

UDAL AND FEUDAL.



ORKNEY and Shetland were handed over to Scotland, but care was taken to secure the rights of the inhabitants of the islands by the provision in the treaty of 1468 that they should be governed according to their own laws and

usages. These were different from those of Scotland in several important particulars. Unfortunately, the new Scottish rulers did not know the laws of the earldom, and did not care to learn them.

With regard to the holding of land, the laws of Scotland were entirely different from those of Orkney. In Scotland land was held according to the feudal system, in Orkney according to the udal system. Under the feudal system the king was nominally the owner of all the lands in the kingdom. The various landlords held their lands from him as their superior, in exchange for certain services to be rendered or payments to be made, and by a written title, without which they had no legal claim to the land.

The udal system has been described as "the direct negation of every feudal principle." The udaller held his land without any written title, subject to no

service or payment to a superior, and with full possession and every conceivable right of ownership. The udaller was a peasant noble; he was the king's equal and not his vassal. He owed king or jarl no services, duties, or payment for his udal lands, which he held as an absolute possession, inalienable from him and his race.

It must not be supposed that all the land in Orkney was held udally, or that all the inhabitants were udallers. There were some udallers who held part of their land as tenants, and many of the islanders held no udal land at all. All landholders, whether udallers or tenants, had to pay a tax, called "skatt." This was a tax levied to meet the expenses of government and defence. Skatt was paid sometimes to the King of Norway, sometimes to the Earl of Orkney, but it was legally the property of the crown. Hakon, when he lay dying in Kirkwall, levied skatt on the landholders of Orkney for the support of his troops during the winter. In this he was only exercising the undoubted right of the crown of Norway. But the skatt was never a rent, and never carried with it the acknowledgment of king or jarl as the real landowner.

When Orkney came under Scottish rule, the King of Scotland became entitled to the skatt. Some Scottish nobleman or churchman was usually appointed to collect the revenues of the crown in the earldom. This nobleman or churchman was paid a commission on what he collected, together with any trifles he might extort "in ony manner of way." Sometimes the revenues of the earldom were farmed out to the collector, an annual sum being paid by him into the royal

treasury as rent. This arrangement afforded much room for extortion, and all the more so because the crown collector was ignorant, or could pretend to be ignorant, of Orkney law and of the udal system.

In 1471 the Scottish crown purchased from Earl William all the lands and revenues which he held as Earl of Orkney. In 1472 Bishop William Tulloch was appointed to collect the revenues of the crown in Orkney. The period of Scottish oppression at once began. The bishop was deeply imbued with feudal prejudices. He had a rental drawn up, in which he registered the lands of udaller and tenant indiscriminately, with a studied confusion of their different rights. Both udal and feudal payments were exacted as rents from all holders of land.

The udaller had no one to whom he could appeal to right his wrongs and protect him against oppression. He had no written titles. The bishop ruled the bishopric as bishop, and he ruled the earldom as representative of the crown. The churches were filled with Scottish priests subservient to his will. The struggle was hopeless from the beginning, but it took a century to reduce the peasant nobles of Orkney to the position and rank of tenant farmers, and in the meantime the various rulers of the islands reaped a rich harvest.

Bishop Tulloch's rule lasted for seven years, and was followed by six years under Bishop Andrew. Then in 1485 Henry St. Clair was appointed representative of the crown in Orkney. The St. Clairs had always been popular in the islands, and the islanders rejoiced at the appointment of Lord Henry. He redressed a number of grievances, but the funda-

mental change of udal into feudal which had begun went on unchecked. It was too profitable a confusion to be put right.

After the death of Lord Henry St. Clair at Flodden, turmoil and confusion reigned in the earldom. His widow, Lady Margaret Hepburn, held the crown lands in Orkney for nearly thirty years, but she was quite unable to rule the islands. A report got abroad that the king intended to give Orkney a feudal lord. In 1529 the trouble came to a head. James St. Clair, the most popular of that popular family, was made Governor of Kirkwall Castle, and put himself at the head of the discontented faction. Open rebellion followed. Lord William St. Clair, son of Lady Margaret remained loyal, and had to escape to Caithness.

Allied with the Earl of Caithness, Lord William invaded the islands with a considerable force. The invaders were met at Summerdale in Stenness by the rebels under James St. Clair, and were defeated with great slaughter. Many old stories about this battle still exist. The Caithness force landed in Orphir, and on their march they are said to have encountered a witch, whom they consulted as to the omens of success. She walked before them, unwinding together two balls of thread, one blue and the other red. She asked them to choose one of the balls as the symbol of their fortune, and they chose the red. The red thread was the first to come to an end.

Unwilling to accept this omen, they demanded that the witch should give them yet another sign. She thereupon informed the Earl of Caithness that whichever side lost the first man in the fight would lose the day. Soon afterwards a boy was met herding

cattle, and by order of the earl he was slain. Only after the deed was done did they discover that the boy was not an Orcadian but a native of Caithness.

Already prepared for defeat by these bad omens, the invaders came upon the Orcadian force at Summerdale. The Orcadians assailed them with showers of stones, and the Caithness force was quickly destroyed. Only one Orcadian is said to have fallen. He, having dressed himself in the clothes of one of the fallen enemy, was slain in the dusk of the evening as he returned home. His mother mistook him for one of the invading force, and felled him by a blow with a stone in the foot of a stocking.

Such are some of the tales tradition has woven round this fight. It was the last stand of the udallers, and the last pitched battle fought on Orcadian soil, if we except the siege of Kirkwall Castle during the rebellion of the Stewarts.

After the battle of Summerdale the islands still remained in a very unsettled condition, until in 1540 James the Fifth thought his presence necessary to restore tranquillity. The king stayed with the bishop in Kirkwall, though not in the ancient Bishop's Palace, which had witnessed the death of King Hakon. The visit of the king led to the removal of many abuses. But his death in 1542, and the long minority of his daughter, Mary Queen of Scots, brought back the former evils in an aggravated form. For twenty years the records of the islands are records of murder, violence, and oppression. The udallers were now a comparatively feeble folk, but their worst period of oppression was still to come.