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THE EARLDOM OF CAITHNESS

NEW LIGHT ON THE SUCCESSION.

MR THOMAS SINCLAIR, M.A, contributes an article of peculiar interest to the November number of the *Highland Monthly*. It is entitled the "Fortunes of the Ratters," and commences with a reference to the recent papers on Castle Girnigoe and the Sinclairs of Ratter" by Mr Macdonald, Town Clerk of Inverness. The keynote to Mr Sinclair's contribution is contained in the following sentences:—" That they (the article\* by Mr Macdonald) have an extremely practical interest since the death of the young Earl of Caithness, especially as to who has now the proper right to the northern Earldom, adds to their general historic value. Indeed, they go far towards completely proving that all the Earls, since the death of Alexander in 1765, have been usurpers, some of them willingly." This is a startling statement, and we shall give a few extracts from the article to how the statement is supported. Mr Sinclair has the following with regard to

THE IMPRISONED MASTER OF CAITHNESS

Before discussing so novel a view of the immediate situation of the Caithness peerage, which would preclude the Aberdeen banker of the Durran family from the title, it is necessary to follow the account given of the Ratters, two of whom were among the usurping earls of this latest information. The first of them, Sir John Sinclair of Ratter, knight, was the third son of John the Master of Caithness, who died 16th March 1576, in the dungeon of Girnigoe Castle, after being imprisoned from September, 1572, by his father, George, the fourth earl. Mr G. M. Sutherland, in the *Celtic Magazine*, mentioned authentic ancient documents for this period of the imprisonment instead of Sir Robert Gordon's seven years.

Such exaggerations are found in everything Gordon writes of the Sinclair family. His father made escape from being the ward of Earl George, which was a high feudal crime. He was also his son-in-law. The ward, when of age, divorced the earl's daughter. Marrying again to the divorced wife of Bothwell, of Queen Mary notoriety, his second son by her, Sir Hubert, the historian, look up the feud between the two families with more than even the usual bitterness of that period. To vindicate the fifty four years rule of George, the fourth earl, both over Sutherland and Caithness, against his malicious attacks is by no means difficult, Mr Sutherland having himself, by aid of his legal knowledge, almost completed the case in George's favour. Yet it is the other day only that some writers, on the occasion of the death of the Earl of Caithness, paraded Gordon's scandalous lying as truth, quite unconscious that they were following the lead of a person of proved untruthfulness, and of mortal malignity as to the Sinclairs of Caithness. It is a pity that Mr Macdonald has in his articles also accepted so much as he has done on such authority, even for introductory purposes. In the advocacy of the Earl's charter, Mr Sutherland unfortunately admitted that the Master was murdered in the dungeon, but of this there is no proof whatsoever, and least of all is there any reason to believe that his father aided or wished for his death. There is enough of material to show that if the unfortunate Master of Caithness died in the dungeon it was a natural death, and further, that if imprisoned there at all, and not in the upper portion of the castle, it was after the manslaughter of his brother William, supposing that this also is not an invention by Gordon, who is the source of all the so-called traditions on the subject. Mr Sutherland's dangerous assumption that the " murder of William Sinclair by the Master in the dungeon was the cause

of his own death very soon afterwards," is totally met by the fact that William's lands of Canisbay and others were in the possession of his brother George, as his heir, at least a year before the death of the Master, for which reference is given to the printed Register of the Great Seal. Two years after the event, the clergy gave a pension to the Earl for "zeal towards the glory of God," in collecting the Church's rent among other things meritorious; and this does not accord with such as those of Gordon about doing his son to death in a dungeon. But the theme will by and by be treated at length on State records and other faithful documents. The Ulbster family, who are descended from an illegitimate son of William, had a tradition that Earl George and the Master, his eldest son, were both seeking in marriage a Euphemia, the only daughter of an ancestor of Lord Reay, and that the earl, to aid his own suit, imprisoned the son. There is no doubt that both were free to marry at the time of the imprisonment, the Countess having died in 1572, and the Master being divorced while in prison because of adultery with a Thurso woman, Rorison or Gunn. Another thing is also known, that the Earl had imprisoned at least one relative before, namely, his natural brother, David of Dun, chamberlain of the bishopric of Caithness. For this he had a Royal remission or pardon in 1565. It is possible that he was of the temper to incarcerate his son, not for love business, but for secular or saving reasons. In that period, if the Master had, as said, hurt his brother to the death, though after some days of lingering, the crime would have been called slaughter, the punishment of which was capital, no matter what the rank. To keep his son in prison — the Earl being justiciary — was the only way of prolonging the Master's life. The Earl's enemies were quite able to give another colour to the matter, and it is possible that tenderness for his son kept his mouth shut.

#### THE SINCLAIRS OF RATTER.

Of Sir John of Ratter we learn more in history than Mr Macdonald thinks. .... There is a good deal of knowledge of Sir John in a contract between the fifth earl and his uncle, George, Chancellor of Caithness. This document will shortly be published, and it throws light on the Girnigoe mystery, and on some of the persons related to it.

The succession of Sir John's three sons to Ratter lands is illustrated by an inventory of about forty documents, of the charter and bond kind, to be found in a volume of printed law papers in the British Museum, containing the proof of 1767 by William Sinclair of Ratter, when claiming the earldom of Caithness. It is not necessary to fasten on John, or indeed upon any of the brothers in particular, the origin of the pecuniary embarrassment; for their father had only a small property, given him, as one ancient record says, to "aid him towards a living." The brothers James and John borrowed for their sister's dowry £3000 from Sir John, son of George of Mey, then the wealthiest family; and Sir William of Cadboll being another of the Meys, it is easy to see how he came to have Ratter lands mortgaged to him, and afterwards appraised. William, the son of James of Ratter, was a creditor of the Meys in 1692, when, at the instance of the Cunninghams, to Jean of whom he was married, they were made bankrupts and their estates sold.

It is of William's son, John of Ratter, that the pathetic tale of the Inverness imprisonment for debt is told; and, being married to Elizabeth, daughter of Sir William of Mey, it is probable that the financial troubles, for which he suffered so severely, came to him partly through connection with the liabilities of that family. But fortunes were small then, and estates were often lost and gained. Mr Macdonald does not mention John of Ratter's petition from the vault of the steeple of Inverness, nor the fact that it was at the instance of Alexander Rorison, merchant Thurso, for a debt of £1400 Scots, that in May, 1700, he was confined within the prison of Tain. The petition and explanatory matter appeared some years ago in an Inverness newspaper, and subsequently in the *Northern Ensign*, Wick. But an unexpected addition is

afforded, not by the fact well known, that Neil Macleod of Assynt obtained a degree of apuilzie or wasting for £2000 Scots against Ratter and Sir James of Mey in 1692, the year of Mey's bankruptcy but that on 2nd May, 1704, Ratter was imprisoned in the tolbooth of Inverness for not paying a portion of this debt. Neil was the betrayer of Montrose, and it was surprising, to say no more, that he found himself successful, but it occurred in the time of William and Mary.

#### THE RAID ON ASSYNT.

His (Mr Macdonald's) guesses as to the raid on Assynt can be supplemented with facts. In a legal paper written In 1738, consisting of 22 pages, there is a full narration of the methods by which Macleod was dispossessed of Assynt, and of the hardships which he suffered from the Earl of Seaforth, the Mackenzies, his clan, and from the Sinclairs of Cadboll or Mey, with others of the name. The country of Assynt suffered a series of raids. In 1640, while Neil Macleod, its laird, was a minor in the house of Seaforth at Braen, Seaforth ordered his men to fall upon Neil's castle. They made great havoc, burning the habitations of 180 families and carrying of 3000 cows, 2000 horses, and 7000 sheep and goats. No redress could be had by Macleod. In 1654 again, when General Middleton was making his last struggles against Cromwell in favour of Charles II., Lord Seaforth made great depredations in Assynt. He destroyed wine and brandy, which Neil bought out of a ship then on the coast, besides other commodities, to the value of 50,000 merks. He carried off 2400 cows, 1500 horses, 6000 sheep, and burnt or destroyed many houses. This was three years after Neil's betrayal of Montrose, when he was fair game for his enemies. But he brought his case before the English judges who then ruled Scotland, and claimed that Middleton admitted giving no orders to Seaforth to lay Assynt waste. Seaforth defeated the process by proving that Neil tried to prove an alibi as to his betraying Montrose, he being, he said, 60 miles from the spot where "that barbarous cruel action" occurred.

#### WILLIAM OF RATTER A USURPER

It is the doings of William Sinclair of Ratter, grandson of this unhappy prisoner, in securing for himself the earldom of Caithness, that most account has to be taken; and there cannot be too much acknowledgment of the effective addition of information on the theme given by Mr Macdonald. Nothing could be more complete proof, from documents in the Advocate's Library, and from other unprejudiced sources, that William ought never to have been Earl of Caithness, and that Captain James Sinclair, H.E.I.C.S., grandson of David of Broynach, was the proper heir. The fulness of knowledge is remarkable, and of a pertinent value quite unknown since the end of the contest in 1772, when William became earl. A thing of direct interest is that the descendants of David of Broynach, brother of John, Earl of Caithness, are not at all likely to be extinct; and it is among them that a new earl has to be sought now, the Mey earls being so only because they were next heirs after the Ratters, both branches, it seems usurpers of the rights of the Broynachs. In a pape, lately contributed to the *Northern Ensign*, David of Broynach had three sons and a daughter by Janet Ewen. David, Donald, and Janet's names being recorded, are certain. The fourth is at present doubtful, but the parish registers could discover the name and sex, both of which are not as yet known. Henderson, in "Caithness Family History," has the following remarkable note:—"By Janet Ewen, who was his servant, David of Broynach had two sons, David and Donald, and two daughters. David, the eldest son, enlisted as a soldier, and married Margaret More or Mackay, by whom he had a son, James, who resided in Reiss" (the claimant against Ratter), "and John, who was alive in 1767. Donald Sinclair, David's second son, went to sea, and married, and had a son and five

daughters, who were all dead in 1767 except one named Anne, who married Alexander Millis, merchant in Banff. Janet Ewen was buried in the Old Kirk of Olig, under Durran's seat." It would seem as if it were the daughters except one who are referred to as all dead in 1767, and Donald's son may therefore be well represented in Caithness. But, even if this son was also dead in 1767, there is the other statement, which demands investigation, that there were three sons. The third may have descendants among whom the rightful heir to the earldom of Caithness is now to be found. The parish registers at the Register House, Edinburgh, can settle this point, especially those of Olig, Thurso and Wick parishes. It is one of the Durran family, under whose seat Janet Ewen was buried, who is considered the rightful earl, being of a branch of the Mey late earl's family ; but it is probable that this persecuted woman of the people shall yet obtain her right and justice as the ancestress of earls, and as the true married wife of David Sinclair of Broynach, Earl John's brother.

#### THE RIGHTFUL HEIRS TO THE EARLDOM.

To aid this new inquiry the writer advances some curious traditions which have been very persistent among his own section of the Sinclair family. About 1855, in particular, his grandfather, John Sinclair, in Reiss, then 75, told him, as a boy of 12, that his descent was from the Sinclairs of Isauld. Now, Isauld came into the possession of the Murkle and Broynach family in 1723, and, as Isauld was a barony, they must have gone thereafter by the title of the Sinclairs of Isauld. The Earl Alexander who died in 1765 was one of them, about the succession to whose title the contest between William of Ratter and James in Reiss took place. The father of John Sinclair in Reiss, mentioned above, was James, born in 1742. He was chamberlain to Sinclair of Harpsdale, provost of Wick (who was the uncle of Sir John of Ulbster, the agriculturist and statistician) and he appears in the Wick parish register frequently as "James Sinclair in Sarclet." My grandfather said that Harpsdale's third wife, Helen, one of the Lybster family, was a near relation to my great-grandfather ;and the Lybsters are known in their consanguinity to the Murkle-Broynachs, or, or they were called later, the Isaulds, Sir James Sinclair of Murkle being the ancestor of the Lybsters by an illegitimate son. The rumour always has been that this James in Sarclet had rights to a high position, and that the Ulbsters knew it, and accordingly favoured him specially, even to losing the friendship of Earl Alexander, who repudiated the descendants of his uncle, David of Broynach, as illegitimates. A decision in favour of Ratter, in 1772, put the stamp of illegitimacy, though falsely, on the Broynachs, then the only representatives of the Isaulds; and any relationship to that family would naturally not be much published on such understanding. That James in Sarclet accepted the decision is to be inferred from the tradition of his grand-daughter, now 83, who heard that his descent was illegitimate. The new discoveries change all this. It can easily be imagined that the Broynach or Isauld descendants, after Captain James's gallant struggle for his rights, had neither will nor means to continue the fight on his death in 1788.

James in Sarclet was probably the son of Donald mentioned In Henderson's note, or a son of the third son of David of Broynach, whose name has yet to be discovered, but who may have been a "James in Ulbster " of Wick Parish Register. In Sarclet there were families of exactly the Broynach names, James, Francis, David, John, Alexander, and Donald, which is at least cumulative evidence. Till Mr Macdonald's facts appeared, this descent had many difficulties which now depart. The tradition of Isauld descent had led in other, but wrong, directions, namely, to the Asseries, an illegitimate branch of the Murkle-Broynach Isaulds, and to the oldest Dunbeaths, who were holders of Isauld early in the seventeenth century. But the latest discovery that the Broynachs were the Isaulds of my grandfather's reference puts all other theories aside. The consequence from this, if it can be substantiated by documents and good evidence, is clear, namely, that the descendants of James in Sarclet have a true claim to the earldom of Caithness before the representative of the Durran family, or any other member of

the Meys. If a nearer heir can be found, it will only be among James in Sarclet's immediate relations, the Isaulds and their descendant's, supposing any exist outside of James's direct offspring, which is not probable, as nothing is known of other Isauld representatives. Should careful search substantiate James in Sarclet as the only representative with living descendants of David of Broynach, the present heir to the earldom is David Sinclair, my father's elder brother, a rich farmer near Geelong, who is married to Catherine Sinclair, a grand-daughter of William Sinclair of Freswick. His brother's names are Alexander, James, John, Francis (which are specially Murkle-Broynach names), and George, who was named out of his own family, after Sir George Dunbar, Bart. of Ackergill.

These hints are only aids to investigation of the serious documentary kind, but they may be allowed to be at least encouraging towards further research. Edinburgh and Caithness are the localities where the final conclusions can be arrived at; and it is fortunate that the subject is opened to public discussion before the Aberdeen banker, who might be made Earl of Caithness, could have an additional disappointment to the loss of the Mey estates belonging to the last earl.

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#### THE SINCLAIRS OF BROYNACH AND THE EARLDOM OF CAITHNESS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—In the last number of the *Highland Monthly*, Mr Thomas Sinclair, M.A., has written a very able and instructive article on "The Fortunes of the Ratters," but I should like to show, through your columns, as a widely-circulated newspaper in Caithness, the country of the Sinclairs, that Mr Sinclair seems to me to be labouring under a very serious mistake in reference to the descendants of David Sinclair of Broynach, whose claim to the Caithness peerage was rejected in 1787. It is quite true that Sinclair of Broynach's descendants are not extinct—far from it; but the representatives of the oldest surviving line of that branch are not now residing in Caithness nor yet in Australia. They have been connected for several generations back with the county of Ross, and Mr Sinclair must make sure that the representatives in that shire have become extinct (which I don't think is the case) before he can to any good purpose go to Australia to discover some younger shoots of that branch to get one of them manufactured into an earl without a single acre of land to support the dignity.

David Sinclair of Broynach had two sons by Janet Ewen—David and Donald. David, junior, had a son named James, who contested the earldom against Ratter and failed, and died without issue in 1788. Donald, David senior's second son, "went to sea," says Mr Sinclair, "and married and had a son and five daughters, who were all dead in 1767 except one named Anne, who married Alexander Millis, merchant in Banff." This is not quite accurate. This "Donald the Sailor," as Broynach's son was called, had a son named William; and this William went to the Black Isle of Ross-shire and took a farm in the parish of Avoch, where he settled down for life, married, and had a considerable family, most of whom lie buried in the churchyard of Avoch. He was a strict Episcopalian, and so were all his family. This William's eldest son, Donald, named after his grandfather, took the farm of Munloch, in the neighbouring pariah of Knockbain, and continued to occupy it until 1793, when he removed to another farm in the same parish, and on the estate of Kilcoy, named Moredun. Here Donald Sinclair remained until his death. He was a strict Episcopalian all his days and worshipped in the Episcopal Chapel of Arpafelee. He was sometimes nicknamed "Lord

Sinclair," because he uniformly maintained that he had a claim to the Earldom of Caithness on account of his descent through David Sinclair of Broynach.

Donald Sinclair had three sons, Charles, John and James. Charles died unmarried. John, famous for physical strength, married, but died without issue. James, the youngest son, succeeded to the farm of Moredun. James Sinclair was a singularly handsome man, with a noble bearing and winning address, which made him very popular with high and low. He was the first of his family to conform to the Church of Scotland. He married and had a large family, and one son and several of his grand-children are still living. He died in 1833 or 1834.

Speaking for myself, I would gladly say that this claim put forward on behalf of the descendants of David Sinclair of Broynach is not very likely to be successful on account of its having been rejected so long ago by our highest tribunal, the House of Lords; but if an Australian claimant to the Earldom come forward urging that he is lineally descended from David Sinclair of Broynach, younger brother of John, eighth Earl of Caithness, the Sinclairs of Ross-shire, through that descent, can undoubtedly put forward a superior claim, inasmuch as they represent the main line of that branch.—I am, yours, &c.,

SCRUTATOR.

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THE SINCLAIRS OF BROYNACH AND THE EARLDOM OF CAITHNESS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

Sir,—The purposes of my article in the November number of the *Highland Monthly* are greatly aided by "Scrutator's" most interesting letter in the *Ensign's* issue of 19th November. I have not a word to object against his view of who is the rightful representative of the Sinclairs of Broynach, if he can only substantiate it by further explanation and documentary or other sufficient proof. In particular it is very desirable that he should contribute to your columns some additional details as to the name, residence, age and related circumstances of him in whom lie the rights of the Sinclairs of Ross-shire, as being descended from David of Broynach. Should he have traditional information about David's son, "Donald the Sailor," especially as to where in Caithness or elsewhere he spent any portions of his life, it might effectually help towards clearing up the subject; and it would also be useful to have the name of Donald's other sons, besides the William who went to Avoch, in the Black Isle of Ross-shire.

Why William went there may be a crucial question of these inquiries. His name and departure from Caithness seem to fill up a strong tradition in my branch of the Sinclair family, which, if authenticated, would prove him one of us. It is said that William and his brothers held a tack of Isauld from, as it would now appear by "Scrutator's" facts, their father's first cousin, Alexander, Earl of Caithness. About 1760 they engaged in the then most unpopular work of exporting corn, their father's knowledge of the world, as a mariner, probably encouraging them to prosecute this dangerous branch of trading. A riot took place against them on a market in Reay; and the brothers being compelled to defend themselves, William had the misfortune to give a fatal stroke to, it is said, a Mackay. He immediately left the county on one of their own freighted corn-vessels, then loading at Isauld port, in Sandside bay. James, afterwards chamberlain to Harpsdale, was one of these brothers who had to give

up their tack through the consequences of the incident.

Whether James or William was the elder will be the question on which turns the decision as to what member of the Broynach family now living is Earl of Caithness. But the matter is of less public interest than the extraordinary fact, now absolutely established, that all the Earls of Caithness since Alexander, who died in 1765, have been usurpers ; the detailed narrative of a Broynach branch's history and survival in Ross-shire by "Scrutator," making an effective addition to the ample evidence available us to the point. The Aberdeen representative of the Durran family has no claim as against the true representative of the Broynach family, whether the latter is my uncle, David Sinclair, Geelong, married to Catherine Sinclair, grand-daughter to William Sinclair of Freswick, who died in 1838, aged 90, or whether he is one of the Ross-shire descendants of the brother William mentioned above. It may be said by way of replying to " Scrutator's " less important statements or misgivings, that David of Geelong, the representative of the brother James, would not be an " earl manufactured without a single acre of land to support the dignity," he being a considerable proprietor of land, and rich besides, if this were of any importance to a question of right and justice. The rejection also of the Broynach claims in 1772 " by our highest tribunal, the House of Lords," need not make " Scrutator " hopeless as to the success of a claim now to the earldom by some representative of the Broynach family; for the House of Lords, as the town-clerk of Inverness says, " adopted a course which, it may safely be predicted, will never again be taken in disposing of a peerage claim. They made no independent inquiry, but trusting entirely to the evidence led before the Court of Session, and the result arrived at by that Court, found that Ratter had made out his claim to the peerage." On the one-sided evidence produced, they could even be justified in their finding; but the new information demands the active revision of the " highest tribunal," for their own satisfaction as just judges. It was on 22nd July, 1760 [sic], that the Court of Session determined the cause against Broynach ; and the *Scots Magazine* says that two of the judges were against the verdict, Lord Pitfour and Lord Monboddo, the latter an extraordinary and able writer as well as lawyer, the anticipator of the development theory of Darwin. That these two could have doubts, on the cooked and partial evidence which alone came before them, proves that Broynach even then only missed his rights by the merest accidents of imperfect knowledge, so easily explained by the poverty and other limits of his position. Had he lived a year or two longer after his return wealthy from India, he would have triumphantly made out his case and dispossessed the intruding Ratters on the evidence he had accumulated, as the town-clerk of Inverness has clearly shown in the *Highland Monthly*.

One remarkable piece of indirect evidence as to Janet Ewen's position (if there were not the absolute documentary proofs of her marriage, in the presbytery and session records of Caithness, to David of Broynach) is a curious example of the proverb that truth will out; in other words, that justice has a strong tendency to complete itself. She was buried under Durran's seat, in the aisle of the family, in the old church of Odrig; which means that the direct ancestor of the Aberdeen banker who is now supposed to be the heir to the earldom, admitted this woman of the people among his own relations in the most sacred and, let it be remembered, exclusive precincts of burial. There can be no doubt that the laird of Durran accepted her as Earl John's sister-in-law, legally married to the Earl's brother, David of Broynach. On no other theory can it be understood that a landed family would allow such a commingling of dust with a woman who had undergone the greatest social degradation, not only of personal toil but of church discipline. It is strange that her descendants should now be an impassable bar to one of the Durrans taking possession of the earldom, but the facts of the case are unmistakable.

It may sharpen " Scrutator's " practical interest to be told that more than a hunt for a peerage is involved. Should the Broynach living representative, either he in Geelong or in Ross-shire,

succeed in securing the title, the logical, and presumably the legal, consequence would be the recovery to him of one of the largest estates in the county, ample for the maintenance of the dignity of an earldom. But it might be immature to enter into details as to so substantial a probability, as they would inevitably raise antagonisms, secret or public, to gaining the first step of justice for the Broynachs. It has already been intimated by me to my distinguished friend, the Lord Advocate of Scotland, who, in the event of a contest, may have to act for the Crown, that the peerage of Caithness stands in the position which is now being so fruitfully discussed. Compared with the knowledge which could be gathered some years ago from my contributions to the *Ensign's* columns, "The Second Contest for the Earldom," present information is as the light of day, and more is certain to follow on the solid foundations now laid.

Let me add some outline that by and by may be fully filled in; of tradition and evidence of a totally new character which have been collecting about the first possession of the earldom by the Meys in 1793. Disinclination to disturb the late young Earl's standing, by publishing what was the only imperfect evidence that his ancestor, Sir James Sinclair of Mey, had no right to the earldom, restrained my public statement of some very peculiar facts and probabilities. Seven years ago I had an appointment with Mr Murdo Tulloch at the Royal Hotel, Thurso, to collect Caithness history facts from him; his aged brother, John, being the source of his knowledge; one of the famous Tulloch schoolmasters who taught in the county, at Reay, Ulbster, and Lythmore, for 130 years continuously. They roundly asserted that all the Mey earls were usurpers, and Murdo put upon them also the brand of illegitimacy. The latter point is of less pertinency to the Broynachs, because it is undoubted that Sir James, the first Mey earl, was legitimate, and could not be objected to on such ground. His fault was assuming the earldom when he knew there were nearer legitimate heirs surviving. Though from the most intellectual family perhaps of Caithness, the Tullochs, the information of the illegitimacy of the Mey earls was too doubtful to be accepted. Study of records, especially the parish registers of Edinburgh, has, however, given considerable colour to the startling statement. It would seem as if Sir James was never married to Jean Campbell, the second daughter of Colonel Campbell of Barcaldine. A marriage is entered in the Thurso register between them in 1783, with the vague date of "December," and the most unusual, if not unique, witnessing of women, Lady Janet Sinclair of Ulbster and Mrs Governor Campbell of Barcaldine, the "Governor" reminding that her husband Colonel Campbell was deputy-governor of Fort George. What was the meaning of this curious transaction in Thurso? In the *Scots Magazine* the marriage is said to have taken place on 2nd January, 1784. But why, so late as 1817, did the earl, the same Sir James, send an extract from the Barrogill Castle family bible to be engrossed in the Wick parish register, which he signed "Caithness," and in which the marriage is dated 23rd December, 1783? The rest of the extract describes the birthdays, birthplaces, and baptising clergyman of the children, among whom is "Alexander, now Lord Berriedale, born at Barrogill Castle, 24th July, 1790, and baptised by Dr Morrison." Here is another irregular piece of work, and looks uncommonly like the making of evidence for a doubtful case. From the Bruce MSS. the story of Sir James's love can be pretty well gathered. On 5th September, 1783, Sir James, then a rough colt of 17, ran away from his school-books and guardian at Barrogill Castle, Captain James Sutherland, who became Lord Duffus in 1826, and found a home at Thurso East Castle with Lady Janet, the mother of Sir John Sinclair, the agriculturist. The captain had used him very badly, giving him his old clothes to wear, and treating him altogether like a common peasant, so that Lady Janet affected to be, and probably was, shocked at his linen and general raggedness. But her granddaughter Jane fell in love with the boy, and in a few months the marriage had to come off, or pretended to have come off. Lady Janet possessed all the managing and grasping power of a Seton-Gordon (her father being William, Lord Strathnaver, of the Earl of Sutherland family), and she had a great hand in Sir James's affairs then, as also later.



When the death of Captain James of the Broynach family in 1788, and the suicide of Colonel John, the second Ratter earl, in 1789, aged 33, opened the way to new claimants for the earldom, Lady Janet pushed her protegee's chances with energy and ultimate success; managing, the Tullochs said, all the county families to her determined purpose of making her daughter's child Countess of Caithness. As lady of Ulbster, it is impossible that she did not know of the Broynachs, her brother-in-law Harpsdale's chamberlain being one of them, though probably then not the nearest heir, because by the proof of 1767, Captain James had a brother John in Reiss, who may have been alive in 1789. The chamberlain the Ulbsters had in their power, if he should have rights, and attempted to secure them. His dismissal by Harpsdale would effectually stop him by plunging him into poverty. Lady Janet and Sir James had their scheming chance, and they took it without wincing. On 24th February, 1791, a ridiculous attempt of Sir James Erskine to vote in the House of Lords as Lord Caithness, on the strength of his relationship to the Sinclair of Roslin, shows how much the earldom was at the mercy of outsiders. For Sir James Sinclair, baronet of Mey, to give evidence that he was the nearest relative to the Ratter earl was the easiest thing possible. In 1793, Mey was voting as a peer, the Broynach difficulty skilfully evaded. His chief witnesses were Sir William Dunbar and Mr Sinclair, probably Harpsdale, both," said the *Morning Post*, "very old gentlemen." On 4th March, 1793, the House of Lords, in a committee of privilege, admitted the claims of Sir James to the title of Earl of Caithness to be substantiated. There is extant his proof of 1791, which, if seen, would enable stronger opinions to be taken on Sir James's false claim, as against the then dormant, unwilling, or unable Broynachs. It is clear that he succeeded to the earldom, not from right, but by management of ignoring and obscuring the real heir. If the Meys had no right to the earldom of Caithness, neither has the representative of the Durrans, who are a junior branch of the Mey family.—Yours, &c.,

THOMAS SINCLAIR.

Ilfracombe, 1889.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—Perhaps the most extraordinary discovery yet made in connection with the Broynach rights is one that has just come to hand from Edinburgh; but to understand its full force there is the absolute necessity of giving, as promised, a lengthy extract from one of the articles in the *Highland Monthly* of 1889, by Kenneth Macdonald, town-clerk of Inverness, a solicitor who has no bias or private interest whatsoever in the matter to affect his conclusions. On some points, recent evidence has amplified his findings, particularly as to additional persons mentioned in Earl Alexander's entail of 1761, of whom the Broynach are the legal successors. The narrative, however, of a cool and technical intellect is just the thing to command confidence, and cannot be too widely publicised. It is as follows :—

“Alexander, the ninth earl of Caithness, died 9th December, 1765, without male issue, his only child being the Countess of Fife, who succeeded to his personal estate. Earl Alexander was predeceased by all his brothers, one of them being John Sinclair of Murkle, who was a lord of session under the title of Lord Murkle, and none of them left issue. Shortly before his death the earl executed a deed of entail, by which he devised his estates to himself and the

heirs male of his body, whom failing to the second son of his daughter Lady Fife, whom failing to George Sinclair of Woodhall, one of the senators of the college of justice, and his heirs male of line. Under this entail, the whole heritable estate belonging to the late earl was taken, on Alexander's death, by Sir John Sinclair of Stevenston, a nephew of Lord Woodhall, a gentleman who was in no way related to the entailer. The motive, whatever it was, which induced Earl Alexander to devise his estates away from the title, would doubtless have caused him to alienate the title also had he been able ; but it had already been proved in the history of the earldom of Caithness that the title could not be thus transferred, and the earl did not repeat the error of his ancestor by attempting to put the title past the rightful successor to it.

“But who was the rightful successor? This question was to give rise to years of litigation, and in the end to be wrongly decided. The rival claimants were: James Sinclair of Broynach, who claimed through the second son, and William Sinclair of Ratter, who claimed through the third son of John, Master of Caithness. The contest took place, in the first instance, in the Court of Session, on competing petitions for service. The proceedings extended over a long period of time, and it appears from documents in the Advocates' Library that for Sinclair of Ratter alone there were no less than 96 witnesses examined. Sinclair of Broynach would seem to have been very unequally matched in the contest. Mr Riddell, in his book on peerage law, says that on that occasion James Sinclair laboured under every disadvantage being himself poor and destitute, without any interest in Caithness, the scene of operations or having sufficient legal assistance ; while his opponent, besides being a gentleman of fortune, possessed both in a high degree ; and in the claim of Sir James Sinclair of Mey to the earldom of Caithness in 1791, Sir William Dunbar said that James Sinclair of Broynach was of low degree, and not in gentlemen's company. The result of the long and unequal contest between Ratter and Broynach was that the former was served heir male to Earl Alexander, and the latter for the time retired from the field.

“The hitch in the Broynach claim was the want of evidence that David Sinclair of Broynach, the grandfather of the claimant, was married to Janet Ewen, the mother of the claimant's father. The court, by preferring Ratter's claim and serving him heir in preference to Broynach, who was descended from the elder branch, practically branded the Broynach family as illegitimate. James Sinclair did not accept his difficulty cheerfully, but he was without means and without friends; and although, unknown to himself, he was the victim of a mean and disgraceful fraud, he had to give up the fight, at least for the time, and leave his opponent master of the field. He obtained a cadetship in the East India Company's service, and sailed for India very soon after the decision of the Court of Session.

“On achieving his success in the Court of Session, Sinclair of Ratter presented a petition to the Crown, claiming the peerage. On the petition being referred to a committee of the House of Lords, it was ordered to be served on James Sinclair, and on this being declared 'impossible on account of his having sailed for India, it was ordered to be served on his agents. This was done, but they did not appear. Probably they had no authority to do so. Sinclair of Ratter's petition being thus unopposed, there were two courses open to the peers in dealing with it. They might order him to prove his claim by calling witnesses and laying documents before themselves, or they might accept the result of the Court of Session contest as sufficient evidence of Ratter's right. The former course is the one now invariably adopted. Claimants to peerages have not merely to prove their own relationship in presence and to the satisfaction of the Committee of Privileges, but to prove that all possible claimants nearer than themselves are extinct. Had this been adopted with Ratter's claim, he would have had to prove the illegitimacy of Broynach, and this he might have found as difficult with an exacting chairman of committee as Broynach found it to prove his legitimacy in the Court of Session. His

petition would have been heard from time to time, and delayed from year to year, either for further evidence or in the hope that time would remove or solve some of the difficulties created by the absence of absolute proof, until at last, after the lapse of perhaps a quarter of a century, the House of Lords felt it safe to come to a conclusion. The petition of the present Lord Lovat's grandfather was pending for about thirty years. Had anything like this happened with the petition of William Sinclair of Ratter, that gentleman would never have been earl of Caithness. The lords, however, adopted the other course; a course which, it may safely be predicted, will never again be taken in disposing of a peerage claim. They made no independent inquiry, but, trusting entirely to the evidence led before the Court of Session, and the result arrived at by that court, found that Ratter had made out his claim to the peerage, and they adopted a resolution to that effect on 7th May, 1772. William Sinclair, who thus became tenth earl of Caithness, was married to a daughter of John Sinclair of Scotscauder, by whom he had four sons, John, William, James, and Alexander. He died in 1779, and was succeeded by his son John as eleventh earl.

“In 1786, James Sinclair of Broynach, who had by that time attained to the rank of captain in the East India Company's service, returned to Scotland. His object in going abroad was to acquire means to renew the contest, and when he returned he was no longer a poor man. He lost no time in challenging the son of his old opponent, and although the earldom was for a time beyond his reach, he might at least succeed in rehabilitating his family name. Almost immediately on his return he made a startling discovery. A gentleman in Caithness informed him that very soon after the close of the previous contest, 14 years before, a near relative of the tenth earl had stated in conversation that he knew that David Sinclair of Broynach and Janet Ewen were married and their children legitimate, and not only so, but where evidence of the marriage could be found. The information thus obtained led to a search being made in the records of the presbytery of Caithness, resulting in the discovery that in the year 1700 the Rev. Arthur Anderson, an episcopal clergyman, had been charged before that presbytery with celebrating irregular marriages, among the marriages specified being that of Broynach and Janet Ewen. A proof led before the presbytery left no doubt that this marriage among [others? had?] been celebrated by Mr Anderson, and he [???? ] A search was also made in the [????] parish of Olrig where Broynach resided, and there further evidence of the marriage was found.

"The evidence, had it been forthcoming 1770, would have secured James Sinclair's success and the defeat of his opponent, but its existence did not come to the knowledge of the former, although, if the fact is as stated in a note on the session papers preserved in the Advocates' Library, its existence must have been known to Ratter. The note, apparently written by Broynach's counsel, says, 'The presbytery record was carried to the house of Ratter, and there means were used to prevail on Mr Oliphant (the custodier) to destroy or put it out of the way.' There seems little doubt indeed that the fact of David Sinclair's marriage and the existence of the evidence of it were known to William Sinclair of Ratter and his friends during the contest for the earldom, and that they contrived to suppress the evidence. If so, the transaction was an utterly dishonourable one, and reflected little credit on those who were parties to it. Even the scrupulous Rev. Mr Oliphant would appear to have been a party to the deception ; for although he would not put the record out of the way, he seems to have been content to conceal its existence from the person most nearly interested in its production.

“On obtaining this information, Broynach appealed to the House of Lords against the decision pronounced by the Court of Session fourteen years before, but his appeal was too late, and was refused. He, thereupon, in 1787 raised an action of reduction in the Court of Session against the Earl of Caithness, whose title to the earldom he refused to recognise, and whom he designed in the summons as 'John Sinclair, Esq., now of Ratter, assuming and taking upon

him the title and dignity of John, Earl of Caithness.' In the pleadings in that action, the whole story of Broynach's poverty and friendlessness during the previous contest, and of the unequal conditions under which he fought for the peerage, is told. The pursuer, the case says, was a very unequal match for Mr Sinclair of Ratter. That gentleman was a man of fortune and influence in Caithness, and spared no expense on the occasion. He had the best assistance in the course of the proof, being attended by his agent from Edinburgh, and a number of gentlemen of fortune in the county, his friends and relations. On the other hand, the pursuer, then a very young man, was alone, having no money to procure the necessary assistance, and no person present to advise him. The case then proceeds to narrate that as soon as the pursuer's circumstances permitted, he returned from India to Britain with the view to follow forth his claim, and that having in prosecution of his purpose proceeded to make enquiries, he discovered the evidence already referred to of his grandfather's marriage. The entries in the presbytery and kirk session records are quoted, and reduction is sought of the service of William Sinclair of Ratter as heir male of Alexander, ninth Earl of Caithness. In the case lodged for the Earl of Caithness, the facts stated for Broynach are not disputed. The document dwells upon the gross impropriety into which the pursuer had fallen in calling the defender 'John Sinclair, Esq. of Ratter,' and not 'John, Earl of Caithness;' and it is added that were not the defender unwilling to state any objections, which might have the effect of delaying a final judgment in the case, he might justly insist that no procedure could follow on such a summons, but the Court, it is suggested, should, out of respect to the constitution and law of the land, ordain the pursuer to amend the summons.

"The cases for Captain Sinclair and the earl are dated 25th and 27 July, 1787, and there apparently, so far as the Court of Session was concerned, the matter ended. On 11th January, 1788, Captain Sinclair died without issue."

Captain Sinclair was the nephew of Donald the Sailor, his father's younger and only brother ; and the Broynach rights to the earldom are among the living representatives of this Donald, the second son of David Sinclair of Broynach, by Janet Ewen. But the way is now open to state the latest surprise, going unmistakably also to the establishment of the fraudulent dispossession of the true heirs. The baptism or birth date of Donald being a desideratum, Mr James Mackay, Edinburgh (nephew of Rev. Alexander Mackay, LL.D., the geographer, and a Caithnessman, whose son the hero of Central Africa, has just had his biography written by his sister), examined at the Register House, in company with an official, the parish register of Thurso. He writes, " I began at 1696, and went right forward, page by page, but discovered nothing of Donald. On coming to July, 1703, I found the pages torn and obliterated to the end of the year. I went on again till May, 1706, when there is a gap to 1713." It is manifest that if William Sinclair, of Ratter and his satellites failed to destroy the Caithness presbytery and Olig session records in the hands of the Rev. Mr Oliphant, they succeeded with the Thurso parish register. Alexander Ruddach became the registrar from 1744, and it was possibly under his keepership that the record was got at during the contest from 1765 to 1772. It must be remembered that the county families were carefully entered then in the registers, and the plundering, abstracting, or mutilating of them was not an uncommon incident in cases of succession to title or lands. Mr Kenneth Macdonald's information about the church records clinches this, tampering with the state records by Ratter to secure the earldom. The schoolmaster was more easily circumvented or bribed than the minister, though the latter did enough of wrong by suppression of the truth. To make further assurance of this destruction of the entries of the baptisms of the children of David Sinclair of Broynach and Janet Ewen, and in all probability of an entry of the marriage of David and Janet, reference is given to a volume published by the Registrar-General for Scotland, where the Thurso baptisms or births are given as blank, that is, lost, from May, 1706 to September, 1713, which agrees with Mackay's report in part ; the addition which he makes, that July, 1703, to the end of the year

is" torn and obliterated," being of great evidential value of the circumstantial kind. It is suggestive with regard to the lost portion, that Henderson in his " Notes " says that David of Broynach died between 1713 and 1716. Mackay thinks David's son Donald's baptismal entry would have been met about 1710, if he "had found the records intact." There is printed sworn evidence extant that makes this too late a date for Donald's birth ; but the point is now, to a year or two, not a cardinal one. There can be little doubt as to the cause of the mutilation in 1703. David and Janet's two eldest, Janet and David, were baptised in that year at Claredon Hall, where David's sister-in-law, the Countess of Caithness, Earl Alexander's mother, then resided. Janet Ewen had satisfied presbyterian kirk discipline in its most barbarous forms at Thurso for these two ante-nuptials, and David of Broynach would seem also, in some milder way, being a nobleman, to have satisfied Presbyterian rigour, for he was present at the ceremony of baptism by the Rev. William Innes of Thurso, then, 34, and in his seventh year of that charge. So severe was the Presbyterian minister upon them, though, and no doubt because, married three years previously by an Episcopal minister, that David stopped the tirade by calling for a stick to retort physically on the talker. But the ceremonies were completed, the children having walked to Claredon Hall on their own feet, being four and five years old ; and their names were certainly entered in the usual way thereafter in Thurso register. Mackay's search began at 1696, but it is plain that nothing of Janet Ewen's family could ever have appeared before July, 1703, where the tearing and obliteration begin. Ratter's evil interest would be to have their names scored out, David being the father of his rival, Captain James. The equally vital fact that Donald's baptismal entry, which would be within a week of his birth, being born in the accepted wedlock of Broynach and Janet Ewen, his parents, was swept away in the wholesale illegal seizure (probably at a later period than the obliteration) of the register from 1706 to 1713, is all but certain. The self-preservation of the sham earls would require this. More than that, the mystery that, while Donald the Sailor's marriage at Thrumster is entered in the Wick register in 1763 [sic - s/be 1736] the entries of James the Chamberlain and William, his two eldest sons' baptisms, are not to be found, begins to clear up, these important entries having been torn out. Ex-Bailie Bruce tells a similar tale of Wick burgh records. The first sham Mey earl, as rightful enough successor to the Ratters, tampered with the Wick register as late as 1817, to give colour to his own doubtful marriage ; and it was probably he who managed, by abstracting leaves, to make the Wick baptismal entries "irregular" (as the Registrar-General's book has it) about 1739. It is possible to understand how some things escaped even such unscrupulous ambition, especially facts of birth, &c., which happened after the contest appeared to have quite gone to sleep. The reality and legality of Janet Ewen's marriage are manifest from the unrighteous efforts thus to destroy the proofs of it. These startling revelations of the evil handling of the parish registers will bear further elaboration, but for the present more than enough stress has been laid on the attention.—Yours, &c.,

THOMAS SINCLAIR.

Falmouth, 1891.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS—A REPLY.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The reply of the committee of the London Caithness Association to the objections to

their untimely and injudicious action with respect to the late Mr James Augustus Sinclair and his family on occasion of the annual festival, has none of the marks of metropolitan urbanity. It may be the work of one hand, and that not "J. T. C."; but, from Archdeacon Sinclair downwards, the committee are responsible for the wooden-headed production, which has caused indignation, especially in the county, among those best able to judge of genealogical, historical, and legal inquiries. The charges of inaccuracy as to matters of fact are as ungenerous as they are untrue, my method throughout being to take readers fully into confidence, making corrections publicly of any thing discovered to be erroneous on fresher evidence, the only sound way to proceed in research. No better example of the unfairness of the committee's temper could have been given than the illustration they have the courage to mention, that I did not know" the fact that the Earls of Caithness only held seats in the House of Lords through the barony of Barrogill, a recent creation, which has lapsed, irrespective of the true succession." It is clearly as impossible for a committee to know everything as it is for an individual. On the particular point, I was perfectly well aware that Lord Palmerston in 1866 created James, the reputed fourteenth Earl of Caithness, a peer of the United Kingdom, under the title of Baron Barrogill. I had, and have, no cause to query whether this peerage, in contradistinction to the Scotch, was hereditary or only for his life. It would have been an insult to offer a life peerage to one who has what is called ennobled blood. Life peers are the bishops and some lawyers, who are everything but welcomed as equals by the hereditary lords, the Scotch representative peers being a political anomaly. Sir Thomas Erskine May, the constitutionalist, has written that it is incompetent for the sovereign to create such a rank at all; and those who hold this quasi footing as peers, have had to fight continually for their barely tolerated existence. The head of no great Scotch house would degrade himself by accepting the position. But Debrett's "Peerage" of 1889, the very year of the death of James's son and successor, states that he also sat as Baron Barrogill in the House of Lords, his name so entered on the roll. The book is advertised as "personally revised by the nobility," and therefore ought to settle the question against the omniscient committee. If the late Mr James Augustus Sinclair, the Aberdeen bank-agent, had really succeeded to the earldom, my test of whether he had taken the oath and signed the roll in the House of Lords as a peer, was wholly to the purpose.

The committee's insinuations of interested motive and *ipse dixit* tyranny are as miserable as the attempt to discredit my treatment of facts. Instead of pushing my own opinions unduly upon readers, the amount of record and other quotation is often of so large proportion as to suggest the dread of it becoming a bore, however necessary for discoveries of the truth. "Archdeacon Sinclair and the members of the Caithness Society in London" have never been asked to choose between my *ipse dixit* and any decision of the Court of Session. But what decision of the Scotch court can they mean? It was the Sheriff of Chancery, Edinburgh, who in January, 1890, gave judgment, on unopposed evidence, let it be remembered, that the bank-agent was "the nearest and lawful heir-male in general" of the supposed fifteenth earl. If the earl was only the laird of Mey, and his estate further secured by a stranger, it is not likely that any member even of the Mey branch would be at the trouble to oppose when nothing whatsoever could be gained in title or land. It is by no means certain that the bank-agent might not have found rivalry among his immediate relatives had there been substantial objects. The Broynach claim is on the higher footing that all the Ratters and Meys are cadets to them, the veritable House of Caithness. If the committee in a wild sporadic way refer to the decision of the Court of Session on 22nd July, 1770, as being against the Broynachs in the person of James Sinclair in Reiss, afterwards Captain Sinclair, H.E.I.C.S., they are certainly not acquainted with the fact that the Court of Session's judgment then in no way made William Sinclair of Ratter the Earl of Caithness. It only affirmed by a majority of the judges that James's claim, though he was admittedly by far the nearest in blood, was not superior to William's, because he had not evidence enough to rebut the latter's false charge of illegitimacy

against him. In the "Additional Case of the Countess of Sutherland," settled on 21st March, 1771, in her favour, the successful lawyers effectively twit the opposing counsel of one of the ill-advised claimants of her title, 'on their statement with reference to the Caithness peerage, that " there is now a competition for it in dependence between two remote heirs-male of the family, the evidence, information given to the Court of Session, 20th June, 1769, by William Sinclair of Ratter against James Sinclair in Reiss." After correcting a clause of the above into " between two persons claiming the character of heir-male," the able lawyers of the countess, Elizabeth Gordon, proceed thus, " It is somewhat singular to say that there is a competition for the peerage of Caithness depending before the Court of Session. The judges of that court are not so ignorant of their duty as to suffer such a competition to be heard before them. They were called upon to determine the fact who was heir-male to the late Earl of Caithness. With the consequences of that fact they have no concern." Neither will another opposite determination by the Court of Session, on the new evidence which has been accumulating lately so miraculously, make the living representative of the Broynachs the Earl of Caithness. It is the sovereign's decision, by means of the Committee of Privileges of the House of Lords, that finally fixes who is the rightful claimant to the title. What the committee of the respected London Caithness Association, or, at all events, its official mouth, may have to say in this gallery of historical and legal inquiry, does not appear to be of much importance.

It is more to the general interest to add here, that there will be necessity soon of making popular statement about various points of law and custom, from authorities, as to the marriage of the Hon. David Sinclair of Broynach to Janet Ewen, the clerical position of Rev. Arthur Anderson, and the legal limitations, especially of time, in renewing claims upon lands and titles.—Yours, &c.,

THOMAS SINCLAIR.

Falmouth, 1891.

11-12 Tuesday 24 Mar 1891 Page 6 col a-b

THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The fact of the marriage of the Hon. David Sinclair of Broynach to Janet Ewen being established, there remains a question of its regularity of form or ceremony. In a letter dated Pulteneytown, 4th March, 1891, the Rev. Wm. H. Anderson, who is learned in the presbytery and other county records, referring to the cases of discipline treated by the commission from the General Assembly to the presbytery in June, 1700, says;—"One of these was the case of the Rev. Arthur Andersen, 'a pretended preaching deacon,' resident at Mey, whom the commission and presbytery deposed for various alleged offences, the chief of which seems to have been his marrying Broynach to Janet Ewen without due proclamation of banns. So far as I can learn from the narrative, there seems to have been no doubt of the marriage whatever. I know not how this record was got over in the former litigations regarding the succession to the earldom, unless there happened to be some exceptional and temporary act of parliament by which such marriages were made void, and I think that is far from likely." Till the full text of the case, copied from the Presbytery record, is before the public, this quotation is of cardinal importance, as it touches skilfully all the difficulties of the subject. Mr Kenneth Macdonald, town-clerk of Inverness, has shown how this particular record was suppressed by

the then presbytery clerk in the interest of William Sinclair of Ratter, the first usurping earl; but there is special pertinence in the information that there was not due proclamation of banns, and in the supposition that some act of parliament might have aided the usurper to secure the title in 1772. Now, in England, where marriage laws are stricter than in any country of the world, the omission of banns did not affect the legality of marriage. In "The Rights of the Clergy," by W. Nelson, barrister, of the Middle Temple, London, published at the useful date of 1709, this appears—"We rarely meet with any prosecution against ministers marrying, or against persons being married, without licence or banns." He adds that there was a class of churches, the ministers of which usually married without licence or banns, and that a statute, *anno 7 et 8 Wilt., cap. 35*, that is, in 1705-6, was made prohibiting the habit, as it aided clandestine unions, under penalty to the minister of £100, to the man married of £10, and to the sexton of £5, all with costs. It is clear that this statute did not make the marriage without banns void even in rigid England, else the £10 fine on "the man married" is an absurd contradiction in terms. That the statute had not this voiding effect is demonstrated by Nelson's further statement that the lower house of convocation, several years afterwards, complained to the bishops of the prevalence of marriages without banns. If Scotland and England had been under the same parliament at the passing of the statute, which they were not, the Union being in 1707, it would not have touched the Hon. David's ceremony, because he was married in 1700, even if the statute had voiding force, which it plainly had not. It is on the basis of Scotch law alone that the question of the banns determines. In the "Encyclopaedia Britannica," ninth edition, article "Marriage," it is said that the chief point of Scots as against English law is that the former recognises irregular marriages as legal. "Such a marriage is as effectual, to all intents and purposes, as a public marriage". The children of it would be legitimate, and the parties to it would have all the rights in the property of each other given by the law of Scotland to husband and wife." To show how simple our absolutely legal marriage can be, it "may be constituted by a declaration by a man and woman that they presently take each other, emitted on any day, at anytime, and without the presence of witnesses, by writing, orally, by signs, or otherwise." The Hon. David and Janet Ewen's marriage was publicity itself compared with such easy but sufficient espousal, though banns were not proclaimed, which has yet to be proved. Nor must it be thought that the simplicity of what were called irregular marriages is peculiar to Scotland. It is the rule of Europe, with the exception of England proper; and the marriage of David and Janet is regular and formal even on the narrow and strict English basis, the absence of bann proclamation not being vital, as has been shown.

No difficulty could ever have arisen but for the ignorant arrogance and almost justifiable revenge of a section of the Presbyterians of Scotland. At the Revolution of 1688 those of them who, unlike John Knox, believed that bishops could not exist within the Presbyterian system, became triumphant; and in 1691 they not only managed to have this office abolished by statute, but thereafter forbade their Presbyterian ministerial brethren, who could not conform with them on this point of mere church government, to exercise their parish duties, marrying among the rest. The canon law, the civil law, and the common law of the realm were all against them in this assumption; but a new statute, 10 Anne, c. 7, that is, 1712, had to be passed before they could be finally stopped in their illegal tyranny, the Episcopal section of Presbyterians being thus protected from further illegal interference. If their antagonists had their way, three-fourths of the population of North Scotland would be under the brand of illegitimacy, as having forefathers married by what they called Episcopal "pretended" ministers. National weal could not thus be at the mercy of a rabid section of clergy, and on their self-legislating technicalities neither David and Janet's nor any other marriage can be void. See Lord Stowell, and also Lord Fraser in his "Husband and Wife." There can be no doubt of the attempt of the newly-established Presbyterians, of non-episcopal sentiment, to arrogate to themselves, in defiance of all law, the sole performance of marriage and other



semi-civil ceremonies, till the Act of 1712 put a period to their unacknowledged but irritating usurpation of what could not be the nature of things belonging specially to them. Their prosecution of the Rev. Arthur Anderson for marrying the Hon. David and Janet was quite beyond their power ; but they had him also charged for spiritual offences, to keep themselves safe. It must be noticed that as a deacon he was an ordained minister, and not the deacon of the Presbyterian session, as now, who is a layman. "His office," says Nelson in his " Rights of Clergy," "consisted in reading divine service, catechising children, baptising infants, burying, and marrying." He serves this office usually for a year before he has the full right of a clergyman. It is apparent that he was wholly competent to such a ceremony as the marriage in question. In "Calder's History of Caithness," the Rev. Arthur Anderson is said to have signed himself "late minister of Kilmeny," so that he had exercised the usual parochial duties. The moderator of the General Assembly could not be a more effectual or legal performer of the rite. On the points therefore of form as well as fact, the marriage of the Hon. David Sinclair of Broynach to Janet Ewen was and is unassailable and incontestable. Further, it can be held as nothing but most reasonable to call it, on the general basis of Scotch, indeed, European church and state law, entirely legal, and formally so besides, even English law offering no objection.

To touch another part of this lawyers' field, England is by no means genial as to children before marriage, which it refuses to legitimise under any circumstances. " Both by the civil and canon law," says Nelson, "a child born before marriage might inherit, if the marriage followed; and this was attempted, *anno 20, Hen. III.* (1286), to be made the law of England. The bishops all concurred, because it was the law of the Church; but the temporal lords would not admit it." This was at the famous Parliament of Merton. Ecclesiastical law, everywhere and at every time, was at one on this, the decrees, the popes' decretals, the extravagants, and all other church codes according legitimacy; while the Roman or civil law, and the common law of all countries except South Britain agreed on the same.

Captain James, H.E.I.C.S., the son of the Hon. [David] and Janet Ewen's prenuptial son David, had been born on English soil he would not have had the shadow of a claim upon the earldom of Caithness. Had he lived to produce the presbyterial and sessional evidence of his grandfather's marriage before the House of Lords he would have to contend against the prejudice of the English peers, though he was only subject to the law of his natal Scotland. It is not imaginary to believe that the decision against him in 1772 was not uninfluenced by the English law of bastardy. If any descendants from the prenuptial David did exist now, as they do not, they could claim only the Scotch, peerage, the Lord Barrogill peerage of the United Kingdom being subject to the English law that children from before marriage are bastards. With the descendant of Donald, who now claims the title and dignity of Earl of Caithness, it is quite different, Donald having been born in the full wedlock of his parents, the Hon. David Sinclair of Broynach and Janet Ewen. Had this second son been born in England or Scotland, his rights were equally valid, and his descendant, the claimant, James Sinclair, Mid-Clyth, has absolute right to both peerages. These illustrations of the differences of Scotch and English succession are of real use towards understanding the Broynach position, though perhaps a little subtle for the unprofessional mind. It can easily be gathered, however, that the entire legal aspect of the case is overwhelmingly in favour of the Broynachs, and condemnatory to the last degree of the fraudulent assumption of the Ratters and their successors.

The laws as to the limits, especially of time, for reviving claims upon titles and lands are clearly stated in the Additional Case of George Sutherland of Forse, claiming the title and dignity of Earl of Sutherland in 1770. There is no bar to a claim to title founded upon right of blood, whatsoever time may have elapsed, if a thousand years ; and this is true equally of English and Scotch law. There is neither prescription nor any statute of limitation to hinder

proceedings ; and the opposing counsel in favour of the Countess of Sutherland said nothing to the contrary, nor could they. It is otherwise with lands. The Scotch statute of limitations of 1617, chapter 12, ordained that if a man or his predecessors held lands peaceably and unchallenged for 40 years, and could produce a charter, retour, or disposition for the lands, with an infeftment or document of possession before the commencement of that period, the lands were his against all comers. The Broynach claimant may have good right over some Caithness estates, but it is not in antagonism with statutes of limitation of 40 or 20 years. Lapse to the crown and appeal to the clauses of entail are the grounds of his just expectation of recovering his patrimony to more or less extent. His first step is, however, to secure the title, and to this object there is no barrier, except the proper one of producing evidence to substantiate his rights. The philosophy of the distinction between putting lands under limitation of time and not titles, is that the former can be sold and the latter not. "The law supposes that honour descends in the blood, and it makes the title to descend also. But no law has ever established that honour, either natural or political, is transferable in the ordinary way of sale or conveyancing. The crown is the fountain of honour, and titles are connected with the people publicly, peerage giving a right of legislation, in which the whole kingdom is interested; therefore title is not private property or saleable or alienable or to be prescribed, as long as the blood is untainted." Last century lawyers were very learned on such points.

To close what cannot avoid being somewhat dry, however useful, the London Caithness Association's committee might have discovered a slight discrepancy as to the Baron Barrogill point, not in me but in my authorities, namely, that Lord Palmerston in 1866 created the peerage. He died October, 1865, Lord Russell becoming the premier. It might have been added that the Irish representative peers are so for life, as the Scotch are for each Parliament. Hereditary peers, may, by a standing order of the Upper House, take their seats without preliminary ; but this is when no opposition to them has appeared; and the right of the late Mr James Augustus Sinclair was challenged by petition to the Committee of Privileges. It is wasting one's main purposes, however, to be replying to things which any ordinary Parliamentary hand-book could settle for the excessively accurate committee. "The Statesman's Year Book" is a reference to them; and their confidence, for this and any other politeness which is possible, may be recovered in the sincerity of the present search for the rightful head of the county. "The searcher after truth seeks for evidence, and constantly sacrifices prepossessions and his own will in the search," says Professor Newman in his recent severe criticism of his brother the cardinal. A remarkable set of documents of the Ross-shire Broynachs, of particular and popular value, is the next offering to Caithnessmen's judgment upon this claim.—Yours, &c.,

THOMAS SINCLAIR.

Falmouth, March 1891.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The proof by which William Sinclair of Ratter contrived to usurp the earldom from the rightful heirs, the Broynachs, has been accurately copied for me from the library of the British Museum, London ; and it is now offered to the general judgment, as, naturally, the worst that

could be said by an unscrupulous usurper against his rival. With the knowledge of his suppression of the presbytery and session evidence, and of the obliteration and destruction of the parish registers, those who examine the following proof will easily read enough between the lines to see that it was as one-sided and unfair as it could be made. The depositions of the ordinary Caithness people are often awkwardly honest for his particular purpose ; and with the considerations that they are testifying about a marriage which took place 67 years previously, and that popular knowledge is never, even when contemporary, to be compared with the security of actual record, their stories are wonderfully consistent and illustrative. It is otherwise with the lady and gentlemen witnesses, themselves of illegitimate descent, who are plainly serving their own personal interests as far as they safely can, though even they cannot altogether hide the truth that is favourable to the Broynachs. The only really damaging disclosure is that James, the claimant, afterwards Captain Sinclair, H.E.I.C.S., was repudiated by David, the son of Broynach and Janet Ewen, as not being his son at all. In that case he was not even ante-nuptial, but a bastard. It is not too much to say that it was this portion of the present proof which decided, first, a jury of gentleman by 11 against 4 at Edinburgh, and thereafter, on 22nd July, 1770, the 14 of the 15 judges of the Court of Session by 12 against 2, the grand inquest of Scotland, in favour of William Sinclair of Ratter as nearest lawful heir-male to Earl Alexander. But not one tittle of this evidence tells against Donald, the second son of the Hon. David of Broynach and Janet Ewen or against his descendants, his birth during the full wedlock of his parents totally barring any objections. It is manifest also that he could not act against his then "accepted " brother, James in Reiss ; and Ratter had the benefit of the difficulty, as well as of the general poverty and consequent inability to prosecute claims. The legitimate rights of this Donald, known as the Sailor, now lie in Mr James Sinclair, Mid-Clyth, the present claimant, each step of whose lawful descent is established. But these are only preliminary statements to a thorough and condensed examination of this most extraordinary and invaluable document, which has become a marvellous proof for the Broynachs.

A protest in advance has, however, to be made against Ratter's cowardly and degrading use of two letters of the dead Earl Alexander at the close of the proof. His quotation of the Earl's abuse of himself shows that he was willing to bear any indignity personally if he only could secure the title; and he is welcome to the benefit derived from such meanness. But to quote Earl Alexander's private letter to his lawyer, describing James in Reiss's mother, Margaret More, and his grandmother, Janet Ewen, as prostitutes and thieves, because they needed money from relatives, was nefarious; for the Broynachs had no remedy at law against a dead libeller, who, in feudal mortal terror lest they should legally succeed him, poured his anger very safely, as he no doubt thought, into the bosom of the family lawyer, who would take care not to let such defamation of character appear, at all events while he lived. Earl Alexander was notoriously a bitter quarreller with women, his own Countess, Lady Margaret Primrose of the Lord Rosebery family, having separated from him, their affairs the scandal of the period, one incident being that he fired a pistol at her in their Castle of Brims. There are many ugly pages in Morrison's "Decisions of the Court of Session" about them. It is quite in keeping with his character to find him, in his impotent wrath of eighty-one, blazing lies about women of the people like Margaret More and Janet Ewen. As to the latter, the present proof is absolute evidence that, except as to her faithful but temporarily illegal love, not a spot was on her character, or hostile witnesses would only too gladly mention it. And as to illegitimate affections, Earl Alexander, with his three peasant mistresses and the correspondent families, was not the person in that unlawful epoch to be indignant. Her poverty, though richer than the Murkles with their debt about 1700, was no crime; and to this there is enough testimony by the witnesses, but not to dishonesty or prostitution. It was nearly as base to write such peevish calumny, though privately, as it was for Ratter to use it, in dastardly security, publicly for his ends.

THOMAS SINCLAIR.  
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Proof taken by William Sinclair of Ratter, Esq., in the competition of briefes betwixt him and James Sinclair in Reiss.

The question at issue is. Which of these two claimants is lawful heir-male to Alexander, late Earl of Caithness ?

At Thurso, May 21st, 1767.

Compeared Janet Williamson, widow of the deceased Arthur Innes, sometime indweller in Thurso, aged 83 years or thereby, admitted without objection, depones that she remembers to have seen Janet Ewen drummed and scourged through the town of Thurso, with a paper-hood upon her head, and that she heard that this was done on account of her cohabiting unlawfully with David Sinclair of Broynach. Depones that she heard Mr William Innes, minister of Thurso, call the said David Sinclair and Janet Ewen by their names from the pulpit, and heard him discharge them from living together ; and added that if they continued to cohabit together, that they were not to have the benefit that others usually have from the church ; but that David Sinclair and Janet Ewen were not then in church. Depones that she remembers to have seen some of the children procreated betwixt the said David Sinclair and Janet Ewen ; and that some of them were six years old before they were baptised. Depones that at the time Janet Ewen was drummed through the streets of Thurso, the deponent was about 20 year of age. And being interrogated for James Sinclair, depones that at the time J.E. was drummed through the town, David S. came with a drawn sword and pistol, forced her from the party who had charge of her, and both of them crossed the Water of Thurso, and went down to the country ; that sometime thereafter they returned and lived together; but the deponent does not know whether they were married or not. Depones that J. E. took no care of children procreated betwixt David S. of Broynach and his wife, daughter of Sinclair of Dun, but that she took the best care she could of her own children. Depones that after the death of D. S. of Broynach, J. E. was employed by the Countess of Caithness in washing of linen and other clothes, in scouring of yarn, or in any other work of that kind she had to do. Depones that the neighbours never countenanced D. S. and J. E. as married people, but looked upon them as unmarried. Depones that the minister of the parish never gave himself any trouble about D. S. and J. E. after they returned the second time, but gave them up as people that would not be reclaimed. *Causa scientiae*, the deponent was born and lived all her lifetime in the town of Thurso. All which is true, &c. And being further interrogated for W. Sinclair, depones that she never heard Janet Ewen during the life of David Sinclair, nor yet after his death, culled by the name of Mrs Sinclair. And this is also true, &c.

Janet Henderson, spouse to Alexander Henderson, merchant in Thurso, aged sixty years and upwards, admitted without objection, depones that at the time J. E. was disgraced through the streets of Thurso the deponent was a young girl, and that the deponent saw the crowd go through the street, and was told that they were then employed in disgracing J. E. on account of her cohabiting unlawfully with D. S. of Broynach. Depones that she was born in Thurso and lived in it all her lifetime, excepting five years she lived in the country lately. Depones that she heard it said that D. S. was married to J. E. but the deponent knows nothing of the matter herself. And this is truth, &c.

Isabel Paterson, vintner in Thurso, a widow woman, aged eighty years or thereby, admitted without objection, depones that she never saw D. S. of Broynach, but saw J. E. after Broynach's death, and knows that she earned her bread by scouring the yarn, washing the linen, or doing any other work of that kind she was employed in. Depones that J. E. came to

the deponent seeking charity; and that the deponent gave her some meal in charity. Depones that she never heard of J. Ewen's being married to D. S.; and that she did not know herself, nor ever heard, that J. E. went by the name of Mrs Sinclair, or as widow of D. S. of Broynach; and never heard her get any other name than the plain simple name of Janet Ewen. And this is truth, etc.

William Angus, tenant in Clairdon, a witness cited by both parties, a married man, aged fifty years and upwards, admitted without objection, depones that he knew D. S. of Broynach, and heard that he was married to a daughter of Sinclair of Dun's. Depones that there was a woman lived with D. S. called J. E., and that D. S. had children by her. Depones that he heard that one John Cussater in Clairdon held up David Sinclair, one of these children, to be baptised; and that he heard that David was, about the time of his being baptized, about three years of age. Depones that at the time David was baptized he heard that the minister of the parish was much displeased with D. S. of B. for living in the manner he did with J. E. Depones that he heard that D. S., son to D. S. of B., by Janet Ewen, at the time of his being baptized, banned or cursed the minister for throwing water upon him. Depones that he heard that the minister had reprimanded D. S. of B. so severely that Broynach called for a staff to beat the minister. Depones that he never heard, either in Broynach's life or after his death, J. E. go by the name of Mrs Sinclair, or any other name than that of Janet Ewen. Depones that he does not know whether D. S. or J. E. were married or not, the deponent then being very young. That he heard overly they were married, but had no certainty of the matter. Depones that Broynach had children of his marriage with Sinclair of Dun's daughter, and that the deponent was acquainted with three of them, John, James and Elizabeth. Depones that the said James was supported by the Earl of Caithness, and that he had from his Lordship a free possession in Murkle, for which he paid no rent. Depones that the Earl of Caithness never gave any support to Janet Ewen's children; but that the Countess employed her sometimes to work for her, and paid her for her labour. Depones that he had seen J. Ewen's children attending the mill of Murkle for charity and receive meal in charity there. And being interrogated for James Sinclair, depones that he does not know, whether J. E. and D. S. were married together or not; but that they lived together, and slept together, until David Sinclair died. Depones that he does not know whether D. S. was a bastard or not at the time of his being baptised, *causa scientiae patet*, and this is truth, &c.

(To be continued.)

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THE EARLDOM OF CAITHNESS.

THE EVIDENCE IN SUPPORT OF THE RATTER CLAIM AND AGAINST THE BROYNACHS.

(Continued.)

BAILIE JOHN TAYLOR, joiner in Thurso, a witness cited by both parties, a married man, aged 80 years or thereby, admitted without objection, depones that he has a faint remembrance of having seen D. S. of B., and that he was married to a daughter of Sinclair of Dun's. Depones that he heard that D. S. kept a woman called J. E., and that the deponent heard they were married and that they were not married; and that he knows nothing certain of the matter, as he was not acquainted with them, nor did he know where they lived. Depones

that be heard that J. E. was scourged through Thurso; and the deponent believes it was so; and that the cause of the scourging of her was on account of her cohabiting with Broynach. And this he declares to be truth, etc.

Janet Brims, in Skaill, a widow, aged 90 years or thereby, admitted without objection, depones that she knew D. S. of B., and that he was married to Sinclair of Dun's daughter. Depones that he had a servant called J. E.; and that Broynach and J. E. gave out that they were going to Orkney to be married; but they went no further than Dunnet. Depones that after J. E. went to the parish of Dunnet, she lived in a cote-house in Bowermadden ; but the deponent does not know whether Broynach cohabited with her there or not. Depones that it was the report of the country that Broynach and J. E. lived together unmarried. Depones that the deponent heard that J. E. was scourged through the town of Thurso, with a paper cap upon her head, on account of her living in an unlawful manner with D. S. of B. ; and that the deponent heard this soon after the scourging happened. Depones that Mr W. Innes, minister of Thurso, was very much displeased at D. S. of B. and J. E. for living in the way they did. Depones that in as far as the deponent had occasion to know or hear, the children procreated between Broynach and J. E. were reputed bastards. Depones that she saw a male child procreated betwixt Broynach and J. E. baptised ; and that at that time the child could speak as well as the deponent, and when the minister put the water on his face, he cursed the minister, and said, " Might the devil take him for wetting of him." And being interrogated for James Sinclair, one of the claimants, if Broynach and J. E. lived peaceably the latter end of their life? depones that the Countess of Caithness gave a small possession to Broynach in the township of Clairdon, where he and J. E. lived until Broynach died ; and when he died the Countess of Caithness caused inter him decently, with wax candles. Depones that the minister gave them no disturbance when in Clairdon. Depones that she does not know that it was believed that they were married when in Clairdon. Depones that when Broynach lived in Clairdon, Broynach had a cancer in his face, and was so distressed with it that he was not able to travel; and that at that period J. E. cared for him. And this is truth, &c.

John Macphaile, joiner in Thurso, a married man, aged 59 years or thereby, admitted without objection, depones that Katharine Morison, the deponent's wife, is grand-niece to the deceased David S. of Broynach. Depones that he has seen D. S. of B., but was then so young that he can remember few particulars. Depones that he has heard it, as the talk of the country, that D. S. of B. lived in a criminal way with one J. E., who served him. Depones that he has heard it reported that the said J. E. was publicly scourged through Thurso on account of her cohabiting in an unlawful manner with the said D. S. of B. Depones that he does not remember that ever he heard that the family of Caithness gave any support or countenance to the children procreated between D. S. of B. and J. E., and depones that the talk of the country was, that these children were bastards. Depones that the deponent made the coffin of James Sinclair, who was lawful son of D. S. of B., by Mr Sinclair of Dun's daughter ; that the coffin was made of wainscote, and as good a coffin as was made for any gentleman in the country ; that the Earl of Caithness paid the deponent for the coffin ; and that the said James was buried in the Earl of Caithness's burial-place at Thurso. Depones that he remembers David Sinclair, son to J. E. by David Sinclair of Broynach, and was very well acquainted with him; and that he remembers he wrought as a day-labourer with one Charles Oliphant, servant to Ulbster; and knows that the said David Sinclair enlisted as a soldier. Depones that after D. S. returned to Caithness from being soldier, he went to the country of Moray, and lived there for some time, and thereafter returned to Caithness again. That at this last time he was in a very bad state of health when he returned; and lived the remainder of his days mostly upon charity. Depones that the deponent made a fir coffin for this David, for which Mr Francis Sinclair paid him, and that he was buried in the churchyard, and that the fir coffin which he made for this last David, was such a coffin as he commonly makes for the country people, and that he

believed he received ten shillings as the price thereof; and that he thinks the price of James Sinclair's coffin, who was son to D. S. of B. by Sinclair of Dun's daughter, was four pounds sterling or thereabouts. And this he declares to be truth, etc.

Donald Henderson, in Forse, & married man, aged 50 years or thereby, admitted without objection, depones, that he was a servant to the late Earl of Caithness at Murkle, and remembers to have seen a low, mean woman in that place, but not coming about the family, called Janet Ewen ; that this J. E. was employed by the deponent and other servants in the family for washing their dirty linen. That the deponent and Abraham Smith, an Edinburgh lad, his companion, paid her eighteenpence a quarter for washing their linen. Depones that the said J. E. had a son who lived with her, called David, and who was then well grown up, and appeared to the deponent to have no other way of living than the support he had from his mother. Depones that he remembers when they met and were incensed against each other (that is, the deponent and the other young lads about the place), this David was called Janet Ewen's bird, and that he has heard some of the lads about the place, when David angered them, desire him to go and get his mother's paper-hood. Depones that he heard it reported that this David was a bastard, but whether he was or not, the deponent does not know. Depones that notwithstanding J. E. was allowed to wash the servants' linen, yet he never saw her come near the family, and he knows she durst not come near it, and that the servant themselves were obliged to go with, and send for their linen from her. Depones that David had no allowance given him of coming near the family, nor any other persons that were not connected with the family or employed by them. And this he declares to be truth, &c.

William Paterson, shoemaker, in Thurso, a married man, aged 75 years or (hereby, admitted without objection, depones, that the deponent's father was a gardener for three years at Murkle, and the deponent at that time had frequent, occasions of seeing D. S. of B. at his father's house. Depones that the said David S. of B. had then a servant called J. E. Depones that he remembers to have heard, and believes that at that time the said D. S. of B. lived in a criminal manner with the said J. E. Depones that the deponent remembers to have seen a gentleman of the name of Stewart, who, he believes, was a relation of the then Lady Murkle's, afterwards Countess of Caithness, come to the house where D. S. of B. lived, with a gun in his hand, in order to turn the said J. E. away from D. Sinclair's family ; but that the said Mr Stewart could, not find the said J. E. about the house, as the deponent supposes she had hidden herself. Depones that he heard that Mr W. Innes had called J. E. publickly from the pulpit to give satisfaction on account of her unlawful dealings with D. S. of B., but was not in the church when she was so called upon. Depones that the deponent heard that D. S. of B. was married to a daughter of Mr S. of Dun's, by whom he had children, and that the Earl of Caithness took concern in and care of the children of that marriage. Depones that he heard that J. E. was publickly disgraced through the streets of Thurso, but that he did not see her disgraced ; and depones that he heard the cause of disgracing her was on account , of her unlawful cohabitation with the said D. S. of B. *Causa scientiae padet*. And this he declares to be truth, &c.

Thurso, May 23rd, 1767.

Compeared Francis Swanson, tacksman of Gerston, a married man, aged 60 years or thereby, admitted without objection, depones that the deponent has seen J. E. ; that she was a woman of bad fame, and heard that she had brought forth several children to D. S. of B. Depones that he heard that the said J. E. was publickly disgraced through the streets of Thurso on account of her lewd life with the said D. S. of B. Depones that the deponent was acquainted with James Sinclair, son to the said D. S. of B. by his wife, daughter of Mr S. of Dun. Depones that he knows that the said James was taken notice of and supported by the late Earl of

Caithness and his brother, Mr Francis Sinclair, and that Lord Murkle brought a daughter of that marriage, called now Mrs White, to Edinburgh to her education; and that Mr Francis Sinclair made a companion of James, and that he was well received by the Earl of Caithness's friends in the country. Depones that the said James S. died in his house upon the estate of Murkle, where he had a possession rent-free from the earl to live upon. Depones that the deponent observed that neither the Earl of Caithness nor his friends took any notice of David S., son to the said D. S. of B., nor any of the other children he had by Janet Ewen. Depones that he always heard that the children which Broynach had by J. E. were looked upon as bastards, and that he knows that the country gentlemen of the deponent's acquaintance looked upon them in that light. Depones that the children of the said D. S. of B. by J. E. lived mostly upon charity, and the deponent has given them charity himself. Depones that he has very frequently heard that D. S. of B. and J. E. had gone the length of the town of Scarfskerry, in the parish of Dunnet, in Caithness, in their way to Orkney in order to be married, and that the Earl of Caithness sent a party after them to bring them back to prevent their being married, and to separate them; and depones that he heard that the party brought them back unmarried, and separated them at that time. Depones that he always heard it, as the belief of the country, that they were never married; and being interrogated for the claimant, James S., if he knows that Broynach and J. E. cohabited together after they were brought back from Scarfskerry? depones that he heard they did, and that it was upon that account that J. E. was disgraced through Thurso ; and this he declares to be truth, &c. The deponent was born on the estate of Murkle, and always lived within four miles of Thurso.

Alexander Ross, in Thurso, a married man, aged 60 years and upwards, admitted without objection, depones that he was acquainted with David S., father to James S., the claimant, and knows that he enlisted as a soldier with John Miln in Thurso for behoof of a recruiting officer in the Dutch service. That after he returned from Holland to this country, he married, and he and his wife went to the Moray side, where they lived for about three years. Depones that when David S. went from Thurso to the Moray side, the deponent went a piece out of Thurso with him to assist to carry his clothes. Depones that when the deponent went with D. S. out of Thurso, and when they were about losing sight of the town, they sat down upon a hillock, a good piece beyond the miln of Ormly, the said David S. addressed his wife and said "that it was hard upon him to leave his own country with her and another man's child," meaning the claimant James S., who was then a child and was with them ; that the deponent challenged the said D. S. for talking in that manner, and told him that it was then too late, that he ought to have thought better before he married the woman with such a burden. Depones that the said D. S. returned with his wife from the Moray side, and lived in Thurso, where he was supported by the well-disposed people of the place until his death. And being interrogated for the claimant James S., depones that he heard that Margaret More got assistance from Murkle and Mr Francis S. for supporting herself and children. And being interrogated for the claimant William S., depones that Mr Francis S. was a very charitable man, and was very ready to relieve such people as he heard were in want. And this is truth, &c.

Alexander Macleod, musician in Thurso, a married man, and cited as a witness by both parties, aged 46 years or thereby, admitted without objection, depones that he was acquainted with D. S., father to James S., the claimant, and that he has known him serve Mr James Gilchrist, minister (from 1738 to 1751) at Thurso, and that he thinks he was his fee'd servant. Depones that the said David enlisted as a soldier with Captain George Sutherland, Langwell's brother. Depones that when Captain Sutherland's recruits were going from Thurso to Wick, the deponent went along with them ; and that when they were gone four or five miles from Thurso, Margaret More, mother to James S. the claimant, came up with them and called David S. to a side, where they communed for some time, and then the deponent was called upon by the said Margaret More, to write a confession of his, the said David's, acknowledging



himself to be the father of the child which Margaret More was pregnant of at that time. That the deponent wrote the confession accordingly; it was thereafter produced at the session, and had the effect to get the claimant James S. baptized at Thurso. Depones that he heard that David S. had told other people that he was not the father of the claimant James S., but depones that David S. never told so to the deponent. All which is truth, &c.

James Sinclair of Holburnhead, ESQ., a married man, aged 50 years or thereby, admitted without objection, examined and interrogated, what relation the deponent was to Alexander, late Earl of Caithness, and what relation the deponent was to William Sinclair of Ratter? depones that Alexander late Earl of Caithness, and the deponent were first and second cousins; and the deponent is cousin-german to the claimant, W. S. of Ratter, as the deponent's mother was sister to this Ratter's father, and that the deponent's grandmother was sister-german to John Sinclair of Murkle, afterwards Earl of Caithness. Depones that by information he had from some books written on the peerage of Scotland, and some writs which he had seen, the deponent is convinced that John, Lord Berriedale, was eldest son of George, Earl of Caithness; that Lord Berriedale had three sons; the eldest, called George, succeeded his grandfather in the earldom and estate; the second son of Lord B. was called James, and was the first laird of Murkle; that the name of the third was John, and was afterwards called Sir John Sinclair of Greenland, and was also the first laird of Ratter. Depones that the heirs-male of George, Earl of Caithness, the son of John, Lord B., failed; that to James, the second son of John, Lord B., succeeded his son James, and to the said James last mentioned succeeded his son John, who was afterwards Earl of Caithness; and to this John succeeded Alexander, the late Earl of Caithness, his son. That the second James, laird of Murkle (grandson to John, Lord Berriedale) had a younger son named David of Broynach, and brother to John, the first Earl of Caithness, of the family of Murkle. That David is said to have had a son by a mistress of his, called Janet Ewen, who was called David; and the said David, Janet Ewen's son, is reported to be the father of James Sinclair, the claimant. That by the peerage information, which the deponent has had, and the tree of genealogy of the family of Caithness, which is now produced, it appears to the deponent that the said Alexander, late Earl of Caithness, was the great-great-grandson of the said John, Lord Berriedale. That John Sinclair, thereafter Sir John Sinclair of Greenland, and thereafter laird of Ratter, third son to the said John, Lord Berriedale, was succeeded by his son, James Sinclair of Ratter; that the said James S. of Ratter was succeeded by his son, William Sinclair of Ratter; that William S. of Ratter was succeeded by his son, John S. of Ratter; that John S. of Ratter, son to William S. of Ratter, was succeeded by his son, John S. of Ratter, who was father to William S. of Ratter, the claimant, whose great-great-great-great-grandfather was the said John, Lord Berriedale; whereby it appears to the deponent that the said Alexander, late Earl of Caithness, was the great-great-grandson of the said John, Lord Berriedale, the great-great-great-great-grandfather of the said William S. of Ratter, Esq., the claimant. Depones that it is the general belief of the country that William Sinclair, the claimant, is the lawful heir-male and lineal descendant from the said Sir John Sinclair of Greenland, thereafter laird of Ratter; and that he is habit and repute as such; and that he is in the possession of the lands and estate of Ratter (a part or the whole, but of which he cannot be positive), and which estate of Ratter belonged to the said Sir John Sinclair of Greenland, who was afterwards laird of Ratter. Depones that the deponent was acquainted with John Sinclair, elder brother to the claimant, William S. of Ratter; and that this John died at Edinburgh in his minority without lawful issue. Depones that he believes all the male descendants of James S. of Murkle, son to Lord Berriedale, have failed, excepting the pretended descendants of David Sinclair of Broynach by Janet Ewen. That the tree of the genealogy of Caithness, formerly mentioned as produced, is now marked and signed by the deponent and the commissioner. And this he declares to be truth, &c. The deponent was for several years in the family of John Sinclair, father to William S. of Ratter, the claimant, and was acquainted with Alexander, late Earl of

Caithness ; and the deponent's connection with both these families made him curious to know their genealogies ; and he had frequent occasions to be informed of the propinquity betwixt the families of Murkle, Caithness and Ratter; and the deponent is elder brother-german to Dr William Sinclair, a former deponent.

Mr George Gibson, merchant in Thurso, unmarried, aged 51 years, or thereby, admitted without objection, examined and interrogated, and the deposition of James Sinclair, Esq., of Holburn Head, the immediately preceding witness, being read over, and considered by him, depones and concurs therewith in *omnibus*, excepting as far as concerns his relation to the family of Caithness, which is as follows, viz , that Margaret Sinclair, the deponent's mother, was sister-german to John S. of Ratter, father to William S. of Ratter, one of the claimants ; and except in as far as relates to his having read and considered books written on the peerage of Scotland, which the deponent never had occasion to study. But depones that his principal information proceeded from what he had often heard his mother and other friends of the family of Caithness relate of the connections between the families of Caithness, Murkle and Ratter; and that the deponent had occasion to see writs that confirmed him still more in the accounts given him by his mother and others, as aforesaid. Depones that the deponent was acquainted with his uncle, the claimant., William S. of Ratter's father, and was at school with the said William S., claimant, his eldest brother John Sinclair; and knows that the said John died at Edinburgh in his minority without issue. Depones that the tree of the family of Caithness, now shown to the deponent, and which is signed by the said James S., the preceding witness, and the commissioner, he believes is justly and fairly made out ; and which tree the deponent and commissioner also signed. All which is truth, as he shall answer, etc.

*(To be concluded next week.)*

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THE EARLDOM OF CAITHNESS.

THE EVIDENCE IN SUPPORT OF THE RATTER CLAIM AND AGAINST THE BROYNACHS.

*(Concluded.)*

Durran, May 25th, 1767.

COMPEARED Margaret Swanson in Durran, a widow woman, cited by both parties, aged 70 years and upwards, admitted without objection, depones that she was not acquainted with David S. of B., but that she had seen him. Depones that there was a woman lived with him they called Janet Ewen, which she heard said was his wife, but whether she was so or not the deponent does not know. Depones that J. E. had four children to Broynach, and being interrogated if she knows whether these children were bastards or not, depones she knows nothing about that. Depones that she saw the youngest of J. E's. children christened ; that she was then so far grown up that she could go out and in about the house, and the deponent saw her sitting upon a stool eating a piece of a bannock at the time she was baptized; and that she was baptized by Mr W. Innes, minister of Thurso, and that the child was called Janet. Depones that the deponent at that time would be about 15 or 16 years of age ; and being interrogated for James S., the claimant, depones she does not know how long Broynach and J. E. lived together, and this is truth, &c.

Reaster, May 25th, 1767.

Margaret Baikie in Reaster, a witness cited by both parties, aged 88 years or thereby, admitted without objection, depones that she knew D. S. of B., and knows that he was married to a daughter of Mr S. of Dun's. Depones that she heard that Broynach had a servant called J. E., but did not see the said Janet. Depones that she heard that J. E. had children in fornication to Broynach, but the deponent never saw them. Depones she was present when the minister, from the pulpit, discharged B. and J. E. from living together, and depones, in answer to an interrogatory from James S., the claimant, that the deponent heard that Mr W. Innes, minister of Thurso (after he had discharged B. and J. E. from the pulpit for living together), went himself and separated them, and depones that she has often heard that J. E. was scourged through the town of Thurso for cohabiting with Broynach, and this she declares to be truth, &c.

Glasgow, July 28th, 1767.

Margaret Sinclair, daughter of the deceased John Sinclair of Forse, residing at Scotstown, aged 48 years or thereby, unmarried, depones that she, the deponent, since she was a child, was in use of going to the House of Clairdon, to visit the old Countess of Caithness, at different times, and particularly remembers being there several times during the years 1728, 1729, and 1730 years, and at many times after that period, during the Countess's life. And depones that the Countess's husband, John, Earl of Caithness, was grand-uncle to the deponent. Depones that she cannot recollect the first year she was at Clairdon ; but depones D. S. of B. was dead before that time, but how long the deponent cannot say further than the deponent thinks she heard it said he died the same year Lady Janet Sinclair (his niece) was married to Sinclair of Southdun, which the deponent thinks was said to be about the year 1714. Depones that D. S. of B. was brother-in-law to the old Countess of Caithness and uncle to Alexander, late Earl of Caithness. Depones that at the time above deponed on she was in use to see a woman called J. Ewen, or Ewing, about the House at Clairdon, where the deponent understood she was employed in washing clothes for the family, and the deponent has seen her carrying these clothes backward and forward between her own house and the House of Clairdon. Depones that the said J. Ewing was in use to sit in the kitchen with the servants of the family; and she never saw her received nor entertained about the house in any other way than a common servant. Depones that she always passed by the name of J. E., and never was named Mrs Sinclair nor Lady Broynach in this deponent's hearing; nor did the deponent ever observe that the Countess showed any respect to her as widow of Broynach. Depones that the said David S. was first married to a sister of Sinclair of Dun's, and that he had children of that marriage, who were respected and acknowledged by the Countess and friends of the family. Depones that she has also heard that B. had children by the said J. E.; but depones that these children of J. E.'s never were treated about the family or entertained in the same manner as B.'s other children; and that they were seldom about the House of Clairdon, and when they came there were not entertained at table with the Countess but treated as low people. And upon a cross interrogatory, depones that she has heard a vague report that Broynach and J. E. were married together; but she never heard it from the Countess or any of the friends of the family; and this deponent considered these children as bastards. And this is truth, &c.

Edinburgh, July 13th, 1767.

The two following witnesses being cited as havers, at the instance of the said William S., deponed and exhibited as follows:—George Jeffrey, writer in Edinburgh, clerk to Mr Robert Sinclair, advocate, aged 24 years, unmarried, being examined as a haver, produced a letter directed to the said Mr Robert S. from the late Earl of Caithness, dated at Hemer, the 13th May, 1765, which letter is marked by the producer, and commissioner, of this date. And being interrogated from whom he received the letter, depones that after the death of the late

Earl of Caithness, when disputes were likely to arise about the succession betwixt Sir John S. and Lady Fife, several papers were looked through, then in the custody of Mr Robert Sinclair, among which this letter is found. This is truth, etc.

The letter referred to in the oath of the said George Jeffrey is of the following tenor ;—  
 “Hemer, May 13th, 1765.—

SIR,—I received yours of the 30th past, Saturday. I am very anxious to make up my title to Wester Brims, because there is one that pretends to be heir, but it is no more than a pretension, for neither he nor his father was lawfully born. Both of their mothers were of the very dregs of the people, common prostitutes and thieves, some here are endeavouring to get something for him, because they are sure to get it soon from him for nothing. Mr Davidson was to blame for not retouring me to the whole. The tailzie and my infetment were in Lord Woodhall’s keeping. I do not know what papers relating to it are in Mr Anderson's hands. I know no reason why I should remit any to Mr Graham's daughters if Mr Graham was able to pay. I am willing to take good security for what is due. I hope Mr Pringle will apply for justice. I am, sir,  
 yours, etc. (Signed) CAITHNESS."

Addressed on the back thus, " To Mr Robert Sinclair, advocate, Edinburgh."

Compeared Mr John Pringle, writer to the signet, aged 50 years and upwards, who being examined as a haver, and interrogated if he is possessed of a letter from the late Earl of Caithness to the late Lord Woodhall, not dated, and if this letter contains the following words? " Ratter is next, though very remote. He has but a very small estate, and I believe a good deal of debt. He had no education, or was in good company. Though he lives within four miles of me, he never comes to see me, from which it seems he is disoblged, because I did not give him all I had, and depend for subsistence on his generosity. He cannot be very wise, for he could not have taken a more effectual way to disappoint his expectations." And if this letter contains the following postscript? "I have signed the entail at Hemer, May 10th, 1761; Peter Swanson, my servant; Will Angus, tenant in Clairdon." Depones that he is possessed of this letter, and that it contains the words above mentioned. And this is truth, &c.

NOTE BY MR THOMAS SINCLAIR, M.A.

An "inventory of title-deeds , and other writs belonging to William Sinclair of Ratter, Esq., produced in the said conjoined services" follows, taking about half the space of the above proof ; but as the authenticity of his descent and of the contents of his charter-chest is not disputed, this portion, interesting in itself, has no practical bearing on the Broynach question, and for the present must be left unpublished. The tree of the family of Caithness, referred to in the oaths of James Sinclair of Holburnhead and George Gibson, is attached to the proof. It has no variations from accounts in peerage books, and corresponds with "Caithness Family History," by John Henderson, W.S., so that there is no need of introducing it here. The Hon. David Sinclair of Broynach is given as the second son of Sir James Sinclair of Murkle; and the Hon. David's son, David, und grandson, James, the claimant, are the only persons in the tree not usual to the books describing noble lineage. It may not be quite familiar that Earl Alexander's brother Lord Murkle of the Court of Session, was the second son, and their brother, the Hon. Mr Francis Sinclair of Westfield, the third son of Earl John and Jean Carmichael, who in her widowhood lived at Claredon Hall. Both these brothers predeceased, without issue, their brother, Earl Alexander, who died in 1765. "David Sinclair, the son of David Sinclair of Broynach by Janet Ewen, whose legitimacy is disputed," is the description of that particular person in the tree; while his son is, "James Sinclair, one of the claimants."

An examination and analysis of this sworn proof, in the light of the mass of new evidence obtained from easy modern access to the national or local records, and consequent authentications of tradition and family knowledge, will be the next step in vindicating justice for the descendants of the maligned Janet Ewen, now proved, by extant record, to have been the Hon. Mrs David Sinclair of Broynach. Since the very worst that their worst enemy could furbish up against them is thus and here before the public, the Broynachs will, with fresh energy and reassured hope, battle ceaselessly against all-comers for their indubitable rights as the house of Caithness, the head line of the Sinclair name and blood.

T.S.

Falmouth, April, 1891.

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## THE BROYNACHS AND THE EARLDOM OF CAITHNESS

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR, - General treatment of the marriage and bastardy laws of England and Scotland having appeared, it is necessary to deal specially with Scotch enactments as the final basis of decision in the Broynach claim. "The Acts of the Parliament of Scotland" is the book of all books to be authoritative, and is ample evidence of the exact character wanted. On 13th February, 1649, an Act against clandestine marriages runs thus: - "The estates of parliament, considering now necessary it is that no marriage be celebrated but according to the laudable order and constitution of this kirk, and by such persons as are by the authority of this kirk warranted to celebrate the same, and that notwithstanding hereof sundry, either out of disaffection to the religion presently professed in this kingdom, or being desirous to eschew the censures of this kirk, or to satisfy their promise of marriage formerly made to others, or to decline the consent and concurrence of their parents or others having interest or out of some other unlawful pretext, procure themselves to be married, and are married, either in a clandestine way contrary to the established order of the kirk, or by Jesuits, priests deposed or suspended ministers, or any other not authorised by the kirk, do therefore statute and ordain that whatsoever person or persons shall hereafter marry, or procure themselves to be married, in a clandestine or disorderly way, or by Jesuits, priests, or any other not authorised by this kirk, shall be imprisoned for three months, and besides their said imprisonment, shall pay, each nobleman £5,000 Scots, each baron and landed gentleman 5,000 merks, each gentleman and burgess £1,000, every other person 500 merks, and that they shall remain in prison till they make payment of the respective penalties above-mentioned. These are hereby ordained to be applied to pious uses within the several parishes where the said persons dwell. The celebrator of such marriages is to be banished the kingdom, never to return therein under the penalty of death. Likewise the estates ratify the eighth act of parliament, 1641, made about those who go to England or Ireland and marry there, without proclamation of banns in this country, and against the order and constitution of the kirk thereof; with addition that the contraveners shall be liable to the respective money and bodily penalties mentioned in this act, and that the money penalties shall be applied to pious uses. It is ordained that the procurator for the kirk pursue before the civil judge the fulfilling of this act and ordinance for the bodily and money penalties above-mentioned, without hindrance always to the kirk to proceed with their censures against such offences." The act of 1641 was passed at Edinburgh on 1st September, with King Charles I present, and it forbade marriages in England or Ireland of Scotch people

without proclamation of banns in Scotland, under the penalties of £1,000 for a nobleman “so married,” 1,000 merks for landed gentlemen, £500 a burghess, 500 merks each substantial person, £100 for a yeoman of farmer, and each person of inferior quality 100 merks, all Scotch money. The one half of the fines went to the king, the other to the parish or parishes “where the married parties resided.” The king and the church’s advocate was to pursue before the civil judge, with this as final resource – “In case of the poor condition of anyone married in manner before said, it is ordained that they be punished by being put in the stocks or irons. These corporal and money punishments shall be in nowise prejudicial or derogatory to the order and censures of the kirk to be inflicted against the delinquents.”

At Edinburgh, 22nd May, 1661, in the time of Charles II, an act against clandestine and unlawful marriage was passed beginning, “Our sovereign lord and the estates of this present parliament, considering,” &c., as in act 1649 above exactly, till the fines, which were reduced as follows: - Nobleman £1,000 Scots, baron and landed gentleman 1,000 merks, gentleman and burghess £500, and every other person 100 merks. The celebrator was to be banished, as before; and no one was to marry in England or Scotland of Scotch people except with proclamation of banns in Scotland, under penalty – a nobleman of £1,000, laird 1,000 merks, burghess £500, substantial person 500 merks, farmer £100, inferiors 100 merks, one half to the parish, the other to the king, “stocks and irons” not forgotten for the benefit of the poor.

In the declaration of the estates of Scotland containing the claim of right and the offer of the Scottish crown to their majesties William and Mary, King and Queen of England, of date Edinburgh, 11th April, 1689, one article is, “That prelacy or the superiority of any office in the church above presbyter is, and has been, a great and insupportable grievance and trouble to this nation, and contrary to the inclinations of the generality of the people ever since the Reformation, they having reformed from popery by presbyters, and therefore ought to be abolished.” On 22nd July, 1689, the act abolishing prelacy was passed accordingly by these sovereigns with advice of parliament; rescinding the first act of the second session of the first parliament of Charles II, and the second act of the third session of the first parliament of Charles II, and the fourth act of the third parliament of Charles II, and all other contrary acts to presbytery. At Edinburgh, 7th June, 1690, there was ample ratification of the “Confession of Faith” and presbyterian church government by William and Mary and the Scotch Parliament, all the acts for and against presbyterianism fully detailed; only the ministers “outed” since 1st January, 1661, for nonconformity to prelacy, but now restored, and such ministers and elders as they admit being competent to the new presbyterian government, and to have the maintenance and privileges provided by the law of the kingdom. The first General Assembly was appointed to be at Edinburgh the third Thursday of the following October, 1690; and the scandalous or insufficient or non-attending ministers were there to be dealt with summarily by suspension or deposition, and the whole presbyterian government to be put in order. The conforming ministers, either deserted or removed 13th April, 1689, for not obeying that day’s proclamation against King James and for William and for Mary were to have their churches at once declared vacant and supplied by presbyterian ministers. At Edinburgh on June 12th, 1693, an act was passed for settling the peace and quiet of the church, really a ratification of the above, with the addition that no person be a preacher or minister without taking the oath of allegiance and subscribing the assurance, also the “Confession of Faith,” and acknowledging presbyterian government. Uniformity of worship was statuted. The estates of parliament made an address to their majesties to call a general assembly. Ministers possessing churches, but not admitted to share in the presbyterian government, on application and qualification, were to be received; those not applying within 30 days to be deposed from office and emolument; scandalous ministers not to be treated with at all.

The following act against irregular baptisms and marriages, 28th June, 1695, is of immediate

interest: - “Our sovereign lord, considering that the baptizing of children and solemnising of marriage, by the laws and customs of this kingdom and by the constitutions of this church, have always been done by ministers of the gospel authorised by law and the established church of this nation, and that notwithstanding thereof several ministers, now outed of their churches, presume to baptize children and solemnise marriages without proclamation of banns or consent of parents, and sometimes within the forbidden degrees, therefore His Majesty, with advice and consent of the estates of parliament, strictly prohibits and discharges every outed minister to baptize any children or solemnise marriage between any parties in all time coming, under the pain of imprisonment, and till he find caution to go out of the kingdom and never to return thereto, and remits the execution of this Act to the ministers of the law, who are to assist to the execution of the 23rd Act of the 4th session of this parliament for settling the peace and quiet of the church; declaring always that this present act is without prejudice to the acts of parliament already made against private and clandestine marriages, which are hereby declared to stand in full force; and that execution may proceed on the said acts at the instance of the parties concerned or of the procurators-fiscal of the jurisdictions where they shall happen to be questioned.”

But the time needed new improvements, and at Edinburgh, 30th August, 1698, the further Act against clandestine and irregular marriages was touched with the sceptre and passed: - “Our sovereign lord, with advice and consent of the estates of parliament, for rendering more effectual the acts of Parliament against clandestine and irregular marriages, namely, the 34th act of the 1st parliament, 1661, and 12th act of the 5th session of this current parliament, statutes and ordains that the parties clandestinely and irregularly married contrary to the said act 1661, declare, when required, the names and designations of the minister or person who celebrated the said clandestine or irregular marriages, and of such as were witnesses to the said marriage, with certification that if they refuse when required, the beforesaid married parties shall pay, each nobleman £2,000 Scots, each baron and landed gentleman 2,000 merks, each gentleman and burgess £1,000, each other persons 200 merks, to be applied to pious uses within the parishes where the said persons dwell; and, further, be imprisoned till they declare who were celebrators of, and witnesses to, the said marriages, and also make payment to the respective penalties above-mentioned. And for the better repressing of said clandestine marriages, it is further statuted and ordained that, over and above the pains contained in the said act, 1661 and 1695, against clandestine and irregular marriages, the celebrator of the said clandestine marriages shall be liable to be summarily seized and imprisoned by any ordinary magistrate or justice of the peace; and, further, to be punishable by the lords of his majesty’s privy council, not only by perpetual banishment, but by such money or corporal punishments as the said lords of privy council shall think fit to inflict; as also that the witnesses to the said clandestine marriages shall be liable each of them in the sum of £100 Scots, toties quoties, to be applied to the uses and in manner above-mentioned, or if insolvent, to such corporal punishment as the said lords shall think fit to determine.”

This concludes all the law in the statute-book of Scotland applicable to the marriage on which depends the Broynach present claim. But before dealing with these perfectly unambiguous enactments, the official presbyterian views of the state of things must be given, though naturally in the worst colouring, because of repudiation of the kirk’s unlimited despotism. A representation was made on 8th November, 1700, by a commission of the General Assembly to the royal commissioner and parliament. Stricter treatment of papists was asked, and magistrates were to be called to enforce the act of 1696 against prophaneness; but the important demand of the representation can be gathered from the following extract: - “It is also to be regretted that, by the disaffection of some persons to the present Government, there fall out many irregularities and disorders; and particularly it is humbly represented that divers of the episcopal clergy set up meeting-houses, some of them in vacant parishes, which greatly

obstruct the legal planting thereof, and some in parishes where there are settled ministers, whereby a door is opened for violation of the laws against disorderly marriages and baptisms, and for such innovation in worship as has not been used in this Church; and some persons in divers places practice upon and overawe the people, diverting them from waiting on the public ordinances and worship in the churches, although it is known they would otherwise willingly attend gospel ordinances dispensed by Presbyterian ministers. Likewise, some of the late pretended bishops ordain ministers and license preachers in some parts of the kingdom. By these things schism and division are propagated and perpetuated in this church. It is therefore humbly desired that some remedy may be provided.” MASTER G. MELDRUM, moderator of commission, is the signature. This was the very year of the marriage of the Hon. David Sinclair of Broynach to Janet Ewen by the Rev. Arthur Anderson, Episcopal minister, it said without due proclamation of banns.

After reading the acts of parliament now carefully and completely detailed, a lawyer would have no hesitation in deciding that not a word or clause in them affected the validity of David and Janet’s marriage, even if they had incurred the penalties of these laws. The punishment for being married irregularly actually implies and proves the fact of being irrevocably and truly married. It is manifest that the legislators in their severest mood never dreamt of attacking the validity of such marriages, their purpose partly being to discourage them. The sentence of banishment against the celebrator shows that the clerical and not the lay side of the business was the chief motive of the acts. There is no contradiction to the church, civil, and common law of the realm on marriage in the drafting of these enactments; though the ordinary mind, untrained in legal distinctions, might well be excused if this cardinal fact should not be at first sight thoroughly appreciated. The only attempt upon what may be called the universal code of marriage in all civilised countries was in the time of Charles II, 1672: - “Whosoever shall be married by persons not lawfully ordained or authorised, shall lose any right they may have by that marriage to the right of the husband or to the right of the widow;” but this so scandalised those trained in law that it was repealed or rescinded under William and Mary 1690, the time when irregular marriages were most opposed. See “Compendium of the Law of the Church of Scotland.” For this reference the debt is to Mr Charles Bruce, F. S. A. S., formerly bailie of Wick, who has further sent valuable extracts from Walter Stuart of Pardovan’s “Collections and Observations,” published 1709, the same year in which Nelson’s book appeared on the rights of the English clergy, Stuart being the authority on Scotch church-government. Of the statute of 1698, Mr Bruce says, “Though it clearly defines the penalties consequent on a clandestine marriage, it does not in the slightest degree indicate that the marriage was invalid.” He quotes Barclay’s “Digest of the Law of Scotland” thus, “By our law a clandestine marriage is binding, but the celebrator is liable to banishment or pecuniary fine or corporal punishment, the parties to fine and imprisonment, and the witnesses to £100 Scots each.” Barclay refers to the various acts of parliament now given. There is no room to doubt the legal validity of the marriage of the Hon. David and Mrs Sinclair of Broynach, notwithstanding the anarchical condition of the time of its celebration. Lord Macaulay denies that there was any illegality in the official performances of the episcopal presbyterians, and King William did all he politically could to protect them from the rigid dominant presbyterians with whom they had been see-sawing or outing and inning for so many years. Queen Anne was still more favourable. On 1st June, 1703, there was a draft of an act for toleration to all protestants in the exercise of religious worship read, and on 3rd June again read, in the Scotch parliament. The first of these days a representation against the Toleration Act by a commission of the General Assembly was also read, and on the second of them Queen Anne’s letter to the privy council was brought forward and immediately returned to the council’s clerk, its diction hotly resented by the House, who immediately ratified the presbyterian settlement of 1689, making it high treason to question its articles. See Earl Stanhope’s “Reign of Queen Anne,” published in 1870; but fuller details are to be found in



Tindal's "Continuation of Rapin's History of England," pp. 377, 378, 380, 647, &c. The Queen's unfortunate letter, which bound the episcopal party under treason, a position King William never allowed, is as follows: - "We do, in the first place, recommend to your care the church now established by law, in its superior and inferior judicatures, such as sessions, presbyteries, synods, and general assemblies; as also in the exercise of their holy functions, and in what concerns their persons and benefices. We are informed that there are many dissenters who, albeit they differ in opinion from the established church as to church-government and form, are yet of the protestant reformed religion, some of whom are in possession of benefices and others exercise their worship in meeting-houses. It is our royal pleasure that they should be directed to live suitably to the reformed religion, which they profess, submissively to our laws; decently and regularly with relation to the church established by law, as good Christians and subjects; and, in so doing, that they be protected in the peaceable possession of their religion, and in their persons and estates, according to the laws of the kingdom. And we recommend to the clergy of the established discipline their living in brotherly love and communion with such dissenters." On 13th March, 1703, these episcopal dissenters had presented an address to Queen Anne "to take into her royal consideration the condition of the subjects of the Episcopal persuasion" in Scotland. "It is not unknown to your majesty the hard measure and discouragements they met with of late years, particularly those of the clergy, though they have always behaved themselves (as their principles oblige them to do) peaceably and submissively to supreme authority. May it therefore please your sacred Majesty to take those into your royal protection, and give liberty to such parishes, where all or most of the heritors and inhabitants are of the Episcopal persuasion, to call, place, and give benefices to ministers of their own principles, which the presbyterians themselves can have no reason to complain of; for, if the plurality, they pretend to, be true, by this act of grace, neither their churches nor benefices are in hazard," &c. She answered them by assuring of her protection as far as she could. In the General Assembly's representation the conclusion was, "That they were persuaded, that to enact a toleration for those of the episcopal way (which God of his infinite mercy avert) would be to establish iniquity by a law, and would bring upon the promoters thereof, and their families, the dreadful guilt of all those sins and pernicious effects that might ensue thereupon." In the rabbling of the episcopal ministers shortly after the Revolution of 1688, few or none were touched north of the Tay, which shows that the persuasion was in the majority there. More of Stoneywood said in the parliament of 1703 that all in Aberdeenshire were Episcopal, and that the treason clause would make them traitors perforce. The act stated that "the presbyterian government was the only church of Christ," so dissenters, who were nearly half the community, would also be heathens. It was not till 1712 that toleration was gained, with the important clause in the act that the civil magistrate was not to execute the sentences of the kirk, from assembly to parish session, thus taking the sting out of ecclesiastical faction. All the acts were repealed against so-called irregular baptisms and clandestine marriages, "that is to say," quoting Chambers "History of England," vol. iv., page 242, "against all baptisms and marriages performed by the episcopalian or any other dissenting clergy;" the usual General Assembly's representation made, decrying toleration, but this time without effect. The restoration of lay patronage in Scotland the same year of 1712 was another severe check to the tyranny of the kirk, if it was not, as such late events as the 1843 disruption indicate, passing beyond the proper limit, episcopal ascendancy being quite as despotic as presbyterian when it had the chance. Arcades ambo, dissenters in turn. In such a revolutionary period it is easy to discern that the institution of marriage, in any of its essentials, could not be affected by clerical outing and ining. These quotations are long, but they are valuable, as from the original sources, and as fairly putting the state of things about 1700 in good evidence. If the Hon. David Sinclair and Janet Ewen were married regularly or clandestinely with or without banns, it is manifest that the ceremony was neither invalid nor void by any Scotch enactment or circumstance whatsoever. - Yours, &c.,

THOMAS SINCLAIR.  
Falmouth, May, 1891.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

THE DISCOVERED COUNTY PROOFS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The Rev. A. H. Gillieson, B.D., presbytery-clerk of Caithness, has sent me full extracts from the existing ecclesiastical records of the county with respect to the fact of the marriage in 1700 of the Hon. David Sinclair of Broynach and Janet Ewen. Not a word of introduction is necessary to emphasise their importance and finality. One remarkably incidental and most unexpected proof of the validity, of the marriage may, however, be pointed out as occurring in the first of the extracts—the knowledge necessary for seeing its full force not being readily available to everybody. By the sworn evidence, it is clear that John Sinclair of Forss was married to Barbara Sinclair of the Ratter family, aunt of William, the first usurping earl of 1772, by the Rev. Arthur Anderson in April, 1700, without ever being proclaimed ; that is without banns. Their child was baptized by him in June, 1700. The children of this irregular marriage and their descendants were and are the proprietors of Forss and Freswick; the present laird of Forss and Mr William Sinclair Thomson Sinclair, now of Freswick, each with rentals of £6000 a year upwards, holding their lands and all other rights on the lawfulness of the ceremony performed by this episcopal ordained clergyman. The case of the Hon. David and Janet Ewen, if they had no banns proclaimed, is exactly equivalent to that of the Forss proprietor and the Ratter frail lady. The inescapable inference is that as the Forsses and Freswicks were never prevented in any single point of succession to lands, &c., which they would have been if an unlawful element were present, so the descendants of the Hon. David Sinclair and Janet Ewen had and have equal right to the titles or properties of their line. See Henderson's "Caithness Family History," pp. 51 to 59 and 128 to 141, on the Freswicks and the Forsses for illustration of this extraordinary authentication of the Broynach claim to the earldom. Apart from the other evidence, which is, in a sense, more direct, this of itself could in legal hands settle everything against the past and present usurping earls ; but the further materials of proof are ample to superabundance, as the official extracts will now show.—

Yours, &c.,

THOMAS SINCLAIR.  
Falmouth, June, 1891.

The register of the actings and proceedings of the commission of the late General Assembly of the Church of Scotland for visiting Caithness.

At Thurso, in Caithness, 20th June, 1700, *a.m.*

The brethren of the commission of the late General Assembly of this national church of Scotland, who came from the south for visiting Orkney, Zetland, and Caithness, having done their work in conjunction with the rest of their brethren in both the beforesaid places of Zetland and Orkney, and now upon their return homewards judging it necessary to visit

Caithness, they by the mercy and good providence of God arrived here at this town on Tuesday night last, being the 18th instant. Having met with the brethren of this Presbytery, except Mr Macpherson at Farr, they consulted and resolved to have their first sitting this day. A letter of advertisement was despatched Mr Macpherson to be present at this diet to the effect aforesaid. Accordingly, day and date beforesaid, the brethren convened at the ringing of the bell, and after prayer by the Rev. Mr James Hart, moderator of this Commission while in both the beforesaid places of Zetland and Orkney, there was produced in presence of the said meeting a commission given by the General Assembly authorising this judicatory, which was publicly read. (Here follows the text of the commission). After the reading, the roll was called, and the sederunt marked as follows:—Mr James Hart, minister at Ratho; Mr John Sandilands, minister at Dolphington ; Mr John Brand, minister at Borrowstonness; Mr Alexander Lauder, minister at Mordington, brethren from the south, all above-designed ; as also Mr William Innes, minister at Thurso; Mr John Munro, minister at Reay ; Mr George Oswald, minister at Dunnet; and Mr William Macbeath, minister at Orlig, ministers of the Presbytery at Wick. There were absent Messrs James Graham, Patrick Guthrie, and William Blair, ministers of Orkney, who were excused because of the distance of the place, greatness of their charges, scantiness of ministers in Orkney to supply their vacancies, and their long absence already from their charges while in Zetland. The beforesaid Mr Macpherson was also absent, not being as yet come in. Samuel Maclennan, ruling elder, was excused for absence. The Commission and Presbytery proceeded to the choice of a Moderator and clerk. Election being made, Mr James Hart was chosen Moderator, and Mr John Sandilands, clerk, both taking their places accordingly.

The Commission and Presbytery being thus constituted as a judicatory, they caused the instructions given them by the General Assembly to be read. This being presently done, the Commission and Presbytery enquired if the Presbytery of Caithness had any work to do with this judicatory at this time. Thereupon the said Presbytery presented a paper, subscribed by their clerk at their appointment, containing several particular affairs upon which they would partly have the Commission's advice and partly would have the Commission to discuss. This representation was publicly read and appointed to be recorded, the tenor of which follows:—An information of the Presbytery of Caithness to the Commission. First, that Mr Arthur Anderson, pretended preaching deacon, be cited before them for several irregular baptisms and marriages, and several other scandals unbecoming the Gospel of Christ, as is evident by the libel herewith produced against him. Second, that David Sinclair of Broynach be cited before them for his open avowed cohabiting in filthiness with Janet Ewen, which gentleman now pretends to be married to the said Janet by the beforesaid Arthur Anderson." (Here follow *third, fourth, fifth, and sixth*, on other matters). These heads are, at the appointment of the Presbytery, subscribed, 20th June, 1700, by (signed) GEORGE DUNCAN, Clerk of Presbytery. After reading this paper, the Commission and Presbytery resolved to fall upon the consideration of the first two particulars therein partly related. As to the first relating to the Rev. Mr Arthur Anderson, they appoint the clerk to meet with the members of the presbytery at the rising of this present sitting, and to receive from them the particular grounds of an information against the said Mr Arthur Anderson, together with a list of the witnesses to prove the same, and to draw up the said information in form, and thereupon to grant warrant for summoning the said Mr Arthur Anderson before this commission and presbytery, to sit in this place on Saturday next, being 22nd instant, at 10 o'clock in the forenoon, and to send him a copy of the said information, and a list of the witnesses' names to prove the information. These witnesses are also to be summoned to the diet beforesaid. As to the second particular, relating to David Sinclair and Janet Ewen, the clerk is also appointed to give warrant for summoning both these persons to the diet beforesaid. For the rest of the particulars contained in the presbytery's representation, they are hereby referred to Messrs Brand, Lauder, Innes, and Munro, with the moderator and clerk. (Here follow details.) The next meeting of this

commission is to be here to-morrow at 3 o'clock afternoon, whereof public intimation being made, the moderator concluded this first sitting in Caithness with prayer.

(The meeting of 21st June considered the last four articles of the information.)

At Thurso, 22nd June, 1700, *a.m.*

After prayer and calling of the roll, the sederunt as above, except Mr Wm. Macbeath, who sent a line of excuse, which was accepted. The clerk reported that according to appointment he had drawn up the libel against the Rev. Mr Arthur Anderson, pretended preaching deacon, and had issued out summons for him to appear here at this diet, as also had sent him copy of the said libel, with the list of witnesses summoned for proving the same, and that he had received the execution of the summonses both of the said Mr Arthur Anderson and of the witnesses to this same diet. Upon this the said libel was particularly read and appointed to be recorded, the tenor of which follows :—"At Thurso, 20th June, 1700. The commission of the last General Assembly of this national church of Scotland for visiting Zetland, Orkney, and Caithness, being met here with the presbytery of Caithness, and taking into their consideration that whereas by the word of God and the acts of the General Assembly it is strictly required that ministers of the gospel, and all pretending to that function, should be of a holy, blameless, and Gospel-adoring conversation, of pious, peaceable, and loyal principles, no striker or given to excess, lies, or filthy lucre, nor any other way profane or scandalous in life and conversation, and the said commission and presbytery being informed that notwithstanding thereof Mr Arthur Anderson, pretended preaching deacon, for the present in Mey, is one of a profane scandalous conversation, given to habitual drunkenness, lying and fighting and plying, and for filthy lucre's sake prostitutes the sacrament of baptism to the children of scandalous persons and fugitives from discipline, both fornicators and adulterers, taking also upon him, for the filthy lucre before said, to marry persons irregularly not only without proclamation of banns and consent of parents, but also others who are profanely gross and scandalous, and that not only without the consent but also in contempt of the presbytery in whose bounds he resides, therefore, this information being considered by the commission and presbytery, they did and hereby do empower Gilbert Omand, their officer in that part, to pass and lawfully summon, warn, and charge the said Rev. Arthur Anderson to compear before this commission and presbytery before said to sit at Thurso upon Saturday, 22nd instant, by 10 o'clock forenoon, with continuation of days, to answer to the said libel, and to hear and see the commission cognosce upon the said affair, and give sentence thereupon, and certification, as is proper."

After reading this, the commission and presbytery judged the same to be relevant, whereupon the execution of the summons of the said Mr Arthur Anderson was read, and the officer appointed to call him. Being called thrice at the most open kirk-door, he did not compear, but there appeared an Alexander Mackenzie, who produced a paper subscribed by Arthur Anderson, and directed to the reverend the moderator and remaining brethren of the commission and presbytery of Caithness. This was read and appointed to be recorded, the tenor of which follows:

—" To the reverend the moderator and rest of the remanent brethren of the commission and presbytery of Caithness, this sheweth, *First*, that were I in a condition to attend your diet, as truly I am not, the first thing I would desire of you would be the libeller or libellers' names, which in reason and equity; if you have either, could not be denied me. *Second*, I would crave, after knowing the libeller or libellers, names, time and space for exculpation, which by the constituted laws of this kingdom in the happy reign of King Charles II., of blessed memory, with the deceased right honourable Sir George Mackenzie of Rosehaugh, his majesty's deservedly honoured advocate, were allowed to those impeached for treason, and

so, *a minore ad majus*, they are the things that could not be denied me, if the wilful and tenacious humours possess not you which possessed Mr ..... to say, 'What is the value of all your acts of parliament?' *Third*, I would demand of you the strict and germane definition of drunkenness, that the witnesses and I may thereby know the true measures of excess that constitutes a man drunk, which I conceive will seem to you *hoc opus hic labor*, not because you cannot, but because you will not. If you would do this, I defy one and all of the witnesses to prove me to have been drunk in the strict sense and measure, or in any sense that I was not able to have gone about any part of my function. *Fourth*, as to the abominable and heaven-excluding vice of lying, I ever had a perfect abhorrence of it in myself; but I find that my formerly clandestine and now openly murdering man, Mr Oswald, whom in the presence of the lairds of Murkle, Ratter, and ....., I proved a manifest liar, would gladly have a *socius criminis*, but he must go and seek another, since he can both deny his word and writing, if witnesses did not bind him. *Fifth*, as to threatening, duelling, and beating insolent villains, I acknowledge, and will be grieved and humbled for it that great provocation, which they are to answer for who gave it, should have transported me in passion beyond the limits of reason, I being able to comport with nothing that relished of any affront. To be a man and minister both, *quid vetat?* However, you will find none more ingenuous than I in a humble and ready confession of this, since I trust that my God has, for it and others of my heinous sins and transgressions and iniquities, upon my unfeigned return to himself by repentance, received me into his mercy and favour. I rest confident that God will, in and through and for Christ's merits, mediation, and intercession, in a short time receive me into his kingdom and glory, where I shall be free from all the aspersions of malevolent and uncharitable wretches, who have in my journey often marred my comfort. I desire to put them in mind that they must ere long follow me and appear before the impartial Judge, who will have a vindication of names as of other things. You may proceed, decide, and determine either for or against me as you please, since I trust shortly to be put beyond the reach of malice. That I did anything for filthy 'lucre's sake, or out of contempt of the presbytery, I absolutely deny; it was only to put people out of the necessity of sinning. Let him also whom I know to be the hand of Joab in this my trouble be made sensible that, since he performed not the conditions of his obligatory letter to me a year ago, but still took all methods to disoblige me, I would not do so to displease him. *Sic subscribitur*, ARTHUR ANDERSON, late minister at Kilmeny."

After reading this paper, the commission and presbytery referred consideration of it, or passing judgment upon it, till they should hear the depositions of the witnesses summoned to prove the beforesaid libel led against the said Mr Anderson. He having objected nothing against the witnesses, and the execution of their summonses being produced and read, their depositions were liken in manner following:—

Mr John Campbell, commissary of Caithness, married, aged 30, solemnly sworn, purged of malice and partial counsel, was interrogated, and deponed that he never saw Mr Arthur Andersen drunk or quarrelsome, but only heard a common report thereof through the country; that he never had occasion to talk to him one half-hour; and that he only heard he married David Sinclair and Janet Ewen. *Sic subscribitur*, JOHN CAMPBELL.

Alexander Mackenzie, not married, aged 30 years, solemnly sworn, purged of malice and partial counsel, was interrogated, and deponed that he saw the said Mr Arthur Anderson the worse of drink and staggering, but never fall or vomit; that he never saw him fight, but heard of it; that he never saw him baptize children, but heard it also; that he heard that he married David Sinclair and Janet Ewen; and that he heard him frequently inveigh against the church government. *Sic subscribitur*, ALEXANDER MACKENZIE.

George Dow, an elder in Thurso, married, aged 40, solemnly sworn, purged of malice and

partial counsel, was interrogated, and deponed that he saw the said Mr Arthur Anderson have more liquor than became a man of his character, and that he heard he was given to fighting and quarrelling, but never saw it; that he was witness to his marrying of James Dunnet and Elizabeth Sinclair about three or four years ago in the kirk of Olig; that he heard him speak frequently against the church government, but cannot be very positive of his speaking against the civil government; that he heard he baptized James Reid of Murkle's child, begotten in adultery with Christina Miller; and that he heard he married David Sinclair and Janet Ewen, but saw it not. *Sic subscribitur*, GEORGE DOW.

Gilbert Montgomery, an elder in Thurso, married, aged 40 years, solemnly sworn, purged of malice and partial counsel, was interrogated, and deponed that he knew nothing of Mr Anderson but hearsay; that he heard he was drunk; that he heard of his fighting marrying, and baptizing; and that he heard him a professed enemy to presbyterianism often enough. *Sic subscribitur*, GILBERT MONTGOMEKY.

Walter Montopley, married, aged 63, solemnly sworn, purged of malice and partial counsel, was interrogated, and deponed that he once heard Mr Anderson was a little concerned with drink when with the laird of Burray; that he heard he struck Donald Robison; and that he heard he both baptized and married. *Sic subscribitur* by JOHN SANDILANDS, clerk, at the deponent's desire, because he could not write.

Donald Groat, unmarried, aged 28, solemnly sworn, purged of malice and partial counsel, was interrogated, and deponed that he heard that Mr Arthur Anderson is subject to drink more than one of his character should be; that he heard he and the seamen squabbled going to Stroma, and it was reported that it was occasioned through his being drunk; that he saw him marry John Sinclair of Forss and Barbara Sinclair in April last; that the deponent knew he got five or six dollars from these persons; that these persons were never proclaimed; and that he heard he baptized James Reid's child in Murkle. *Sic subscribitur*, DONALD GROAT.

David Macleod, married, aged 40 years, solemnly sworn, purged of malice and partial counsel, was interrogated, and deponed that he saw the Rev. Arthur Anderson strike David Sutherland in St Margaret's Hope over the table in Bailie Ritchie's house; that he threatened to take the ear out of the deponent's head; that he heard him swear as grossly as anyone could do; that he heard he baptized Broynach's child; and that he knew he married James Reid and Christina Miller. Subscribed, at the desire of the deponent, by JOHN SANDILANDS, clerk.

Gilbert Ommann, married, aged 63, solemnly sworn, purged of malice and partial counsel, was interrogated, and deponed that he saw Mr Anderson baptize John Sinclair's child the other day; that he knew he married James Dunnet and the laird of Ratter's natural daughter; that he has heard him speak against the church government; that he married David Sinclair and Janet Ewen, and that yesterday he declared the same to the deponent, and that if it were to do, he would do it again. *Sic subscribitur*, GILBERT OMMAND.

The further consideration of this affair is delayed till Monday, at 3 o'clock afternoon. In the meantime Messrs James Brand, Alexander Lander; John Munro, with the moderator and clerk, are to meet together to consider this whole affair, to read all papers relative thereto, and to bring in their opinion thereupon the beforesaid sitting.

The commission and presbytery, considering that they had caused to cite to this diet David Sinclair of Broynach and Janet Ewen, directed their officer to call them. This was done thrice at the most open kirk-door, and not appearing, they are hereby referred back to the presbytery, who, after dealing with them, are to apply to the civil magistrate to punish them according to

law, if they continue obstinate and contumacious. The next meeting of commission and presbytery is to be in this place on Monday, at five o'clock afternoon whereof public intimation being made, the moderator concluded this third sitting with prayer.

(*To be continued.*)

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

THE DISCOVERED COUNTY PROOFS.

(CONTINUED.)

At Thurso, June 24th, 1700.

AFTER prayer, the sederunt as before, Mr Macbeath and Mr Macpherson still absent. The committee appointed to consider the affair of Rev. Arthur Anderson reported that they had done so according to appointment. Having read and considered all papers relative thereto, they find, *First*, that the said Mr Arthur Anderson is a person of bad report; *Second*, that he is given to drink to an excess unbecoming one of his character; *Third*, that he is quarrelsome and contentious; *Fourth*, that he is guilty of several irregularities, such as baptizing children of scandalous parents, and marrying scandalous persons; *Fifth*, that he is guilty of virulent, bitter, and contumacious expressions and reflections upon grave ministers in his paper given in to this commission; *Sixth*, that he is guilty of taking bribes for solemnising irregular marriages, as is evident by a letter under his own hand, directed to the laird of Murkle, which they read and considered. For these causes, they give it as their opinion that he ought to be simply deposed from the exercise of all parts of the ministerial function; that this commission should recommend it to the civil magistrate to render the said sentence effectual in all time coming; and that if he shall contravene the same, the presbytery be appointed to proceed against him with the highest censures of the church.

This report the commission and presbytery having heard and considered, approved of the same in all points by their unanimous vote, whereupon the clerk drew up the following sentence:—

SENTENCE AGAINST MR ARTHUR ANDERSON.

" The commission of the late General Assembly of this national church of Scotland for visiting Zetland, Orkney, and Caithness, being met with the presbytery of Caithness upon 20th June, 1700, and taking into consideration a libel presented before them against Mr Arthur Andersen, pretended preaching deacon, at present at Mey, resolved on the discussion thereof, and thereupon granted warrant for the citing of Mr Arthur Anderson to appear before them upon Saturday next thereafter, being the 22ud instant, by 10 o'clock forenoon, and therewith sent him an adjusted copy of the said libel, with the names of the witnesses summoned to prove the same. The said Mr Arthur Anderson and the witnesses being lawfully summoned, and the execution of the summons produced and read, he was, at the diet before said, called thrice, but did not appear. He only sent a paper, subscribed by his hand, containing several scandalous and virulent expressions and injurious reflections on some ministers, and by it he allowed the judicatory to proceed or not as they pleased, he offering no objection to the witnesses. The said information was remitted to proof, upon which the

witnesses were solemnly sworn and purged of malice and partial counsel, interrogated, and did depone. Therefore, upon the day and date of their presence, being the 24th June instant, the commission and presbytery, taking this whole case into their consideration, and having heard and considered the report of their committee, as also having read and considered all papers relative thereto, and finding by the deposition of witnesses the said Mr Arthur Anderson guilty of drinking to excess more than became a person of his pretended character, as also that he is quarrelsome, contentions, and a person of a bad report, and who has committed several irregularities in baptizing children of scandalous parents and marrying scandalous persons, and finding that, in a paper directed to this judicatory and subscribed with his own hand, he has most virulently, bitterly, and calumniously reflected on some very grave ministers, and that in the same paper he has acknowledged his irregular marrying and baptizing, and his quarrelling and striking, as also having seen a letter, written and subscribed by him, in which he offers to desist from marrying Murkle's brother Broynach, upon condition of his having as much money from Murkle as he was to have from Broynach, for these and other causes contained in the minutes of this judicatory and in the depositions of witnesses extant in process, the commission and presbytery, being moved with zeal to the glory of God and to the purging of His house, did and hereby do, by virtue of the authority committed to them, depose the said Mr Arthur Anderson *simpliciter* from the exercise of all the parts of the beforesaid pretended office, strictly inhibiting and discharging him in all time coming from exercising any part of the ministerial function, with certification that if he contravene the said sentence, to be proceeded against with the highest censures of the church, either by the presbytery of Caithness or any other presbytery within this kingdom where he may come and happen to contravene, as is said. In the meantime, this commission and presbytery seriously recommend it to all sheriffs, justices of peace, and other competent magistrates to grant concurrence, according to law, for rendering the said sentence effectual, upon application of any church judicatory to them for that effect. Finally, they appoint the presbytery of Caithness to give due intimation of the premises to Mr Arthur Andersen, as also to intimate the same duly in all the parish churches within the said presbytery at their first convenience."

The minutes of this commission since coming to Caithness are hereby appointed to be revised by Messrs William Innes and John Brand, with the moderator and clerk, and afterwards to be carefully inserted with all the actings and proceedings of this commission in readiness to be produced at the next General Assembly. Also a copy of the commission's proceedings in this place is to be by the clerk carefully filled up in the register of the presbytery before the time of the next General Assembly, which presbytery register is hereby appointed to be sent up to the next General Assembly, according to their act, to be by them revised and approved. The commission, considering that the clerk has been most careful, painstaking and diligent, and must yet be at no small pains, not only in having a register of the commission's actings in readiness for the next General Assembly, but also must send copies to Caithness, Orkney and Zetland, and that he is to insert the minutes of the presbytery of Zetland in a register to be a copy of form to them in all time coming, do by these presents seriously recommend him to the next ensuing General Assembly, to be by them considered and rewarded according to his great care, pains and diligence beforesaid. The commission's work being now ended in all the places appointed by the General Assembly for them to inspect and visit, namely, in Orkney, Zetland, and now in Caithness, after commending the brethren here for faithfulness and diligence, unanimity and courage, in advancing the great ends of the gospel, and exhorting them to perseverance therein, thought it their duty to record an acknowledgment of God's wonderful love and kindness to them in their preservation and safety both by sea and land and in their counsel and conduct about all the great affairs of His house, and to pray, hope and expect that the same God will follow with a blessing what he has helped them to do, and that it may tend to His glory and to the welfare of His church and the satisfaction of those by whom they were appointed for this work. After an exhortation to this commission to attend



the next ensuing General Assembly, there to give an account of their proceedings, the commission was dissolved, the moderator concluding with prayer.

*Extracted from the records of the presbytery of Caithness on this and the preceding nineteen pages by me, A. H. GILLIESON, B.D., presbytery clerk.*

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NOTE BY THOMAS SINCLAIR, M.A.

The substance of this record, extracted at Orlig in May, 1891, will be for future discussion, but some reference now to its language is necessary for the true impression. Rev. Arthur Anderson was an ordained episcopal minister, the office of deacon being clerical and not lay, as in presbyterianism ; and it has also to be remembered that the established church of Scotland applied then, habitually, the word "pretended " to all the officials of episcopacy, from archbishop and bishop downwards. A charge of "plying" meant encouraging people to marry without the banns being proclaimed, so as to get a fee for the ceremony, entirely valid in law. For illustration of what was meant at the beginning of the eighteenth century by "plying," see an article in the Gentleman's Magazine of 1888 on " The Fleet Marriages," that is Fleet Prison and Fleet Street. London, by A. C. Ewald, F.S.A. The professional metropolitan pleyer was the tout to take customers to the impecunious clergyman, who married his clients in public-houses or anywhere else. In strict England it was not till Lord Hardwicke's Act of 1753 passed, that these irregular but perfectly legal and valid unions were stopped. Fox, the great statesman's father and mother, the first Lord Holland and the eldest daughter of the Duke of Richmond, had a Fleet marriage, without licence or proclamation of banns ; but no one has questioned its legality or the legitimacy of the politician. Scotland was, if possible, still more absolute in refusing to allow the repudiation of such marriages. The Rev. Arthur Anderson's theological enemies charged him with being his own pleyer, in the rancorous spirit of an intolerant age. But the present inquiry has only to do with the fact of the marriage of the Hon. David Sinclair of Broynach and Janet Ewen, and this ably written record is all that could be desired for the purpose of finally settling the legitimacy of all their descendants. To withhold another later record might be recommended on the ground that a thing once proved is for ever proved, and needs no further emphasising. It is of so simple and popular a character, however, that its proof may be more easily understood than that of the commission and presbytery record, as it is the contemporary evidence, shortly after the commission's visit, of the minister, elders, and session-clerk of the parish where David and Janet resided, the best possible witnesses as to whether they were husband and wife. That they were under the discipline of the church only accentuates the references in the record to them as husband and wife, such admission not what would be natural to punishing and ecclesiastical judges, if it could be denied. The Orlig kirk-session record is as follows :—

August 3rd, 1701. Convened minister (Mr William Macbeath, ordained 22nd December, 1699) and elders, Alexander Swanson, John Sutherland, James Sutherland. *Inter alia* (that is "among other subjects of discussion"), David Sinclair of Broynach delated or informed upon for not coming to kirk, and having a child nearly half a year old without baptism. The session appoint John Sutherland and John Sinclair to go and speak to him, and to require him to give the reason why he does not frequent the ordinances, and does not submit himself to church discipline in order to get baptism for his child, and to report their diligence at next meeting.

September 19th, 1701. Convened ministers and elders. *Inter alia*, the elders sent to deal with David Sinclair of Broynach reported that the reason David Sinclair gave why he did not frequent the ordinances was his want of clothes, and as soon as he got clothes from Lady Murkle (Jean Stuart, his mother) he would come. The elders also reported that he said that he was about to be at the kirk session's wish, as to giving satisfaction to church discipline for his falls in fornication. The session, taking this report into consideration, appoint him to be summoned, as also Janet Ewen, his wife, to the next meeting.

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October 19th, 1701. Convened minister and elders, James, Sutherland, John Sutherland, and Alexander Coghill. *Inter alia*, David Sinclair of Broynach cited for the first time did not appear, and to be cited for the second time, as also Janet Ewen, his wife.

October 30th, 1701. Convened minister and elders, John Sinclair, William Sutherland, and David Manson. *Inter alia*, David Sinclair of Broynach being cited for the second time appeared not, and to be cited for the third time. Janet Ewen summoned for the second time appeared, and acknowledged a second relapse with David Sinclair of Broynach before marriage with him, as also that she lived some years in the same house with him before Rev. Arthur Anderson married them, being forced thereunto contrary to her own inclination. The session, taking her confession into consideration, appoint her to stand before the congregation until she shew some signs of repentance for her long continuance in the part of uncleanness with that wicked man. She being called in, and sharply rebuked and exhorted by the minister, the same was intimated to her, and she was enjoined to begin her public appearance before the congregation next Sabbath. Upon this she took occasion to seek baptism for her child, which was delayed until her husband submitted likewise to church discipline.

November, 30th, 1701. Convened ministers and elders, John Sinclair, James Sutherland, Alexander Watter. *Inter alia*, David Sinclair of Broynach being summoned for the third time compeared not, and to be cited for the fourth over and above.

December 7th, 1701. Convened minister and elders, James Sutherland, Alexander Watter, and David Manson. *Inter alia*, Janet Ewen was cited for contumacy in not standing according to the appointment of the session. Janet Ewen appeared at the first summons, and was rebuked.

December, 19th, 1701. Convened minister and elders. *Inter alia*, David Sinclair in Murkle cited for the fourth time, for multilapse in fornication, compeared not. The session, taking this into consideration, desired the minister to go to his house, and see if he can gain ground on him in a fair way before they proceed further to press him.

January 4th, 1702. Convened minister and elders, John Sutherland, John Sinclair, and James Sutherland. *Inter alia*, the minister being enquired at whether he went to David Sinclair of Broynach to confer with him, reported that he did so not once but twice. The reason why he went the second time was because that ... (A leaf is here wanting in the record.)

February, 5th, 1703. Janet Ewen, relapse in fornication with David Sinclair in Broynach, appeared the fifth time before the congregation.—*Extracted by Rev. A. H. Gillieson, B.D., minister of Odrig, 26th March, 1891.*

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

THE DISCOVERED COUNTY PROOFS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The severity of the church towards the Hon. David Sinclair of Broynach, strongly indicated by the Odrig session writing him down in their minutes as "that wicked man" cannot be understood in respect to his connection with Janet Ewen, which had special points of generosity. It was a new thing for one of the laird class to do justice to a woman of the people by repairing her wrong with marriage. By the feudal customs of ward and marriage, his only brother, Earl John, had the right to prevent him allying himself except where he chose; and it was unpardonable to degrade a noble house by introducing one of the ordinary ranks within its exclusiveness. But the feudal system was relaxing its bonds, and the Hon. David, by his action, as the Act of 1649 has it, of "declining the consent and concurrence of parents or others having interest" (in this case his brother Earl John, backed by the Countess) and marrying Janet, deserves the credit of being a pioneer towards the liberal and human views of marriage now prevalent. That he was more or less "wicked" than his class at that time is demonstrably untrue, Stuarts, Gordons, Douglasses, Campbells, and all the ruling families, as their history and documents amply prove, having illegitimate connections as the accepted and not the exceptional social condition. Such accidents were, to the rich, only trifling money fines of £3 6s 8d, &c. In the first parliament of James VI. at Edinburgh, beginning on 15th December, 1567, it was "statuted and ordained by our sovereign lord, with advice and consent of his dearest regent and three estates of this present parliament, that if any person or persons within this realm, in burgh or landward, shall commit the filthy vice of fornication and are convicted, the committers thereof shall be punished in the following manner: that is to say, for the first fault, as well the man as the woman, shall pay the sum of £40 Scots, or else both he and she shall be imprisoned for the space of eight days, their food to be bread and small drink, and thereafter to be presented upon the market place of the town or parish barony-head, to stand there fastened that they may not remove, for the space of two hours, as from 10 o'clock to noon. For the second fault, being convicted, they shall pay the sum of 100 merks, or else the above mentioned days of imprisonment shall be doubled, their food to be bread and water only, and in the end to be presented upon the said market-place, and the heads of both the man and the woman to be shaved. For the third fault, being convicted thereof, they shall pay £100 Scots, or, as the alternative, the above imprisonment to be tripled, their food to be bread and water only, and in the end to be taken to the deepest and foulest pool or water of the town or parish, there to be thrice ducked, and thereafter to be banished from the said town or parish forever. Henceforth from that time, as often as ever they are convicted of the beforesaid vice of fornication, so often shall the said third penalty be executed upon them. The provost and bailies of each burgh, the justice-general and his deputies, or such other persons as it shall please our said sovereign lord to give commission to, shall be judges of the suspected persons informed upon or delated of fornication, and being convicted they shall lift and uptake the above-written money fines of those substantial and willing to pay so as not to be degraded in their persons. The said bodily pains of imprisoning, banishing, &c., above specified, they shall execute upon all such as refuse to pay the money penalties, or who are not able to pay the same. The money fines which shall happen to be received must be kept safely in a shut box, and converted to pious uses in the parts where the crimes are committed, the dispensing as it shall please our said sovereign and his dearest regent to command. The receivers of the said fines are to be ready to give account thereof when they shall be so required."

On 1st February, 1649, however, this licence rather than law, at all events, for the aristocracy, was altered under the rule of the Covenanters, because "sin doth exceedingly abound unto the dishonour of God and scandal of the gospel." The scale of fines was thenceforth to be, for a first fault, a nobleman £400 Scots, laird £200, gentleman or burgesse £100, farmer £25, and every other person of inferior quality £10 Scots, these penalties to be "doubled *toties quoties*

according to the relapses, to the degrees of the offence, and to the quality (or social rank) of the offenders." These fines were to be exacted from the woman precisely as from the man, and to be payable to the treasurer of the kirk session of the parish where he or she resided, for pious uses. The censure of the kirk was to be in no way limited by this state enactment. It was under the statute thus made more severe that Broynach stood in his relations to Janet Ewen, and also to a much earlier connection which gave point to the officially clerical phrase of "that wicked man." The valuable identification of the Hon. David in the following extract from the minutes of the Caithness presbytery is sufficient reason for its appearance, though it may not be directly involved in the present claimancy question;—

"At Thurso, 4th October, 1671. The said day convened presbyterially all the brethren of the presbytery, except Mr William Campbell, who excused himself by letter. . . . *inter alia*, David Sinclair, referred by the session of Olig to the presbytery for contumacy, compeared not, appointed to be charged for the second time.

" At Thurso, the first Wednesday of November, 1671. The said day convened in presbytery the bishop and the remaining brethren, except Mr William Geddes, excused by letter. . . . *Inter alia*, David Sinclair cited, compeared not, and ordained to be charged for the third time.

" At Thurso, 3rd January, 1672. The said day convened presbyterially all the brethren of the presbytery, except Mr William Campbell and Mr Alexander Gibson, excused by letters. . . . *Inter alia*, David Sinclair continued to the next diet.

" At Thurso, 7th February, 1672. Convened presbyterially Mr Andrew Munro, Mr George Anderson, Mr David Munro, Mr Alex. Gibson, Mr Robert Tarras, Mr John Ross and Mr William Beaton. Mr William Campbell absent, as also Mr Wm. Geddes and Mr James Innes, excused by letters. . . . *Inter alia*, David Sinclair in Murkle cited, compeared not. Mr Robert Tarras was appointed to commence process against him.

"At Thurso, 7th August, 1672. The said day convened presbyterially the bishop and all the brethren, except Mr John Ross and Mr James Innes, excused by letters. . . . *Inter alia*, David Sinclair in Murkle, fornicator with Agnes Barny in the parish of Olig, and contumacious. He is appointed to be charged to the presbytery for the first time, and also Agnes Barny, his party.

"At Thurso, 4th September, 1672. The said day convened presbyterially the bishop and all the brethren, except Mr Wm. Geddes and Mr Wm. Beaton, both excused by letters. . . . *Inter alia*, David Sinclair cited, not compeared, appointed to be charged for the second time, and also Agnes Barny.

"At Thurso, 2nd October, 1672. The which day convened all the brethren, except Mr Wm. Campbell and Mr David Munro, both excused by sickness . . . *Inter alia*, David Sinclair in Murkle and Agnes Barny summoned, cited, and not compearing, it is ordained that they be summoned for the third time.

"At Thurso, 5th April, 1676. The said day convened all the brethren, except Mr Wm. Geddes and Mr George Anderson, both excused by letters . . . *Inter alia*, Agnes Barny's admitted cohabiting in fornication, with David Sinclair in Murkle referred from the session of Olig, cited, appeared not, and is to be charged for the second time.

"At Thurso, 7th June, 1676. The said day convened presbyterially all the brethren, except Mr Andrew Munro, who was excused, being in Ross, Mr Wm Rosie delivering the exercise . . . . *Inter alia*, Agnes Barny & Euphemia Smith, both in Olig parish, not compeared after

citation, but to be charged for the fourth time, and more than enough or over and above (*superabundante*).

"At Thurso, 2nd August, 1676. The said day convened the brethren presbyterially . . . . *Inter alia*, the said day Agnes Barny and Effie Smith not compearing after citation, the minister of Olig is appointed to commence process against them.

" The register of church discipline for the presbytery of Caithness since the right reverend father in God Andrew (Wood), Bishop of Caithness, first convened the brethren of the said country presbyterially :---

" At Thurso, Wednesday, 1st March, 1682. Convened the said bishop and Messrs David Munro, minister at Reay, Alexander Gibson, minister at Bower; Robert Tarras, minuter at Olig; James Innes, minister At Causibay ; Wm. Cumming, minister at Halkirk; Patrick Clunas, minister at Wick; James Fullarton, minister at Dunnet, and proceeded, &c., &c.

" At Thurso, Wednesday, 5th April, 1682. Convened the bishop and the brethren .... *Inter alia*, the said day. Mr Robert Tarras, minister of Olig is appointed to give public intimation to David Sinclair in Broynach, brother-german to the laird of Murkle, that if he further delay to satisfy church discipline, for his [?????] and cohabitation in [???????], the dreadful sentence of excommunication [?????] be pronounced against him, and that [????????????????????] former orderly process [thereanent?]

At Thurso, 3rd January, 1683. Convened the bispop, Mr David Munro, moderator, Mr Robert Tarras, Mr James Innes, Mr Wm. Cumming, Mr James Fullarton, Mr James Oswald, and Mr John Wood . . . . *Inter alia*, the said day Mr Robert Tarras reported that he had given public intimation to David Sinclair, conformably to the presbyterial appointment recorded in the sederunt of 5th April, 1682, and that now the said David Sinclair had given obedience to discipline.

At Thurso, 2nd May, 1683. Convened the moderator and the brethren. . . . *Inter alia*, the said day Agnes Barny, in the parish of Olig, for cohabitation in fornication with David Sinclair, brother-german to the laird of Murkle, and that for the space of several years, being cited, compeared, was severely rebuked, and remitted to satisfy the discipline of Olig."

There was never a question of marriage with Agnes Barny as there was the fact of marriage in 1700 with Janet Ewen, David having married in the interval a daughter of William Sinclair of Dun; and there is something of corroboration of Janet's lawful standing even by these circumstances. David's mother was Jean Stuart, niece of Alexander Stuart, Earl of Galloway, and her contract of marriage to his father was of date 18th October, 1634; his father's mother being Elizabeth, daughter of Robert Stuart, Earl of Orkney, son of James V. Of royal Stuart blood in him David had a superabundance. The year of his birth is not yet ascertained, but the contract date mentioned, and that he had one brother, the eighth Earl of Caithness, with five sisters, make 1642 as near as can be calculated, his death being certainly in 1714. His obedience to discipline cannot be much pleaded in his favour, for the clergy of Scotland had excessive power then over every rank of life, high and low. The extract is extremely interesting as showing that the routine of discipline was the same whether under presbyterian or episcopal rule, and it has been said that it was very little changed from what obtained when Roman Catholicism was the only Scotch religion, namely, before 1560. Lecky in his "Eighteenth Century" says further that " the episcopalians in Scotland employed no liturgy, and conducted their worship in almost exactly the same way as the presbyterians." Bishop Burnet's " History of his Own Time," referring to the presbyterian ministers before episcopacy

was re-established in 1662, says they " kept scandalous persona under a severe discipline. For breach of the Sabbath, for an oath, or for the least disorder in drunkenness, persons were cited before the church session, and were solemnly reprov'd. For fornication they were not only reprov'd before these ten or twelve of the chief of the parish, but there was a high place in the church called the stool or pillar of repentance, where they sat at the times of worship for three Lord's days, receiving admonitions and making professions of repentance. Some did so with many tears and serious exhortations to all the rest to take warning by their fall. For adultery they were to sit months in that place, covered with sackcloth." A pamphlet of 1701, "Scotland Characterised," says that "adulterers and fornicators are miserably persecuted," and that those detected are obliged publicly "in the time of divine worship to mount a theatre of ignominy called, forsooth, the stool of repentance." Another "[Harleian?] Miscellany" paper, printed in 1870, speaks of stools of repentance in every kirk well furnished with both sexes, and contrasts the Venice fashion of exposing sinners by their effigies instead of in person as in Scotland ; the power of the nobility and gentry over not only the goods but the bodies of the peasantry being especially noted as monstrous. This English, and therefore prejudiced writer, gives the incidental information that the money currency was dollars or merk-pieces. M'Crie's " Life of Knox," however, is unassailable authority, and his account of the punishment of Rev. Paul Methven for adultery in John Knox's time at Edinburgh, shows the exact practice afterwards followed in all cases of aggravated immorality, such as murder, incest, and adultery. He was to appear at the church door, Edinburgh, at the second bell, clad in sackcloth, bareheaded and barefooted, to stand there till prayer and psalms finished. Then he was brought into the church to bear sermon while " placed in the public spectacle above the people." The routine was to be repeated for three preaching days, on the last of which he was to profess sorrow, ask the congregation's forgiveness, be clad in his own apparel, and be received into the communion of the church. He was to do the same at Dundee and Jedburgh, where he had been minister, but he broke down and fled from the finish of his penance. Great people, even lords and countesses, were treated alike with the poor; no superintendent or commissioner of the kirk being allowed to dispense with the extremity of sackcloth, even for any sum to pious uses. In Captain Burt's " Letters " of 1730 it is said, " When a woman has undergone the penance with an appearance of repentance, she has wiped off the scandal among all the godly;" and " There is one kind of severity of the kirk very extraordinary, the shameful punishment by penance for antenuptial fornication, as they call it." Jamieson's note to this, in 1822, says that the stool of repentance " was fashioned like an arm-chair, and was raised on a pedestal nearly two feet higher than the other seats, directly in front of the pulpit. When the kirk-bell was rung, the culprit ascended the chair, and the bellman arrayed him or her in the black sackcloth gown. Here they stood three Sundays successively, the face uncovered, and the awful scourge hung over them." In Burns's country the cutty-stool was the same. Burt tells of a Scotch colonel at Edinburgh, convicted of adultery and refusing to compound, who was sentenced to stand in a haircloth at the church door every Sunday for a whole year, and to this be submitted. For the actual processes in discipline, see Pardovan, the Hills, Cook, and others; but, to get real insight into the rule of the kirk, read Buckle's marvellous third volume of the "History of Civilization," the only fault of which is that he forgets that the uncivilised condition of the seventeenth century everywhere is some apology for the excessive tyranny of the Scottish clergy, whether presbyterian or episcopalian. The civil magistrate is said to have been responsible for Janet Ewen's treatment at Thurso, but of this again.—Yours, &c.,

THOMAS SINCLAIR.  
Falmouth, June, 1891.

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## THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—Janet Ewen's sufferings cannot be understood without careful distinction between punishments by the kirk and by the state respectively. The "stool of terror," as one writer calls it, and the sackcloth, were under different auspices from the "jougs," which is Scotch, from the Latin *jugum*, a yoke, for stocks and pillory, to select typical examples of ecclesiastical and civil correction. No better statement of the kirk's theoretical position can be than the answer of Baillie to Bishop Maxwell, in the "Historical Vindication of the Government of the Church of Scotland," published in London in 1646 :— "What you bring of pecuniary mulcts, imprisonments, banishments, jougs, cutting of hair, and such like, it becomes neither you to charge nor us to be charged with any such matters. No church assembly in Scotland assumes the least degree of power to inflict the smallest civil punishment upon any person. The General Assembly itself has no power to fine any creature so much as one goat. It is true the laws of the land appoint pecuniary mulcts, imprisonment, jougs, pillories, and banishment for some odious crimes, and the power of putting these laws in execution is placed by the parliament in the hands of the inferior magistrates in burghs or shires, or of others to whom the council table (privy council board) gives a special commission for that end. Ordinarily some of these civil persons are ruling elders, and sit with the eldership ; so when the eldership have cognosced upon the scandal alone of criminal persons, and have used their spiritual censures only to bring the party to repentance, some of the ruling elders, by virtue of their civil office or commission, will impose a mulct, or send to prison, or banish out of the bounds of some little circuit, according as the act of parliament or privy council appoint. But that the eldership should employ its ecclesiastical and spiritual power for any such purpose, none of us defend. That either in Scotland or anywhere else in the world, the hair of any person is commanded to be cut off by any church judicatory, for disgrace or punishment, is but a foolish fable. That any person truly penitent is threatened in Scotland with church censures for non-payment of monies, is in the former category of calumnies." As illustration of how it was sometimes done, Andrew Chrichton, LL.D., in 1877, wrote—"I have in my possession, extracted from the records of a kirk-session, a commission, granted in 1701 by the sheriff-depute of Berwickshire, constituting one of the elders session-bailie for executing the laws against prophaneness, agreeably to an act of parliament authorising the appointment of such an officer in parishes within which no ordinary magistrate resided." He also says, "It is a mistake to represent the ecclesiastical courts as inflicting punishments upon offenders. The parliament or magistracy of particular burghs enacted punishments of this kind against certain crimes which were ordinarily tried in the church courts. Some of these existed before the Reformation, and some of them were posterior to it, but the infliction as well as the enactment of them pertained to the chief-magistrate."

An act of parliament of 1645 was ratified in 1649 against scolders, filthy speakers, makers or singers of obscene songs, drunkards, swearers, mockers of the pious, and health-drinkers; the fines, after fourth offences, imprisonment till payment by a nobleman of £400, baron or laird 400 merks, gentleman, heritor, and burghess 200 merks, farmer £40, and servant £20, all Scots money, "to be employed in pious uses." It was capital punishment by statute to believe in idolatry, that is, Roman Catholicism, as it also was for blasphemy ; the latter fault on 28th June, 1695, having the milder penalty of imprisonment and " public satisfaction in sackcloth to the congregation within which the scandal was committed," though on third offence to be

hanged by order of the lords justiciary. In 1701 death for slander was abrogated. That atheism or free-thinking, and witchcraft, both in the practisers and the consultors, involved death by state enactment is less surprising. Session-bailies or ruling elders who were civil magistrates had sufficient scope for the exercise of their rather mixed duties. The state legislated as to keeping fasts and the Sunday, imposing punishments on the lay officers who neglected to punish offenders to £100 Scots. During the reign of the pedantic Jamie (the Sixth) the parliament was a general assembly or theological debating society rather than a political institution. Its one and only chamber was chiefly clergy as far as actual presence went, and nearly all the officials were ecclesiastics, eight of the thirty-two lords of the articles being of this order. The court of session's fifteen lords were divided into eight clerical, one of whom was always the president, and seven lay ; and notaries-public belonged nearly invariably to the kirk. Most of the lay politicians were ruling elders in the parishes, the office of eldership being then much prized by the nobility and gentry because of its inordinate power. Baillie's pleading is therefore purely technical as to the kirk's restraint from using the civil power. The kirk-session was as ingenious an instrument of torture as the improved thumbscrew, and its serviceableness for priestcraft was as much used by the established kirk of Scotland when episcopalian as when Presbyterian. The 26 years of the episcopal established kirk of Scotland before the Revolution of 1688, appreciated the use of its discipline quite as keenly as the sternest covenanting presbyterians. In 1592 the act of 1574 about beggars, gipsies, sorners, bards, except those official to the great houses, students soliciting aid, and all others without ostensible means of livelihood, between the ages of 14 and 70, was ratified. Prisons, irons, and stocks were to be repaired for them. If they could not support themselves in gaol, their ears were nailed to the tree of the tron, that is, the town's weighing-machine, by a nail of a certain size, and thereafter they were banished, hanging awaiting them if they returned. Even as to this wholly state legislation the kirk was not outside, for the minister, elders, and deacons had the election of one, two, or three persons to put the law into effect in every district where there were not civil magistrates already, and if the elected refused to act they could be declared rebels. The good old religious times were no better than other praised periods of the past.

Bishop Burnet (1643-1715) says the whole power of the kirk's censure lay in the civil magistrate, and that it was destroyed by the act of 1712. In Burt's time, 1730, "young fellows of fortune made slight of the stool of repentance," crowding it when one of them was on it till no one knew the culprit; and he says the kirk-treasurer gave regular receipts and discharges for money paid for sins by " these young rakes." This was when a real separation of church and state legislation had become fact, such play not possible under the theological regime, though pay was never despised " for pious uses." A very temperate statement of the kirk's condition, when shorn of its form of punishment through its slave the state, is given by William Guthrie (1708-1770) in saying " that its first principle is a parity of ecclesiastical authority among all its presbyters ; that it agrees in its censures with the reformed churches abroad in the chief heads of opposition to popery ; but that it is modelled principally after the Calvinistic plan established at Geneva. This establishment, at various periods, proved so tyrannical over the laity, by having the power of the greater and lesser excommunications, which were attended by a forfeiture of estate, and sometimes life, that the kirk-sessions and other bodies have been abridged of all their dangerous powers over the laity, who are extremely jealous of their being revived. It is said that even that relic of popery, the obliging fornicators of both sexes to sit upon what they call a repenting stool, in the church, and in full view of the congregation, begins to wear out, it having been found that the Scotch women, on account of that penance, were the greatest infanticides in the world. In short, the power of the Scotch clergy is at present very moderate, or at least very moderately exercised ; nor are they accountable for the extravagances of their predecessors." One quotation from Buckle must represent here his extensive collection of similar matter, chiefly from kirk-session records and



other authentic Scotch sources :—" According, to the presbyterian polity, which reached its height in the seventeenth century, the clergyman of the parish selected a certain number of laymen on whom he could depend, and who, under the name of elders, were his councillors. They, when assembled together, formed what was called the kirk session, and this little court, which enforced the decisions uttered in the pulpit, was so supported by the superstitious reverence of the people, that it was far more powerful than any civil tribunal. By its aid the minister became supreme. For whoever presumed to disobey him was excommunicated, was deprived of his property, and was believed to have incurred the penalty of eternal perdition. Against such weapons in such a state of society resistance was impossible. The clergy interfered with every man's private concerns, ordered how he should govern his family, and often took upon themselves the personal control of his household. Their minions the elders were everywhere, for each parish was divided into several quarters, and to each quarter one of these officials was allotted, in order that he might take special notice of what was done in his own district. Besides this, spies were appointed, so that nothing could escape their supervision. Not only the streets but even private houses were searched and ransacked to see if anyone was absent while the minister was preaching. To him all must listen, and him all must obey. Without the consent of his tribunal, no person might engage himself either as a domestic servant or a field labourer. If anyone incurred the displeasure of the clergy, they did not scruple to summon his servants and force them to state whatever they knew respecting him, and whatever they had seen done in his house. To speak disrespectfully of a preacher was a grievous offence, to differ from him was a heresy, even to pass him in the streets without saluting him was punished as a crime. His very name was regarded as sacred and not to be taken in vain." Each of these extraordinary clauses is supported by notes with ample details, and bating a certain dulness of the English intellect to realise Scotch affairs, this philosophic historian is right. He over-estimates the position of the minister ; the real force of the kirk-session lying in the fact that the eldership was composed at that time of earls, sheriffs, bailies or factors, and other magistrates, with consequent easy translation of the kirk-session's sentences into civil punishment. The earls and other members of the Privy Council of Scotland itself were all officials at home in these theological parish courts. For heresy, even as to church government, the Scotch star-chamber banished to the plantations ; the men with one ear cut off by the hangman, and the women burned by him on the cheek or in the hand, to detect and execute them if they ever returned. These secret legislators had the same views in their local parishes, and no man dared to fight the kirk-session. See the " Presbytery Book of Strathbogie," pp. 115 and 149, for Lady Fren draught and also Lord Oliphant's sufferings, because of imperfect attendance at church, such eldership controlling those of the very highest rank down to the " counterfeit Egyptian " or tinker; the charge of contumacy or disobedience to the religious courts being the most frequent occasion of handing culprits over for punishment to the civil magistrate. In Wodrow, there is mention of a correction house which the kirk-session ordains persons to be taken to, both men and women, and appoints them to be whipped every day during the session's will; and Chalmers says that on 22nd October, 1648, the kirk-session of Dunfermline ordered that Janet Robertson be carted and scourged through the town, and marked with a hot iron. This cart was the tumbril or common coupling-cart of all Europe for punishment, more particularly of women, the pillory being the special instrument for men. Tumbril and pillory were always among the cherished rights of monasteries, as later pit and gallows, or drowning and hanging, were those of the baron or laird. The pillories were fixed to the two sides of the main door of the parish church, as the stocks were near the churchyard or in the burgh market place.

But enough is said of these antiquities, if they clear the way to understanding Janet Ewen and David Sinclair's story. It seems certain from the new Caithness evidence, which is so unexpectedly full and pointed as to require only the briefest analysis, that neither of them was punished for mere contumacy, both having overcome the natural repugnance to church

discipline in recorded instances. The kirk-session, which included Earl John, pushed the civil law against his brother and sister-in-law, in the matter of being married without banns by the episcopal Rev. Arthur Anderson. Some one paid the money alternative for the Hon. David, probably his mother, Lady Murkle, or even Earl John for personal pride ; but Janet was allowed to fall into the hands of the Thurso civil magistrate. Corporal degradation was then very familiar, and public whipping was all over the island the simplest form of punishment by the civil arm, as it is indeed still privately under the sentence of the birch rod. See Chamber's " Book of Days," pp. 599 and 600, vol. i., for whipping the poor, &c. That it was considered slighter than the stocks, the pillory, hair-cutting, imprisonment, ear-cropping, and cheek or hand-burning, illustrated by Burt's reference of 1730, to a girl as " an impudent baggage who deserved to be whipped out of town for seducing an honest man." With such whipping the tuck of the burgh's drum went as accompaniment. None the less was it barbarous that kirk and magistrates should have inflicted whipping in 1704 with the usual paper crown, hers inscribed "Married without Banns," on Janet, a woman who was an accepted wife then for four years. Another year would have lost them the opportunity even on their own regulations. The Hon. David's rescue of her so easily, shown that the popular feeling was against the ugly transaction ; and it was only for a wife that a man of his rank would risk the personal danger of attacking a punishing crowd. He was helpless to aid her by money, as the Olig record shows, and the Broynach property was incumbered with debt, as indeed all the estates of the family, though they had the reversion rights of the whole Caithness estate, swindled away by Lord Glenorchy and his confederates, still in too full evidence in the county. Fletcher of Saltoun, in his patriotic political " Discourses," shows that there were years of famine, 1695 to 1698, when 200,000 beggars were loose on the country ; and the Hon. David's rents, mainly in kind, were thus more shortened than ever has been the case with the most unfortunate contemporary Irish landlord. It is pathetic to find that he could not go to church till his mother would give him clothes, when he was nearly sixty. Whether clerically "wicked" or not, he was undoubtedly a generous and gallant man, as his personal visit to the official on the morning of his wife's punishment is genuine proof, seeing he could do nothing more to help her, except ultimately by his sword. His brave hazarding of life and property in supporting George, the rightful Earl of Caithness, against Lord Glenorchy, from 1677 to 1681, is one of the most stirring passages of the local history; the castles the usurper seized being destroyed by him as one of the chief leaders, at the penalty and fact of being declared a state rebel, which danger only success took away. This son of Ormly Castle, Thurso, had and has no reason to veil crest as one of " the lordly line of high St. Clair," his relationships to women of the people also, considering his epoch, being really of exceptional generosity and attachment long and unusual, as those who have historic and social knowledge realise. The evidence of his marriage to Janet Ewen is now so exact and extensive that a lawyer, or indeed any reader, needs no instructing or further prompting. Gilbert Omand's deposition was enough as to the fact, a trained public-notary, procurator of the kirk, town-clerk of Wick (see burgh records), and clerk of the barony court of the Mey estate after 1697, when it was the property of Viscount Tarbat. A curious thing in Ratter's proof of 1767 is to find Dr William Sinclair, Thurso, and his brother James of Holburnhead, afterwards of Forss, asserting the illegitimacy of the Hon. David and Janet Ewen's eldest son David, when they were exactly in the same position, the four parents of the three being married in 1700 by Rev. Arthur Anderson. Whether their mother of the Ratter family was whipped like Janet Ewen, is a question ; but the comparative wealth of their father, John of Forss, who was Hon. David's sister's son, no doubt prevented a fact which the sons would have known if it occurred. It is statutor that all these parents suffered three months' imprisonment for their marriages without proclamation by the "preaching" deacon clergyman, "preaching" presbyters being the technicality title of the opposing ministers. The Caithness evidence shows that David, Janet's son, her second child, the first a girl, baptized by Anderson, was born within wedlock, though too early; and this adds to the blank injustice put upon her grandson, Captain James, H.E.I.C.S., the

claimant, unsuccessfully in opposition to usurping Ratter. His father David, born in February, 1701 (Olig record), was thus legitimate on the English as well as the Scotch basis. "In our" (English) "law, those who are begotten before, and born after marriage are not bastards," *I Rol. Abr.*, 359, the authority in Nelson's "Rights," page 76. It is worth noting here, incidentally, that despite his motives of secrecy from fear of imprisonment and fine, John Douglas, Thurso, has been discovered as one of the witnesses to the nuptial ceremony by Rev. Arthur Anderson; and that the established presbyterian clergy would not proclaim banns in the parish church for Episcopal marriages till compelled by the Act of 1712, 10 Anne, c. 7., the episcopalians themselves, when they were the established kirk of Scotland, not being legally able or willing to proclaim banns for the outed presbyterians' clandestine or irregular unions, as all marriages by presbyterian ministers then were. As Donald, the second son of Janet Ewen, was born in 1703, three years after the marriage in June, 1700, there is no question of his lawful birth, and the present claimant has all his rights from him. Other inferences,, and the full construction of the story of the Hon. David and the Hon. Mrs Sinclair of Broynach must be left to students of the evidence, and to the lawyers engaged in prosecuting the case as against sham Durran "earl" the second. Some surprising amplifications of the evidence, specially from Wick parish, in proof of the chain of lawful succession from Donald, the second son mentioned above, to James Sinclair now in Mid Clyth, *de jure* Earl of Caithness, will follow in further efforts to right a long-hidden but now glaring wrong. That it is not a *judicata res*, or "judged affair," is certain from the recent Berkeley peerage case before the Committee for Privileges of the House of Lords, where on May 29th, 1891, the Lord Chancellor, Lord Watson, and the Attorney-General agreed that *res nova*, or "new matter," must abrogate any old and compel a fresh decision by the Committee. Assuredly, enough of *res nova* has transpired since the Committee's decision in favour of Ratter in 1772 as Earl of Caithness, after the rightful Earl's despairing departure for India as a cadet.—Yours, &c.,

THOMAS SINCLAIR.  
Falmouth, June, 1891.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

EVIDENCE IN SUPPORT OF THE CLAIM OF JAMES SINCLAIR, MID CLYTH.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—Of the discovered ecclesiastical evidence much more could be said that would be of great historic interest, but the necessity of keeping to the legal purpose forbids. An example may be given with reference to the application of the word "murdering" to the Rev. George Oswald by the Rev. Arthur Anderson, one of the reasons of his deposition. In Henderson's "Caithness Family History," p. 235, it is shown from the presbytery records of 1699 that Oswald, ordained 1697, was a witch-hunter to the death; and the sting of Anderson's clever and learned letter to the commission and presbytery of 1700, as far as concerned the Presbyterian minister of Dunnet, lay in that direction. The violent and unscrupulous life of his Kirkwall father, Baille Oswald of Wick, is illustrated by the first volume of that burgh's records. But incidental themes must be avoided, however attractive. Amplification of the evidence of former letters showing the full and lawful descent of James Sinclair of Mid-Clyth from Donald the Sailor, the second son of the Hon. David Sinclair of Broynach and Janet

Ewen's now thoroughly established valid marriage, is the immediate object. For simplicity, the deposition form may be used, the statement being sometimes signed, while they are all ready to be supported on oath by the writers and communicators:—

Catherine Sinclair (Widow Manson) in Sarclet, aged 79, depones that Donald the Sailor was her great-grandfather, that is, the father of her father's father; that her father was Alexander Sinclair, farmer in Gansclett, and that his father was John Sinclair, farmer in Gansclett, a younger son of Donald the Sailor; that her grandfather, John above-named, was married to Christina Calder, and was called from his religious character "Holy John;" that James Sinclair, the chamberlain, Thrumster. House, known as "Saltie," was the eldest son of Donald the Sailor; that she never heard of a William being in Donald the Sailor's family, nor that Donald was twice married; that she knew of Robert and Henry as brothers of her grandfather, and sons of Donald the Sailor; that she remembers people saying that Donald the Sailor had a home at Avoch in Ross-shire, and when he lived in Caithness his home was in Yarrows, Thrumster; that the more she thinks, it comes stronger to her memory that Donald the Sailor once held the farm of Cairnquoy, and that she has often heard it said that relations of hers once lived there at one time. Depones that Donald the Sailor was buried in Thrumster churchyard, and that his work was trading up and down the Moray Firth from Sarclet to Avoch. Depones she heard repeatedly that she had a grand-uncle Francis, a younger son of Donald the Sailor, but knows little of his family beyond that one of them went to sea and another into the army; that she had a grand-aunt, sister to Francis, named Catherine, married to Macbeath in Humster, who had one son ; that she is sure another daughter of Donald the Sailor was Elizabeth, and that there were more grand-aunts of the family, whose names she could not yet recall. Depones that she used to visit Elizabeth Sinclair (Mrs Cormack), Reiss, and Sydney Sinclair (Mrs Laing), Clyth, as all being related to each other, grandchildren of Donald the Sailor's sons James the chamberlain and " Holy John." Depones that Alexander in Clyth, eldest son of the chamberlain, was first cousin to her father, Alexander in Gansclett, being brothers' sons; and that the relationship of the claimant, James in Mid-Clyth, grandson of Alexander in Clyth, to these Sinclairs, as their present eldest representative, is quite correct and true.—April 30th, 1891.

Elizabeth Laing, in Thrumster, unmarried, aged 70, daughter of Sydney Sinclair (Mrs Laing), and first cousin of James the claimant, depones that she lived more than forty years with her mother, who had much family information; that the claimant's father James, her uncle, was born thirteen months after her grandfather Alexander in Clyth's marriage, and was therefore his lawful eldest son; that her mother Sydney was the third of Alexander's family of seven, and that her uncle James, though the eldest, was the last married. Depones that she had often heard her uncle James speaking of his grandfather once building a stack of corn in the corn-yard of Torranrevach, a farm held by her uncle and his father, the said Alexander in Clyth ; and that this grandfather was James the chamberlain, known as "Saltie."— April 18th, 1891.

William Stewart, in Thrumster, aged 86, depones that James Sinclair the chamberlain was the eldest son of Donald the Sailor, and that he knew of him being in Thrumster House, but that he knew him much better as "Saltie" in Sarclet, from which he traded along the coast with his own vessel. He was possessed of a great amount of bodily strength, one of the neighbours once remarking that if it was possible for anyone to carry a house upon his back, "Saltie" was the man. Depones that he remembers "Long John Sinclair," a son of "Saltie" by his second marriage, and knew his family quite well. Alexander Sinclair in Clyth (Torranrevach), called " Turn-my-Hand," was the eldest son of "Saltie," and deponent's wife's grandfather. She is a daughter of Sydney Sinclair (Mrs Laing), the only daughter of Alexander " Turn-my-Hand," grandfather of the present James Sinclair, Mid-Clyth, the claimant. This James's father was James, the eldest son of Alexander "Turn-my-Hand."— May 25th. 1891.

Alexander Oag in Gansclett, Thrumster, aged 89, depones that he knew the James Sinclair called 'Saltie,' and that when he remembered him first he was an old man. Depones that he was twice married, and that Alexander "Turn-my-Hand" was the only son of the first marriage. Depones that he knew Alexander well, and that when Alexander married he left Sarclet and went to Clyth; that he knew Alexander's son James, who was drowned at Clyth Harbour; that he was the eldest and lawful son of Alexander "Turn-my-Hand;" and that "Long John Sinclair," a very godly man, was a son of the second marriage. Depones that he remembers quite well asking deponent's father about this old man "Saltie," and that he remembers deponent's father telling him that "Saltie" was in the house of Thrumster with Harpsdale as governor or steward. Depones that when in Sarclet James Sinclair had his own vessel; that he made and bought salt, and traded round all the coast as far as Inverness; that he brewed his own whisky and ale, and took little casks of them with him; that he used to row with two oars, all alone, to Wick, Dunbeath, and other places; that he was a man of great strength, and also very intelligent; and that when deponent knew him first, his wives' were dead, and his family away.— May 26th, 1891.

Alexander Budge in Occumster, Clyth, aged 79, depones that he was acquainted with Alexander Sinclair, Torranrevach; that he knew James Sinclair to be his eldest son; and that James was father of the present James, Mid-Clyth.— (Signed) ALEXANDER BUDGE.— May 16th, 1891.

Robert Sutherland in Occumster, aged 80, depones that he remembers Alexander Sinclair, Torranrevach, and his son James to be the eldest of the family, father of James Sinclair, Mid-Clyth.—(signed) ROBERT SUTHERLAND.—May 15th, 1891.

William Sinclair, Shore, Lybster, aged 65, born January, 1826, at Millbill, Clyth, depones that he remembers perfectly well hearing his father and mother saying that Alexander, nick-named "Turn-my-Hand," was the lawful and proper heir to the earldom of Caithness; and further depones that James, father of the present James, Mid-Clyth, was the eldest son of the said Alexander Sinclair.—(Signed) WILLIAM SINCLAIR.—May 15th, 1891. (This deponent is not a relative to the Broynachs.)

John Sinclair in Bardfullister, Lybster, aged 59, depones that he remembers when a boy to hear the old people saying that Alexander Sinclair, Torranrevach, called "Turn-my-Hand," was the rightful, heir to the earldom of Caithness.—(Signed) JOHN SINCLAIR.—May 3rd, 1891. (Not a relative to the Broynachs.)

Elizabeth Sinclair (Mrs Cormack), Reiss, aged 85, eldest daughter of "Long John Sinclair," depones that she knew James, the father of James, Mid-Clyth, perfectly; that she has no doubt of him being the eldest and lawful son of her uncle, Alexander "Turn-my-Hand;" that she remembers her grandfather, James the chamberlain, saying often he would require to go to Clyth to see his eldest son, the said Alexander, whom he commonly called "Saunders;" that the chamberlain and this son personally resembled each other, both wearing knee breeches; and, similarly, that the present James, Mid-Clyth, looks like his father, James, the son of "Saunders," all eldest sons.—April 16th, 1891.

William Clark, Bualton. Clyth, aged 60 years and upwards, depones that he has often heard the deceased George Sinclair, West Clyth, sixth son of Alexander "Turn-my-Hand," remarking that though he was poor he could claim to be related to the earls of Caithness.— April 17th, 1891.

William Cormack, East Clyth, aged 75, depones that he knew all the family of Alexander "Turn-my Hand," grandfather of James Sinclair, Mid-Clyth, and always heard it said that Alexander's son James was the eldest son.—April 17th, 1891.

Joseph Adamson, Clyth, aged 70 year, depones that Alexander "Turn-my-Hand" had James, eldest son, father of the present James Sinclair, Mid-Clyth.—April 17th, 1891.

Benjamin Henderson, Hill of Forss, Thurso, aged 80 and upwards, depones that there is no doubt the Broynachs had the best right to the earldom ; that they were deprived through Lady Janet Sinclair of Ulbster (alias Gordon, alias Sutherland, really Seton, married in 1740, and died at Edinburgh, May 9th, 1795, aged 70 upwards, sister of William, Earl of Sutherland, mother of Sir John the agriculturist, and sister-in-law to Harpsdale, Thrumster House) ; that James Sinclair of Broynach was married to Catherine Rosie, daughter of John Rosie, tacksman of East Brims ; that the said John Rosie had found a pot of money in an old house at Oust, and with this money Broynach entered law to establish his claim, but lost; that he has no information if James Sinclair had any family ; and that there is no doubt about John Rosie's money, and how it was got, because deponent's mother (Christina Tulloch, youngest daughter of Christina Sinclair and John Tulloch, factor to Earl Alexander) was teacher to his family, and had the money in her hands repeatedly. Depones that Earl Alexander, commonly called Lord Haimer, wanted his daughter, Lady Dorothy, to marry Broynach, but she would not; that this daughter was the only legitimate offspring of Lord Haimer; and that he had three illegitimate sons.—January 10th, 1891.

Isabella Green (Mrs George Sinclair), Halkirk, aged 66 upwards, depones that she is a daughter of the deceased Walter Green, Wick, and Margaret Sutherland ; that Margaret Sutherland, her mother, was daughter of Isabella Sinclair, whose father was Robert Sinclair, merchant. Wick, younger brother to James, the chamberlain at Thrumster House ; that the said Robert Sinclair, her great-grandfather, was born in Cairnquoy, a farm on the Thrumster estate, situated near Yarrow; that Robert Sinclair's only son was a soldier and died abroad, and she remembers his gaiters, and a malacca cane with silver top and tassel, and some other things belonging to him, which were sent home to John O' Groats to his sister Isabella (Mrs John Sutherland), by his widow, but that deponent does not know anything about his having a family or not, and that she thinks his name was Robert Sinclair. Depones that his father, Robert Sinclair, merchant and burgess, Wick, was married a second time, and that it was the second wife's son who was drowned at sea, being in the navy. Depones that she remembers her grandmother, Isabella Sinclair, the merchant's daughter, as a fine-looking woman, very proud-spirited, and even in old age and poverty showing the traces of having been well brought up; that Isabella was preparing to go to Edinburgh to be educated when her father died, she being then a young girl, and her higher education was thus stopped ; that the circumstances of her marriage to John Sutherland, Canisbay, were that a large vessel had come ashore at Staxigoe, and the houses of Wick being thrown open to the ship-wrecked, the captain was received by the merchant-burgess, with whose daughter, Isabella Sinclair, he fell in love, and to whom he proposed marriage ; that John Sutherland, her accepted sweetheart, heard of this, and he and his sister immediately journeyed from John O'Groats, contrived to have an interview with Isabella, who by the help of a servant left home a runaway or in elopement that night, and was married in Canisbay *quam primum* to John Sutherland (landlord afterwards of an inn there); that a John Sutherland, an aged man now in Thurso, is their youngest son; and that deponent was much with her grandmother, Isabella Sinclair, in Canisbay, for whose memory she has great respect, regretting she has not more to tell, when by her opportunities she might have had so much.—June 30th, 1890.

Ellen Green (Mrs Donald Bain), widow, sister of Mrs George Sinclair, Halkirk, and aged 70

upwards, depones that she has lived with her grandfather and grandmother at John O'Groats, John Sutherland and Isabella, the only daughter of Robert Sinclair, merchant-burgess of Wick; and further depones that Robert's shop was on the site in the High Street, now occupied by the offices of the Wick parochial board.

This last item of knowledge has appeared before in one of the Broynach letters to the *Northern Ensign* when discussing this younger son of Donald the Sailor, Donald being the second and last son of the Hon. David Sinclair of Broynach by his marriage in 1700 to Janet Ewen. The exact text of Robert's burgess-ticket, which is now in the possession of his grandson, Robert Green, Wick, brother of Mrs Donald Bain and Mrs George Sinclair, is as follows, provisions being always a portion of his trading :—

"At Wick, 31st January, 1777, in presence of James Sinclair of Harpsdale, provost of the burgh of Wick, James Miller and John Russell, baillies thereof, and remanent council of the same. The said day, Robert Sinclair, baker in Wick, was created, received, and admitted burgess and guild-brother of the said burgh, after taking the ordinary oaths thereto belonging, and being solemnly sworn in the common form of burgesses at their admission, with full power to him to haunt, use, and exercise all the liberties and privileges pertaining, or known to pertain, to any burgess or guild-brother in like cases. In witness whereof, these presents are extracted, by advice of above, and signed by the clerk of court, place, date, and year before said. ALEX. RUSSELL, clerk of court." The endorsation of the parchment is "Burgess Act: the Burgh of Wick in favour of Robert Sinclair." By my personal examination of it, through its possessor's politeness, its size is 6 1/4 inches by 3 3/4, written broad-wise. To the middle is attached a dark green silk ribbon, 7 inches by 1 1/4, in two folds, at the end of which was the wax seal of Wick burgh. Further details, local evidence, and register records have to be given in this particular section of substantiating the claim of James Sinclair, Mid-Clyth, to be Earl of Caithness.----Yours, &c.,

THOMAS SINCLAIR  
Falmouth, July, 1891.

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THE BROYNACHS AND. THE EARLDOM OF CAITHNESS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—When Robert Sinclair received his burgess-ticket in 1777, under the auspices of Harpsdale as provost of Wick, next brother to George Sinclair of Ulbster, he was in his 29th year; and if it was difficult for Robert Dick, the naturalist, to make a living as a practical baker of wheaten bread in Thurso at a much later period, the reason of the Wick baker developing speedily into a merchant is manifest. It is not without lineage interest to find him engaged in youth with this particular trade. That the Roslin Sinclairs for centuries were the patrons of builders, as the hereditary presidents of free-masonry in Scotland, is very generally known, but it is less promulgated that they held the same position with respect to bakers. In the "Britannia" of Camden, the London antiquary, 1608 edition, this occurs, *Perque Malesii cujusdam filiam primogenitam datam in uxorem Gulielmo de Sancto Claro, vulgo Sinclair, regio panitario, ejus posteru hunc honorem comitum Catteynesiae sunt adepti*—"And by the eldest daughter of a certain Malise, given as wife to William de Sancto Claro, usually

Sinclair, the royal baker, his descendants obtained this honour of earls of Caithness." Camden (1551-1623) might have added the earldom or principality of Orkney, but as this was a fief or province of the Norwegian monarchy, it perhaps did not come under the title of his book "Britannia." Sir Robert Gordon, in his "Short Discourse," tries to depreciate this office of king's baker, with a maliciousness that is only the more apparent and marvellous from the fact that he was well versed in court and general history. He calls the Sinclairs piemanders, pantrymen, and pantlers, with the virulence of a scold ; but his monomania was to exalt the more plebeian Gordons, really Setons, at the expense of the older aristocratic family; and in respect to the diminution of their worldly substance he had, with the Campbells of Glenorchy half a century later, only too great opportunity of ruining his rivals. The foolishness of the man is amply illustrated by his attack on the dignity of the high office of royal baker. It stood on the same level with seneschal, constable, butler, and marshal, the positions next to that of the sovereign. The Stuarts were the seneschals the Hays the constables, the Souleses the butlers, the Sinclairs the bakers, and the Keiths the marshals, all entitled "of Scotland," to keep the national distinction clear from the ordinary use of the appellations, " lord high" added at some epochs. In early court times the dapifer or " food-bringer" was sole representative of these officers ; the usual first development in most countries, as luxury progressed, being into royal butler and royal baker, of which example is given in the history of Egypt under the Pharaohs. France, Normandy, England, and Scotland have full illustration of the charge from the one dapifer, seneschal, sewar, steward, or mayor-of-the-palace to several officials. The formal duties of the hereditary office of the Sinclairs in the royal household was to overlook the provisions, and through the whole kingdom to manage the crown lands and enforce regulations with regard to taxing corn, cattle, sheep, fowls, and all other produce of the earth, native or imported, for the revenue. In respect to wines and the various drinks the same was done by the royal butler, the tax of king's butlerage on imports familiar as late as the Charleses. While the Sinclairs were thus governors like Joseph in Egypt, the Seton Gordons plodded on unknown in the common herd of lairds ; and Sir Robert, the historian, though in the seventeenth century brother of an earl of Sutherland, could not forgive them their ancient official superiority, the aggravation tempting him into lies completely beneath his natural gifts, travelled experience, and considerable education. As in England *pincerna* was long the state title for the king's butler, so *panitarius* was that of the king's baker in Scotland. Sir Thomas Elyot in his "Governor," book III., chap., xxi., says, " As excess of fare is to be justly reprov'd, so in a noble man much pinching and niggardship of meat and drink is to be discommended ; and in the word pinching, as here used, implying caretaking, is to be found the explanation of the title *pincerna*, from the same root as pincer, and pinch, according to Dr Johnson, Chambers, " Encyclopaedia Metropolitana," &c. Butler, however, or bottler, and baker supplanted the Latin names; and in England, particularly its conquered province of Ireland, the surnames derived from these royal officers are, to this day, the most aristocratic in the empire, being those of dukes, marquises, earls, viscounts, and baronets. Skeat, the lexicographer, says that " company," *cumpanis*, means "having bread together ;" and assuredly the *panitarius* was at all times, festive or ordinary, the principal commissary or commissioner of sovereigns for their court and people. Sir Robert Gordon's spiteful abusiveness in pp. 428-444 of his "Genealogy," has entrapped into an historical disquisition; but to show him up is real justice for the Broynachs, who to this hour are suffering in their fortunes from his unreasonable jealousy and unscrupulous interferences in the seventeenth century. At Kirkwall Castle, demolished in 1616, situated near the cathedral, the Sinclairs had their own royal bakes, butlers, marshals, and the rest, being crowned princes.

As Cairnquoy was the birthplace in 1748 of Robert Sinclair, the Wick merchant-burgess, his father, Donald the Sailor, then occupied the farm, belonging to the Ulbsters. The landlordship explains not only Robert's burgh favour from Harpsdale, but the position of his eldest brother James as chamberlain at Thrumster House. In this connection let some evidence follow ;



Alexander Dunnet, Hempriggs Estate Office, Sutherland Villa, Wick, depones that he has been land-steward on this estate nearly 14 years, and knows the farm of Cairnquoy, that it is on the Tannach estate, and is in extent about 93 acres, of which 53 acres or thereby are under cultivation, the remainder rough hill pasture ; that he does not think it ever belonged to Thrumster, but within his own recollection it belonged to Sir Tollemache Sinclair, who exchanged it for Glutt, in the parish of Halkirk, about thirty years ago, with the late Sir George Dunbar; that the distance of Cairnquoy from Thrumster House is about 2 miles, and from Sarclet harbour about 4 ; and that when Tannach became the property of Sir George Dunbar, the farm of Cairnquoy was tenanted by Widow Malcolm or her son John.—February 26th, 1891.

George Logan, Ulbster Estates Office, Thurso, factor, depones that the earliest rentals he has found of the Ulbster estates in the parish of Wick, are those commencing in 1834 , that the tenant of Cairnquoy, forming part of the Tannach estate, which is now the property of the trustees of Mr Duff Dunbar of Hempriggs, was at that time Peter Malcolm, whose yearly rent was £8 sterling ; that in the rental for the year 1840, when Captain Henderson of Stemster was factor on the Ulbster estates, Peter Malcolm was still the tenant of Cairnquoy, his rent 10 guineas ; that in 1860, when deponent entered upon the management of the estates, the heirs of Peter Malcolm were the tenants of Cairnquoy, their rent £18 ; and that deponent understands that the earlier rental books than those above-mentioned, were all retained by the law agents who then acted for the Right Hon. Sir John Sinclair of Ulbster.—May 20th, 1891.

It is inferred that Donald Sinclair, Janet Ewen's second son. born in 1703, was the tenant of Cairnquoy till some time after 1768; for in this year, on 24th May, he was cautioner, as Wick parish register shows, with Solomon Hay, to the matrimonial contract of his son, John Sinclair in Thrumster, and Christina Calder, the grandparents of Catherine Sinclair (Widow Manson), now in Sarclet, aged 79. If it was John's brother Donald who was cautioner, it is equally good Broynach evidence. Inquiries are being made to discover who held Cairnquoy from 1768 till 1834 ; and if they have success, Donald the Sailor's history ought to be still further established. It is said that there were changes of the boundaries of Thrumster and Tannach estates early in the present century, and that Cairnquoy formerly belonged to Thrumster; but this does not seem important, as the Ulbsters in last century held both properties. The birth of Robert, the Wick merchant, at Cairnquoy, is an important additional fact to those given in previous proofs that he was a younger brother of James the chamberlain at Thrumster House, such as that James's youngest son, "Long John Sinclair," was buried. May, 1857, in Wick churchyard beside his uncles Robert the merchant and Henry in Newton, really the Hon. Robert and Hon. Henry, as brothers of James, who is now known to have been the rightful Earl of Caithness." Long John Sinclair "was doubly the Hon. John, because his father was this Earl James, and because his brother "Turn-my-Hand" was Earl Alexander. The proof value of following out the history of Robert and his descendants is to authenticate the chamberlain's eldest brotherhood to him, and the sonship of both to Donald the Sailor. Had the usurpers not destroyed the entry of James's baptism in the Wick register, this collateral method would not have been legally needed ; but, though laborious, it is as satisfactory and decisive as the producing of registration.

If the evidence through Robert and his descendants has been excellent, it has been fairly eclipsed by that gained through his immediate elder brother, born in 1747. John in Gansclett and his descendants, their continuous residence in the principal scene of Donald the Sailor's active life, giving special pertinence to [ ?????? ] histories and [ ????? ]. Mrs Manson memories, as great-granddaughter of Donald the Sailor, are of wonderful force and directness; and if the claim of James, Mid-Clyth, were not a matter of contest, they would of themselves

settle his succession as nearest heir-male to the Earl Alexander (Lord Haimer) who died in 1705. There is more yet to come of this section of collateral proof, besides the following :—

George Sinclair, Thrumster, aged 67, nephew of Mrs Manson in Sarclet, depones that John Sinclair her brother was his father, and Alexander in Gansclett his grandfather ; that Donald the Sailor is buried in Thrumster churchyard ; and that therefore this is deponent's burial ground.

Of his father John, born 1795, and an uncle James, born 1799, a descendant in Devonshire of John Tulloch, Lord Haimer's factor, sends the information that they had "a straight upright bearing, and seemed rather different in their ways from the other people about;" curious testimony of them having traditions above the plain lives which injustice forced them to lead. Their mother Elizabeth Sinclair was born in America, daughter of an officer in the Independence War of 1776, son of James Sinclair, factor, Ulbster House. The factor was married to Christina Sinclair, sister of Donald the Sailor's wife Catherine, and thus the American officer was first cousin to "Saltie," the Broynach earl. Both Mrs Cormack, Reiss, aged 85, and Margaret Sinclair, Wick, baptized November 7th, 1809, the daughter of Francis in Sarclet, previously in Jibedale Farm, the Ulbster factor's eldest son, and of Elizabeth Plowman, assert this cousinship of the families as a certainty. Margaret says that one of her three Sinclair uncles, who were all in the army or navy, heired his superior officer. Admiral Sinclair, a Broynach, as is supposed ; and she adds that Sir Tollemache Sinclair is still drawing the interest of the admiral's money. Some relative made inquiries through the Swedish consul at Wick a few years ago as to the point, without success. The admiral was illegitimate, his mother being Margaret Clacher, and his father, some suppose, the John Sinclair of or in Watten, of whose family Henderson tells so much in his "Notes," pp. 314, 315 and 316, not a Broynach presumably. She afterwards married Alexander Calder, miller and innkeeper, Achingale, and their daughter Margaret was the mother of the above Elizabeth Plowman. During the Lord Nelson period at the beginning of the century Lieutenant Plowman commanded a British warship, and the varied naval connections seem to attach him to Elizabeth as a relative. She was first cousin to Barbara Cormack, wife of " Long John Sinclair," Reiss, whose mother was Isabella Calder, wife of Alexander Cormack, Reisingill. The wealth of the admiral, and also of two Calders, sons of the Achingale miller, East Indian tea-planters, is thought to be recoverable by the living heirs of Barbara and the Ulbster factor's son. In James's " Naval History," Lieutenant Arthur Sinclair, United States navy, appears in 1807 opposing British search for deserters on American vessels, one of the causes of the bitter naval war from 1812. He commanded in it a 16-gun brig, built at Boston in 1799, the Argus, 120 men, under Commodore Rogers; and in July, 1814, he became admiral of a fleet on the Canadian lakes, his ships the Niagara, the Ariel, the St Lawrence, the Caledonia, the Scorpion, and the Tigress. It is not certain that he is Margaret Sinclair's admiral, nor is any portion of the subject quite ripe for discussion, even if it does appear to have relation to the earldom issue.

At this stage it will be useful to indicate the legal force of the local depositions, though they are not yet exhausted. First, the knowledge, not only among Donald the Sailor's descendents, but those having no kin interest, that his son James, the chamberlain, and his grandson, Alexander "Turn-my-Hand," ought to have been the acknowledged, as they were the rightful earls of Caithness, proves that Donald was the son of Janet Ewen and the Hon. David Sinclair of Broynach ; for no other kin claim than this Broynach one has ever been made upon the earldom ; and Donald, Janet's second and last son, is demonstrated the only possible source of their rights. Second, these depositions prove that Captain James, H.E.I.C.S., the gallant Broynach claimant from 1765 till his death in 1788, left no male issue, and that his only brother John was dead without male issue, when James, the chamberlain, had the popular

local verdict of being the rightful Earl of Caithness, as the next Broynach to claim. Third, the depositions absolutely put the Ross-shire representatives aside as the senior lawful line, the inference being unavoidable that if the first of them, William, was older than his brother James, the chamberlain, he was illegitimate; such a burning public question as the Broynach claim in and after their time not admitting any possibility of mistake among the people and kin as to the proper representative. Fourth, the depositions finish and complete every step in the succession from the Hon. David, brother of Earl John (1698-1705), to James Sinclair, Mid-Clyth; the chain being by eldest son invariably, which makes proof the simpler and more thorough, back to Donald, the second son of the Hon. David and Janet Ewen.

It is certain that these findings will bear the severest tests, and any amount of elaboration; but it is for the lawyers to reason, as it is for these letters to instruct the facts. The register and record entries are most satisfactory in their unerring corroboration of the local and general personal evidence, and some new ones have to be added to those already numerous given. From Latheron parish comes this:—

"December 5th, 1788. Alexander Sinclair in Sarclet, parish of Wick, and Elizabeth Sutherland in Clyth, contracted in order to marriage, and married 2nd January, 1789. Tax paid at Wick." This is Alexander "Turn-my-Hand," the eldest son of James, the chamberlain, both of them locally reputed to have been earls of Caithness; and what is extraordinary is that, as if by providential arrangement for security, his contract of marriage is also entered in Wick register. It has already appeared as taken thence, but the date on the marriage is an additional fact. In such searches it would be ultimately suicidal to hide difficulties, or palter for a moment with facts; and therefore it has here to be admitted, openly, that a professional search in the Register House, Edinburgh, has failed to find the birth or baptism date of Alexander's eldest son James, father of James, Mid-Clyth. The printed form, dated Edinburgh, 24th March, 1891, of John Paton, chief clerk, registrar-general's office, informs that a search in the parish registers of Wick and Latheron over the years 1788 to 1792, between which dates James was born according to personal evidence, has been without success. But this is no essential legal obstacle, because entries of birth or baptisms, not being then obligatory by statute, were occasional rather than regular. But these from Latheron supply the absence of James's entry, who can be proved to have been the eldest by many living persons:—"July 15th, 1792, Alexander Sinclair in Clyth had a child baptized, named David;" "April 6th, 1795, Alexander Sinclair in Clyth had a child baptized, named Francis;" and "Alexander Sinclair in Clyth had a child baptized, named George, on 9th April, 1807." As these children are the uncles of James, Mid-Clyth, it will be easy to get abundant proof that his father James was their eldest brother. Elizabeth Laing's statement that Alexander's son James was born 13 months after the marriage, her knowledge derived from her mother, Sydney Sinclair, this eldest son's only sister, is most creditable testimony. It would be sufficient, legally, to prove him merely the eldest son of the marriage, even an antenuptial having all the legitimate rights; but the knowledge of the actual interval in itself strengthens, if it does not finally settle, the birth fact. It is admitted that this is the weakest link in the whole chain from the Hon. David to James, Mid-Clyth; but, fortunately, numerous living witnesses can testify to the legitimacy and seniority of James, the eldest son of Alexander "Turn-my-Hand" and Elizabeth Sutherland, drowned at Clyth Shore, August, 1846, aged 55. The double entries of marriage in Wick and Latheron registers in 1789, the year after the death of the Broynach claimant, Captain James, H.E.I.C.S., shows that Alexander "Turn-my-Hand" was well aware that the Captain's rights vested then in his own father James, the chamberlain. It would seem clear also that he knew of William of Ratter's tampering, through the keepers, with the records, and by repetition meant to evade the destruction of his marriage entry. But marriages were rather safer than births and deaths, because by section 16 of 26 Geo. II., c. 23 (1753), the penalty of death was imposed on those who should wilfully destroy any register of marriage. See

Berkeley peerage case of 1891 in the Times. The raids made on the county records by the usurping earls or their tools have new and striking illustration in a letter of 6th June, 1891, from Mr D. Nicolson, session-clerk of Wick ;—"Our oldest volume of minutes begins in 1701, and ends with May, 1723 [ 1728?]. The next volume is lost, but when or how I have failed to discover. The late Dr Lillie, on his settlement here in 1844, could obtain no trace of it. The next volume begins 2nd May, 1742, and runs to 1758." It is surmised that Donald the Sailor was before the kirk-session for his son William, and that the minutes, therefore, containing the genealogical references to Donald as the second son of Broynach and Janet Ewen, the usurpers secured and destroyed the volume, with the other records already referred to as having suffered at their or their agents' hands. These points need further treatment, especially in reference to Sir James Sinclair of Mey becoming "earl" in 1791, about which fresh knowledge has just been obtained.—Yours, &c.,

THOMAS SINCLAIR  
Falmouth, July, 1891.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

ROSS-SHIRE DOCUMENTS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—By favour of the Rev. John Sinclair, B.D., Manse of Kinloch-Rannoch, Perthshire, who is the representative of the Ross-shire Broynachs, a set of documents belonging to his family is offered as a remarkable and interesting contribution to the evidence for the claim to the title and dignity of Earl of Caithness, now in active progress. Some records of these Sinclairs have already appeared, and, with the new additions, an unusually vivid picture of ordinary well-to-do life for more than a century rises to the mind, apart from the legal uses to which the curious survivals may be put. The earliest yet discovered is one giving knowledge of William Sinclair, son of Donald the Sailor, and grandson of the Hon. David Sinclair of Broynach and Janet Ewen, the Hon. Mrs Sinclair. William's eldest son John is also mentioned. It is as follows:—"Muirends, 23rd May, 1783.—A note of the valuation of the buildings of Alexander Mackenzie of Cleanwater, tenant here, valued by Alexander Davidson, wright in the Bog of Allan, and John Noble, Newtown, Redcastle, for the timber, and John Stewart in Allangrange, and Donald M'Steven in Drynie, for the mason work, with John Simson, smith in Munloch, mutually chosen by both parties. To the timber of the principal room, £1 1s 6d; to the rack jamb, 13s 10d ; to the timber of the pantry, 8s ; to the timber of the fireside, 18s ; mason work of the house, £2; of the back stable, £1 0s 6d ; timber of the oxen byre, £1 9s; masonry of the byre, £1 7s; timber work of stable, £1 5s ; mason work of lower barn, £1 9s 6d; of little stable, 6s 6d; timber of barn, £1 12s; mason work of kiln, £1 18s 6d ; timber work of kiln, £1 8s 6d ; timber of wester byre, 13s; mason work of Alex. Reid's house and the wester byre, 14s 6d ; timber of sheep cote, £1 1s 6d; mason work of cote, 14s 6d; timber of the little stable, 7s; mason work of upper barn, 5s ; timber of upper barn, 6s 6d ; masonry of the old sheep cote, 4s; to the doors of the lower barn, with locks and bands, 10s ; total, £22 1s 10d.

" The above sum of £22 1s 10d in the exact value of the comprising of the beforesaid buildings, now to be possessed by William and John Sinclair at Munloch, as valued by the

beforesaid comprisers and signed by us at Muirends, this 23rd day of May, 1783, before these witnesses, Alexander Munro and William Simson, schoolmaster at Munloch, A.D., JOHN NOBLE, J.S., D.S., J.S. ; ALEXR. MUNRO, *witness*; WILLM. SIMSON, *witness*.

"Munloch, 26th May, 1783.—Received by me, Alexander Mackenzie of Cleanwater, from William Sinclair, tenant at Munloch, the sum of £10 sterling, as my proportion or share of the above comprising, (and I acknowledge) that, according to the old comprising, Whitsunday 1767, my said share is hereby fully discharged. —ALEXANDER MACKENZIE."

This Mackenzie had contracted to supply Dingwall with water, and his success gave him the complimentary nickname of "Cleanwater." He bought some acres of land, which he wittily called the same, his chief interest being the tack of Muirends, or Muirance, as it was then spelt. The tradition is that Alexander Munro, factor for the Kilcoy estate, wished to get Munloch farm, which was held by William Sinclair till 1783, and that he stirred up Mackenzie to take a large place in the parish of Urray, where he lost all his means, offering Muirends to William Sinclair and his son John, who made the change as above.

But this, if the first record of these two Broynachs, does not trace back so far as an inscription in Avoch churchyard, " Sacred to the memory of John Sinclair, late farmer in Muirends, who departed this life 2nd April, 1798, aged 40 years; and of his spouse Margaret Davidson . . . ." He was born to William Sinclair and Isabella Cameron, therefore, between 2nd April, 1757, and 2nd April, 1758. If no sister preceded John, the parents' marriage could not be well earlier or later than some date between the middle of 1756 and the first of these two dates. Had a sister or sisters, or children who died in youth, come before John, the marriage would be thrown back years before 1756, which is therefore the latest date that can possibly be inferred in accordance with this most valuable gravestone record. It will be remembered that the made gap in the family of Donald the Sailor in the Wick register, between Christina's baptism on 27th March, 1737, and Francis's on 14th May, 1744, was thought to contain this Ross-shire William as well as James the Chamberlain ; and a question arose as to which of these two was the elder. With great ingenuity "Scrutator" reasoned, on the evidence then public, against the universal Caithness tradition, that James was the eldest son of Donald the Sailor's family by Catherine Sinclair, their marriage at Thrumster being on the 30th of November, 1736. The same acute method, applied on the ground of this record, not only makes William the senior of James, but puts him out of Catherine Sinclair's family altogether, though his sonship to her husband is established by irrefragable proofs. Taking two years as the ordinary time between the births of the immediate members of a family, and supposing that William came next to Christina, as " Scrutator" proposed, his birth would be in March, 1739. This would make his marriage to Isabella Cameron happen when he was barely over seventeen, putting all the likelihoods, such as John being positively his eldest child, male or female, on the side of increasing his age at the time of the ceremony. Such a marriage in the ordinary ranks of life would be, then as now, disgraceful and impossible. In planning about the union of estates, events of the kind are known to history; but it would be against the whole tenor of popular feeling to assume that they happened, even exceptionally, among the people. It is admitted frankly, that, to have been the junior of James the Chamberlain, William would have to be married when barely fifteen. William and James the Chamberlain are only half brothers, and the former is the senior, but whether legitimate or illegitimate is the cardinal question.

The elimination of William from Catherine Sinclair's family clears away difficulties previously stated as to him being, or not being, the tacksman of Isauld who, according to persistent tradition, fled thence for his life, because of a fatal fight with a Mackay on the Reay market about corn-exporting. A multitude of considerations fix him now to have been this

unlucky person. The trading business, by vessels from Sandside Bay, of itself suggests that he was the son of Donald the Sailor ; and the holding of the important farm of Isauld, with sub-tenants, at the same time, is no contradiction. An existing descendant of Robert the Wick merchant, son of Donald, has given the useful information that Robert was born in 1748 on Cairnquoy Farm, Thrumster, then held by his father Donald the Sailor from James Sinclair of Harpsdale, one of the Ulbster family, and he to whom afterwards Donald's son James was Chamberlain. Agriculture, as well as sea-trading, was familiar to them all ; and tradition says that, for a time, Catherine Sinclair's elder sons were with their much older half-brother William at Isauld. In 1760, when the fatal incident took place, they were under twenty-one years of age, while, he was married and engaged fully in all the civil duties of life. The Reay parish register has just one reference to him, namely, the baptism of a daughter Elpas, that is, Elizabeth, on 9th January, 1759. This is manifestly the next child after his eldest son John, his partner in Muirends of 1783. That John's baptism is also in the Reay register indicates that William entered on the tack (no doubt with his then rather wealthy father Donald the Sailor for cautioner) between the births of these children. The register shows another tacksman in Isauld in 1762, and the presumption is that he was there from Whitsunday, 1761. That William had one daughter is certified by his will, which "Scrutator" has contributed to the Northern Ensign, where she is mentioned as Mrs Lachlin Young, then, it would seem, the only daughter, since none else are noted. But whether there had been more that had died, or whether Mrs Young is Elpas, cannot as yet be decided.

The story of the fight has received a new turn. A Hugh Macpherson, who died six or seven years ago, about eighty, was a labourer on Isauld Farm, and he said the quarrel arose on the evening of Reay market, in Isauld House, about the wickedness of exporting corn out of the country and leaving the poor, especially the Strathnavernians, to starve ; William's jealous opponent, being one of the Innes proprietor family of Sandside, who since the Tongside duel of 1712 were in feud with Sinclairs. So strongly did the death of Innes affect the popular imagination, that his ghost on a white horse was said to be often "seen" at full gallop between Isauld and Sandside, on revengeful thoughts intent, Isauld having belonged to the Inneses till 1723. In 1882, a woman Macdonald, then 84, who long worked there, said that because of this and other acts done in the house of Isauld, a water-drop through the lintel over the principal door never stopped till the place became a ruin. The memories of the building some 40 years ago (situated a few yards behind the shop now beside the public road), are of a huge shapeless mass of stones which have long since gone to building the dykes of the neighbourhood. These superstitions are not evidence, beyond the natural inference that they could not be founded except on some actual and striking fact such as William's unfortunate deed. The detail, as to whether it was a Mackay or an Innes whose death was to be avenged, is not important. It is enough that William sailed from Isauld port on their own vessel in all haste to the Black Isle, Ross-shire, where he is found, first as tacksman in Killen, and thereafter in Munloch, taking Muirends at Whitsunday, 1783; the 23 years from 1760 giving reasonable period for the occupation of Killen and Munloch. His curious partnership with a son, shows that he always feared both the effects of crown prosecution for manslaughter, the punishment of which was usually death and confiscation of goods, and also the danger of private revenge of the deadly feud character. After the Highland rebellions of 1715 and 1745 it was familiar to legal arrangement for a father and son to so place property that, on either side losing, the family should rescue the patrimony ; and such skill was not missed by William. His son John's extraordinary personal strength was another reason why he should bind himself for protection by a partnership so unusual, especially among characteristically independent Sinclairs. Angus Beaton, farmer, Gateside, Munloch, who died 15 years ago, aged 84, said that John was stronger than either Parson Rory of Knockbain, or Parson James Paterson, Fortrose, the local Herculeses. William's handsome gravestone, with only the four letters for himself and wife inscribed, " W. S., J. C.," [sic] testify to the wish that his

immediate descendants should not be troubled in any legal or other way by his early misfortune rather than fault. The fixed reticence of his sons as to the past, which is traditional, especially of James, the youngest, goes to build up the same conclusions. William's being of Caithness origin, possibly living at Cairnquoy, Thrumster, before Isauld, is hinted by the fact that two of his sons are engaged, according to these enlightening documents of the Ross-shire Broynachs, in securing grave-plots for themselves and their families. If they had been long established in the Black Isle, they would not require to seek burial-ground in Suddie and other churchyards, as it will be seen they did by the records to follow.—Yours, &c.,

THOMAS SINCLAIR,  
Falmouth, July, 1891.

35-36                      NORTHERN ENSIGN Tuesday 28 July 1891 Page 6 Cols a-c

THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

ROSS-SHIRE DOCUMENTS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The family of William the son of Donald the Sailor is further identified by an epitaph from Avoch churchyard, " This stone is placed here to the memory of Alexander Sinclair, late farmer in Muirends, who departed this life 16th November, 1800, aged 37 years, and of his spouse Anne Young, who departed this life 17th April, 1819, aged 55 years." With help of the will their order of birth is, John, the eldest son, born between 2ud April, 1757, and 2nd April, 1758 ; Elizabeth baptized at Isauld 9lb January, 1759; Charles, " my second son," as William's last testament describes him, who never married, and whose exact dates are not known ; Alexander, born between 16th November, 1762 and 16th November, 1763 ; and James, completing those mentioned in the will, who died 13th October, 1834, aged, " Scrutator " says, 65, which would make his birth take place between 13th October, 1768, and the same date of 1769. The only gap of time is between Alexander and James, further knowledge possibly proving that James may have been a year or two older at his death than 65. Detailed extracting in all the cases from parish registers could not be much more satisfactory than this remarkable private authentication of the persons and dates of Donald the Sailor's grandchildren, through his son William, great grandchildren of the Hon. David Sinclair of Broynach by Janet Ewen. It would be easy to corroborate by referring to the registers of the proper parishes in the Black Isle, for the destruction by the disorders of the 1745 rebellion does not affect later dates. As to William the father it is in the Caithness registers his birth and marriage are to be found, if at all, search hitherto being totally fruitless.

The year after William and is eldest son John's entrance in Muirends farm in 1783, they bound themselves to the following remarkable club-lease :—"It is contracted, agreed, and finally ended between Charles Mackenzie, Esquire of Kilcoy, heritable proprietor of the lands and others underwritten, on the one part, and William Sinclair, tenant of Muirends and John Sinclair his son, tenant there, Alexander M'Quilkie, John Provost, and David Jack, all likewise tenants there, on the other part, in manner following:—That is to say, the said Charles Mackenzie, Esq., has set, and in tack and affedation let, and by these presents for the yearly maills and tack duties underwritten, in tack and affedation sets to the said beforenamed and beforedesigned tenants and their respective heirs, excluding their whole subtenants and

assignees, all and whole the lands and others underwritten, each for his part in manner afterdivided, namely, to the said William and John Sinclair jointly, and their beforesaid, that farm rowme in Muirends, with houses, buildings, yards, grazings, parts, pendicles, and universal pertinents thereof, as the same is presently possesses by them, but excluding therefrom the south side of a small garden, being about the one-fourth part thereof; to the said Alexander Macquilkie and his beforesaid, that other farm rowme in Muirends, with houses, buildings, yards, grazings, parts, pendicles, and universal pertinents thereof, as presently possessed by himself; to the said John Provost that farm rowme in Muirends, with houses, buildings, yards, parts, pendicles, and pertinents thereof, as the same is presently possessed by himself; and to the said Donald Jack and his beforesaid that other farm rowme in Muirends presently possessed by himself, with the whole houses, buildings, yards, parts, and pendicles thereof; lying, the whole lands and farms abovementioned, within the united parishes of Suddie and Kilmuir Wester, and sheriffdom of Ross; and all for the full and complete space of fifteen years next and immediately following the whole beforenamed tenants' entry to respective lands and farms above described, which, as to the houses and buildings and summer grass, is hereby declared to have been and begun in virtue hereof at the term of Whitsunday last, and as to the said lands on the separation of the present crop from the ground, and so forth to continue yearly and termly thereafter during the said whole space of fifteen years.

" This tack the said Charles Mackenzie of Kilcoy hereby binds and obliges him and his heirs to warrant to the said whole respective tenants and their beforesaid, each for his part as above, as valid at all hands and against all deadly, as law will.

" For these causes, and on the other part, the said whole persons, William and John Sinclair, Alexander Macquilkie, John Provost, and Donald Jack hereby bind and oblige them, their heirs, executors, and successors to make due and thankful payment yearly to the said Charles Mackenzie, Esquire of Kilcoy, and his heirs, or to his factor for his behoof, of the whole and respective rents and duties underwritten, each for his own part, and the said William and John Sinclair, conjunctly and severally, in manner afterdivided, namely, the said William and John Sinclair, conjunctly and severally, and their beforesaid, the number and quantity of 40 bolls farm bear, half thereof in kind and the other half thereof at a conversion of 10 merks Scots per boll, £8 5s sterling of money rent, with 12 custom hens, beginning in payment as after mentioned; also the said Alexander M'Quilkie and his beforesaid the number of 17 bolls farm bear rent, half in kind and the other half at a conversion of 10 merks Scots per boll, £3 15s sterling of money rent, and 12 custom hens; also the said John Provost and his beforesaid the number of 20 bolls farm bear, £4 13s 3d of money rent, with 12 custom fowls; also the said Donald Jack and his beforesaid the number of 16 bolls farm bear, £3 4s 1½d sterling of money rent, and 12 custom fowls; beginning the first year's payment of the said money rents at the term of Martinmas next, and of the said farm bear rents, half in kind thereof and half at said conversion of 10 merks Scots per boll, between Yule, 1785, and Candlemas, 1786, and of said custom fowls at Martinmas next, all for the crop and year 1785, and so forth to continue yearly thereafter during the space of the tack.

" Further, the said William and John Sinclair, Alexander Macquilkie, John Provost, and Donald Jack hereby subject themselves to the implement of the whole articles and regulations made by the said Charles Mackenzie, Esq., the proprietor, for their punctual observing thereof, as specially contained and recited in a condescendence thereof subscribed by him on 28th October current, relative hereto, now read to said tenants, and held as herein operated; and the said whole tenants hereby bind and oblige them and their beforesaid to perform the said articles and stipulations in everything and under the penalty contained in said condescendence.

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" It is further agreed on between the said parties that the whole houses and buildings on the lands and others beforesaid are, in so far as not already done since said Whitsunday last, to be comprised by four skilful honest persons, two to be chosen by the proprietor and two by each tenant, and are again to be comprised in the same manner by the like four skilful persons, two to be chosen by each party as above, at the term of the said tenants' removal. And in case the said houses and buildings shall be thereby found to have been ameliorated, in that event the said proprietor becomes bound to pay, or cause the incoming tenant to pay, the amount thereof to the tenant or tenants so ameliorating his buildings, the sum not exceeding £10 sterling each chalder's pay, except the said William and John Sinclair, who are confined to £15 sterling. But in case the said houses and buildings, or one of them, shall be found to have been deteriorated, in that case each tenant so deteriorating his house and buildings becomes hereby obliged and his beforesaid to make payment of the amount of such deterioration to the said proprietor at said term of removal.

" Lastly, the said whole parties hereby bind and oblige them and their beforesaid respectively, the said William and John Sinclair conjunctly and severally, as said is, to implement, perform, and fulfil their respective parts of the premises to each other, under the penalty of £20 sterling, to be paid by each party failer to the party performer or willing to perform their part thereof, by and with respect to performance of the whole premises; consenting to the registration hereof in the books of council and session or others competent, that letters of horning on six days' charge and other executorial needful may pass thereon in form as usual, and for that effect they constitute . . . . . their procurators.

" In witness whereof, these presents, consisting of the three preceding pages (written on stamped paper by Provost Andrew Robertson of Dingwall), are subscribed by the said parties at Tore, 28th October, 1784, before these witnesses, Alexander Munro, tacksman in Munloch; Thomas Stoddart, grievie at Tore; and Archibald Macdougall, servant to said Charles Mackenzie of Kilcoy, witnesses also to the marginal note of one word on second page and to the other marginal note on the third page thereof — CHAS. MACKENZIE, DONALD JACK, JOHN SINCLAIR. At the desire of the before-designed William Sinclair, Alexander Macquilkie, and John Provost, who declare they cannot write, we, notaries-public and co-notaries, subscribe for them, they having touched our pens for that effect, AND. ROBERTSON, N.P.; GEORGE ROBERTSON, N.P.; ALEXANDER MUNRO, *witness*; THOS. STODDART, *witness*; ARCHD. MACDOUGAL, *witness*."

These farms now let at about £500 & year. The revenue stamps of the lease are three, 10d, 1s, and 1s 6d. At the foot of each page foolscap are the five written signatures, as well as to the marginal notes. It is of external interest to know that the Robertsons who drew up the lease were brothers, Andrew, from Stornoway, being the provost of Dingwall. His daughter Anne was mother to the ex-premier, the Right Hon. William Ewart Gladstone, M. P., who the other year purchased the property which his grandfather Robertson owned in Dingwall for £400, and has been since a feuar of the town. It is curious to find that Donald the Sailor's son William could not write his own name, while his younger half-brothers, James the chamberlain, Robert the Wick merchant, and the rest were not only skilful with the pen, but some of them very well read, as shown. Why he should have been so neglected in his youth is now explained. He was not a lawful son. The names in the tack, as well as other particulars, are full of most useful, especially local, inference. Macquilkie or M'Quilkie, a name said to be unknown elsewhere in Ross-shire, is the Caithness Macwilkean or M'Wilkean. In old Scotch books and writings, such names of persons and places as White, Whitefield, Whitekirk, are spelt Qnhyt, Qwhitefield, Qwhitekirk, which is proof positive that Mr Quilkie is the same as M'Wilkean. In November, 1660, of the Wick burgh records.

Alexander M'Wilkean was fined by the bailie court 40s as a landward forestaller or illegal trader, his domicile being in Forse, Latheron, and not in the burgh. It takes no great acumen to attach the descendants or relatives of this too enterprising trader with Donald the Sailor's trading voyages from Sarclet, Wick, to Avoch, in the Black-Isle ; one of them ultimately to settle as a conjunct farmer, beside Donald's son William, and Donald's grandson John. Among the many names mentioned in the "Acta Parliamentorum" down to the book's close in 1706, no Macquilkie or Macwilkean appears, but Wilkies of Fife and Edinburgh are found, and Wilkieson, a Larnach surname, occurs, which is the exact equivalent of Macquilkie, in English form. In Annandale there were Wilkyns during the 16th and 17th centuries, and a John Wilkyn was the judicator of the Scotch parliament. It is possible that the Macwilkeans came originally from the south, but there is record for it that they were Caithnessmen of the 17th century, in the immediate neighbourhood of Donald the Sailor's special district of Sarclet. Jack for surname is also characteristic to Caithness, as well as Robertson. At the risk of too much shooting at a venture, it might be queried whether Hugh Miller the geologist, born in 1802 at Cromarty, 12 miles from Avoch, may not have owed his ancestors to Donald the Sailor's passenger traffic, or to some similar predecessor carrying goods and men from Caithness. Though Munro is too universal a name to draw any safe conclusion from, it may be remembered that Donald's wife's mother was thought to be a Christian Munro, her daughter, Sidney Sinclair, for one thing, having so recent a namesake as Sidney Sinclair (Mrs Laing), aunt of James Sinclair, Mid Clyth, the present claimant. But the most striking of all the numerous personal bonds between Avoch and Sarclet is that connected with Ephraim Sinclair, whose gravestone in Avoch stated that he died in 1773, aged 48 years, and who left three sons, James, William and David, already noticed. Such a name is hardly less exceptional than Nebuchadnezzar Sinclair, and real value lies in the fact of its rarity. The clue to it also, as to M'Quilkie, has been found in the Wick burgh records. On 8th October, 1662, Ephraim Readburne and his wife, with the suggestive name of Isabel Davidson, were fined £5 Scots for beating Catherine Miller, the spouse of Walter Bruce, skipper; Catherine, for her share of the squabble, fined £3. On 23rd July, 1669, Ephraim and his wife were fined 30s for beating and abusing George Sinclair with hands and feet, and pulling out his hair in great quantity; George doing his part double to them, judging from his £3 fine, though five years after he became, and continued long a bailie of the town. Ephraim Readburn was sworn as a juryman on 31st July, 1669, for the trial of Catherine Creak in Reiss, who broke open the locks of an ambry within the ball of William Sinclair, merchant, Wick, on 2nd July, and took 30 silver dollars belonging to his wife Margaret Oswald, Catherine confessing to 17 dollars 28 shillings Scots. The day on which George Sinclair's fight with Ephraim was settled, William Henderson, or "Gedak," was accused for "coming under cloud and silence of night to a Moray boat lying in the watermouth of Wick, whereof Thomas Young was skipper, and abusing the men of the said boat, and bleeding the town's officer with stones. He sat "two hours in the stocks at the cross next day, with two pint-stoups about his neck, together with a paper hood bearing his guilt," the hood as in Janet Ewen's case 35 years later. But the interest here is in the name Young, as probably of Avoch, and in the fact of Moray-side boats trading to and from Wick. Ephraim Readburn was the original Jew or Puritan from whom came "Ephraim" Sinclair of Avoch, and in all probability through relationship to the George of the quarrel, relations in old times being particularly subject to such ebullitions. George was of the Thrumster people, one of whom, Catherine Sinclair, married the sole Broynach there then, Donald the Sailor. A Readburn daughter must have been her ancestress, and hence Ephraim Sinclair of Avoch, and the Sarah, Rachel, and Esther of Thrumster. Bailie Bruce says Readburn's tenement is still known in the Market Place, Wick ; so that Ephraim the First succeeded in life. A lawyer could follow these lines to proof of the Avoch little colony being in the closest relationships to Donald the Sailor's domicile throughout near Sarclet. But facts and names will further accumulate.—Yours, &c.,

THOMAS SINCLAIR Falmouth, July, 1891.

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[ This next letter by "Scrutator" follows on immediately from the letter by Thomas SINCLAIR ]

THE ROSS-SHIRE BROYNACHS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—In November 1889 I wrote a letter which was inserted in the *Ensign* in which I ventured to state as my opinion that the *eldest* branch of the Broynach Sinclairs sprung from "Donald the Sailor" was the Ross-shire one that settled in the last century in the parish of Avoch, in the Black Isle, and whose descendants have ever since continued to bury their dead in Avoch churchyard ; and all that I have since learned on this interesting subject has only tended to confirm me in the opinion then expressed. I see that Catherine Sinclair (Widow Manson) in Sarclet depones that " Donald the Sailor's" work was " trading up and down the Moray Firth from Sarclet to Avoch ;" and that he " had a home in Avoch." Your readers will observe that this deposition is an important *positive* confirmation of my statement originally made in that first letter I wrote on the subject of Donald's connection with the fishing village of Avoch. Mrs Manson's negative testimony regarding there being a William in the family is, however, of not such great importance, as the circumstances connected with him were so peculiar as to have a tendency to obliterate all memories of him in latter years in Caithness. But not only did he exist; tradition asserts also that he was the eldest son of "Donald the Sailor" by his lawful wife, Catherine Sinclair, and tradition here is strongly confirmed by facts. Allow me briefly to state the testimony of the Avoch churchyard tombstones bearing on the subject.

1. Ephraim Sinclair's tombstone. —The inscription on the stone runs—"Sacred to the memory of Ephraim Sinclair, farmer in Rosemarkie, who departed this life in 1773, aged 48 years; and of his son David, who departed this life in 1784, aged 30 years." This Ephraim Sinclair was "Donald the Sailor's " brother-in-law, having been born in Thrumster, in Caithness, in 1725. It would seem that Ephraim first took a 19 years' lease of a farm on the Rosehaugh estate in 1751, and removed to Rosemarkie in 1770. He was, according to tradition, William Sinclair's maternal uncle, having been Catherine Sinclair's, in Thrumster, younger brother.

2. William Sinclair's tombstone.—This stone, though finely chiselled and ornamented with several devices, has only got "W. S." and "I. C." placed on it, meaning " William Sinclair" and " Isabella Cameron." Now the tradition is this. Isabella Cameron was a woman of 28, who had a farm of her own and considerable means, and her land was contiguous to Ephraim Sinclair's holding. It so happened that William Sinclair, then a young man of 18, in one of his voyages to Avoch along with his father, went to see his uncle Ephraim, and was introduced by him to Isabella Cameron. The upshot was that William married her that very year, and shortly thereafter settled down with her as a farmer. It is very probable that "Donald the Sailor" was then in financial difficulties, and was thankful that a son of his should get settled down in such a way. In 1770 William Sinclair and his wife and family removed from Killen, on Rosehaugh estate, in the parish of Avoch, to the farm of Munloch, in the parish of Knockbain, or about four miles farther west. In 1783, we find William Sinclair removing from the farm of Munloch to the farm of Muirends ; and in 1784 a lease was drawn up for this last farm, which still exists. In this lease his son John Sinclair, and Alexander MacQuilkie, a Caithness name, are associated with him. William Sinclair's will is still extant and was published in the *Ensign* last year.

William Sinclair was able to read but not to write -- his early education, as well as that of his

father, having been sadly neglected in the troublous times they had to pass through. It was probably through Isabella Cameron that William Sinclair was such a strict Episcopalian. The Camerons to which she belonged had originally come from Lochaber, and they adhered to Episcopacy. It is probable that they removed from Killen to Munlochry so as to be near the Episcopal Chapel of Arpafeelee.

3. John Sinclair's tombstone.—The inscription on the tombstone of John, William's eldest son, is as follows :—" Sacred to the memory of John Sinclair, late farmer in Muirends, who departed this life 2nd April, 1798, aged 40 years, and of his spouse, Margaret Davidson," &c. The sale of John Sinclair's effects took place in May following, and the "roup roll" is still in existence. Now, if this John Sinclair was forty years of age at his death in 1798, this would put his birth back to 1758 ; and as he was the eldest child, this would make the probable date of the marriage between William Sinclair and Isabella Cameron 1757 ; and if, as tradition says, he was then only 18 years of age, this would place his birth in 1739. I mentioned on a former occasion that there is a *lacuna* in the marriage records of the parish of Avoch, as examined in the register Office between the years 1745 and 1767, so that William Sinclair's marriage, which presumably took place in 1757, is not extant.

4. Alexander Sinclair's tombstone.—The following inscription was placed over William's third son, Alexander, who was accidentally killed by a large stone in 1800:—" This stone is placed here to the memory of Alexander Sinclair, farmer in Muirends, who departed this life the 16th November, 1800, aged 37 years, and of his spouse, Ann Young, who departed this life 17th April, 1819, aged 55 years." This would place Alexander's birth in 1763. He left a son Alexander, who died unmarried in Pulteneytown about 28 years after his father's death.

5. James Sinclair's tombstone.—James Sinclair was William Sinclair's fourth and youngest son ; and the following inscription is placed over him :—" This stone is placed here to the memory of James Sinclair, farmer in Muirends, who departed this life October the 13th, 1834; and of Christina Jack, his spouse, who died June the 4th, 1859." James Sinclair was born in 1769, and was therefore 65 years of age at his death.

I think your readers will see from the foregoing that the Ross-shire Broynachs are decidedly the oldest branch, unless it can be made out that James the chamberlain was born in 1738, which is extremely improbable.—I am yours, &c.,

SCRUTATOR.

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37-38 These are in fact a double up of 35-36. Should have been for the edition of 04 Aug 1891 but it doesn't appear to have been copied.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

ROSS-SHIRE DOCUMENTS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

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SIR,—The relationship of Ephraim Sinclair in Avoch, of the Thrumster and Wick family, to the Broynachs of the Black Isle, is illustrated by this document :—" To Alexander Sinclair, tenant in Muirans. Fortrose, 11th May, 1799. Alexander Sinclair,—I, Helen Sinclair, residenter in Fortrose, do by these presents make over to you all the right, claim, and title belonging to me, and all interest or right by possession handed down to me from my ancestors, to that burying-ground in the churchyard of Suddy in which my late father, tenant in Suddy, was buried. This I do before these witnesses, William Sinclair, wright, and William Munro, town-officer, both residenters in Fortrose, and I am yours, &c., HELEN SINCLAIR, H. S., her mark; WILLIAM SINCLAIR, *witness*, WILLIAM MUNRO, *witness*. Written by John Davidson, merchant in Fortrose." Here the same Thrumster and Avoch surnames occur, showing how closely business was done within the lines of affinity and blood, outsiders in the older times being kept off as much as possible. The water-mark of the paper is a shield with a harp in one quarter, a horse in another, &c. Near the graves of the Broynachs in Avoch churchyard, is a tombstone with the inscription, " William Sinclair, house carpenter, Fortrose, who died 24th October, 1827," clearly the "wright" witness. His wife was Margaret Watson, one of the surnames prevalent to this day in the Sarclet district of Wick parish. He was a son of Ephraim, and has already figured in an assignment of a gravestone in Avoch which belonged to his father, by James his brother, himself, and Ann Holm in 1817, to their "kinsman," James Sinclair, farmer in Muirends, one of the Broynachs, as will appear directly. Holm is a Ross-shire name, and she must have been his eldest brother James's wife. Those Ephraim people were in the Black Isle long before the arrival in 1760 of William, the fugitive tacksman of Isauld; and it was for their aid and welcome, as the relatives of his father Donald the Sailor by marriage to Catherine Sinclair in Thrumster, though not his own mother, that he made for Ross-shire in his personal danger, and they did not fail him in his need. While William was a child, Ephraim must have sailed with Donald from Sarclet to Avoch and settled there. He was 35 when the Isauld tacksman arrived and also settled, first in the farm of Killen, parish of Avoch, and thereafter in Munloch and Muirends farms, dying about 1790, certainly before his eldest son and partner John in 1798. There are not any writings to show his occupation of Killen, but the following by one who knows the subject and the various places thoroughly is sufficient:—"The connection with Killen is based on tradition, and is supported by the circumstance that the family buried their dead in Avoch churchyard, Killen being in the parish of Avoch, and about 2 miles north-west from that village. Munloch is in the parish of Knockbain, made up of the united parishes of Kilmuir Wester and Suddie. Had the family belonged to the parish of Knockbain, the interments would have been made in Kilmuir Wester churchyard, situated about 2½ miles from North Kessock Ferry, or in Suddie churchyard, about mid-way between Munloch and Avoch, the distance from Munloch to Avoch being 4 miles. Muirends is about 1½ mile north from the village of Munloch." He adds that the "shirra" or "sheriff" Sinclairs bury by themselves further south in Avoch churchyard than the Broynachs or "lords" or *morar* Sinclair, with whom the Ephraims group. These last are neither "shirras" nor "morars," who were equally of Murkle descent, but immigrant farmer people from Thrumster, in affinity with the Broynachs by the marriage of Catherine Sinclair, daughter of John, Thrumster, in 1736, to Donald, second son of Hon. David Sinclair of Broynach and Janet Ewen. "William of Fortrose was doubtless buried in Avoch in 1827 on account of its nearness, rather than in Rosemarkie, where the Ephraim people had taken ground in 1817," as by the assignment of this date. After authenticating by his own knowledge the tradition that William in Killen, Munloch, and Muirends "was the son (and said to have been the eldest son) of Donald the Sailor, *Don'ull a Mairich*, from Caithness, who was a gentleman of high descent," the same living authority adds that "William was the first Sinclair of the family he belonged to who settled down in the Black Isle," and " Donald the Sailor, to be sure, traded with Avoch, and perhaps resided some time in Avoch, but he did not settle down permanently." It is worth noting as curious that

though Alexander in Muirends had acquired a grave-plot in Suddie by the above document from Helen of Fortrose, he was buried in Avoch, as his epitaph quoted indicates. Helen's bargain may have been illegal, or have fallen through from the claims of relatives.

These Ephraim inquiries have anticipated, for the sake of continuity, the chronological order of the Broynach Ross-shire documents, the next to be taken up being the "Roup Roll of the Live and Dead Stock of that Farm in Muirends lately possessed by John Sinclair now deceased." It is dated May 21st, 1798. John is the eldest son who was partner with his father William, the quondam tacksman of Isauld; and John's younger brothers, Alexander and James, succeed him in Muirends, as will fully appear. The sale is as follows: - "James Sinclair in Muirends, 1 caby, 1s 1d; 1 wooden grape, 3d; 1 spade, 4d; Alexander Sinclair in Muirends, 2 spades, 9d; James, 2 spades, 6d; 1 spade and 1 shovel, 1s 7d; Lachlin Mackenzie, Muirends, 1 shovel, paid 10d; Thomas Stoddart in Balmackditty, 1 mattock, paid, 1s 8d; John Fowler in Fore, 1 wooden grape, paid 5d; James Sinclair in Muirends, 1 spade, 2s; 1 turf spade, 10d; Roderick Davidson, Muirends, 1 turf spade, paid 7d; Alexander Sinclair in Muirends, 2 harrows, 1s 9d; James, 1 harrow, 3s 9d; 1 harrow, 3s 1d; Alexander, 1 harrow, 1s; James, 1 corn fork, 1s 1d; 1 corn fork, 1s 2d; 1 crook saddle, 1s; 1 ditto, 1s; 1 ditto, 11d; whisky cask, 7s 1d; tub, 1s 3d; Kilachie cart, 4s; ditto, 2s 1d; William Simson, Ferintoash, 1 Kilachie cart, 1s 4d; James Sinclair in Muirends, 1 coup, £2 2s; ale stand, £1 1s; plough, £1 2s; 2 yokes and links, 3s 4d; Alexander Sinclair, 2 yokes and 2 links, 2s 4d; James in Muirends, a chest, 4s 1d; Donald Jack Douchlash of Siddy, a chest, paid, 1s 1d; John Fowler in Fore, a chest, paid 3s 4d; James Sinclair in Muirends, a chest, 3s 4d; Alexander, a chest, 1s 1d; Alexander Maclellan, Muirends, a chest, 7d; Alexander Sinclair, a table, 3s 4d; Charles Cameron, Munloch, a shelf, paid, 2s 4d; James Sinclair, 1 hogshhead, 3s 2d; 1 ditto, 4s 1d; 1 little boty, 3s 2d; and a shelf, 1s 10d; Duncan Gordon, Knockbain, a barrow, paid, 6d; Charles Cameron, Munloch, a little sey, paid, 2s 6d; James Sinclair, a peck measure, 1s 8d; a large sey, 4s; Alexander Sinclair, a tub, 3s 6d; Widow Sinclair, a sey, paid 3s; James Sinclair, a ladder, 1s 3d; another, 1s; a barrow, 1s 2½d; a boty, 2s 7d; horse trace, 3d; 2 traces, 1s 1d; Alex. M'Rae, Knockbain, a chair, paid, 6d; Alex. Bain, Bogg-Allan, a chair, paid, 1s 10d; James Sinclair, a chair, 2s 3d; Charles Cameron, Munloch, a chair, paid, 3s 3d; Alex. Bain, Bogg-Allan, a chair, paid, 2s 6d; James Sinclair, Muirends, a chair, 3s 10d; Widow Sinclair, Muirends, a copper pan, paid, 5s 10d; James Sinclair, a copper pan, 1s 8d; large pot, 4s 6d; and another, 3s 1d; Charles Cameron, a bellows, 3s; James Fraser, Dreimderfit, a flecked ox, paid £4 16s; James Sinclair, Muirends, a brown ox, £5; a red ox, £6 14s; Alexander Mackenzie, Cleanwater, a speckled ox, £3 8s. [In a double of the roup-roll, William M'Iver, junior, Muirton, is the buyer of the speckled ox for the same price; but he may have been Clearwater's agent, the word spelt "Clanwaters" by the clerk, no doubt wrongly.] James Sinclair, a hummelled ox, £3 5s; William Young, Drumnamargue, a branded young ox, £2 14s; Alex. Maclellan, Muirends, a speckled branded cow, £3 4s; Donald Jack, Douchlash of Saddie, a brown heifer, £2 5s; William Bain, Salt Miln, a dark heifer, paid, £2 9s; Alex. Sinclair, Muirends, a young brown horse, £7 5s; James Sinclair, a bay horse, £2 2s; a black horse, £2 16s; a red horse, £4 18s; and by John Provost, a propitiation, and the widow's consent, a brown mare, £8 8s; James Sinclair, by Alexander Davidson, propitiation, and the widow's consent, a malt vat, £1; ditto, ditto, ditto, axles and trams, 2s; ditto, ditto, ditto, a bed, 6s: total, £71 8s 1½d. Widow Sinclair in Muirends, a large press, £2 3s; a silver tass or cup, £1 5s; a bed, 4s; Lachlin Young, Drumnamargue, a press, 13s; Alexander and James Sinclair, Muirends, to thread, bed clothes, and tartan plaid, £2 18s 8d; Widow Sinclair, ditto, ditto, £2 18s 8d: total, £10 2s 4d. Grand total, £81 10 5½d."

The next document at this crisis of the family's affairs, when accounts had to be reckoned by Alex. and James, the successors of their eldest brother John, with his widow, who was childless, is headed "Stock Dr." on the one side, and "Contra Cr." on the other. The Stock Dr

goes thus: - "To James Sinclair's acceptance, £42 14s 7d; to Alexander Sinclair's acceptance, £2 11s 6d; to Widow Sinclair's acceptance, £2 4s 7½d; to rent of crop 1798, £15 6s 1½d; to Colin Cameron as promised to him voluntarily by the now deceased John Sinclair (*refused*), £10; to wages due to him, £ 9; to wages due Charles Cameron, £1; to wages due Janet Mackenzie, £1 9s 6d; to balance free stock, £166 2s 3½d; total, £250 8s 8d." The Contra Cr. dated 28th May, 1798, runs, "By due by William M'Iver, per bill of this date, paid, £3 8s; by Alexander Maclellan, ditto, ditto, paid, £3 4s; Donald Jack, paid, £2 5s; Donald Miller, Strathconnon, for oats last year, 5s 8d; Donald Mackay, Munloch, ditto, paid, 4s 9d ; Alexander Miller, Strathconnon, for ditto, paid, 6s 8d ; by Roderick Miller, Strathconnon, for oats, paid, 4s 9d; Alex. Bisset, Knockbain, ditto, 11s; by Donald Sinclair, Findon, ditto, 11s 10½d ; by Alexander Davidson, due Widow Sinclair's tocher, never paid up. £7; by John Munro, part of ditto promised by him, being an ox or a horse, at the option of the now deceased John Sinclair, valued at £3 10s; by a cow belonging to Widow Sinclair, left in the hands of her brother Roderick Davidson, which he has not yet accounted for, £4; by a debt due by Roderick Glass in Drumg., paid, 10s ; Robert Forbes, ditto, 6s; Roderick Young, ditto, 7s ; Donald Young, Tenahugue, 10s; Alex. Archie in Milton of Findon, paid the widow £3; Roderick Fraser at the dam of Redcastle, paid, 12s ; by Alex. Davidson & Co., per bill, part crop 1798, paid, £10 7s 2d ; Alex. Morison & Co., per bill, ditto, paid, £5 19s 6d ; Donald M'Farquhar & Co., per bill, ditto, paid, £2 9s 10½d ; Alex. Eraser & Co., per bill, ditto, paid, £3 11s 3½d ; by James Sinclair's acceptance, £130 16s 1½d ; by Alexander Sinclair's acceptance, £38 13s 3d ; by Widow Sinclair's acceptance, £27 16s 10d: total, £250 8s 8d." The "paid" is in a different hand, as if introduced later than the principal writing, and there is a note, later also, " William M'Iver omitted £13," making a total, if so, of £263 8s 8d.

The opposing pages are headed, "James Sinclair, Dr.," and "Contra Cr.," the Dr. side beginning "1798, April 1st., To stock, for 6 young pigs, sold this date, £1 3s 6d ; 2nd May, to ditto, for 9 gallons, 2 pints, whisky, £7 17s; 14th May, 7 gallons, 3 pints, 1 mutchkin, ditto, £7 8s; 29th May, 9 bolls, 1 peck, 1 lippy, oats, part corn and straw, and 4 firlots to each boll, £7 3s 6d ; cash received for sundries sold at the roup of 21st current, £8 10s 11d; to stock per bill granted this date, £43 0s 4½d ; 1st June, to ditto for 12 bolls, 2 firlots of four-fourth bolls oats sold, £9 13s; 25th June, 1 boll, 2 pecks pease sold, £1 0s 11d, and 7 bolls, 3 firlots, 1 peck of barley, at 19s per boll, £7 8s 5d; 27th July, to stock for the grass of the ley ground, valued by John Provost, £1 12s; 1799, 7th February, 4 bolls, 3 firlots, 1 peck of five-fourth bolls oats, corn and straw, at 19s 6d per boll, £4 13s 10d ; 21st February, 21 bolls, 3 firlots, 2 pecks of barley, corn and straw, at 19s 6d per boll, £21 6s 6½d ; cash received for rent of a cotter house, 4s; to stock, for 7 gallons, 5 pints whisky, sold for £6 1s 6d ; 4 bolls, 1 firlot four-fourth bolls, £3 4s 7½d ; 2 pigs, 8s: total, £130 16s 1d, and charged on the preceding page.

The Contra Cr. is.. "1798, July 11th. By stock, part payment of the farm rent, crop 1797, per the factor's receipt, £17 4s 3d; by servant girl's wages paid, £3 7s 6d ; another, £7 12s 6d ; cash paid to Widow Sinclair, £6 4s ; cash paid for 5 bolls, 3 firlots seed barley, at £1 2s, £6 6s 6d ; 2 of live-fourth bolls seed oats, £2 2s ; cash for bills, &c., for the roup of cattle and labouring utensils held 21st May, 1798, 17s 1½d ; balance of a servant girl's wages, 3d ; paid a debt due by the late John Sinclair to Donald Down at Kilcoy, 4s; paid the late John Sinclair's acceptance for the use of the distillery utensils, 8s 6d ; a servant man's wages, £3 4s ; proofing crops, 1798, 2s 3d ; cash for a sock and Kellachie, &c., &c., 19s. Total, £42 14s 7d ; by balance to the heirs at law of the late William and John Sinclair, £88 1s 6d. Grand total, £130 16s 1½d.

After the same manner comes " Alexander Sinclair, Dr., 1798, May 21st, To stock, per bill granted this date, £10 11s 8d ; sundries bought at roup, £3 11s 8d; 19th Dec., to stock, for 11 bolls, 2 pecks barley, corn and straw at 19s 6d, £10 16s 11d ; 1799, Feb. 2nd, 10 bolls, 1 peck,

1 lippy of five-fourth bolls of oats at 19a 6d, £9 16s 6d ; pigs, 4s; pint-stoup, 2s; part payment crop, 1789, £3 10s 6d. Total, £38 13s 3d.

The Contra Cr. paid by Alexander is, " 1798, May 21st, By stock, for cash paid the auctioneer, 12s; whisky at roup, 18s; proofing part of crop 1798, 4s 6d ; clerk of roup's fees, 5s ; by ground for lint for 3 years, 12s. Total, £2 11s 6d ; by balance due to the heirs at law of the late William and John Sinclair, £36 1s 9d. Grand total, £38 13s 3d.

Lastly follows, " Widow Sinclair, Dr., 1798, May 28th, To stock, for 3 pints of whisky, 6s 4d; chest comprised by Alexander Davidson, 4s 6d ; 2 pots 4s ; table valued by Alex. Logan, 1s 8d; wool, 9s; wedders, £1 7s ; a press, £2 3s ; a silver tass, £1 5s ; bed, 4s; bed-clothes, &c., £2 18s 8d ; 11th June, 9 bolls oatmeal at 18s, £8 2s ; 5 firlots, 2 pecks barley meal at 13s 7d, 19s 6d ; boll of barley, 19s ; 2 firlots pease, 8s 8d; a sow sold, 18s; cash in the house when the husband died, £1 2s 6d; paid by James Sinclair to her, £6 4s. Total, £27 16s 10d.

The Contra Cr. paid by the widow is, 11th June, By stock, paid for 5 pecks oatmeal, 5s 7½d ; 11th July, by part payment of crop, 1797, per factor's receipt, £1 19s. Total, £2 4s 7½d ; by balance due to the heirs at law of the late William and John Sinclairs, £25 12s 2½d. Grand total, £27s 16s 10d. Deduct further paid for borrowed meal, 13th April, 1799, £2 9s 8d, and the sum against the widow is £25 7s 2d.

This long array of farming and domestic figures may be concluded with some more, thus, "Muirands, 29th May, 1798. A note of the comprising of the buildings of John Sinclair, tenant, late possessed here and now deceased, comprised by Thomas Stewart, mason of Muirton, and Donald Forsyth, mason in Killends, and John Provest, tenant in Balnagui, of Muirands, and William Murchison, tenant in Yirhead, for the timber, with William M'Lenan, smith, in Munloch, mutually chosen by the widow and the heirs of the said deceased John Sinclair. To the mason work of dwelling-house and stable, £3 9s 6d; easter barn, £1 3s; wester barn, £1 10s 6d; kiln, 17s 4d; Ewen Mackay's house, £1 2s 6d; Rory Davidson's house, workshop, and sheep-cote, £1 3s 6d; to timber of dwelling-house and principal room, £2 11s 6d; of easter barn, £2 10s; wester barn, £1 10s; kiln, 15s; Ewen Mackay's house, £1 3s; Rory Davidson's £1 1s; sheep-cote and workshop, £1 8s; of oxen byre, £1 9s; stable, 14s; two doors with lock and bands upon Rory Davidson's house, 2s 6d; door with bands of workshop, 1s 6d; of sheep-cote, 2s 6d; of backhouse, 6s; of Ewen Mackay's house, 1s 8d; two doors of wester barn, with lock and bands, 10s; two of kiln with bands, 1s 3d; three of eastern barn, with bands, 10s 6d; five doors of dwelling-house with two locks and bands, 18s 3d; to four doors of the principal room with bands and snecks, 14s 6d; to the windows of the dwelling-house, 8s 9d. Total, £26 5s 3d. (Signed) THOMAS STEWART, DONALD (D. F.) FORSYTH, WILLM. (W. M.) MURCHISON, JOHN (J. P.) PROVEST, WILLM. (W. M.) M'LEAN. [Those who could not write had their initials "printed" between their name and surname.] The valuation amounts to £26 5s 3d, deducting from which the proprietor's share of melioration, £12 1s 10d, there remains to be divided between the widow and heirs, £14 3s 5d."

Of these details and persons some treatments has to be made. – Yours, &c.,

THOMAS SINCLAIR.  
Falmouth, August, 1891.

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41-42 - Nothing of interest. Date???

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

ROSS-SHIRE DOCUMENTS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—According to the will, printed by "Scrutator," of William, his eldest son John had half of Muirends in virtue of having been in company with his father in the lease of 1784, the other half equally divided between Alexander and James. Charles the second son was left money, as if he had chosen some other line of life than farming, having had sums in his father's time. Two years after his eldest brother's death, Alexander, on 16th November, 1800, was killed by a huge boulder crushing him, and Muirends Farm fell solely to James the youngest. There was another roup after Alexander's death, who left a widow and one son Alexander, of whom more hereafter. It is clear that James entered on the whole farm in 1800, heavily handicapped, the stock, utensils, &c., having been twice sold off, first for John's widow, and next in behoof of Alexander's widow and son. The buyers in the earlier sale, the details of which have been given, are chiefly relatives of the family, and this implies as friendly an arrangement as could be made, the second sale being of the same character presumably.

In these 1798 papers most of the names suggest as usual Sarclet kinship or origin, such as Davidson (a Gunn synonym), Bain, Maciver, Simson, Young, Jack, Miller, Munro, Stuart, Forsyth, and Morison or Murchison; the more general names like Fraser, Mackenzie, and Mackay of less pertinence. There is a general interest connected with the valuer William Murchison, tenant in Yirhead, as being a near relative of Sir Roderick Murchison, the geologist, who was born in 1792 at Tarradale House, Muir of Ord, the son of a doctor. Sir Roderick visited these relatives, handsome people, but reduced to the crofter level in his time, and now not known to exist. Murchison is the Gaelic form of Morison, and in a set of original Wick documents from 1649 downwards the surname figures very prominently under various spelling aliases, so that these Ross-shire Morisons may have been also from the farther north. Limits must be put to such deductions, but it would be unwise to shun suggestions of the kind, good incentive to discovering facts coming from comparison and speculation. The Camerons appear through Mrs William Sinclair being one of them, and the Youngs because Lachlan Young was married to William's daughter, as the will showed. There are Camerons in Wick parish register; but it is not yet certain whether Isabella, the ancestress of the Ross-shire Broynachs, was of Caithness or Black Isle birth. From an MS. Most useful volume of the epitaphs in Wick churchyard, compiled in 1890, it is evident that there were Forsyths in the neighbourhood of Sarclet. One inscription is, "Here lies the dust of an honest man called David Coghill, who lived in Milton of Wick, and died 1st June, 1742, aged 51; and of Catherine Forsyth, his spouse, who died 27th July, 1747." Another is, "Andrew Forsyth, tacksman, Oust, who died 20th April, 1868, aged 73." What could be made of more general names like Stuart can be exemplified from the same source: "Alexander Stuart, Sarclet, died 28th November, 1871, aged 78½ years;" "Alexander Stuart died Feb., 1849, aged 71;" "To Neil Stewart, farmer, Olliclate, who died 29th Dec., 1847, aged 78; and his beloved wife Margaret Sinclair, who died 20th November, 1850, aged 68; placed by sons for highly respected parents." Caithness registers could add indefinitely, but one example must suffice, from Thurso parish, of date 6th June, 1729, when Nicol Stuart is mentioned as

chamberlain to John Sinclair of Ulbster, father of James, provost of Wick, Thrumster House, and grandfather to Sir John the agriculturist. Ulbster House was next door to Sarclet, and Stuart inferences as related to the Black Isle are obvious, if more general than from some of the other Sarclet names. Among the Wick inscriptions Elizabeth Noble appears, a distinctive surname occurring in them documents, and which was therefore known on both aides of the Moray Firth. In Wick burgh records, Youngs are to be found plentifully, both as resident merchants, &c., and also as visitors in trading vessels from what was called the Moray side, which included the Ross and east coast. See these records, 1660 *et seq.*, in *Northern Ensign*, where it will be further noticed that John Murson or Morison or Murchison was one of the two bailies of the town from the end of the year just mentioned. In the same interesting survivals, one of eight accusations against Agnes Sutherland, Wick, on 6th June, 1710, is that she came to the house of John Forsyth in Smallquoy under silence of night, broke through the roof of the chamber, and stole meal, gold, money, linen, and several other things, to which particular indictment she confessed herself guilty, as well as to most of the other seven. What is specially suggestive, in respect to the Broynach inquiry, is that Forsyth was succeeded in Smallquoy by James Sinclair and his descendants, James mentioned in Wick parish register as there before 1732. It is the kinship of the Smallquoy with the Thrumster Sinclairs, to whom Catherine, the wife of Donald the Sailor, belonged, that binds Forsyths to the Sarclet and Black Isle Broynachs. Such, and other such, instructions to a barrister are invaluable, but to very intelligent ordinary readers accumulation of the dimmer, facts and theories may become heavy.

The story of James Sinclair's tenancy of Muirends has much illustration, especially from his rent receipt-book, beginning 28th January, 1801, and continuing till 26th December, 1818, his occupation of the farm going on with other lost receipt-books to later date. The first receipt is dated Munloch, as above, and is for £25 sterling for half of his rent, crop 1800, payable 15th January, 1801, with the factor's signature, ALEXB. MUNRO. On 18th June, 1801, other £25 complete his year's rent of 1800. On 2nd Feb., 1802, at Munloch, "James Sincklar, tenant of Muirends," in the factor's spelling, discharges £30 as half-rent, crop 1801, and the other half on 18th June, 1802, "including the minister's meal at 24s, but in case the minister charges more than 30d for his barley, James is to pay it." The factor receives from "James Sincklar, tacksman in Muirends," on 3rd Feb. 1803, £30, "including the minister's receipt for 2 bolls, 2 firlots meal, all to account of his rent." Next half rent is the same, the minister's 2 bolls and 2 firlots bear and meal receipted 6th June, 1803, at Munloch. On 31st Jany., 1804, the payment is £26 15s cash, and the minister's as before; and on 21st June the same, the minister's bear at 26s, the full rent for crop 1803. He paid 2nd March, 1805, £25 12s, and oats to Suddie 19th February, and shows the minister's receipt for 5 bolls half meal half bear; while 4th July, 1805, he pays the balance, with proportion of multure and school salary, fully discharging for crop 1804. It is £26 on 15th April, 1806, including ½ boll potatoes last year and proportion of wood given William M'Lean, Drynie; the balance of rent crop 1805 paid 17th July, 1806, being £33 16s, and £9 for multure, with 5s for schoolmaster's salary, credit given for the meal and bear to the minister. On 17th April, 1807, the receipt was for £30, and 3 bolls barley, 2 bolls, 2 firlots meal to the minister, with the addendum, "He paid me the seed wheat, and I paid him whisky, ALEXR. MUNRO." This factor received on 5th August, 1807, £44, and schoolmaster's sum in full, for crop 1806. £31 8s and 10 firlots seed oats are next half rent on February, 1808, with a "P.S., I paid the gallon whisky. ALEXR. MUNRO." On 30th August, 1808, he pays £39 2s, and 5s schoolmaster's salary, "for his own farm," and "credit for two bolls oatmeal given to Kilcoy." To this is added, "James Sinclair settled for 8s due for militiamen's wives, crop 1807." In 1808 Wellington took command in the Peninsular War, and military affairs were very stirring, even to the county militia, on whom the balloting tickets for the field were falling. On 16th May, 1809, £39 12s was the payment, and 16th August. £34 8s, 2 bolls barley, 2 bolls meal to minister, 5s schoolmaster, and 4a 6d for

militiamen's wives. Always " at Munloch, " the next payment, 21st July, 1810, is £74 10s, 2 bolls barley and 2 oatmeal for stipend, and credited for 2 bolls meal given to Kilcoy at £1, with 6s for schoolmaster, and 4s 1d for militiamen's wives. £40 on 3rd May, 1811, formed the half year's rent, and 5th Nov., the balance came, with 2 bolls barley at 38s for the minister, and 2 bolls yet to be paid to Kilcoy at 20s for full discharge. This writing follows :— " Rent £82, 2 bolls barley and 2 meal, [24?] hens, and 4 bolls at 20s, 5s schoolmaster, and [??] 9d militia wives." At 29th May, 1812, £40 [????] the part payment. On 29th May, 1813, the receipt was £40 cash, 4 bolls oatmeal given in to Kilcoy's family, at 20s, and 2 bolls barley and 2 oatmeal for minister's stipend ; and 14th June, 1813, £38 10s, with 7s 6d schoolmaster, and militia wives. Part payment was made 1st Feb., 1814, of £28, and 4 bolls oatmeal at 20s to Mackenzie of Kilcoy's family; the rest, 22nd July, £50 5s, and the stipend barley and meal. Receipt was had 9th March, 1816 for £16 6s in cash, £20 15s in corn and straw to Kilcoy, and 4 bolls meal to Kilcoy ; while 27th May the balance was paid, with stipend, and Kilcoy's meal. Munloch, 7th Aug., 1816, he paid £36 cash, 4 bolls oatmeal to Kilcoy at 20s, and 2 bolls barley with 2 bolls oatmeal to Mr Mackenzie the minister ; and on 16th May, 1817, the balance for rent crop 1816. By Kilcoy's receipt, 10th January, 1818, and Mr M'Farquhar Fortrose's order, he paid £27 18s 3d, and the year's balance on 3rd March, the former of these two payments signed with an addition, Alex. Munro, " factor for Kilcoy." The last entry in this receipt book is singular, as if there had been some difficulties:—"Munloch, 22nd Dec., 1818. James Sinckler, tenant in Muirends, paid the balance due of his rent, crop 1817, in which credit is given in all preceding partial payments and Kilcoy's receipts, though my receipt is undelivered up, and the said year's rent is now settled for, except 7s, and any expense which may have already incurred, ALEXR. MUNRO." A fly-leaf has some notes:—"All that I gave to Colin Cameron is £5 3s; at another time, and he paying barley to Robert ; White, Munloch, £2; at another time, and he paying barley to Thomas Stoddart, Belmaduthie, £1 4s." In a separate book is the following:—" Muirends, 13th October, 1806. An account of the number of bolls of oats which I sold to the men of Knockbain on the field, corn and straw, 21 bolls, 1 firloft, ½ peck; William and Rory Davidson, 5 bolls, 1 firloft of the same.

But though, if the "*Encyclopaedia Britannica*" is right, the Black Isle is a land of plenty for farmers, James added distilling to his agriculture. Everybody was engaged more or less in smuggling, and as government had arranged a kind of licence to legalise and so get some taxes out of the practice, James Sinclair organized a company of his neighbours to distil under this sanction, each to pay his share of expenses and receive correspondent profits.

"Highland Distillery Licence, No. 61.—I, John Wood, the officer specially appointed for that purpose by the commissioners of excise in that part of Great Britain called Scotland, do hereby by virtue and in pursuance of acts of parliament made and passed in the 25th, 33rd, 35th, 37th, 38th, 39th, and 40th, years of the reign of his majesty King George the Third, license, authorise, and empower James Sinclair, residing at Muirance, in the county of Ross, to erect keep, and work at ditto, in the parish of Knockbane, in the county of Ross, but not elsewhere, a still of the cubical content or capacity (including the head horn, pipe, tube or other apparatus therewith connected, under whatever name or denomination the same may be called or known, as high as the steam can ascend) of 30 gallons, English wine measure, and to distil and draw off spirits from the barley bear, or bigg of the growth of the limits aftermentioned; in the several counties of Orkney, Caithness, Sutherland, Ross, Cromarty, Inverness, and Nairn, and in such parts of the counties of Elgin, Banff, Aberdeen, Kincardine, Forfar, Perth, Stirling, Dumbarton, and Argyle, as lie to the westward or northward of a certain line or boundary, beginning at the east point of Loch Crinan and proceeding from thence to Loch Gilpin, thence along the great road on the west side of Loch Fine to Inverary and to the head of Loch Fine, thence along the high road to Arrochar in the county of

Dumbarton and thence to Tarbert, from Tarbert in a supposed straight line eastward on the north side of the mountain culled Benlomand to the village of Callender of Monteith, in the county of Perth, thence north-eastward to Crieff, thence northward along the road by Ambleree and Inver to Dunkeld, thence along the foot and south side of the Grampian Hills to Fettercairn in the county of Kincardine, thence northward along the road by Cutties' Hillock, Kincardine O'Neal, Clatt, Huntly, and Keith, to Fochabers, thence westward by Elgin and Forres to the boat on the river Findhorn, thence down the said river to the sea of Findhorn and any place in or part of the county of Elgin which lies to the southward of the said line from Fochabers to the sea at Findhorn ; from 1st October, 1805, inclusive, to 1st October, 1806, exclusive, and no longer; and to use, sell, and dispose of the spirits so distilled within the limits beforesaid, but not elsewhere, subject to the additional duties, and to the regulations, restrictions, and provisions contained in the acts above-mentioned, or any of them; he, the said James Sinclair, having paid down the sum of £73 2s 6d, being the proportion of the full licence duty payable for the said still, due for the period between the said 1st October, 1805, inclusive, and the 1st January, 1806, exclusive, at the rate of £6 10s sterling yearly for each gallon of the content or capacity of the beforesaid still; and having also found sufficient security for the further sum of £50 sterling to answer the payment of such penalties as he may incur, in terms of the said acts of Parliament in that case made and provided. Given under my hand and seal, at the chief office of excise in Edinburgh, this 28th June, 1805, JOHN WOOD."

Against unlicensed smugglers, then patronised by the proprietors because they thus made money and promptly paid their rents, a licensed trade like this company's could hardly be driven, and the experiment did not succeed, but the money accounts as well as other circumstances are of curious interest. This to begin with :—" Please give the bearer 2 oz. of borax, 3 oz. of spelter for soldering copper, and give a full receipt to Francis Stewart. From James Lyland, merchant, Inverness." The company gets a receipt, "Gentlemen, I hereby acknowledge receiving £23 sterling, being in full the amount of a copper still, a head, and worm to suit your distillery. Gentlemen, I am, your most obedient servant, A. MACGREGOR. Murrans, 2nd April, 1806." The buildings for the still were on James Sinclair's farm, and how affairs were carried on will appear by publication of more of the documents extant.—Yours, &c.,

THOMAS SINCLAIR.  
Falmouth, August, 1891.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

ROSS-SHIRE DOCUMENTS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—Following these Ross-shire admitted Broynachs into the details of their daily economy, is not without purpose as to finally settling who is the rightful earl of Caithness. They have stated that they are senior, and if lawfully descended, which they are not, account of their lineage would have greater permanent value. But to prove legality being impossible, the picture of rural life of Broynachs in the immediate neighbourhood of Inverness, is ample apology for all the fulness that the materials left will allow. The practical end of the papers is

from establishment of similarity between the names and circumstances of the various Broynachs, and their relatives by marriage, both in Avoch, Black Isle, and Sarclet, parish of Wick, to increase security, by an unexpected body of evidence, that James Sinclair, Mid-Clyth, the claimant of the earldom, is the lawful descendant of the Hon. David Sinclair of Broynach, through his second son by Janet Ewen, Donald the Sailor, Sarclet. In behalf of James there is now an immense quantity of Caithness evidence, including the necessary parish register entries; but so grave a claim as he makes, namely, to be the eldest legal representative of the House of Sinclair, requires that nothing which aids his right to the title and dignity of Earl of Caithness should be neglected.

The persons in the Muirends Distillery Company hint very appreciably of Wick antecedents, though started as late as 1805, when the old form of communication between Sarclet harbour and Avoch had long ceased. Each paid tax according to his share, the date of masking, and the date of permit of spirits, with the payment thus:—"James Sinclair, 4th and 15th October, 1805, 8 permits spirits, 6s 3d ; John Jack, 9th and 21st Oct., 12 permit spirits, 12s 6d ; William Jack, 11th, and Donald Jack, 14th Oct. and 21st Oct. and 2nd Nov., William 12 permit spirits, Donald 16, each 12s 6d; Alex. Maclellan. 16th to 29th Oct., 20 permit, 12s 6d; Donald Provost, 18th and 28th Oct., 10 spirits, 12s 6d; Miller and Smith, 22nd Oct. and 6th Nov., 20 permit, 12s 6d; William White, 24th Oct. and 7th Nov., 10 spirits, 6s 3d ; Duncan Logan, 25th Oct., and Duncan Logan. 28th Oct., both 15th Nov., 20 permit spirits, and 12s 6d for both ; James M'Dougal, 29th Oct., 5th Nov., 10 spirits, 6s 3d; John Forbes, 1st Nov., 12th Nov., 8 spirits, 6s 3d; James Reid, 4th Nov., 22nd Nov., 10 permit spirits, 6s 3d ; Donald Young, 5th Nov. and 15th Nov., 8 permit, 6s 3d ; Hugh Jack, Balloch, 6th November and 15th November, 9 permit, 6s 3d; Donald Jack, Auchterflow, 7th Nov. and 22nd Nov., 10 permit, 6s 3d; Hugh Jack, Balnacoil, 8th Nov., 22nd Nov., 20 permit spirits, 12d 6d; Donald Macdonald, 12th Nov., 30th Nov., 10 spirits, 6d 3d ; Colin Cameron, 13th Nov., 6s 3d; all entered paid. In the second quarter there are new names, William Walker, Alex. Stewart, Donald Fraser, Alex. Provost, Kenneth Provost, Evan Jack and Rory Provost; the permits larger—James Sinclair's 30 at £1 12s, and the others 20, 14, 12, and lowest 10. In "the second term of the second quarter," James M'Cuil and Alexander Jack, Balnacoil, for William White, are additions, several of the former members dropping out. Donald Fraser is described as from Munloch; Donald Young, Mure; Alex. Provost, Cottar town ; John Forbes, Mure; and Colin Cameron, Munloch. The taxes are £1 12s or 16s throughout, the permit spirits being 20 and 10, all paid. The third quarter has John Provost, Balnaguie, and gives Roderick Provost as in Balloch, and Donald and William Jack in Balnacoil, another Donald and William Jack being at Muirends, with Evan Jack in Auchterflow. There are 16 members now, and the spirit permits are from 20 to 26, the tax uniformly £2 4s 6d, some of the members in twos for this sum. The second term of the third quarter, in which James Sinclair's date of masking is 7th May, 1806, has Suddy as M'Cuil's residing place, Drumderfit as that of William White, Newton of Duncan Logan, Munloch of Alex. Logan as also of William Maclean, Mure of John Forbes, and Suddy of William Walker. The permit spirits run from 12 to 28, £2 4s 6d the tax, except twice, when it is £1 2s 3d. At the end of this quarter under the heading, "For managing the Distillery," James Sinclair has permit 28, £2 4s 6d ; John Jack 14 permit, £1 2s 3d ; and Alexander Maclellan the same, in June and July, 1806. The new quarter has the tax omitted, but James Sinclair has permit spirits 36, the rest 28 and 14; Donald Jack, Tenacrea, being a variation, as well as Donald Fraser, Drumderfit, John and Donald Provost, both Muirends, John Maclellan, Geeseburn, Hugh Task, Balloch, and Adam Task, Balnacoil. The second turn of this quarter is poorly clerked, as if the distillery experiment were failing, the last date of this record being 25th September, 1806. The permits are 28 to 16, but no money is mentioned. John Jack is localised at Newton, Alexander Maclellan at Woodtown or Balnacoil, James Reid at Dutch ; a suggestive entry between 12th and 18th September being " The bad time." Another stray note is, " An account made up

between me and Donald Provost, Muirends, for remainder of whisky duty and licence duty, the sum being . . . . The above sum is all paid." Under the head of "Whisky Duty" are these entries, " James Sinclair, £3 4s ; John Jack and John Provost, £3 4s; Alex. Maclellan, £3 4s ; James Reid £1 12s ; Provost Sons, £1 12s; Donald and Evan Jack, 19s; Colin Cameron, £1 12s ; Alex. Logan paid for Drumderfit (12s added), £1 12s ; Donald Macdonald, Donald Provost, Hugh Jack, Balloch, £1 12s each ; William and Donald Jack, Tenacrea, £1 12s; Hugh Jack, Balnacoil, £2 8s; James M'Dougal, £1 12s; William White, 7s; Duncan Logan, £1 12s; William Walker and Donald Fraser, £1 12s; and Donald Young, Mure, 12s 6d." Then follows " An account of every one who did not pay their Licence and Whisky Duties:—John Forbes, Mure, licence £3 1s and whisky duty £1 12s ; Donald Young, Mure, 19s 6d ; William Maclean, Munloch, 4s 6d ; William White, Drumderfit, 9s ; Donald Jack, Auchterflow, 2s 6d; and Evan Jack, Auchterflow, £1 2s 6d." Forbes White and the two Jacks are, however, marked off as paid."

Some of the excise receipts have survived, " Received this 29th January, 1806, of James Sinclair, Muirends, £3 0s 3d, malt duty, JAMES M'FARLANE. Received the 2nd day of March, 1806, of James Sinclair, the sum of £37 16s, for the duties of spirits payable according to the laws in that behalf made, and rests in arrear, £0 0s 0d, JAMES M'FARLANE. Received the 11th day of September, 1806, of James Sinclair, £102 0s 9d, for the duties of spirits from 1st July to 9th August, 1806, JAMES M'FARLANE (the stamp 6d). Received the 29th day of October, of James Sinclair, the sum of £3 17s 1d, for the duties of malt according to the laws in that behalf made, and rests in arrear nothing, JAMES M'FARLANE." The last has "Hugh Jack" and "£1 10s," both which are drawn through with the pen. The receipts have ordinarily a 2d stamp, and are in semi-print.

How this joint or club co-operative enterprise actually worked can be gathered from more clerking. "Muirends, 1st October, 1806. An invoice or account of the stock of barley bought for malting to the distillery business, and likewise what was malted of my own growth, malt duty, licence, and whisky duty. To 4 bolls barley bought from Mr Makenzie, Knockbain, at £1 10s, £6; to 3 bolls malt from Alex. Jack, Allangrange, £4 5s; to 2 bolls 3 firlots barley of my own stock at £1 8s, £3 17s ; to 6 bolls 2 firlots of my own, £9 9s; to 2 bolls 2 firlots from Wm. Young, Knockbain, at £1 8s, £3 10s ; to the stock of malt bruised at Munloch mill and bought back, £3 10s ; to malt duty of above barley, £7 14s 1d ; licence duty first quarter, £6 2s; my share of the still, £2 ; to 4 bolls malt from Donald Fraser, Munloch, £7 ; to cash paid for fire, £2; whisky duty for first quarter, 18d 9d; total, £55 18s 10d," Then there is, "The account of the number of whisky gallons made of the beforesaid barley, and the price each gallon sold at. The first quarter stock. To 5 gallons 3 pints sold to Dempster at Rosemarkie at £1 12s, £8 10s ; to 3 gallons whisky sold to James Finlayson, Pitfure, at £1 13s, £4 19s ; to 15 gallons 2 pints sold to William Geddes, Inverness, at £1 19s, £29 10s; to 6 gallons to John Macleay, Allangrange, at £1 17s, £11 2s; to 3 gallons sold to Alex. M'Gregor, Crofthouse, at £1 16s, £6 10s 6d : total, £60 11s 6d." Next, the second quarter. " To 5 bolls barley of my own stock at £1 8s, £7 ; to 4 bought from Mr Dugald Munro, Suddy, £6 ; to 2 bolls 1 firloft of my own at £1 8s, £3 3s; to malt duty of the above first masking, £3 0s 3d; to 6 bolls 1 firloft of mine at £1 8s, £8 15s ; to 3 from above Munro, £4 10s ; to 2 of my own, £2 16s ; to malt duty of second in masking, £3 8s ; whisky duty in second quarter, £3 4s; cash for fire, £2 10s ; licence for second quarter, £6 2s: total, £50 8s 3d." Then there is the manufactured article sold, "To 9 gallons to John Dempster, Rosemarkie, £13 15s; to 2 gallons 4 pints to Donald Watson, Fortrose, at £1 12s, £4; to 3 gallons 4 pints to Janet Watson, Fortrose, at ditto, £5 12s; to a gallon and 6 pints to Lewis M'Kenzie, £2 18s." Here occurs, "First broost of the second quarter above," and then " To 8 gallons 5 pints to Donald Munro, Cromarty, at £1 9s, £11 5s; to 9 gallons 5 pints to Robert Bain, merchant, Cromarty, at 28s 6d, £13 12s: total, £51 2s." The third quarter, " To 3 bolls barley bought from Mr Dugald Munro, Suddy, £4 10s; to

7 bolls 2 firlots, my own growth, at 28s, £10 10s; to malt duty of above masking, £2 12s 8d; to 8 bolls of mine, £11 4s; to 3 bolls barley bought from Hugh Miller, Craigehead, £3 18s ; to malt duty of second masking of third quarter, £4 11s 5d; to whisky duty for third quarter, three brousts, £6 13s 6d ; to cash paid for fire, £2; to licence duty of third quarter, two brousts, £6 2s: total, £62 1s 7d." Sold, "To 4 gallons 6 pints to Alex. M'Gregor, Crofthouse, at 29s, £6 17s 6d; to 9 gallons to John Dempster, Rosemarkie, £13 15s; to a gallon and half pint to Thomas Logan, Drumderfit, at £1 10s (not in the totals); to 3 gallons to John Holm, Rosemarkie, £4 10s ; to 2 gallons 4 pints to Mr Mackenzie, Knockbain, at 28s, £3 10s; to 8 gallons 5 pints to Andrew Munro, Inverness, at 31p, £13 7s ; to 4 pints to Mr Munro, Mure, at 15s (not reckoned in totals): total, £41 19s 6d." Fourth quarter, bought, " To 3 bolls of barley in malt from William Young in Drummarg, £5 10s; to 5 firlots malt from Mr Brown, Tore, £2; to 2 bolls in malt from William Jack, my own man, £3 10s ; to 4 bolls 2 firlots mine at 28s, £6 6s ; broust, the above stock is for managing the distillery ; to cash for fire, 15s; whisky duty, £2 4s 6d ; to 3 bolls from Widow Balloch, £4 4s; to 6 bolls 1 firlot mine at 28s, £8 15s; to fire, 15s ; malt duty, £2 6s ; 8 bolls from Brown, Tore, £10 6s; to a boll and 2 firlots mine, £2 2s; to malt duty, £2 11s ; fire . . . ; licence, 16s." To this there is the note as to total, " The sum altogether is £58 2s 6d." There are obscure calculations on the page, " To the above broust for managing the still house, £20 5s 6d; to the other broust, £16; to the second broust, £15 15s; add £6 2s ; total, £59 3s." The sales are " To 9 gallons to John M'Phaill, Inverness, £13 18s ; to a gallon to Mr Brown, Tore, £1 10s; to 3 gallons to Lachlin M'Donald, Teakouw, £4 10s; to 1 gallon 2 pints to John Young at the Park, £1 16s 3d; to 7 gallons 6 pints to Duncan Fraser, Inverness, at 31s, £11 10s; to 5 gallons 4 pints to John Holm and Michael Miller, at 30s, £8; to 2 gallons 5 pints to Kenneth Forsyth, Fortrose, at 30s, £3 18s; to 2 gallons to John Logan and others, £3; to 9 gallons 1 pint to James Munro, Cromarty, at 32s, £14 12s; total, £62 14s 3d." This ends the club accounts. Whisky or bad success gradually demoralised the spirited company.

There follows, "An account of my barley crop, 1806, and the use I made of it. First, I malted for the distillery, when we thought to get it out, 6 bolls 1 firlot; 22nd Jan., 1807, steeped 3 bolls; 26th Jan., steeped, found by Munro, 3 bolls; 28th Jan., steeped, found by Forrester, 3 bolls ; 4th Feb., 1807, steeped 4 bolls 2 firlots." Next, "An account of what I made of money of this list:—1 gallon 1 pint to Alex. M'Gregor, Crofthouse, at 28s, £1 11s 6d ; 5 gallons 6 pints to Rory Denoon, Rosemarkie, at 28s . . ."

The last of these reckonings is perhaps the most enlightening, dated Muirends, 6th Oct., 1806, and entitled " An account of my loss or gain about the distillery business." It is, " To the first quarter's laying out, £55 18s 10d ; to the second, £50 8s 3d ; the third, £58 2s 6d ; total, £216 1s 2d. To duties paid for wash and spirits on 11th Sep., 1806, £10 11s 8d ; to my share of £88, paid 8th Oct., 1806, £9 3s 4d ; to malt duty, paid 29th Oct., 1806, £3 17s, which added to the above total, makes the real account of my laying out to be £239 13s 2d. To 7 bolls 2 firlots barley from Mr Brown, Tore, at 27s, added, is £10 2s 6d. All the account of my laying out is therefore £249 15s 8d, and all the account of my getting in is £233 18s 3d, and the account of my loss is this sum, £15 17s 5d." The getting in is as follows:—"First quarter stock, £60 11s 6d ; second, £51 2s ; third, £41 9s 6d; fourth, £62 14s 3d; total, £215 17s 3d. To the last broust bad time. To 2 gallons 5 pints to Kenneth Forsyth, Fortrose, at 36s, £4 14s 6d; to 3 gallons to John Fraser, ditto, £5 8s; to 1 gallon 1 pint to Donald Davidson, Avoch, at 38s, £2 2s 6d ; to 2 gallons 4 pints to Mr Munro, officer, Suddy, at 32s, £4 ; to a gallon sold to sundry, £1 16s, added to above total, is £233 18s 3d.

So much for the club distillery, the farming economy clearly more profitable, and perhaps more germane to the man, James Sinclair. In one of these books it is said, " The rent of the farm of Mure is £122 10s," which seems of local interest; and a noting is, " Muirends, 2nd

July, 1806, Received from Donald M'Donald, wright, £5 5s; and paid, 23rd July, to D. M., £3 3s." " An account of the grass of the Micle Yard, Belmaduthy," has useful names :— William Young, Knockbain, 3 quarters  $\frac{1}{8}$  at 21d, 5s 8d; Alex. Fraser and Rory Bremner, the same; John Davidson, his grass worse, 5s ; Rory Davidson, 5s 7d ; James Sinclair, Muirends, 3 quarters at 21d, 5s 3d. The notable thing here is that there is no more characteristic Wick name than Bremner, its best man, James Bremner, C.E., the raiser of the "Great Britain" ship (see Calder's "History of Caithness," pp. 254 *et seq.*); and the claimant to the earldom of Caithness, James Sinclair, Mid-Clyth, is knit by affinity to the Bremners in several instances, Sarclet being their special district.—Yours, &c.,

THOMAS SINCLAIR.  
Falmouth, August, 1891.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

ROSS-SHIRE DOCUMENTS.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—One of the surprises which make real life stranger than fiction forms the next passage in the history of the Ross-shire Broynachs. "Late Alexander Sinclair, labourer, Pulteneytown. To James Mill, surgeon, Pulteneytown, Wick. August 8th, 1828. To attendance and advice from the 7th instant to this date inclusive, including bleeding and ten visits, 10s. August 11th, 1828. Received full payment by the hands of John M'Andrew. JAMES MILL." This is the late Dr Mill, so well known to Thurso for many years, and one of the principal farmers of Caithness, at Forss, Glengolly, &c. He was married to Harriet Gordon Davidson, the learned daughter of Rev. George Davidson, Latheron, and they had five sons and six daughters. It looks as if Alexander Sinclair was a victim to the bleeding medical science of the period. He was the nephew of James Sinclair in Muirends, that is, the only son of his immediately elder brother, the Alexander who was killed by the boulder. To suddenly find the young Alexander in the original homeland as an ordinary worker, the first knowledge of his premature and dramatic death, is more than startling. As if to make the event surer, the following also has survived:—"Pulteney, August 11th, 1828. Received from John M'Andrew the sum of 5s for my attendance about deceased late Alexander Sinclair. CATHERINE M'IVOR." He seems to have been ill only three days, and it may have been cholera. On 16th August, 1832, William Logan, merchant, Belfast, died of cholera morbus at Wick, but this was four years later than Alexander's death, though it is ascertainable easily whether that disease then prevailed. In the Wick churchyard he lies with his grand-uncles, Robert the merchant and Henry in Newton, the Hon. John, called " Long John Sinclair," son of James the Chamberlain, &c., his Broynach kin of Caithness, buried there also—their forefather in the Sinclair aisle, John, the Master, who died in 1076 at Girnigo Castle.

If Alexander was a labourer and a bachelor, he had not the characteristics of such, as the details of his money and effects will show. His domicile was at Pitfour, Black Isle ; and there is an inventory dated there, 1st September, 1828, of " the effects found in the dwelling-house and returned from the place of the late deceased Alexander Sinclair." After the list is put in 51 lots, it is authenticated, " The above is a full account of the articles found in the house of the deceased Alexander Sinclair here, all the keeping of which house was opened in our



presence as witnesses. (*Signed*) DONALD PRASER, *witness* ; DONALD FINLAYSON, *witness*."

The inventory will be given with the later valuation, a solicitor's account coming next. " Mr James Sinclair, Muirends. To H. J. Cameron, Dingwall, Sept. 4th, 1828. Attendance on you to-day, advising you as to confirmation by you as nearest of kin to the deceased Alexander Sinclair, your nephew, and as such consequently entitled to claim his succession, 7s 6d ; making copy of inventory of his effects, 2 sheet fig :—3s ; writing Kilcoy regarding the above, 3s 4d ; drawing edict at your instance for summoning the executors, &c., of the deceased, 7s 6d ; fair copy, 2s ; writing therewith to Mr Taylor, commissary clerk, for his signature. 3s 4d ; Sept. 6th, post from ditto returning edict signed and executed at the market cross of Tain, is 1s 0½d; making copy of edict to be proclaimed at the parish church of Avoch, 2 sheets, 2s ; instructing officer to execute, 3s 4d ; paid him for doing so, 15s ; 10th Sept., attendance on Mr Taylor, and answering his objection to the deceased having his domicile in Caithness, 6s 8d ; writing Mr Taylor with the edict that he might preserve the confirmation, 3s 4d ; paid carriage of packet, 1s 2d ; Oct. 14th, attendance on you to-day when, owing to the details enumerated in the inventory not being valued, a bond of caution would not be extended, and giving you information how to proceed, 6s 8d ; Oct. 20th, writing Mr Taylor, commissary-clerk, requesting him to send me a commission to take your oath here, and consulting him as to the inventory bond, &c., 3s 4d; writing yourself requesting you to come here next week and to bring along with you some responsible person to sign the bond, 3s 4d ; 23rd Oct., post from Mr Taylor enclosing act and commission for taking your oath, 6½d ; fee procuring ditto, 6s 8d; commissary-clerk's dues of ditto, . . . . Oct. 27th, writing you again to come here with your cautioner that the bond and inventory of your succession to Alex. Sinclair may be completed, and to bring with you cash to purchase the stamps required for the inventory and bond, 3s 4d ; Nov. 1st, attendance on you and Donald Shaw, Muirtown, and finally revising the inventory and bond of caution in your confirmation, 7s 6d ; drawing inventory, £1 1s ; affidavit per regus., 6s ; extending ditto, 2 sheets, 4s; stamp for ditto, £8 0s 2d ; drawing bond of caution, 1 sheet, 10s; extending bond of caution, 2d 6d ; stamp for ditto, £1 0s 2d; trouble getting affidavit, inventory, and bond of caution signed and executed, 5s ; writing Mr Taylor therewith, and requesting him to send an extract, 3s 4d; booking packet, 2d; Nov. 13th, writing Mr Taylor that the cautioners in the bond were sufficient, and that it was not necessary to attest this as he requested, 8s 4d; Nov. 21st, writing Mr M'Kenzie, Kilcoy, with decree of confirmation, 3s 4d ; Nov. 18th, postage of letter from Mr Taylor enclosing decree of confirmation. 1s 6½d ; Nov. 27th. writing Mr Taylor requesting him to send his account in your confirmation, 3s 4d ; amount of Mr Taylor, commissary-clerk's account for confirmation, £2 7s 7½d ; preparing account and fair copy, 7s 6d ; deduction, 9s 7d ; total, £19 1s. March 26th, 1829. By cash paid Hugh I. Cameron, Esq., as the legacy duty, £8 19s, and 3s over and above, two of the notes being guineas, and said that a receipt or discharge was not necessary, £8 19s." This is backed, " Account, Mr Jas. Sinclair, Muirends, to H. J. Cameron, Dingwall, 1828." Hugh Innes Cameron was the full name of the solicitor.

A letter referred to is, " Dingwall, 16th October, 1828. Sir,—Mr Cameron desires that you will come here early in the beginning of next week, and bring some responsible person with you, to sign a bond of caution which must be lodged in the commissary court before you are confirmed executor to the effects of the late Alexander Sinclair. The nature of the bond is that, in case any person will hereafter claim the said effects, having a preferable right to yours, security is given that their value will be made forthcoming. I am, sir, your most obedt. servt., HECTOR SUTHERLAND, *pro* Mr H. I. Cameron. Mr James Sinclair, tenant, Muirends, Kilcoy." This address is on the back, with " Munlochty."

A receipt with 1s stamp runs, " Dingwall, 3rd Dec., 1828. Received from James Sinclair, Muirends, the sum of £19 1s sterling, in full of the annexed account, H. I. CAMERON."

James's troubles in securing his nephew's effects are shown thus:—" Muirends of Kilcoy, 6th Jan., 1829. A state of expenses laid out by James Sinclair, tenant at Muirends, in getting himself confirmed as heir and nearest in kin to the deceased Alexander Sinclair, lately residing at Pitfour. Aug. 14th, 1828. To my going to Avoch to see the letter of his death, 1s 3d ; Aug. 20th, to my going 8 different times with a horse to Dingwall to get myself confirmed, from this date till 3rd Dec., at 5s each time, £2; Dec. 2nd, to going 2 different times to Inverness on the same business, at 5s 6d, 11s; to the deceased's funeral expense, paid at Pitfour by me, Dec. 2nd, £5 ; Dec. 3rd, to amount of my agent, Mr Cameron, Dingwall's, law and stamp expenses, £19 1s; Dec. 16th, to amount of stamp receipt to James Young, Pitfour, 4s ; Dec. 16th, to amount of money given to three of the deceased's nearest relations, £12 ; total, £38 17s 3d." On 24th March, 1829, there is a fuller " state " in which Pitfour is described as in the parish of Avoch, Ross-shire. The expenses, being on horseback, on Aug. 14th, is raised to 3s 6d, and two more visits to Dingwall make the Aug. 20th entry £2 10s; Dec. 2nd has, " To cash paid for the deceased's funeral expenses by me, &c., &c., £16 18s;" Dec. 16th is raised to 10s because of horse, and same day, " To expenses paid for my two cautioners going with their horses to Dingwall, 15s;" making the new total £40 8s 6d.

The inventory and valuation of 16th October, 1828, at Pitfour are two bedsteads, 4s; one press, 2s ; two large chests and small chest, 15s; 4 new and 3 old chairs, 16s ; meal barrel. 1s 6d ; 2 pieces linen and 1 twidlin, £2 ; piece coarse linen and piece bed ticking, £1; 4 old bed-covers, 8s; 7 pair of home-made blankets, £1 1s; 2 feather pillows, 7s ; 4 old sheets and 5 bags, 5s; chaff bed, 2 bolsters, and sheet, 3s; 6 yards scarlet tartan, in two pieces, 8s; vest piece and furnishings, 4s ; 4 short coats and 7 vests, £2 10s ; 4 pairs of trousers and 3 pairs of spats, £1 4s ; 3 linen shirts and 4 tweedlin shirts, 5s; 4 riding shirts and 8 pairs woollen stockings, 4s; 2 English Bibles and English Testament, 10s ; pair of shoes and 2 snuffmulls, 7s; Gaelic Bible, Testament, and Psalm-Book, 2s, Willison's Gaelic Catechism, 10d; 2 arithmetic books and Guthrie's " Geography," 5s ; Ready Reckoner, 9d ; Bundy's " Sermons," two vols., and Eddie's "Gospel Mysteries," 10s; Melrose's "Arithmetic," 9d; pocket-book containing Sir James Wemyss Mackenzie, baronet's, acceptance for £100 sterling, payable 9th January, 1829, and some other small receipts; a pocket-book returned from the place of his decease (Pulteneytown, Wick) containing the Bank of Scotland's receipt for £100 sterling; a silver t[???] or cap, a silver brooch, and a ring, 15s; a silver pencil-case and a reading magnifying-glass, 3s 6d; an old fir table and 2 old spades, 1s; 2 cloth brushes and a hair brush. 1s ; kitchen crook and pair of tongs, with a copper pan, 3s , pint-stoup, shoemaker's stool, and 3 small stools, 1s; kitchen lamp, a tin and a wooden pail, 6d;a few kitchen articles not worth particularising, 6d ; silver watch, No. 37,309, William Smith, London, the maker, £1 10s ; 4 wooden cogs, 5 bowls, 10 plates, and 6 spoons, 2s 6d ; a knife and fork, 2 teapots, 3 cups, and 2 saucers, 6d ; a jar, 4 bottles, dram-glass, 1s ; 3 phials and half-mutchkin stoup, 6d ; a copper flunch or tunnel and small pipe, 6d ; writing materials, 3d; tin filler, basket, and bobbins, 4d; a woman's" cotton gown, 2s ; a red stuff gown and petticoat, 4s ; scythe and some rubbish of articles", 3s; black silk handkerchief, 6d ; 2 pocket-handkerchiefs and nightcap, 2d ; flannel shirt and old bonnet, 4d ; iron candle-stick, 2d. His relative, Earl Alexander of Haimer Castle, Thurso, hardly left in 1765 more personal requisites than this remarkable labourer. See Henderson's " Caithness Family History," note on page 10.

The confirmed testament in favour of James Sinclair, Muirends, is as follows:—" The testament dative and inventory of the goods, gear, and debts of umquhil Alexander Sinclair, residing in Avoch, within the parish of Avoch and sheriffdom of Ross at the time of his death" (this is a legal convenience as to domicile, for he died in Wick), "which was upon the 9th

August, 1828, faithfully made and given up by James Sinclair, tenant of Muirends, executor dative, as nearest of kin to the said defunct, decerned to him after due citation by public edict of all parties having, or pretending to have, interest, and none others appearing to object, by decree of the commissary-depute of Ross and Cromarty, dated 24th September, 1828."

Follows the inventory, *First*, amount of acceptance granted by Sir James Mackenzie of Scatwell, Bart., M.P., to the deceased, dated 9th January, 1828, and payable 12 months after date, £100 ; *Second*, amount of deposit receipt, per the agent of the branch of the Bank of Scotland, Inverness, dated 7th December, 1827, £100, with interest thereon from 9th December, 1827, till 9th August, 1828, 7 months and 22 days, at 3½ per cent., £2 4s 2d ; *Third*, the deceased's household furniture, watch, books, articles of bed and table linen, with everything else belonging to the deceased found in his dwelling-house at Pitfour in the parish of Avoch, per inventory and apprisement, dated 16th October, 1828, £17 5s 7d. Amount of full inventory, £219 9s 9d sterling.

At Dingwall, 1st November, 1828, in presence of Alex. Mackenzie, Esq. of Scotsburn, one of his majesty's justices of the peace for the shire of Ross, acting under a commission from the commissary of Ross for taking the oath of James Sinclair, tenant in Muirends, executor dative of the now deceased Alexander Sinclair, late labourer in Avoch, in the above inventory, dated 23rd October, 1828. Compeared the said James Sinclair, who, being solemnly sworn and examined, depones that the said Alexander Sinclair died upon the 9th August last; that the deponent does not know of any settlement or writing relative to the disposal of the deceased's personal estate or effects, or any part of them ; and that to the best of the deponent's knowledge, information and belief, the deceased died intestate. That the foregoing inventory, which is signed by the deponent and the said commissioner as relative hereto, is, according to the best of the deponent's knowledge, information and belief, a full and true inventory of all the personal or movable estate and effects of the said deceased Alexander Sinclair, wheresoever situated, already recovered or known to be existing, belonging or due to him beneficially at the time of his death ; and that the said estate, situated in Scotland, is of the value of £200, and under the value of £300. All which is truth, as the deponent shall to God. (Signed), JAMES SINCLAIR, A. MCKENZIE, J.P., *Commissioner*.

"Donald Macleod, Esq. of Geanies, commissary of the commissariat of Ross, having power of confirmation of testaments within the bounds of my jurisdiction, by the presents I ratify, approve and confirm the present inventory and testament before written, together with the executors therein constituted, in so far as the same is justly and truly made and given up, and no other ways ; and Donald Shaw, tacksman of Muirtown of Kilcoy, became cautioner of the said executor, to the extent 'of £219 9s 9d, that the gools and gear, debts, sums of money, and others given up and contained in the beforesaid testament shall be safe and forthcoming to all parties having interest therein, as law will; and therefore I, by these presents, commit full powers to the said executors to meddle and intromit with the goods and gear, debts, sums of money, and others given up and contained in the foregoing testament, and if need be, to call and pursue therefor, to uplift and receive the same, grant discharges thereof, and generally every other thing thereanent to do that to the office of executor dative is known to belong, provided always just count and reckoning be made by the said executor when and where the same shall be required. Given under the hand of the clerk of court at Tain, 11th November, 1828, A. TAYLOR, commissary-clerk."

A letter from the stamp office, Edinburgh, legacy duty department, 3rd March, 1829, came to James Sinclair, Muirends, by Fortrose, from W. Renny, solicitor of legacy duties, in the matter of the " personal estate which belonged to the late Alexander Sinclair, labourer in Avoch." It is a printed usual form of 3 quarto pages, with directions, penalties, and schedules

as to payment of the duty, £10 per cent. in this case, out of personal or real estate. Surely this was the last tithe James had to give from his nephew's little property.

Reference to Alexander may close with a letter (addressed " Pitfure, Munloch, Ross-shire, N. Britain," from Jamaica) which he did not live to see, from John Forsyth, his half-brother, his mother, Mrs Alexander Sinclair, Muirends, having married a Forsyth after the death of her first husband in 1800:—" Grange Estate, 10th October, 1828. Dear brother,—Fearing of being too late if I should put off for another packet for you to get the order for drawing the interest of the money, induces me to write you by the present one. Although I have not yet had answer to my last from you, I expect it in the first packet, that is to say, if my letter came to you in due time. I hope this will find you in good health, as it leaves me in at present; thank God for all his mercies. I have now made up my mind not to send home any more money this year, as premium is very high. Bills are now selling here at 20 per cent., which is equal to 4s in the £ of a drawback. It would at this rate take £168 Jamaica currency to make £100 sterling. If premium had been from 10 to 15, it was my intention to have sent home some money by last or this packet, but I cannot think of it at the present rate. You will see annexed to this an order to draw for the interest of the money in bank, the same as last year, at same time to renew the receipt. I will thank you to let me know what sum may remain in your hands after drawing this year's interest, and deducting therefrom any expenses which you might have been at in attending to my business. I have nothing particular to mention, having written you in May last more fully. I see by the Inverness newspapers that there are good crops at home this year, which will be a great blessing to the country at large. With much pleasure I also inform you that there are great prospects of a large sugar crop in this parish the ensuing year. The seasons have been very good and regular, and the canes are now well advanced. Besides, it is a long time until we commence crop yet. Very few estates in this parish do before the middle of February, although in other parishes, particularly in St. Mary, they make sugar all the year round, that is to say, when the weather will allow them. It being very wet, they are obliged to make the best of the dry weather which comes. Dear Sandy, I wish you would write me oftener than you do, as I am much interested in your health and welfare. Be sure to write me on receipt of this, and let me know concerning your affairs, and how you are situated, and what our prospects are of settling, where and in what line, and if you intend to take a farm or not, as I would wish to hear of your being in one place. You will oblige me by letting me know how young Simon is coming on with his education, and if he is likely to be a smart boy or not. If he takes after his father, he should be a smart fellow enough. I shall be also glad to hear of the widow's welfare. Although I never saw her, I have a feeling for her on account of our poor brother. If she stands in need of it to help the boy on with his education, it is my wish that you should give her a little money on my account, but I leave yourself to judge of it as you think proper. Remember me to all enquiring relations and friends, and believe me to be, dear Alexr., yours sincerely, JOHN FORSYTH."

The order is, " Jamaica, Grange Estate, Trelawny, Oct. 10th, 1828. No. 8095. Dear Sir, I hereby authorise you to draw for all the interest that may be due from "31st Dec., 1827, until the 31st Dec., 1828, upon £260 sterling in the Bank of Scotland belonging to me, at same time renew the receipt, and, I am, your obdt. servt., JOHN FORSYTH. Mr Alexr. Sinclair, Pitfure, Ross-shire."

Forsyth died in the West Indies. His financial success begun under the slave system, which was abolished by Britain in 1833. To Scotchmen, Jamaica was the California or Australia of the beginning of this century. See the letters of Ewen Maclachlan, teacher in the Grammar School of Old Aberdeen and assistant librarian of King's College, the Celtic poet-scholar (1773-1822), contributed to "The Transactions of the Gaelic Society of Inverness," by Rev. John Sinclair, B.D., Kinloch-Rannoch, with original details about the smuggling, the

episcopacy, and the scenery of the Black Isle [in?] the editor's ingenious and sympathetic introduction.—Yours, &c.,

THOMAS SINCLAIR.  
London, August, 1891.

[ **This next letter by Scrutator follows immediately after that of Thomas SINCLAIR** ]

THE ROSS-SHIRE BROYNACHS AND THE EARLDOM OF DILEMMA.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—Mr Thomas Sinclair has written at great length and very learnedly on " the Broynachs and the Earldom of Caithness;" but perhaps you will allow me to bring the discussion to a point, or practical bearing. If James Sinclair, the chamberlain of Harpsdale, was the eldest son of Donald Sinclair "the Sailor" by his wife, Catherine Sinclair, and consequently the next heir after James Sinclair in Reiss, why did the said chamberlain not succeed to the earldom, or at least in some public way lay claim to it after the death of his cousin in 1788 ? If the chamberlain was born sometime between 1738 and 1744, as is admitted, he must have been then at least 44 years of age, and so old enough to act for himself. He is said to have received a fairly good education, and by that time the fact of Janet Ewen's marriage with the Hon. David Sinclair of Broynach, as recorded in the minutes of the Presbytery, was well known in Caithness and must have been known to him. But both the title and the estates continued to be alienated from the Broynachs, and after 1788 there is no trace of any attempt to recover either to the rightful heir. Mr Thomas Sinclair expresses his own surprise in the following words :—"Anything more miserably romantic, or legally melodramatic, or whatsoever is mixed and inexplicable, has not happened in all family history than this double deprivation of title and lands from the rightful heirs. If the age of newspapers had come, light must have inevitably fallen on plots and accidents which seemed to combine to create injustice." These are very strong words used by Mr Sinclair; and they give natural expression to a mystery which requires to be solved.

The fact of the matter is, James Sinclair, the chamberlain of Harpsdale, was not Donald the Sailor's eldest legitimate son, but his brother William was, and this explains the otherwise inexplicable mystery. William was then (1788) living in Muirends of Knockbain, in Ross-shire; and Mr Thomas Sinclair thoroughly explained why it was not expedient or even safe to send for him at the time. Perhaps James did not then even know the exact locality where his brother William lived in ; and at all events the latter was not sent for, and did not *publicly* claim either title or lands. There is a tradition, however, that privately when in Munlochry (that is prior to 1784) he related to some of his friends that he was the next heir to the earldom—that is presumably after his cousin James Sinclair in Reiss; and on account of this he was ever afterwards nicknamed " *Lord Sinclair*." William Sinclair was a proud and reserved man, and he would not have made such a statement, even over the "social board," unless he was under the impression that it was true.

It will be observed by your readers that in the will which was published in the *Ensign*, William Sinclair did not sign his name ; and in the lease of date 1784, also published in the *Ensign*, he is amongst the three who touched Provost Robertson's pen and authorised that gentleman to sign on their behalf. From this last, Mr Thomas Sinclair has drawn his own inference, or rather supported a preconceived notion of own, which I consider to be as groundless as the similar one entertained by the Ratters respecting James Sinclair in Reiss. Allow me to draw my inference, which is much more probable and in accordance with the

circumstances of the case. It is that William Sinclair could write well, but, on account of his peculiar position in relation to the affair of 1760, he chose rather to class himself with the illiterates.--- I am, yours, &c.,

SCRUTATOR.

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

DECISIVE COUNTY EVIDENCE.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The Ross-shire documents closed, additional Caithness testimony of great importance has now to be given. Before doing so, a final point with respect to the marriage in June, 1700, of the Hon. David Sinclair of Broynach and Janet Ewen, ought to be made. The fact of the episcopalian marriage; if legal validity, and its recognition, even by the officials of the antagonistic presbyterian established church, having been proved to demonstration, its regularity also was completed before David's death, in 1714, by the Act of 1712, 10 Anne, c. 7. Irregular marriages in Scotland give all the legal rights of descent, dignity, property, and succession ; but Janet Ewen's marriage, though, apart from theological squabble, at no time essentially irregular, had by this Act the last speck of objection, real or sentimental, wiped from it for ever by statute of the kingdom. To return, however, to their lawful descendants and representatives, the Broynachs in Wick parish, let the following signed deposition appear:—

John Tulloch in Thrumster, aged 69, depones that his great-grandfather, John Tulloch, was the factor of Earl Alexander, commonly called Lord Haimer; that after the Earl's death in 1765, he removed to Ulbster, Wick parish, where he acted as teacher and lay preacher till the day of his death, when he was over 90 years of age ; that in both capacities he was succeeded by his son John Tulloch, deponent's grandfather, who died in 1830, aged 75; that this John was followed by his son Josiah Tulloch, who taught there about 20 years, dying a few years ago, aged 80 ; and that deponent's father died in 1887, aged 94, Hugh Tulloch, who was a contractor and builder, doing work over a good part of the county, especially in and around Thurso. Depones that the Rev. Dr George Tulloch, Bellevue House and Academy, Aberdeen, who died there in 1874, was deponent's uncle; and that he trained a good many first-class Indian men, such as General Sir Harry Lumsden, Sir Peter Lumsden, his brother, Principal Miller, Madras ; and home men like Rev. Dr Donald Fraser, London, the Rev. William Fraser, Brighton, his brother, and others. Depones that there are no Tullochs now in the Thrumster district but himself and a brother, the rest dead or abroad. Depones that the Tulloch family always said that "Bochie's" descendants should have been earls of Caithness ; the Hon. David Sinclair of Broynach being familiarly called " Bochie Davie," from the fact that he was very good-looking when young. Depones that deponent's uncle, Josiah Tulloch, who died a few years ago, often said what a lasting disgrace it was that a man who ought to have been Earl of Caithness died poor in Sarclet, meaning "Saltie," James Sinclair, the chamberlain, Thrumster House; and that deponent knew several who were acquainted with " Saltie." Depones that " Saltie," in selling his goods, avoided Thurso, Olrig, and Bower ; that it was no wonder he did so these being the localities of the story of his grandfather and grandmother, the Hon. David Sinclair of Broynach and Janet Ewen; and that it was the Thurso incident and the want of

success of Captain James Sinclair, H.E.I.C.S., which kept the Broynachs silent almost as death. Depones that he has often visited Christina Sinclair (Mrs Manson), Sarclet, aged 79, great-granddaughter of Donald the Sailor, the younger son of the Hon. David and Janet Ewen; that in June of this year she stated to him that it was a household word in the family to say when any of them did well, " You are a Broynach, a real Broynach," and when they did ill, "You are no Broynach ;" that this was never said if strangers were present, out only privately in their own households ; that she heard her brother, James Sinclair, the "General," her father Alexander in Gansclett, and her grandfather John in Gansclett, son of Donald the Sailor, say so times without number, and that all her brothers knew well they were descended from David Sinclair of Broynach. Deponent firmly believes that she speaks the truth, and that they had to keep these things to themselves on account of conceited people they lived among. Depones that he knew the " General" well, who was given this name on account of his manly and martial bearing ; and that he was a leader in prayer-meetings and other religion gatherings. Deponent remembers deponent's father often saying that he was sorry for these Broynach Sinclairs, who were deprived of their rights, and deponent's uncle, Josiah, asserted that it was by rascality. Depones that the Gansclett branch of these Broynach Sinclairs were more than usually intimate with the Tulloch people ; and that as an example a trifle may be mentioned, though trifles, deponent believes, often show character and other points. A sister of deponent's cut her finger at Sarclet Braehead 30 years ago. Christina Sinclair (Mrs Manson) was there, knitting a stocking. She broke her thread and bound up the finger. One of the conceited folks said, " Would you spoil your thread for her ?" "Yes," said Christina, " I would do so for a dog of John Tulloch's, not to speak of his grandchild." Deponent's grandfather, the said John Tulloch, knew "Saltie" well, for Harpsdale took Tulloch from Ulbster to Thrumster House for some years to act as tutor in his family. *Causa scientae patet.* (Signed) JOHN TULLOCH.—July 15th, 1891.

Other facts have already been detailed from this witness, whose credentials, as one of the Tullochs who were in local and friendly connection with the Broynachs for all the generations since Janet Ewen's time, are of the very best kind. The word " conceited " in his evidence has the sense of " censorious," and persecution of the Broynachs, descended from a woman of the people, was by none more hotly entered upon than by the people themselves. It must also be remembered that ordinary folks could not but treat them as illegitimate after 1772, when Captain James, H.E.I.C.S., then known as James in Reiss, failed to produce evidence of the important marriage, and William of Ratter became Earl of Caithness. It speaks volumes for the intelligence and persistence of the able Tullochs that they kept true throughout to their fixed judgment that the Broynachs were entirely lawful and the real House of Caithness. Factor Tulloch's son, James the catechist, who married Ann Swanson, was father of John, teacher of Reay School, master at Inverness Academy, and in 1811 professor of mathematics, Kings College, Aberdeen, this Professor John Tulloch having five or six brothers reverends. In Sir John Sinclair's ' Statistical Account' of 1793, the Rev. William Sutherland, Wick, says the school of Thrumster was then taught by a John Tulloch and that of Ulbster by Mrs Tulloch, the respective salaries £10 and £4 annually, from the endowments of Rev. Mr Hallowell, who died about 1750, and of the S.P.C.K. He also states that " at Sarclet is a small salt pan, where is made a weak kind of salt that sells at from 8d to 10d per peck," " Saltie's" manufactory, the only other in the county at Nybster. In Thrumster churchyard, where his father Donald, the son of Hon. David of Broynach, was buried, there were then the ruins of a Popish chapel; so that there is no more consecrated spot for burial anywhere, having been in use many centuries. No censorious or conceited treatment came from the Tullochs, the clearest beads of the county, to these wronged persons, who are now only able to bold themselves before the public as they are and were, namely, the lawful descendants of a marriage at last proved in every point. They need no longer remind each other, with bated breath, that they are Broynachs, to act in correspondent nobility. Popular feeling is well

preserved in a rhyme of the contest period, which I noted in April, 1882, from the mouth of Benjamin Henderson, lay preacher, whose evidence has appeared in these letters. It was beside St Mary's Chapel, Lybster, Reay, that he repeated these lines, and his mother being a Tulloch, the youngest daughter of John Tulloch, Lord Haimer's factor, the cause of his knowledge is patent:—

“They tell us now in every chat  
Kate Rosie is, of Caithness, Lady ;  
But she must cast her cloak and hat,  
And turn again to Highland plaidy.

For Broynach is a filthy man,  
The Sinclairs must be quit of him,  
And lawful Ratter lead their van,  
Who will be Earl in spite of Jim."

The sting of the word " filthy," as thus applied to Kate Rosie's husband, James Sinclair of Broynach, afterwards Captain, H. E. I. C. S., lay in its ascription of illegitimacy to the Broynachs; "filthiness" being the universal term used at the time by the clergy and people for fornication and adultery. Now that their lawfulness has been for ever set at rest, the popular temper, which is as generous to the success as censorious to unfortunates who cannot assert their rights will take the side of the Broynachs without [?????]. How the county gentry, and even [????????????????????] Swanson[?] in Gerston by his evidence of [????????????????????] Broynachs, is illustrated by a [?????????????] stanzas in the [ Scots ?????? (in italics)] [??????] August, 1770, and [?????????????????] on occasion of the [?????????????????] in favour of {????????????????} William of Rattar [????????????????] Sinclair of Broynach had not [?????????????] ...and father's marriage to Janet Ewen [????????????????] poem has some years ago appeared in [the Northern?] Ensign, it is enough here to quote two [stanzas? ??????] pertinence, if not impertinence, is manifest[ed? ation?].

“Snatched from Corruption's grasping band,  
The radiant honours of our land  
The brow of dignity adorn ;  
And long in thy illustrious line,  
Most noble Sinclair, may they shine  
Through ages yet unborn.

The Muse disdains to mention those  
Who durst thy glorious rights oppose,  
In prejudice of Justice' claim ;  
But while each mouth speaks loud thy praise,  
Exalte her feeble voice to raise  
The honour of thy fame"

The " corruption " is now on the other side, and the " most noble Sinclair," William of Ratter, of this Peter Parley poet, turns out to have been the " least noble" of his illustrious line. So conceited or censorious a Muse must find other objects of contempt and disdain than the Broynachs, and exactly because of "Justice' claim." Thy mouths who spoke loud praise made a grievous mistake. But the popular heart loves the poetic justices even as much as the legal, and would shed blood for both, as in the 1680 Glenorchy struggle. It remains to be seen how this natural generosity will exhibit itself, the need for censoriousness finally departed, truth having conquered at last through all the oppressions, obscurities and obstructions of more



than a century's triumphant imposture. The Broynach to whose veracity John Tulloch bears witness, Mrs Manson, Sarclet, has been made Catherine in previous letters instead of Christina Sinclair ; the importance of her evidence in the present claim requiring every care of correction in such a particular. Her testimony and that of the Tullochs to the silence, from fear of upcast, of the Broynachs in the Sarclet district as to their past history and their known descent from "Bochie, are luminous exposition of the state of the facts after Janet Ewen's persecution rather than just punishment at Thurso in 1704. The cause of Janet's son Donald leaving the districts of Thurso, Olig, and Bower for Sarclet is now clear. His eldest son, James the chamberlain could not, or would not, show face there, because of the miseries put upon his father Donald the Sailor, and his grandmother Janet Ewen. Donald had the practical wisdom to leave the scene where popular persecution was at its hottest for the Broynachs, encouraged as it was by his first cousin Earl Alexander (Lord Haimer). Sarclet and Avoch were Gosheus in comparison with Murkle, their homeland, and its neighbourhood, where Janet Ewen's "birds" were continually reminded of their mother's paper hood, as Ratter's proof of 1767 shows. This document indicates that Janet was alive in 1730, when she must have been about 60. As Donald her second and last son married at Thrumster in 1736, it is possible his mother was dead before he changed from the Thurso to the Wick side of the county, though she may not have been so for many years after 1736. The date above of 1730 gives one valuable inference, namely, that the censorious people of the upper and lower ranks by no means included the whole county. That the Tullochs were not the only champions of the Broynachs, is certain from the fact that "Janet Ewen was buried in the old kirk of Olig, under Durran's sent," as Henderson's "Caithness Family History" states, p. 27. The laird of Durran who made this arrangement was James Sinclair, because he came in possession of his property in 1727 and held it till 1793. It is not too much to say that he was the most important person of the Durran branch, the great-grandfather of the late James Augustus Sinclair, bank-agent, Aberdeen. For him to have thus accepted Janet Ewen as one of the Sinclair ruling family by lawful affinity of marriage, settles the point that at her death some of the ablest people of the time and place were wholly satisfied as to the legitimacy of the Broynach descendants by her. He was married to Sir Patrick Dunbar of Northfield's daughter, by whom he had Tister, with other lands, and Sir Patrick was one of the longest-headed lawyers of the period, so that James of Durran would have plenty of opportunity of discussing his opinions in legal company. The Durran so-called "earls" are discrediting by their action the generous burial deed of their ancestor, and impugning his good faith as to the Broynachs, thus putting themselves into a most unpleasant dilemma, apart from the injustice caused by their attitude in the case. No. XII. of the Duff House Records gives full account of the admission on 13th September, 1779, to the roll of the freeholders of Caithness of James of Durran, and his son Lieutenant Patrick, R.N., afterwards Captain of the Iphigenia frigate, their lands detailed as sufficient, that is, drawing £400 a year upwards, the son to vote only on the absence of the father at the election of the members of parliament. It would have been far from fact if the impression were left that Janet Ewen's descendants were at any time universally tabooed by the county. Their darkest days were after the death of Captain James, H.E.I.C.S., in 1788 without issue, because while he lived there was the best chance of reversing the decision of the House of Lords of 1772, which stamped them falsely as illegitimate. In him Janet Ewen's eldest son David had last representative, Captain James's only brother John, also dead without issue. The claim then falling to her son Donald's eldest son, James the chamberlain, Thrumster House, the old antagonism of the censorious fell entirely on the Sarclet Broynachs; and it is only now that the cloud of detraction has been finally dispelled, their silence as of death no more necessary.

Reference has been made to the curious value, for identification and corroboration, of nicknames or soubriquets given to the Broynachs; and the Tulloch reminiscence of "Bochie" as that applied to the Hon. David, is an interesting addition to the series. In Caithness speech

a bochie is a beautiful thing or trinket—children expecting bochies out of the markets or towns from jaunting relatives. Fine shells are buckies. What the origin of the word may be is difficult, unless it is from the Gaelic boyach, meaning "bonnie" in Scotch. "Bonnie Davie" would be a high tribute to the personal beauty of the first of the Broynachs ; and this in any case is the practical meaning of the nickname, according to the Tulloch evidence. "Bochie," "Donald the Sailor," "Saltie," " Turn my Hand," &c., are the useful other-names which go so effectively to aid James, Mid Clyth, in his claim. With respect to Donald the Sailor a new item has come from a former witness, Elizabeth Laing in Thrumster, aged 70, first cousin of the claimant, and also of William Laing, Skaill Farm. She adds that she remembers distinctly her mother Sidney Sinclair, first cousin of the late George Dunbar Sinclair, Achinabest Farm, speaking of her (Sydney's) great-grandfather as "Donald the Sailor." The unanimity of the Tulloch family as to James the chamberlain, "Saltie" being Donald's eldest son and the true Earl of Caithness, has of itself entirely answered the Ross-shire problem, to which, it is hoped, every justice of documentary exposition, even to excess, as some might say, has been done. Though irrelevant to the main issue, the Avoch documents could not be ignored, or even safely be abbreviated.

How the Mey family " asserted," as they rightly enough described it, their claim, from 1780 to 1791, when Sir James became "Earl" of Caithness, needs exposure next.—Yours, &c.,

THOMAS SINCLAIR.

P.S.—Christina, Sinclair (Mrs Manson), Sarclet, whose recorded evidence is permanently precious, 14th July, 1891, aged 79, great-granddaughter of Donald the Sailor, son of Hon. David of Broynach and Janet Ewen (Hon. Mrs Sinclair). The article in the " Encyclopaedia Britannica" on legal evidence says, " In pedigree cases, statements by deceased relatives, made before litigation, are to be admitted ;"so that the testimony of Christina is as good as if emitted before a constituted court on oath, and subjected to cross-examination by counsel, the severest requirements of human witnessing. As seen, her reminiscences are entirely in favour of James, Mid Clyth, and totally opposed to the views of " Scrutator," the Rev. John Sinclair, B.D., Perthshire, in his own favour, of which visionary because illegal claim, though interesting in many respects, no more need ever be said, all fair play being given by full publication of the Ross-shire documents. That Donald the Sailor was no saint in relationship to woman any more than his father " Bochie," the Hon. David Sinclair of Broynach, is proved by the fact that his first child Christina was, the parish register of Wick shows, baptised on 27th March, 1737, his marriage to Catherine Sinclair having taken place on 30th November, 1736, according to the same authority. Scrutator's " ancestor William was not a son of Catherine at all, as the Sarclet evidence proves, and other considerations corroborate, such as the soubriquet of "morar," or "lord" being applied only to acknowledged illegitimates of the Murkle family, a fact universally known in Caithness. Who the lass was that loved this sailor, and at which port, are facts of the naturally obscure kind that can rarely be discovered from the past, unless in kirk-session minutes, reasons of secrecy making such quests difficult in contemporary periods. The Sarclet Broynachs were never called " morars," which is final proof that the Ross-shire Broynachs and they were not on the same level of legality, even in the darkest days of the Sarclet claim to the earldom of Caithness. The Ross-shire allegation dates only from 1889, while the Sarclet Broynachs' rights never slept from the death of Captain James Sinclair, H.E.I.C.S., the next of kin, in 1788. J.S. [sic]

[ *This next letter by "Scrutator" immediately follows that of Thomas SINCLAIR* ]

THE BROYNACHS AND THE EARLDOM OF CAITHNESS

## THE DILEMMA

TO THE EDITOR OF THE NORTHERN ENSIGN

SIR,--- In my last letter I pointed out two serious difficulties to you which, in my opinion, og to form the two horns of a “destructive dilemma,” on either of which the claim of Mr James Sinclair, mid Clyth, must rest or be tossed for the Earldom of Caithness ; and I wish to press the force of this argument on the serious consideration of Mr Thomas Sinclair, and of the people of Caithness. We shall suppose the time 1788, when Captain James Sinclair of the H.E.I.C. Service died in the midst of his litigation for the earldom with ratter. At that juncture, James Sinclair, the Chamberlain, either was or was not the nearest heir, and therefore the proper man to step in and claim the earldom. If he was the nearest heir, why did he not lay claim at once to the Earldom? If , on the other hand, he was not the nearest heir (his elder brother William being then confessedly so), how can Mr James Sinclair, Mid Clyth, now lay claim to the earldom, seeing that William’s male descendants are far from being extinct? --- Iam, &c.,

SCRUTATOR

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One of the articles on the same page has a notice about the resumption of classes for the evening school of Pulteneytown Academy, i.e.,  
 "Classes resume on Monday, September 21st, at 8 o'clock,"  
 which indicates that perhaps the issue could have been published prior to 21 September.

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## THE BROYNACHS AND THE EARLDOM OF CAITHNESS

AUSTRALASIAN EVIDENCE

TO THE EDITOR OF THE NORTHERN ENSIGN

SIR, - His Honour, Judge Pitt Taylor, the great authority on what is evidence, admits hearsay and statements before law is moved as proper to pedigree. In July, 1843, at the Temple, London, he began his book for English lawyers, founded on Dr Greenleaf’s American treatise on the law of evidence. Declarations are not excluded till the suit is actually begun. “Pedigree is an exception to the general rule rejecting hearsay evidence, as enquiries are over many years before the trial, and grievous failure of justice would occur i the ordinary rules of evidence were enforced.” Persons who are *de jure* related by blood or marriage are admitted to the extent of allowing hearsay upon hearsay, and even general repute in the family when the declarations may not be contemporaneous with the facts. As to this last point, Lord Brougham pithy fixed it, by saying that otherwise the statement of deceased person as to the maiden name of his own grandmother could not be taken, which would be totally absurd. The evidence of deceased persons is admitted as to facts which living witnesses can prove. Sir James Mansfield agrees with Brougham that “ it being impossible to prove by living witnesses the relationships of past generations, the declarations of deceased members of the family are admitted.” Pedigree evidence consists of oral declarations by deceased relatives; family ways or conduct as to recognising relationship and giving property; entries made in bibles, prayer-books, missals, almanacs, or in any book or document, as to birth, death, or

marriage; deceased correspondence, marriage settlements, family deeds, wills, even cancelled wills and papers not of the family if in official custody; inscriptions on tombstones, on coffin plates, family portraits, engravings on rings, mural monuments, and lineage trees, the inscriptions provable by copy armorial bearings, herald's books, legal inquisition, parish registers, and many other kinds of public documents, home and foreign. Dickson in his "Evidence in Scotland" says that conversations are admissible as to the pedigree of claimants; but he draws the curious line as to peerage books, that they can only be used to prove that names in them had died childless. The slander put upon the Broynachs, in a manner, quite unintentionally, by Burke, and other peerage writers is a good illustration of the acuteness of Dickson's distinction.

But to avoid abstruse legal technicalities, let some family depositions of exactly the right and admitted type now come. That they have appeared unexpectedly, and from the most distant quarters enhances their intrinsic value.

David Sinclair of East Bellarine, Geelong, Victoria, landowner, second son of the Hon. John Sinclair and Barbara Cormack, Hempriggs, baptised 8th February, 1812, witnesses David Mackay and John Cormack as by Wick parish register, depones that his father's father was James Sinclair, chamberlain at Thrumster House; that he remembers that this James, his grandfather, was at one time making salt in Sarclet Harbour; and that he also has a recollection of hearing that the chamberlain's grandfather, his own great-grandfather, traded the salt made by James between Sarclet and Moray side. Depones that deponent's great-grandfather was Donald Sinclair; and that he owned a ship, and was its captain. Depones that he heard that James the chamberlain and Donald his father were the descendants of the former earls of Caithness, and were wrongly put out of their inheritance; but deponent does not recollect hearing that either of them put in an actual claim to the earldom by legal process. Depones that James the chamberlain had a house in the village of Sarclet, and deponent remembers perfectly the names of the chamberlain's brothers and sisters, his own grand-uncles and grand-aunts. Francis lived in Ulbster, and was married, but his wife died early in life; John was a farmer in Gansclett, and married; Robert was another of deponent's grand-uncles; Henry, a fourth, in Milton, Wick, was lame; and their sisters were Christina, Catherine, Ann, and Elizabeth. Depones that he never heard of a William in the family of Donald; nor did he hear of such a person as being a farmer in Ross-shire. If Donald had a legitimate son William, deponent would have known his name, as the names of brothers and sisters, deponent's grand-uncles and grand-aunts, are quite familiar to him; but if William was illegitimate, his name would not be mentioned, owing to anything approaching illegitimacy being held in such contempt by the family. Deponent's grand-aunt Catherine was a school-mistress in Hempriggs, at a place called Charity, or at Brough; and about the year 1820 he attended her school. She was then unmarried. Depones that her brother, James the Chamberlain, deponent's grandfather died about the time one of deponent's sisters was born for he remembers that his mother, Barbara Cormack, was not strong enough to go with her husband to the funeral, but he cannot recollect which sister. Depones that the chamberlain died between 1820 and 1823, and that he was about 80 years of age. Deponent remembers that Elizabeth was the name of his second wife, and that his first wife's family were Alexander Sinclair, farmer in Clyth, where he died, and Catherine (Mrs William Fraser), who went south in youth, but returned, and died in Sarclet. Depones that by his second wife James the Chamberlain had Francis, David, and John; that Francis was an officer in the Royal Navy, and left about £700, regarding which there was a scandal in 1816 as to its not reaching the proper heir, his brother John, deponent's father; that David was Born in Sarclet, married to Catherine Mackay, and died without issue at Sarclet; and that only John, the youngest of the second family, had and has descendants. Alexander of the first family, deponent remembers, married Betty McRyrie (Elizabeth Sutherland).

James Sinclair, Point Henry, Geelong, retired railway contractor, shipowner, and merchant, fourth son of the Hon. John Sinclair and brother of the preceeding witness, aged 75, depones that he remembers going with his father to his deathbed of James the Chamberlain, and he thinks the old man would be about 78 or 80; that deponent had at the time a baby sister about two or three months old, and that she was Anne (Mrs Alexander Fraser), Helmsdale, Sutherlandshire (born in 1822). Depones that when his father left the position of chamberlain, he went fishcuring in Sarclet; that he once carried a herring net on his shoulder from Inverness to that village, and that he walked twice within twenty four hours from Thrumster House to Thurso for medical aid to the lady of Harpsdale at the birth of one of her children. Depones that the chamberlain's father was Donald, shipowner and captain, a descendant of the elder lords of Caithness; that Donald's children's names were all known to him, and that there was no William, unless he was an unlawful child. Depones that the sister Christina, deponent's great-aunt, was married to John Sinclair, a farmer in Tannach, and that she died early in life, between 40 and 50. Deponent knew Francis Sinclair in Scarlet well, a farmer with his father in Ulbster; and eldest brother to George and James of Adelaide, Australia, and further depones that James the Chamberlain was his grand-uncle, and therefore he was deponent's second cousin.

This is the Ulbster chamberlain family, related by marriage to the Broynachs. It has to be added that the evidence of these two brothers came in a combined form, and that it has been separated for greater clearness, but that it is hardly possible to give the right proportions of what each has contributed. The union gives special strength, as both subscribe to the whole. They had the goodness and energy to meet specially at the house of John Sinclair (David's son and James's nephew) in Portarlinton, Victoria in May 1890, to put down the truth accurately, as mutual recollection and comparison would enable them; and being men of sterling worth and important standing, their statement is of the very highest value. The elder, David, is married to Catherine, daughter of Peter, son of the William Sinclair of Freswick, who died aged 90 on 15th March, 1838; and when the couple left Caithness for Melbourne in 1851, he had considerable private means, while his wife had a good portion left her by her father; their success in the colony corresponding naturally with a condition of comparative affluence at the outset. James from the time that he was a merchant in Newcastle upon Tyne has shown all the signs of a man of real genius, including the skill of making money, his earlier life of theological effort being by no means the least interesting chapter of his remarkable career. The clever reporters of his and subsequent meetings of the aged but still vigorous brothers, particularly the younger, are the above John and his sister Isabella (Mrs Allen), also of Portarlinton; and to the latter excellent additional evidence must be credited, at least as its faithful amanuensis, of date 24th June, 1891:-

Anne Crowe (Mrs James Sinclair, Point Henry) aged 67, of English birth, depones that, she remembers the late Alexander Sinclair, her husband's eldest brother, who was quite an authority on the tradition and history of his ancestors, saying that his great-grandfather was a sea captain, and owned the vessel of which he was captain.

The present Australian contribution of evidence, which effectively aids the claim of James Sinclair, Mid Clyth, to be the rightful Earl of Caithness, and head of the blood, closes with a signed statement by a New Zealand member of the Broynach family:-

Peter Sinclair, Prebbleton, Christchurch, New Zealand, married, with four sons and two daughters, road surveyor and landowner, aged 51, eldest son of David Sinclair of East Bellarine, Geelong, depones that he quite remembers his father stating many years ago his great-grandfather was Donald commonly called Donald the Sailor. Deponent also remembers

that deponent's uncle, the late Alexander Sinclair, brother of his father, David of East Bellarine, said that Donald had a craft of his own, and traded with her round the coast of Caithness and the neighbouring countries. Deponent remembers that Alexander stated that it was Donald the Sailor who completed the task of carrying a herring net from Inverness home to where he lived in Wick parish. James the chamberlain was Donald the Sailor's son according to Alexander's statement, who asserted on several occasions that James was the proper heir to the title which the laird of Mey held, and that the so earl knew it, and that this was why he was kept so long as chamberlain at Thrumster House. Deponent remembers that Donald, or his eldest son the chamberlain, was reputed to be very fleet of foot, and could run nearly as fast as people rode in the north at that time. This made a great impression on deponent and he remembers well the statement on the point, made both by his uncle and his father, as, being a Victorian rider then, 30 or 40 years ago, deponent thought it would be a sharp man who could keep alongside of him, though he now knows the way in Scotland was different in the time of Donald and his son James. Deponent had been 18 years in New Zealand, and though he visited Victoria in January, 1889, he had not, because of the pressure of business and time, the opportunity of conversing with his people, especially his father and his uncle James, on their ancestry; but deponent thinks that being the eldest, he may remember better than his sister, Isabella, their uncle Alexander's statements before he died in Victoria. (Signed) Peter Sinclair. July 24th, 1891)

In Wick parish register, the following entry will explain this uncle Alexander, who was so good an authority on his family's history:- "January 8th, 1810, John Sinclair in Thrumster and Barbara Cormack had their eldest and lawful son Alexander baptized, the witnesses James Sinclair in Clyth" (the Chamberlain) "and John Cormack in Hempriggs." His opportunities of knowledge were only second to those of his eldest sister Elizabeth (Mrs Cormack, Reiss), baptized in 1806, whose evidence has been already extremely valuable, and will be more so in new fields of consideration, especially with reference to "Scrutator's dilemma" which, with the greatest respect for the acuteness of his intellect, is in the light of the facts now in possession, published and unpublished, no dilemma at all, but the plainest state of the case possible in favour of James of Mid Clyth. But this will develop in due time, and to the satisfaction of the most trenchant logician, on the accepted lines of ordinary legality. - Yours, &c.

THOMAS SINCLAIR

Falmouth, September, 1891

P.S.---In the Government offices of Somerset House, London, I have just discovered the will of Captain James Sinclair of Broynach, H.E.I.C.S., written at Calcutta in 1785, with a codicil added at London in 1787; and by this remarkable document it is clear that he was not in correspondence or sympathy with his heir-presumptive, James the chamberlain, his first cousin. Being still a comparatively young man, there was the possibility of him having a son to be his heir; and there seems besides to have been a jealousy between the families of the two brothers, David and Donald the Sailor, on the ground of the popular but false repute that bastardy was attached to David. At all events, for substantial reasons, the solicitor and executors of Captain James, the rival of the Ratters, did not send the knowledge which had been acquired of the marriage of Hon. David of Broynach and Janet Ewen to their grandson and true representative after 11th January, 1788, James the chamberlain. There is considerable proof that this was the cause why he did not claim publicly, but accepted favour from the conspirators of the Mey connection. T.S.

NORTHERN ENSIGN - Newspaper Obituary - 1891

[ *This is supposedly the edition of Tuesday 22 September 1891, but one of the articles on the same page has a notice about the resumption of classes for the evening school of Pulteneytown Academy, i.e., "Classes resume on Monday, September 21st, at 8 o'clock," which indicates perhaps that the issue could have been published prior to 21 September.* ] P. DILLON ]

"THE LATE MR GEORGE DUNBAR SINCLAIR, ONE OF THE BROYNACHS.

In the death of Mr George Dunbar Sinclair, Achinabest farm, Caithness has lost a typically sterling man. Born in Humster, Wick parish, on 7th March, 1814, and dying at his tasteful home in Reay parish on 20th August, 1891, he had completed the good old age of seventy-seven. He was the third son of the Hon. John Sinclair, according to the recently-discovered evidence with respect to the earldom of Caithness; his uncle Alexander in Torranrevach, and his grandfather, James the chamberlain at Thrumster House, being *de jure* earls of the county. One of thirteen children, he made his own career with an energy characteristic of his people. In youth he had very varied agricultural experience in Caithness and Sutherland. Each principal farm of the counties was the subject of his accurate reminiscences, no detail of proprietorship, tenantry, or work escaping the keenness of his attention. In 1839 he went to Newcastle, Northumberland, England, where he had valuable insight into chemical manufactures and all the industrial wonders which a large city has to show to a young inquiring temper. His brother James was there before him, who later became a merchant of the town, and introduced another brother, John, and two sisters, to the great English centre of coal and shipping. An interesting local fact is that the brothers George and James went to South Shields to hear and see the Rev. Charles Thomson there, on knowledge of his appointment to Wick, and were about the first Caithnessman to welcome him to the far north by anticipation. In 1840 the clergyman, after a few months residence, had compiled his admirable contribution on Wick parish to the "New Statistical Account of Scotland."

George returned to Caithness from Newcastle-upon-Tyne, and on 11th December, 1840, he married Helen Swanson of Thurso; the celebration of their golden wedding on 11th December, 1890, having been fully noticed in these columns. At Whitsunday 1859, he entered Achinabest farm, which, from a place without houses or cultivation, has been shaped into something of a model of the combined raising of cattle, corn, and sheep, in spite of continued agricultural depression, and the erection of slated buildings at almost wholly his own expense.

In the ability and public distinction of his sons and daughters he was one of the happiest but least elated of men ; his own ingenuities of conversational power, of handicraft, of insight, especially into "every kind of mechanism and industry, making him the easy equal of most with whom he came in contact. His personal bravery and his moral courage were equally to be depended on ; his generous contests with proprietors, factors, and clergy, when trying to impose tyranny or false beliefs upon him, as he thought, being very well known in his locality. A contentious man he was not, but he enjoyed the battle of opinion, predestination his bug-bear in theology. His memory grew dim in his last years, possibly from the extraordinary use he made of it when in full vigour, nothing then being too much or little for it to preserve. Two sons and three daughters, with his wife, were around him at his death ; and in such a surrounding he was fortunate, in a way not usual to mortals in these days of wandering over the wide world. At the last rites, Sir Robert Sinclair, Lady Sinclair, Mr John Miller of Scrabster, chairman of the County Council, and many others, paid much-appreciated tributes of respect to the personality of a man of real worth and lifelong enterprise. He was named after the late energetic proprietor of Ackergill Tower and its estates ; their character having not a few points in common, though the one held a wider sphere. They were known to

each other personally, but the peculiar independence of both brought them only near enough for Sir George Dunbar once to have offered him the tenancy of a farm on his estates. A native of Wick parish, he had great interest in its history, localities, and persons ; but there was no part of Caithness or Sutherland about which he could not be enthusiastic in description. It was a special pleasure for him to recount his knowledge of the Scotch and English coasts as far as Newcastle ; the passenger smacks of his youth, by keeping close to the shore, giving very considerable knowledge of the country passed."

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## THE BROYNACHS AND THE EARLDOM OF CAITHNESS

### WILL OF CAPTAIN JAMES SINCLAIR, H.E.I.C.S.

#### TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The conditions of search for wills at Somerset House, London, are that only the names of the executors, and some dates, can be noted down for the fees ; but there is, with unpleasant detective visiting of the officials, permission to read documents to the full. Facilities for research in the metropolis are usually so unhampered that this exception of red-tapism is most irritating, though it may be in the interest of copyists, who need to earn a living. An account from memory, therefore, of the will of Captain James Sinclair, H.E.I.C.S, is all that can be given now ; but a verbatim copy will be obtained by and by, if legal purpose may require, the document meantime being always safe in the national archives. It begins, " In the name of God, amen. The last will and testament of me, James Sinclair, Esquire of Broniach, in the county of Caithness, North Britain, presently officer in the military service of the united company of merchants trading to the East Indies, at Fort-William, Calcutta, in the kingdom of Bengal." Then follows a legacy of £500 sterling to the right honourable John, Lord Elphinstone, and heirs, " for his and his father's kindness and mercy to me," referring to their efforts for him in his struggle from 1765 to 1772 about his rights as Earl of Caithness. Next comes, "I give, devise, and bequeath to John Murray, Enquire, commissary-general, £300 sterling to buy a ring in memory of me, and also my gold horizontal stop watch." To Kitty and Ann Grant, the daughters of " my best of friends and benefactors, the Rev. George Grant of Rathven, Banff, North Britain," he leaves £250 sterling each. A most enlightening legacy, with discharge of all claims, follows, " I give, devise, and bequeath to John Spottiswoode, solicitor, London, £500 sterling, for the many favours I have received from him, and especially because of the exertions he made in my behalf before my departure from Britain to India in 1771-1772; and, further, I free and discharge all sums of money which he may owe me at my decease." The right honourable Lady Margaret Borthwick, residing at Edinburgh, widow of the late right honourable Lord Borthwick, has a legacy of £300 sterling, "for her husband's kindness to me," that is, in the competition with Ratter. William Swanson, writer, Wick, gets the sum of £200 sterling, " because of the dangerous risks he took in my favour," before the testator went to India. To John Swanston, " formerly of the General Post-Office, Edinburgh, and now vintner, Kinghorn, Fifeshire, and Leith," the sum of £150 sterling is bequeathed, with the reservation that Swansons creditors cannot take whole or part of the same under any conditions whatsoever. As " the best of her sex, which she showed in our early lives," Captain Sinclair puts down £200 sterling to Anne, daughter of Andrew Sinclair, messenger-at-arms, Thurso. Next, " I give, devise and bequeath to my maternal aunt, Janet More, wife of John Paterson, booman to Sinclair of Durran, in the parish of Odrig, the sum of £200 sterling, the interest of which she is to have during her life, and at her death the same is to be enjoyed by her son ..... Henderson by her first husband, also resident in the parish of



Odrig, in the county of Caithness." The sum of £200 sterling is put down for the " grandchildren, share and share alike, of my paternal aunt, Mrs Elizabeth White, by her daughters."

These daughters are named in " Caithness Family History," p. 26, Henrietta and Jean Whyte, and the Captain in his will speaks of two as their number, but my memory of the context cannot recall their first names, though I feel almost certain he mentions one of them as Nancy. A full copy will authenticate this and other minor details. There is a clause that if the two Whites cannot be found, the money is to return to his estates a rider put to most of the legacies. It will be recognised that Mrs White was Elizabeth Sinclair, the daughter of Hon. David Sinclair of Broynach by his first wife. As if specially interested in aiding his aunt's descendants, Captain Sinclair goes on to say that, to take the learned historian's naming, Henrietta was " married to the deceased William Miller, who resided with old James Campbell of Lochend, parish of Dunnet, and afterwards with the late Colonel Hugh Mackay of Bighouse, in Strathnaver ; and Jean was the wife of the deceased Donald Oag, merchant in Thurso."

Here occurs a most important paragraph, establishing much that has been said in the Broynach revelations, " I give, devise, and bequeath the sum of £800 sterling to my wife, Catherine Rosie, youngest daughter of the late John Rosie, tacksman of Reiss, parish of Wick, the interest of which is to be paid to her half-yearly, in full of all her claims upon my estate ; and this provision to resolve, cease, and end if she marry any other person after my decease."

These quotations are not *ipsissima verba*, but as nearly so as the memory could carry from Somerset House, limited by official interferences and the usual pressure of life in London. The further disposal of his property may take the same form, which certainly carries the gist and substance of the testator's destinations, " I give, devise, and bequeath the whole residue of my real and movable estate to the said John Murray, Esquire, commissary-general; to his brothers Peter and James, officers in the military establishment of the East India Company, for the friendship I bear them; to Charles Mackenzie, Esquire, formerly agent of Sir William Dunbar of Hempriggs, and partly trained under William Budge, Esquire, W.S., Edinburgh ; and to John Spottiswoode, solicitor, London. I appoint John Murray, Peter Murray, Phineas Hall, counsellor-at-law ; John Ferguson, merchant, Calcutta; and John Spottiswoode, solicitor, London, my executors. With my own hand I have written the above, and I have adhibited my seal to it at Fort William, Calcutta, on 25th November, 1785, with these witnesses underwritten, WILLIAM BURN, GAVIN TURNBULL (Signed), JAMES SINCLAIR.

After Captain Sinclair's arrival in Britain, a codicil was added to this will, revoking the legacies to Lord Elphinstone, Lady Margaret Borthwick, and to Catharine Rosie, his wife, with others, dated London, 17th April, 1787; witnesses, GEORGE BURNET, CHARLES DONALD, and signed, JAMES SINCLAIR. The transaction seems curious, suggesting that he was as ready to take offence as he was unmistakably grateful for friendliness, which is not an unusual combination of character. But lawyers could say whether deaths among the legatees, and particularly the decease of his wife, would not account for the revocation, as an easy legal way of stopping any claims of their heirs upon his estate. It is hardly possible to imagine any other reason than her death for revoking his wife a provision. But these points could only be discussed with proper effect on a verbatim copy of the codicil, the memory failing to give the exact clauses and facts, though enough remains clear for general information.

The will and codicil were proved on 18th November, 1788, by William Nichol, for Sir William Wynne, of the registry of the archbishopric of Canterbury, at the instance of John

Spottiswoode, solicitor, London, for himself and the other persons named as benefiting by the testamentary dispositions of Captain James Sinclair of the Honourable East India Company's service.

Some notes on the facts and persons of this Somerset House record are necessary. It is clear that Captain Sinclair, while in India, had recovered the estate of Broynach which his grandfather the Hon. David possessed, and by the agency of his London solicitor, John Spottiswoode; for not only does he designate himself as "Esquire of Broynach," but speaks of both his real and movable estates, which implies that he held property in land. The residue that went in 1788 to Spottiswoode and others, therefore, included Broynach; and it must have been sold either to Sir John or his son Sir Robert of Stevenson and Murkle, whose descendant, the present Sir Robert, now holds it. Of actual money, the testator disposes of £3850 sterling, and the realisation of all his property would make a handsome addition to this considerable sum, his fortune realised wholly by twelve years of actual residence in the East Indies. With his pay as captain in the service to boot, he was at his return to Britain probably the recipient of a larger annual income than any laird in Caithness, unless, it may be, Ulbster. Sir John, the statistician, calculated that in 1791 the yearly total income of the 34 proprietors of the county amounted to £15,003 sterling, or an average of £440 a year for each. But this he makes up by summing corn and kind rents, personal services of the tenants, and all other ostensible advantages. In 1702, the actual money rent of Caithness was £3100, according to Captain Henderson's "Agricultural View," and when Sir John wrote his calculation the old system of mixed rents of the eighteenth century still prevailed. The leaps and bounds of modern rent had not begun. For example, the Caithness crown lands were let on a 21 years' lease in 1788 at £80 sterling a year, the same lands drawing in 1885 the rent of £2686 15s. The qualification to become a voting freeholder laird was £400 Scots, that is, £33 9s 8d, a recent reference showing that James Sinclair of Durran had arrived at this far from princely income in 1779. In the statistician's own model account, as he intended it, of Thurso parish, he makes Alexander Sinclair of Forss's income from the parish £120 a year in 1793, James Sinclair of Holbornhead's £45, while Pennyland gave £70, Brims, which included Brubster, £127, and his own, thanks to his ancestress Goldman, daughter of a Montrose tallow-merchant, £1120. With these comparisons for check, the baronet's reckonings may not be absolutely optimistic.

Of the resources of Captain James Sinclair, there can be much steadier knowledge. If the £3,850 were invested with the East India Company, which gave from 6 to 124 per cent., he would draw from £300 to £400 sterling yearly; and it is probable that John Spottiswoode and the rest fell heir, on the realisation of all his means, to at least as much as this sum. Should his investments have been with the Hindoos in Bengal, interest might reach 30 or 40 or more per cent. Then his pay as captain was handsome. In a book on the war with Hyder Ali and Tippoo Sahib from 1780, Captain Innes Munro of Lord Macleod's Highlanders, then the 73rd and now the 71st, says a captain of the king's army had 7s 6d a day, and a batta or gratuity from the East India Company of £27 9s a month when in the field, which make altogether £466 6s 6d a year; and the officers of the company itself have always been better paid than the regulars from home.

But personal expenses being great, it is not thus that Captain Sinclair's means can be fully accounted for. He had gone through what is mentioned as his "hard service" under Warren Hastings, the first governor-general of India, when parliament laid its hands on India by the Regulating Act of 1773, returning to England in 1786, the year after his great master, whose early life at a charity school in the village of Daylesford, England, the property of his ancestors, was as wretched as Broynach's own childhood. Though gratuities from the native princes had been forbidden by the above Act, Eastern habits could not be eradicated, and there was not an officer in the service who did not accumulate money after the prevailing fashion,

the impeachment in 1788 of Warren Hastings before the House of Lords the giant illustration of the state of things. At the suppression of the rising at Benares in 1781, Lord Macaulay says in his famous essay £250,000 were divided among the Company's army there, a comparative handful of Europeans, as prize money ; and a considerable share of the £1,200,000 which Hastings wrenched from the Princesses of Oude in January 1782 must have reached the pockets of his military courtiers rather than officers. Every officer, too, was a trader in spite of statutes to the contrary, through native factors or substitutes. The friendliness with Murray, the commissary-general or store-manager of the Company's army, may have given opportunity to Captain Sinclair of putting in a bill to the government, which was jocularly said to be equivalent to making a fortune. It is probable that part of his hard service may have been under Sir Eyre Coote at the second battle of Pollilooore in 1781, and other more definite victories over Hyder Ali and Tippoo Sahib; the first battle there on 10th September, 1780, sometimes called Conjeveram, and oftener Perambaukam, being the massacre of our army in which Lieutenant William Gunn, the M'Hamish, of the grenadier company of the 73rd, after 1786 the 71st, was killed, as stated by Richard Cannon in his " Historical Records of the British Army," he quoting from Captain Innes Munro's book. But it is possible that the extraordinary doings then in the Ganges valley kept Captain Sinclair in the Bengal presidency, though most of the troops were sent to Madras under General Coote. The British Museum bought 280 volumes of letters connected with the governorship of Warren Hastings from a Mrs Kinter, and it is expected that knowledge of this Broynach's twelve years in India may be found in them in some detail. It is manifest that he was a man of ability, and it is interesting to think that his Caithness wife from Reiss was with him in our great dependency at its most extraordinary historic period ; and if she had some of the skill of the governor's Russian wife, her husband's fortune was not decreased by her presence.

From the destitute Thurso or Orlig boy, whose first glimpse of luck was marriage to the tacksman of Reiss's youngest daughter, whom he met at Brims, of which John Rosie was previously tacksman, to the wealthy captain, with income surpassing most of the lairds of his native county, he had made good progress, showing that personally, as well as by pedigree, he was worthy to be Earl of Caithness. Totally isolated as he was in youth from the whole Sinclair family, Earl Alexander to the Sarclet Broynachs, and by all reputed a bastard, though, like his father David, only an antenuptial, a valuable legal distinction, the ignorance of his people, which the will shows, is not to be wondered at. His early leaving for India, at about the age of 28, makes him forget even the names of those he actually saw, by living in the same locality with them. He does not know the first name of his aunt Janet More's eldest son, though his mother's people were the only relatives he knew in Caithness. His uncle Donald Sinclair, " the Sailor," had so effectually separated and reserved himself from the Thurso side, with its Janet Ewen reproaches, and with his brother David's disgraces in it, that Captain Sinclair, Donald's nephew, in 1785 was only aware that he had such an uncle, who from age could not be alive then. Of James the chamberlain and his brothers and sisters, Donald's family, he was entirely ignorant. So vague was his knowledge that he instructed his lawyers in 1786 that Janet Ewen had two sons and two daughters, which was true; that his father David was the younger or second son; and that, Donald dying without issue, he himself was therefore sole male surviving of the Hon. David and Janet Ewen's family, no mention of his only brother John in the will certainly proving that he was dead without issue. The Caithness presbytery and Orlig session evidence being then in Captain Sinclair's possession, and his terror of bastardy, even of antenuptialism, being almost a mania with him, the reversing of the position of his father and uncle Donald, the Sailor, would put his father's birth within full wedlock ; and not aware of Donald's family, his fist cousins, he may have thought the seniority changed would hurt no one. As matter of fact, it would cut away all his own claims, for which he had so gallantly and justly fought, because James the Chamberlain would then be Earl of Caithness, being heir of the elder son, which he was not, as all the lines of evidence

have established. The later enemies of the Broynachs the Meys, and now the Durrans, have taken full advantage of Captain Sinclair's sheer darkness on this point, asserting his innocent design or mistake to be truth, namely that he was the last of his line. That he had neither the opportunities (see the 1767 Ratter proof) nor the skill, to be authoritative in such a matter, is still further illustrated by the discrepancy between his naming of the children of his aunt Elizabeth Sinclair (Mrs Whyte) and their names as given by John Henderson, writer to the signet, the historian, the latter evidently the more trustworthy, from legal, local, and other reasons. Captain Sinclair had knowledge neither of genealogy nor law, as his painful struggle for his rights amply exhibited, but he had a soldier's brave persistency, and had his short life of about 44 been lengthened, he would have succeeded in establishing himself what he was, the tenth Earl of Caithness. There is more information about his will.—Yours, &c.,

THOMAS SINCLAIR.  
Falmouth September, 1891.

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## THE BROYNACHS AND THE EARLDOM OF CAITHNESS

### WILL OF JAMES THE TENTH EARL.

#### TO THE EDITOR OF THE NORTHERN BNSION.

SIR,—Captain James Sinclair, H.E.I.C.S., it is now certain, was *de jure* the tenth earl of Caithness, but it may not be so well realised that he was also the same *de facto*, and that his wife Kate Rosie is a veritable Countess of Caithness, both of them having incontestable right to be placed in all the peerage books henceforward. Through what the lawyers Call "simple survival," James, by the death of his father's first cousin, Earl Alexander, on 9th December, 1765, became *de facto* earl, habitually signing himself CAITHNESS, and even in the presence of the peers of Scotland in full assembly at Holyrood House, Edinburgh. More pointed proof of this is that the lords of the court of session wrote him down in their interlocutors, still extant, "James, earl of Caithness;" and if William of Ratter had not raised his nefarious opposition, he and Kate Rosie would have been accepted earl and countess for the rest of their lives. As it was, they were so in fact and law from 9th December, 1765, to 7th May, 1772, when the House of Lords, through imperfect and withheld evidence, unfortunately deprived James by adjudging the peerage to William Sinclair of Ratter, a cadet and usurper. The bitterness of Captain Sinclair's position was intensified by the fuel of being stripped of what himself and his countess had actually and justly enjoyed.

To proceed, however, with notes on the will in Somerset House. John, Lord Elphinstone, representative peer and governor of Edinburgh Castle, succeeded his father, Charles, Lord Elphinstone, who died in 1781. His brother William was the captain of an Indiaman, and afterwards an East India director; the Elphinstones holding the highest positions (such as Governor of Bombay) in the Indian service, and also in the royal navy, admirals—Lord Keith and the Hon. Charles, governor of Greenwich, historical characters. It was with respect to Captain Sinclair's assertions of his right to vote as, "James, earl of Caithness," at the election of representative peers at Holyrood House on 21st August, 1766, again on 1st October, 1767, and a third time on 21st December, 1768, that Charles, Lord Elphinstone, showed him part of the "kindness and mercy" for which he expresses himself grateful in his will to the whole family. See Robertson's "Proceedings," published in 1790 at Edinburgh.

Lord Borthwick, to whose widow, Margaret, daughter of George Drummond, Broich, Stirlingshire, married 5th March, 1770, the captain left, but cancelled, £300 sterling, took a specially active part at those meetings, holding proxies for him, whom he writes down in his protests, " James, now earl of Caithness, ' Ratter's agents opposing the right of James to vote as a peer. Robertson has full details. Henry, Lord Borthwick, had good cause to be sympathetic with the wronged earl. From 1734 to 1761 he himself had voted regularly as a peer, when he was ordered by the House of Lords to stop further voting, and prove his right before taking his place at such elections. He had to put in his petition to the committee for privileges, prove his pedigree, and act exactly like a new aspirant, though he had been the accepted Lord Borthwick from 1727. He made good his case in 1762, and what ought to be of great and practical interest to the present claimant of the earldom of Caithness, James Sinclair, Mid Clyth, Lord Mansfield said in his speech in the Duchess-Countess of Sutherland case of 1770, that the crown paid the money which Lord Borthwick was forced to expend in prosecuting his right. On his way to London he died at Newcastle on 6th September, 1772, leaving no issue. His enthusiasm for Captain Sinclair's rights as Earl of Caithness was as instructed as genuine.

Of the three Murrays in the will, the testator's bosom friends, there is knowledge. The commissary-general of India, John, was cadet in 1771; ensign 13th November, 1771; lieutenant 28th July, 1776; captain 21st February, 1781; major 1st March, 1794; lieutenant-colonel 31st August, 1798; retiring that year. He thus came to Calcutta when the palatial European quarter, the second Fort William, was just about finished. Peter Murray was cadet in 1771; ensign 9th March, 1773; lieutenant 27th March, 1778; captain 18th October, 1781; major 30th October, 1797; lieutenant-colonel 21st April, 1800; and was killed in August, 1803, on board the Lord Nelson. There are two James Murrays in Dodwell and Miles's "East India Company's Military Lists, Bengal Presidency," both of whom became cadets in 1782, the one dying, a captain, in Bundlecund 27th June, 1804, and the other, an ensign, at Dinapore 24th December, 1790. Which of them was the third brother is not clear. They were the sons of " Mr James Murray of Pennyland, surveyor of the customs," as he is described in Bishop Forbe's "Journal" of 1762, p.200, who tells the story of his entertaining Dr Pococke, bishop of Ossory in Ireland, the great traveller, with the then wheaten bread of Caithness, fried chicken, and the local rarity of toasted ears of calves. See Kemp's introduction, p. 25, to Pococke's "Tour through Sutherland and Caithness in 1760." Henderson in "Caithness Family History," p. 195, has an interesting note:—"In 1762 James Murray, described as surveyor of the customs, resided at Pennyland with his wife, Barbara, daughter of James Murray of Clairdon, and two sisters, and in January, 1770, he died, and was buried in Pennyland chapel. Who he was is uncertain, and it is conjectured that he may have been a second son of Richard Murray." Henderson gives 5th August, 1762, as the date of the learned Pococke's visit. See also Kemp's biographical sketch, page 52, prefacing the "Tours in Scotland," the Scottish History Society's first publication. The bishop himself says, "I came to Mr Murray's near Thurso, and embarked from that town for the Orkneys," p. 133, 134. But the most apposite reference to James Murray, in the present connection, is that of Ratter's proof of 1767, showing that the father, as well as sons, was the friend of James Sinclair, and in his despised youth when it required courage to acknowledge or consort with him. Dr William Sinclair, Thurso, one of the Ratter Freswicks, deponed that James Murray at Pennyland told him that he proposed to Earl Alexander to give £20 sterling to James, the claimant, to go to America with Captain Stirling, but the earl refused. This was before the marriage of his only child Lady Dorothy to the Earl of Fife on 5th June, 1759, then Viscount Macduff, which event destroyed his proposals to her to marry James; a plan of his to unite all interests not appreciated, naturally, in the circumstances, by the lady. After this event he would have given any money to be rid of James, but the latter then knew his rights to the title and lands, and

would not be disposed of lightly, though only about 15 in 1759.

The witnesses to the will at Calcutta in 1785 were James Ellis, cadet 1783; ensign 6th March, 1785; who died there 10th October, 1788; William Burn, cadet 1771; ensign 29th January, 1773; lieutenant 3rd January, 1778; captain 5th June, 1781; major 13th September, 1797; lieutenant-colonel 31st July, 1799; colonel 25th April, 1808; major-general 4th June, 1811; who died in England, July, 1814; and Gavin Turnbull, assistant surgeon, 17th July, 1783, and resigned 6th February, 1789. One of the five executors, "John Ferguson, merchant, Calcutta," seems to have been a military officer of the Company from 1763 to 1769; the transitions to trade always numerous in the land of enforced money presents from the natives and undisguised monopoly.

The "old James Campbell of Lochend, parish of Dunnet," was sheriff-clerk of the county, and purchased Lochend in 1749 for 20,000 merks, that is, £1250 sterling, the rental £50, figures useful for comparison with those of the will; his first wife, Mary, a daughter of John Sinclair of Forss, and his second, Isabella, of Rev. James Oswald, Watten. See "Caithness Family History," p. 279. In 1778 Lochend sold for £2015 sterling.

Of John Spottiswoode, solicitor, London, who was both legatee and executor, something is known (and more would be desirable), as will appear in several connections.

To pass to the most important question of this will, so far as the claim of James Sinclair, Mid Clyth, is concerned, it may again be asked why or how the first cousins of the testator, the sons and daughters of Donald Sinclair, his father's brother, do not appear in, or benefit by, the document. It has already been answered shortly that the instructions he gave his lawyers about his immediate Sinclair relatives, which information is extant, when reopening his case in 1786, show that he was totally ignorant of the existence of his Sarclat cousins, James the chamberlain and the rest, so that their names necessarily could not be put in his will. Nor is it the least difficult to demonstrate that he had no knowledge whatsoever of them, their father's departure from the Thurso to Wick side of the county taking place certainly ten, and possibly twenty years before Captain Sinclair was born. The Tulloch evidence revealed that the Sarclat Broynachs studiously shunned ever putting foot again in the quarter where their grandmother Janet Ewen and their grandfather Hon. David had suffered so much indignity. They kept their secret perhaps too well; for James the chamberlain's first cousin, of the will, was of generous temper, as even Earl Alexander in his letter of 13th May, 1765, declares; and he would have been only too glad in his isolation to have benefited or counted kin with such worthy and unspotted relatives, Donald the Sailor being the child of full wedlock, as the Sarclat Sinclairs knew without question.

Before the testator left for India in 1772, there were neither facilities nor desires to make his acquaintance. It was then as distant between the two sides of the county as is now the antipodes, for want of roads, railways, newspapers, cheap postage, and money. Ignorance of relatives can happen even yet, and a fair enough parallel is the fact that, in almost the identical localities, I was totally unaware of the existence of my near kinsman, second cousin, James, Mid Clyth, two years ago, though I have had since childhood keen interest about my people. If I had thought of making a will before these Broynach discoveries, I could not have benefited James, for the plainest of all reasons. Everyone knows of similar experiences, and the point needs no excessive elaboration, though it could not be overlooked, because of its *prima facie* seeming strangeness. That Donald, the sea-captain, had no desire to reopen a second chapter of scandal upon his family, in either patronising or being patronised by his eldest brother David's son James, is to be safely assumed; and the details of the biographies of this father and son amply prove that they were never objects of conversation by Captain

Donald, either on board his vessel or at Avoch and Sarclet, so far as could be avoided. Ratter's proof of 1767, which is *magna charta* for the existing Broynachs, shows exactly how things stood with Captain James, H.E.I.C.S., in his youth ; and the sworn evidence of John Macphail, and particularly that of the bosom friends of David Sinclair, his declassèd and unhappy father, Alexander Ross and Alexander Macleod, musician, all of Thurso, draws a wretchedly realistic picture of unmistakable truthfulness. James was born a bastard, as is proved by the signed confession of his father, written by Macleod, to get the child baptism by Rev. William Innes, at the instance of Margaret More, the mother. Of Macleod's capability and trustworthiness there is a kind of hereditary sanction in that he was the father of Donald Macleod, writer, Thurso, sheriff-substitute of Caithness, and tacksman of Murkle, with (Wright says in his " Husbandry of Scotland," published about 1783) 30 sub-tenants and 18 cottars; he again father of Alexander Macleod, proprietor of Lynegar. David Sinclair was himself an antenuptial, and his social life ran on the level of mill-boy, sailor-lad, feed servant, kelp-burner, common-soldier, and finally invalid supported by what friends were willing. His first cousin, the Hon. Francis Sinclair of Westfield and Oust, was undoubtedly kind to him towards the close of his miserable life, his death taking place certainly before 1766, as established by the letter already referred to of his harsh first cousin Earl Alexander, the date of 1755 being the most probable reckoning of the event. That there was little if any sympathy between him and young James is clear from the assertions he made that the boy was not his son at all. The path of poor children was to begin life as herd-boy with a farmer, when six or seven; and his mother Margaret More's frequent calls at Westfield House for money gives the inference that she thus got James placed on Oust Farm under John Rosie, grieve there, his future father-in-law, whose Oust pot of coins went largely towards his struggle to be Earl of Caithness. He would follow the plough as he grew strong enough, going with Rosie to East Brims and Reiss in this capacity. From his childhood and youth thus passed, he could have heard nothing of his Sinclair relatives, even if his father had been intelligent and, to him, communicative, neither of which seems to have been. In 1765, before Earl Alexander's death, we know from the letter before mentioned, that he had claimed to be nearest lawful heir male to this earl. It is manifest that it was not the death of Earl Alexander which suggested to him first his claim. He asserted himself heir-presumptive so publicly and conspicuously for some years that the Earl took special pains with his entail to disinherit him. " There is one that pretends to be heir," meaning James (which shows his father David was dead), and, " I am very anxious to make up my title to Wester Brims," are the phrases of the old and unjust designer, Lord Haimer. In the Caithness records from the Duff House charter-room, which the Duke of Fife favoured for the *Northern Ensign*, William Rose, in a memorial of 1st August, 1779, says, "A great doubt arises if Lord Caithness, having his lands uncompleted by infertment as far as concerned West Brims, could have made his entail to Sir John Sinclair of Stevenson effectual." He knew this himself, and was terrified that his estates would all pass to James, whom he affected to repudiate as a bastard, though he was well aware that Margaret More's marriage to David Sinclair, subsequent to James's birth, had made him lawful and fully entitled to succeed as male heir, if he put aside his only daughter, Lady Dorothy Sinclair, then Countess of Fife. The point is fresh to this day, the Stevensons' possession on a false entail being totally invalid, and only needing to be appealed against.

Of James during his contest with Ratter from 1765 to 1772, there is extraordinary knowledge, and more still turning up, but his East India career is hitherto described in its main events. It was known that he had his cadetship in 1772, and the Elphinstone friendliness may have secured it for him. But it is new information that he was made ensign on 10th July, 1776; lieutenant on 30th June, 1778; and captain before his return to Britain, which was on 24th June, 1786. Of his death there is varied authentication. The *Scots Magazine* says, "January 11th, 1788, at London, Captain James Sinclair in the service of the East India Company. This gentleman put in a claim to the title of Earl of Caithness." The *European Magazine* says that

"Captain James Sinclair, in the service of the East India Company," died on 11th January, 1788." In the *Gentleman's Magazine*, "Captain James Sinclair, in the service of the East India Company," is mentioned as having died on 11th January, 1788, in Whitcombe Street, London. The scene of the death of this short life of about 44, is in the immediate neighbourhood of the best clubs, and opens on Pall Mall East, near the National Gallery. It was then as now the heart of fashionable London, though the exact portion of Whitcombe Street where he died is in decay and degradation. If he had lived, he would have visited Caithness, and gained real knowledge of his Sarclet cousins, his 14 years' absence having made his originally vague knowledge vaguer, excitement of Indian affairs at their most stirring period not conducive to memories of the past. He did reach Edinburgh after his return, and sent his lawyer to his native county, who then secured the ecclesiastical evidence of Janet Ewen's marriage.

A remarkable sentence is attached to the announcement in the *Gentleman's Magazine* of his death – "On account of a claim, this gentleman had set up to the Earl of Caithness, the noble lord who bears the title declined voting at the late election for one of the sixteen peers of Scotland, till his right had been ascertained by law; but death having removed the claimant, his lordship is left in quiet possession of his title." The noble "lord" was John, the son of William of Ratter, and Captain James's second antagonist, who evidently from the above knew that the captain was the rightful earl." The reduction action of the decision of 1772 in favour of the Ratters was in progress from 1786, but was stopped at the very moment of success by the gallant claimant's death. His rights went to his first cousin, James Sinclair, the chamberlain, of whose existence he did not know, though he had some knowledge about the chamberlain's father, Donald, as his only Sinclair uncle, whom he inaccurately supposed to be older than his father David, the other son of Janet Ewen. The latest discovery is that in the county some steps were actually taken by or for James, the chamberlain, not only to secure the title from John of Ratter, but Earl Alexander's lands from the Stevensons. Whether this was a part of the scheming in favour of Sir James Sinclair of Mey, or an honest effort by various freeholders of Caithness to put the Sarclet Broynach into his rights, needs careful search. How "Earl" John passed from the struggle is suggestive both as to time and manner. But that is another chapter.

Illustrations of the will and codicil of Captain James Sinclair, H. E. I. C. S., the tenth Earl of Caithness, may close with information about his "best of friends and benefactors," the Rev. George Grant, Rathven, Banffshire. In a book by William Cramond, Cullen, Banff, on the church of Rathven, it is stated that he was minister there from 1752 till 1789. He had been ordained in 1734, and was translated from Boharm, on a presentation by William Gordon of Shillagreen, 11th June the date of his admission. Margaret Gordon became his wife in 1738, who died 1st June, 1788. One of their sons, George, was schoolmaster of Rathven, and died in 1780. His father, the Rev. George Grant, died 18th March, 1789, in the 80th year of his age and 55th of his ministry. The rest of his family were Margaret, Alexander, Katherine, Helen, Anna, Charles, who died in 1763, and Sophia, whose decease was in 1776. Mr Cramond has sent me precious corroborative proof of the rights of the Sarclet Broynachs, from bundles of old papers connected with Banff town, and Duff House there, the chief mansion of Lady Dorothy Sinclair, the Countess of James, second Earl of Fife. Her second cousin, Anne Sinclair (Mrs Alexander Mellis), a daughter of Donald the Sailor, and sister of James the Chamberlain, Thrumster House, was, he says, Earl and Countess Fife's factor's wife. Lady Dorothy's own battlings for Lord Caithness's estates made her know the Sarclet relationships, and the Duke of Fife's records are a promising field of knowledge in a special sense. – Yours &c.,

THOMAS SINCLAIR.  
Falmouth, October 1891.

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## THE BROYNACHS AND THE EARLDOM OF CAITHNESS

## MEY FALSE SUCCESSION.

## TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—The period between the death of Captain James Sinclair, H.E.I.C.S., tenth Earl of Caithness, on 11th January, 1788, and the adjudging of the peerage by the House of Lords to Sir James Sinclair of Mey on 4th March, 1793, though as obscure as the Mey conspiracy could make it, by secrecies and silence, exhibits nevertheless some startling incidents and doings of persons, with the single train of inference that dark transactions were the order of those usurping days. Captain Sinclair's second Ratter rival, Lieutenant-Colonel John Sinclair, was not, as the *Gentleman's Magazine* said, "left in quiet possession of his title," of Earl of Caithness, by the death of this Broynach, the true earl. James the chamberlain, Thrumster House, and his brothers were discovered, with sons, to take up the rights; and Lieutenant-Colonel John must, in despair, have thought that Broynachs grew like hydra's heads. That this was an element which aided his tragic decision of self-slaughter, is now assured.

The *Gentleman's Magazine*, vol. 59, under date of April 8th, 1789, and the heading, "John Sinclair, earl of Caithness," has the following—"After breakfasting at the Mount coffee house, he retired to his apartments and shot himself. The cause of his lordship's putting an end to his existence has been attributed to disappointment in a matrimonial adventure, but the accounts of it are variously related." In the "Reminiscences" of Joseph Mitchell, Inverness, it is said, "John the eleventh earl was a captain in the army. In 1789 he visited London. He there mixed in society, and was distinguished not only as the representative of a noble and ancient house, but as a peer of graceful bearing and manly beauty. In the course of his sojourn in the great city, he paid his addresses to, and won the affections of, a Miss Dehenny, the only daughter of a rich city merchant. Her father when consulted as to their union, although no doubt gratified at the prospect of his daughter being elevated to the rank of a countess, naturally enough considered it advisable to make inquiries as to the means of the noble earl. His lordship's explanations were that although his estates in Caithness were not of much value, he possessed besides these a valuable property in the county of York. Mr Dehenny, with the prudence of a careful parent and man of business, thought he might as well make inquiries about the Yorkshire estate, and the answer was that although the Earl of Caithness had looked at this property on his way south, and talked of purchasing it, no purchase had been made. The old gentleman was very indignant, and upbraided the earl for his disingenuous statements and attempted deception. The earl being a proud man felt the truth of Mr Dehenny's rebuke, and in a fit of insane remorse committed suicide. The young lady, his affianced bride, was thrown into the deepest distress by this sad event. Nothing would console her, and she ever after rejected other proffered suitors. Mr Dehenny, her father, in due time died, leaving his daughter his accumulated fortune. Miss Dehenny's affections were fixed; she never could be induced to forget her lost lord, but constantly mourned his sad fate. In her distress and grief she wrote to Mr Traill, the earl's brother-in-law, begging she might be allowed to adopt one of his daughters, being a near relative of her affianced lord. She undertook to train up and educate the young lady in the best manner, and to bequeath her the fortune which was then to her of little value. Mr Traill and his wife Lady Janet, who were married 31st July, 1784, consented to this arrangement, and placed their

eldest daughter under her care and training. In due time Miss Dehenny died, and Miss Traill, then an old maid, became the possessor of the Dehenny fortune." Mr Traill was sheriff-depute of Caithness from 1788, and Miss Traill was Williamina-Barbara, one of his six daughters, all unmarried. In his "Peerage Law," Biddell, when discussing, pp. 610-619, the legal action in 1787 of Capt. James Sinclair, H.E.I.C.S., to dispossess this so-called earl, says, to quote Mr Kenneth Macdonald, solicitor, and town-clerk of Inverness, in the *Highland Monthly*, "after mentioning the death of Captain Sinclair, that, by an extraordinary fatality, John, earl of Caithness, died suddenly the very next year, under circumstances too affecting and notorious to be particularised; and, in a foot-note, he says of John, that ' he was a gallant officer with promising prospects, but had hardly attained the meridian of life, which lamentably closed the 8th of April, 1789, to the regret of one especially.' " The *European Magazine* had this—"April 8th, 1789. Sinclair, earl of Caithness. He ended his life with a pistol." Playfair's "Family Antiquity" says that he was twice wounded in the American war of independence, the first time at Fort Christian, and that he died unmarried in the prime of life in 1789," when his unfortunate mother was looking for the intelligence of his being married to a most amiable young lady, to whom he had been many years attached. His mother, "Barbara, dowager-countess of Caithness, died at Bath in the year 1793." She was a state pensioner at £150 a year, and was one of the illegitimate "shirras" of the Murkle-Broynach line. It is recounted in Douglas's "Peerage" that John had his ensigncy in the 17th Foot, on 23rd September, 1772, " dying suddenly at London, 8th April, 1789, in the 33rd year of his age, and buried at Marylebone. He died possessed of the lands of Rattar and Hollandmake, which were brought to a judicial sale, and sold for £13,313. The title went to a very distant branch, Sir James Sinclair of Mey, descended from George of Mey." The purchaser was Sheriff James Traill, the brother-in-law; and if Scots money was the currency then in Caithness, as it certainly was during most of the eighteenth century, the lands were thus worth only about £1100 sterling, and that burdened with debts.

The next usurper. Sir James Sinclair of Mey, was in similar straits, as the Bruce-Caithness MSS. tell. The gross income of the whole estate, set in tack to Captain Sutherland, was £309 7s 8d sterling, and this on a lease of 14 years from 1772, by Sir John, the father of Sir James. That year Sir John had debts amounting to £1330 sterling, and was in daily fear of being thrown into prison, William Shearer, messenger-at-arms and writer, Thurso, having with a party of men once actually arrived at Barrogill Castle to seize him, but was satisfied by some arrangement Captain Sutherland made. Sir John agreed to board himself, his wife and family with the tacksman at £100 sterling per annum, the creditors to receive £100 sterling yearly, the claims of the over-reaching captain using up most of the remainder, all coming through his hands. It was to this state of things Sir James succeeded on the death of his father in March, 1774, but it was only on 9th September, 1784, that by what he called Lady Janet of Ulbster's "firmness and friendship" he had an allowance of £120 sterling yearly forced from the tacksman. "He went to reside with Lady Janet Sinclair at Thurso Castle," Sir James instructs, " in September, 1783. He married (?) in December following, and though Lady Sinclair and he continued for some time thereafter to live in family with Lady Janet, yet it became necessary for them to insist for an alimentary provision out of his own estate." Both the Ratters and the Meys had been even at a lower ebb than this, a representative of the former dying in prison at Inverness for debt in 1714, and the representative of the latter wholly stripped as a bankrupt of everything he had in 1694, his wife having to live in a hawk-house, an earl's sister. With such rivals', had they not been supported and backed by the Lady Janet and lairds of the county, Broynachs like Captain James Sinclair, H.E.I.C.S., were quite able to contend, at all events after his return from the Indies. In the " Complete Peerage " by G. E. C., published 1889, &c., it is stated that Lieutenant-Colonel John Sinclair, the reputed eleventh earl, was buried on 13th April, 1789, at St. Marylebone churchyard, Middlesex; and that his will was proved that year; his lands sold by order of court. A few weeks ago I went to

see if any memorial existed there of him; but a vandalic transformation of that once famous cemetery into a gewgaw London peoples' garden, with the gravestones all huddled to its bounding walls, gave the ghastliest moral upon the whirligig doings of time and modern civilisation. Not a trace of inscription for him could be found, but curiously enough one of the erect headstones first met with in this Paddington gruesome Eden bore the words, " In memory of Mary Campbell of Barcaldine, in Argyleshire, N.B., wife of the late Alexander Campbell, major in the 84th regiment, born in 1745, and died July, 1831 ; also of Lucy Campbell, youngest and last surviving daughter of the above." These are evidently relatives of the sham Campbell countess of the sham earl, who was never more than Sir James Sinclair, laird of Mey, by true right.

How he managed to secure the title of Earl of Caithness, to the deprivation of James the chamberlain, is readable between these lines from Douglas's " Peerage " :—" Sir James Sinclair of Mey, born at Barrogill Castle, 31st October, 1766, succeeded his father as baronet in 1774, and became twelfth Earl of Caithness in 1789, but did not immediately assume the title. The same year Sir William Dunbar and other freeholders of the county of Caithness objected against his remaining on the roll, on the ground that though he had not assumed the honours of the earldom of Caithness, he had acquired by succession the right of that peerage. This objection being repelled by the court of freeholders, a petition and complaint were preferred to the Court of Session, and followed with answers, after which a hearing in presence took place. The lords of session, 2nd February, 1790, 'allowed the complainers to prove that Sir James Sinclair of Mey has succeeded to the title of Earl of Caithness.' A petition against this judgment was presented, to which answers were given in, but the question was not again brought to a decision." The shyness of Sir James was evidently grounded on his knowledge of the existence of the rightful heir, James the chamberlain ; but how the latter was quieted is a main question. G.E.C., of the newest peerage books, glosses Douglas, but does not improve him, though the latest broom usually has been sweeping clean :—" He did not assume the earldom till 4th March, 1793, when his right was found good by the House of Lords. In Scotland a peerage vests by simple survivance, and therefore, although he did not assume the earldom in 1789, the freeholders of his county objected to his vote as a commoner, and were allowed by the Court of Session, 2nd February, 1790, ' to prove that Sinclair of Mey has succeeded to the title of Earl of Caithness.' As, however, he shortly afterwards resolved to assert his status as a peer, the case was not proceeded with."

It is easy to discern why Sir William Dunbar of Hempriggs was active in this oblique business, one of the "very old men" who gave doubtful evidence before the House of Lords' for Sir James of Mey, on 13th April, 1791. He was born in 1708, and was the granduncle of Sir James, his sister being the mother of Mey's mother, by " Caithness Family History." The other "very old man," named " Mr Sinclair" by the *Morning Post*, was James Sinclair of Harpsdale, provost of Wick, whose residence was Thrumster House, born 6th February, 1723; and it was to him, as one of the Ulbsters, that Sir James of Mey's interests were confided by Lady Janet, Thurso Castle, in favour of her grand-daughter becoming Countess of Caithness, Mey's mistress or wife, his grand-niece. It is curious to find him, the year before he gave his unopposed evidence in the House of Lords, evidently championing the Sarclat Broynach. Within this time, by some compact or influence, the latter became his chamberlain at Thrumster House, as compensation for not personally pursuing his rights to the earldom. James, the chamberlain, could not give away the Broynach claims to the title ; and his position must have been tacit inability to do anything, from want of legal knowledge and sufficient money ; the office of chamberlain being next to laird in social standing, and a bird in the hand. What is still more suggestive, Harpsdale, who was one of the ablest in legal and county affairs, had been battling in 1789 against the second Stevenson Sinclair, Sir Robert, as not heir of Murkle, &c. ; and this could only be then in the interest of the Sarclat Broynach,

eldest son of Donald the Sailor. The first Stevenson who possessed the Broynachs' estates, Sir John Sinclair, died at Edinburgh, 8th February, 1789 ; and the occupation by his son and successor, Sir Robert, was thought the right occasion to raise just opposition in favour of the true heir.

In the printed " Journals of the House of Lords " some light is to be found :—" March 15th, 1790. The House being moved ' that a day may be appointed for hearing the cause wherein James Sinclair of Harpsdale and others are appellants, and Sir Robert Sinclair of Murkle, baronet, is respondent,' it is ordered that this House will hear the said cause, by counsel at the bar, on the first vacant day for causes after those already appointed. Upon reading the petition and appeal of Sir Robert Sinclair of Murkle, baronet, complaining of an interlocutor of the lords of session of 5th March, 1790, and praying ' that the same may be reversed or amended, or that the appellant may have such other relief in the premises as to this House in their lordships' great wisdom shall seem proper,' and that John Sutherland of Wester and John Macdonald of Carsgoe may be required to answer the said appeal, it is ordered that the said John Sutherland and John Macdonald may have a copy of the said appeal, and put in their answer, or respective answers, thereunto, on or before Monday, the 12th April next, and that service of this order upon any of the known counsel or agents of the said respondents in the Court of Session shall be deemed good service. The House being moved ' that James Chalmer, of Abingdon Street, Westminster, gentleman, may be permitted to enter into a recognizance for Sir Robert Sinclair of Murkle, baronet, on account of his appeal depending in this House, he living in Scotland, it is ordered that the said James Chalmer may enter into a recognizance for the said appellant as desired." A fortnight before, on 2nd March, 1790, were read in the House the petition and appeal of James Sinclair of Harpsdale, George Gunn Munro of Braemore, and George Sutherland of Brabster, freeholders of the county of Caithness, complaining of an interlocutor of the lords of session in Scotland, of 10th February, 1790, and also of two other interlocutors, of 24th February, 1790 ; and Sir Robert was ordered to answer on 30th March, 1790. The most striking circumstance of this appeal is that the recognizance for Harpsdale was John Spottiswoode, Sackville Street, London, the solicitor of the deceased Captain James Sinclair of Broynach, H.E.I.C.S., a portion of whose fortune he had heired, by will, proved by himself, the previous year of 1789. Were Spottiswoode and Harpsdale at this point vigorously prosecuting the rights of James, eldest son of Donald the Suitor, Hon. David of Broynach's second son, who was then certainly dead by the lapse of the longest life? And did a change come over the spirit of their generous action ? And what were the reasons, interested or public or private? On March 24th, 1790, Sir Robert's petition was presented to the House :—" That the petitioner having preferred his claim to be enrolled as & freeholder of the county of Caithness at the last Michaelmas head court held for that county, the majority of the freeholders, upon the most frivolous objection, refused to enroll him ; that the petitioner having exhibited his complaint to the Court of Session, their lordships, by repeated interlocutors, declared that the freeholders had done wrong, and ordered the petitioner's name to be enrolled; that to defeat this order or delay its operation (the petitioner being a declared candidate to represent the county), the appellants have presented their appeals to their lordships ; and as in these summary proceedings their lordships have been in use for the furtherance of justice to hear such appeals on bye-days, the petitioner humbly prays that their lordships will be pleased to appoint this cause to be heard on Tuesday, 30th March, or on such other day as the House thinks proper." It was ordered "that the petition do lie on the table." During the following few days there was a general shaking of hands all round, it would seem on the assurance that the Sarclat Broynach had declined to push his rights, and that he had accepted the chamberlainship at Thrumster -House. On 16th April, 1790, Harpsdale's petition was read in the House of Lords, and he was allowed to withdraw his appeal against Sir Robert of Murkle, without costs ; while, the same day, Sir Robert was allowed to withdraw his against John Sutherland and John Macdonald, also without costs. John

Davidson, custom-house officer, on this date, similarly stopped an appeal against Sir William Dunbar. The Broynach was sacrificed. His title and estates were to be usurped, as far as he personally was concerned, without care or hope of recovery. Such action, or want of action, is no prejudice whatsoever to his lawful senior descendant, James Sinclair, Mid-Clyth, now that affairs have come at last into such full light. That a majority of the lairds of Caithness refused to accept Sir Robert as one of them suggests everything but frivolity, even though the Stevensons had the letter of the law as to possession of the lands on their side, at least in the then state of knowledge. The details of the Court of Session suits may yet be found in the Advocate's Library, Edinburgh ; and it would be unwise to protest much as to the actual character of the freeholder opposition till then.

Meantime, a protest by the Earl of Selkirk and the Earl of Hopetoun in the House of Lords on 1st December, 1790, is illustrative. It was against Mey's vote at Holyrood House on 24th July, 1790, for representative peers, thus:—" That the petitioners apprehend and are advised that the proxy and votes of the said Sir James Sinclair, baronet, as Earl of Caithness, ought not to have been received, in respect that he is not in possession of the said title or peerage, but recently before the said election did at a meeting of the freeholders of the county of Caithness, and in proceedings before the Court of Session thereby occasioned, state himself to be a commoner, and disclaim the said title of Earl of Caithness till it should be adjudged to him in due course of law; and the said Sir James Sinclair's claim to the said title was at the time of the said election, and is now, in dependence before their lordships upon a petition presented by him to His Majesty, referred by His Majesty to their lordships, and by their lordships to the committee for privileges." It was further protested that Sir James, in tendering his vote at all, was guilty of a breach of the privileges of the House of Lords. After James, the chamberlain, had been, to use race-course language, nobbled, the path was clear for Sir James to win the blue-ribbon of the earldom ; and a retrospective decision of the lords freed him as to any danger from these premature votes, success always covering the multitude of whatsoever sins. The failure of John Spottiswoode to act for the Broynachs, whose money he was then enjoying, is one of the many mysteries which, by the very nature of such intrigues, are difficult to unravel.

Enough is known to give assurance that, as Josiah Tulloch put it, "the Broynachs were dispossessed by rascality ;" though it may be difficult to apportion to particular persons their exact share of the evil, however successful, transactions. Sir James of Mey showed reluctance or dread for some time to plunge into the sea of deception, which proved so disastrous and tragical to the two Ratters, his predecessors ; but *cherchez la femme* explains his final decision, as it does the worst features of this whole tale of unrighteousness and disinheritance.--- Yours, &c.,

THOMAS SINCLAIR  
Falmouth, October, 1891

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THE BROYNACHS AND THE EARLDOM OF CAITHNESS.

MURKLE-BROYNACHS IN BANFFSHIRE.

TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—In the most unexpected manner some original information has been secured about one

of the daughters of Donald the Sailor, Anne Sinclair, and also about her second cousin, Lady Dorothy Sinclair, Countess of Fife. The two brothers, Earl John and Hon. David Sinclair of Broynach, were the respective paternal grandfathers of these women ; and to find them in local and business connection with each other, is of real corroborative value to the claim of James Sinclair, Mid-Clyth. Lady Dorothy, the only lawful child of Earl Alexander, was born 4th April, 1739, and was married at Edinburgh on 5th June, 1759, to Viscount Macduff, eldest son and heir-apparent of William, first Earl of Fife. She was named after her grandmother Dorothea, Countess of Rosebery, daughter of Eveningham Cressy, Yorkshire. On 30th September, 1763, her father-in-law died, and her husband became James, Earl of Fife, who died without issue 24th January, 1809. Her father, Lord Caithness had put in the entail of his lands, as one of the heirs, the possible second son of Lady Fife; but she had no children, which was the grief of her and her husband's lives, though they were extremely wealthy. Lodge's " Peerage " of 1789 mentions their seats as Duff House, "a magnificent building with a large park near the town of Banff," Rothiemay House, Balvenie Castle, and Mar Lodge. This did not probably exhaust their mansions, for the Fife dukedom has now also Auchintoul House, Innes House, Delgaty Castle, Westerton House, Skene House, Eden House, in the counties of Banff, Aberdeen, and Morayshire, with Sheen House, Richmond, and 4, Cavendish Square, London. In 1760, however, Sir Harry Innes had Innes House, as Bishop Pococke in his " Tour through Scotland " of that year states. The bishop has an account of Duff House, the home to which Lady Dorothy went as a bride:—" A little way from the town of Banff, to the south, the Earl of Fife, a peer of the kingdom of Ireland, his ancestor Lord Macduff having forfeited, built a house of four floors and six rooms on a floor, with towers at the angles in which there are closets and back staircases. It is all of hewn freestone, brought by sea ready worked, as I was told, a great part of it in boxes from the Firth of Forth. The two middle stories of the towers are adorned with one tier of Corinthian pilasters, in the style of Lord Carlisle's house of Castle Howard in Yorkshire, and the attics with composite pilasters. To the three middle rooms every way are arched windows, and pediments over them. The chimneys are brought into the tower to what appears like a large pedestal on the coved roof of each of them, the attic story in the fronts being above the pediments, which with an entablature crowns the other stories. The under story is rustic. The ascent in the front to the south is by winding steps on each side, and leads to a saloon, over which is a room of a cube of thirty feet. Excepting the towers, it consists of seven windows in a story. Within, it is an exceedingly good house of thirty-four rooms and sixteen closets. It is now inhabited by Lord Macduff, Lord Fife's eldest son, who is married to the sole heiress of the Earl of Caithness." He says that Banff was "a well-built small town, pleasantly situated on rising ground and on a flat to the west of the river Deveron, at the mouth of which a basin is made by two piers in which a ship of 100 tons can lie with safety." Captain Donald Sinclair, " the Sailor," knew the port well, linen yarn and salmon its exports. It must have been agreeable to him for the following facts :—" There are a great number of the Church of England here, the wife often going one way and the husband another, so that there is no sort of animosity in the town on account of religion. Here is an episcopal chapel to which about 600 souls resort of the town and adjacent country." That his daughter Anne found her home in Banff gave it a special interest, of which later.

When the Countess Fife was married more than six years, her father Alexander, earl of Caithness, died, and a fresh chapter of struggle came into her life. Mackay, Thurso, in his history of the Mackays, says the Earl "left only one daughter, Lady Dorothea, who married the Earl of Fife. He was succeeded in the earldom by William Sinclair of Ratter, but he conveyed his lands to Sir John Sinclair of Stevenson, because Ratter had married Miss Sinclair of Scotscladder in preference to his daughter, and that the latter had married Lord Fife against his will." It has been seen that the sonless old Earl was always arranging methods by which his title and lands could be secured for a house of Caithness Sinclair, even proposing to

his daughter to marry James of Broynach ; searching in Sweden for a male heir, as Playfair says ; turning to the remote William of Ratter, whose illegal ambitions he effectually stirred up ; and finally outwitting himself by the admission of the name of George Sinclair, Lord Woodhall, the last on the list of his heirs in the entail of 1761, Sir John of Stevenson, Haddingtonshire, coming in as Woodhall's nearest of kin. Murdo Tulloch, who died in February, 1890, at Thurso, aged 81, said that Earl Alexander was reconciled to Lord Macduff before his marriage with Lady Dorothy ; and chiefly because of a simple personal visit, wholly unattended, to Haimer Castle, which pleased the aged nobleman. He further stated that her dowry was £40,000 Scots probably, part of which was the treasure, amounting to £13,000 sterling, seized at Tongue when the Hazard sloop of Prince Charlie was taken in 1746, the Earl having a gift as a loyalist. In Morrison's "Decisions" it is declared, under the date of 3rd February, 1787, that Earl Alexander settled his personal estate, " which was considerable," on Dorothea his only child, the Countess of Fife. If she had "second and younger sons," as the entail has it, one of them would have secured the real estate, " which was very considerable," that is, the Murkle, Broynach, and Isauld lands, before Sir John of Stevenson. But Dorothea Sinclair had no children. It is thus certain that her disinheriting was not by her father's intention, but by legal misadventure. She and her husband the Earl of Fife did not, however, tamely submit to the lands going so to an entire stranger to the family. They brought a law suit in the Court of Session on 24th June, 1766, against Sir John of Stevenson, founding on the last clause of the entail's destinations, "whom failing, to the Earl's own nearest heirs and assignees whomsoever." Sir John's counsel argued that he had the lands on a previous clause, " whom failing, to the nearest heir male of line whomsoever of George Sinclair of Woodhall, Esquire, senator of the college of justice." It was pleaded for the Countess that "heir male of line whomsoever" has no meaning in the law of Scotland, but the lords of session decided in favour of Sir John, on the letter rather than the spirit of the entail. See Morrison's "Decisions." She next appealed to the House of Lords. In its printed "Journals," of date 19th November, 1766, account is given of the reading of " the petition and appeal of the right honourable Dorothea, countess of Fife, and James, earl of Fife, her husband, for his interest, complaining of an interlocutor of the lords of session in Scotland of the 2nd August, 1766." Sir John of Stevenson was called upon to answer this appeal. George Urquhart of Grey's Inn, London, was recognisance for the Countess Fife, "she living in Scotland." Counsel were heard on the appeal, but the interlocutor was affirmed, not reversed as desired, the lords dismissing the case on 6th April, 1767. Nothing else could have been expected by her from the context of the entail. Her second cousin, James of Broynach, H.E.I.C.S., if Morrison's description of the document is right, came before both her and Sir John of Stevenson for the lands, in the second destination, " whom failing, to the earl's brother Francis and his heirs male." But Ratter's false ascription of illegitimacy to him put James out of these lands as well as his just title of Earl of Caithness. James was the nearest lawful heir male of Francis, next brother of Earl Alexander, and actually claimed the estates on this ground.

The same Hon. Francis, her uncle, left the Countess Fife his lands of Forsie, Westfield, Oust, and others, by special disposition, to which she was served heir on 28th October, 1767. See the Duff House records, where it is said that " Lady Fife, with consent of the Earl of Fife, her husband," sold all those lands to Colonel John Scott of Balcomie. His sole heiress. Miss Henrietta Scott, who had £20,000 per annum in 1795, the *Scots Magazine* says, was the ancestress of the Dukes of Portland. She, Marchioness' of Titchfield on 4th August, 1795, was one of Sir John Sinclair of Mey's largest creditors, and sequestrated part of his lands of Duncansbay. Lady Fife, with the sale of the lands she had from her uncle, lost all property connection to Caithness ; but tradition says her love for the county remained till her death. This event must have occurred the same year as the decease of her second cousin Captain James Sinclair, H.E.I.C. S., because there is a receipt, dated 26th September, 1789, for part of

"her executry or means obtained by James and Isabella Miller and Donald and Ann Oag as the great-grandchildren of Hon. David of Broynach, Lady Fife's grand-uncle. These are the persons whose names Captain James in his will did not know, but described them as the grandchildren of his paternal aunt Elizabeth Sinclair (Mrs Whyte), daughter of Hon. David by his first wife, a daughter of Dun. See Henderson's "Caithness Family History," p. 26. Though James the chamberlain and his brothers and sisters of Wick parish were a step nearer to Lady Fife than the Oags and Millers, they could have nothing, because of Ratter's success in 1772 branding them falsely as illegitimate. Does anyone know of the representatives of these Thurso legatees?

The above dates makes Lady Fife die before she was quite fifty, and much of her comparatively short life seems to have been supremely miserable. Mr William Cramond, Cullen, Banffshire, says. "That Countess of Fife did not live long with the Earl; there was a mutual separation." Of the thirty years between her marriage and death, it is not yet known how many they passed together. They were clearly acting in conjunction in 1767 before the House of Lords, and this was eight years after their marriage, and they probably lived together longer. The Tulloch already mentioned had an ugly story which may be explanatory of the dissension. Again and again it is being established that Tulloch traditions are notable for veracity. Want of a male heir to the Fife estates became extremely irksome to Duff ambition. It was known that a divorce would be a welcome solution. Lady Fife's own coachman attempted a criminal assault, tearing her ladyship's clothes, it is said, at the instigation of another's interests. The man was hanged, representations for his pardon, as not the principal culprit, indignantly rejected by George III. If such events occurred, separation was the immediate necessity. Her mother's life had early instructed her in the miseries of incompatibility and conjugal wrong, the story of Lady Margaret Primrose and Earl Alexander's quarrels the talk of the kingdom for many years.

It is time to turn to her second cousin, Anne Sinclair. Henderson in "Caithness Family History," page 27, says that Donald Sinclair, the "second son" of Hon. David of Broynach and Janet Ewen, had five daughters, of whom one was "named Anne, who married Alexander Mellis, merchant in Banff." The brothers David and James Sinclair, Geelong, have identified Anne as one of their grand-aunts, sister to James the chamberlain. Still closer knowledge of her has come to me through the kind offices of Rev. William Bruce, Banff; Rev. Alexander Miller, Buckie; Rev. James Mellis, Southport; Mr W. Macleod, Edinburgh; Mr Alexander Ramsay, publisher of the *Banffshire Journal*; Mr James Smith, town-chamberlain, Banff; and Mr William Cramond, Cullen, Banffshire, a learned local historian. It is to the research of the last-mentioned that the direct discoveries have to be credited. He has in his possession a box containing about 34,000 documents, the property of William Rose, Australia. These papers belonged to his father Patrick Rose, sheriff-clerk, Banff, and had been locked up for fifty years before being opened two years ago. Patrick's father William Rose was factor thirty years to Lord Fife from about 1770, and resided at Montcoffer, used since by members of the now ducal family. Some 1300 letters by James, earl of Fife, Lady Dorothy Sinclair's husband, has been offered for sale from the collection to the Duke of Fife; but it is feared that all the "Rose Papers" will be sent to Edinburgh for indiscriminate auction, which would be a local misfortune. From a first look at his notes out of these papers, and at the papers themselves, Mr Cramond has recovered important facts about Anne Sinclair (Mrs Alexander Mellis). "In 1763," he says, "Lord Fife appointed Alexander Mellis his factor at Banff, &c., in room of Robert Cumming." That this was Anne's husband there is no doubt. The name Mellis is unknown in the district of Banff, and it does not occur on any tombstone of the old churchyard of the town, so that there can be no confusion from the existence of more than one Alexander Mellis in the locality. His appointment as chamberlain or factor of the Fife estates, must have been gained through his wife Anne Sinclair being favoured by her second cousin



Lady Dorothy Sinclair, Countess of Fife, such positions then going only to family connections. He held it for some years, but at his death in 1770 he is described as " Mr Alexander Mellis, merchant, Banff," so that Mr William Rose had succeeded him before that date. The separation of the Earl and Countess of Fife may be the explanation of his demission of the factorship, Lady Dorothy's relatives no longer in power through her favour. Anne Sinclair died the same year as her husband the following account shows:—"1770.— Alexander Ramsay, vintner. For entertainment at Mrs Mellis's burial, Banff. To 1 dozen claret, 30s; 2 bottles red and 2 bottles white port, 8s; 3 mutchkins punch, 7s 6d ; 6 bottles porter, 2s; cheese, 2s ; total £2 9s 6d." Another bill runs :—" The executors of Mr Alexander Mellis, merchant, Banff. To the town of Banff. May 18th, 1770. To bells tolled and doubled at the interment of the said Mr Mellis, 5s ; and to the town's best mortcloth, 5s." Among the Rose papers are other Mellis accounts, and the " settlement of Alexander Mellis, merchant, Banff Head, at Gellymiln, 1770, Anne Sinclair, his spouse." There are documents also of 1771 relative "to the affairs of Alexander Mellis, merchant," and a letter addressed "Geo. Mellis in Burnside of Munduff," in the shire of Mearns, to be left at Carnhill on the king's way to Stonehaven from Aberdeen." The accounts of 1770 and 1771 are in two bundles, and must have many secrets. A big bundle refers to the "affairs of William Mellis, 1774 ; Alexander Mellis, merchant, Banff; and John Mellis, merchant, Edinburgh." Mr Cramond writes, " I have a letter by John Rose, written to his nephew or near relation William Rose, who was factor to Lord Fife for about thirty years in the end of last century. It is of date 9th April, 1766. John Rose was an upper servant in Lord Fife's house. He ends the letter thus:—" Compliments to all my enquiring friends, Mr and Mrs Mellis, Mr Dolt, &c." Mrs Mellis is Anne Sinclair, daughter of Donald the Sailor, and sister of James the chamberlain, Thrumster House ; and her husband Mellis was then chamberlain to the Earl and Countess of Fife. The influence in favour of his successor, William Rose, is to be gathered from the father John Rose's position. If Dorothy the countess gave the factorship to her second cousin, Anne Sinclair's husband, soon after her own marriage in 1759, he may have held it for nine or ten years.

The Mellises, like their Fife superiors, seem to have been childless, as a professional search in the Register House, Edinburgh, of Banff parish register would appear to establish. Who their present representatives may be is an interesting question. The chief magistrate of Huntly is James Mellis, merchant, a town twenty miles from Banff. Sheriff Mellie, late in Kirkwall, and his brother Rev. James, Lancashire, relatives or close personal friends of the Lord President of the Court of Session, J. P. B. Robertson of our university days at Edinburgh, may be of the family. The Rev. James Mellis writes—"I have had the impression that our family have links with Banffshire, but have never been able to verify this. I do know that my grandfather, James Mellis, had a small property in Kincardineshire (the Mearns of the Rose papers), some miles from Stonehaven. He died between 1801 and 1804. His widow and family then removed to Perth, in which town and neighbourhood my father spent his boyhood and early manhood." This father was, I think, a clergyman of the Church of Scotland in Perthshire. The " Services of Heirs" mentions a James Mellis who changed his name to Nairn on succeeding as heir of entail, 14th June, 1811, to his great grand-uncle Sir William Nairn of Dunsinnan, Perthshire, lord of session. Peter Mellis was married to Louisa Brander early in the century, and Jean Brander to another Mellis, the latter Brander drawing £500 yearly, from 7th May, 1838, out of Lingiestown, Forres, Morayshire, she resident in Pennsylvania, U.S.A. It was in right of her mother at Cloves, Elginshire. James Mellis, Aberdeen, was a merchant in 1791, married to Anne Gray ; and there was a Dr John Mellis, London, who heired his uncle, George Mellis, Edinburgh, 30th March, 1810. There are others besides, though the surname is not common ; but end must be made with Alexander Mellis, innkeeper, Keith, whose daughter Isabella, Wife of L. Smith, farmer, Grane, Elginshire, heired him on 20th October, 1840; and with Janet Mellis, wife of F. Reid, Mains of Boddam, Aberdeenshire,

whose son Robert heired her 25th July, 1764.

To the general Broynach question Mr Cramond contributes important information :—"In 1791 Mr William Rose, Montcoffer, sent Lord Fife 23 separate covers with Caithness peerage papers to establish certain points as to succession, trying to prove that James Sinclair of Mey is entitled to the title of Earl Caithness. Francis of Murkle was an officer in the regiment raised by his brother for the king of Denmark in 1627. He returned to Britain in 1635, and his son James lived in Edinburgh in 1648." The following copied from a "list of papers returned to Duff House by William Rose, factor, 11th June, 1796," reveals the ground and possible accuracy of the Tulloch's tradition as to the illegitimacy of the Meys ; the Barracks, they said the lawful representatives of George, chancellor of Caithness. The list is in Rose's own handwriting, and includes this:—"CAITHNESS. I have to deliver a great mass of papers which I collected, with many months' labour, out of hogsheads at Hemer (Earl Alexander's castle near Thurso) untouched for forty years. They were of use in Skaill and Sir Robert Sinclair's processes, and may be of use still . They contain ancient titles of the Caithness estate, claims against Lord Caithness and Mr Francis Sinclair, extinction of Skaill and other burdens. Besides these, there were sent to the last Earl of Caithness, under cover to the Earl and Sir James Duff, a number of papers to clear up some questions. There were also sent, under his lordship's cover, four packets to Alex. Grant, W.S., for clearing up the present Earl's pedigree, which I did, from the imputation of *filius carnalis* (natural son), and he prevailed." It is thus manifest that Sir James Sinclair of Mey, the usurping "earl" of 1793, had to vindicate himself from bastardy ; but there being no cross-questioning of William Rose's "clearing, " or even publication of it, the matter still lies unproved. If Hon. David of Broynach and Janet Ewen had not been married, it was probably one of the Barracks and not Sir James who should have succeeded to the second Ratter. But Janet's proved marriage dispossesses them all, in favour of the Mid-Clyth representative of the Broynachs, the senior lawful line.--- Yours, &c,

THOMAS SINCLAIR  
Falmouth, October, 1891.

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## THE BROYNACHS AND THE EARLDOM OF CAITHNESS

### CONCLUDING EVIDENCE, WITH PEDIGREE.

#### TO THE EDITOR OF THE NORTHERN ENSIGN.

SIR,—It was calculated, by a general analysis, that the birth year of James, the tenth earl of Caithness, Captain Sinclair, H.E.I.C.S., was 1744. New light as to this most important date is to be gained from close attention to the evidence of Alexander Ross and Alexander Macleod in Ratter's proof of 1767. The latter accompanied David, the father of James, part of the way from Thurso to Wick, when he had the rout to go as a recruit to join the British forces in Flanders for the Dutch war. David Sinclair signed on the road four or five miles from Thurso the confession of paternity of James, which Macleod wrote out for the mother, Margaret More, who had followed the departing soldier, the child yet unborn. If the date of this incident can be fixed, the birth of Captain James will be ascertained within a few months.

There were two stages of the Dutch war. The first began actively at the end of February, 1743,

when an allied army of British, Dutch, Hanoverians, and Austrians set out from Flanders, most of which then belonged to the empress -queen Maria Theresa of Austria, to fight the French in her interest on the Rhine. The king of England, George II, joined this army of 44,000 men in June ; and on the 27th of that month, 1743, under his direct command, they defeated the French in the battle of Dettingen, losses respectively 2000 and 5000 men. Nothing further came of that campaign, and nearly all the allied troops were disbanded, except a handful which returned to Brussels to be the nucleus of a fresh army for the spring of 1744. In May of this year at that town so well known since to the British mind through the battle of Waterloo fought in its vicinity, an army of 70,000 allies of the same nationalities had again assembled to drive the French from Austrian Flanders. They had most indifferent success, which culminated in what one historian calls the "glorious defeat," losses 9000 and 5000, of Fonteney, on 11th May, 1745, a Belgian village. Before this, in March, 1744, the French all but succeeded in a formidable invasion of Britain, a storm of the English Channel on the 6th saving the country. Some troops had been recalled from Flanders for defence. In July, after the disaster of Fonteney, Prince Charles Stuart arrived in the Highlands, and more soldiers were withdrawn from the Continent. The Duke of Cumberland, son of King George II., on 27th April, 1746, defeated finally the Stuart, dynasty at Culloden Moor, Inverness, and gained the sobriquet of the " Butcher," from his cruelty as conqueror. He never tasted much of the sweets of victory, being the leader of the English at Fonteney, and after his return to the Dutch war from Scotland suffering all kinds of military humiliations. The peace of Aix-la-Chapelle, which was concluded on 18th October, 1748, practically saved the allies from the worst, the French uniformly successful against inefficient generals. This closed the second and last stage of the Dutch war, all Europe pacified. Nine years later, the French compelled the Duke of Cumberland and his army to capitulate; so that to fight under such a general was not the happiest fate for a brave soldier, Culloden his only laurels, and what laurels!

David Sinclair may have been all the years from 1743 to 1748 of the Dutch and Scotch wars a combatant ; and, if so, his eldest son, Captain James, H.E.I.C.S., tenth Earl of Caithness, was born in one of the early months of 1743. To have joined the first muster in Flanders, David should have had to leave Caithness towards the end of 1742. But Carlyle, in his "Frederick the Great," says that on 31st March, 1744, in consequence of the French attempt at invasion, a general press begun for recruiting his Majesty's regiments in each county, 6d a day the pay, and that the press ceased on 16th June. Subsistence money in Flanders was 4d a day. See Cobbett. It is more probable that David was a recruit for the second muster, May, 1744 ; and in that case 1744 was the year of his confession of paternity on the road between Thurso and Wick, as also of his son's birth, and of his baptism by Rev. James Gilchrist, Thurso, at the instance of Margaret More, the then unmarried mother.

Smollett the historian has the following:—At the beginning of the Dutch war, a regiment of Highlanders had been formed and transported with the rest of the British troops to Flanders. Before they were embarked, a number of them deserted with their arms, on pretence that they had been decoyed into the service by promises and assurances that they should not be sent abroad ; and this was really the case. They were overtaken by a body of horse, persuaded to submit, brought back to London, pinioned like malefactors, and tried for desertion. Three were shot to death *in terrorem*, and the rest were sent in exile to the plantations. Those who suffered were persons of some consequence in their own country, and their fate was deeply resented by the clans to which they belonged. It was considered a national outrage, and the Highlanders, who are naturally vindictive, waited patiently for an opportunity of revenge." He makes this one of the inciting causes of the rebellion of 1745. By one of Horace Walpole's letters, dated May 30th, 1743, the exact time of the meeting is known. Sir Robert Munro was the colonel of this Highland regiment of 800, the mutineers 109. " Three companies of dragoons are sent after them." Klose, in "Memoirs of Prince Charles Stuart,"

says they were the Black Watch or 42nd, founded after the rebellion of 1715 to overawe the Highlanders, but become Jacobite. It seems to have been recalled from Flanders, for Foulis, the colonel, was slain at the battle of Falkirk (Pococke's "Tour." p. 176), fighting against Prince Charlie, 17th January, 1746. The Scotch Fusiliers under Colonel John Campbell were brought across to join Sir John Cope's unfortunate army, and fought at Culloden. Cobbett in his "Parliamentary Register" tells of 15 new regiments being raised by the noblemen of the counties, and it is therefore difficult to decide on general grounds as to the corps of a private, but as David enlisted under Captain George Sutherland, brother of James of Langwell, the knowledge of the captain's regiment and his, may be discovered. He is Major Sutherland, Midgarty, in Henderson's "Family History," p. 168, and may be the Colonel Sutherland of the Scotch brigade, Dutch service, mentioned on page 160, though "brigade" is still indefinite.

If the 42nd was David's regiment, he was not one of those punished, because he went to the Netherlands. Ross's evidence testifies to his return "From Holland to this country." The British re-embarked finally from the continent on 18th October, 1748, the day of the signing of the European peace of Aix-la-Chapelle. Soon after their arrival 20,000 soldiers and 34,000 sailors and marines were disbanded from the service, the military establishment reduced to 18,857 men. David Sinclair returned to Caithness. The Government settled 4000 of the discharged forces as emigrants in Nova Scotia with a most generous hand, while doing all it could otherwise to save the public from the dangers of so many being thrown idle on the country. For some light on the character of David's military life, see the memorial by Lieutenant John Gunn, a loyalist like most of his surname, pp. 164, 165 of "The Gunns." These two Caithnessmen were in the Dutch war together, the Earl of Caithness's first cousin a private. His service of four or five years probably gave him no pension, but he may have saved something, for he married Margaret More when he came back, which could not be sooner than 1748. Necessity compelled him to seek his living on the Moray side shortly after ; and it was on his way thither from Thurso, when beyond the mill of Ormly, that he said to his friend Alexander Ross, who was accompanying him some miles in kindly farewell, "it was hard upon him to leave his own country with Margaret More and another man's child," meaning James. The boy could not be younger than five, and he may have been six or seven. The family were three years on the Moray side, when they returned permanently to Thurso. As there seems to have been only another child, John, certainly no more male children, the inference is that David, whose health was broken, died not long after coming back, and 1755 has been given as the likeliest date, when he was 56. Whatever was the fact about James, the signed confession and the marriage of Margaret More gave him all the rights of a lawful son. It is thought that it was at Avoch, on the other side of the Moray Firth, David lived for those three years, in the employment of his brother, Captain Donald Sinclair, the Sailor, whose home was in Sarclet, Wick. But it may not have been so, and Captain James Sinclair's ignorance, if real and not designed, to his death in 1788, of Donald's Sarclet male children, would help this conclusion. It has to be remembered that he was only a boy about from six to nine when on the Moray side, and for good reasons, even rivalry, may have heard nothing of his cousins of Wick parish from their reserved father. Rev. James Smith, in the "Statistical Account," 1793, says that on account of good accent and English speech some supposed the Avoch people, his parishioners, were "descendants of a colony brought from some distant part of the kingdom, especially as the common people in all the parishes around speak mostly in Gaelic." The mystery is cleared up by the fact that they were largely from the parish of Wick, and David Sinclair would have gone there as to a known Caithness colony, with which his brother Donald's vessel regularly traded. His short stay of three years may have meant that Donald the Sailor neither countenanced him nor his wife Margaret More, nor their doubtful child James. David had reached the lowest social levels, in one instance being the servant of Charles Oliphant who was himself only the servant of one of the legitimated

Ulbsters. On the emigration to the Moray side information may yet arise of a more definite cast. A stray example of how unexpectedly corroboration of past facts can come, is to be found in the Rev. John Brand's "Description of Orkney, Zetland, Pentland Firth, and Caithness." It will be remembered that he was one of the commission from the General Assembly sent in 1700 to investigate about David of Broynach and the Rev. Arthur Andersen. In his book appears the following:—"Another adulterer also compeared before us, who continued in the commission of this his sin for many years, and bears in his face the shameful reproof thereof, and the just marks of the Lord's indignation against him for the same." Though not named, this is "Bochie Davie;" and the malicious reference, as one of Job's wiseacre friends, is to the cancer he suffered from in his old age, to which fact witness was given in Ratter's proof of 1767. What of the late Emperor of Germany? Are all invalids wicked? The mention of the Dutch war has similarly cleared up beyond expectation several years of the biographies of principal persons in the Broynach inquiry, and many other analyses of the kind could be made from such comparison of evidence with accepted facts, private and public.

Pressure of time, not the exhaustion of materials, enforces the winding up of these letters. Mr Henry Lynn, barrister-at-law, the Temple, London, wishes James Sinclair, Mid Clyth, to be served nearest heir of Alexander Sinclair, the ninth earl of Caithness, before the coming general election, if possible; the business of electing representative peers for Scotland part of that approaching event. The great courtesy of Mr William Daniel Kemp, Edinburgh, the careful editor of Bishop Poccocke's "Tours," and author of several interesting works upon Sutherlandshire, has put into my hands a quantity of relevant matter, which the *Northern Ensign's* historical columns may hereafter give in full to the public. His greatly appreciated and most valuable favours consist of the case of William Sinclair of Ratter for the House of Lords in 1771, making 12 closely-written quarto pages, with technical pedigree additional; the case of Captain James Sinclair, H.E.I.C.S., dated 25th July, 1787, for the reduction of Ratter's service as nearest lawful heir to Earl Alexander in favour of himself before the Court of Session, extending to 15 quarto pages, composed by the wit and orator Henry Erskine, Lord-Advocate; the case of John, Earl of Caithness, in reply, the son of William of Ratter, dated 28th July, 1787, amounting to 17 quarto pages, by Alexander Abercromby, his counsel; copy of MS., appended to the two last-mentioned printed cases, by Mr Blair, one of Captain James Sinclair's lawyers, dated December, 1787, including full extracts of Orlig session and Caithness presbytery evidence of the marriage of Hon. David Sinclair of Broynach and Janet Ewen, altogether making up 34 quarto pages; and, lastly, the case of Sir James Sinclair of Mey, with pedigree, on which he obtained unjustly the title of Earl of Caithness, 4th March, 1793, reaching to 42 quarto pages. Mr Kemp has also sent me books and notes of real point. A catalogue of William of Ratter's charter and documentary proofs of descent, copied at the British Museum, 11 folio pages, with pedigree, is also in my possession. I have myself recently extracted full copy from the printed "Journals of the House of Lords" to an indefinite number of pages, not only with respect to the mistaken installations of William of Ratter in 1772 and Sir James of Mey in 1793 as Earls of Caithness, but also in regard to various transactions before the House about the extraordinary occupation of Earl Alexander's lands by the Haddington Sinclairs, as well as the sale by Sir John Gordon of that stranger branch, by an Act of Parliament of 1814, of "such part of the estates of Murkle, Isauld, and others in the county of Caithness, belonging to Sir John Gordon Sinclair, baronet, as shall be sufficient for the payment of debts affecting the same."

The readers of the *Northern Ensign* can have every scrap and tittle of this mass of original and official documents, if its columns have not already been overweighted with Broynach lore, and should some public demand be made for the production through the editor, publicly or

privately. Meantime, some passages of direct hearing on the claim of James Sinclair, Mid Clyth, may be given as a conclusion for the present, and perhaps for ever, if his service of nearest heir-male to Earl Alexander should be completed on the evidence already available. A narrative from the *Highland Monthly* by Mr Kenneth Macdonald, solicitor, and town-clerk of Inverness, of the gist of the two cases of 1787 has been quoted as most satisfactory ; but there are further points not mentioned there. For example, the pursuer Captain James Sinclair, H.E.I.C.S., was, after his return to Britain on 24th June, 1786, "informed that Mr Andrew Robertson, late minister of Kiltarn, in Ross-shire, who had been schoolmaster and session-clerk of Thurso, and clerk to the Presbytery of Caithness, recently after Broynach's marriage with Janet Ewen, being upon his deathbed about the period of the former proofs (1767, etc), and hearing of the point at issue, had declared to a neighbouring clergyman that Broynach and Janet Ewen were married persons, and had their children baptised as such, by Mr William Innes, then minister at Thurso." The pursuer also sent his agent to Caithness, who recovered not only the ecclesiastical evidence lately extracted for me by Rev. A. H. Gillieson, B.D., the presbytery-clerk, but this in addition, which defines the occasion and time of Janet Ewen's punishment and marriage with unexpected accuracy, appearing in the MS. addition to the Captain's printed case as follows:—"Thurso, 11th November, 1699. The presbytery met, with sederunt, Mr William Innes, moderator, Mr John Munro, Mr George Oswald, Mr William MacBeath. Prayers were said. Mr William Macbeath, minister at Olig, representing David Sinclair in Broynach and Janet Ewen, his concubine, for their uncleanness, who being cited several times to compear before the presbytery, and at their appointment charged over the pulpit by Rev. John Gibson, having the presbytery's order for that effect, and yet they still continuing obstinate, the presbytery appoint Mr William Macbeath to proceed against them in order to excommunication.

"Thurso, December 6th, 1699. The presbytery met, sederunt (as above). David Sinclair of Broynach and Janet Ewen, his concubine, called, compeared not and the presbytery taking their persistent obstinacy and scandalous conversation to their consideration did, and hereby, recommend to the sheriff to cause apprehend the said obstinate scandalous persons, in order to be dealt with according to the Act of Parliament against prophaneness ; and appoint their clerk to extract and intimate their said Act to the sheriff as said is."

A note on the margin of the MS. reads, " Whether from the tenor of this recommendation, which at that time was formidable, or from any other cause, the parties were soon after married by Mr Arthur Anderson, who appears to have been an episcopal clergyman."

But there is more fresh ecclesiastical evidence:—"Thurso, June 5th, 1700. The presbytery met, sederunt Mr Innes, moderator, Mr John Monro, Mr George Oswald, Mr John Macpherson, and Mr William Macbeath. Prayer said, Mr Arthur Anderson, pretended preaching deacon, was for several irregular marriages and baptisms in these bounds ordered to be cited against the next presbytery day."

Between 6th December, 1699, and 5th June, 1700, therefore, Janet Ewen went through the hands of the sheriff in the Thurso public whipping, and also celebrated her marriage with the Hon. David Sinclair of Broynach, Earl John's only brother.

With respect to the ecclesiastical commission's report of 1700 this appears;—" Edinburgh, 7th March, 1701. The book attested by the General Assembly, after being revised in terms of the Acts of Assembly." The MS. gives 1699 as the date of the money correspondence between Rev. Arthur Anderson and Earl John, " who wanted to prevent the marriage" of Broynach to Janet Ewen. Another note is, "Broynach and his wife did not appear" (before the commission of 1700)," as they were unwilling to give evidence against the clergyman who married them."

The phrase of "thrice they slew the slain" may be applicable to insisting further on the fact and validity of Janet Ewen's marriage; but what Captain Sinclair's counsel says, with the exception of his statement that Broynach was not a man of education corresponding to his nobility, forms a suitable and decisive last word, thus:—"David Sinclair was the brother of Sinclair of Murkle who became Earl of Caithness, but was in a mean position, living upon a pendicle of the estate of Murkle without substance or education, so that except his pedigree there was no woman who was not a suitable match for him. Janet Ewen was his servant. They cohabited together and afterwards married. All that remained was for Broynach and his wife to make satisfaction for their connection before marriage, an offence which was not to be passed over with impunity. Accordingly there followed a train of proceedings against them before the kirk-session of Orlig for antenuptial fornication. Here the proceedings close. The subsequent records of kirk-session and presbytery have been examined, but the name of Broynach or his wife is not to be found." After discussing the ecclesiastical evidence, Blair concludes that "we have here all the different forms in which a marriage can be constituted, a proof of actual celebration; the acknowledgment of the parties; the habit and repute of the parish (all established by authentic written documents); and, lastly, the silence of the books from January, 1702, although it is incontestably proved that Broynach and Janet Ewen cohabited till his death, which was not sooner than the year 1713." He gives examples of the rigour of church discipline at the time, and continues, "During this hot and violent war against immoralities, there is no mention of Broynach and Janet Ewen, because they were married, and, as Rev. Arthur Anderson says, 'put out of the necessity of sinning.'" After further showing the completeness, in establishing the marriage, of the ecclesiastical evidence, he offers to "prove the fact that the registry record was carried to the house of Ratter, and that means were used to prevail upon Mr Oliphant to destroy or put it out of the way." He further questions whether William of Ratter's agent did not know of the kirk-session and presbytery records as absolute proofs of the marriage. It seems that it was the parish registers on which the attempt at destruction was made.

John of Ratter's reply to Captain Sinclair's action of reduction consisted of a detailed narrative of all the steps which ended in his father William being adjudged the title of Earl of Caithness in 1772. His sole plea was that the matter was *judicata res*, adjudged affair, an accomplished fact; though every lawyer knows that new evidence, *noviter veniens ad notitiam*, with respect to title especially, can overturn any past decision of any court, including the House of Lords, the object of courts being to find out the truth. Incidentally, this case is remarkably full of historic interest, though worthless as a defence. It appears that James Sinclair took a proof at Banff in June, 1767, of which nothing seems now extant. But the witnesses examined there may have been the Rev. George Grant of his will; Anne Sinclair, wife of the factor of the Earl and Countess of Fife, which Anne was daughter of his uncle Donald the Sailor; and the Countess herself, Lady Dorothy Sinclair, Earl Alexander's only child. In June and July at Edinburgh, additional proofs were taken for James and Ratter; one witness, Elizabeth Sinclair, probably the aunt of James, Mrs Whyte, being particularly quarrelled about by both sides. James was present in the court of session on 21st July, 1770; and heard the judgment for Ratter as nearest lawful heir-male to Earl Alexander, which falsely stamped him and the rest of the Broynachs as illegitimate. The House of Lords ordered Ratter on March 16th, 1772, to notify his claim to the Countess of Fife and James Sinclair, which was done by a notary-public, one of the notices served "at the dwelling-house in Edinburgh of James Sinclair, the pursuer, where his wife then resided." He had previously received his cadetship from the London directors of the East India Company and sailed in February, 1772, for Calcutta, his wife thus left behind at the outset. Captain Sinclair's counsel in 1787 asserted that so uncertain was Ratter of his right to be Earl of Caithness that he "applied to the pursuer to ratify the decision of the lords of session by a paper deed under his hand, promising that be

should either get an ensigncy in the army by his means or a liferent tack on his estate, but the pursuer rejected both proposals." After mentioning his 14 years' absence from Britain, Blair continues, " But neither change of place nor years of hard service were able to efface from his mind the memory of that judgment of the court, which in place of the head of a noble family had placed upon him the ignominious state of the son of a bastard, a spurious breed which the law disavowed, and whom his noble relatives would disdain to acknowledge." His death on 11th January, 1788, put a stop to his active exertions to wipe off the stain on his lineage, after his return to his native country, the wealthy captain of whose brave contest for justice so much is now known, and whom fate alone defeated. Popular demand, however, may be made for the verbatim publication in the *Northern Ensign's* columns of these various inestimable papers, which are full of corroborations of the Broynach rights.

It now only remains to give the pedigree of James Sinclair, Mid-Clyth, as claimant of the title and dignity of Earl of Caithness, nearest lawful heir male to Earl Alexander, who died 9th December, 1765, this earldom confined by state enactment to male heirs.

#### PEDIGREE OF JAMES SINCLAIR, MID-CLYTH.

Sir James Sinclair of Murkle had two sons, John, who became eighth Earl of Caithness in 1698, and David of Broynach. Earl John was succeeded by his son Earl Alexander, ninth earl, in 1705, who died without male issue in 1765. The succession vested then in the descendants of his uncle David of Broynach. David had two sons, David the elder and Donald the younger. The son David was father of Captain James, H.E.I.C.S., and of John, both of whom died without issue. The succession then stood in the descendants of Donald. Donald's eldest son was James, chamberlain, Thrumster House, whose eldest son was Alexander, whose eldest son was James, whose eldest son is James, Mid-Clyth, nearest lawful heir male to Alexander, the ninth earl, and therefore, claimant of Caithness peerage.

P.S.—Though these letters have been printed with great journalistic accuracy, dates and words have inevitably gone sometimes wrong; but the context will correct most of the few slips, and anything essential is still open to rectification, if attention be drawn to it by those interested in their efforts to obtain natural and legal justice for the head of the House of Caithness and of the Sinclair lineage.

Yours, &c.,

THOMAS SINCLAIR  
Falmouth, October, 1891.