmes of the said D. Jeane Moncreife, her lyf tyme, And if it shall happen, in her tyme, thes lands to be redeemed: Then, and in th^t caisse, I obledg my selfe, my aires male and successouris, abow rehersed, to put the said D. Jeane in reall and actual possession of als much well payed rent out of the barony of Leyis, and thir presentis to stand euer in full vigour and strenth, to keepe the said D. Jeane in reall and actual possession by vplifting of the diuties of the saids lands, or causing labour them, or any part of them, by her selfe, ay and whill she be serued of als much rent, in wictuall or siluer, to her contentment (which is the sowme of fyue hunderth merkis yeirly, Scottis money, payable to her) at any tyme herefter, to be brooked and joyced be her so long as shee doeth possesse the saids lands, she alwayes releuing me and my forsaidis of ministers stipentis, and of all augmentationes, present and to come, and of all impositiones whatsoever th^t happens to be imposed on thes teythes of thes proportio, and pro rato, and the said D. Jeane to haue no langer right to the saids teythes of the saids lands, then shee happines to possesse the stocke of the lands them selues: As Jykewayes I, the said Sir Thomas, ordeens be thir presentis, and it is specially provided be this present tacke and assedation, th^t the said D. Jeane shall releue me and my forsaidis of all sesses, monthly maintenance, taxationes, and impositiones whatsoever, leuies of horsse and foot, and generally of all publict diues whatsoever, als well not nominat as nominat, present and to come, th^t happines to fall on the said lands proportionally, and pro rato; The said D. Jeane her entrie to be to the saids lands and teythes forsaidis, at the nixt Witsonday tearme immediatly efter the deceasse and death of me, the said Sir Thomas, her present husband, lyke as I be thir presentis for me, and my forsaidis, do graunt, and confesse her entrie to begin then, and th^t w^{out} any action of intrusion, wrongous, or violent intromission, wherof for me, and my forsaidis, we graunt her to be acquyt for euer: Paying therfor yeerly the said D. Jeane to me, and my forsaidis, all and hail the sowme of sex sh. 8*l.*, Scotis money abow

specifeit, at two tearmes in the yeer, Witsonday and Mertinmesse, be equall portiones, if it be required allennarly, and that for all other diuty or diu seruice th^t I or my forsaidis haue to craue of her ; And I, the said Sir Thomas, binds and obledges me and my forsaidis to warrand this, my present tacke, in all the heads, clauses and conditiones therof, to the said D. Jeane, during her lyf tyme, contrar all deadly, be this my assedation, written be my selfe, and subscribed w^t my owen hand at Leyis, the tuannti seauenth day of Nouember, i^m vi^c fyftie two yeers, before witnessis, Sir Rob^t Douglass of Tilquhilly, knyght ; Mr. James Skeen of Ramoir, Alex^r Burnet in Creagtoun, and Jhon Burnet in the Leyis.

T. BURNETT of Leyis.

[3]

BE IT KEND till all men be thir presentis me, Sir Thomas Burnett of Leyis, knyght barronet, to haue sett, and in take, and assedation letten : Lyke as I be thir presentis, for me and my airs male and successouris, settis, and in tacke, and assedation for diuty vnderwritten lettis to Thomas Burnett, my eldest lauchfull sonne, begotten on my present spouse, Dame Jeane Moncriefe, and that for speciall loue and fauour, which I carie to her and her children : As lykwayes for implement of the Contract Matrimoneall betuix her and me, which is of the deate, at Carnbie, the nynt day of August, i^m vi^c tuanty on yeers : and for the said Thomas his full patrimony and wholl contentation of all th^t he can craue by the deathe and deceisse of me, his father, and by the death and deceisse of his said mother (I, his said father, being on lyffe and outliuing his said mother), All and hail the tounes of Eslie, Mulloche and Carlinholl, w^t all their housses, biggings, yeardis, toftis, croftes, outseatis, inseatis, pastorage, mosses, moores, w^t all their seuerall partes, pendicles and pertinents belonging or th^t haue been in vse to belong to the saids lands : all lying wⁱⁿ the Shirrefdom of Kincardin, in the Mearnes, and Parochen of Banchory Tarnan, and th^t for all the dayes, yeers and tearmes of nynteen yeers : and efter the expiring of the samen, for the space of other nynteen yeers : and after the expiring of the samen, for the space of other nynteen yeers, and sua forth from nynteen yeers to nynteen yeers, so long as I, and my forsaidis, shall haue any right to the forsaidis landis : And if it shall happen me and my forsaidis to acquire the right of reversitor of the saids lands, In that cause, I bind and obleg me and my forsaidis, be thir presentis, to pay and delyuer to the said Thomas all and hail the sowme of ten thousand merkis, Scottis money, vsed, and wont for the tyme, current in the country, for outquyting and ouergiuing this his right to the saids lands, by this tacke and assedation, and all

title, clame and possession he hath had, or can pretend to haue, by him selfe or his aires whatsoever to the saids lands, and any part of them, and no otherwayes, and that at any Witsunday tearme, when the saids lands shall fall to be redeemed from me and my forsaid, or at any Witsunday tearme when I and my forsaid happins to acquire the right of the reuersion of the saids lands: And this tacke and assedation euer to stand, in full vigor and strenth, to keepe the said Thomas in reall and actuall possession

And for the said Thomas possession of the saids lands, I, the said Sir Thomas, for me and my forsaid do be thir presentis assigne the said Thomas to sicke right of the teythes of the saids lands as I and my forsaid haue presently, or shall happin to acquire at any tyme herefter, to be bruiked and joyseed be him and his forsaid so long as he doethe possesse the saids lands: he alwayes releuing me and my forsaid of the ministers stipentis, and of all augmentationes, present and to come, and of all other impositiones whatsoever th^t shall happin to be imposed vpon the saids teythes of the saids lands, proportionally and pro rato: And the said Thomas to haue no longer right to the saids teythes of the saids lands, then he happins to possesse the stocke, and the saids lands them selues forsaid: As lykwayes, I ordeene the said Thomas to releue me and my forsaid of all publict diues and burdens whatsoever (as sesses, taxationes, monthly maintenance, leuies of horses and foot), als well not nominat as nominated th^t happens to fall on the saids, so long as he happens to possesse the same, and th^t proportionally and pro rato. Morouer, I, the said Sir Thomas, ordanes for me and my forsaid, and it is specially prouided, by this present tacke and assedation, th^t the said Thomas shall renunce, outquytt and ouergieue all title, right, clame and possession he hath had, or in any way can pretend to haue, to the saids lands and teythes of the samen abow written at any Witsunday tearme herefter whatsoever, whensoever it shall please me and my forsaid (vpon forty dayes lauchfull premonition by a notter and two witnessis) to pay to the said Thomas and his forsaid the said sowme of ten thousand merkis, money forsaid, and this tacke and assedation then to ceasse, and be null, as though it had neuer been made, and no otherwayes: The said Thomas his entry to the forsaid lands and teythes forsaid to be and begin at any Witsunday tearme I shall please in my owen tyme, and if he be not entered by me, I bind and obledg me and my forsaid to enter him at any Witsunday tearme immediately following my death and deceise, lyke as I, be thir presentis for me and my forsaid, doe grant and confesse his entry to be, and begin then, w^tout any action of intrusion, wrongous or violent intromission, wherof, for me and my forsaid, we grannt him to be aquit for euer: Paying therfor yeerly, the said Thomas, to me and my forsaid, the sowme of sex sh. 8*l.*, money forsaid, at two tearmes in the yeere, Witsunday and

Mertimes, by equall portiones, if it bees required allennarly, and th^t for all other diuty, or diu seruice, th^t I and my forsaidis haue to craue of him or his forsaidis. And I, the said Sir Thomas, binds and obledgs me, and my forsaidis, to warrand this my present take, and all the heads, clauses and conditions th^rof to the said Thomas and his aires whatsoeuer, contrar all deadly, by this my assedation, written be my selfe, and subscribed w^t my owen hand, at Leyis, the tuannty nyn of October, i^m vi^c fyftie on yeers, befor witnessis Sir Rob^t Douglass of Tillquilly, knycht; Mr. James Skeen of Ramoir, Alex^r Burnet in Creagtoun, and Jhon Burnet in the Leyis.

T. BURNETT of Leyis.

[4]

BE IT KEND till all men be thir presentis me, Sir Thomas Burnett of Leyis, knycht barronet, for me, and my aires male and successoures, for speciall loue and faouour, which I beare to my present spouse, Dame Jeane Moncrieffe, and to her children, begotten of my body and borne by her to me: As lykwayes for my sonne, Mr. William Burnet, begotten in my said spouse, his patrimony and full contentation of all th^t he can craue, be the death and deceisse of me, his said father, and also by the death and deceisse of his said mother (I, his said father, being on lyfe and outliuing his said mother), to haue made, and constitut, creat, and ordeened: lyke as I be the tenor heroff, makis, constitutis, creatis, and ordeens: the said Mr. William Burnet, his airs male and successours, my verie lauchfull, vndoubted, and irreucable sessioner, assignay, and donatour, veluti in rem suam cum dispositione libera, in and to ane contract betuix me and vnquhill Alex^r Burnet, then of Cluny, and Rob^t Gordoun, then in Auguorske, of the deat at Muchallis, the 21 of Maie, i^m vi^c thirty fouer yeers, and to all the heads, articles, clauses, and conditiones th^roff, togither w^t all th^t hath followed, and th^t may follow thervpon, as lykwayes in and to the right of reuersion of Cluny, and Kennesty w^t the pertinentis, lying wⁱn the Parochen of Banchory Ternan, Lordshipe of Aberbrothock, and Shirrefdom of Kincardin in the Mearnes, which is of the deat, at Leyis, the fyfteen day of Juine, an thousand sex hunderth fortie on yeers. As lykwayes in and to the full right of my comprysing of Cluny, Kennerty, Broumhill, w^t the mylne of Cluny, mylnelands, astrict multures and sequels of the same. As lykwayes in and to the wholl right of comprising of Kates, Ordifork, Slydie, Ouer and Neather Shealls, Bankhead, w^t the haill toftis, croftis, partis, pendicles, and pertinentis of the same, all lying wⁱn the Shirrefdom of Aberdene and Parochen of lyk as the lands of Cluny, Kennerty, Broumhill, w^t the pertinentis abow specifeit, lye in the Shirrefdom of Kincardin, in the Mearnes, Lordshipe of Aberbrothocke, and Parochen of Banchory Tarnan. As

lykwayes I, the said Sir Thomas, for me and my forsaidis, my aires male and successours, makis, constitutis, creatis, and ordeens the said Mr. William Burnet and his forsaidis, my very lauchfull, vndoubted, and irreuocable sessioner, and assignay, and donatour, veluti in rem suam cum dispositione libera, in and to a band and obligation of the sowme of sex thousand and fyue hunderth merkis, Scottis money, made to me and my forsaidis by William Forbes of Corsenday and Mr. Robert Farquhar of Mounie, as cautioner for him, and to all the articles, clauses and conditiones of the samen, which is of the deat, at Edinburgh, the tuantifour day of Julie, i^m vi^c fortie thrie yeers: Turnand and transferrand all the forsaidis particular rightis in fauouris of the said Mr. William Burnet and his forsaidis surrogating and substituting him and his forsaidis, in our right and place theranent, for euer. As lykwayes I, the said Sir Thomas, for me and my forsaidis, giues full power to the said Mr. William and his forsaidis to receiue and vptacke the forsaid sowme of money conteened in the said band and obligation, viz., the sowme of Sex thousand and fyue hunderth merkis, vsuall Scottis money forsaid, as principall, liquidat expenssis, and annuall rent th^rof, at the tearme of Witsunday or Mertimesse, immediatly efter the death and deceisse of Margaret Fraser, now spouse to Alex^r Burnet in Creagtoun (if I, the said Sir Thomas, be not on lyfe, and no otherwayes), from the said tearme in all tyme comming, during not payment th^rof, from the said principall and cautioner, and to vse all execution needfull therypon conforme to the lawes of this realme for payment th^rof, acquittances, and discharges to giue vpon the receipt th^roff, compon, transact, and agrie theranent, and generally all and sundrie other things to doe theranent, th^t I and my forsaidis might haue done our selues, befor the making of thir presentis, and binds and obledgs me and my forsaidis to warrand this present assignation to the said Mr. William and his forsaidis contrar all deadly: and th^t because it is giuen to the said Mr. William for his patrimony, and bearnes part of geir (as befor). Furthermore, to the end the said Mr. William and his forsaidis may the more peacibly joyce, brooke, and possesse the said lands of Cluny, Kennerty, Bromhill, mylne and mylnelands, and otheris abow specifeat, I, the said Sir Thomas, for me and my forsaidis, makes, constitutis, and creates the said Mr. William and his forsaidis sessioners and assignayes to sicke right of the teythes of the saids lands of Cluny, Kennerty, Bromhill, mylne of Cloney, partis, pendicles and pertinentis of the same, as I and my forsaidis haue presently, or shall acquire at any tyme herefter: The said Mr. William and his forsaidis alwayes releuand me and my forsaidis of all few diuties, taxationes, impositiones, ministers stipentis, and generally of all burdens, spirituall or temporall, th^t haue been imposed, or shall herefter be imposed, vpon the saids lands, publict . . .

aires male, lauchfully begotten of his owen body, Then, and in that caisse, this present assignation, and all conteened therin, to returne and appertean to me and my forsaid as though it had neauer been written, And the heretable right of the saids lands of Cluny, Kennerty, and Bromhill, mylne of Cloney, and all their partis, pendicles and pertinentis, stocke and teythes abow exprimed to returne and apperteene to me and my forsaid, as said is: And if it shall happen the said Mr. William to leaue any aires famale, if there be but one, I ordeene, be thir presentis, for me and my forsaid, to prouid her to the sowme of sex thousand merkis, to be payit to here at her age of sixteen yeers, togither w^t the ordinare annuall rent th^of, yeerly, and tearmly th^ofter, according to the lawes of this realme for the tyme, and till then to be educat and interteened in myne and my forsaid dwelling house in meate and clothes as beseemeth: And if there be more then one famale lauchfully gotten of the said Mr. William his owen body, the sowm of ten thousand merkis to be distributed among them equally, and to be interteened till then as befor. Furthermor, if it shall happen me, the said Sir Thomas, to die, and depart this lyfe befor Margaret Fraser forsaid, in th^t caise, the said Mr. William Burnet hauing no power to midle w^t the forsaid sowme of sex thousand and fyve hunderth merkis, nor w^t the annuall rent therof, which must be giuen yeerly by me and my forsaid to Margaret Fraser above written as her diu by vertew of her coniunctie right, and only giuen to me in trust for defence of her against the iniuries of others, who were set to wrong her. Therfor be it knowen to all men be thir presentis, me, the said Sir Thomas, for me and my forsaid, to haue sett, and in tacke, and assedation letten, lyke as I be thir presentis for me and my forsaid, settis, and in tacke and assedation, for diuty vnderwritten lettis, to the said Mr. William Burnet, all and haill the towne and lands of Hauchhead, Pitreddie, and the Knocke, all lying wⁱⁿ the Shirrefdom of Kincardin and Parochen of Strauchen, for all the dayes, yeers, and tearmes of Margaret Fraser, abow written, her lyf tyme, and no longer, and herefter to returne to me and my forsaid, as though thir presentis had neauer been made, his entrie to thes lands and teythes abow written, to be and begin at the next Witsunday . . .

of the forsaid sowme of sex thousand and fyue hunderth merkis, money forsaid, for the anual rent th^off during the lyf tyme of the said Margaret Fraser, being diu to her, as her coniunct fie, from her vnquhill husband, Alex^r Burnet of Rabity, and after her death and deceisse, belonging to the said Mr. William Burnet, as befor: Paying therfor yeerly the said Mr. William Burnet to me and my forsaid the sowme of sex sh. 8*d.*, Scotis money, at two tearmes in the year, Witsunday and Mertinmesse, by equall portiones, if it be required allennerly, and he lykwayes

releuing me and my forsaidis of all burdens, spirituall and temporall, publict or priuat whatsoeuer, as ministers stipends and augmentationes, sesses, monthly maintenance, leuies of horssis or foot : or of whatsoeuer burdens els, as well not nominat as nominat, for the saids lands and teythes abow mentionat, proportionally and pro rato, as any other part of the Barony of Strauchen and Culperso payes : and th^t for all other diuty and diu seruice to be required of him, his aires and successours, by me and my forsaidis. And I, the said Sir Thomas, for me and my forsaidis, binds and obledges vs to warrand the said tacke to the said Mr. William and his forsaidis, contrar all deadly : And dispensis w^t the said Mr. William all deed of wrong of intrusion, or for wrongous intronission w^t the saids lands : If it fall him to enter w^t them and the saids teythes in the caisses abow written : Be this my take and assedation, written and subscribed w^t my owen hand, at Leyis, the tuanty nyn day of October, i^m vi^c fyftie on yeers ; And for the better obseruing of all the premissis, I am content for me and my forsaidis th^t thir presentis be insert, registrat in the Commissaries or Shirref books of Aberdene, to haue the strenth of an decret of the saids Judges and executionallis of poinding and horning may passe th^vpon, vpon a single charge of ten dayes, and to th^t effect constitutis our lauchfull procuratours, promittendo de rato, and in testimony of thir presentis, written w^t my owen hand, I haue subscribed the same befor witnessis, Sir Rob^t Douglasse of Tilliquhilly, knyght ; Mr. James Skeen of Ramoir ; Alex^r Burnet in Creagtoun ; and Jhon Burnet in the Leyis ; the tuanty nyn day of October, i^m vi^c fyftie one yeers.

T. BURNETT of Leyis.

[5]

BE IT KEND till all men be thir presentis me, Sir Thomas Burnett of Leyis, to haue sett, and in tacke and assedation letten, lyk as I be thir presentis for me and my aires and successours settis, and in tacke and assedation, for duity vnderwritten, lettis, to Anna Burnet, my lauchfull daughter, begotten on my present spouse, D. Jeane Moncreeffe : and that for speciall loue and fauour, which I beare to her and to her children : and for the said Anna her patrimony and full contentation of all th^t shee can craue by the death and deceise of me, her said father : As also by the death and deceisse of her said mother (I, her said father, being on lyfe and outliuing her said mother), All and hail the towne and lands of Dilbreak and hillocke th^rof, Biddelphen, and Bogendrupe (but not the H^uch of Biddelphen ; it belongs to Helen), Strathie, Moorhauch, and Broomhillocke, Dilphro, Templtoun, w^t all and hail their houses, biggings,

yards, toftis, croftis, outscattis, insecattis, pastorage, mossis, moores, w^t all the partis, pendicles, and pertinentis belonging to the saids lands, all lying wⁱⁿ the Shirrefdom of Kincardin, in the Mearnes, and Parochen of Strauchen : And that for all the dayes, yeers, and tearmes of nynteen yeers, and efter the expiring of the same, for the space of other nynteen yeers, and efter the expiring of the same, for the space of other nynteen yeers, and sua forth from nynteen years to nynteen yeers, ay, and so long as I and my forsaidis shall haue any right to the saids lands ; And if it shall happen me and my forsaidis to acquire the right of the reversion of the saids lands, then, and in that caise, I bind and obledge me and my forsaidis, be thir presentis . . .

And th^t at any Witsonday tearme, when the saids lands shall fall to be redeemed from me and my forsaidis, or at any Witsonday tearme, when I and my forsaidis happens to acquire the right of the reversion of the saids lands, and this tacke and assedation euer to stand in full vigor and strenth to keepe the said Anna in reall and actual possession of vplifting the diuties of the saids lands, or causing labour them her selfe, to her best vtility and profit, till shee be completely payit by me and my forsaidis of the forsaid sowme of ten thousand merkis, money abow specifcit. And for the said Anna her more peacible possession of the saids lands, I, the said Sir Thomas, for me and my forsaidis, do assigne the said Anna to sicke right of the teythes of the saids lands as I and my forsaidis haue presently, or shall happin to acquire at any tyme herefter, to be bruiked and joyced by her so long as shee doeth possesse the saids lands, shee alwayes releeuing me and my forsaidis of the ministers stipentis, and of all other augmentationes, present and to come, and of all other impositiones whatsoever th^t happen to be imposed on the saids teythes of the saids lands, proportionly and pro rato, and the said Anna to haue no longer right to the saids teythes of the saids lands then shee happens to possesse the stocke : As lykwayes I ordeen the said Anna to releue me and my forsaidis of all publict diues and burdens whatsoever (as sesses, taxationes, leuies of horsstes and foot), alswell not nominat as nominat, th^t happens to fall on the saids lands, so long as shee happens to possesse the same, proportionly and pro rato : Morouer, I, the said Sir Thomas, ordeen for me and my forsaidis, and it is specially provided, by this present tacke and assedation, th^t the said Anna shall renunce, outquyt, and ouer giue all title, right, clame, and possession shee hath had, or any way can pretend to haue to the saids lands and teythes of the samen abow written, at any Witsonday tearme herefter whatsoever, whensoever it shall please me and my forsaidis (vpon fortie dayes lauchfull premunition by a noter and two witnessis) to pay to the said Anne the said sowme of ten thousand merkis, money forsaid, and this tacke and assedation then to cease, and to be

null, as though it had neuer been made, and no otherwayes. The said Anna her entrie to the saids lands and teythes forsaidis to be and begin at any Witsunday tearme I shall please in my owen tyme, and if she be not entered by me, I bind and obledg me and my forsaidis to enter her at the nixt Witsunday tearme immediatly following my deceisse and death : Lyke as I be thir presentis

paying therfor yeerly the said Anna to me and my forsaidis the sowme of sex sh. 8*d.*, money forsaid, at two tearmes in the yeere, Witsunday and Mertinmesse, by equall portiones, if it bees required allennerly : and th^t for all other diuty and die seruice th^t I and my forsaidis haue to craue of her. It is alwayes prouided, by this present tacke and assedation, th^t if the said Anna (at the pleasur of the Almighty God) shall die and depart this lyfe, whether in or out of possession of the forsaidis lands and teythes abow specifeit, befor the age of tuannty one yeers compleit, then, and in th^t caise, this tacke and assedation to fall into the hands of me and my forsaidis, and all therin conteened, as though it had neuer been made, and the said sowme of ten thousand merkis, money abow written, to fall and apperteen to me and my forsaidis, and to non other. As lykwayes, it is specially prouided by this present tacke and assedation th^t the said sowme of ten thousand merkis, money forsaid, this present tacke and assedation, and all conteened therin, shall apperteen, and returne to me and my forsaidis, in caise the said Anna die and depart this lyfe vnmarried : but if shee be married, and die w^tin a yeer thereafter, w^tout aires male or famell lauchfully begotten of her owen body, then I and my forsaidis ordeen the said sowme of ten thousand merkis, money abow exprimed, and the wholl heads and clauses of this present tacke and assedation to apperteen to all her bretheren and sisters, begotten by me on her said mother, equally to be parted and diuided amongst them which shall happen to be vnmarried for the tyme : Otherwayes, if non of them happens to be vnmarried for the tyme, then, and in that caise, I ordeen, for me and my forsaidis, all to apperteen and returne to me and my forsaidis as though this present tacke and assedation had neuer been made. And I, the said Sir Thomas, obledgis me and my forsaidis to warrand this present tacke and assedation, and all the heads, clauses, and conditiones th^tof, to the said Anna and her aires whatsoever, contrar all deadly, be this my assedation, written be my selfe and subscribed w^t my owen hand, at Leyis, the tuanty nyn day of October, i^m vi^c fyftie two yeers, befor witnessis, Sir Rob^t Douglas of Tilliquhilly, knyght ; Mr. James Skeen of Ramoir ; Alex^r Burnet in Creagtoun ; and Jhon Burnet in Leyis.

T. BURNETT of Leyis.

[6]

BE IT KEND till all men be thir presentis, me, Sir Thomas Burnett of Leyis, knyght barronet, to haue sett and in tacke and assedation letten, lyke as I be thir presentis for me, my aires male and successoures, settis, and in tacke and assedation, for diuty vnderwritten, letis to Helen Burnet, my lauchfull daughter, begotten on Dame Jeane Moncrieffe, my present spouse, and that for speciall loue and fauour, which I carie to her and to her children, and for the said Helen her patrimony and full contentation of all th^t shee can craue by the death and deceise of me, her said father, as also by the death and deceise of her said mother (I, her said father, being on lyfe and outliuing her said mother), All and haill the townes and lands of Tilliquhomery, Cuttishillocke, Balblith, Greenail-house, Hauch of Biddelphen, and Mylne of Hauch : w^t all and haill their partis, pendicles and pertinentis, houses, biggings, yeards, toftis, croftis, outseatis, inseatis, pastorage, mosis, moores, and all belonging to thes forsaidis, and that for all the dayes, yeers, and tearmes of nynteen yeers, and efter the expiring th^of, for the space of other nynteen yeers, and efter the expiring therof, for the space of other nynteen yeers, and sua forth from nynteen yeers to nynteen yeers, ay, and so long as I and my forsaidis shall haue any right to the saidis lands : And if it shall happen me and my forsaidis to acquire the right of the reuersion of the saidis lands, then, and in that caise, I bind and obledg me and my forsaidis to pay and deliuer to the said Helen all and haill the sowme of ten thousand merkis, vsuall Scottis money, for outquyting and ouergiuing this her right to the saidis lands by this tacke and assedation, and all title, clame, and possession shee hath, or can pretend to haue, to the same, and any part of the saidis lands, and no otherwayes, and that any Witsunday tearme, when the lands shall fall to be redeemed from me and my forsaidis, or at any Witsunday tearme, when I and my forsaidis happins to acquire the reuersion of the saidis lands, and this tacke and assedation to stand . . .

I, the said Sir Thomas, for me and my forsaidis, doe assigne the said Helen to such right of the teythes of the saidis lands as I and my forsaidis haue presently, or shall happen to acquire at any tyme herefter, to be bruike and joyced by her, so long as shee doeth possesse the lands forsaidis : Shee alwayes releeuing me and my forsaidis of ministers stipentis, of all augmentationes, present and to come, and of all other impositions whatsoeuer, th^t shall happen to be imposed on the saidis teythes of the saidis lands, proportionally and pro rato : and the said Helen to haue no longer right to the teythes of the saidis lands then so long as shee happenth to possesse the stocke : As lykwayes I ordeene the said Helen to releuee

me and my forsaides of all publick diues and burdens whatsoever (as sasses, taxationes, leuies of horses and foot), als well not nominat as nominat, as happins to fall on the saids lands, proportionally and pro rato. Morouer, I, the said Sir Thomas, for me and my forsaides, ordeene, and it is specially prouided by this present tacke and assedation, th^t the said Helen shall renunce, outquyt, and ouergiue all title of right, clam and possession shee hath, hath had, or any way can pretend to haue to the saids lands and teythes of the same abow written: at any Witsunday tearme herefter whatsoever, whensoever it shall please me and my forsaides (vpon fortie dayes lauchfull premunition by a notter and two witnessis), to pay to the said Helen the said sowme of ten thousand merkis, money abow mentionat, and this tacke and assedation then to ceasse, and to be null, as though it had neuer been made, and no otherways. The said Helen her entry to the saids lands and teythes to be and begin at any Witsunday tearme I shall please in my owen tyme, and if shee be not entered by me, I bind and obledg me and my forsaides to enter her at the nixt Witsunday tearme immediatly following my death and deceisse, lyke as I be thir presents for me and my forsaides do grannt and confesse her entrie to begin then, w^tout any action of intrusion or wrongous or violent intromission, wherof, for me and my forsaides, we grannt her to be acquyt for euer. Paying therfor yeerly the said Helen to me and my forsaides the sowme of sex sh. 8*d.*, money forsaid, at two tearmes in the yeer, Witsunday and Mertinmesse, by equall portiones, if it bes required allennarly, and that for all diuty and diu seruice th^t I and my forsaides haue to craue of her. It is alwayes prouided by this present tacke and assedation that if . . .

As lykwayes it is specially prouided by this present tacke and assedation th^t the said sowme of ten thousand merkis, this present tacke and assedation, and all conteened th^rin, to appertene and returne to me and my forsaides in caise the said Helen die and depart this lyfe vnmarried: But if shee be married, and die wⁱⁿ a yeer thereafter w^tout aires male or famale, lauchfully begotten of her owen body, then I, for me and my forsaides, ordain the said sowme of ten thousand merkis, money abow exprimed, and the wholl heads and clauses of this present tacke and assedation, to appertene to all the bretheren and sisters begotten by me on her said mother: equally to be parted and diuided among them which happens to be vnmarried for the tyme: Otherways, if non of them be vnmarried for the tyme, then I ordeene, for me and my forsaides, all to appertene and returne to me and my forsaides as though this present tacke and assedation had neuer been made. And I, the said Sir Thomas, binds and obledges me and my forsaides to warrant this my present tacke, in all the heads, clauses and conditiones theroff, to the said Helen and to her aires whatsoever, contrar all deadly, by this my assedation,

written by my selfe, and subscribed w^t my owen hand, at Leyis, the tuanty nyn day of October, i^m vi^c fyftie two yeers, befor witnessis, Sir Rob^t Douglass of Tilliquihilly, knycht ; Alex^r Burnet in Creagtoun ; Mr. James Skene of Raemoir ; and John Burnet in the Leyis.

T. BURNETT of Leyis.

[7]

BE IT KEND till all men be thir presentis, me, Sir Thomas Burnett of Leyis, knycht barronet, to haue sett, and in tacke and assedation letten, lyke as I be thir presentis, for me, my aires male and successoures, settis, and in tacke and assedation, for diuty vnderwritten, lettis to James Burnet, my lauchfull sonne, begotten on my present spouse, Dame Jeane Moncrieffe, and th^t for speciall loue and fauour I carie to her and to her childrer, and for the said James his patrimony and full contentation of th^t he can craue by the death and deceisse of me, his said father, as also by the death and deceisse of his said mother (I, his said father being on lyfe and outliuing his said mother), all and hail the towne and lands called Tingleddy, Cragicuthill, Spittell burne, Brigd of Dey, Hedrihauch, Colliscrosse, Hunthillock, Corndarne, and Maldsheall, w^t all and hail their partis, pendicles and pertinentis, houses, biggings, yeards, toftis, croftis, outseattis, inseattis, pastorrag, mosses, moores, and all th^t belongs to this forsaid lands, all lying w^tin the Parochen of Strauchen and Shirrefdome of Kincardin, in the Mearnes, and th^t for all the dayes, yeeres, and tearmes of nynteen yeers, and efter the expiring th^roff, the space of other nynteen yeers, and efter the expiring th^roff, the space of other nynteen yeers, and sua forth from nynteen yeers to nynteen yeers, ay, and as long as I and my forsaid shall haue any right to the saids lands ; And if it shall happen me and my forsaid to acquire the right of the reuersion of the saids lands, then I bind and obledges me and my forsaid to pay and delyuer to the said James all and hail the sowme of ten thousand merkis, vsuall Scottis money, for outquytting, ouergiuing and renuncing this his right to the saids lands, by this his tacke and assedation, And also . . .

the saids lands, or labouring them him selfe till he be compleitly payit, be me and my forsaid, of the said sowme of ten thousand merkis, money forsaid : And for the said James his more peacible possession of the saids lands, I, for me and my forsaid, assigne the said James to such right of the teythes of the saids lands as I and my forsaid haue, or shall happen to acquire, to be bruiked and joyced by him so long as he doethe possesse the saids lands : He alwayes releeing me

and my forsaides of the ministers stipentis, and of any augmentation, present or to come, and of all impositiones th^t shall happen to be imposed on the saids teythes of the saids lands, proportionally and pro rato : and the said James to haue no longer right to the saids teythes of the saids lands then he happeneth to possesse the stocke : As lykwayes the said James to releue me and my forsaides of all publict diues th^t happenth to fall on the saids lands, proportionally also and pro rato : Morouer, I ordeen be thir presents the said James to renunce, outquyt and ouergiue all title, right, clame and possession he hath, hath had, or any wayes can pretend to haue to the saids lands and teythes of the saids abow written, at any Witsonday tearme herefter whatsoever, whensoever it shall please me and my forsaides (vpon fortie dayes premunition) to pay to the said James the said sowme of ten thousand merkis, money abow mentionat, and this tacke and assedation then to cease, and be null, as if it had neuer been made, and no otherwayes. The said James his entrie to the saids lands and teythes forsaides to be and begin at any Witsonday tearme it shall please me in my owen tyme, and if he be not entered by me, I bind and obledg me, my airs male and successors, to enter him at the nixt Witsonday tearme immediatly after my death and deceisse : Lyk as I be thir presents for me and my forsaides doe grannt his entrie to begin then, w^tout any action of intrusion, wrongous and violent intromission, wherof I and my forsaides acquit him for euer. Paying therfor yeerly, the said James to me and my forsaides, the sowme of sex sh. 8*l.*, money forsaid, at two tearmes in the yeer, Witsonday and Mertinmesse, by equall portiones, if it bees required, and th^t for all other diuty or diu seruice th^t I and my forsaides haue to craue of him. It is alwayes prouided by this present take and assedation th^t if it shall please God, the said James to depart this lyfe, either in or out of possession of the forsaides lands and teythes forsaides befor he be of the age of tuannty on yeers compliet, then, and in that caise, this tacke and assedation to fall into the hands of me, And . . .

If he be married, and die wⁱn a yeer therefter w^tout aires male or famale, lauchfully begotten of his owen body, then the said sowme of ten thousand merkis, money forsaid, the wholl heads and clauses of this present tacke and assedation I ordeen to apperteen to all his brethren and sisters, equally to be diuided amongst them, begotten on his said mother by me, which happins to be vnmarrried for the tyme : Otherwayes, if non of them be vnmarrried for the tyme, then all to returne and apperteen to me and my forsaides. And I, the said Sir Thomas, obledges me and my forsaides to warrand this my present tacke, in all the heads, clauses and conditiones th^roff, to the said James and his aires whatsoever, contrar all deadly, be this my assedation, written w^t my owen hand, and

subscribed by me at Leyis, the tuanty nyn day of October, i^m vi^c fyfty two yeers, befor witnessis, Sir Rob^t Douglass of Tilliquhilly, knycht ; Mr. James Skeen of Ramoir ; Alex^r Burnet in Creagtoun ; and Jhon Burnet in the Leyis.

T. BURNETT of Leyis.

XXXVI.

WILL of Sir Thomas Burnett, 8th December, 1652.

THE Testament Letter Will and Legacie of me, Sir Thomas Burnett of Leyis, knycht barronett, made, written and subscribed with my owen hand at Leyis, the eight day of December, i^m vi^c fiftie tuo yeers.

I, Sir Thomas Burnett of Leyis, being wholl in body, and perfect in spirit and memory, knowing that death is most certain, but the tyme and hour most vncertain : Therfor, willing (by the assistance of the Almighty) to preuent the vncertainty thairof and to discharg an honest Christian diuty to such as God and natur hath appointed me to care for, namly, my wyfe, children begotten of my owen body, and to all such others as it hath pleased God to putt vnder my trust and charge, doe make this my letter will, testament, and legacie in maner, forme and effect efter following : Viz., I leaue my soul to God, the Father Almighty, Maker of heaven and earth, and to Jesus Christ, His only sonne our Lord (and I beleue my Lord, and Redeemer, and only Sauieur), and to the Holy Ghost (my Sanctifier and Comforter), proceeding from the Father and from the Sonne, one God and thrie Persones, coessentiall, coequall, and coeternall, Blessed for euer and euer, Amen ; And my body to be buried in my predecesours ile and buriall place now adioyned to the Church of Banchory Ternan. As concerning my mowable goods, and geir, insight, and plenishing, timberworke, siluerworke, or what els, within, or without any of my dwelling places or mainses, debts resting to me in tennents hands, rents, diuties of all and any of my lands, whatsoeuer or whersoeuer, bands, obligatiounes, or finally whatsoeuer any way may possibly fall vnder the name of exequitry : I leaue (I say) all belonging to me the tyme of my death and deçeisse (vndisponed befor, or by this my present legacie and testament) to Alexander Burnet, my eldest oye, and apparent air and successour : and failzeing of him by death, to his brother, Thomas Burnet, my nixt lauchfull appairand air and successour, failzeing aires of his said brother, Alexander, lauchfully begotten of his owen body, and failzeing of him and aires

lauchfully begotten (being all male children), to the nixt and immediat lauchfull male children that falls to succeed by the lawes of this kingdom. And that becaus I am presently resting, and owing sundry great sowmes of moneys, all vpon heritable bands and obligatiounes, binding me and my aires and successours, the burden of the payment of all which will fall vpon my airs and successours: They are to say, to Alexander Burnett, elder burgess of Aberdeen, Leard of Countswells, and Fill the Cape, the sowme of eight thousand merks Scotts money, as his band beares, with on yeers anuall to Witsunday nixt, i^m vi^c fyftie thrie, Item to Robert Crushank, bealzie and burges of Aberdeen, as his band beares — thousand merks with a yeers anuall to the tearme of Witsunday nixt, in the said yeere; Item to Jhon Jaffery the sowme of eighteen hunderth merks according to his band, togither also with a yeers anual to the forsaid Witsunday, in the yeere abow mentionat; Item to Thomas Burnet of Camphel, elder, aught hunderth merks according to his band, with halfe yeers anuall to the forsaid tearme; Item to Mr. James Youngson, scoolmaster in Banchory Ternan, seauen hunderth merks, as his band beares, with on yeers anuall, to the said tearme; Item to a sonne of vnquhill Fyndly Coutis in Banchory, as his band beares, an hunderth and fyftie merks, with anuall for halfe a yeere to Witsunday forsaid; Item to Mr. Georg Gordowne and his bearnes, as the band beares, in my owen possession, receaued from vnquhill Mr. William Burnet in trust, and albeit I haue the said Mr. George his authentick and reall discharg of the said sowme, yet being all delyuered to me vnder trust, it were wickedness to defraud him or his bearnes, but withall, to help me and myn to be leall, I haue bound my selfe and forsaid, in a contract with my sonne, Thomas Burnett of Sauchen (which is of the deat, at Leyis, the fyft of March, i^m vi^c fyftie yeers) to releuee the said my sone Thomas and Bessie Burnett, his spouse, and thair aires of the said band to Mr. Georg Gordoun and his bearnes, both of principall (which is fouer thousand merks) and anualls (ther is only halfe yeer resting to Witsunday nixt, abow said); Item to my sonne Thomas of Sauchen forsaid, the sowme of tuo thousand merks payable at the nixt tearme immediately efter the ending of the Plea of Carndayes, either by law or frendly agriement (as the forsaid contract betuix him and me beares); Item according to the said contract I am bound to pay to Helen Burnet, daughter to vnquhill Mr. William Burnet, two thousand merks, the nixt tearme efter her mariadge, with no anuall till that tyme; Item to my sone, Mr. Robert Burnet, avocat, the sowme of fyv thousand merks the nixt tearme efter my death, and no anuall till then; Item to the said Thomas Burnet of Sauchen, the sowme of ten thousand merks, and for the anuall rent therof, ay, and whill it be redeemed, the townes and lands of Esly, Mullock and Cowlerholl, as his assedation beares, which is of the deat, at Leyis, the twenty nyn day of October, 1652; Item to my

sonne James, the sowme of ten thousand merks, and for the anuall rent therof, and surty of the stock, ay, and whill they be redeemed, all and hail the townes and lands of Finglenny and Cragicuthill, Spittelburne, Brig of Dey, Kedrihauch, Colliscorse, Hunthillock, Comderne, and Mauld Sheall as his assedation beareth, which is of the deat, at Leyis, the 29 October, 1652 ; Item to my daughter Anna, the sowme of ten thousand merks, and for the annual rent therof, and surty of the stocke, all and hail the townes and lands of Dilbreke, and Hillock, Biddelphin, and Boggindruipe, Strathie, Moorhauch, and Broomhillock, Dilphro and Temple-toune, as her assedation will testifie, which is of the deat, at Leyis, the 29 October, 1652 ; Item to my daughter Helen, the sowme of ten thousand merks, and for the anual rent thair of, and her better security of the stocke, ay, and whill thir lands be redeemed, the towne and lands of Tillyqumbry, Cuttishillock, Balblith, Greenaillhouse, Hauch of Biddelphin, and Mylne of Hauch, as her assedation beareth, which is of the deat, at Leyis, the 29 October, 1652 ; Item to his owen bretheren and sisters, viz., Thomas, Robert, Margaret and Jeane Burnets, my vnquhill sonne, Alexander Burnet, his children begotten on Jean Arbuthnot, now Lady Glenbukket, all and hail the sowme of fourtie thousand merks, or therby, to be payed be me and my forsaides to euery on of them, as their seuerall bands beares, the famels at their age of tuanntye on yeers, and the males at their age of tuanntye fyue compleit, and no anuall rent till then, but only to interteen his brother Thomas as becometh, at scools and elsewhere, in food and rayment ; Item to the mans scool of Banchory Tarnan, the sowme of fyue thousand merks, money forsaid, as the security mad by me to the said scool beares, which is of the 29 day of October, 1651 yeers, at Leyis, and registrat in the Commissaries books of Aberdeen, the last day of October, 1652 ; Item generally to pay all whatsoever others my debts and burdens, great and small, to whomsoever I be resting, for whatsoever caus, at what tearmes so euer, or vpon whatsoever conditiones, th^t my name be not heard in publict or priuat for debt maters, alswell not nominat as nominat : And becaus, by vertue of the seuerall prouisiones made to my children by their seuerall assedationes, they haue no right to enter to the reall and actual possession of their seuerall townes and lands till the nixt Witsonday tearme efter my death and deceisse, so th^t they haue nothing to interteen them in the interim, betuix my death and the Witsonday of their entry, therfor I declare, and ordeene be thir presents, th^t they haue maintenance in meat and clothes from my said air and successour for the tyme, honestly as beseemeth their ranke, and degrie, and birth, according to the forme of living in this land and countrey where we haue been borne and bred. Item, I, the said Sir Thomas Burnet of Leyis, ordeens be thir presents my said air and successour to fullfill all the articles, clauses, and conditiones to the tuo scools of Banchory, the mans scool and the womans scooll,

according to the bands and obligationes made be me to them as is conteened in them which are of the deat, at Leyis, the tuannt y nyn day of October, i^m vi^c fiftyeone yeers ; As lykwayes th^t he fullfill and performe the wholl articles, clauses and conditiones of my band giuen to the Hospitall and poore of the Parochen of Banchory, in all points, which is of the deat, at Leyis, the tuannt y nyn day of October, i^m vi^c fyftie on yeers. Furthermore, becaus partly throw euill seasones and euill cropes, partly also throw the great troubles in the country, diuerss tenents diuersly troubled, and molested by burning, plundering, quarterings, haue been made vnable to pay their full diuties yeerly, according to their seuerall asseda-tiones ; so that many rests and byrun diuties are in their hands, which all, if they should be exactly taken vp by my airs and exequitours, they should not only be vnable to labour the ground, but also altogether depauperat them selues, and their children forced to begg ; Therfor, I ordeen, be thir presents, th^t all byrune diuties, fearmes, sowmes of money, or whatsoever compts and reackening betuix me and them, for ground diuty, be simpliciter and fully discharged, lyk as I be the tenor herof simpliciter and fully, and wholly discharges them all, excepting only th^t wholl and full yeers diuty wherin I happin to die and depart this lyfe ; with this special prouision and condition, th^t such tenents as gets all their byrune diuties thus quytt and wholly forgiuen them, remoue not out of my ground without my are and successour his leiuie asked, and giuen ; Otherwayes, such as will needs remoue without leiuie asked, and given, I ordeen them to pay all their diuties befor their remouall : for my intention in quyttng the byrun diuties is to make them the more able to labour my ground, and the more thankfully to pay my aire and successour his ground diuty in tyme cumming, and not that they should depart and inrich vther mens ground with the goods and geir diu to me and myne. And least good tenents, who shall not be resting byrune diuties, should haue occasion to grudg, and compleane th^t they got no benefit for good payment, but th^t the wost payers farre best at my hands, Therfor, for their incurragment to continew still good payers, I ordeen, by thir presents, th^t all such as shall be resting no byrun diuties preceeding the yeire and crope th^t I happin to die and depart this lyfe in, gett that wholl yeers diuty, which of right would belong to my exequitrie, quytt and frie to them selues ; or the halfe thairof be quytt to such as are resting the halfe, or within the halfe of the former yeers diuty, together with the said resting diuty, lese or more, being alwayes within, or no more then halfe of the former yeers diuty, as said is. And becaus my present eldest oye, and apparent air and successour, is of tender yeers, minor, of nonage, and not atteened to the age of maiority, vnable to gouerne by him selfe, and not of solid, rype judgment, nor knowladg to decerne whoes counsell to vse for the well of the house and family he is to succeed to, therfor I ordeen him (if it be

needful for order of law to choise curatours) th^t he choose non other but thes following, as he would wishe his owen good, and my blissing, and to eschew my curse, being approuen frends to me and my house; Lyk as I be thir presents nominat them Tutours and Curatours Testamentalls, and non others, viz., my son, Mr. Robert Burnet, advocat, whom I nominat curatour sine quo non, and in caise of his deceise the tyme of his minority, Thomas Burnet of Sauchen in his vice, curatour sine quo non, and still one of his curatours howsoeuer, Mr. William Burnet and James Burnett, my sonnes; Sir Robert Douglass of Tilliquilly, knycht; Sir Alexander Cyming of Coulter, knycht; the Leard of Skeen; the Leard of Eght; the Leard of Inueralochie; and the Leard of Pitlurge; by whoes advyce and counsall I ordeen him to rull all his affairs, and without whose counsall had, and obtened, at least the most part of them, together with my said sonne, Mr. Robert Burnet, advocat, or in caise of his death (which God forbid), Thomas Burnet of Sauchen, curatours sine quo non, I ordeen him to do nothing, either concerning his estat, or the waring of his owen person in marradge or at scool, or in decision of any question, if any shall happen to aryse betuix him and my children, males or fameles, or my deere and louing spouse, Dame Jeane Moncreffe, to whom (for better setling all controuersies th^t may happin to aryse betuix her and him, and his mother, Jean Arbuthnot, who stands in present possession of the most part of her coniunct fie lands, wherin she was infest by me) I, by this my present testament, ordeen him, my said air and successour, to pay yeerly to her, my said spouse, the sowme of an thousand merks Scotts money at Witsonday yeerly, and an other thousand merks, money forsaid, at Mertinmesse yeerly, during all the dayes of her lyfytyme, and th^t in full contentation and satisfaction of her coniunct fie lands, which shee should haue of me, and wherin shee stands infest by charter and seasing vnder my hand and subscription: and wherin I ordeen her still to stand infest, for her better security, but shall yeerly and tearmly giue my said air and successour a discharg vpon the receipt of the half yeers diuty, viz., on thousand merks (as befor) of the saids lands, wherin shee stands infest, as said is, tearmly: And this to be in her option to intromitt with the saids lands, or to accept of the saids two thousand merks, which she shall be holden to declare, and to hold her selfe content, either with the land wherin shee stands infest, or with the saids two thousand merks, in full contentation and satisfaction for the same, befor the first tearmes payment, which I ordeen to be and begin at the nixt Witsonday or Mertinmesse tearme immediatly after my death and deceisse: Furthermor, becaus, in caise shee take her selfe to the said two thousand merks money forsaid yeerly, shee will haue no house nor land of her owen to make her residence and to dwell vpon, I, be thir presents, ordeens my said air and successour to pay her house meall, yeerly and tearmly, in any

borrestoun shee pleaseth to dwell in, within Scotland, not exceeding the sowme of tuo hunderth merks money of this realme : Also I, be thir presents, ordeens my said air and successour to giue to her an thousand pundis money forsaid, of the radiest of any gold or silver th^t shall be found in any of my studdies, or if it be not there, to be made vp to her of the radiest of my exequitrie goods and geir, together also with sex bedden of clothes, and tuo stand of napprie for plinishing of her owen house, and that of the nixt best clothes (sex of the best bedden being laid by to my said air and successour first, and two stand of napprie of the nixt best : two stand being first laid by to him), and that be sight and advyse of tuo or thrie of the forsaidis frends, his curatours abow mentioned, In cause of bairnes heranent, and in full contentation and satisfaction of any thing she can craue of any of my mouables, insight, plinishing, sowmes of money, cornes, cattell, or any part or portion of my exequitrie goods, or what else shee can clame be my deceisse, Excepting alwayes the fyue hunderth merks rent of the thrie Balbrydies, as her assedation beares, written and subscribed with my owen hand at Leyis, the — day of —, which I haue added to her former coniunct fie lands for her good behaiour, and th^t for all the dayes of her lyftyme, unredimable but be better ; And becaus famale children often miscarie efter their fathers deceisse, by seduction, or by vnkyndly raptis, or by willfull selfe choises, or some such unluky way, to the dishonour of the parents and houses they are come off, and to their owen hurt, shame, and infamy, wherby God is offended, and their parents and frends grieved ; Therfor I ordeene be thir presents my daughters, which shall happen to be vnmarried the tyme of my death, to stay and remain with their mother, the said Dame Jeane Moncreffe, and shee to haue, for their interteement in meat and clothes yeerly, so long as they remain with her vnmarried, thrie hunderth merks money forsaid, and th^t out of the raddiest of their forsaidis prouisionis for each on of them yeerly, and efter her deceisse, so long as they or any of them happines to remain vnmarried, to stay and remain with my said air and successour vpon the lyke conditiones on either syd ; And I ordeene my saidis daughters to marry be the speciall advyse of their said mother, their brethren, both on their mother and fathers syde, and with the speciall consent, counsell, and advyse of the aboue my approued frends, and now nominat curatours testimonialls to my said air and successour : at least the most part of them consenting, and that vnder no lesse paine then the annulling and annichêlating their abow written assedationis and takes of the lands sett to them for their prouision and patrimony (which of them so euer failleth herin) as though the saidis assedationis (or such of them failzeing herin) had neuer been made. Finally, all the gold and siluer within any of the two boxes of iron within any of my studdies, or papers in them, or in any leatheren bagges, declaring any borrowed gold or

moneyis out of them, I ordeene to be distributed, be my said air and successour, with advyse of the curatoures aboue written, to the most misterfull poore labourers within all my lands, whereuer they be, as their seuerall need and necessities shall be found to requier, and any other poore householders, widowes, or fatherles, within my wholl lands, and specially within the Parochen of Banchory Ternan abow mentionat, and to such misterfull poore as cruple, blind, lame, as shall fall to be at my corps interring and buriall the same day: and the said gold and siluer not to be employed any other way, under a curse and malediction, becaus I had dedicated the same, and laid it by for that vse. Lastly, I declare and ordeene my bookes of my Collectiones of Preachings be distributed among my wholl children, and oyes male and famele, to ech as they shall find their seuerall names written on the first figured leaffe of euery ons booke to whom I haue ordeene it to be giuen, and if there fall any of them to be vndirected by any name on the first figured folio, as said is, let it be giuen to my said air and successour, his eldest brother or sister nixt to him selfe vnserued befor: Requiring euery on th^t getts any of them, th^t as they wish the blissing of God, and myne, th^t they read them once or twyce ouer, in recompence of my paines in writting, and directing them to their good, if it be the will of God to blisse thes my silly trauells, to the comfort and eternall good of their souls, th^t the glory of all may be only to God, and withall, I declare th^t euery on of my owen childrens prouisionnes and assedationes shall be found in the first of the forsaid bookes wherin their names are first written, folio I. Morouer, I leaue to Thomas Douglasse (son lauchfull to vnquhill Alexander Douglasse, somtyme in Balbrydie, begotten on his second wyfe, Katharen Skeen), fouer scor punds Scotts money; Also I leaue to Katharen Blackhall, daughter to vnquhill Jeane Clark (all somtyme in Leyis), fouer scor punds Scotts money; Morouer, I leaue to the Gentleman ryder, th^t shall happin to be my seruant in the first ranke for the tyme at my death, an hunderth merks vsual money of this realme; to my wyfes Gentlewoman for the tyme, forty pounds money forsaid, to the Stewart for the tyme, alsmuch, to the Cooke for the tyme, alsmuch, to my Greeue or principall officiar for the tyme, alsmuch; to euery on of the rest of my houshold seruants, men and women a peice, or to ech of them, tuannt y pounds ouerhead: and this to be payed to them of the radiest of my exequitry goods and gear, my said spouse, Dame Jeane Moncreffe, being first payit of the forsaid thousand punds, left to her, as said is, and that by and attour their seuerall fies which shall happen to be resting to them the tyme of my deceasse, which I ordeene to be thankfully payit to them without hearing, as lykwayes merchant compts and small vnwritten debts th^t can be prouen justly owing to any liuing, I ordeene all to be payed, be my said air and successour, without hearing, as he would wish God to blisse him

and my blissing to ouertake him and his. And this I doe declare to be my Testament and Letterwill, which I ordeem my said air and successour, be advyse forsaid, to fullfill and put to diu execution in all points, especially in so far as concerns my said spouse, Dame Jeane Moncreffe, th^t he would neither wrong her him selfe nor suffer her to be wronged by any, but th^t he defend her, and not greeue her, as he would wish the blissing of God, and myn, and as he would eschew the curse of God, and my malediction, and as he would wish to be obeyed him selfe by his owen children (if any he shall haue) in the lyk caise, according to the tenour of this present writt : which I declare to be seasoned with no double or doubtosome curiosity (which I did euer abhor, in my selfe and vthers), but with trew sincearity and simplicity, as the words in my ignorant and rude maner ar sett downe : hauing God and a good conscience befor my eyes. And if any doubt shall happen to aryse, I ordeem the same to be resolued and composed by the amicable decreet and determination of my sonnes being of perfect age with any thrie or fouer of my forsaid approuen frends, nominat by me curatours forsaid, and in caise of not agriement, I ordeem Mr. Robert Burnet, my sonne abow written, sine quo non curatour forsaid, to be ouersman for the finall decerning, and decreeting, and concluding any such doubt and controuersie. Be this my Testament and Letter will, all written and subscribed with my owen hand, day, yeere, and place forsaid, befor witnesses, Sir Robert Douglasse of Tilliquilly, knycht ; Mr. James Skeen of Ramoir ; Alexander Burnet in Creagtoun, and Jhon Burnet in the Leyis.

T. BURNETT of Leyis.

My Testament and Letter will, written and subscribed by my selfe, 8 December, 1652.

Robert Douglas, Wittnass.

J. Skene, Witnes.

A. Burnett, Witness.

Jo. Burnet, Witnes.

XXXVII.

RETOUR of Alexander Burnett to his grandfather, Sir Thomas, 10th March, 1654.

THIS Inquisitioun was maid in the toune of Stanehyve vpon the tent day of Marche in the yeir of God ane thousand sex hundreth fiftie foure yeiris, befor Robert Keith of Whytrigis, shirref deput of the shirrefdome of Kincardin to Colonell Ralph Cobbet, governor of Dundie, and Johne Lindsay of Edzell,

shireffis principall and commissars of Forfar and Kincardin, Be these gude and faithfull men of this natioun wnderwrittin, to quhom the veritie of the mater efterspecified was best knowin, To witt, Alexander Lord Halcartoun, Alexander Maister of Halcartoun, Sir Alexander Carnagy of Pittarro, knicht, Alexander Banerman of Elsick, Thomas Fraser of Strehin, George Ogilvy of Barras, Alexander Burnet of Countes-wallis, Maister James Skein of Ramoor, Robert Forbes of Barnes, Robert Rait in Meikill Fiddes, Thomas Burnet of Camphell, Williame Burnet of Cragoure, Robert Douglas in Barras, James Thomsone in Cheine, and David Stewart of Inchbreak, wha, being sworne be the said Judge, do declair vpon thair great oathis that the deceist Sir Thomas Burnet of Leyis, knight, guidshir to Alexander Burnet now of Leyis, beirer heiroy, died last vest and seisit as of fie in peace, In all and sundrie the landis, baronies, mylnes, woodis, fishingis, alsweill salmond as quhytfishing, efterspecified, to witt, in all and hail the landis and baronie of Leyis comprehending the toune and landis of Colonach, Cannagleirach, with the mylne thairof, myln landis, multoris and sequelis, Clashmoirde, Dammis, pairts and pendicles thairof; And also in all and sundrie the landis lyand in the forrest of Drum, without the park thairof, to witt, in all and sundrie the landis and maner places of Crathes, with the tour, fortalice, houssis, biggingis, yairdis, orchardis, wodis, parkis, with the pertinentis, with the salmond fishing vpon the water of Dee nixt adiajcent to the saidis landis, and with the walkmyln of Crathes, with the myln landis thairof; And in all and sundrie the landis of Leyis, Drumshalloch, Lochtoun, with the loch of Bancharie Ile thairof and fishing thairon, Wodend, Carleith, Candishill, with all and sundrie pairts, pendicles and pertinentis of the samen, togidder with the commylne of the baronie of Leyis, callit the Nathermyln; And in all and sundrie the landis of Wester Cairny, with the pertinentis; As also in all and sundrie the lands and baronie of Tilliboy, to witt, Kilduthie, with the woods, mosis, waters, with the miln callit the Milne of Tilliboy, mynlandis, multers and sequels thairof, the toune and landis of Wester Drumfrenie, Hirne, Myln of Kirn, Bodhill, Eister Drumfrenie, Lichtwod, Hattoun, Craigtoun, with the wodis, marisis of the Hill of Fair, Minceffis, Standing Stanes, with the wodis thairof, Cairmiquhyne, Ramoir and Katerloch, and in the landis callit the Eister Syde of the Myre, with the pertinentis; And siclyk in all and hail the baronie of Muchalls, with the messuages thairof, maner place, tofts, crofts and pertinentis, Pittayat, Contlahillis, Montgetheid, Blackbutts, Stranathroe, Stralethan, Dennabuck, Corthans, Ayreinheid, with the whyt fishing, boatis, fishingis, and fisher landis, with the miln of Muchals, multers and sequels, tennents, tennandries and service of frie tennents, all lyand in the baronie of Muchalls and shirrefdome of Kincardin; And also in all and hail the towne and landis of Eister Camphell, Blairhead, Wester Camphell,

Ailhouscroft, Cairnamoir, Craigour, with the mylne thairof, and the astrict multors forsaid, with the Myln of Campbell, with the croft of Lumphanan sometymes occupyit be Arthur Adame, with a pairt of the Hill of Fair, fogage and pasturage thairof, sometymes belonging to John Charters of Kinfaunes, and dispoit to — Skein of that ilk in fewferme, with the tennents, tennandries and service of frie tennents ; As also in all and haill the towne of Dalhaik, with the pertinents thairof callit the Brigend and Delewear, all vnit, annexit, and incorporat in ane baronie callit the Baronie of Leyis, and that saising at the tour fortalice sall be sufficient for the saidis haill landis, baronie, mylnes, fishing, in all tymes herefter ; And siclyk in all and haill the townes and landis of Pitenkeirie, Brathings, Inuercannie, with the mylne thairof, in the half towne and lands of Bancharie Trinitie, with the ferrie boat thairof, Dirocroft, Kinneskie, with all and sundrie pairts, pendicles and pertinents, togidder with the superioritie thairof, lyand in the Lordship of Arbroth, parochine of Bancharie Trinitie, shirrefdome of Kincardin and dyocie of Aberdeen, togidder with the richt of patronadge, alsweill viccaradge as personadge of the said parochine of Bancharie Trinitie, with the teindsheives of the haill parochine of Bancharie Trinitie, and that an saising at the maner place of Pitenkeirie sall be sufficient for all and sundrie the saidis landis, townes, richt of patronadge, teindsheives of the said haill parochin in all tyme heirefter ; And farder, in all and haill the landis of Inwery, with the half of all and sundrie the landis of the Kirktoun of Bancharie, with their pendicles, outsetts, and pertinents lyand in the regalitie of Sanctandrowis, baronie of Roscobie, and shirrefdome of Kincardin ; Attour in all and haill the toune, landis and baronie of Strachan and Culpersoe, with the pendicles thairof wnderwrittin, to witt, Arquhynand, Wodend, Balbredy, Meikill Barnes, Newtoun, Blerodrein and mylne thairof, Mullo, Eslie, Knokhill, Pitredie, Tempiltoun, Knock Gillan, Hauch of Gillan, mylne of Calmie, Mininny, Afrosk, Currenhauch, Walkmylne, Muirhauch, Broomehauch, Delfroe, Keddriehauch, Spittell Burne, Bridge of Dy, Hunthillock, Glenday and mylne thairof, Nuttiehauch, Coliscorss, Tilliquhourie, Bandelphin, Strathie, Balbythe, Dalbrek, Hillocks, Newhauch thairof, with the myln, Singleunies, Mauldscheill, Craighenthill, Corderne, Greinailhous, Cutishillock, with the salmon fishingis of the saidis landis vpon the waters of Dee, Dy, and Feuch and Allan, with the advocatioun, donatioun, and the richt of patronadge of the archdeanrie of Brechen or parochine of Strachan, personadge and viccaradge thairof, with all and sundrie houssis, biggings, yairdis, tofts, crofts, pairts, pendicles and pertinents of the samen landis and vtheris abouewrittin, lyand within the Lordship of Inwerugie be annexation and shirrefdome of Kincardin ; And finallie, in all and sundry the lands of Cluny, Kennertie and Brounhill, with the milne of Cluny, myln landis, multurs, and sequels thairof, with houssis, biggingis, yairdis,

tofts, crofts, mures, marrages, medowis, commountie, commoun pasturadge, outsetts, insetts, annexis, connexis, dependencies, leasurs, pairts, pendicles and pertinents thair of quhatsumever, lyand within the parochine of Bancharie Trinitie and shirrefdome of Kincardin: And that the said Alexander Burnet is narrest and lawfull air to the deceist Sir Thomas Burnet of Leyis, his guidshir, in all and sundrie the landis, baronies, wodis, fishingis, richt of patronadge, teindis and vtheris particularie abouewrittin, with the pertinents thair of; And that he is of lawfall aige be vertew of the dispensatioun containit in the taxt waird charter grantit be the lait king to the Erle of Marshall his author of the landis and baronie of Inuerwgie, quhair of the said baronie of Strachan and Culpersoe ar ane pairt, quhairby it is leisum to him, his airis and successours, to enter to the hailt taxt waird landis thairin containit at any tyme of thair aige, notwithstanding thair minorotie; And that the saidis landis and baronie of Leyis, with the pertinents thair of forsaid, wer worth in tyme of peace be yeir the sowme of ten pundis Scottis money, and ar now worth be yeir the sowme of fourtie pundis money forsaid; The said baronie of Tilliboy was worth in tyme of peace be yeir the soume of foure pundis, and is now worth be yeir the soum of sextein pundis money forsaid; And that the said baronie of Muchalls, and pertinents forsaid, wer worth in tyme of peace be yeir the soume of sex pundis money forsaid, and now ar worth the soume of tuentie foure pundis money forsaid; And that the saidis landis of Pitenkeirie, Brathings, Inuercanny, with the milne, halftoun of Bancharie Trinitie and Kinneskie wer worth in tyme of peace be yeir the soume of foure pundis money forsaid, and now are worth yeirlie the soume of sexteine pundis money forsaid; The saidis landis of Inwerie, with the half landis of the Kirktoun of Bancharie, wer worth in tyme of peace be yeir the soume of thrie pundis Scottis money, and are now worth yeirlie the soume of tuelf pundis money forsaid; The saidis landis and baronie of Strachan and Culpersoe, with the pertinents thair of forsaid, wer worth in tyme of peace be yeir the soum of tuentie pundis Scottis money, and are now worth be yeir the soume of fourscoir pundis money forsaid; And that the saids lands of Cluny wer worth in tyme of peace be yeir the soume of ane pund, and are now worth the soume of foure pundis; And that the samein hailt landis, baronies and vtheris forsaidis are holdin of Oliver, Lord Protectour of England, Scotland and Ireland, and dominiounes thairto belonging in place of the lait king in maner and for the payment of the dewties vnderwrittin, to witt, The baronie of Leyis, blenshe for the payment of ane pennie yeirlie; The baronie of Muchalls taxt waird for payment of the soume of tuentie pundis yeirlie in name of taxt waird; The landis of Eister Campbell, Blairhead, Wester Campbell, Ailhouscroft, Cairnamor, Craigour, with the myln thair of, with the myln of Campbell, with the croft of Lumphanan, occupied as said is, of ane

penny Scottis in name of blenshe ferme, and tuentie shillingis for the fewfermes of Delhaikie, Brigend and Dilewear, and of sex shillingis eicht pennies Scottis money in name of blenshe for the landis of Pitenkeirie, Brathings, Inuercanny, with the myln thairof, halftoun of Bancharie Trinitie, ferrieboat, Dirocroft, Kiniskey and superioritie thairof; And of ane pennie Scottis money of blenshe ferme for the richt of patronadge, personage and viccarage of the parochin of Bancharie Trinitie and teindsheives thairof; The saidis landis of Inwery, with the half of the landis of the Kirktoun of Bancharie, the soume of fyve pundis sex shillingis eicht pennies in name of fewferme; The said baronie of Strachan and Culperso, with the pendicles thairof forsaid; The soume of thriescoir pundis Scottis money yeirlie in name of taxt waird, and for the forsaidis landis of Cluny, with the pertinents thairof forsaidis, the soume of ten pundis Scottis money of fewferme yeirlie: And that the saidis landis and baronies of Muchalls, Strachan and Culperso are now as they haue been in the handis of the keipers of the liberties of the Commounwealth of England and Oliver, Lord Protectour of the Commounwealth of England, Scotland and Ireland, and dominions thairto belonging, immediat lawfull superiours thairof respectiue continuallie since the deceis of the said deceist Sir Thomas Burnet, quho depairtit this lyf vpon the tuentie sevint day of June, in the yeir of God ane thowsand sex hundreth fiftie thrie yeiris, and swa be the space of eicht monethis half moneth, or thairby, be reasoun of the taxt waird and the haill remanent landis, baronies, and vthers in the handis of the saidis superiours respectiue, be the said space be reasoun of nonentrie, throw the default of the said Alexander Burnet, quho did not befor thir tyme seik his richt thairof. In witnes quhairof the seillis of the most pairt of the persons on the said inqueist, with the foirsaid breiff heirwith includit, are appendit heirto, and subscryved be Mr. Thomas Stewart, shirref clerk of the said shirrefdome of Kincardin, day, moneth, yeir, and place forsaid. Subscryved thus,

W. STUART.

This is the new copie of the principall retoure upon the premissis remaining in the Chancellarie. Copied and collationed by me, Alexander Jaffray of Kingiswallis, directour of the Chancellarie, vnder this my signet and subscriptioun manuell.

AL. JAFFRAY.



*Arms of Sir Thomas Burnett of Leys
from the interior of Muchalls*

XXXVIII.

ARMS of Burnett of Leys.

IN 1673 Sir Thomas Burnett of Leys registered Argent, three holly leaves in chief vert and a hunting horn in base sable, garnished gules. These arms were registered in compliance with an Act of the Scots Parliament of date 1672, ordaining all the nobility and gentry of Scotland to register their armorial bearings in the book of the Lord Lyon. This Act of Parliament was passed in consequence of the destruction of the Lyon Registers, between 1542 and 1672, but the same arms were borne by the family long before its date. Seton's *Scottish Heraldry*.

These bearings are cut in stone at Crathes, impaled with Hamilton, 1553, and impaled with Gordon of Lesmore, 1596. They are also found in the interior of the castle on the stone pendants of the dining hall, and carved in wood on various articles of furniture of the same dates.

At Muchalls the same appear with supporters—a man in a lowland hunting garb and a greyhound—in plaster, being the arms of Sir Thomas Burnett, who finished Muchalls in 1627. On a stone brought from Muchalls, and now at Crathes, the same arms appear impaled with those of Moncrieff of Moncrieff, and with the same supporters. Sir Thomas Burnett, 1st Baronet, married, as his second wife, Jean, daughter of Sir John Moncrieff of that ilk, in 1621.

These supporters were not recorded in the matriculation of 1673, but in 1838 another entry was made by Sir Thomas Burnett, then of Leys, in which they were blazoned “Dexter a highlander in a hunting garb holding in his exterior hand a bow, and on the sinister a greyhound all proper.” In the matriculation it is stated as the reason for granting supporters, that Sir Thomas had “established his claim to supporters as the male representative of one of the “minor barons of Scotland prior to the year one thousand five hundred and “eighty-seven.”

The reason for the substitution of a highlander for a man in a lowland hunting garb is not very apparent, but we have the authority of Sir George Mackenzie of Rosehaugh for saying that the highlander was one of the supporters in 1680.

He says—“Thus Burnet carries a hunting horn in his shield, and a Highlander in a hunting garb and greyhounds for his supporters, to shew that he was “His Majesties Forrester in that northern forest.”

Sir James Balfour gives the arms of Leys as having the horn between the three holly leaves.*

The holly leaves in the coat of the Scottish Burnetts undoubtedly owe their origin to the similar emblems borne by their southern ancestors treated of in Chapter I. The earlier seal of Odo Burnard has the device of one leaf or flower, and in the later seal there are three leaves on an escutcheon, which, with the addition of the hunting horn assumed by the Burnetts of the north, owing to their connection with the Forest of Drum, now form the coat of the family. As mentioned before, the seal of Richard Burnard of Farningdown, 1252, shews the single leaf of a different shape from that of Odo. The leaves on the English Burnard's seals may be burnet (pimpernel), but all the Scottish blazons have holly.

The crest used by the Burnetts of Leys is "a hand, with a pruning knife, pruning a vine tree proper." Motto: *Virescit vulnere virtus*.

Seton says: "This crest and motto owe their origin to Mary Queen of Scots, and were probably intended to allude to her own unhappy condition. 'When 'she was in England,' says Bell, in his life of the Scottish Queen, 'she 'embroidered, for the Duke of Norfolk, a hand with a sword in it, cutting vines, 'with the motto "*Virescit vulnere virtus.*"'"

The Earl of Galloway has the same motto but a different crest.

The following arms of cadets of the family are matriculated in the "New Register" in the Lyon Office:—

1672. Thomas Burnet of Inverleith, descended of Leys; Argent, three holly leaves in chief vert and a hunting horn in base sable, garnished gules, within a bordure indented of the second, a crescent for difference.

Crest: A holly branch proper.

Motto: *Virtute cresco*.

1678. Alexander Burnet of Craigmelie (Craigmyle), whose father was lawfully procreate between James Burnet of the house of Leys, and Elizabeth Burnet, heiress of Craigmelie and representer of Craigmelie of that ilk, bears two coats

* A very curious coat occurs in Workman's MS. (1565-6) in the Lyon Office. It is headed in the pictorial blazon as "Burnet of Leyis," but in the description is called "Bornett in Lidesdale?—Argent, a naked man cutting a tree growing from a mount in base vert with a long "sword, on a chief azure a crescent between two mullets argent." The tinctures in the pictorial blazon are different. There would appear to be some confusion of names, as the coat has no resemblance to one borne by any family of Burnetts (although it may possibly have some connection with the crest) and may be considered as a heraldic curiosity.

quarterly, 1st and 4th Burnet of Leys, 2nd and 3rd Azure, two garbs in chief and a crescent in base or, for Craigmellie.

Crest : A dexter hand holding the branch of a palm tree.

Motto : Quae vernant crescut.

Alexander Burnet, Merchant in Aberdeen, Gentleman, Argent, a battle axe in pale between two holly leaves in chief and a hunting horn in base vert, garnished gules.

Motto : Quidni pro sodali.

Robert Burnet, Procurator Fiscal of Aberdeen, carries as Leys, with a billet azure in the centre for his difference.

Crest : A hand with a cutlass cutting through a vine branch proper.

Motto : Tandem fit surculus arbor.

Thomas Burnet, Physician in Ordinary to His Majesty, descended of a 3rd son of the family of Leys, carries as Leys, with a mullet for his difference.

His brother, Dr. Gilbert Burnet, late Bishop of Sarum, carries the same, as in Dale Pursuivant's catalogue of the nobility of England, where he blazons the holly leaves *Burnet-leaves*.

Mr. Andrew Burnet of Wariston, carries as Leys, within a bordure indented vert.

Crest : A branch of holly.

Motto : Virtute cresco.

John Burnet of Dalladies, carries as Leys, within a bordure counter compony of the second and first.

Crest : A branch of holly slipped proper.

Motto : Nec fluctu nec flatu.

James Burnet of Sheddocksley, whose grandfather was a third son of Leys, Argent, a falcon volant proper between three holly leaves in chief vert and a hunting horn in base sable, garnished gules.

Motto : Virescit vulnere virtus.

A very interesting cadet's coat is that of Thomas Burnet of Wooddalling, County Norfolk. The pictorial blazon in the books of the English College of Arms shows the arms of Leys with the middle holly leaf charged with an annulet as a difference, and the usual crest. The following is the description :—"The Armes and Creast of Thomas Burnett of Wooddalling in the Countie of Norffolke, Gentleman, the sonne and heire of Dunkan Burnett, late of the Citie of Norwich, Doctor of Phisicke, the fifth sonne of Alexander Burnett of

“Lays, in the Countie of Marre and Kingdome of Scotland. As doth appeare
 “by the last visitation of Norffolke and other proofes. In testimony hereof I
 “have subscribed these presents, the 30th June, 1640.

“WM. LE-NEUE, Clarencieux,
 “King of Arms.”

The pedigree of Duncan Burnett, obtained from the same source, the Records of the College of Arms, London, is also curious.

“Alexander Burnett of Lees, in Marre, in Scotland, son and heir of Alexander, mar. the dau. of Lumesdaine, in Marre, in Scotland, Gen., and had issue “Alexander, son and heir. Alexander Burnet of Lees afsd, gen., son and heir of “Alexander, mar. Katheren, dau. of Robt. Arbuthnot of little fiddes, in Com. “Merneis, in Scotland, gen., and had issue, Alexander, sonne and heir, Robt., “second son; Thomas, third son; Gylbert, fourth son; Dunkyn, fifth son; “John, sixth son; Janett, mar. to Gilbert Keith of Awhurst in Scotland; “Margarett, Elspet, mar. to Gilbert Skeyne of Marre, in Scotland.

“Dunkyne Burnet, of the County and Cyty of Norwich, Doctor of Phisicke, “ffyft son of Alexander, mar. Jane, dau. of Robt. Marsham of Little Melton, in “Com. Norff., gen., and had issue, Robt., obejt; Mary, sole dau. and heir.”

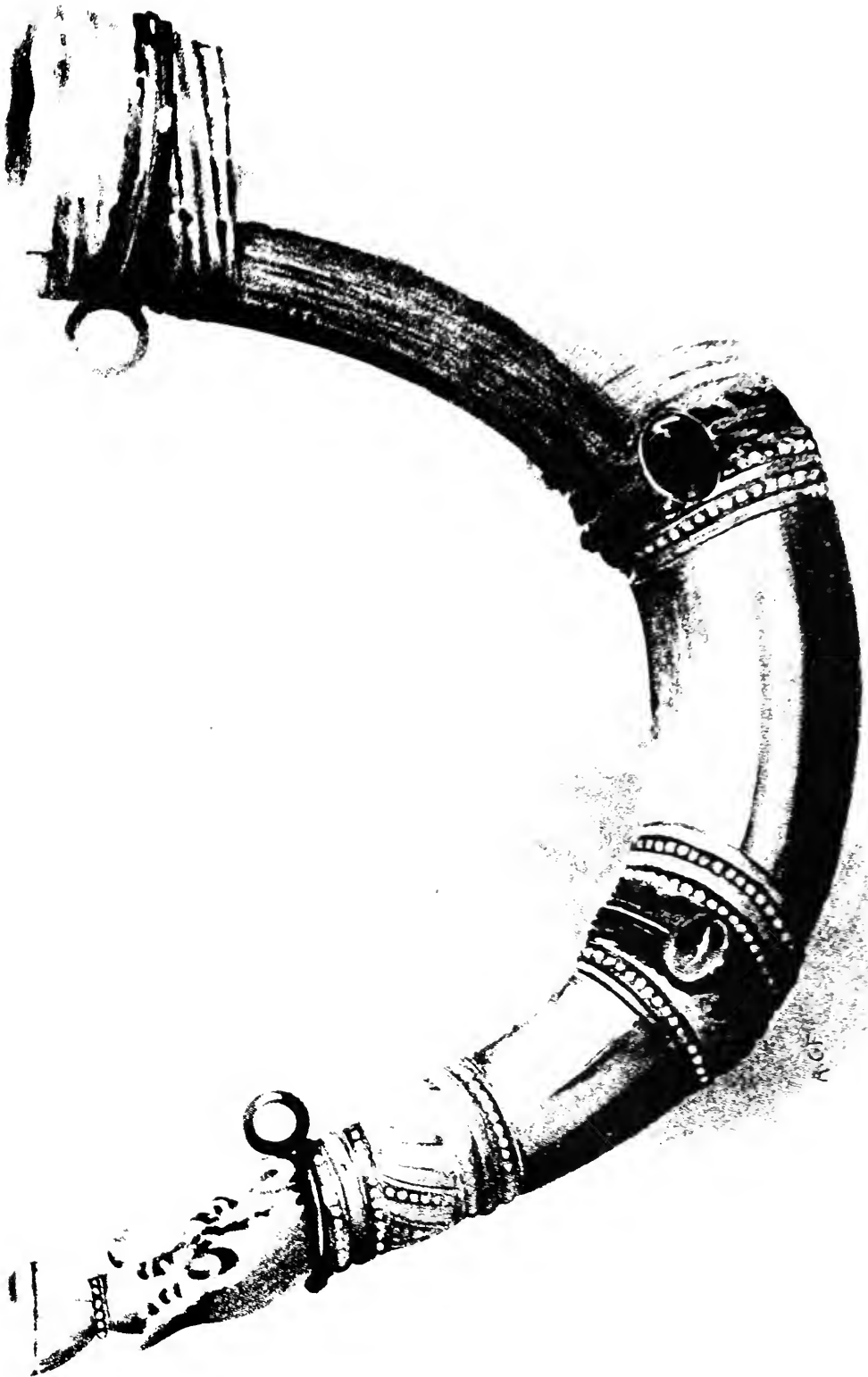
Of the modern matriculations of arms in the Lyon Register by cadets of the family, the most important is that of the late Dr. George Burnett, Lyon King of Arms, and author of this work. In 1870 he registered the arms of Leys in the 1st and 4th quarters, and those of Craigmyle in the 2nd and 3rd quarters, a mullet sable in the centre for difference, which he bore impaled by the official coat of Lyon King of Arms.

“THE LEYS HUNTING HORN,” sometimes called the Leys tenure horn.

As the horn figures prominently in the family coat of arms, some description of this curious piece of antiquity may not be out of place here.

The illustration is from a sketch by Mr. A. C. Fraser, and shews the horn full size. It is made of ivory, fluted, with four bands of gilt round it, the two centre ones containing a carbuncle and three pieces of transparent crystal. Attached to it is a scarf or baldric of green silk, tasseled, apparently of the time of Charles II. There is no documentary history of the horn, nor any allusion to it in any of the Charters. All that is known of it is that it has been from time immemorial in the possession of the family, and is believed to be a badge of office as forrester or a horn of service.

Cornage or the service of a horn was amongst the various methods in use for the conveyance of land in England as far back as the reign of Edward the



NOT

Confessor, and it is not impossible that the horn of Leys may have been somewhat of the same character as the English Charter and other horns, some of which are still in existence.

Amongst the best known of these ancient horns are :

The well-known horn of Ulphus, preserved in the Cathedral of York, by which the Chapter hold lands in Yorkshire, granted to them in the time of Canute.

The horn of Pusey, by which the family of Pusey hold the manor of that name, given to them by the same monarch.*

The horn presented to the Cathedral of Carlisle by Henry I. when he enfeoffed it with the tithe of lands in the forest of Englewood.†

The horn of Tutbury, by which certain offices connected with the Manor of Tutbury were conveyed, and about which there is no reference in Charters or letters patent, as the offices passed solely by possession of the horn.‡

Lord Bruce's horn. This horn is supposed to have descended to its present owner, the Marquis of Ailesbury, through the Seymours, by an alliance of the latter family with the Esturneys of Chadham, in the County of Wilts. ; which family, Camden says, "had been, ever since the reign of Henry II., hereditary bailiffs and keepers of the neighbouring forest of Savernake." There does not, however, appear to be any evidence of this in the records of the family.§

The Borstal horn. This horn, although undoubtedly a Charter horn, bears perhaps the closest affinity to the Leys horn, having been granted by Edward the Confessor in connection with the custody of a forest, and is borne in the coat of arms of its possessors in the same manner as that of Leys in the Burnett coat. The history of this horn is narrated as follows :—King Edward the Confessor had a royal palace at Brill, or Brehul, in Bucks., to which he often retired for the pleasure of hunting in his forest of Bernwood. This forest was infested by a wild boar, which was at last slain by one Nigel, a huntsman, who presented the boar's head to the King ; and for the reward the King gave to him one hyde of arable land called Derebyde, and a wood called Hulewode, with the custody of the forest of Bernwood, to hold to him and his heirs per unum cornu, quod est charta prædictæ forestæ. For proof of this, in a large folio vellum book (supposed to have been written in or before the reign of Henry VI.) is a rude delineation of the site of Borstal house and manor, and under it is the figure of a man presenting on his knees to the King the head of a boar on the point of a sword, and the King returning to him a coat of arms, Argent, a fess gules between

* *Brit. Berks.*, p. 203, ed. 1607.

† *Archæologia*, Vol. III., p. 22.

‡ *Derbyshire Archæological Transactions*.

§ *Archæologia*, Vol. III., p. 24.

two crescents, and a horn vert. Bishop Kennet says, "though this distinction of arms did not agree with the time of Nigel, yet it is most likely he did receive from the King a horn, as a token and Charter of his office of Forester; and his successors, by the name of Fitz Nigel, did bear those arms."*

There can hardly be any doubt that such customs, established and firmly rooted for so many centuries in England, would be followed most naturally, if they did not already exist, in Scotland.

From the fact that the lands of "Leyis" were gifted by King Robert to Alexander Burnard, that he was the first custodian of the forest of Drum, as well as from the arms and supporters of the family, it seems reasonable enough to believe that the tradition regarding the origin of the "horn of Leys" is founded on fact, and that it is a horn of service. The arms shew that the family were connected with the forest of Drum, and the horn may have been the instrument of sasine to the lands of Leys.

XXXIX.

MUSTER ROLL of Capt. Wm. Burnet's troop of Dragoons.

William Burnet, Captain.	Wm. Pringle,	} Serjeant.	John Patison,	} Drumers.
Philip Anstruther, Lieut.	John Dick,		Hendrie Boig,	
Wm. Holburne, Cornet.				

Anth^y Richardson, Corporall.

Daniell Philp, Corporall.

Alex ^r Barrone.	James Gordowne.	Wm. McFell.
George Barklie.	Thomas Granton.	John Pitscottie.
John Burges.	Wm. Gifford.	James Purshall.
John Beth.	Andrew Hendersone.	Alex ^r Reathe.
James Blaiketer.	Pat. Hendersone.	Arch. Richardsons.
Rob. Browne.	John Hay.	John Roch.
Richard Benves.	Mark Hendersone.	Alex ^r Sanders.
Alex ^r Campbell.	Rob. Hetfoord.	Collen Sutherland.
Alex ^r Cruikshanks.	Archibald Inglis.	John Simpson.
Wm. Calbraith.	Alex ^r Leith.	John Summers.

* A very interesting and elaborate paper on tenure horns (from which some of the above descriptions are taken), by Dr. Samuel Pegge—a distinguished antiquarian of the last century—is contained in Vol. III. of the *Archæologia of the Society of Antiquaries*.

Wm. Clerk.	George Luke.	Ja. Somervail.
John Davisonc.	James Low.	Malcom Scott.
Pat. Duncan.	Angus McDonald.	Rob. Sands.
Wm. Duncan.	Charles Murray.	Andrew Thompson.
John Etken.	Hector McAllaster.	Tho. Takeit.
George Ffellow.	Rob ^t Moor, elder.	John Young.
James Ffarquarson.	Rob ^t Moor, yur.	

Att Stirling, the 10th Decr., 1692.

Mustered then in Capⁿ Burnett's troop in that Regt. of Dragoons, wherof the Right Honobl. the Lord Newbotle is Lif^t Coll., the Captain, Lieut., Cornett, two Serjeants, two Corporals, two Drummers, and fiftie Dragoons; and this muster is for the months of November and December, 1691, and Januar, 1692.

TH. BRUCE.

WILLIAM LORD FORBES, one off his Maties Most Honorable
Privie Councill for the Kingdome off Scotland, &c.

WHEREAS the Bearer hereof, Serjant John Dick, in Major Burnet's Troope in the Regiment of Dragoons that was under my command, is now desyrous of a pass from me to engage himself in His Majestie's service, or goe other wayes about his owne privat affaires, I doe therfor give him his discharge at Inverness, the 3rd day of December, 1697 yeares.

FORBES.

To all Officers, Civil and Military,
and others concerned.

XL.

INVENTORY AND APRETIATION of the Household Furniture belonging to the late Sir Robert Burnet of Leys, at Crathes, Aberdeen, and Invercannie, apretiate by William Johnstone of Badyfurrow and Peter Reid, merch^t in Aberdeen, and signed by them accordingly, 1760.

In the Great Hall.

An iron grate	...	...	...	...	...	...	...	£^o	5	0
A big oak table, with a carpet	...	...	...	...	...	...	...	0	15	0

A big folding table	£0 5 0
A winscot folding table	0 3 0
A fixt cupboard	0 10 0
4 large pictures of the ffamily of Marishall	1 10 0
5 oak arm'd chairs	0 7 6
11 chairs in leather	0 15 0
A monthly begg clock, wanscot case	5 0 0

In the Little Dining-Room.

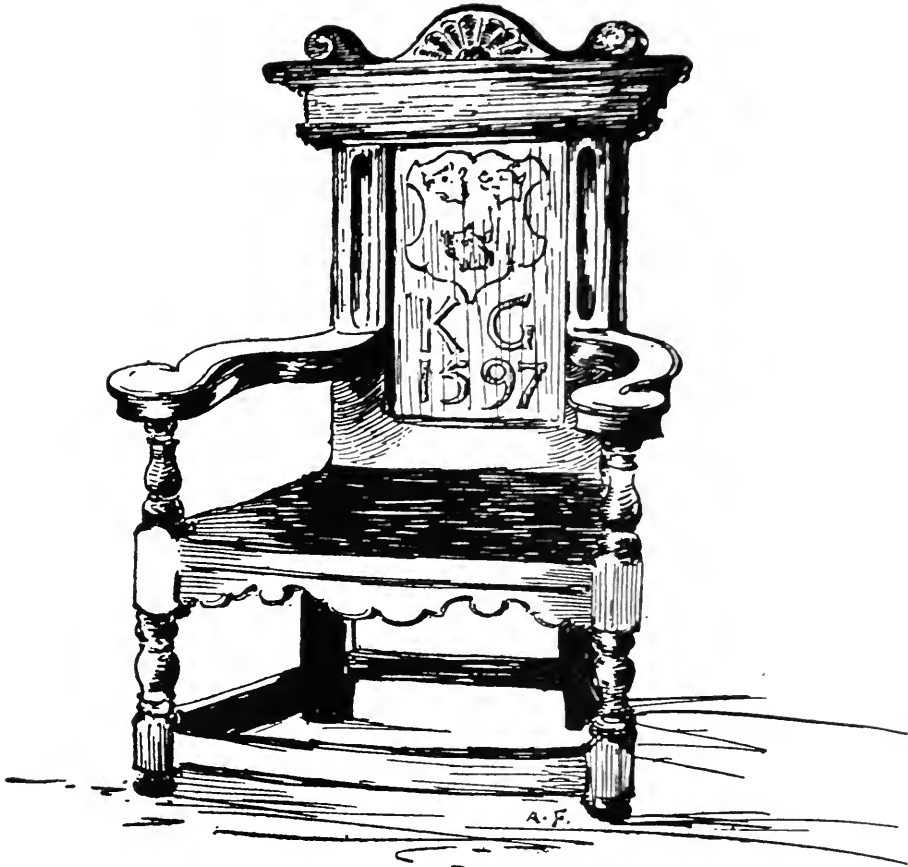
One folding table	0 2 0
5 chairs with leather seats	1 0 0
One standart table	0 1 0
One big trunk	0 2 6
One little ditto	0 1 6
One broad footstool	0 1 0
Two carpets	0 15 0

In the Big Dining-Room.

An iron grate	0 1 0
A big mahogany table	3 0 0
A lesser folding table	0 4 0
A marble table	1 5 0
A big mirror glass	10 10 0
4 pictures	—
A resting seat	0 6 0
An organ, valued by Mr. Tate	6 6 0
An easy chaire	0 10 0
12 chairs with little covers	2 10 0

In the Bigg Drawing Room.

5 large pictures	—
2 prints	0 1 0
An iron grate and fender	0 2 6
A tea table with a green cover	1 1 0
A card table with leather cover	0 4 0
A mahogany standart	0 10 6
An arm easy chair and 8 chairs with velvet seats	2 5 0
A mirror glass	1 1 0



OAK CHAIR AT CRATHES.

In the New Bedroom.

A bed with white hangings	...	...	...	...	...	...	...	£6	6	0
A square table	...	...	...	...	...	...	...	0	4	0
A card table	...	...	...	...	...	...	...	0	13	0
A broken mirror glass	...	...	...	...	...	...	...	0	2	0
3 easy chairs, 2 of them with yellow cover, one with cusheez	...	...	...	...	...	...	...	3	0	0
An iron grate	...	...	...	...	...	...	...	0	2	6
One shovill...	...	...	...	...	...	...	...	0	0	6
A large floor carpet	...	...	...	...	...	...	...	0	6	0
One large screen	...	...	...	...	...	...	...	0	18	0
6 little chairs, stuffed, with covers	...	...	...	...	...	...	...	1	4	0
A closet box and pan	...	...	...	...	...	...	...	0	3	0
A basson and ane extinguisher	...	...	...	...	...	...	...	0	0	4

In the Laigh Closet.

A bed with stamped hangings	...	...	...	...	...	...	...	0	12	6
A washing table and basson	...	...	...	...	...	...	...	0	3	0
A chamber pot, stone	}	0	3	0
A standart table	...	...	...	...	...	...	...
A big chair...	}	0	3	0
Two little chairs, cane seat	...	...	...	...	...	...	...
A little looking glass	...	...	...	...	...	...	...	0	3	0
An extinguisher...	...	...	...	...	...	...	...	0	0	1

In the High Closet.

A bed with green hangings	...	...	...	...	...	...	...	1	0	0
A square table	}	0	2	6
A washing table	...	...	...	...	...	...	...
A looking glass	...	...	...	...	...	...	...	0	18	0
One beg and 2 little chairs with cane seats	...	...	...	...	...	...	...	0	3	0
A little floor carpet	...	...	...	...	...	...	...	0	0	6
A basson, chamber pot, and extinguisher	...	...	...	...	...	...	...	0	0	6

In the Muses.

A bed with yellow hangings	...	...	...	...	...	...	...	3	3	0
2 little floor carpets	...	...	...	...	...	...	...	0	7	6
One easy chair and cushion	...	...	...	...	...	...	...	0	5	0
One arm chair and 3 little chairs	...	...	...	...	...	...	...	0	6	0
A square and standart, with stone basson	...	...	...	...	...	...	...	0	2	0

One looking glass	£1	1	0
One table glass	0	4	0
2 chamber pots, ston	0	0	6
Tongs and floor brushes	0	1	0
A closet box and pan	0	3	0

In the Green Room.

One bed with green courtins	0	12	6
One do. with stamp ditto	0	10	0
A square table	0	1	0
One arm chair, with six little do. with leather bottoms	0	7	0
2 little chairs with cain bottoms	0	1	0
2 pewter chamber pots	0	2	0

In the Stairhead.

A bed with callicow hingings	0	15	0
A fender brush and tongs	0	1	0
A square table and basson	0	1	6
A	1	0	0
A looking glass, broke	0	2	0
5 small prints	0	1	6
5 chairs	0	10	0
One chamber pot	0	0	3
A little floor carpet	0	5	0
One pairs snuffers	0	0	2

In the White Room.

A bed with white hangings	1	10	0
A square table standart, washing table and basson	0	10	6
A beg chair, 2 little do., with seats of blue cloath	0	5	0
A beg looking glass	1	1	0
And table do.	0	4	0
A closet box and pan and chamber pot	0	3	0
A little flower carpet	0	5	0
A tong, pocker, brush and extinguisher	0	1	0

In the Great Room.

One bed with green hangings and white lace	3	10	0
One tent bed with blue hangings	1	15	0

2 arm chairs with cain bottoms	£0 2 6
4 chairs with blue cloath ditto	0 12 0
A square table with 2 standart do.	0 6 0
A beg mirror glass... ..	2 10 0
A pair of tongs and snuffers	0 1 0
A basson and 2 chamber pots	0 1 0

In the Little Great Room.

A bed with yellow hangings	4 0 0
A square table and 2 standart tables	0 3 0
A floor carpet	0 2 0
7 chairs with cloath bottoms	0 14 0
A beg mirror glass	0 12 0
One iron grate	0 3 0
One basson, one chamber pot and extinguisher	0 1 0

In the Nine Nobles.

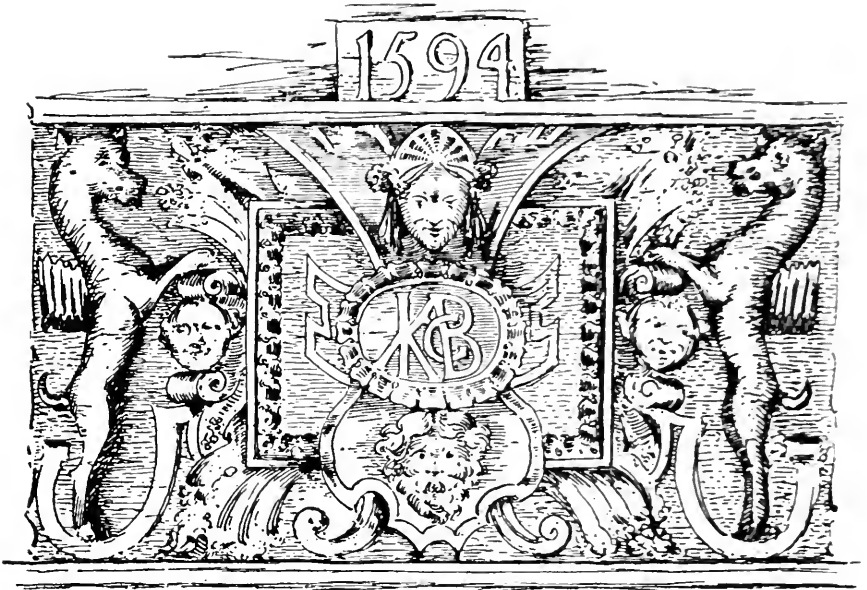
A bed with blue hangings and reed lace	0 12 0
One tent bed with hangings	0 15 0
A scrutore	0 5 0
2 chairs and a chamber pot	0 1 0

In the Dinning Room Laigh House.

One mahogany desk	3 3 0
One little oak desk	0 5 0
One cloak	2 0 0
One sconce glass	1 10 0
One print	0 5 0
A mahogony table	1 5 0
A side table	0 1 6
A cupboard	0 7 6
A folding table	0 5 0
8 chairs, with an arm chair, leather covers	0 18 0
1 grate, fender, shoffel, tongs and brush	0 6 0
A baggamon table	0 5 0
A little box... ..	0 0 2

In the Drawing Room.

One chest of drawers	2 10 0
A looking glass	0 15 0



OAK PANEL IN BED AT CRATHES.

2 flesh hooks	...	...	...	...	...	...	...	£0	0	3
A floor box and pepper box	...	...	...	...	...	...	...	0	0	6
A mortar and pistle	...	...	...	...	...	...	...	0	5	0
A callander...	...	...	...	...	...	...	...	0	2	6
2 walter buckets with iron girds	...	...	...	...	...	...	...	0	2	0
A brander	...	...	...	...	...	...	...	0	1	0
A dinner bell	...	...	...	...	...	...	...	0	4	0
A shell bowie and gullie	...	...	...	...	...	...	...	0	0	8
2 spitts	}	0	10	0
2 boxes	...	...	...	...	...	...	...
A crook and tongs...	...	...	...	...	...	...	...	0	3	6
2 presses with locks and keys	...	...	...	...	...	...	...	0	2	6
A pewter dipper	...	...	...	...	...	...	...	0	2	0
A ditto rack	...	...	...	...	...	...	...	0	0	6
A kitch table	...	...	...	...	...	...	...	0	0	6
A fixed shelf and a hanging shelf...	...	...	...	...	...	...	...	0	0	6
A brass spoon	...	...	...	...	...	...	...	0	0	6

In the Larder.

A slaughter ax	...	...	...	...	...	...	...	0	0	6
4 beef vats	...	...	...	...	...	...	...	0	2	0
An old chest	...	...	...	...	...	...	...	0	0	6
A pressing tub for beef and hams	...	...	...	...	...	...	...	0	0	3
2 dryware stands	...	...	...	...	...	...	...	0	0	6
One big brew vat	...	...	...	...	...	...	...	0	7	6
One coper set in a frame with a cover	...	...	...	...	...	...	...	1	5	0
3 working vats	...	...	...	...	...	...	...	0	3	0
2 hot wort stands	...	...	...	...	...	...	...	0	2	0
A burn stand	...	...	...	...	...	...	...	0	0	6
12 hogsheads	...	...	...	...	...	...	...	1	4	0
4 twelve gallon trees	...	...	...	...	...	...	...	0	8	0
7 half hogsheads	...	...	...	...	...	...	...	0	7	0
4 quarter casks	...	...	...	...	...	...	...	0	3	0
2 ankers	...	...	...	...	...	...	...	0	1	0
3 seventeen point trees	...	...	...	...	...	...	...	0	1	6
4 coolers	...	...	...	...	...	...	...	0	4	0
A hoop drainer	...	...	...	...	...	...	...	0	0	3
A woort pan	...	...	...	...	...	...	...	0	2	3
A pair tongs	...	...	...	...	...	...	...	0	0	6

In the Bake House.

A bake house table	£ ^o 3	o
A meall girnall	o	7 o

In the Loaft of Ditto.

7 timber beds	1	15 o
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In the Washing House.

4 washing tubs	o	4 o
A kettle, 2 pans and a tongs	1	o o

Victuall House.

An oak girnall	...	...	...	...	...	...	...	o	7 6
A firr chist	...	...	...	...	...	...	...	o	7 6
A timber back broad for weights	...	...	...	...	...	...	...	o	4 o
A ston weigt, a 4 ston do., a 13 ston do., a 2 iron do. a ston each, an 8 lib., a 4 lib., a 2 lib.	...	...	...	...	...	...	...	o	14 o
A meall stand	...	...	...	...	...	...	...	o	1 o

In the Garret.

A chees press	...	...	...	...	...	...	...	o	1 6
A chest	...	...	...	...	...	...	...	o	2 o
A trunk	...	...	...	...	...	...	...	o	1 o
An old box...	...	...	...	...	...	...	...	o	o 6
A hobby horse	...	...	...	...	...	...	...	o	o 6
2 yairn walls	...	...	...	...	...	...	...	o	o 6
A check reel and cradle	...	...	...	...	...	...	...	o	3 o
2 little wheels and 4 broken ditto	...	...	...	...	...	...	...	o	1 o
A broken check reel	...	...	...	...	...	...	...	o	o 6
A roof of an old bed	...	...	...	...	...	...	...	o	1 o
A good deal of old timber...	...	...	...	...	...	...	...	o	1 o
A carpet for a desk in the church...	...	...	...	...	...	...	...	o	10 o
2 pairs old cairds	...	...	..	...	...	...	...	o	o 2

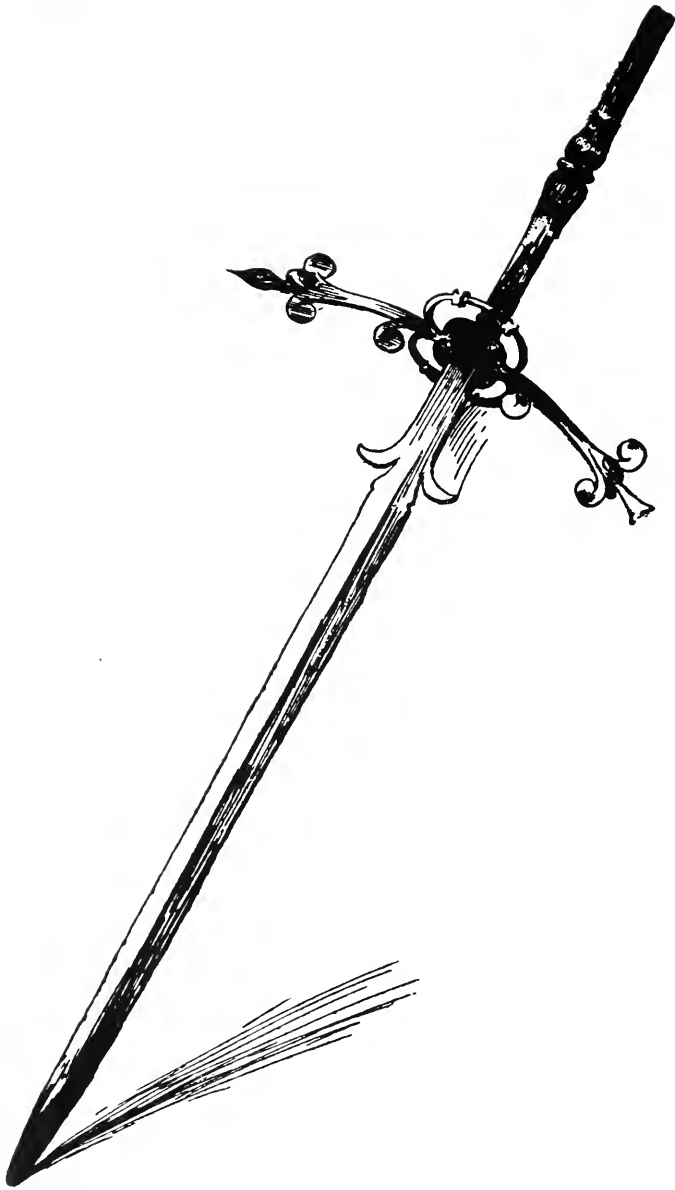
In the Salmon House.

6 fraims for hot beds	...	...	...	...	...	...	...	o	9 o
6 glasses for do., with a screen	...	...	...	...	...	...	...	o	9 o
14 baskets	...	...	...	...	...	...	...	o	1 2

5 rakes	£0 0 10
5 big English hoes...	0 1 3
5 little do. do.	0 0 10
3 Dutch do.	0 1 0
2 pitch forks	0 1 0
2 wattring pots	0 15 0
A distilling pot	0 3 4
A level in 3 livelling rods	0 0 6
A 10 foot rod, a 6 foot do., and an edging iron	0 0 6
An iron chain	0 0 6
3 garden shisars	0 4 6
A gairden fork	0 0 6
21 old scythes	0 7 0
3 gairden spads	0 2 0
One line	0 0 6
5 old skeps... ..	0 0 5
6 skep broads	0 0 6
3 leathers	0 3 0
6 scyth-stons	0 0 6
An old back	0 0 6
A meall peck	0 0 6
2 pairs closs creels... ..	0 2 0
3 barrows	0 2 0
A old salmond vat... ..	0 1 0
5 scyth snedds	0 1 8

In the Gairden Chamber.

An oak bed... ..	0 8 0
A teable	0 6 0
A little table	0 0 4
A gairden hammer, 3 viewing poles and 3 halberts	0 1 0
4 chairs	0 2 0
An earth pick	0 0 6
A pruning chissell	0 0 2
2 old sieves... ..	0 0 1
A bee hive in the gairden	0 12 6
2 stone rollers in iron frames	0 15 0
3 weeding irons	0 0 9



SCOTTISH TWO-HANDED SWORD AT CRATHES.

In the Stable.

A timber bed	...	...	...	...	...	...	...	£0	2	6
A press	...	...	...	...	...	...	...	0	2	6
A corn chist	...	...	...	...	...	...	...	0	1	6
6 sadils	}	1	0	0
6 bridles and a mail pillon...	...	...	...	...	...	...	...
A chaise, with harniss, pridle and long ryns	...	...	...	...	...	...	...	—
2 tartan sheets	...	...	...	...	...	...	...	0	1	0
2 collars	...	...	...	...	...	...	...	0	0	6
2 grasses	...	...	...	...	...	...	...	0	1	0
A shack fork and raik	...	...	...	...	...	...	...	0	0	4

In the Wardiope.

One very large press	...	...	...	...	...	...	...	0	15	0
An old chest	...	...	...	...	...	...	...	0	2	0
A pair silver topd pistols	...	...	...	...	...	...	...	2	2	0
One pair brass mounted pistols	...	...	...	...	...	...	...	0	12	0
One hoop and top, gold laced	...	...	...	...	...	...	...	2	0	0
One pair livery tops	...	...	...	...	...	...	...	0	2	0
8 old chairs...	...	...	...	...	...	...	...	0	2	0
An old trunk	...	...	...	...	...	...	...	0	0	6
A wand hamper	...	...	...	...	...	...	...	0	0	6
14 pictures	...	...	...	...	...	...	...	0	7	0
Some old sadle furniture, old broken bed, a box	...	...	...	...	...	...	...	0	6	0

In the Closet in the end of Gallery.

A hamper with new glasses	...	...	...	...	...	...	...	0	15	0
A box with white lead	...	...	...	...	...	...	...	0	3	4
A barrell with pint...	...	...	...	...	...	...	...	0	7	6
A box with old glasses	...	...	...	...	...	...	...	0	0	6
A goat's skin	...	...	...	...	...	...	...	0	1	0
4 guns	...	...	...	...	...	...	...	0	12	0
2 pistols	...	...	...	...	...	...	...	0	3	0
4 swords	...	...	...	...	...	...	...	0	4	0
A two handed sword	...	...	...	...	...	...	...	0	3	0
A Gambo violen, all broke	...	...	...	...	...	...	...	0	0	6
An old chair with slate nails	...	...	...	...	...	...	...	0	1	6
Old iron and brass...	...	...	...	...	...	...	...	0	1	6

In the Closet on the other hand.

3 dozen bottles with lintseed oile	£0 18 0
14 old window with some glasses	0 2 0

In the Court of Guard Room.

2 oak beds	0 10 0
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In the Gallirey.

6 chairs	0 1 6
A leather for beds	0 1 0
An old table	0 1 0

Clock House.

A large clock and a old cannon by Hugh Gordon	12 12 6
Iron craik with iron prantle tree	0 2 6
A coper kettle	0 16 8
3 chaff tubs... ..	0 1 6
One breket	0 0 6
3 wimbles	0 0 9

In the Houses at Invercanny.

4 stand beds	0 7 0
3 presses	0 15 0
2 meall chists	0 5 0
One table	0 1 6
2 pots	0 6 0
2 pans	0 4 6
One caldron	1 10 0
One crook and tongs	0 2 0
One brander	0 0 8
2 boxes and 1 spit	0 5 0
One girdle	0 2 6
4 milk cogs... ..	0 1 0
5 tubs	0 1 3
2 sowen kirns	0 1 0
One sowen sieve	0 0 6
6 timber dishes	0 0 6
One sadle not to be found	—

In the High Closet Bed.

4 pairs Scots blankets	... ..	£1 8 6
2 feather beds, 2 feather pillows, one bolster, q ^t 7 $\frac{3}{4}$ stone, at 7/-		2 14 3

In the Laigh Closet Bed.

1 feather bed, 1 bolster and 2 pillows, at 5/6	... ..	1 3 0
4 pairs blankets with a chaff bed	... ..	1 1 0

In the Muses.

4 pairs Scots blankets, bed cover	... ..	1 10 0
1 feather bed, 1 bolster, 2 pillows, q ^t at 9/6	... ..	3 1 9

In the Green Room Beds.

8 pairs Scots blankets	... ..	1 2 0
2 feather beds, 2 do. bolsters, q ^t at 4/-	... ..	1 11 0
A chaff bed...	... ..	0 1 0

In the Stairhead Bed.

4 pairs Scots blankets	... ..	1 2 0
A feather bed, 1 bolster and 2 pillows, q ^t 7 3 $\frac{1}{2}$ lib.	... ..	1 4 6

In the White Room Bed.

3 pairs English blankets and bed cover	... ..	1 16 0
1 feather bed, 1 bolster and 2 pillows, q ^t at 9/6	... ..	2 12 3

In the Beds of the Great Room.

8 pairs Scots blankets	... ..	£1 15 0	}	2 16 11
1 pair English blankets, a bed cover	... ..	1 1 0		
3 feather beds, 2 bolsters, 4 pillows at 6/6, 12 $\frac{1}{2}$ stone	... ..	4 7 7		

In the Little Great Room Bed.

4 pairs Scots blankets, a silk bed cover	... ..	2 6 0
A down bed at 12 . . . 46	... ..	2 6 0
A feather bed, a bolster and 2 pillows at 7/6	... ..	1 15 3

In the Nine Nobels.

3 feather beds	} q 4/-, 11 $\frac{3}{4}$ stone at 4/- p. ston	... ..	2 7 0
3 bolsters			
12 pair blankets, £1 16s. 8d., a chaff bed	... ..	2 17 8	

In the Laigh Room Bed.

3 pairs blankets, 1 single do. and bed cover	£1 2 0
2 feather beds, 1 bolster and 2 pillows, q ^t 9¼ stone, at 8/- ...	3 14 0

Mr. Sangster's Closet Bed.

4 pair blankets	1 2 0
A feather bed, 1 bolster and a pillow, q ^t 4½ stone, at 5/- ...	1 2 6
An under bed	0 1 0

In the Woman House.

8 pair blankets	1 10 0
1 feather bed, 1 bolster, q ^t 3½ stone, at 5/-	0 17 6
1 chaff bed, 1 chaff bolster	0 1 6

In the Gairden Chamber.

4 pair blankets, a chaff bed and bolster	0 15 0
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AT INVERCANNY.

9 pair blankets	1 7 0
3 chaff bed, 3 do. bolster	0 7 6

In the Stable.

3 pair blankets	0 9 0
A chaff bed and bolster	0 0 6

Bakehouse Loft.

9 pair blankets	1 7 0
4 chaff beds, 3 bolsters	0 6 0

IN THE LODGING AT ABERDEEN.

4 feather beds, 3 bolsters, 5 pillows, q ^t 17¼ stone, at 7/6 ...	6 9 4
A bed, a chest of drawers	2 0 0
16 pair blankets	4 4 0
12 walnuttree chairs	4 16 0
6 do. do.	2 2 0
4 corner cupboard	1 2 0
A square mahogany table	1 5 0
A square table, elm	0 2 6

A strong ale glass ... ..	...	...	...	...	...	...	...	£0	0	10
26 jelly ditto ... ..	...	...	...	...	...	...	...	0	4	4
9 glass decanters ... ..	...	...	...	...	...	...	...	0	5	0
11 washing glasses and 12 plates ... ..	...	...	...	...	...	...	...	0	10	0
8 glass salts... ..	...	...	...	...	...	...	...	0	2	0
2 cruets ... ..	...	...	...	...	...	...	...	0	0	6
A pepper box ... ..	...	...	...	...	...	...	...	0	0	2
2 black jugs, one stone ditto ... ..	...	...	...	...	...	...	...	0	1	0
1½ dozn silver hafted knives and forks, q ^t 61	}	31	8	4½
2 cases for ditto ... ..	...	...	...	...	...	...	...
4 little knives, silver ... ..	...	...	q ^t 6	8	at 5,6	...	...		
17 silver spoons and a big one ... ..	...	...	q ^t 45	14	at 5/6	...	...		
			114	4	at						
40 knives and 42 forks ... ..	...	...	...	...	...	...	...	0	7	0
14 breakfast knives ... ..	...	...	...	...	...	...	...	0	1	0
20 brass candle sticks ... ..	...	...	...	...	...	...	...	1	15	0
4 pairs snuffers ... ..	...	...	...	...	...	...	...	0	1	8
2 mahogany bottle slips .. ..	...	...	...	...	...	...	...	0	1	0

Blue and White China, Broken.

3 flate plates, 1 flat dish, 1 ashet, 1 red and white bowel ... ..	...	...	...	...	...	...	...	0	1	0
110 dozn chopin bottles, at 1/8 p ^r ... ..	...	...	...	...	...	...	...	9	3	4
2 dozn point bottles ... ..	...	...	...	...	...	...	...	0	9	0

Tea China, &c.

2 white china tea pots	}	0	12	0
11 white cups, 12 saucers ... ..	...	...	...	...	...	...	...
6 white coffie cups				
14 blue and white morning cups, 10 saucers ... ..	...	...	...	...	...	...	...	0	8	4
7 cups and 13 plates coloured china ... ..	...	...	...	...	...	...	...	0	5	0
10 large bowles ... ..	...	...	...	...	...	...	...	0	4	0
4 small do. ... ..	...	...	...	...	...	...	...	0	2	0
2 blue and white china tea pots ... ..	...	...	...	...	...	...	...	0	1	6
10 blue and white coffie cups ... ..	...	...	...	...	...	...	...	0	2	6
5 little cups... ..	...	...	...	...	...	...	...	0	1	0
6 butter plates ... ..	...	...	...	...	...	...	...	0	3	4
10 bread plates, different sorts ... ..	...	...	...	...	...	...	...	0	4	0

7 stone tea pots ditto do.	£0	1	0
15 jelly glasses	0	2	6
Covenantors glass	0	1	0
One glass candle stick	0	0	6
12 tea spoons, silver, 1 sugar spoon, 4 oz., at 5/6	1	2	0

Bed and Table Linnen.

34½ dozn table nap	6	14	6
86 table cloths	14	16	6
5½ dozn towells	0	7	0
64 pair sheets	22	11	0
4 top sheets	0	9	0
4 dozn pillow covers	2	8	0

Sundries not in the Inventory.

34 yards D	1	14	0
13 yards do.	0	9	9
4 pocks for carriages	0	2	0
A small looking glass	0	7	6
3 piece paper	0	7	6
A pair old housing and tops	0	15	0
2 statues	0	5	0
3 chairs	0	12	0
2 tea boards	0	12	0
A gold watch, valued by Hugh Gordon	8	0	0
An emerald... ..	2	5	0
A parcell stoneware	1	0	0
2 distill pot heads	0	15	0
A parcell spun yarn and wool	0	7	0
An old chaise	2	0	0

	£419	15	2½
Error in summing	0	4	9½
	£420	0	0

The foregoing Inventory, consisting of twenty pages, with a just and true account of the haill household furniture in the house of Crathes, Invercannie and Aberdeen,

which pertained to the deceased Sir Robert Burnet of *Leyes*, amounting to the sum of Four hundred and twenty pounds sterling, and the same is hereby attested by us, the apptiators. Witness our hands, at Aberdeen, this twelfth day of Feby One thousand seven hundred and sixty years.

PETER REID.

WILLIAM JOHNSTON.

XLI.

LETTER, Alexander Burnett of Kemnay to Sir Andrew Mitchell.

Berlin, Friday, 14th June, 1765.

DEAR SIR,

I am now to answer by the Return of Anthony, who has finished all his Business here, the Letter you did me the honour to write, by him, of the 18th of April last.

With regard to the Insinuation which, in the Beginning of the Letter, you desire me to make to Pollux in case a certain Event should happen, I shall only say, that as Castor at the Time I received the Letter was so well recovered from his late dangerous Indisposition, I did not think proper to make use of it. I cannot, however, conceal from you, that Castor's Constitution has suffered a severe Shock from his last Illness, and by the best Information I have been able to procure, he will never be the man he was, not that the Vigour and Faculties of the Mind are in the least hurt, but His bodily Strength is greatly impaired; there remains such a prodigious Weakness in his Legs and Thighs that it is still with the utmost Pain and Difficulty he can walk for a quarter of an hour; The Physicians think he will never get the better of this Infirmary, and that a much less severe attack than the last, if it should not prove mortal, will be attended with the most fatal consequences to the mental Faculties, which is worse than Death itself. Castor's future State of Health being so very precarious and uncertain, I shall be very watchfull, and you may be assured that, on the first appearance of Danger, I shall not fail to make the Insinuation to Pollux in the manner you direct.

In my former Letters I have given you as succinct and particular Accounts as I possibly can of the various Schemes of Trade and Commerce proposed here by Adventurers, and which have been adopted by Castor, so that I have very little to add upon that Head; Allow me, however, to observe with you that his

Approbation of these Projects is a mark of Insanity, and cannot fail of exposing him to the Ridicule of all Europe. That of establishing a Bank here is one of the most absurd. Cazabigi was the first Projector, and a Plan was published in the Month of November last, of which I sent you a Copy ; the ill success of that, his first Attempt, has not discouraged ; he said its miscarrying was owing to the Ignorance of the Berlin Merchants, and to the little Love and Affection they bore to their Country, for instead of forwarding and promoting it, they did every Thing in their power to discredit it. He took frequent Opportunities of expressing publicly his Dissatisfaction and Discontent with the Behaviour of the Merchants in this Capital, and of declaring that they should find he could erect a Bank without their assistance. One Worm (who passes for a very considerable Merchant in Hamburg, but who I believe is an Adventurer) thought Castor's present Indisposition and Ill humour with his own subjects was the proper moment for offering a Scheme to establish a Bank here ; accordingly he wrote directly to Castor, who relished his Proposals, at the same Time that he shewed great Diffidence and Mistrust, for he thought them too advantageous and considerable to come from a Hamburg Merchant of any Character and Note, especially as he was sensible that it was not the Interest of the Hamburgers to encourage any Scheme that could tend to promote and increase the Trade and Commerce of Berlin ; He therefore sent his Oracle Cazabigi to Hamburg, *pour reconnoître le Terrain*. To use the old Proverb, Birds of a Feather flock together, the Report Cazabigi made was favourable, and he received orders to set out with Worm for Potzdam. On Worm's arrival at Potzdam he had several Interviews with Castor, in which, by the help of the instructions he no Doubt received from Cazabigi with regard to the character of the Man, he soon gained his confidence, and his Proposals met with our Royal Approbation. Things being thus far advanced, the knowing ones, viz. : Worm, Cazabigi and Michel, were desired to set their Heads together, and to deliberate on the Measures proper to be taken for carrying the Project into Execution. After many Conferences and Consultations they, at last, drew up a Plan to Castor's Liking, and I hear it will very soon be printed. This Affair has been managed with so much Mystery and Secrecy, for fear of its being again rendered abortive by the Merchants here, that I have not hitherto been able to get any satisfactory knowledge of the Plan, only I have heard from Knyphausen (who was much pressed by Castor to take upon him the principal Direction and Management of this undertaking) that the Plan is absurd, quite inconsistent with the Nature of the Trade and Commerce of the Prussian Dominions, and in one word impracticable, that it is to be a Bank of Transfer, much on the same plan with that of Hamburg, that in order to facilitate its Operations, there are *Bureaux de*

Banque to be opened in Breslau, and in Königsberg in Prussia, that Castor is to advance towards the fund Two and a half Millions of Rix dollars, and that he is to be himself the principal Director. He said he heard him one Day at Table make a long Dissertation upon the Nature of a Bank, but that he had not the least Conception or Idea of it, that he had read and retained a great deal upon the Subject, and therefore he imagined he was entirely Master of it. He concluded with saying that Castor had strongly solicited him to take upon the chief Direction of the Bank, but that he had always declined, and excused himself from complying with this Desire by pleading his entire Ignorance in those matters.

I have already acquainted you that one *Rubeau*, a French Adventurer, had proposed to Castor a Scheme for taking in Farm the Tobacco throughout the Prussian Dominions, which had been approved of, notwithstanding of every Thing which Knyphausen, who was appointed to examine it, could do or say to oppose it. This Man agreed to give Castor for the Farm eleven hundred Thousand Rix dollars a year, the half of which sum he engaged always to pay six months before the Term. This determined Castor in his Favour, and he gave him a Grant of the Farm for a certain Number of years. This Affair alarmed all the Dealers in Tobacco in the Prussian Dominions, and Men of the greatest Weight and Consideration amongst them (among whom is the eldest Schwark of Magdeburg) came here and made Representations against it, but at first to little purpose. It was in vain they affirmed Rubeau was an Adventurer, and that he could not give Security for his engagements, to this Castor replied that it was his Enemies who said so, and that as to Security he could have no greater than the Payment of half the sum six months before it fell due. They then discovered that Rubeau was sent hither, and supported by the principal Farmers in France, who were to furnish the Quantities of Tobacco wanted for the Consumption of the Prussian subjects. They drew up a second Memorial informing Castor of this, and setting forth in very strong and clear Terms, the Loss he and the Subject would sustain by it, and the vast Sums of Money the French Farmers would yearly draw out of the Country without any Return, and they offered to take the Farm on the same Conditions he had given it to Rubeau, without raising the Price of Tobacco. These Reasons made Impression. He began to see that he had acted too rashly and precipitately, and He sent for Knyphausen and ordered him to tell them, that though it was natural for him to desire to have the Tobacco farmed by his own Subjects in Preference to a Foreigner, yet he could not retract his Word nor break off his Engagements with Rubeau without a plausible Pretext, that the best way was for them to offer Rubeau a Sum which might tempt him to give up his Right and Pretensions. They have accordingly offered that Adventurer a Pension of Two Thousand Dollars a year for Life,

which he has refused, so they are still Capitulating with him. Mr. Rubeau had better not be too obstinate, otherwise he may lose both the Substance and Shadow, for there are many Instances that Castor is neither a Slave to his Word nor over scrupulous in strictly adhering to his Engagements, when he finds it much his Interest to break them, as is certainly the case at present. If the Prussian Subjects obtain this Farm, Castor will be a very great Gainer, for I know from Authority that may be depended on, that from the Article of Tobacco he did not draw more than one hundred and eighty Thousand Rix dollars per Annum, so that this is at once an Augmentation of the yearly Revenue of near one Million of Dollars.

I send here inclosed a Copy of the exclusion Grant of the Levant Trade during the space of twenty years, which Castor has given to Philip Clement and Company, in order that you may be fully informed of the nature of this Affair. Our Friend Knyphausen, who had frequent Opportunities of seeing and conversing with that Dutchman during his Stay here, tells me he is a very sensible man, and perfectly acquainted with the Levant Trade. What vast advantages the Country might acquire from the Establishment of this Company, he said he could not tell, but that it was evident that he, Clement, reaped from it a very great one, Vizt., the furnishing by his house at Smyrna (which by all accounts is one of the first there), all the Commodities the Prussian Countries wanted from the Levant, so that he has made a very good Bargain.

The Differences and Disputes between this Court and that of Warsaw still subsisting, the high Prussian Duty, to which they gave Rix that has been laid on at Marienverder, on all Goods going and coming upon the Vistula betwixt Dantzick and Poland, has not yet been taken off. This Duty, I am credibly informed, has already brought in to Castor six hundred Thousand German Crowns, and it is reckoned by the nearest Calculation that, taking one year with another, it will produce one Million of Rix Dollars. You can now best judge from the Knowledge you have of the man's Temper whether he will easily be prevailed upon to forego, at least without an Equivalent, the Increase of one Million of Rix dollars to his yearly Revenue.

As you desired me to write you fully what I may have discovered concerning the Character and Disposition of The Prince of Prussia, I shall now give you the Substance of several Conversations I have had on that Head with Sulzer, who, as he has had frequent occasions of seeing and conversing with that Prince, I thought one of the fittest persons I could apply to for information.

He says that, as far as he could discover, The Prince of Prussia has naturally a strong fund of Probity, Honesty, and Integrity: in short, of all the good Qualities that compose the downright honest and Virtuous Man. One Thing he

possesses in a most eminent Degree, which is, a thorough Aversion to Slander or Backbiting, to hear any Person ridiculed, or a Thing said which could shock or give pain to anyone in the Company. He is extremely cold and reserved when with Persons he is not acquainted with, or of whose Character and Principles he has reason to be diffident; His Behaviour at his Uncle's Table is a striking Instance of this, for as he bears no great Affection to his Uncle Castor, nor approves of his way of acting and thinking, he observes a most profound Taciturnity, affects to put on an air of Sadness and Melancholy, and when the conversation is addressed to him he answers in as few words as possible. Sulzer farther adds, that he has contracted such a Habit of watching over himself, that when at Table with his Bosom Friends he has never been heard, as long as the Domestiks are in the Room, to have dropt a Word he would not have wished to be repeated in a Third Place, and he always talked of Indifferent and common place Things, but with good humour and Gayety, and is rather talkative. The moment the Victuals are withdrawn, the Servants are dismissed; He then opens himself with the greatest Freedom, and appears in his natural Character. If the Conversation inclined towards Mirth he was as cheerfull, sprightly, witty, and lively as any of them, if it was serious and learned, he spoke very sensibly, and his Reflections were generally just and well applied. As to his natural Parts, Sulzer says, he has none of the *brillant* nor of those *Saillies d'Esprit*, which the Generality of Mankind is more apt to be taken with, and to prefer to Solidity and good Sense, but he is endued with a large Portion of Common Sense, a solid Judgement, and great Penetration, and an amazing Facility to conceive and comprehend Things when explained to him; Hitherto, however, he has shewn a most thorough Dislike and Aversion to every Thing that can be termed business, either Civil or military, he has no Application or Turn for Affairs, and he is indolent and averse to learn them, but he loves his Pleasures, and is very active in pursuit of them. His favourite and Predominant Passion is his Love of the Fair Sex, at the same Time he is too fickle and inconstant in his Amours to contract any Attachment. He has greatly impaired his Constitution by his venereal Pleasures. It is much to be feared his Marriage will not be a happy one. He is a true and a warm Friend—the Love and Friendship he has for Beglin is a strong Proof of it. Since his late Mentor's Disgrace he has not seen him, neither dare they venture to correspond by Letters, as their Conduct is narrowly watched by Castor, and his Creatures, in a word, every Thing is tried to make him forget, and to wean him from his Attachment to Beglin, yet Sulzer tells me that when he went to see The Prince the last Time he was in Berlin, the first word his Royal Highness spoke to him on his entering the Room was, how does honest Beglin do? and he shewed Much Anxiety to be informed of his Health,

and expressed the most tender Affection for him. This is, in my Opinion, an excellent Sign of a good Disposition. He loves his Uncle Pollux, and has great Confidence in his parts and Abilities, but he does not much frequent him, nor communicate his Sentiments to him, thinking it imprudent and dangerous, considering the Variance and Misunderstanding which subsists between the Two Brothers.

As Beglin is the Person who must be the best acquainted with the Prince's Character I could have wished to have transmitted to you his Sentiments upon the Temper and Disposition of His Royal Highness, for that purpose I employed Sulzer, who made several visits to Beglin, without having ever had the good Fortune to find him alone; besides Sulzer tells me he is very delicate and scrupulous in entering upon that Subject even with his most intimate Friends.

I know of nothing now with regard to the Intrigues of Pollux, his Way of Life and his Connections are the same as when you left the Country. By his appearing this year at the Head of his Regiment with the Pike in his hand, the late Difference is, in outward appearance, made up, but you are too well acquainted with the Characters and Tempers of the Men ever to imagine there will be a perfect Reconciliation between them. I have Reason to believe that no Variance, no Misunderstanding that ever happened between them gave so much Pain and Concern of Mind to Pollux as the last. He said he was in the wrong, and he repented of the Rash Measure he had taken. His Situation was undoubtedly the most disagreeable. He spent the Summer at his Country Seat without hardly seeing a Soul but his own people, for every Body was afraid to frequent him, and when he came to Town he observed with the utmost Mortification a Backwardness and Timidity in his firmest Friends of being seen conversing with him. He therefore tried every Means, and made Advances to ingratiate himself, and to regain the good Will of his Brother, which I am sure at another Time his Pride could never have brooked. It was all in vain, no step he could take, no Humiliation whatever produced the least Effect, or procured him one favourable Look. Castor was resolved not to be Friends with him till he put himself, publicly, at the Head of his Regiment with the Pike in his hand, as he looked on his Compliance with this as a publick act of Submission and an Acknowledgement of his Fault. This Pollux did at the last Review, upon which Castor immediately accosted him, and spoke to him in the most friendly and gracious Terms, so the Peace was made, how sincere it is you can best judge, but I wish for the Sake of both it may be lasting, at least in outward Appearance. I am sorry to say that Pollux is gone for Six Weeks to use the Baths at Carlsbaadt, not so much to be out of the way at the celebrating of The Prince of Prussia's Marriage (though that may be one reason), as on account of his Health, which is greatly broken and

impaired by the Anxiety and Uneasiness of Mind he suffered from the late Variance with his Brother.

No alteration worth mentioning has since your Departure taken Place in the Army, which, however, made a much grander Appearance at the last Review than at the former, owing to the Smallest Men having, in Proportion as Recruits came in, been pickt out of the different Regiments and sent into their respective Provinces to till and manure the Ground, &c., which is a vast Relief and Advantage the Country reaps from this Regulation, as there was great Distress in all the Prussian Dominions for want of Labourers and Workmen of all kinds. It is, however, said that an Augmentation of two Bataillons will be made to the Artillery, but I know not if this may be depended upon. Strict Injunctions were given at the last Review to all the Regiments to raise in the Empire and elsewhere, as many Recruits as possible in the Course of the present year.

I hear Nothing of the Proceedings of the Court of Brunswick, but I conclude from the Hereditary Prince's not having been invited this year to any of the Reviews that the Friendship and Intimacy between him and Castor is not so strong as it was, and that the young Hero will not be the Dupe of the winning Arts and alluring Caresses of the sly old fox.

Now I am talking of the Brunswick Family, I must acquaint you with an Anecdote, which I did not chuse to trust in writing by Post, of Lord Buckinghamshire's Behaviour at that Court, when he passed there on his return to England. On his Arrival at Brunswick he was weak and vain enough to imagine that Prince Ferdinand ought to pay him the first Visit. He therefore sent *Money*, his Secretary, to make a Compliment to His Serene Highness, and to notify his Arrival, but at the same Time to insinuate that His Excellency hoped The Prince would pay him, as The King's Ambassador, the first visit. His Highness seemed not to understand it, upon which the Secretary repeated it. The Prince answered in very polite Terms that he was extremely glad to hear of His Excellency's safe Arrival, and that he hoped to see him at Court, accordingly they met there that Night, and My Lord was most graciously received by all the Family. Prince Ferdinand in particular behaved to him with vast Politeness and Affability without taking the least Notice of What had passed in the Morning. His Excellency's Deportment towards every Body was rather stiff and haughty, which the Hereditary Princess observed with pain. Prince Ferdinand took a proper Opportunity of acquainting her and the Family with the Nature of the Message he had received in the morning, which shocked them not a little, but when it came to be known the next Day that His Excellency had from eleven to twelve o'clock in the Morning expected the visit of Prince Ferdinand, and seated, with all the Air of Dignity, on a Sort of Throne, which he had had erected in his Room for that

purpose (an easy Chair for the Prince was placed near the Throne), I say, when this Folly came to be known, it raised the Laugh against him, and rendered him quite ridiculous. The Hereditary Princess, however, resolved to humble him, accordingly two Days after, upon my Lord's taking leave of the Family at Court, when he approached The Hereditary Princess she said to him, smiling and seemingly with great good humour, Come, My Lord, take Leave in a manner suitable to any Dignity, down upon your Knee, and then kiss my hand. His Excellency made a Genuflection which Her Royal Highness observing she called out in an audible voice, Fair Play, My Lord, kneel honestly, touch the Ground, which as soon as his Lordship had done, she stretched out her hand, saying, kiss it, My Lord, once more, My Lord, now get up, I am satisfied. You may easily judge to what a Degree this affair would humble and mortify him. However, he left Brunswick loaded with Civilities and Politeness from all that amiable and worthy Family, which was the best way to use him for his insolent Behaviour. I believe you may depend upon the Truth of this Anecdote, for I had it from a Person who was present when Prince Ferdinand of Brunswick told it last Time he was at Potsdam to Castor.

I am sorry to hear that the Prospect you had for Coccej is vanished—he still keeps up a Correspondence with Muzinsterna. Not long ago he was the Subject of Conversation at Castor's Table. Castor asked *qu'est ce qu'est devenu de Coccej?* Count D'Anhalt the Colonel answered *qu'il etait à Hanovre et qu'il avait appris qu'il etait devenu melancholique. Cela ne me surprend pas,* said Castor, *Hannovre est le plus triste Endroit que J'ai jamais connu de ma vie. Je suis fâché qu'il ait quitté mon service, c'est un Garçon d'Esprit, plein d'honêteté, et un excellent officier. Je l'ai beaucoup aimé et estimé, J'aurais surement fait sa fortune s'il avait pris patience, mais Je n'aime pas qu'on me mette la poignée sur la Gorge.* This I had from Knyphausen, who was at Table when it passed.

Since your Departure I have never dined with Count Tinck, and but once with Thomas. When I have Business I go to them, and they receive me very civilly—they never fail to enquire after your health in the kindest manner. Knyphausen is restored to favour, and is much consulted upon Commercial Affairs, &c. There was for some time a Report that he would soon be declared *Ministre d'Etat* with considerable Appointments, but nothing is yet done for him. The other Day he told me that the several Journies he has made to Potsdam, and other Expences he has been at in having Papers copied for Castor's Service, concerning the Octroy for the Levant Company and the Tobacco Farm, have not yet been paid him. It is really a shame, but there is nothing extraordinary or surprising in it when one knows the Country and the Man. Miss West is still here, and lives in the house with the Baron. Louis is as absurd as ever—he

flatters himself that Pitt will yet come into Place with an Administration to his Liking. It is in this view he says that Castor, who wishes as ardently for that Change as himself, retains him here in order to send him back to England when that Change shall happen. His Master, he assures me, is far from having any Inclination to enter into Connection with France, on the Contrary that he has nothing more at heart than to live in the strictest Union and Friendship with the Court of Great Britain, but that he will take no Steps for promoting it whilst a set of Ministers, in whom, he says, after what has happened, he can have no Confidence, remains in Place, and that as long as My Lord Bute's Credit and Influence lasts no favourable alteration for him is to be expected, he therefore will not expose himself to send a Minister. This Language, Louis says, Castor held to him when he pressed him to send a Minister. Louis does not at all seem to repent of the Conduct he held in England—he says if Things were to be done again he would act in the same Manner, and he boasts much of the Correspondence he keeps up by Letters with Lord Tenysle.

I have now, I think, fully informed you of every Thing here worth your knowing, and I shall conclude by asking your pardon for troubling you with so long a Letter, happy if it can any ways contribute to your Entertainment and Amusement.

I have the honour to be with the greatest Respect and Gratitude,

Dear Sir,

Your most obedient and most obliged, humble Servant,

(Signed) ALEX^R BURNET.

XLII.

LETTERS, General Wm. Burnett to his brother, Sir Robert Burnett, 1792-3.

[1]

Camp near Hartford Bridge,
31st August, 1792.

DEAR BROTHER,

. . . . We encamped the 23rd at Wickham Bushes, all the Regiments arrived on the ground as nearly as possible at the same time, ten o'clock, and were encamped as follows:—Artillery on the right two batteries and I think thirty guns, 10th and 11th Dragoons on the left, Queens, Buffs, 14th and 29th

Regiments right and left according to seniority. The ground we encamped on is an immense extent of moor, very wet and full of ruts. The Duke of Richmond commands the whole, Sir Will. Hoare is Lt.-Genl, and the Brigadiers are: 1st Brigade, Colonel Drummond, Royal Artillery; 2nd Brigade, Colonel Fox, Queen's and 14th Regts.; 3rd Brigade, Lord Harrington, Buffs and 29th Regts. Redoubts were thrown up in front of the encampment. We were always out twice a day, when the weather would admit, about four hours each time, fighting a supposed enemy. One day the Artillery in Brigade and Dragoons were the enemy. We took up advantageous positions, and threw the Batt^{ns} into squares; the four companies of Grenadiers were together, and the light companies formed another party. We were some time with Lt.-Colonel Cathcart, who commanded the 29th Regt., and afterwards we were sent to protect the baggage. The Dragoons attacked us, and some of the light infantry foolishly ran forward, and three were rode over, but not much hurt. The Queen's were in a square near us, and charged their bayonets. They say the Dragoons came too close. Every day there is something new. I am generally detached as a guard for some guns part of the day; it is much pleasanter, and I see better what is going on. Saturday morning at four o'clock we struck tents and marched at six, and altho' the distance is not more than six or seven miles, we did not get here till two o'clock, fighting all the way. We drove the advanced corps of the enemy from several strong grounds, for you must know that they are supposed to have landed at Southampton, and are advancing towards London. The Grenadiers and 29th Regiment drove them from one hill at the bayonet's point, playing Grenadiers March. This camp is worse ground than the last, and it has rained ever since we came here. However, we went out last night at 5 o'clock, and marched about 3 or 4 miles. The whole advanced in line, fired field pieces and small arms, then marched back to camp, music playing. The plan was to strike tents to-night, and march two hours before day to a place called Beacon Hill, there lay on our arms some time, and march to our first camp, but the road was found impassable for wagons, so it's given up. It would have been a march of four-and-twenty miles at least. The 7th is to be the grand day; some redoubts are to be blown up. We had an alarm on the first camp, three guns fired in the night; immediately the Regts. paraded and marched to their alarm posts, and manœuvred about three hours and returned to camp. We were out three times that day. The King was out every day till we came here. The Prince of Wales charged once at the head of the 10th Dragoons. Carnegie commands the 11th

Your affec. brother,

WILL. BURNETT.

[2]

Hellwoet, 2nd April, 1793.

DEAR BROTHER,

I have just time to tell you that we embark tomorrow in our transports for Williamstadt, from whence we proceed to Bergen op Zoom, the 37th and 53rd Regts. are here on board the transports, and go also ; the Guards went yesterday The French are retreating fast ; we shall hardly get up with them

WILL. BURNETT.

[3]

Marquin, near Tournay,
17th May, 1793.

DEAR BROTHER,

I think I wrote you about the time of our coming here. Since then a good many troops have come to our neighbourhood, Hanoverians, Cavalry and Infantry. Prince Ernest is with the former, and, I believe, commands them. Our light Dragoons are also arrived, and I see them on duty with the Hanoverians. There is a very fine regiment of Austrian Cuirassiers encamped in our rear, about 700 strong. Our flank battⁿ, I believe, has the hardest duty at present. We are at an advanced post at a village, and have strong picquets and guards ; besides that, for fear of an alarm, we are all under arms for some time before daylight till some time after. I suppose you have heard the particulars of all the actions that have been fought near this lately. The Coldstream Regiment suffered a good deal on the 8th, between thirty and twenty men killed and wounded ; only one officer wounded, and that slightly in two places. The Sergt.-Major was dreadfully wounded, and taken prisoner ; they say he is since dead, but was very well treated. No other British troops were engaged. Our flank battⁿ was out from about half after five, but as we had above eight miles to march, it was dark before we got there, and we met the Duke of York, who ordered us back. The French, I fancy, lost a good many men that and the following day, and were disappointed in throwing reliefs into Condé. I hear we are to march from this on the 19th, but I do not know where to ; I should imagine further into the country. The 14th and 53rd Regts. are in Tournay, and the Guards in villages between us and Tournay. There has been repeated orders to provide ourselves with bâ^t horses, but no money has been given. I dined with Captain Garden lately ; some of your friends enquired after you. Major Mathews commands this flank battⁿ. There is a court martial going on just now

on a Captain . . . of the Coldstreams, accused by a private of misconduct on picquet. He had an advanced picquet the night of the 8th, and upon an alarm from some of his sentries, retreated to another picquet. It occasioned our being under arms for about two hours after the long march. He, it seems, said his men ran away; they, I fancy, told another story, on which he demanded a court martial. I have been there two days; people seem to think he will be acquitted. His accuser is a great rascal, but it is an awkward business, I think. His defence is not yet begun. Captain Forbes arrived a few days ago.

[4]

Camp near Valenciennes,
5th July, 1793.

I EXPECTED before now to have dated my letter from Valenciennes, but that does not come quite to hand yet, tho' we are now in the third parallel, and very near the town, I assure you. Two nights ago they fired very much upon our people at work, with small arms, and killed and wounded a good many Austrians and some English. We have some killed or wounded every day, mostly by their shells. Four of the Guards were wounded yesterday, and Lord Cavan slightly. A cannon ball knocked up a stone, which hit him on the forehead. Our own shells from the batteries behind us frequently burst over our heads and wound our own people. I am on duty about every fourth day. When it's a working party it's only for twelve hours, and when it's a covering party we are there for twenty-four, which is very disagreeable. Many people think now the town will stand a storm. The citadel may hold out after the town is taken. It is a very odd thing they have never made a sortie; about two hundred men came out one day—half drunk, I fancy—made a great noise, fired and retired immediately. It is a very fine country about here, but melancholy to see the villages burnt and destroyed. In some there are a good many inhabitants. When I am not on duty I ride about a good deal. We have a great covering army round us. I rode very near Quesnay the other day, where the French are. It seems a pretty little place, and, I am told, tolerably fortified. Our Chasseurs and Hussars are advanced very near it. There is a strange corps with us called Hulans; they are something like Hussars, but every man carries a spear with a flag, which, I am told, is to frighten the enemy's horses. We have some prodigious fine Hungarian and Bohemian Grenadiers; indeed, the Austrians are all fine troops. The Hanoverians are stout men, but seem to want discipline very much. Their cavalry are very fine. I was in the trenches lately with your friend, Major Baird.

We generally contrive to eat and drink pretty well there; every one carries something, and some of the field officers entertain handsomely. . . . Direct to me to the Duke of York's Army, and put your letter under cover to the Secretary of State's office . . .

[On the 25th July, 1793, the allies carried the outworks of Valenciennes by storm, and General Ferrand surrendered the citadel on the 28th. The allies then attempted the siege of Dunkerque, from before which place the next letter is written.]

[5]

Camp before Dunkerque,
30th August, 1793.

OUR march from Valenciennes was so uninteresting that I thought any little thing that was done by the Austrians you would see much better in the papers than I could tell you. We were intended, I believe, to cut off the enemy's retreat from Cæsar's Camp, but some how we never came up with them. The light Dragoons got some French cavalry one day—about fifty. Their horses were sold. Our march was very tedious, generally under arms from three or four in the morning till the same hour at night, and then we had our tents to pitch, dinners to provide, &c. I am sorry to say that a little plundering went on by the English troops as well as by the others (fowls, &c.), and whenever the people had forsaken their houses, everything was taken. In this neighbourhood all the people have fled, horses, cattle, &c., are taken by the soldiers and sold very cheap. I have bought an excellent milk cow for twenty shillings. However, the Duke of York has given an order that if anything is claimed by the owner you must return it without his paying you anything. You have heard an account of the Guards retaking the post of Linselle. They behaved with great gallantry, and lost a number of men and officers, and after all we abandoned the post. Since we came here there has been a number of men lost; on the 23rd one Battⁿ of Stari Hungarians lost a good many men in a wood; next day some Hessians were there, and as the French seemed to advance, the flank Battⁿ of the Guards and ours were sent out to support them. We drew up in a lane in the wood, where we had some wounded, but we would not fire, as we thought there were some Hessians in our front. After waiting a little we advanced, and found none but French before us. We then fired and advanced as fast as the ground would permit, which was mostly small gardens, with wet ditches and hedges. We drove them quite out of the wood, and very near the town, took one gun and very near

got another, but they fired grape and round shot so fast that we were obliged to get into the wood, and soon after retire a little way, when we took up a position and remained till about 10 o'clock at night, when we were relieved by other troops ; we went out about nine in the morning.

I suppose the two Batt^{ns} were not above seven hundred men. I can't tell the number of the French, altho' we took a few prisoners. We lost, I think, killed and wounded, twenty odd. I had four of my company killed and six wounded out of forty. The French made no stand. We have still very strong picquets in the wood besides rifle men, and we have men killed and wounded every day. They took some French yesterday who were wounded. But the siege does not seem to advance. We expected to find a fleet here from England, instead of which five or six French vessels, with some very heavy guns, lay close into the shore, and keep firing with, I believe, very little effect as yet, but whilst they are there I don't think we can make approaches. The Austrians are very much surprised that our fleet does not make its appearance. I am told on our side, toward Graveline, the town is not invested, so that they may throw in troops and make sorties upon us.

General Freitag with the Hanoverians, some Austrians and English cavalry compose the covering army, and we must dig in the trenches again, which will be terrible work, especially if the rain sets in. General Dalton of the Austrians and Colonel Elde of the Guards were killed, Captain Williams, Guards, and Lieut. Wilson, Artillery, were wounded on the 24th.

Sept. 2nd.—Wrote this in a great hurry, and after all was too late for the post. Last night the French carried on a very heavy cannonade, and we thought they meant to attack us ; however, it ended in smoke. We are very much displeased here at what is said of the 24th at home, of our advancing too far. I assure you we had no higher orders.

[The French having sent a large army to the relief of Dunkirk the allies were obliged to raise the siege and retreat. The campaign terminated in January, 1795.]

XLIII.

ACCOUNT of Crannog in Loch of Leys. From the "Proceedings of the Society of Antiquaries of Scotland," Vol. VI., p. 126.

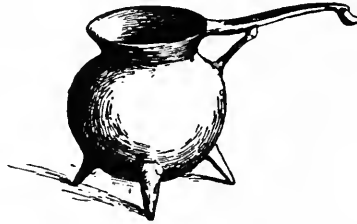
THE isle of the Loch of Banchory, Kincardineshire, was found to be composed of earth and stones, resting on a foundation of oak and birch trees, and was surrounded by oak piles.

The following interesting details of this crannog are taken from Mr. Robertson's paper :—

“ Before the recent drainage of the Loch of Leys—or the Loch of Banchory, as it was called of old—the loch covered about 140 acres, but, at some earlier date, had been four or five times as large. It had one small island, long known to be artificial, oval in shape, measuring nearly 200 feet in length by about 100 in breadth, elevated about 10 feet above the bottom of the loch, and distant about 100 yards from the nearest point of the mainland. What was discovered, as to the structure of this islet, will be best given in the words of the gentleman, of whose estate it is a part, Sir James Horn Burnett, of Crathes. In a communication which he made to this Society in January, 1852, and which is printed in the first part of our Proceedings, he quotes from his diary of the 23rd July, 1850, as follows :—‘ Digging at the Loch of Leys renewed. Took out two oak trees laid along the bottom of the lake, one five feet in circumference, and nine feet long; the other shorter. It is plain that the foundation of the island has been of oak and birch trees laid alternately, and filled up with earth and stones. The bark was quite fresh on the trees. The island is surrounded by oak piles, which now project two or three feet above ground. They have evidently been driven in to protect the island from the action of the water.’

“ So far this exactly answers the description of the Irish crannog, and the resemblance is completed by the remains which were found below the surface. These were the bones and antlers of a red deer of great size, kitchen vessels of bronze, a millstone (taking the place of the quern in the Irish crannogs), a small canoe, and a rude, flat-bottomed boat about nine feet long, made, as in Ireland and Switzerland, from one piece of oak. Some of the bronze vessels were sent to our Museum by Sir James Burnett, and are now on the table. Here, too, are drawings of the place, for which I am indebted to the kindness of an accomplished lady of the neighbourhood. One shows the general appearance of the island as it now is, since the bottom of the lake was turned into cover land. The other gives us a bird's eye view of the surface of the crannog, which you will see had been occupied by a strong substantial building. This has latterly been known by the name of the Castle of Leys, and tradition, or conjecture, speaks of it as a fortalice, from which the Wauchopes were driven during the Bruces' Wars, adding that it was the seat of the Burnets until the middle of the 16th century, when they built the present Castle of Crathes. A grant of King Robert I. to the ancestors of the Burnets includes *lacum de Banchory cum insula ejusdem*. The

island again appears in record in the year 1619, and in 1654 and 1664, under the name of "The Isle of the Loch of Banchory."



BRONZE VESSEL FROM ISLE OF LOCH OF BANCHORY.

XLIV.

DESCRIPTION of the old ceilings and of the Gallery at Crathes.

A DESCRIPTION of the ceilings of the three rooms, referred to at p. 24, and of the Gallery, may not be without interest to the antiquarian from the fact that they are in some respects unique in this country, and that they have never been described in detail before, although a short reference is made to them in McGibbon & Ross's "Castellated and Domestic Architecture of Scotland," Vol. II., p. 110.

The three rooms in which the painted roofs are found are known respectively as "The Muses," "The Nine Nobles" or "The Worthies," and "The Green Lady's Room." The ceilings show the joists and flooring of the rooms above, which are of oak. The inscriptions are painted on the sides of the joists, and on the panels, formed by the portions of the floors between the joists, are painted in colours, figures, coats of arms, and designs of various kinds in rude profusion. These paintings had been covered by lath and plaster ceilings about the beginning of the 19th century, probably for comfort's sake, but the lath and plaster ceilings were removed, and the paintings restored in 1877.

"The Muses."

This room is situated on the second floor. The roof consists of 12 joists and 11 panels. On the panels are painted 14 figures, viz. : Wisdom, Justice, Faith, Hope and Charity, Clio, Euterpe, Thalia, Melpomene, Terpsichore, Erato, Polyhymnia, Urania and Calliope. On the centre panel there is a coat of arms,



Painted ceiling of "The Muses" at Caithness.

Burnett of Leys impaled with Gordon of Lesmoir. The date 1599 is on the joists in two places.

The inscriptions on the joists are as follows:—

Honour and grace is the dew recompence

Of vertueus warkes done in this lyfe

Quilk maketh men to be haid in reuerence

And als their praise to be soundit most ryfe.

Fame be my eies and wingis wondrous fair

Ane trumpet shyle through all the warlde wide

Am drawin thus my heid doth perce the air

Althocht my feit heir on the earh abyde.

Temperance of things most doth refrain

The frailty of man as with a strong bitt

Bridling the affectis of lustis eury one

Stryfing with reasone a reuler most fitt. 1599.

Fortitude is most power onto man

A vertue techt and stillt in equitie

With curage balde doing quhat sho can

Wrong to repelle and despyse miserie.

Wisdome is the ground of all praise and gloir

Fe of the lyffe contrar to Ignorance

Teaching quhat will speake euermore

Cyid of all vertues quhilk men do aduance.

Justice is a vertue quhilk ane doth frame

All thing is in this lyff with anc just ballance

Holding a sworde to execute the same

That no wrang bot richt may have affiance.

Faith is a truth and constancie of things

Spoken and promised be God or man

The gift of God quhilk onlie with it brings

Lyf for Christis saik to ilk Christian.

Hop is a vertue of singular grace

Groundit on faith quhilk to the conscience

Expelling all dout brings joy and peace

Awaiting still with a sure confidence.

Charitie is a vertue principall
 The chyld of faith accompleing the law
 With pitie bent to seik the weill of all
 And as a nureis to babes young and rau.

Clio craftelie dois wryte
 As eldest of thir sisters heir
 Of ancient histories I indite
 And marciall featis of Men of Weir.

And I dame Thalia may be sein
 To loupe and fling with firines
 My fiddile furth shawes my yeirs green
 As maistres of all mirriness.

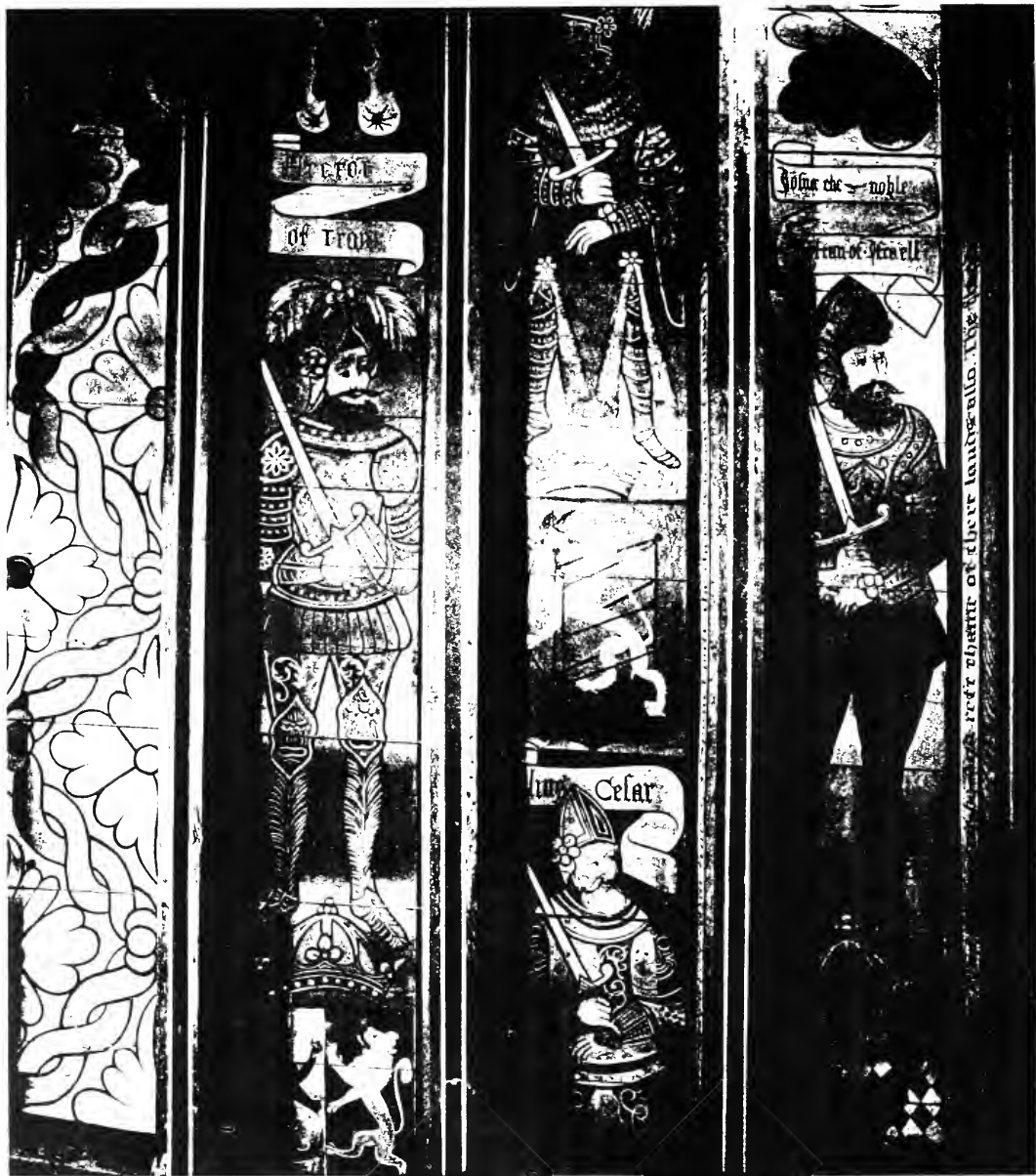
Melpomene man by my style
 With viole to supple my versis
 Of tragidies I doe compyle
 As Bochas in his buke rehersis.

Heir Terpcichor take tent to me
 To play on lute I have profest
 All troublet myndis to molifie
 Efter trauel to take sum rest.

Euterpe I am this arte did found
 To play on quhissle first deuysit
 All melodie and plesand sound
 By me they be better prysit. 1599.

For cunning Caliope dois excell
 With harp in hand ye may persau
 In ballet royall I bear the bell
 And praisit be poetis by ye leau.

Erato heir behalde and se
 With seister set for galyardine
 The law of love come leir at me
 Bot nocht veneriall palyardine.



Painted Ceiling of "The Nobles" at Crathes.

Urania behalde me heir
 My globbe may trauell testifie
 3 reule the planetis and the speir
 As maistres of astronomie.

Polymnia the last of nyn
 My monicordis may weill expresse
 Quick memorie and scharp Imgyn
 Abhorring still forgetfullnes.

Sum tyme be thow merrie and sum tyme be thow sad
 As plaice and tyme requiris to be had
 For in a wise man it is no manner of cryme
 Dis maner to ch . . .

Ether with a mirrie hart ouercum all heuines
 Or with a faithfull friend redd all cairfulnes.

“The Nine Nobles” or “The Worthies.”

This room is on the third floor, and has perhaps the most curious of the three roofs.

The figures on the panels are as follows, viz. :—“Hector of Troy,” “Alex^r the Cōquerious and Julius Cesar,” “Josua the Noble Cheftan of Israell,” “Judas Maccabeus and King David,” “Charles the Gryt,” “King Arthur and Gotfrida,” with their names on scrolls at the head of each figure, and quaint coats of arms at the feet.

There are nine joists and ten panels. On the former are inscriptions referring chiefly to figures on the panels.

At the imperial castle of Runkelstein,* in the Austrian Tyrol, a short distance from Bozen, the same figures are represented on a fresco. They are arranged in groups of three, forming triads, and are painted with other figures on the outside wall of the Summer House.

The groups are arranged in precisely the same manner as those at Crathes. First the three greatest pagan heroes: Hector, Alexander the Great, and Julius Cæsar; then the three greatest heroes of Jewish history: Josua, David and Judas

* A very interesting account of the Runkelstein Frescoes, from which this notice is taken, appeared in “Harper’s Magazine” for January, 1898.

Maccabaeus ; and the three best Christian Kings : Arthur of England, Charlemagne, and Godfrey de Bouillon.

William Caxton, in the Introduction to his first edition of Malory's "Le Morte D'Arthur," enumerates these same groups of heroes as worthy of a writer's pen.

The inscriptions on the joists are as follows :—

As a dog turneth to his owne vomit, so the foole returneth to his own foolishness.

They that rejoyce at the fall of the righteus **S**albe taken in the snare, and anguishe **S**all consume them before they die.

Blessed is the riche which is founde without blemishe **A**nd hath not gone after nor hoped in money and tresures.

. . . . help of any slew
A thousand Greeks in on day I owerthrew
Had not Achilles slayn me tressonable
Troy yit had stand and lost no libertie.

Lerne gallant youths to aternise your name
As did thir myn with deids of endles fame
Whose martial actes nobilitates for ay
Their glourius names unto this latter day.

. . . . was Emperiour and wan
By armeis Africk, Egipt, France and Spain,
F past the Rhyne and dantit Germanie
Brutus at hame syne slew me crewallie.

F Alexander conquest in short space
The worlde and joyt this monarchie in peace
Yet all this wealth fullfilled not my desire
Sick was my lust by measure to aspire.

Josuae of Jewes first was frie
Ane and threttie kings conquerit he
And reft thame of there lands also
The floode Jordan he parted in two.

Betymes I will destroy euan
All the wicked of the land
That I may from God's citie cut
The wicked worker's hand.

For wit and manheid David was maid King
From shepird's ranke ower Israell to ring
He slew the gryt Goliath hand to hand
And did gryt damage to the heathen land.

This Judaes manheid all Israell maid free
From seruile yok of heathen tirrorie
He Vincust, Licias and Antiochus
After gryt weris slayn by Demetrius.

This Charlis was for his christian faith renownit
And emperieur for deids of armes crownit
He be his micht and worthie chiuallrie
Was chief defence of Christianitie.

A league wit Scottis of mutuall amitie
This Charlis maid to last eternalie
Whais successors obseruis the same alway
Inviolat unto this present day.

From rage of Turks this Godofried maid frie
The holie land to Christian libertie
Gryt Soliman he slew and crownit was King
Over all the land of Jurie for to ring.

King Arthur crounit was Emperieur and wan
Gryt bounds in France and all the lands of Spain
The Knights of the round table he ordained
Whais praise sall sound unto the warlde's end.

Gude reder tell me or thou pas
Whilk of thes myn maist valiant was.

Seaze not thy Hart on welth or earthlie gains
They perish suine but honor still remains.

“The Green Lady’s Room.”

This room is on the same floor as the “Nine Nobles,” and opens into it. There are thirteen joists and twelve panels, with eleven figures, male and female, painted on the latter.

The room has the reputation of being haunted by the apparition of a lady dressed in green, with a child in her arms, but as she has not appeared within the memory of the present generation, no inducement can be held out to the Society for Psychological Research to pay it a visit.

The following are the inscriptions on the joists :—

A maiden but modestie,
A clerke but courtesie
A howsewyfe langinge fairleis to see
Wants all there seimpleist propertie.

The beginning of wisdome is the fear of the Lord and the knowledge of holie things is understanding.

The mouthe of everie wicht
Defames that graceles man
Quha by his sloothe tynes onie right
That his forbears wan.

Say not to thy nightbour go and cum agayne and tomorrow will I give you, if thou now have it **T**he curse of the Lord is in the house of the wicked bot he blessed the habitatione of the righteous.

Praise be to him quhoise verteus deids
Through payn and labour greivs
Schame to the belligod yat feids
On sweat of others brawis.

Thoughe the deceatfull speake favorable beleue him not, for he hath seuen abominations in his hart, **I**ntending hurt against his nighbour, seeing he doeth duell without feare by the

At vertue’s stoole lerne first thy grounds
Renounit if thou walde be
Insignarie conteins all bounds
Of true nobilitie.



Painted Ceiling of the Green Lucy's room at Crathes

The sluggard is wyser in his awen conceit then seuen men that can render a reasone.

Thryce happy is that man indeid
That weids ane vertues wyf
Sho is the blessing of his seid
And comfort of his lyff.

The slothful hand makethe poore but the hand of the diligent makethe riche.

Blessed will his house fore ever be
Quha seruis the Lord alway
Thais wallis his awin posteritie
Inherit sal for ay.

The Lord will not famishe the soule of the righteous, but the soule of the wicked sal be consumed.

Wine, wemen, taken insatiablie
Has brocht gryt Kings to miserie
Therefore my God I pray to thie
Keepe me from crymes and harlotrie.

The tresures of wickednes profite nothing but righteousnes delyuereth from death.

Ane auaricious man's plentie
Is to him selfe hydro-polie
For quhy the mair in welth he flows
Thi thirst of riches gryter grows.

A wise son makethe a glad father, but a foolishe son is an heauiness to his mother.

Contemne no man in miserie
Augment with spyt no poore man's sorrow
For fortune's false inconstancie
May cause his case be thine tomorrow.

As the vapour and smooke of the chimney goeth before the fyre, so euil words, rebukes and threatenings go before bloodshedding.

Flie sone all naughtie companie
From fools no freindship craue
Keepe fellowschip with suche as be
Both wittie, sage and grave.

A theif is better than a man that is accustomed to lie, but they both sall have destruction to their heritage.

The good man sall give inheritance unto his children's children, and the riches of the sinner ar layd up for the just.

All that are proude in hart ar an abominatione to the Lord, though hand jounè hand he sall not be unpunished.

The Gallery.

The Gallery is a long room on the top story, extending the whole length of the tower from east to west. It is 44 feet 10 inches long by 13 feet 3 inches wide, and 11 feet 4 inches high. McGibbon & Ross, in Vol. II., p. 110, of their "Castellated and Domestic Architecture of Scotland," give the following description of the room:—

"The ceiling extends into the roof, the slope of which is seen on each side, "and is finely panelled in oak. Such long galleries are not unusual in the "castles of this period, and are frequently in the top story like this one; but "owing to the ruinous state of most of our old castles, comparatively few have "been preserved. Some examples, however, still exist, such as Pinkie, Earlshall, "Culross, &c., but a roof panelled in oak, like that of Crathes, is quite unique in "this country, although of common occurrence in England."

Since this was written the Gallery has been rescued from its position as a lumber room, and, by careful repairing, restored to its original condition; and as the room is described as "unique," some more detailed description of its features may be not uninteresting. The dates on the painted ceilings of the rooms previously described being from 1599 to 1602, the presumption is that the decorations of the Gallery are within a year or two of that time. From "The Barony Court Book of Leys," which is preserved at Crathes, it is known that the Barony Courts were frequently held in the Gallery. Beyond this there is no record to show to what use the room was put.

Of late years the room has been commonly known as "The Chapel." There is no reason to believe, however, that the room was ever used for religious purposes, and the name probably originated from some notion that its decorations partook of the popular idea of a chapel.

In an "Inventory and Apretiation of the household furniture belonging to the late Sir Robert Burnet of Leys at Crathes Castle," dated 12th February, 1760 (see Appendix No. XL.), the room is described as "The Gallirey," and its contents are valued at the modest sum of three shillings and sixpence.



Photograph by the U.S. Army Signal Corps

U.S. Army Signal Corps
Photograph

"The Court of Guard Room," mentioned in the same inventory, is no doubt the present library, which is on the same floor as the Gallery, and formed an ante-room connected with it by a doorway which still remains, although blocked up by the modern wainscoating. This room probably formed the ante-room to the Gallery. "The Wardiope," another room also mentioned, was probably the room on the west side of the passage leading into the Gallery from the south. But this portion of the floor on which the Gallery is situated was modernized many years ago beyond recognition. It is evident from the contents of the Gallery, as set forth in the inventory of 1760, that it was then used as a lumber room, and in that condition it remained until 1896. The reason for this neglect of a very beautiful and interesting room is not difficult to account for. When the addition to the castle was built by Sir Thomas Burnett (3rd Baronet and XVI. of Leys) in the beginning of the 18th century, a new suite of public rooms was provided for the house, and the Gallery being from its position difficult of access, gradually fell into disuse, and finally into the humble position of a lumber room. During this long period of neglect, however, the Gallery sustained less injury than might have been imagined. It is true that the plates and projecting ornaments on the sloping sides of the roof had been in some cases destroyed, but the oak panelling, mouldings and the four finely executed heraldic shields on the roof remained absolutely intact. The work of repair and restoration was therefore comparatively simple, and partook more of the former than the latter process.

In the summer of 1896 it was found that the ceiling of the Gallery was becoming detached from the beams above owing to the corrosion of the nails, and the weight of rubbish resting on the oak panelling owing to decay of the roof above. It was therefore necessary to take steps at once to arrest the progress of the mischief. The work of restoration was undertaken by Mr. George Watt, architect, Aberdeen.

On examination the beams and rafters of oak were found in perfect preservation. The oak panelling was carefully examined and found to be in good condition, with the exception of a few pieces, which were ruined by damp and other causes. These were replaced by the best quality of wainscot oak, lightly stained to match the rest of the ceiling, and carefully attached to the beams above by oak pins, to avoid in future the corrosion caused by iron nails.

The roof over the Gallery is a simple one, consisting of oak rafters with single ties, of the usual square scantling characteristic of the period, with the junctions tenoned and fastened together with oak pins. The under side of the ties and lower portion of the rafters which form the "coved" ceiling are covered with oak linings about 11 inches broad. The decoration of this surface is effected by means of five lines of mouldings, one in the centre, one on each of the sloping

sides, and one at the intersection of the sloping sides with the centre portion. The moulding, which is an effective one of fine section, is arranged at intervals into squares, and divides the ceiling into something like 107 panels, of varied and interesting design. In one row the squares are alternately set diagonally, while in the next row the diagonal squares alternate with circular bosses, upon which are placed heraldic shields. There are four carved ornaments, in some cases variations of the supporters of the arms on the shields, radiating diagonally from these bosses.

The treatment is simple and effective, and, according to an authority already quoted, "quite unique in this country."

The structure of the roof had been a good deal altered, probably about the beginning of the 18th century, when the addition to the house was made, a stack of chimneys having been run up on the north side. In doing this, a dormer window, next the fire-place, had been completely obliterated from outside view, by carrying the roof right down to the eaves and building up the lower part of the window. This was clearly shown by the prolongation of the original oak rafters with fir ones, and by the sole and a portion of the rybats at the sides of the window which remained. This window and a small one which had been bricked up in the south-east turret have now been restored, and more light introduced into the Gallery. The west window had evidently been altered and enlarged, as is shown by the introduction of fir beams as in the north window. It was not considered desirable to build this window up again to its original dimensions, partly on account of the light, and partly because the ceiling of the recess being gone it was difficult to determine how it had been finished. The window recess was adapted to match those of the north windows. The east window had fortunately been left intact. The sashes of the windows were comparatively modern, of very rough construction, and evidently makeshifts, being considered good enough for a lumber room. These have now been replaced by new windows, with oak sashes and iron fastenings, from designs by Mr. Watt.

A fine piece of oak panelling and door covers the stairhead. It measures 6 feet 4 inches long and 7 feet 4 inches high, and is divided into two parts. One of these is fixed "dead," and the other forms the door to the turret stair, and still swings on its original hinges. It is fastened by a thumb latch, which, by a simple contrivance, has been made to lock the door on the inside. The door and adjoining piece of framing are divided into four panels. The stiles and panel mouldings are cut out of the solid, and the panels are finely moulded on both sides, the design being varied and richer in the upper panels. A moulded lintel extends across the whole, and above this there are four square panels with

carved sexfoils in the centres. The whole is fitly finished by a deeply moulded cornice of characteristic section.

The original oak doors of the north-east and north-west turrets still remain, and a door with panel, which at one time formed the entrance to the south-east turret, now stands against the north wall. In the old doorway to the "Court of Guard Room" a door has been placed to mark the original entrance to the Gallery. The entrance in the centre of the Gallery from the south is modern. An oak door and posts have been placed there from the design taken from the old door at the stairhead.

The walls were in a very rough state, and had been much knocked about. The plaster was gone, except in a few places, where, however, enough remained to show that the room had in all probability never been panelled in wood. The walls were cemented and re-plastered.

There are three turrets in the Gallery in the south-east, north-east, and north-west corners. The ceiling of the south-east turret was gone, and no trace remained. It was evident, however, from the nail holes in the rafters, that it had been panelled with wood. This has been done in oak in the same manner as in the Gallery, the mouldings being of a smaller pattern. The turret in the north-east corner, being filled by a cistern for the water supply of the house, has not been touched; the ceiling there is gone also. The ceiling of the north-west turret had been panelled in fir, portions of which remained in a very decayed state. These portions had been painted in colours with a very rude design resembling stencelling. It was found impossible to reproduce the design, and some doubts were thrown upon its antiquity by an expert. The ceiling has been re-panelled in pine.

It is somewhat curious that there should be only one fire-place in such a long room. It appears to be the original one. A careful examination of the walls before they were re-plastered failed to find any indication of the existence of another. There was no trace of any mantel-piece of any kind. The present mantel-piece and overmantel were designed to match the doorway and panel at the stairhead. The shield in the centre is the original plaster cast by Mr. W. Sherriffs, sculptor, of Glasgow, for the stone on the east front of the latest addition to the castle. The arms represented are Burnett of Leys impaled with Cumine of Rattray, and the date 1896 is that of the restoration of the Gallery. The initials T. B. and M. E. B. are those of Thomas Burnett (XXI.), 12th Baronet, and Mary Elizabeth Burnett, his wife.

The numbers correspond with those on the plan of the Gallery. The shields on the centre of the roof are carved in oak, and coloured. Nos. 2, 3, 4 and 5 are original and untouched. Nos. 1 and 6, those of Sir Thomas Burnett, 1st

Baronet of Leys, and Gilbert Burnett, Bishop of Salisbury, respectively, have been placed upon the vacant circles as representing two of the most distinguished men of the family.

The shields or other ornaments on the circles on the sloping sides of the roof had all been removed. Portions of the oak plates, covering the circles, and upon which either shields or other ornaments had been fixed, remained with the original colours: gold, red and blue. These have been reproduced and replaced, and upon them have been placed shields with the armorial bearings of families with whom the heads of the Burnett family have intermarried from time to time, arranged in chronological order. A place has also been found for a curious head carved in oak, which originally formed one of the ornaments of the Gallery. The ornaments, which radiate from the bosses on the roof, and of which there are usually four to each boss, are, when closely examined, very curious. Amongst them are the dragons, supporters of the coat of the Gordons of Lesmoir, the holly leaves and bugle of the Burnetts in various combinations, and various other fanciful designs with no proper heraldic meaning. Although some of these ornaments were missing, they were found to be arranged in groups of the same pattern, and sufficient of each group remained to enable the missing ones to be replaced with absolute fidelity.

The Coats.

1. Burnett of Leys impaled with Douglas of Glenbervie.

Burnett. Argent, three holly leaves in chief vert and a hunting horn in base sable, garnished or, stringed gules.

Douglas. Quarterly. 1st and 4th: Argent, a heart gules, on a chief azure three mullets of the field, for Douglas. 2nd and 3rd: Argent, a cross counter embattled sable, for Auchenleck.

This coat is taken from an old oak cabinet at Crathes, dated 1626, T. B. and M. D., and is noticeable from the heart being uncrowned.

2. The Royal Arms of Scotland. Or, a lion rampant gules, armed and langued azure, within a double tressure flory counter-flory of the second.
3. The Marquis of Hamilton. Quarterly. 1st and 4th: Gules, three cinque foils pierced ermine, for Hamilton. 2nd and 3rd: Argent, a ship with sails furled and oars in action sable, for Arran.
4. Alexander Seton, 1st Earl of Dunfermline, Lord Chancellor of Scotland. Or, on a fess above three crescents in base gules, as many cinque foils argent, all within a double tressure, flowered and counterflowered of the second.

This is a combination of the coats of Seton and Hamilton, and is the same as that on a seal of the Chancellor as Regality Bailie of Dunfermline, 1598. (Laing's "Catalogue of Scottish Seals.")

5. Burnett of Leys impaled with Gordon of Lesmoir.
Gordon of Lesmoir. Azure, a fess chequy argent and of the first between three boars' heads erased or.
 This impaled coat occurs upon the outside wall of the castle, upon the ceiling of "The Muses," and upon an oak bedstead in the oak room. The initials A. B. and K. G. (Alexander Burnett and Katherine Gordon) are found in connection with this coat.
6. Gilbert Burnett, Bishop of Salisbury, and Chancellor of the Order of the Garter: the arms of the See impaling his personal coat.
Salisbury. Azure, the Holy Virgin and Child, with a sceptre in her left hand, all or.
Gilbert Burnett. As Leys, with a mullet for difference.
 This coat is taken from the Bishop's tomb in St. James Church, Clerkenwell.
7. Forbes of Echt. Azure, a fess chequy argent and gules between three bears' heads coupéd of the second and muzzled of the third. (Paul's "Ordinary of Scottish Arms," p. 89.)
8. Gardine of that Ilk. Argent, a boar's head erased sable armed or.
 There is a coat on Gardyne Castle, a boar's head erased, and the date 1568. ("McGibbon & Ross," Vol. II., p. 497.)
9. Lichtoun of Ulleshaven. Gules, a lion rampant argent langued azure, crowned or. ("Stodart," Vol. I., p. 92; "MS. of Sir David Lindsay," II.)
10. Lord Forbes. Azure, three bears' heads coupéd argent, muzzled gules.
11. Lumsden of Cushnie. Azure, two wolves' heads in chief and an escallop in base argent, in the fess point a buckle or.
12. Aberbuthnot (Arbuthnot) of Fiddes. Azure, a crescent between three mullets within an orle of eight fraises argent.
13. Moncrieff of Moncrieff. Argent, a lion rampant gules armed and langued azure, a chief ermine.
14. Coutts of Auchercoil (Auchtercoull). Argent, a stag's head crased gules, with a pheon between the attires azure. ("Stodart," p. 91.)

15. Viscount Arbuthnot. Azure, a crescent between three stars argent.
16. Ramsay of Balmain. Argent, an eagle displayed sable charged on the breast with a rose of the field.
17. Dalrymple of Horn and Westhall. Or, on a saltire azure between two water bougets in the flanks sable nine lozenges of the field.



STONE PENDANTS IN HALL (see p. 23).

XLV.

BURNETT OF SHETHOCKSLEY.

IN the author's earlier notes on the main line of the family, he mentions other children of John Burnet of Leys, No. X., 1574-75, pp. 28-29, namely :

2. John, married, and had a daughter, Agnes.
3. Andrew, of Shethocksley, married to —, and a daughter, Katherine, married to — of the Ord.

In the manuscript no mention is made of them. Whether Mr. Burnett, who was the most accurate and conscientious of genealogists, omitted them because he was not satisfied with the evidence of their descent from John Burnet, or whether any pages of the manuscript have gone astray, it is impossible to say with certainty. The latter seems more probable, as the Burnets of Shethocksley were doubtless cadets of Leys, and played a prominent part in Aberdeen city affairs during "the troubles."

The family can be traced for three generations.

- I. **ANDREW** of Shethocksley, mentioned above, married, and had two sons and one daughter. He is probably the "Andreas Burnet" who appears on the Register of Burgesses of Aberdeen in 1619. His children were :
1. Alexander, his successor.
 2. Andrew, married, 1647, Isabel, daughter of James Dunn. In 1658, the name of Andrew Burnet, son to Andrew Burnet of Shethocksley, appears in the Register of Burgesses.
 1. Margaret, married, 1628, William Moir, son of Patrick Moir of Chapeltown.
- II. **ALEXANDER** of Shethocksley married, in 1636, Margaret, daughter of Patrick Skene (son of Alexander Skene of Skene), and widow of William Black, burghess of Aberdeen. Alexander, like the rest of the family, was an active Covenanter. In 1644, when Montrose was marching upon Aberdeen at the head of the Royal Army, he was one of the four Captains appointed by the Town Council to hurriedly organise the citizens, and place the town in an attitude of defence. In the Records of the Burgh of Aberdeen, 4th September, 1644, "The Counsell, in respect of the approache of the "Irishe Rebels, ordanis the hail inhabitantis of the burgh, both frie and "unfrie, to be put in a war like posture," and elected four captains for this purpose, of whom Alexander of Shethocksley was one; and he was appointed to the "futtie" quarter. The captains had power to appoint their own lieutenants, "ancientis" and other inferior officers. The Record further tells us that the captains appeared personally and accepted office, and gave oath to discharge the same faithfully. Alexander Burnet was no doubt present with his command at the disastrous battle of Aberdeen, fought nine days later, on the 13th of September. Spalding mentions no fewer than four Burnets slain in the battle and the flight which followed :— "Androw Burnet burges," who, however, was no Covenanter, but one of those "harlit out sore against thair willis to fight against the Kingis livetennant;" Thomas Burnet, merchant; George and Johne Burnet, burgesses; and three servants of Andrew (?) Burnet of Shedokisley. It is not improbable that the slain Burnets were serving in the Futtie division of the civic force under the command of their kinsman, Shethocksley. Spalding's account is somewhat confusing, as Andrew and Thomas were brothers, and both burgesses of Aberdeen, and the three servants he mentions seem to have

been those of Alexander, as he was at that time "of Shethocksley." * Shethocksley himself escaped the slaughter which followed the rout of the Covenanters' Army, and, on the 16th of the following month, was one of the burgesses appointed to meet Montrose, when he again approached the town, on his return from his unsuccessful expedition to Speyside, and to treat with him with a view of dissuading him from bringing his army into the burgh. Alexander Burnet's children were :

Andrew, born 1639.

Alexander, born 1640 ; died in Turkey unmarried.

James, of Shethocksley, born 1648.

Bessie, born 1641 ; married Alexander Ker, minister of Grange, and had a daughter, Isobel.

Isobel, born 1642.

Christie, born 1646.

III. JAMES of Shethocksley—Burgess of Aberdeen, 1672—conveys the estate to the Dean of Guild of Aberdeen. Nisbet, Vol. I., p. 396, amongst the cadets of Leys, whose arms are matriculated in the New Register, included, 1672, "James of Shethocksley, *whose grandfather was a 3rd son of Leys*, argent a falcon volant proper between three holly leaves in chief vert, and a hunting horn in base sable garnished gules. Motto—*Virescit vulnere virtus.*"

No further particulars of this family have been obtained.

* The tombstone of Thomas and Andrew Burnet is to be seen in the churchyard of St. Nicholas Church, Aberdeen, having been removed from the church after the fire of 1874. It is a large flat slab, with the following inscription round it, "here lyes Thomas and Andrew Burnet brothers Burgesses of Abn. quho departed this lyf 13 Seyr. 1644." In the centre of the slab is a shield with the arms of Leys, surmounted by a helmet and a hand holding a cutlass ; T. B. and A. B. in the corners. Above the shield is an inscription to the memory of Burnet of Kirkhill and his wife—"Alexander Burnet Baillie of Abn. son to Thomas dyed the 2nd of April 1685. Sicklyke Agnes Moir his spous dyed the 18th of June 1686."

I N D E X.

- Aberbrothock, Lord, 34
 Aberbrothok (see Arbroath)
 Abercromby, Herbert, 30
 — Sir Ralph, 96
 Aberdeen, Wm., Bishop of, 165, 166, 167,
 168, 169
 Aberdein, Alexander, 94
 — Robert, 94, 96
 Abergeldie, 90
 Aberluthnot, 89
 Aboyne, 53, 64
 — Viscount, 50, 51
 Achmasoliche, 151, 152
 Adam, Arthur, 33, 206, 286
 Adamson, Patrick, 32
 Agnew, W. John de Courcey, 109
 Ailsebury, Marquis of, 293
 Ailhousecroft, 206, 286, 287
 Airlie, Lord, 52
 Aitken, Rev. John, 84
 Alan the Doorward, 20
 Albany, Robert, Duke of, 160, 161
 Alexander, Sir Wm., 227, 231, 232, 233,
 238, 240, 241, 245, 246, 249
 Allan, Water of, 286
 Aldershot, 97
 Allardice of that Ilk, 85
 Allardyce, 40
 — John, 40
 Alnecrumb, 3
 Alrichesey, Manor of, 1
 Altyre, 62
 Alyrdes, Thos., 162, 163
 Anderson, Mr. David, 90
 — John, 198
 Angus, 17, 52
 — Earl of, 11, 12, 59, 101
 Anstruther, Philip, Lieut., 294
 Anwoth, 63
 Arbeadie, 42, 96, 103
 Arbroath (Aberbrothok), 10, 13, 16, 17,
 19, 21, 22, 171, 175, 176, 177,
 178, 179, 180, 181, 217, 218, 219,
 220, 221, 222, 226, 227
 Arbroath, Abbey of, 34
 — Abbot of, 132
 — Commendator of, 28, 195, 197, 198,
 199, 202, 203
 Arbuthnot, Alexander, 27, 79, 209
 — Helen, 87, 89, 113
 — Hon. Hugh, 98
 — Jean, 59, 60, 69, 279, 281
 — Katherine, 29, 292
 — Lady, 83
 — Margaret, 79, 94
 — Dame Margaret, 84
 — Robert, 27, 29, 59, 114, 292
 — Sir Robert, 27
 — Robert, 3rd Viscount, 82
 — Robert, of Knox, 82
 — Viscount, 59, 79
 Ardboik, 15, 151, 152
 Ardgathan, 40
 Ardroy, 5
 Argyll, 12, 49, 52, 54
 — Archibald, Earl of, 190, 191
 Argull Bay (or Le Argallis), 227, 232
 Arlesey, 1, 3
 Arnage, 40
 Arquhynand, 286
 Arran, Earl of, 20, 34
 — James, Earl of, 204, 216, 219, 222,
 226, 256
 Aryndar, David, 198
 Athelstan, 1
 Athie, 218, 221
 Athole, Duke of, 80
 Auchinarnes, 133
 Auchinreef, 40
 Auchindoun Castle, 29
 Auchinleck, 59
 Auchlossen, 73
 Auchnoul, 204
 Auchquhorties, 52, 113
 Auchtercull, 73
 Auldbar, 116
 Auldearn, 127
 Auquhorsk (Afrosk), 32, 267, 286

- Aven, Lord, 34
— and Inverdaill, Lord of, 256
- Awhurst, 292
- Ayreimheid, 285
- Azelina, 2
- Badinessy, 154, 155
- Badinse, 154, 155
- Badyennach, 154, 155
- Badyfurrow, 295
- Bagshot, 97
- Baillie, George, 40
- Balblith, 273, 279
- Balbrydies (Balbredy), 69, 70, 286
- Balbrydie, Eyster, 264, 282
— Midd, 264, 282, 283
— Wester, 264, 282
- Balbythe, 286
- Baldowy, Wal., 198
- Balfour, 73, 74, 76
— Sir James, 290
- Ballandro, 144
- Balmain, 73, 96, 98, 99, 101, 102
- Balmerino (Balmerinoch), Lord, 45, 46, 49
- Balquhain, 35, 186, 187
- Balveny, 40
- Balyordie, 40, 87
- Banachtie, 131
- Banchory, *passim*
— Loch of, *passim*
— Terman, *passim*
- Bandelphin, 286
- Banevy, 154, 155
- Banff, 52
- Bankhead, 267
- Bannerman, Alexander, of Waterton, 16
— Sir Alexander, 79, 102, 127, 285
— Sir Edward, 96, 101
— Elizabeth, 101, 102
— Dr. James, 127
- Barclay, David, 161
— Jean, 64
— John, 64
- Barklie, George, 294
- Barnes, Cecilia, 147
- Barns, 4, 5, 285
- Barra, 28, 35
- Barras, 285
- Barricor, 154, 155
- Barron, Col., 66
— Dr., 47
- Barrone, Alexander, 294
- Barstow, Charles Murray, 108
- Basle, 30
- Beach, Dr., 137
- Beale, 142
- Beaton, Cardinal David, 21, 171, 174, 175,
176, 181, 182, 184, 185, 199
- Beattie, George, 85
- Beilmonth, 85
- Belhelvie, 90
- Bell, John, 182, 185, 186
- Bellenden, John, 191
— Sir Lewis, 204
- Belte, 186
- Belton, 109
- Bennie, 7
- Benves, Richard, 294
- Berkeley, Robert of Spetchley, 137
- Bernwood, 293
- Bervie Water, 13
- Berwick, 4, 51, 155
- Beston, 2
- Beth, John, 294
- Biddelphen, 270, 279
— Hauch of, 270, 273, 279
- Binning and Byris, Thomas, Lord, 226,
227, 256
- Birch, Rev. Edward Charles, 149
- Birse, 35, 53
- Black, William, 345
- Blackhall, 34, 35, 96
— Alexander, 28, 34, 35
— John, 35
— Katheren, 70, 90, 103, 108, 283
— William, 35
- Blackhillis, 52, 113
- Blackness, 12
- Blackwell, Principal, 78
- Blaiketer, 294
- Blair, Robert, 77
— Stephen de, 3
- Blairhead, 201, 206, 285, 287
- Blairhill, 133
- Blair-nacogamgor, 151, 152
- Blak, David, 198
- Blakbuttis, 205, 285
- Blake, Elizabeth, 137
— Sir Richard, Knight, 137
- Blantyre, Walter, Commendator of, 204
- Blerodrein, 286
- Blimsele, Mr. Walter, 185, 186
- Blythiswode, 256
- Boath, 127
- Bodhill, 285
- Bogendrupe, 270, 279
- Bogtack, 103
- Boig, Hendrie, 294
- Bonner, Mr., 209, 211, 212, 213
- Bonshaw, 6
- Borrowfield, 107
- Borrowstoun, 42, 59, 206
- Borstal horn, 293
- Boscombe, 1, 2
- Bothwell, Francis, Earl of, 4
— Lord, 101, 102

- Bourchier, Harriet, 148
 — Samuel, 148
 Bourtie, Mill of, 131
 Bourton, 129
 Bradford, 75
 Braintree, 30
 Brathinch (Brathenche, Brathings, Branth-
 ange), 17, 21, 22, 28, 34, 59, 172,
 173, 174, 175, 176, 177, 182, 184,
 202, 203, 217, 218, 219, 221, 222,
 223, 225, 286, 287, 288
 Brechin, 22, 43, 286
 Brehul, 293
 Brickenden, Eliz. ("Betty Brickenden")
 125
 — Richard, 125
 Bridgtoun, 89, 90
 Brigend, 59, 286, 288
 Brill, 293
 Broadland, 261, 263
 Brodie, Laird of, 72, 73, 132
 Brogend, 186
 Broomhillocke, 270, 279
 Brotherton, 90
 Brown, Ernest de S. Hamilton, 110
 — George, Major, 110
 — Mary, 140
 — Robert, 294
 — Hon. Wm., of Salem, 140
 Bruce, Janet, 133
 — Lord, horn of, 293
 — Robert, of Blairhill, 133
 Broumhill, 267, 268, 269, 286
 Buchan, Earl of, 152
 — Janet, 32
 — James, Earl of, 166, 168
 Buchrome, 40
 Buckie, 60
 Buckingham Fence, 31
 Buckland, 104
 Burch, Emily Julia, 129
 — Joseph, 129
 Burgley, J., 49
 Burgoyne, General, 97
 Burges, John, 294
 Burn, 151, 152
 Burnett (Burnard, Burnarde, Burnat, Bur-
 net), Agnes, dau. of John, minister
 of Cluny, 65
 — Agnes, dau. of John Burnett, 344
 — Agnes, m. (1st) Thos. of Glenbervie,
 (2nd) Sir W. Nicolson, 60, 87,
 88, 89, 90, 91, 114
 — Agnes (or Blackhall), 28
 — Alex. I., 1, 6-9, 10, 15, 95, 153,
 154, 155, 156, 157, 191
 — Alex. of Leys VI., 11-16, 163, 164,
 165, 166, 167, 168, 169, 191
 Burnett, Alex. of Leys VII., 16-18, 19
 — Alex. of Leys VIII., 18-19
 — Alex. of Leys IX., 19-28, 171, 172,
 174-179, 181-199, 202, 203, 204
 — Alex. of Leys XI., 22, 29-32, 195,
 196, 197, 198, 291, 292
 — Alex. of Leys XII., 22, 24, 30, 31,
 32-40, 42, 112, 209, 216, 217,
 218, 219, 220, 221, 222, 223, 224,
 225, 226, 227, 292
 — Sir Alex. of Leys XIV., 2nd Bart.,
 60, 67, 72-78, 144, 277, 284, 287,
 288
 — Sir Alex. of Leys XVI., 4th Bart.,
 84, 86-94, 95, 114, 125, 126, 137
 — Sir Alex. of Leys, XXI., 9th Bart.,
 97, 99
 — Alex., younger of Leys, 51, 59, 279
 — Mr. Alex. of Craigmyle II., 72, 113,
 114-115, 119
 — Sir Alex. of Craigmyle III., 115-
 117, 290
 — Alex. of Kemnay IV., 96, 127-128,
 315, 323
 — Alex. Geo. of Kemnay VI., 128-129
 — Alex. of Monboddò II., 144
 — Alex. of Shethocksley II., 345, 346
 — Alex. of Canneglarocht, 17, 19, 29
 — Alex. of Cluny, 42, 267
 — Alex. of Colonach, 19
 — Alex. of Countesswells, 73, 278
 — Alex. of Craigour, 33, 200, 201
 — Alex. "in Creagtoun," 263, 265,
 267, 270, 272, 275, 277, 284
 — Alex. of Edinborrowe, 112
 — Alex. of Kyneskie, 28
 — Alex. of Raby, 269
 — Alex., 28, 29
 — Alex., Baillie of Aberdeen, 346
 — Alex., Bishop of Aberdeen, 5
 — Alex., "Master," 31
 — Alex., merchant in Aberdeen, 291
 — Alex., minister of Footdee, 65
 — Alex., son of Alex. of Leys IX., 21,
 27
 — Alex., son of Alex. of Leys XII., 39
 — Alex., son of Alex. of Shethocksley
 II., 346
 — Alex., son of Lord Crimond, 133
 — Alex., son of Jas. of Monboddò, 76
 — Alex. Edwin, son of Sir James of
 Leys XXII., 10th Bart., 99
 — Alex., son of Robert of Sauchen, 65
 — Alex., son of Master Thomas, 62
 — Alex., another s. of Master Thos., 62
 — Alex., son of Thos. of Braintree, 30
 — Alex. Edwin, son of Sir Thomas of
 Leys XXIV., 12th Bart., 100

- Burnett, Alex., son of Thos. of Kemnay I., 119
- Alex., son of Thos. of Sauchen, 64
 - Amelia, dau. of Alexander George of Kemnay VI., 129
 - Andrew, Burgess of Aberdeen, 346
 - Andrew, Dr., minister of St. Nicholas, Aberdeen, 76, 77, 78, 144
 - Andrew, "Dunkirker," 76
 - Andrew, Mr., of Wariston, 291
 - Andrew, physician, 65
 - Andrew of Shethocksley I., 344, 345
 - Andrew, son of Alex. of Leys VI., 14
 - Andrew, son of Alex. of Leys IX., 20, 26, 27
 - Andrew, son of Alex. of Shethocksley II., 346
 - Andrew, son of And., "Dunkirker," 76
 - Andrew, son of And. of Shethocksley I., 345
 - Andrew, son of John, minister of Cluny, 65
 - Andrew, son of Robert of Sauchen, 64
 - Andrew, son of Thomas of Kemnay I., 115, 116, 118, 119
 - Anna (or Halyburton), 133
 - Anne, dau. of Sir Alex. of Craigmyle III., 116, 117
 - Anne, dau. of Geo. of Kemnay III., 127
 - Anne, dau. of Thos. of Kemnay II., 125
 - Anne, m. (1st) Andrew, physician, (2nd) Dr. John Gordon, 65, 270, 271, 272
 - Anne (or Cant), 66
 - Anne (or Gordon), 115
 - Anne (or Grant), 148
 - Archibald, son of Alex. of Leys IX., 20, 27
 - Archibald, son of Sir Thomas of Leys XIII., 1st Bart., 62
 - Arthur Coffin, 147
 - Arthur, son of Kirkpatrick W., 146
 - Arthur, son of Lord Monboddoo, 146
 - Barbara (or Innes), 40
 - Bessie, m. Thomas of Sauchen, 63, 64, 257, 258, 260, 278
 - Bessie (or Ker), 346
 - Bethia, dau. of Lord Crimond, 133
 - Catharine, dau. of John, minister of Cluny, 65
 - Catharine, dau. of Thomas of Park and Kepplestone, 149
 - Catharine (or Forbes), 97
 - Charles Spearman, son of Sir James Horn of Leys XXII., 10th Bart., 99
- Burnett, Charles John, son of John of Kemnay V., 128
- Charles, son of John, minister of Cluny, 65
 - Charles, son of Sir Thomas of Leys XV., 3rd Bart., 85
 - Christian, dau. of Alex. of Kemnay IV., 128
 - Christian, dau. of Robert, merchant, 60
 - Christian (or Cumyn), 14, 15, 16
 - Christian (or Jaffray), 28
 - Christie, 346
 - Christina Leslie, dau. of John of Kemnay V., 128
 - Duncan, "Master," son of Alex. of Leys VII., 17, 18, 20, 25, 185, 186
 - Duncan, son of Alex. of Leys XI., 29, 30, 31, 39, 43, 59, 63, 206, 207, 209, 210, 212, 214, 291, 292
 - Eliza (or Badenach-Nicolson), 147
 - Eliza (or Gordon), 115
 - Eliza Deborah (or Paton), 149
 - Eliza (or Twopenny), 148
 - Elizabeth, dau. of Alexander of Kemnay IV., 127
 - Elizabeth, dau. of Robert, merchant, 60
 - Elizabeth, dau. of Mr. Robert of Glenbervie, 60
 - Elizabeth ("the beautiful Miss Burnett"), dau. of Lord Monboddoo, 147
 - Elizabeth, dau. of Thomas of Craigmyle and Tillihaikie, 112, 290
 - Elizabeth (or Beattie), 85
 - Elizabeth (or Cumine), 146
 - Elizabeth (or Douglas), 66
 - Elizabeth (or Garioch), 144
 - Elizabeth (or Hamilton), 62
 - Elizabeth (or Skene), 32
 - Elizabeth Bannerman (or Taylor), 99
 - Elizabeth (or West), 141
 - Ethel, dau. of Sir Thomas of Leys XXIV., 12th Bart., 100
 - Erskine, William, son of John of Kemnay V., 128
 - Euphemia (or Robertson), 133
 - Frances (or Templer), 30
 - Francis, son of John, minister of Cluny, 65
 - Francis, M.D., son of Thomas of Park and Kepplestone, 149
 - Geoffrey, son of Roger, 3
 - George of Kemnay III., 94, 95, 125-127
 - George, Lyon King of Arms, 128, 292

- Burnett, Mr. George, 78
- Mr. George, minister at Strachan, 260
 - George, son of Alex. of Leys XII., 40
 - George, son of Alex. of Kemnay IV., 127
 - George, son of James of Craigmyle I., 113
 - George, son of John, minister of Cluny, 65
 - Georgina, dau. of James Cumine of Monboddo VI., 147
 - Gilbert, Bishop of Salisbury, 75, 76, 132, 134-140, 291
 - Gilbert, Professor, 30, 292
 - Gilbert, son of Bishop, 140
 - Gilbert, son of Roger, 2
 - Gilbert, son of Sir Thos., physician, 133
 - Grace, dau. of Kirkpatrick W. Burnett, 146
 - Harriet Hay (or Cumine), 149
 - Helen, dau. of George of Kemnay III., 127
 - Helen, dau. of Kirkpatrick W. Burnett, 146
 - Helen, dau. of Sir Thomas of Leys XV., 3rd Bart., 85
 - Helen, dau. of Mr. Wm. of Sauchen and Cairnday, 63, 257, 258
 - Helen, m. Sir Alex. of Leys XVI., 4th Bart., 86, 87, 88, 89, 90, 91, 113, 114
 - Helen, m. Geo. of Kemnay III., 94
 - Helen, m. Kirkpatrick Williamson, 146
 - Helen (or (1st) Allardyce, (2nd) Graham), 40
 - Helen (or Bannerman), 127
 - Helen (or Barron), 66, 273, 274, 279
 - Helen (or (1st) Crawford, (2nd) Dundas), 133
 - Helen (or (1st) Fraser, (2nd) Reid), 84
 - Helen Amy (or Innes), 147
 - Helen Christian (or Innes), 149
 - Henry, 4
 - Henry Martyn, son of John of Kemnay V., 128
 - Isobel, dau. of Alex. of Shethocksley II., 346
 - Isabel (or Arbutnot), 27
 - Isabel (or Cheyne), 40
 - Isabel (or Farquharson), 116, 117
 - Sir James Horn of Leys XXII., 10th Bart., 3, 98, 99, 107, 329
- Burnett, James of Craigmyle I., 40, 49, 51, 52, 73, 79, 86, 94, 112-114, 118, 260, 290
- James of Lagavin and Monboddo I., 76, 91, 113, 116, 143-144
 - James of Monboddo III., 144-145
 - James of Lagavin and Monboddo IV., Lord Monboddo, 144, 145-147
 - James of Monboddo V., 146, 147
 - James Cumine of Monboddo VI., 147
 - James of Shethocksley III., 346
 - James of Barns, 4
 - James of Kair, 88, 89, 90
 - James of Sheddocksley, 291
 - James, Burgess, 76
 - James, son of Alex. of Leys IX., 27
 - James, son of Lord Crimond, 133
 - James Shank, son of James Cumine of Monboddo VI., 147
 - James Lauderdale, son of Sir Robert of Leys XXIII., 11th Bart., 100
 - James, son of Sir Thomas of Leys XIII., 1st Bart., 63, 66, 68, 257, 259, 275, 276, 281
 - James, son of Sir Thomas of Leys XV., 3rd Bart., 85
 - James Lauderdale Gilbert, son of Sir Thomas of Leys XXIV., 12th Bart., 100
 - James, son of Thomas of Kemnay I., 119
 - James, son of Thomas of Park and Kepplestone, 149
 - James, son of Wm. of Criggie, 84
 - Jane (or Carnegie), 144
 - Jane (or Dunbar), 127
 - Janet, dau. of Robert of Sauchen, 65
 - Janet (or Keith), 32
 - Janet (or Skene), 28
 - Janet (or (1st) Skene, (2nd) Cumyn), 40, 72
 - Jean, dau. of Sir Alexander of Leys XIV., 2nd Bart., 73, 76
 - Jean, dau. of Sir Alexander of Leys XVI., 4th Bart., 94
 - Jean, dau. of Mr. Alexander of Craigmyle II., 115
 - Jean, dau. of Mr. Robert, advocate, 62
 - Jean, dau. of Robert, merchant, 60
 - Jean, dau. of Robert of Sauchen, 64
 - Jean, m. William of Criggie, 84, 87, 88, 89, 90, 91, 96
 - Jean (or Arbutnot), 114
 - Jean (or Lady Forbes), 62, 72
 - Jean (or Lauder), 85
 - Jean (or Lunan), 65

- Burnett, Jean (or Skene), 61
 — John "of Leys" V., 10-11
 — John of Leys X., 20, 21, 22, 25, 28-29, 186, 202, 203, 344
 — John of Kemnay V., 127, 128
 — John "in the Leys," 263, 265, 267, 270, 272, 275, 277, 284
 — John of $\frac{1}{2}$ Ardrop and $\frac{1}{2}$ Currie, 5
 — John of Burnetland, 4
 — John of Dalladies, 291
 — John of Farningdoun, 4
 — John George of Powis, 128
 — John, judge, 148
 — Mr. Johne, 120
 — John, macer, 10
 — John, minister of Cluny, 65
 — John, son of Alex. of Leys XI., 31, 292
 — John, son of Alex. of Leys XII., 40
 — John Alex., son of Alex. George of Kemnay VI., 129
 — John, son of James of Craigmyle I., 113
 — John, son of John of Leys X., 344
 — John, son of John, minister of Cluny, 65
 — John, son of Kirkpatrick W. Burnett, 146
 — John, son of Sir Thos. of Leys XV., 3rd Bart., 85
 — John, son of Thomas of Park and Kepplestone, 148
 — Katherine, dau. of Sir Alexander of Leys XVI., 4th Bart., 94
 — Katherine, dau. of John of Leys X., 344
 — Katherine, dau. of Sir Robert of Leys XIX., 7th Bart., 95
 — Katherine (or Calder), 65
 — Katherine (or Gordon of Buckie), 60, 61
 — Katherine (or Gordon of Pitlurg), 62
 — Katherine (or Maitland), 40
 — Katherine (or Seton), 85
 — Lamont, dau. of Alex. of Kemnay IV., 128
 — Letitia Wilkin, dau. of Alex. George of Kemnay VI., 129
 — Lewis, son of Sir Thos. XV., 3rd Bart., 85
 — Lilian May, dau. of Jas. Cumine of Monboddo VI., 147
 — Margaret, dau. of Alex. of Leys XI., 32
 — Margaret, dau. of Alex., younger of Leys, 61
 — Margaret, dau. of James of Craigmyle I., 113
 — Margaret, dau. of John, minister of Cluny, 65
 — Margaret, dau. of Kirkpatrick W. Burnett, 146
 — Margaret, dau. of Robert, merchant, 60
 — Margaret, dau. of Mr. Robert of Glenbervie, 60
 — Margaret, dau. of Thomas of Kemnay I., 119
 — Margaret, dau. of Thomas of Park and Kepplestone, 149
 — Margaret, dau. of William, 149
 — Margaret, m. Alex. of Monboddo II., 73, 76
 — Margaret (or Aitken), 84
 — Margaret (or Forbes), 29
 — Margaret (or Kennedy), 66
 — Margaret (or (1st) Maitland, (2nd) Erskine), 116, 117
 — Margaret (or Martin), 64
 — Margaret (or Moir), 345
 — Margaret (or Ogilvie), 85
 — Margaret (or Ramsay), 98, 103
 — Margaret (or (1st) Steele, (2nd) Wyse), 144
 — Marianne (or Birch), 149
 — Mariot (or Symmer), 40
 — Mary, dau. of Duncan, physician, 31
 — Mary, dau. of George of Kemnay III., 127
 — Mary Erskine, dau. of John of Kemnay V., 128
 — Mary, dau. of John, minister of Cluny, 65
 — Mary, dau. of Sir Robert of Leys XIX., 7th Bart., 98
 — Mary, dau. of Robert, merchant, 60
 — Mary, dau. of Robert of Sauchen, 64
 — Mary Bertha, dau. of Sir Thomas of Leys XXIV., 12th Bart., 100
 — Mary (or Aberdein), 94
 — Mary (or Brown), 140
 — Mary (or Carnegie), 85
 — Mary (or Forbes), 114
 — Mary (or Mitchell), 141
 — Mary (or Taylor), 149
 — Mary Bertha Violet (or Wright), 147
 — Matilda, widow of Wm. Burnard, 2
 — Montgomery, 4
 — Newell of Kyllachie, 148
 — Nicholas, son of Stephen, 2
 — Obadiah, son of John at Campvere, 40
 — Odo, 2, 4
 — Patrick, 3
 — Penelope (or Christie), 149
 — Rachel, dau. of Mr. Robert, advocate, 62

- Burnett, Rachel, dau. of Major, 76
 — Rachel, dau. of Thomas of Kemnay I., 118, 119
 — Ralph, son of Roger, 3
 — Richard, 2
 — Sir Richard, son of Róger, 3
 — Robert IV., 10
 — Sir Robert of Leys XVII., 5th Bart., 93, **94-95**, 96, 126, 295, 315
 — Sir Robert of Leys XIX., 7th Bart., 96, **97-98**, 99, 323
 — Sir Robert of Leys XXIII., 11th Bart., 24, 99, **100**
 — Robert of Colpny, Cowie, Cowtoun, Creggie, Elrick, Muchalls, "Tutor of Leys," 60, 66, 73, 78, 79, 84, 86, 87, 88, 90, 113, 116
 — Robert "in Drumneachie," 35, 36
 — Robert of Glenbervie, 88
 — Robert of Kair and Ballandro, 144
 — Robert of Lethenty and Countesswells, 87
 — Robert in Leys, 169
 — Robert, last laird of Sauchen, 64
 — Robert, Lord Crimond, 40, 61, 86, **130-132**, 133, 134
 — Robert, "Younger," 61
 — Robert, notary, 186
 — Robert, Procurator-Fiscal of Aberdeen, 291
 — Robert Dundas, 148
 — Robert, son of Alexander, younger of Leys VIII., 19
 — Robert, son of Alex. of Leys XI., 30, 292
 — Robert, son of Sir Alex. of Leys XIV., 2nd Bart., 73
 — Robert, son of Alexander, younger of Leys, 60
 — Robert, son of Dr. Andrew Burnett, 78
 — Robert, son of Lord Crimond, 61, 133
 — Robert, son of Duncan Burnett, 31
 — Robert, son of James of Kair, 89, 90
 — Robert, son of John, minister of Cluny, 65
 — Robert, son of Sir Robert of Leys XIX., 7th Bart., 97, 103
 — Robert, son of Robert of Glenbervie, 89, 90
 — Robert, son of Mr. Robert, merchant in Montrose, 60
 — Mr. Robert, advocate, son of Sir Thomas of Leys XIII., 1st Bart., 61, 62, 68, 71, 73, 78, 90, 278, 281
 — Robert, son of Sir Thomas of Leys XV., 3rd Bart., 84, 88, 89
 — Robert, son of Sir Thomas of Leys XV., 3rd Bart., 85
 — Robert, son of Thomas of Kemnay I., 119
 — Robert, son of Thomas of Sauchen, 64
 — Rogerus filius Bernardi, 2
 — Roger, son of above, 2
 — Roger, son of Odo, 2
 — Roger, of Farningdoun, 3
 — Roger, 4, 6
 — Stephen, son of Roger, 2
 — Stuart Moubray, son of John of Kemnay V., 128
 — Symon (Deeside) II., 9, 10, 158
 — Symon, son of Alexander, younger of Leys VIII., 19
 — Sir Thomas of Leys XIII., 1st Bart., 31, 34, 39, **41-72**, 73, 112, 113, 211, 227, 228, 229, 230-240, 256, 257-277, 279, 284, 287, 288, 289
 — Sir Thomas of Leys XV., 3rd Bart., 60, 73, 75, 76, **78-86**, 87, 88, 89, 90, 91, 93, 115, 120, 289
 — Sir Thomas of Leys XVIII., 6th Bart., 84, 95, **96-97**, 101, 114, 127
 — Sir Thomas of Leys XX., 8th Bart., 58, 97, **98-99**, 289
 — Sir Thomas of Leys XXIV., 12th Bart., 99, **100**
 — Thomas of Campbel, 278
 — Thomas of Craigmyle, 33
 — Thomas of Craigmyle and Tillhaikie, 112
 — Thomas of Glenbervie, 60, 91, 114
 — Thomas of Kemnay I., 113, 115, **116, 118-119**
 — Thomas of Kemnay II., 40, 114, 116, 117, 118, **119-125**
 — Thomas of Park and Kepplestone, 100, 148, 149
 — Thomas of Sauchen, 63, 64, 68, 72, 265, 266, 267, 278, 281
 — Thomas of Woodalling, 291
 — Thomas, Burgess of Aberdeen, 346
 — Thomas, surgeon at Chigwell, 140
 — Thomas, 169
 — Master Thomas, son of Alexander of Leys IX., 18, 25, 26
 — Thomas, son of Alex. of Leys XI., 30, 292
 — Thomas, son of Sir Alex. of Leys XVI., 4th Bart., 93, 94
 — Thomas, son of Alex., younger of Leys, 60, 67, 277
 — Thomas, son of Mr. Alex. of Craigmyle II., 115, 116
 — Sir Thomas, son of Bishop Burnett, 139, 140, 141

- Burnett, Thos., son of Governor Burnett, 140
 — Thomas, son of Lord Crimond, 133, 291
 — Thomas, son of Duncan, doctor at Norwich, 31
 — Thomas, son of Robert in Drumneachie, 35, 36
 — Thomas, son of Mr. Robert, advocate, 61
 — Thomas, son of Sir Thomas of Leys XV., 3rd Bart., 85
 — Thomas, son of Sir Thomas of Leys XVIII., 6th Bart., 96
 — Thomas, son of Thomas of Glenbervie, 60
 — Thomas, son of Thomas of Park and Kepplestone, 149
 — Thomas, son of Major William, 76
 — Walter, son of Stephen, 2
 — Walter, son of Roger, 3
 — William (Deeside) III., 9-10, 157
 — William, 145
 — William of Camphill, 33
 — William of Criggie, 84, 91, 93, 95, 96, 114
 — William of Sauchen and Cairnday, 63, 64, 257, 258, 259, 260, 267, 268, 269, 270, 278
 — William of Slowy, 21, 27, 199, 200
 — William of Tillhaikie, Craigour and Campbell, 33, 112, 169, 170, 171, 186
 — William, of the Beston branch, 2
 — William Kendall, 129
 — William, Major, son of Sir Alex. of Leys XIV., 2nd Bart., 73, 74, 75, 294, 295
 — William, Governor, son of Bishop Burnet, 140
 — William, son of James of Craigmyle I., 113
 — William, son of James of Monboddo III., 144, 148
 — William, son of John, Judge of Admiralty Court, 148
 — William, son of Robert, merchant, 60
 — William, son of Mr. Robert, advocate, 62
 — William, son of Sir Robert of Leys XIX., 7th Bart., 98
 — William, son of Sir Thomas of Leys XIII., 1st Bart., 63, 66, 68, 263, 281
 — William, General, son of Sir Thomas of Leys XVIII., 6th Bart., 96, 97, 103, 323, 324, 325
 — William Farquharson, son of Thos. of Park and Kepplestone, 149
- Burnetland, 4, 5
 Burneville, 4, 5
 Burntoun, 4
- Cairnamoir, 286, 287
 Cairnbulg, 94
 Cairnday, 63, 64
 Cairniquhyne, 285
 Calbraith, William, 294
 Calder, 152, 153
 Calder, Robert, 65
 Calnie, Mylne of, 286
 Campbell, Alexander, 294
 — John, 22
 — John, of Lundy, 190, 191
 — Miss, 149
 — Peter Garden, 149
 Camphill (Campbell, Camfell, Camphell), 34, 43, 112, 201, 260, 278, 285, 286, 287
 — Alehouse Croft of, 33, 115
 — Milltown of, 33, 115, 169, 170, 171
 — Easter, 33, 285, 287
 — Wester, 33, 115, 170, 171, 201, 206, 285, 287
- Campvere, 40
 Candahill (Candashill, Candishill), 12, 167, 168, 205, 285
- Canglour, 33
 Cant, Alexander, 46, 263
 — Andrew, 29, 46, 47, 63, 66
 Canneglerach (Canneglerocht, &c.), 7, 12, 16, 17, 19, 29, 43, 285
- Cardenys, 190
 Cardney, 7, 22, 151, 152, 154, 155
 Cardno, 42
 Carleith, 285
 Carlinhole, 265
 Carlisle, 145
 Carnday, Auld, 258
 — Ower, 258
- Carnbee, 62, 265
 Carnegie (Carnegy), Alexander, 285
 — Sir David, 218, 221
 — Sir D., of Pitarrow, 144
 — Sir John, 85, 218, 221
 — Sir John, of Monboddo, 143
 — Susan Fullerton-Lindsay, 103
 — William Fullerton-Lindsay, 103
- Carnousies, 10
 Carny, 201
 Carr, John, 108
 Carrick, John, Earl of, 158
 Carriston, 33
 Carson, Dr. J. C. L., of Coleraine, 129
 — Margretta Mary, 129
 Carss, Lord, 90
 Carter, Jane, 147

- Carter, John, 147
 Cassillis, John, 6th Earl of, 135
 Castres, 131
 Cathcart, Lt.-Col., 324
 Chadham, 293
 Chalmers, Alexander, 27, 162, 163, 186
 — Elspeth, 27
 — Janet, 27, 199
 — Robert, 162, 163
 Charteris, John, 33, 200, 201, 206, 286
 — Sir Henry, 33
 — Patrick, 158, 159
 — Thomas, 28, 162, 163, 169, 170,
 171, 186, 187
 — William, 158, 159, 162, 163
 Cheine, 285
 Cheyne, James, 40
 Chigwell, 140
 Chirnside, 76
 Cholderton (Celdraton, Chalvertoun, &c.),
 Manor of, 2
 Christie, James, 149
 — Major Napier Turner, 149
 Clarenceux, 31, 292
 Clark, Jean, 70, 283
 Clashmoirde, 285
 Clement, Nin., 198
 Clerk, William, 295
 Clerkington, 226, 227, 256
 Clerkseat, 60
 Clontarf, 108
 Clopelle, 65
 Cluny, 7, 42, 63, 65, 72, 78, 258, 267, 268,
 269, 286, 287, 288
 Cobbet, Col. Ralph, 284
 Cochrane, Isabella, 104, 105
 — Rupert, 104
 Cock, George, 175, 176
 Cockburn, Sir George, 98
 — Sir John, 226, 227
 — Mrs., 40, 119
 — Lord Richard, 256
 — Sir Richard, 226, 227
 Coirmoir (Curmoir, Cormoir, &c.), 33, 115,
 206, 262
 Coleraine, 129
 Colliscrosse, 275, 279, 286
 Collonach, 7, 12, 19, 28, 285
 Colpny, 79, 87
 Comber House, 110
 Contlawhills (Contlahillis), 205, 285
 Conweth, Mill of, 13
 Copland, Alexander, 162, 163
 Corderne, 286
 Corfarroch, 115
 Corndarne, 275, 279
 Corntowne, Thomas, 169
 Correnie, 258
 Corse, 43, 47
 Corsenday, 268
 Corthans, 285
 Cotford, 2
 Coule, 158, 159, 160, 161
 Coulter, 281
 Couper, Lord, 46
 Countesswells, 73, 87, 278, 285
 Couts, Fyndly, 278
 Coutts, Elizabeth, 73
 — William, 72, 73
 Covington, 36
 Cowcardie, 26, 27, 59
 Cowie, 87, 147, 205
 — John, 88
 Cowlerholl, 278
 Cowtoun, 60, 73, 79, 86, 87, 88, 89, 91,
 92, 95, 113, 114
 — Leard of, 90
 Cragicuthill, 275, 279
 Cragmyll, Alexander, 186
 Craig, Elizabeth, 133
 — Master John, 26
 — Sir Thomas, 133
 Craighenthill, 286
 Craigievar, 65, 79
 Craigmyle of that Ilk, 28
 — (Craigmyle, &c.), 33, 40, 49, 51,
 52, 72, 73, 79, 86, 94, 112, 113,
 115, 117, 143, 200, 201, 207, 260,
 290, 291, 292
 Craigour (Cragoure, Craghour, &c.), 33, 34,
 43, 112, 115, 169, 170, 171, 186,
 200, 201, 206, 285, 286, 287
 Craigtoun (Creagtoun), 263, 265, 267, 268,
 270, 275, 277, 284, 285
 Craik, Richard, 198
 Cranford, John, 109
 — Eleanor Julia Charteris, 109
 Crannog, in Loch of Leys, 328
 Crathes, *passim*
 — Castle, Description of, 22
 — Gallery at, 330, 338
 Crawford, David, Earl of, 166, 169
 — Earl of, 33
 — Helen, 133
 — William, 133
 Crechtoun, George, 186
 Crewkerne, 108
 Criggie (Creggie), 79, 87, 89, 90, 91, 93,
 95, 96, 113, 116
 Crimond, 59, 61, 131, 261
 — Lord, 40, 61, 132, 133
 Cromar, 53
 Crombie, Sir Thomas, 118
 Cromdale, 74
 Cromoir, 201
 Cruickshank, Jane, 102

- Cruickshank, Margaret, 103
 — Patrick, 102, 103
 Cruikshanks, Alexr., 294
 Crushank, Robert, 278
 Culernely (Culenerly), 154, 155
 Cullan, Alexander, 202, 203
 Culpersie (Culpersoc), 42, 43, 270, 286, 287, 288
 Culter, 14, 15, 16, 31, 33, 40, 68, 97, 151, 152
 — Comyn, 16
 — Little, 7, 8, 15
 Cults, 27
 Cumyn (Comyn, Cuming, Cumine, Cumyn, Cyming, Cumming, Cummyng)
 — Adam, of Rattray, 146
 — Alexander, 14, 15, 16, 31, 40, 152
 — Sir Alexander, 68, 281
 — of Culter, 33
 — Harriet Hay, 100
 — James, 100, 169
 — James, of Rattray, 149
 — Mary Elizabeth, 100
 — Richard, 10
 — Mr. William, 185, 186
 — William, of Culter, 14
 — William, of Inverallochy, 15
 Cunningham, Master David, 26
 Cupar, 3, 4
 Currenhauch, 286
 Currie, 5
 Curriehill, 44
 Cushnie, 29
 Cuttishillocke, 273, 279, 286

 Dalbrek (Dilbreak), 270, 279, 286
 Dalhaik (Delhaikie), 286, 288
 Dalladies, 291
 Dalrymple, Margaret, 97
 — General Robert, 97
 Dammis, 205
 Darien, 80
 Darwin, 146
 David, Bishop of Aberdeen, 32
 Davidson, Mr. Alexander, 263
 — Anne, 103
 — Duncan, 103
 Davison, Alexander, 164, 165
 Davison, John, 295
 Delewear, 286, 288
 Delfroe (Dilphro), 270, 279, 286
 Delgaty, 149
 Denholme, John, 54, 55, 260
 Dennabuk, 205, 285
 Deracroft, 21, 34, 172, 173, 174, 175, 176, 177, 182, 184, 217, 218, 219, 221, 222, 223, 225, 286, 288

 Derebyde, 293
 Dey, Bridge of, 275, 279
 Dick, John, 294, 295
 Dickson, David, 46, 47
 Disblair, 126, 186
 Dishington, William of, 5
 Dobsone, Mr., 208, 211, 214
 Dockinwall, 258
 Doores, 264
 Doorward, 13, 20
 Douglas (Douglasse, Duglas), Alex., 70, 288
 — Archibald, 202
 — Mr. Arthur, 185, 186
 — Elizabeth, 143
 — James, 229
 — James, 2nd Earl of, 159
 — Katherine, 60
 — Margaret, 59, 74
 — Robert, 264
 — Sir Robert, 56, 59, 60, 66, 68, 72, 263, 265, 267, 270, 272, 275, 277, 281, 284
 — Sir Robert, of Glenbervie, 143
 — Thomas, 70, 280, 284
 — William, 74, 76, 202, 203, 264
 — Sir William, 60, 113
 — W. D. Robinson, 103
 — and Mar, William, Earl of, 158
 Dowart, 9
 Downie, W., 261
 Drum, *passim*
 — Loch of, 155
 — Forest of, 155, 157, 158, 285
 — Park of, 163, 164, 165, 191
 Drummeis, 186
 Drumfernie, Eister, 285
 — Wester, 285
 Drummond, 12
 — Col., 324
 — Malcolm, 161
 — Mr. William, 231
 Drumneachie, 35, 36
 Drumoak, 76
 Drumshillach (Drumshallach, Drumschallach), 167, 168, 205, 285
 Duff, James, 97
 Dunbar, 56
 — Alexander, of Boath, 127
 — Bishop, 20
 — Elizabeth, 60
 Duncan, David, 99, 107
 — Pat., 295
 — William, 295
 Dundas, Ralph, of Manor, 133
 Dundee, 57
 Dundie, 284
 Duncarn, 128

- Dunfermlinc, Alex., Earl of, 226, 227
 — Earl of, 24, 37, 38, 39, 43, 74
 Dunfermlyne, 57
 Dunkeld, John, Bishop of, 158
 Dunn, Isabel, 345
 — James, 345
 Dunnottar (Dunoter), 29, 51, 56
 Dunstanhill, 108
 Dunnyvaig, 9
 Dupplin, Lord, 52
 Durham, 5, 99
 Durie, Mr. Gibsone, 49
 Durn, 149
 Durris, 7, 13, 26, 154, 155, 163, 164, 165
 Dury, And., Bishop of Galloway, 175, 176
 Durward, Alan, 152
 — Robert, 198
 Dy, Bridge of, 286
 Dyc, 43
 Dyce, James, 126
 — Janet, 126
 Dysart, 65

 East Barnet, 140
 Easter Camphill, 33, 201, 206
 — Kennet, 204
 — Skene, 115
 — Slowy, 21, 27
 Easton, Margaret, 74
 Ecclesgreig, 87, 89
 Echt, 14, 29, 40
 Eddeworth (Eddesworth), 2
 Edzell 73, 284
 Eght, Leard of, 68, 281
 Elchies, 147
 Electress Sophia, 119, 120, 123, 124
 Elgin, 56
 Elita, 2
 Elizabeth, Lady of Leys, 14
 Elliot, Charles, 109
 — James, 109
 Elm Hall, 110
 Elphinston, of Glack, 87
 Elphinstone, Bishop, 12, 16, 20, 43, 58
 — John, 18
 Elphinstoun, Sir Geo., of Blythiswode, 256
 Elrick, 79, 87, 112
 Elsick, 79, 88, 96, 102, 285
 Englewood, 293
 Entwisle, Ellen Matilda, 109
 — John, 109
 Erroll, Earl of, 34
 — William, Earl of, 166, 167
 Erskine, 26, 28
 — Sir Arthur, 46
 — Robert, Kt., 156, 157
 — Sir Thomas, 117
 — Thomas, Kt., 161

 Eslic, 64, 265, 278, 286
 Estowry, 186
 Esturneys of Chadham, 293
 Etken, John, 295
 Ewen, John, 28

 Fair, Hill of, 33, 285, 286
 Fairnington, 3
 Fard, Symon of, 3
 Farningdoun, 3, 4, 5, 6
 Farquhar, Commadore, 98
 — Janet, 35
 — Mr. Robert, of Mounic, 268
 Farquharson, Alexander, 117
 — Elizabeth, 146
 — John, 117
 — of Invery, 74
 Ffarquarson, James, 295
 Fasque, 101
 Faversham, 110
 Ferguson, James, 92
 Fetteresso, 34, 41, 65, 77, 97, 113, 205
 Fettercairn, 73, 74
 Feugh, 43, 102
 Ffellow, George, 295
 Fife, Earl of, 20
 — Duncan, Earl of, 152, 153
 — and Menteith, Robert, Earl of, 158,
 160
 Findlater, Ogilvy of, 37
 Findrack, 64
 Finglenny, 275, 279
 Fintray, 64
 Fleming, Andrew, 175, 176
 — David, 161
 — Malcolm, Lord, 175, 176
 Fletcher, Sir Robert, of Saltoun, 135
 Flodden, 16
 Forbes, Alexander, Lord, 166, 168
 — Alexander, of that Ilk, 162, 163
 — Alexander, 29, 97
 — Anne, 117
 — of Brux, 25
 — Colonel, 126
 — of Echt, 14
 — Elizabeth, 144
 — George, 27, 29
 — Isobel, 144
 — James, 15th Lord, 117
 — Jean, 117
 — Dr. John, 47
 — Mr. John, 37
 — John, 201
 — John, Master of, 29, 36, 37, 46
 — Sir John, 28, 79
 — Sir John, of Monymusk, 121
 — John, of Sonnahinny, 28
 — Lord, 12, 24, 25

- Forbes, Margaret, 27
 — Marjory, 25
 — Patrick, of Corse, 43
 — Bishop Pat., 43, 44, 45, 47, 57, 87
 — Robert, 29, 40, 285
 — Sir Samuel, 91
 — Thomas, 164, 165
 — of Towie, 73
 — Sir William, 62
 — Sir William, of Craigievar, 144
 — William, of Corsinday, 268
 — William, Lord, 295
 Footdee, 65
 Fordee, 201
 Fordoun, 13, 143
 Fordy, 169, 170, 171
 Fordyce, 115
 Fores, Thomas, 185, 186
 Forfar, 99
 Foys, Jane, 30
 — John, 30
 Fountainhall, Lord, 83
 Foveran, 91
 Fox, Col., 324
 Foxholes, 109
 Fraser (Fresar), Sir Alexander, 7
 — Alexander, 13, 188, 190
 — Mr. A. C., 292
 — Christian, 115, 127
 — Francis, of Findrack, 84
 — George, 162, 163
 — Hugh, 127
 — James, 264
 — Lord, 52
 — Margaret, 268, 269
 — Sir Simon, 62, 113
 — Symon of Inverlochic, 260
 — Thomas, 26, 115, 285
 — William, 84, 188, 190
 Free, Thomas, 208
 Frifady, 154, 155
 Fullarton of Kinnaber, 66
 Fullerton, Thomas, 92
 Fyvie, 14, 162, 163
 Fyvie and Urquhart, Lord, 226

 Gallery at Crathes, 330, 338
 Galloway, Alexander, 21, 176, 181, 183,
 185, 186
 — Earl of, 62, 290
 Ganocleroch, 168, 169
 Ganpisshaugh, 90
 Garden, Captain, 325
 — Mary, 149
 — Peter, 149
 Gardenstone, Lord, 149
 Gardine, Janet, 16, 17
 Garioch, 34
 Garioch, George, 144
 Garlogie, 115
 Garne, Dr. George, 77
 Gask, 10, 154, 155
 Gates, General, 97
 Gay, 141
 Geneva, 124
 Gibson, Mr., 65
 — Rev. J. W., 65
 Gifford, William, 294
 Gight, 56
 Gillan, Hauch of, 286
 Gillies, Adam, 102
 Glack, 10
 Glammiss, Laird of, 29
 — John, Lord, 166, 168
 Glascul, 151, 152
 Glasgow, 43
 — Bishop of, 4, 6
 — Archbishop of, 5
 Glashmoir, 205
 Glaster, Murdoch, 10
 Glenbervie, 59, 60, 61, 88, 89, 90, 91, 113,
 114, 118, 121, 143, 147, 202, 203
 Glenbucket, 60
 Glenbucket, Lady, 279
 Glenday, 286
 Glenfarquhar, 13, 14, 16
 Glenlyon, 149
 Glentanner, 20, 53
 Glentoun, 89
 Gloucester, Duke of, 123, 137
 Gonnochy, 154, 155
 Goodwyn, Dr., 137
 Gordon, 3
 — Agnes, 90
 — Arthur Forbes, of Rayne, 129
 — Charles, 115
 — Charlotte Susan, 129
 — George, 36, 60, 115, 278
 — of Haddo, 29
 — James, 87, 115, 186, 294
 — John, 36, 90, 186, 187
 — Dr. John, 65
 — Katherine, 25, 32, 39
 — of Lesmoir, 24, 25, 31, 32, 39
 — Ludovic, 64
 — of Midmar, 14
 — Patrick, 60, 66, 186
 — Robert, 42, 51, 62, 267
 — Sir Robert, 228
 Gormak, Thomas, 198
 Gormay, 151, 152
 Graeme, David of, 10
 Graham, Sir James, 107
 — Patrick, Kt., 161
 — Robert, 87
 — Sir Robert, 40, 46

- Grandholm, 79, 149
 Grange, 346
 Grant, Alexander, 148
 — of Elchies, 147
 — William, 148
 Granton, Thomas, 294
 Gray, Lord, 12
 Green Lady's Room, The, 336
 Greenailhouse, 273, 279, 286
 Greenhills Milne, 90
 Greneheids, 205
 Groningen, 146
 Guild, Dr. William, 47
 Gustavus Adolphus, 143
 Guthrie, Mr., 212
 Gyb, Alexander, 198

 Haddo, 29
 Haigh, Octavia, 110
 — Thomas, 110
 Halcartoun, Alexander, Lord, 285
 — Alexander, Maister of, 285
 Hallgreen, 144
 Halthernedene, 231
 Halyburton, James, of Pitcur, 133
 Hamby, Lord, 54
 Hamilton, 218
 — Archbishop, 21, 27, 32
 — Canon, 18, 20, 24
 — Duchess of, 135
 — Duke of, 55, 80
 — Mr. Francis, 231
 — Sir George, 226, 227
 — Lord George, 256
 — Janet, 20, 21, 22, 24, 25, 36, 191,
 192, 193, 194, 195, 196, 197, 198,
 199, 203, 204
 — John, 21, 27, 161, 187, 191, 195,
 199, 294
 — Sir John, 218, 221
 — Lord John, of Magdalenis, 256
 — Marquis of, 24, 34, 37, 48, 49, 216,
 218, 219, 221, 222, 226, 227, 256
 — William, 62
 — Sir William, of Preston, 133
 Haneslawe, 2
 Hardy, Sir Thomas, 98
 Harthill, 29
 Hattoun, 285
 Hauch, Mylne of, 273, 279
 Hauchhead, 269
 Haugh of Slowy, 42
 Hay, Admiral, 109
 — Alexander, 36, 204
 — Sir Gilbert, 162, 163
 — Sir R. J., 109
 — Thomas, 121
 — William, 36

 Hedrihauch, 275, 279
 Henderson, Alexander, 46, 47, 49
 — Andrew, 294
 — Mark, 294
 — Patrick, 294
 Hetfoord, Robert, 294
 Hillock, 279
 Hilton, Richard J., 110
 — Florence Mary, 110
 Hirne, 285
 Hoadley, Mrs., 142
 Hogge, Alexander, 264
 Holbourne, William, 294
 Hook, Theodore, 140
 Home, Georgina Hay, 108
 — William Foreman, 108
 Horn of Leys, 292
 Hotham, Sir Henry, 98
 Howesone, Nich., 198
 Hube, Alexander, 198
 Hulewode, 293
 Hunthillock, 275, 279
 Hunter, Alexander, 186
 — Robert, 33
 Huntly, Earl of, 25, 31, 112, 115
 — George, Earl of, 166, 167
 — Marquis of, 45, 49, 50, 52, 55, 56, 64

 Iivingstoun (Levingstoun), Donypace, 227,
 232
 Inchbreak, 285
 Inchmarlo, 42
 Inglis, Archibald, 294
 English, Captain, 57
 Inkpen, 125
 Innernochtie, 18
 Innes, Alexander, 147
 — Anne, 109
 — Cosmo, 102, 105
 — Lieut.-General, 109
 — Robert, 40
 — Thomas, of Learney, 149
 — Sir Walter, 87
 — William Disney of Cowie, 147
 — William of Raemoir, 149
 Inverallochy, 8, 15, 62, 113
 Inveralochie (Inneralochie), Leard of, 68,
 281
 Invercanny (Inuercanny), 19, 21, 41, 172,
 173, 174, 175, 176, 177, 182, 184,
 217, 218, 219, 221, 222, 223, 225,
 286, 287, 288, 295
 Invercauld, 117
 Inverleith, 27, 290
 Inverlochie, 260
 Invermeik, Thomas, Lord, 166, 168
 Inverness, 295
 Inverugie (Inwerugie), 43, 286, 287

- Inverury, 40
 Invery, 21, 32, 36, 41, 43, 74, 78, 187, 188,
 189, 190, 191, 192, 194, 203, 204,
 286, 287, 288
- Ipswich, 129
- Ireland, Caroline Charlotte, 111
 — Thomas James, 111
- Irvine (Irving, Irwyn), of Drum, 11, 15,
 52, 60, 73
 — Alex., 10, 11, 15, 37, 163, 164, 165
 — Sir Alexander, 162, 163
 — Elizabeth, 143, 144
 — Henry, 37
 — Janet, 60
 — John, 52
 — Robert, 186
 — Captain Robert, 143, 144
 — William of, 6, 7, 8
- Jaffray, Alexander, 28, 29, 47, 52, 288
 — Duncan, 33
 — James, 186
 — Jhon, 278
 — Robert, 28
- Jamaica, 98, 148
- Jamesone, George, 71, 72
- Jedburgh, 188, 190
- Jersey, 103
- Jerviswood, 40
- Johnshaven, 144
- Johnston, Archibald, of Warristoun, 130,
 131, 133
 — James, 133
 — John, of that Ilk, 131
 — Rachel, 133, 134
 — William, 295, 315
- Kair, 88, 89, 90, 144
- Katerloch, 285
- Kates, 267
- Kaufmann, Angelica, 127
- Kedrihauch, 275, 279, 286
- Keir, Hill of, 115
- Keith, Anne, 90
 — Lady Elizabeth, 79
 — Georgina, 147
 — Gilbert, 32, 292
 — Lord, 11, 226, 256
 — Major, 90
 — Marischal, 146
 — Robert, 161, 284
 — Sir William, 10
- Keltoun, 185, 186
- Kemble, Mr. J. M., 119
- Kemnay, 40, 61, 94, 95, 96, 113, 114, 115,
 116, 118, 126, 127
 — Lord, 118
- Kempcarne, 76
- Kempe, Mr. Alex., 186
- Kendall, Letitia Amelia, 128, 129
 — William, of Bourton, 129
- Kenmure, Lady, 63
- Kennedy, John, 18, 66, 171
 — Lady Margaret, 135
- Kennerty, 267, 268, 269, 286
- Kennesty, 267
- Kennet, Bishop, 294
- Kepplestone, 148
- Keppoch, Laird of, 74
- Ker, Alexander, 346
 — Isobel, 346
- Kerleith, 205
- Kermucks, 66, 78
- Kilduthie, 8, 19, 31, 33
- Killenschlerach (Kilmaclerauche, Kille-
 nochclerauch, &c.), 7, 11, 12, 22,
 151, 152, 154, 165, 166, 167, 168,
 191, 205
- Kilravock, 126
- Kilsyth, 29
- Kincardine (Kincardine O'Neil), 17, 20,
 26, 29, 33, 42, 43, 53, 78
- Kincousins, 52
- Kinerny, 257
- Kinfauns, 28, 33, 162, 169, 171, 186, 187,
 256, 286
- King, Dr. David, 110
 — Ellen, 110
 — Ethel, 110
 — Hallie, 110
 — Kate, 110
- Kingcausie, 143
- Kingswells, 28, 288
- Kinkell (Kingkell, &c.), 21, 65, 181, 185
- Kinnaber, 66
- Kinneskie (Kynnesky, &c.), 17, 21, 27, 28,
 34, 172, 174, 175, 176, 177, 182,
 184, 217, 218, 219, 221, 222, 223,
 225, 287, 288
- Kinnoule (Kenule), 152, 153
- Kinstair, 144
- Kirkhill, 76
- Kirkintilloch, 17
- Kirkwood, Gilbert, 74
 — Margaret, 74
 — Rachel, 76
- Kirn, Myln of, 285
- Knappoch, 264
- Kneller, 142
- Knight, Col. Henry, 117
- Knock Gillan, 286
- Knocke, 269
- Knokhill, 286
- Knox, 79
- Kukhous, 231
- Kyd, Alexander, 21, 181, 183, 185

- Kyllachie, 148
 Kynnaid, 218, 221
 Kynnater, 10

 Lagavin, 76, 113, 143, 145
 Lamb, John, 171
 Lambert, Rev. Bruges, 108
 Lamont, Dr. George, 125
 Lauder Bridge, 11, 101
 — George, of Pitscaudlie, 85
 — John, 175, 176
 — Robert, of Beilmonth, 85
 Lauderdale, Duke of, 135
 — Earl of, 57
 Laurencekirk, 145
 Lauriston, 73
 Lay, Elizabeth, 33
 Laye, Major Francis Fenwick, 104
 Le Argallis (or Argullis) Bay, 227, 232
 Le Neve (Le-Neue), William, 31, 292
 Learney, 149
 Lechton, Abbott David, 13
 — Elizabeth, 13
 Lechtoun, Agnes, 18, 19
 Leibnitz, 119
 Leis, Robert, 164, 165
 Leisburnet (Leyisburnet), Barony of, 246,
 247, 256
 Leith, Alexander, 294
 — Mr. Farley, 142
 Lennox, 17
 — Esmé, Duke of, 32
 Leslie, 49
 — John, 26, 35, 186, 187
 — Prof. John, 127
 — Mains of, 26
 — Patrick, 52
 Lesmoir, Gordon of, 24, 25, 31, 32, 36, 39,
 289
 Lethenty, 87
 Lettrick, 218, 221
 Leven, 56
 Levingstoun (Ilvingstoun), Donypace, 232
 Leys, *passim*
 — Horn of, 292
 — Loch of, 7, 93
 Liberton, 46, 66
 Lichtwod, 285
 Liddell, 5
 Liddle, D., 211, 214
 Lighton, James, 90
 Lindsay, Alexander of, Kt., 158
 — Sir Henry, 33
 — James of, Kt., 158
 — John, 36
 — John, of Edzell, 284
 — Master Robert, 35
 Linlithgow, 161

 Lisbon, 140
 Little Culter, 156, 157
 — Fiddes, 114
 — Futhes, 27
 — Melton, 30, 292
 Lloyd, Dr., 137
 Locher, 154, 155
 Lochtoun, 295
 Locke, 119
 Lorne, 190
 Loudoun, Earl of, 57, 81, 82
 Lovat, Simon, Lord, 62
 Low, James, 295
 Luke, George, 295
 Lumphanan (Lumphannane, Lunfannane,
 &c.), 33, 158, 159, 162, 163, 169,
 171, 186, 187, 201, 206, 286, 287
 Lumsden, Elizabeth, 29
 — John, 29
 — Matthew, 64
 Lunan, 144
 — John, 65
 Lunding, Thomas of, 13
 Lundy, 22, 190, 191
 Lutterell, 142
 Lutzebourg, 124
 Lutzen, 143
 Lyle, 12
 Lyn, Master James, 17
 Lyndesay, Thomas, 198
 Lyon, Elizabeth, 29

 McAllaster, Hector, 295
 McDonald, Angus, 295
 McFell, William, 294
 McIlvraith, Andrew, 142
 Mackenzie, Sir George, 62, 289
 Maclean, Captain, 74, 75
 Magdalenis, 256
 Maitland, Sir Charles, 117, 122
 — Sir John, 204
 — Patrick, 40
 Maldsheall (Mauldsheall), 275, 279, 286
 Maltman, Adam, 78
 Manor, 4, 133
 Mankland, Alexander, 5
 Mar, Earl of, 73, 81, 82, 92, 232
 March and Moray, Patrick, Earl of, 156,
 157
 Marchmont, Earl of, 80
 Mareshals, Mr., 120, 121, 122
 Marischal, Earl, 42, 44, 47, 50, 51, 52, 56,
 57, 78, 79, 92, 93, 112, 113
 — George, Earl, 226, 227
 — Master of, 29
 — William, Earl, 166, 167, 256, 287
 — Sir William Keith, 10
 Marr, 159

- Marsham, Jane, 30, 292
 — Robert, 30, 292
 Martin, Mr. James, 63, 64
 Marylebone, 74, 75
 Mauld, Colonel Henry, 56, 57
 Maule, Beatrix, 133
 — Robert, of Panmure, 133
 — William, of Glaster, 133
 Maxwell, William, 231
 Maynes of Carnday, 258
 Meignes, Gilbert, 162, 163
 Meikill Fiddes, 285
 Meikle Sauchen, 258
 Mekilburgh, 152
 Meldrum, 131
 — Alexander of Fyvie, 162, 163
 — Elizabeth, 14
 — John, 186
 — Sir William of Fyvie, 14
 Melrois, Thomas, Earl of, 256
 Melrose, 3, 85
 Melville, Andrew, 43
 — Elizabeth, 26
 Melvill, Rev. Mr. Francis, 78
 Melwing, Thomas, 198
 Memeis, Robert of, 152
 Menstrie, 227, 232
 Menzies, Christian, 117
 — Nanny, 14
 — of Pitfoddels, 19
 — Robert, 117
 — Thomas, 186, 187
 Merclingstoun, 232
 Methers, 89
 Methlick, 17, 18, 25, 26, 185, 186
 Middleburgh, 90
 Middleton, General, 53, 54, 55
 Midlothian, 5
 Midmar, 114
 — Gordon of, 14
 Milboy, 115
 Milne, Robert, 145
 Mills, Rev. Barton R. V., 109
 — Mr., 75
 Minchiner, Susan Newcombe, 108
 — William, 108
 Mincleffis, 285
 Mininny, 286
 Misterton, 108
 Mitchell, Admiral, 141
 — Sir Andrew of Thainston, 127, 315
 — David, 141
 — Mrs. Mary, 139
 Moir, Agnes, 346
 — James, 79
 — Patrick of Chapeltown, 345
 — William, 345
 — of Kermucks, 78
 Monaltrie, 117
 Monbollo, 61, 76, 113, 116, 117, 143,
 144, 145, 146, 147
 — Lord, 76
 Moncreiffe, Dame Jean, 257, 263, 264,
 265, 267, 270, 273, 275, 281,
 282, 283, 284
 Moncrieff, Jean, 62, 69, 71, 289
 — Sir John, 62, 289
 — Moncrieff of, 289
 Moncur, Chris., 198
 Monk, General, 56, 57
 Monquichy, 89
 Montauban, 30
 Montgatheid, 205
 Montrose, Earl of, 46, 49, 50, 51, 52, 53,
 55, 59
 Monymusk, Jean, Lady of, 72
 Monymusk, 52, 62, 120, 121
 Moor, Robert, elder, 295
 — Robert, younger, 295
 Moorhauch, 270, 279
 Moray, Andrew, Bishop of, 166, 167
 — Earl of, 31
 — Thomas Ranulph, Earl of, 153, 158
 Morphie, 40, 46
 Mortimer, Jean, 87
 — Mr. John, 87
 Mounie, 268
 Mowat, John, 162, 163
 Moygne, John, 10
 Muchals (Muchallis, Muchellis, &c.), 34,
 37, 39, 41, 43, 47, 51, 62, 66, 73,
 79, 86, 87, 91, 92, 113, 118, 205,
 267, 285, 289
 Muirhauch, 286
 Muirtown, 258
 Mullo, 286
 Mulloche, 265, 278
 Murphy, James, 100
 Murphy, Matilda Josephine, 100
 Murray, Rev. Alex. J., 103
 — Charles, 295
 — Lord James, 117
 — Margaret, 117
 Murtle, 25
 Muses, Chamber of, 24, 330
 Musselburgh, 231
 Myretoun, Patrick, 21, 181, 183, 185
 Myrtoune, Hector, 171
 Naper, Lord Archibald, 232
 Napier, Mr. Mark, 46
 Nethercliff, 226, 227
 New Caledonia, 80
 New Jersey, 40
 New Orleans, 98
 Newbottle, Lord, 74, 295

- Newdosh, 74
 Newhall, 14
 Newhouse, Mr., 208, 211, 214
 Newport, 55
 Nicholoun, John, 171
 Nicolson, Arthur Badenach, 147
 — Edward, 147
 — Sir George, 118
 — James Badenoch, 147
 — Sir William, 61, 114
 "Nine Nobles," The, 333
 Nore, Thomas, 169
 Norfolk, 29, 30, 31
 — Duke of, 290
 North, Joseph, 148
 Northampton, 30
 Northey, Sir Edward, 74, 75
 Nova Scotia, 41, 227, 232, 235, 236, 237,
 238, 239, 241, 242, 243, 244,
 245, 249, 252, 253, 254, 255, 256
 Norvelle, William, 62, 163
 Norwich, 30, 43, 208, 209, 210, 215
- Oatlands, 233
 Ogilvie, Alexander, 76
 — James, of Melros, 85
 — John, 76
 Ogilvy of Findlater, 37
 — George, of Barras, 285
 Olifard, William, 152
 Oneil (Onele, Oneill, &c.), 152, 153, 158,
 159, 160, 161, 162, 163, 186, 187,
 201, 206
 Orchardtoun, 103
 Ordifork, 267
 Orkney, Andrew, Bishop of, 166, 167
 Orleans, Duchess of, 124, 125
 — Duke of, 125
 Ormeston, 226, 227
 Ouchquhor, 163, 165
 Ouchterlony, Alexander of, 10
 Overtoun, Colonel, 57
 Ow, William de, 1, 2
 Owsden Hall, 111
- Panmure, Elizabeth, 108
 — William, Lord, 108, 109
 Park, 148
 Paterson, Anne Rebecca, 148
 — Deborah, 148
 — Dr. John, of Jamaica, 148
 Patersone, Thomas, 169
 Patison, John, 294
 Paton, George, 79
 — John, of Grandholm, 149
 Pearson, Alexander, 61
- Pearson, John, 118
 — Katherine, 61, 62
 — Margaret, 118
 Peferym, 151, 152
 Pegge, Dr. Samuel, 294
 Peirsone, Joh., 198
 Petfoddeles, 186, 187
 Pettinkere (Pettinkerry, Pitterkeire, &c.),
 17, 21, 22, 32, 34, 41, 43, 59, 60,
 96, 172, 173, 174, 175, 176, 177,
 182, 184, 195, 196, 197, 198, 199,
 202, 203, 216, 217, 218, 219, 221,
 222, 223, 224, 225, 226, 286, 287,
 288
 Pettyot (Pittayat), 205, 285
 Philp, Daniell, 294
 Pilrig, 74
 Pitarrow, 37, 85, 143, 144, 285
 Pitcaple, 29
 Pitcarlies, 27, 29
 Pitcur, 133
 Pitfour, 92
 Pitlurg, 62
 — Leard of, 68, 281
 Pitmeddon, 85, 112, 115
 Pitreddie, 269, 286
 Pitscandle, 85
 Pitscottie, John, 294
 Pitsligo, 28, 46, 47
 — Lord, 87
 Pittodrie, 28, 117
 Pittrichie, 117, 122
 Plafford, Mr., 214
 Playford, William, 208
 Pledge, Anna, 129
 — Rev. E., 129
 Pollok, Mr. Harie, 49
 Porto Rico, 96
 Portsmouth, 98
 Potarch, 42, 206
 Powis, 127, 128
 Premnay, 26
 Preston, 133
 — John, Knight, 156, 157
 — House, 110
 Pringle, William, 294
 Prymrose, James, 55
 Pulnacoy, 151, 152
 Purshall, James, 294
 Purves, Anne, 84
 — Sir William, 84
 Purwess, Nych., 198
 Pusey, Horn of, 293
 Pyat, Thomas, 169
- Quhyt, Jo., 198
 Quartemis, 205

- Rabity, 269
 Raemoir, (Ramoir, &c.), 28, 32, 149, 263,
 265, 267, 270, 272, 275, 277,
 284, 285
 Rait, Robert, 285
 Ramsay, Agnes Mabel Alice, 104
 — Alexander, 104, 109
 — Alexander Entwisle, 109
 — Alexander Haigh, 110
 — Alexander Panmure Oswald, 109
 — Sir Alexander, 96, 98, 99
 — Sir Alexander, 1st Bart., 101
 — Sir Alex., 2nd Bart., 102, 108, 109
 — Sir Alex., 3rd Bart., 108, 109, 110
 — Sir Alexander, 4th Bart., 110
 — Annie Elizabeth, 103
 — Arthur, 111
 — Arthur Douglas, 104
 — Bertin, 110
 — Catherine, 107
 — Catherine Forbes, 103
 — Charles, 96
 — Sir Charles, 96
 — Christina, 109
 — David, 73, 102
 — Edith Patricia, 104
 — Edward Bannerman, Dean, 102, 104
 — Edward Bannerman, Maj.-Gen., 108
 — Edward Lauderdale, 103
 — Edwin Hewgill, 107
 — Elizabeth, 107, 108
 — Elizabeth Edith, 109
 — Elizabeth Margerie, 103
 — Elizabeth Maule, 109
 — Elizabeth Patricia, 104
 — Ellen, 104
 — Ellen Augusta, 110
 — Ethel, 110
 — Evelyn, 110
 — Fanny Jane, 108
 — Florence Augusta, 111
 — Fox Maule, 108
 — Frances, 107
 — Frances Mary, 103
 — Francis, 108
 — Francis Farquharson, 108
 — George Dalhousie, 109
 — Georgina Harvey, 109
 — Gilbert Ireland, 111
 — Gilbert, Sir, 101
 — Hector Alexander, 110
 — Helen, 107
 — Helen Georgina, 111
 — Herbert, 111
 — Hilda, 110
 — Hugh Entwisle, 110
 — Hugh Francis, 110
 — Ina Margaret, 103
 Ramsay, Isabella, 107
 — Jane, 103
 — John, 101, 110
 — John Richard, 110
 — Katherine, 96
 — Katherine Jane, 103
 — Lauderdale, 99, 107
 — Marmaduke, 104, 106, 109
 — Marmaduke Francis, 103
 — Mary, 107, 108
 — Mina Mary, 104
 — Nora Mabel, 111
 — Norl Bannerman, 110
 — Norman, 104, 110
 — Olive, 110
 — Patricia, 109
 — Rhoda Beatrice, 110
 — Robert, 103
 — Robert, Captain, 103
 — Robert Christian, 103
 — Sybil, 110
 — Thomas, 98, 103
 — Thomas, Captain, 103
 — Thomas Burnett-, 103
 — Thomas, Sir, 102
 — William, 108
 — William Alexander, 108
 — William Burnett-, 103
 — William, Sir, 106
 Ranne, Thomas, 198, 199
 Rat, David, 164, 165
 Ratisbon, 140
 Rattray, 100, 146, 149
 Rayne, 129
 Reathe, Alexander, 294
 Redcastle, 148
 Reid, Catharene, 258, 260
 — Elizabeth, 78
 — James, 32
 — Jean, 64
 — Peter, 85, 295, 315
 — Robert, Bishop of Orkney, 175, 176
 — Mr. Robert, 47, 224, 227, 260
 Raith, Alexander, 198, 199
 Rescoby, 21
 Reymontoon, Mrs., 208
 Rice, Colonel, 74, 75
 Richardson, Anthony, 294
 — Archibald, 294
 Riddell, John, 3, 25, 59
 Riley, John, 142
 Riock, Alexander, 14
 Ripellan, Bernard of, 152
 Robertson, Janet, 133
 — James, 133
 — Hugh, 169
 — Mr. J. P. B., 41
 — Mr. William, 116

- Robertstoun, 40
 Roch, John, 294
 Rodden, 104
 Rodedic, 1
 Rogershill, 115
 Rogerus filius Burnardi, 2
 Rohays, 2
 Rolland, William, 171
 Ros, Robert of, 152
 Roscobie, 188, 192, 194, 203, 286
 Rose, Hugh, 126
 — James, 64
 Roschaugh, 289
 Rosemount, 99, 107
 Ross of Auchlossen, 73
 Ross, David, 162, 163
 Rothiemay, 51
 Rotterdam, 40
 Roxburgh, 3, 5
 Roystoun, 227
 Runscheman, Robert, 201
 Russell, James, 108
 — Jane, 108
 — Lord, 136
 — Mrs., 102
 Rutherford, Samuel, 63
 Ruthven, William, Lord, 166, 168

 Salem, 140
 Salisbury, Bishop of, 75
 Saltoun, 135, 138
 Sanders, Alexander, 294
 Sandford, Bishop, 104
 Sandilands, John, 87, 114
 Sands, Robert, 295
 Sanquhar, 20
 Saratoga, 97
 Sauchen, 60, 63, 64, 65, 68, 72, 278, 281
 Sauchie, 12
 Savernake, Forest of, 293
 Schaw of Sauchy, 12
 Schivas, 97
 Selaye, 154, 155
 Scone, 191
 Scot, Apolonius, 137
 — David, 198
 — Robert, 204
 — Thomas, 198
 Scott, David, 55
 — Mr. John, 226, 227
 — Sir John, 231, 256
 — Malcom, 295
 — Mrs. Mary, 136, 140
 — Patrick, 295
 Scotsraig, 46
 Scottstarvet, 226, 227, 231, 256
 Seafeld, Lord, 82
 Seaton, George, Lord, 175, 176

 Selby, Walter, 5
 Senest, Andrew, 161
 — John, 160, 161
 — Murdoch, 160, 161
 — Muriel, 161
 — Robert, 161
 Setnabradiauch, 151, 152
 Seton, Chancellor, 24, 37
 — William of Meldrum, 131
 — Sir William, 85
 Settoun, John, 186
 Shanks, Mr. Alexander, 76
 Shannon, Rev. R. Q., 104
 Shealls, Ouer, 267
 — Nether, 267
 Sheddocksley, 291
 Shepburne, 49
 Sillyflat, 144
 Simpson, John, 294
 Singlennies, 286
 Skeen, Bailie, 90
 — Mr. James, 263, 265, 267, 270, 272,
 275, 277, 284, 285
 — Katharine, 70, 283
 — Leard of, 68, 281
 Skene, 40, 61, 154, 156
 — Agnes, 65
 — Alexander, 40, 164, 165
 — Alexander, of Skene, 345
 — Easter, 10
 — Mr. Francis, 145
 — George, 65
 — Gilbert, 164, 165
 — Master Gilbert, 32
 — Janet, Lady of, 72
 — James, 28, 32, 33
 — James of that Ilk, 162, 163, 164, 165
 — Sir James, 44
 — John, 61
 — Margaret, 345
 — Major, 145
 — Patrick, 345
 — Thomas, 157
 Skeyne, Gilbert, 292
 — Mr. Robert, 201
 Sloway, Craig of, 206
 Slydie, 267
 Snadoun, 89, 90
 Somervail, Ja., 295
 Sonnahinny (Souhynny), 28, 201
 Sorne, 20
 Southampton, 147
 Southesk, Earl of, 74
 Southhall, 61
 Sparks, John, 108
 Spearman, Caroline Margaret, 99
 — Charles, 99
 Spetchley, 137

- Spittell, 89, 90
 — Burn, 275, 279, 286
- Spottiswood, John, 41, 43
- Spynie, 103
 — Master of, 52
- St. Andrews, 5, 21, 32, 41, 43, 61, 90,
 180, 181, 187, 188, 190, 194, 195
 — Archbishop of, 177, 181, 187, 188,
 189, 191, 193, 194, 199, 200
 — John, Archbishop of, 203, 204
 — Patrick, Archbishop of, 204
 — William, Bishop of, 156, 158
- St. Machar, Cathedral of, 19
- St. Neots, 1, 2
- St. Palladius Chapel, 143
- Stainlethe, 154, 155
- Stair, Lord, 145
- Stalkare, John, 14
- Standingstones, 95, 96
- Stanhope, Maria, 140
 — Dr. George, 140
- Starnamanath, 151, 152, 154, 155
- Steele, Alexander, 144
- Sternkirk, 60
- Sternour, Hew, 54
- Stewart, David, of Inchbreak, 285
 — John, 186
 — Mr. Thomas, 288
- Sky, Thomas, 198
- Stirling, 295
- Stonehaven, 51, 78, 93, 284
- Stonywood, 79
- Stracathro, 102, 103
- Strachan (Strauchen, Strechin, &c.), 43,
 53, 66, 102, 103, 260, 269, 270,
 271, 275, 285, 286, 287, 288
- Strachan (Strachine, &c.), Alex., 162, 163
 — Christian, 35
 — James, 201
 — Mr. John, 42
- Stralathin, 205, 285
- Straloch, 42, 51, 62
- Stranathro, 205, 285
- Strathbogie, 49
- Strathdone, 53
- Stratherne, Robert, Earl of, 156, 157
- Strathie, 270, 279, 286
- Strathilay, 47
- Stratoun, of Lauristoun, 73, 74
- Strawqhvene, D., 215
- Stronduff, 20, 26
- Stuart, Charles, of Dunearn, 128
 — Dr. John, 9
 — John Alexander, 128
 — W., 288
- Sulis, Nicholas of, 152
- Summers, John, 294
- Sutherland, Collen, 294
- Sutherland, Earl of, 82
- Sydsferre, Bishop of Galloway, 131, 132
- Symer, George, 40
- Taillebosc, Ralph, 2
- Taillor, William, 90
- Taillieur, Alexander Renny, 107
- Talleauch, 186, 187
- Takeit, Thomas, 295
- Tarves, 10
- Taylor, George John Pitt, 99
 — Dr. Jeremy, 47
 — John, 148, 149
 — Margaret, 148
- Templer, Rev. Thomas, 30
- Templtoun, 270, 279, 286
- Thainston, 127
- Thirlstane, 204
- Thom, Alexander, 90
 — Dr., 103
- Thompson, Andrew, 295
- Thomson, Umph., 198
- Thomsone, James, 285
- Thornley Hall, 99
- Tilleboy (Tilliboy), 8, 15, 16, 31, 33, 205, 287
 — Milne of, 285
- Tilliboithville (Tolybohuill, Tulliboithil,
 Tulimacboythne), 7, 8, 151, 152,
 154, 155
- Tillicairn, 64
- Tillihaike (Tullihække), 33, 34, 39, 43, 59,
 112, 169, 171
- Tilliquhilly, 263, 265, 267, 270, 272, 275,
 277, 281, 284
- Tilliquhomery, 273
- Tilliquhouirie, 286
- Tilliwhilly, 66, 68, 72
- Tillydrine, 39, 42
- Tillyqumbry, 279
- Tinglenny, 275, 279
- Tolyboill, 156, 157
- Torrie, 62
- Touhe, 186
- Towie, 73
- Trotter, Miss, 119
- Troup, 149
- Tubernsky, 151, 152, 154, 155
- Tubirnanen, 154
- Tuddenham Hall, 129
- Tuliekis, 186
- Tullibardine, Earl of, 80, 85
 — Marquis of, 123
- Tunbridge Wells, 120, 125
- Turing, Alexander, 164, 165
- Turriff, 50
- Tutbury, Horn of, 293
- Twopenny, Colonel, 148
- Tyrawley, Lord, 140

- Udney, 10
 Urie, 36
 Ulphus, Horn of, 293

 Vanhorn, Abraham, 140
 — Mary, 140

 Walchope (Wauchope, Wacheop, Wah-
 chop, &c.), Alan, 8, 15, 151, 152
 — John of, 7, 15, 156, 157
 — Robert of, 8, 15, 151, 152
 Wallace, Robert, 231
 Walkmylne, 286
 Walpole, Horace, 141
 Waltham, Abbey of, 1, 3
 — Charters of, 2
 Warner, Mr., 139
 Warriston, 27, 130, 132, 291
 Washington, 98
 Waterton, 16, 117
 Watson, Thomas, 42
 Webster, Mr. Peter, 66
 Wedderburn, 108
 Wellisbourne, 141
 West, Lord Chancellor of Ireland, 141
 — Mary, 141
 — Richard, 141
 Westhall, 30, 97
 Weston, 30
 Wester Cardney, 11, 12, 33, 154, 156, 163,
 164, 165, 166, 167, 168, 169, 191,
 205

 Wester Corse, 28, 32
 — Slowy, 42, 59, 78, 206
 Whitefield, 144
 Whyt, George, 208
 Whytrigis, 284
 Williams, John, 141
 Williamson, Alexander, 169
 Wilson, Thomas, 218, 221
 Windsor, 233
 Winram, Captain, 74, 75
 Wishart of Pitarrow, 37, 143
 Wiston, 149
 Wolend, 285, 286
 Wolflee, 109
 Wood Dalling, 31, 291
 Wood, Helen, 31
 Woodtoun, 73
 Worcester, 56
 Worthies, Chamber of, 24, 333
 Wright, C. F., 147
 — Charles James Stewart, 147
 Wyse, David, 144

 Yarmouth, 208
 Young, John, 295
 — Nicolas, 116
 — Peter, 116
 Youngson, Mr. James, 278
 York, Duke of, 96

 Zealand, 90

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ABERDEEN



FOURTEENTH REPORT BY COUNCIL

1900

The New Spalding Club.

Founded 11th November, 1886.

Patroness:

HER MAJESTY THE QUEEN.

OFFICE-BEARERS FOR 1900-01.

President:

THE EARL OF ABERDEEN, G.C.M.G., LL.D.

Vice-Presidents:

THE DUKE OF RICHMOND AND GORDON, K.G., D.C.L., LL.D.	THE LORD FORBES.
THE DUKE OF FIFE, K.T.	THE LORD SALTOUN.
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	EMERITUS PROFESSOR DAVID MASSON, LL.D.

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W. Bruce Bannerman, Croydon.	Lt.-Colonel William Johnston of Newton Dee, M.D.
John Bulloch, Aberdeen.	J. F. Kellas Johnstone, London.
Sir Thomas Burnett, Bart., of Leys.	The Rev. William Forbes Leith, S.J., Selkirk.
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Patrick Cooper, Advocate, Aberdeen.	The Rev. John G. Michie, Dinnet.
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Henry Wolrige-Gordon of Esslemont.	George Walker, Aberdeen.
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	Robert M. Wilson, M.D., Old Deer.

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FOURTEENTH REPORT BY THE COUNCIL.

Approved at the Fourteenth Annual General Meeting of the New Spalding Club, held on Wednesday, 26th December, 1900, at 2.30 p.m.

THE Council feel that they cannot begin their Annual Report without putting on record their sense of the irreparable loss sustained by the Club through the death of Sir William D. Geddes. The late Principal was one of those who in the Summer of 1886 took steps to resuscitate the Spalding Club, from the outset he was one of its Vice-Presidents and a member of the Business and Editorial Committees, and since 1889 he acted as Convener of the latter. Two of the works issued by the Club appeared under his editorship: the HERALDIC CEILING OF THE CATHEDRAL OF S. MACHAR (in conjunction with Mr. Duguid McCombie); and the MUSA LATINA ABERDONENSIS, of which two volumes were completed. Apart, however, from these direct services, the Club benefited in many ways by the deep interest which the Principal ever took in its prosperity. With characteristic regularity he attended the meetings of Council and Committees; and on four occasions he was called on to take the chair at the Annual General Meeting of the Club, which never failed to gain interest and dignity under his presidency.

Other members of the Club who have died since the last Report submitted by the Council are the Marquis of Bute, one of the Vice-Presidents; Mr. George Cadenhead, Aberdeen, and Dr. C. B. Davidson, Aberdeen, members of the Council; Mr.

James Allan, Aberdeen ; Sir William Cunliffe Brooks, Bart. ; Mr. John Cumming, Fintray ; Mr. George Auldjo Jamieson, Edinburgh ; Mr. W. H. Lumsden of Balmedie ; Mr. Charles McHardy, Aberdeen ; Mr. William Mitchell, Aberdeen ; Mr. George Russell, Wandsworth ; and Mr. A. R. Turnbull, Banchory.

Since the first appointment of Committees in 1886, the Editorial Committee has lost by death Mr. Charles Elphinstone Dalrymple, Dr. George Grub, Dr. William Alexander and Rev. Dr. Woodward ; while the Business Committee has lost Mr. Patrick H. Chalmers, the original Honorary Treasurer, Dr. John Webster, Dr. Francis Edmond and Dr. C. B. Davidson. The impossibility of adequately filling up the convenership left vacant by Sir William Geddes' death leads the Council to recommend that the functions of the separate Editorial and Business Committees should be combined, and that the general management of the affairs of the Club should be entrusted to a single body to be styled the Executive Committee of the Council.

At the last General Meeting of the Club, held on Wednesday, 27th December, 1899, it was agreed, on the motion of Professor Dove Wilson, seconded by the Rev. James Smith, B.D., " That the New Spalding Club represent to the authorities charged with the revision and completion of the Ordnance Survey that every effort should be made to preserve a record of old place names, and of the old boundaries of parishes, towns and counties ; and the Club would in particular direct attention to the fact that in many cases where small estates and houses have disappeared, the names survive as names of fields, or of natural features ". After some correspondence on the subject with Sir John Farquharson of Corrachree, formerly Director-General of the Ordnance Survey, and a member of the Club, who courteously placed the results of his experience at the service of the Council, a representation to the above effect was forwarded to Colonel Duncan A. Johnston, the present Director-General.

In acknowledging receipt Colonel Johnston wrote: "In reply I may say that the documents of the first survey made by this Department and the impressions of that survey, of which a certain number will be kept, form a record of such old place names and old boundaries of parishes, towns and counties as appear on that survey. Probably, however, the resolution refers to names and boundaries which do not appear on our original maps. To ascertain these would require a special and laborious investigation of an antiquarian nature, which would appear to fall rather within the province of an Antiquarian Society than of this Department. The suggestion that field names should be shown on the Ordnance Survey Maps has been made more than once. It was indeed carried into practice in some of the very early surveys, but the practical objections were found to be such that the practice was abandoned about fifty years ago, and has never been revived. It may be pointed out that the Ordnance Survey Maps afford means for the preservation of names such as those referred to, which are undoubtedly of antiquarian and philological interest, as persons interested in them can insert them on 25-inch impressions, but I am afraid that the Ordnance Survey could not undertake either to ascertain them, or to show them on their maps. The primary object of the Cadastral Survey is to survey the existing features of the country for practical purposes, and this Department would not be justified in diverting any considerable portion of the funds voted for these purposes to antiquarian research."

The Council regret that they are unable to report more than one volume as issued to members since the date of the last Report, *viz.* :—

PLACE NAMES OF WEST ABERDEENSHIRE. By the late James Macdonald, F.S.A. Scot. Edited by Charles Edward Troup, C.B. ; and with an Introduction by

Professor Donald Mackinnon, University of Edinburgh. (Pp. xxvii + 347.)

It was hoped that other two volumes which have been for some time in the press would ere now have been in the hands of members; but their respective editors have found it impossible, within the assigned time, to bring to a close the work allotted to them. These volumes are:—

THE FAMILY OF BURNETT OF LEYS, with the collateral branches. By the late George Burnett, LL.D., Lyon King of Arms. Edited by Colonel James Allardyce, LL.D.: with numerous illustrations presented by Sir Thomas Burnett of Leys, Bart. The whole of the text has been printed off, and an Appendix of illustrative documents is nearly all in type. It has been decided that the copies of the Genealogical Tree of the Family presented to the Club by Mr. Kendall Burnett, will be most conveniently issued to members, not bound into the volume, but in a separate form: as was done with the Tree of the Skene Family presented by the late Mr. H. J. Trotter.

RECORDS OF INVERCAULD. Edited by the Rev. John Grant Michie, M.A. With illustrative portraits and views. Of this 400 pages have been printed off.

The prolonged illness of the Rev. William Forbes Leith has prevented any progress being made with the printing of THE DIARY OF THE SCOTS COLLEGE AT DOUAL, although the MS. was ready for the press more than a year ago.

Sir William Geddes had projected a third volume of the MUSA LATINA ABERDONENSIS, to deal with the Latin writings of the minor poets of Aberdeen in the 16th and 17th centuries,

including Andrew Aidie, William Aidie, William Blackhall, Thomas Cargill, Robert Downie, Patrick Dun, Robert Gordon, John Johnston, William Johnston, James Lawson, David Leech, John Leech, John Lundie, Andrew Massie, John Rae, Thomas Reid, George Robertson, John Row, John Sibbald, Archibald Simpson, George Strachan, John Vaus, Alexander Wedderburn, David Wedderburn, William Wedderburn, and the lesser versifiers of the "Funerals". For this volume Colonel Johnston of Newton Dee had presented copies of a photogravure portrait of his collateral ancestor, Professor William Johnston. Through the lamented death of the Principal the project falls, meanwhile, into abeyance.

Nothing definite can as yet be stated regarding the often-suggested HISTORY OF THE FAMILY OF GORDON; but it gives the Council pleasure to be able to state that the MS. COLLECTIONS REGARDING THE FAMILY OF FORBES, compiled by the late Mr. William Troup, have at last been placed in the Secretary's hands, and that a Report relative to their extent and nature is in preparation.

The Council are glad to be able to announce as approved by the Editorial Committee, and now begun, three works (additional to those mentioned in last Report as being prepared by Mr. Littlejohn, Mr. Munro, Mr. Ree, Professor Trail, Mr. Robertson and Mr. Kellas Johnstone), *viz.* :—

RECORDS OF ELGIN. To be edited by William Cramond, LL.D., on the general lines of his ANNALS OF BANFF, although, from the greater importance of the Burgh of Elgin, the contents will appeal to a wider range of readers.

RECORDS OF THE ABERDEEN FRIARS: RED, BLACK, WHITE AND GREY, 1211-1560. To be edited by Francis C. Feles. This work has been on the programme

of the Club since its resuscitation, and was on the programme of the original Spalding Club. Its publication was also urged by the late Professor Cosmo Innes in his *SCOTCH LEGAL ANTIQUITIES*. Sir George Reid, *P.R.S.A.*, and one of the Vice-Presidents of the Club, has kindly made drawings of the Church of the Grey Friars to be reproduced as illustrations in the volume.

FOLKLORE OF THE NORTH-EAST OF SCOTLAND, based on the MS. Collections of the late Rev. Walter Gregor, LL.D. To be edited by James E. Crombie, M.A.

The Council would acknowledge its continued obligation to the Society of Advocates for permitting the Annual General Meeting of the Club to be held in the Society's Hall; and to the Curator of the University Library for granting the use of a room for Committee meetings.

WM. FERGUSON, C.

ABSTRACT.

Framed from the Annual Accounts of the Club for the period from
19th December, 1899, to 19th December, 1900.

THE CHARGE.

Assets at close of last account,	£997	19	7	
Subscriptions for year 1900,	462	0	0	
Subscriptions for year 1901,	7	7	0	
Arrears and payments by new members for back volumes,	16	16	0	
Repayment of outlays,	3	12	0	
Interest,	29	11	1	
				<hr/>
Amount of the Charge,				£1517 5 8

THE DISCHARGE.

1899. I. MISCELLANEOUS ACCOUNTS PAID.

Dec. 28. Taylor & Henderson : printing, 1900	£25	0	0	
Jan. 2. Mr. J. F. Kellas Johnstone : outlays,	1	1	0	
„ 25. Scottish Record Soc. : subscription,	1	1	0	
„ 30. Mr. J. M. Corner : engraving,	3	13	0	
July 30. A. King & Co. : printing,	5	16	6	
„ Edmond & Spark : binding,	37	17	11	
Aug. 9. Grosvenor, Chater & Co. (per E. & S.) : paper,	225	13	5	
Nov. 12. Milne & Hutchison : printing,	25	0	0	
Dec. 12. Taylor & Henderson : printing,	25	0	0	
				<hr/>
				£350 2 10
				<hr/>
Carry forward,				£350 2 10

Brought forward, £350 2 10

II. SECRETARY AND HONORARY TREASURER.

Secretary's Salary, 1899-1900,	£26	5	0	
Secretary's Postages, 19th Dec., 1899, to date,	4	16	7	
Hon. Treasurer's sundry outlays, including				
Insurance on paper, etc.,	7	10	1	
				38 11 8

III. ASSETS AS AT 19TH DECEMBER, 1900.

Loan to Aberdeen School Board,	£350	0	0	
Deposit Receipt with Town and County Bank, Ltd., being Composition received from seven Life Members,	73	10	0	
Eight do., with do.,	705	1	2	
				1128 11 2
Amount of the Discharge, equal to the Charge,	£1517	5	8	

Note.—The Miscellaneous Disbursements above are allocated as follows:—

I. "PLACE NAMES."

Binding,	£21	7	11	
Packing,	3	12	8	
Carriage, etc.,	11	10	1	
				£36 10 8

II. "FAMILY OF BURNETT."

Paper,	£24	15	0	
Printing: Milne & Hutchison,	25	0	0	
Engraving,	3	13	0	
				53 8 0

III. "RECORDS OF INVERCAULD."

Paper,	£24	15	0	
Printing: Taylor & Henderson,	50	0	0	
				74 15 0

IV. SUNDRIES.

Printing and Postage of Reports, Circulars, etc.,	£5	16	6	
Miscellaneous Transcribing, Stationery, etc.,	3	9	3	
Paper in Stock,	176	3	5	
				185 9 2
Amount of Miscellaneous Disbursements, as above,	£350	2	10	

RULES.

(As approved 11th November, 1886, and amended 16th December, 1886, 21st December 1894, and 29th December, 1897.)

1. The objects of the New Spalding Club shall be to promote the study of the History, Topography, and Archæology of the North-eastern Counties of Scotland, and to print works illustrative thereof.
2. The Club shall consist of five hundred [16th Dec., 1886] members, subscribers of one guinea annually: each subscription to be paid on or before the first day of January in each year.
3. The general management of the affairs of the Club shall be vested in a Council, consisting of a President, at least ten Vice-Presidents, and not fewer than forty ordinary members, including a Secretary and a Treasurer: all to be chosen yearly at a General Meeting of the Club, to be held at Aberdeen, in the Month of October, or at such other time within each year as may be found convenient. At all Meetings of the Council seven members shall form a quorum.
4. Immediately after the Annual General Meeting the Council shall elect Acting Committees to carry on the work of the Club.
5. The accounts of the Club shall be audited annually, by two Auditors, to be chosen at the Annual Meeting from among the members.
6. The name of any member in arrear with his annual subscription on the first day of October in each year may be removed from the list of members.
7. Vacancies in the membership shall be filled up according to priority of application.
8. Members may, at any time, compound for all future annual subscriptions, by payment of ten guineas over and above the subscription for the current year; and it shall be in the power of the Council to exempt from subscriptions, annual or other, any member who may present to the Club a work, the printing of which, as a Club publication, has been sanctioned by the Council.
9. Every member shall receive one copy of every volume assigned by the Club to the years for which he has paid subscriptions; and the editor of each work shall receive five additional copies of his work. [The heir, executor or representative of a member shall have no claim to volumes issued by the Club after the member's death, unless he be admitted a member of the Club in place of the deceased. 21st Dec., 1894.]

10. The number of copies printed in each case shall not exceed five hundred and twenty-five, and no copy of any work printed by the Club shall be offered by it for sale; [but it shall be competent for the Editorial Committee to arrange for extra copies not exceeding twenty-five, additional to the five hundred and twenty-five, of any volume considered appropriate, to be placed at the disposal of the University of Aberdeen, which shall refund to the Club the prime cost of such extra copies, and employ them, outwith the bounds of the United Kingdom, as part of a series of inter-academical publications. *29th Dec., 1897.*]
11. The Club shall undertake the issue of its books without the intervention of publishers or booksellers.
12. A General Meeting of the Club may be called at any time on presentation to the Secretary of a requisition signed by twenty members; and the above rules may be altered at any General Meeting, provided that the members have received from the Secretary at least fourteen days' notice of the proposed change.

WORKS ISSUED BY THE NEW SPALDING CLUB.

- MEMORIALS OF THE FAMILY OF SKENE OF SKENE, FROM THE FAMILY PAPERS, WITH OTHER ILLUSTRATIVE DOCUMENTS. Edited by William Forbes Skene, D.C.L., LL.D., Her Majesty's Historiographer for Scotland. (Pp. 269 + xv., with six full-page plates. First Annual Report.) 1887.
- CARTULARIUM ECCLESIAE SANCTI NICHOLAI ABERDONENSIS. Recognovit Jacobus Cooper, S.T.D., in Ecclesia supradicta Presbyter. Tomus prior. (Pp. 278 + xix., with three plates. List of members, 11th November, 1887.) 1888.
- Do. do. Tomus alter. (Pp. 496 + lxvi., with twelve plates, eight in colour.) 1892.
- LACUNAR BASILICAE SANCTI MACARII ABERDONENSIS: The Heraldic Ceiling of the Cathedral Church of St. Machar, Old Aberdeen. Described in Historical and Armorial Detail by William Duguid Geddes, LL.D., and Peter Duguid. (Pp. 172 + xix., with thirty plates, twenty-four in heraldic colours. Second Annual Report.) 1888.
- FASTI ACADEMIAE MARISCALLANAE: Selections from the Records of the Marischal College and University, MDXCIII.-MDCCCLX. Edited by Peter John Anderson, M.A., LL.B. Vol. I. Endowments. (Pp. 577 + xxxi., with five plates.) 1889.
- Do. do. Vol. II. Officers, Graduates and Alumni. (Pp. 596 + xxii., with thirteen plates.) 1898.
- Do. do. Vol. III. Index to Vol. II. Compiled by James F. Kellas Johnstone. (Pp. 196 + viii., with three plates. Eleventh and Twelfth Annual Reports. List of members, 1894-98.) 1898.
- SELECTIONS FROM WODROW'S BIOGRAPHICAL COLLECTIONS: Divines of the North-east of Scotland. Edited by the Reverend Robert Lippe. (Pp. 360 + lxxxv., with two plates. Third Annual Report.) 1890.
- THE MISCELLANY OF THE NEW SPALDING CLUB. Vol. I. (Pp. 391 + lxii. Fourth Annual Report. List of members, 12th December, 1890.) 1890.
- THE ANNALS OF BANFF. Compiled by William Cramond, LL.D., Schoolmaster of Cullen. Vol. I. (Pp. 385 + xv., with nine plates.) 1891.
- Do. do. Vol. II. (Pp. 498 + xi., with eleven plates. Sixth Annual Report.) 1893.
- MUSA LATINA ABERDONENSIS: Edited by Sir William Duguid Geddes, LL.D. Arthur Johnston. Vol. I. The Parerga of 1637. (Pp. 318 + xxiv., with six plates. Fifth Annual Report.) 1892.
- Do. do. Vol. II. The Epigrammata and remaining secular Poems. (Pp. 308 + lvi., with nine plates. Eighth Annual Report.) 1895.

HAND-LIST OF BIBLIOGRAPHY OF THE SHIRES OF ABERDEEN, BANFF AND KINCARDINE. By Alexander W. Robertson, M.A. (Pp. 133 + iv.) 1893.

OFFICERS AND GRADUATES OF UNIVERSITY AND KING'S COLLEGE, ABERDEEN, MVD.-MDCCLX. Edited by Peter John Anderson, M.A., LL.B. (Pp. 399 + xx., with four plates.) 1893.

HECTORIS BOETHII MURTHLACENSIIUM ET ABERDONENSIIUM EPISCOPORUM VITAE. Edited and Translated by James Moir, M.A., LL.D., Co-Rector of Aberdeen Grammar School. (Pp. 210 + xx., with two plates. Seventh Annual Report. List of members, 30th June, 1894.) 1894.

THE RECORDS OF ABOYNE, MCCXXX.-MDCCLXXXI. Edited by Charles, 11th Marquis of Huntly, Earl of Aboyne, etc., P.C., LL.D. (Pp. 590 + xlv., with eleven plates.) 1894.

HISTORICAL PAPERS RELATING TO THE JACOBITE PERIOD, 1699-1750. Edited by Colonel James Allardyce, LL.D. Vol. I. (Pp. 338 + 1., with eleven plates.) 1895.

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