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N^o 135.

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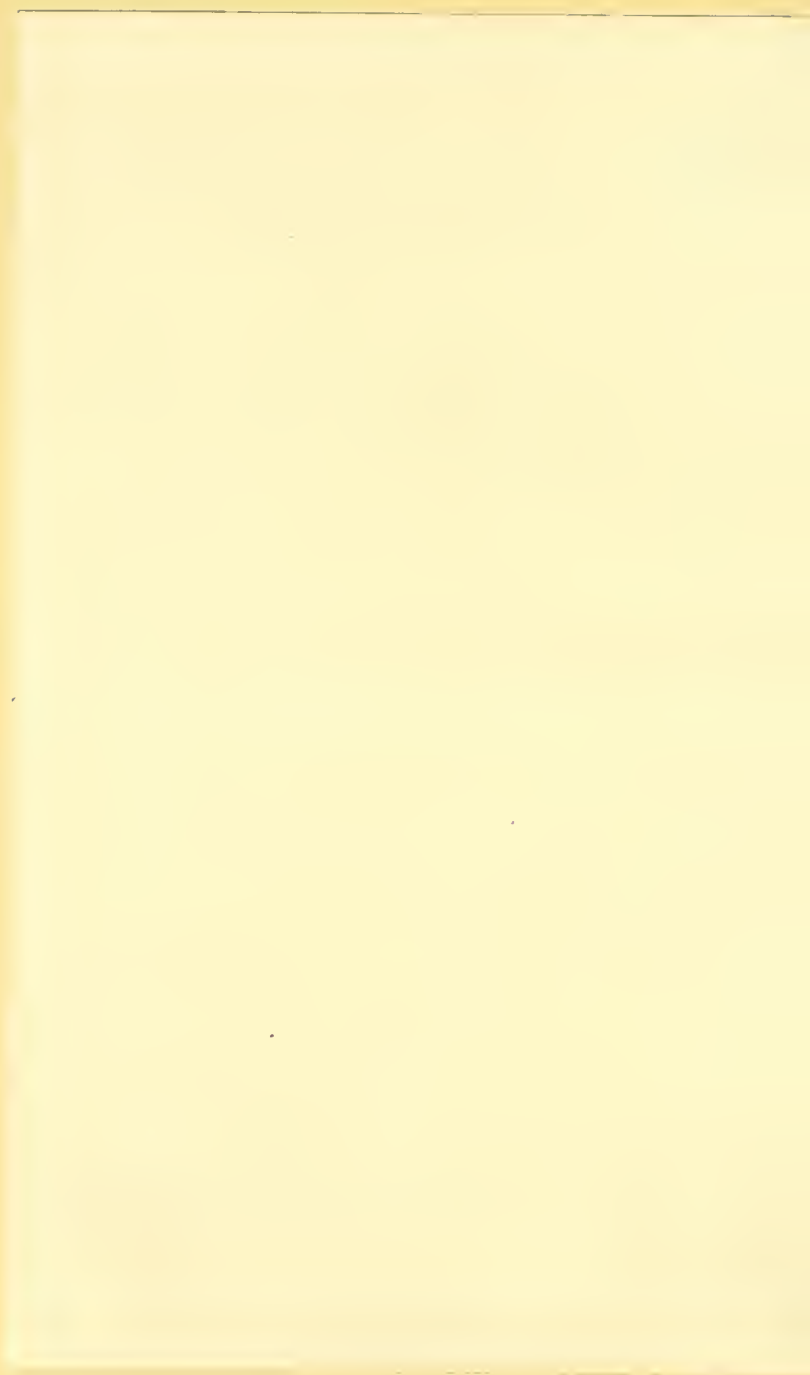
By desire of Mr Hope Johnstone of Alnandale, I have the pleasure to send you a presentation copy of his Family Book for the Library of The Faculty of Advocates; and I will be obliged by your favouring me with an acknowledgment for the receipt of the two volumes.

I am, Yours very faithfully,

Wm Fraser:

P.S. The address of Mr Hope Johnstone is—
John James Hope Johnstone, Esq., Raehill, Lockerbie,
Dumfriesshire.

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NUNQUAM PARATUS
NON

THE
ANNANDALE
FAMILY BOOK
OF THE
**JOHNSTONES, EARLS AND
MARQUISES OF ANNANDALE.**

BY
SIR WILLIAM FRASER, K.C.B., L.L.D.

IN TWO VOLUMES.

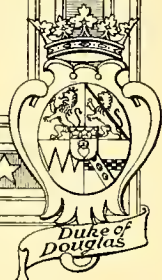
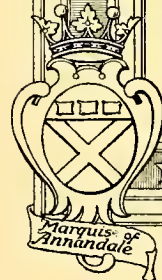
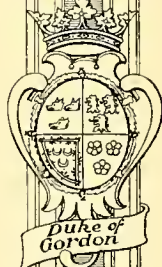
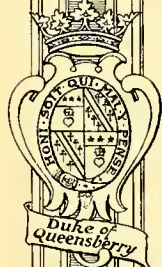
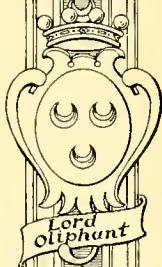
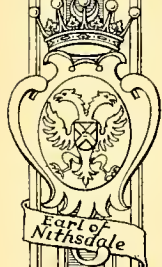
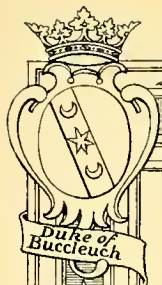
VOL. I. MEMOIRS AND CHARTERS.

EDINBURGH, 1894.

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Introduction

TO THE FIRST VOLUME.

THE DETAILED MEMOIRS, 1170-1721.¹

THE present History of the Johnstones of Johnstone and Earls and Marquises of Annandale consists of two volumes. The first volume contains detailed Memoirs of the Johnstones of Johnstone from John their first known ancestor, in the twelfth century, to his lineal male descendant, William, the first Marquis of Annandale, who died in the year 1721. These detailed Memoirs embrace a period of five centuries and a half, and eighteen generations of the Johnstone family.

In the earlier generations these detailed Memoirs are necessarily very brief owing to the scantiness of materials for minute historical and biographical notices of individuals who flourished from the twelfth to the fourteenth centuries. In the succeeding generations the charters and other muniments become more abundant. But towards the end of the sixteenth century the unfortunate feuds which then raged between the rival houses of Maxwell and Johnstone led to the wilful destruction by fire of all the charter muniments of the Johnstones then preserved in their ancient Tower of Lochwood. Such a loss could never be replaced, and the proofs of the existence of the earliest known Johnstones are only to be traced in the contemporary charters granted by the Bruces of Annandale to which the Johnstones were frequent witnesses.

¹ Vol. i. pp. i-cccxii.

Besides the origin and descent of the Johnstones of Johnstone which are dealt with in the detailed Memoirs, many questions which have become historical required to be specially noticed. The great Border battle of Dryfesands between Lord Maxwell and Sir James Johnstone of Johnstone and their respective clan followers, in the year 1592, resulted in the death of Lord Maxwell in the prime of life. The subsequent assassination of Sir James Johnstone in 1608 by the next and ninth Lord Maxwell, and the execution of Lord Maxwell, required to be as carefully investigated from the Johnstone point of view as they had been previously stated in the history of the Maxwell family in the Book of Carlsruock.¹

In the detailed Memoir of Sir John Johnstone of Johnstone who obtained the erection of the barony of Johnstone in the year 1542, it is shown how anxious he was for the intermarriage of his family with that of the Maxwells. This was a common practice in prominent Border Houses of healing their feuds. Even the poetic prediction of Sir Walter Scott that the war between the Kers and the Scotts would "never, never be forgot," has been happily falsified by the marriage alliances of the Scotts and the Kers, who are now the best of friends on the Borders.

A happy intermarriage between Sara Maxwell, daughter of Sir John Maxwell of Terregles, Lord Herries, and his wife Agnes Herries, heiress of Herries, and Sir James Johnstone of Johnstone, in the year 1588, led to favourable results for both families. Her son James, who became the first Lord Johnstone, was created Earl of Hartfell in 1643. The grandson of Sara Maxwell, also named James, became first Earl of Annandale of the family of Johnstone. He had a romantic career, in his early marriage with a daughter of the house of Douglas, and in his resignation of all his landed estates and peerages in the time of the commonwealth, for the express purpose of enabling his daughters, failing sons, to succeed to all his peerages and landed estates. The earl's original peerages of Hartfell were regranted

¹ Book of Carlsruock, vol. i. pp. 300-324.

to him by King Charles the Second after the Restoration along with three new peerages of Earl of Annandale, Viscount Annan, and Lord Lochmaben. These grants have formed the subject of litigation in the House of Lords for nearly a century, and are still in dependence there. In the detailed memoir of this earl, the formal instruments which he executed in favour of his daughters to entitle them to inherit his peerages and landed estates are stated in more minute detail than they have ever been previously. In the second volume of this work a particular narrative is given of these protracted litigations and the difficulties and variations of opinion which an eminent Lord Chancellor entertained regarding the right to these peerages of the late Mr. Hope Johnstone of Annandale.

THE MASSACRE OF GLENCOE AND THE DARIEN DISASTER.

The first Marquis of Annandale, who was the elder son of the first Earl of Annandale just mentioned, forms the subject of the last of the detailed memoirs in this volume. His lordship held many important offices of state, under five successive sovereigns. His connection, as president of the Scottish parliament in the year 1695, with the inquiry concerning the massacre of Glencoe, led to his direct official concern in that unfortunate tragedy. This could not be overlooked in a full statement of his detailed memoir, more especially as several facts connected with the instructions which were issued by King William the Third have been misrepresented to the prejudice of the king.

Another public subject had to be noticed in the memoir of the marquis. This was the unfortunate scheme of Darien, to which the marquis was a subscriber, along with so many of his countrymen, and which, like Glencoe, had disastrous effect for the time upon the government of King William. Both the subjects of Glencoe and Darien have been dealt with at great length by Lord Macaulay in his History of England, and also by Mr. Burton in his

History of Scotland, as well as separately in the "Darien Papers" which he printed for the Bannatyne Club. William Paterson was the founder of the Bank of England and of the less successful Darien scheme. He was a native of Annandale, and courted the patronage of the marquis. Several of his letters to his lordship are printed in the second volume of this work for the first time. One of the vessels of the Darien Company was named "Annandale," and its unfortunate career is noticed in the memoir of the marquis.

The TABULAR GENEALOGY, which is printed immediately after the memoir of the marquis,¹ affords all needful information of the successors in the peerages and estates of Annandale from the second and third marquises down to the present time. After the detailed Memoirs, and the Tabular Genealogy and notices of the CASTLES and MANSIONS of the Johnstones,² which are briefly described, there follow in this volume

THE CHARTERS OF THE JOHNSTONES.

The CHARTERS and Muniments of the Johnstones of Johnstone and Annandale necessarily form a large portion of the present volume, which is chiefly occupied with the muniments and the detailed memoirs of the family. To the charters are appended abstracts or translations of them.³ These afford full information of their contents.

THE ROYAL CHARTERS TO THE BRUCES.

Several of these charters are so very interesting for Annandale history that special notices of them may here appropriately be made. The two foundation charters by the good King David the First to Robert the Bruce, and the further confirmation charter by King William the Lion, have been lithographed and printed, and translated in the first part of the National Manuscripts of Scotland. As all three charters are so closely connected

¹ Pp. cccxiii-cccxxviii.

² Pp. cccxxix-cccxliv.

³ Pp. 1-133 of this volume.

D. de gra Rex Sec- Imre Baronib; suis & hoib; & amicis:
francif. & Angl. fit. Sciat me dedisse & concessisse Robt de
Bret & Arabaneno. & tota gra d' d'ruisa Dunegal de S'nto.
usq; ad d'ruisa Band Meschin. Et uolo & concedo. ut illam
tra. & suu castell bn. & honorifice: cu omib; consuetudinibus
suis teneat. & haec. Videt cu omib; illis consuetudinib; quas
Band Meschin unq; h'nt in Carduill. & in gra sua de Caby.
Job. & h'nt de Carduill meliores & libiores h'nt. & Custas fit
Engano. & Band de Sales & Alan. del & Wilt de Sumvill. & Beyens
Admund Comar h'nt. & Sona. & h'nt. & horu fit. & h'nt.

D. Rex Scotie Omnib; suis hominib; tota regie sue Francie & Anglie. &
Gallicis. Sal. Scitis me dedisse & concessisse Robo de Bpms & fructu &
hereditate illi & heredib; suis in foresto uallu de Andra ex uisq; parte Aquie
de ano sic diuise fo a foresto de Seleschepde quatenus supra sua procedunt
uersus Braduoc. & uersus Chud libere & quiete sic aliud foreste fuit
mele & libere. Quare defendo ne ulli uenturor in pdicto foresto in p ipu sup
forestati. x. libray. & ne ulli eor p pdictu foreste in preta uia nominata
D. Waltero Caricello. & Hug de Chornilla. & Waltero filo Alan
& Odouillo de Framulla. & Waltero de Lindegra. & Ricardo de Gage
nulla. ap Soap puenit. —

with Annandale, they are re-printed in an Appendix of Charters to this volume, and facsimiles of the two charters of King David are here introduced.

During the frequent residence in England of King David the First before his succession as King of Scotland, he had formed an intimate personal friendship with Robert the Bruce, the acquirer of Annandale. David probably supposed that the experience of Bruce in governing his own English lordships would conduce to the good rule and civilisation of the extensive Border lordship of Annandale, which formed the middle or third division of the county of Dumfries. The other two divisions of that county are Nithsdale on the west, and Eskdale on the east. But whatever were the real motives, whether of private friendship or public policy, of King David in making such a munificent grant, Bruce soon entered into possession of the district of Annandale, and governed it successfully from 1124 till the year 1138, when the Battle of the Standard, which was fought on 22d August that year on Cutton Moor, near Northallerton, changed the relations between King David and his favourite grantee of Annandale. The latter almost passionately endeavoured to dissuade the king against his ill-advised war with England. Bruce's address to his sovereign on that occasion was more in the style and language of an independent sovereign than a subject of Scotland as lord of Annandale. But his advice and his entreaties were disregarded, and the war proved disastrous to the Scots. Bruce did not long survive that battle, having died in May 1141, after governing Annandale for seventeen years.

His second son, also named Robert, succeeded to Annandale, and was the second Robert Bruce of Annandale from 1141 to 1190. He made charter-grants of the lands and fishings in Annandale to his friends and followers, as appears from the charters still preserved.

King William the Lion confirmed to this second Robert Bruce of Annandale all the land which his father and himself held in the dale of Annan by the same marches by which his father held it, and he after his father, to himself and his heirs in fee and heritage, as freely as ever his

father or he himself held that land of King David, the grandfather of King William, or of King Malcolm his brother. That confirmation charter excepted the rights of the king's royalty, which are enumerated as causes of treasure trove, murder, assault aforethought, rape, arson, robbery, which are reserved to the king. King William also granted to Bruce that these causes should be brought into court by one of the men of his fief to be chosen by the king, and pleaded before his justices. The grantee is to take the like customs as are exacted at Roxburgh, except the assize of his barony. That charter bears no date, but it must have been granted between 1165, when King William succeeded his brother King Malcolm, and 1191, when Robert Bruce the son of the grantee is proved to have been dead. The confirmation of King William now recited bears to have been granted at "Locmaban."¹

CHARTERS BY THE BRUCES OF ANNANDALE.

WILLIAM DE BRUCE, THE FOURTH OF ANNANDALE.

The Christian name of Robert prevailed so much in the Bruce family as to be almost hereditary in the eight generations which existed between the father of the Robert Bruce, first of Annandale, and his descendant Robert Bruce of Annandale and King of Scotland. The fourth Lord of Annandale appears to have been on the same terms of intimacy with King William as had subsisted between King David and the first Bruce of Annandale. William Bruce granted several charters of lands in Annandale, which are printed in this work.

The fifth Bruce of Annandale was Robert, who succeeded his father William Bruce. Robert married the Princess Isabel, second daughter of David, Earl of Huntingdon, younger brother of King William the Lion.

¹ National MSS. of Scotland, Part I. 1868, No. xxxix.

Robt^{us} debuit omnib; hominib; suis ⁊ amicis. Sat. Scias me debisse ⁊ concessisse ⁊ hac carta m^a confirmasse Iuoni ⁊ Kethib; suis locū q̄ est t^r piscariam de blaxad ⁊ aqua de hefel tenendū ⁊ me ⁊ Kethib; n^{ost}r^{is} ad piscarias suas faciendas ⁊ pecca tendenda lib^{er}a ⁊ quiete reddendo michi annuatū una librā piperis vel sex denarios h^{uius} testib;: petro ⁊ humer. hugon^{is} ⁊ cori. hugon^{is} fit igebald^{us}. Robt^{us} de hodelm^o Keth^{us} ⁊ bosco. h^{uius}frido ⁊ garbur^{us}. R^{obertus} Flā m^ae. henric^{us} fit garard^{us}.

Willo de br? omibz hōibz suis ⁊ amicus francos ⁊ anglos p̄teribz ⁊ futuris s̄to. **S**ciatis me deesse ⁊ possessio ⁊ huc plena carta contine
masse Ade de karleolo filio ⁊ hōibz suis kymannū p̄ rectas dūsis cū omibz p̄sentibus. ⁊ de ingravato totū q̄am cū bosco ⁊
pastura usq; streimeldech. ⁊ sic s̄dū ductum p̄ m̄dū in h̄icu que est de West ⁊ de spoch de streimeldech usq; la blanche lande usq;
ad p̄mū p̄onte de la blanche lande p̄tē unū. ⁊ tal de illo p̄onte excedendo usq; ad fontē unde dicit venire q̄ vocat̄ p̄ouasfordelch. ⁊
tal s̄dū illū ductū descendendo usq; ad s̄cū in Somerbech s̄cū qui talis p̄ Wale brygge. ⁊ tal s̄dū illū s̄cū usq; ad blabech. ⁊ tal
s̄dū blabech descendendo usq; ubi cadit in Gillewarantebch. ⁊ ut Gillewarantebch comunōne p̄stare cū illis de gillebi. ⁊ tū p̄os
brakanephe. ⁊ unū molendinū cū stagno ⁊ s̄de p̄torabili. ⁊ cū p̄torabilibz unū ad molendinū ⁊ ad aquā p̄ducendā ad molendinū
sup̄ polabian in c̄ruiro de camberes. ⁊ infra istas dūsis ap̄tē ḡdaz ille ⁊ hōes sui p̄terunt herbagere ⁊ essetare ⁊ edificia facē.
ubrumq; voluerit p̄tē in brakanephe. ubi n̄ p̄terunt domos facere nisi p̄ me. Habebunt ⁊ unū litas illi ⁊ hōes sui ad s̄cū p̄
fozestū apud lokwabian p̄ dalwōt. ⁊ ad dūmstet p̄ s̄odpelt. Unū istas etas ⁊ h̄ reventā cū omibz p̄sentibus habebunt ⁊ tērbunt
ille ⁊ hōes sui de me ⁊ hōibz meis in feudo ⁊ heritate. lītē ⁊ quere. honorificā ⁊ integre. in morialto ⁊ molendino. i. bosco ⁊ piano.
in p̄tā ⁊ p̄sentibus. in unū ⁊ feminis. in stagno ⁊ unū. i. omibz locis ⁊ libtāibz ⁊ dūsis esdem c̄ris p̄sentibus
q̄eris ab omibz seruicij ⁊ consuetudinibz. faciendo in ⁊ hōibz meis seruicij quare p̄tē unū multas omibz seruicij. Salua est in ⁊ hōibz
meis uersatione mea saluē ceruo ⁊ hīssa p̄ro ⁊ dūp̄tola. Istas uero etas cū molendino p̄sentibus ⁊ p̄sentibus esse c̄ris
p̄sentibus dedi illi ⁊ hōibz suis reventā de me ⁊ hōibz meis p̄ homagio suo ⁊ seruicij. ⁊ p̄ exambrio de lochdebi. quē s̄ob de bris
p̄tē meus dedi s̄cto s̄cū suo p̄ homagio suo ⁊ seruicij. Et istas etas ⁊ reventā cū omibz libtātibz ⁊ dūsis illis p̄sentibus ego ⁊
hōes mei carstazabian? illi ⁊ hōibz suis om̄e om̄es homines in reipe p̄tē. Et q̄do carstazabian n̄ p̄tē dabit? illis exambrio
suo de tal n̄tā in heritagis ad ualenciam. cū esdem libtātibz. ⁊ p̄ dem seruicij. Iste. Willo de hertz. Ada sit ade. Vadre de
hōdino. Hug. de brus. Hug. de esop. Henrico uiridac. Gilleb sit solus. Wilt de hertz. Wilt de hertz. Aug. malleuener. Willo de
hōyrule. Ada de dūmstet. Ric flandano. Ric del bos. Ric sit vadre. Simone apello. ⁊ omutas. Wilt.

This royal marriage ultimately led to the descendant of the Bruces becoming King of Scotland.

The sixth Bruce of Annandale was Robert, who was the eldest son and successor of his father Robert and the Princess Isabel his wife. In the year 1249-50 he was one of the Lords Justices of the common pleas of England. At first sight such a position indicates incompatibility with the ownership of Annandale. But the connections of the Bruces with England were from the first fully more prominent than with Scotland. The Lord Justice was afterwards made Sheriff of Cumberland and Governor of Carlisle, and in the following year, 1255, he was made one of the Regents of Scotland. He sat in the parliament at Brigham on 18th July 1290 as LORD OF ANNANDALE. On the death of Margaret of Norway in the same year, Bruce entered his claim to the crown of Scotland as nearest heir to King Alexander the Third. But his claim was repelled by King Edward the First on 17th November 1292. This Robert Bruce is best known in history as the COMPETITOR. He resigned his right in favour of his son Robert Bruce, who had become Earl of Carrick, and died at his castle of Lochmaben in 1295, aged 85.

There are several charters of special interest granted by the Bruces. The charter by Robert de Bruce in favour of Ivo and his heirs appears as the foundation charter of the family of Kirkpatrick. The charter bears no date, but, from the names of the witnesses, it must have been granted about the year 1190 by the second Robert Bruce of Annandale. It is very brief, as will be seen from an exact facsimile here introduced.¹ The third charter is by William Bruce, either the son or the brother of Robert Bruce, the granter of the charter to Ivo. Like the first charter, this one bears no date; but, from the names of the witnesses mentioned in it, it was probably granted between the years 1194 and 1214. But while in the first charter Ivo is designated simply by his Christian name, he is in the second charter designated "Ivo of Kirkpatrick."² This is an instance of a

¹ Charter printed p. 1 of this volume.

² *Ibid.* pp. 2, 3 of this volume.

person in the twelfth century, having only a Christian and no surname, taking a surname in addition to his Christian name from lands acquired by him and transmitting the surname to his successors.¹

Another of the Bruce charters is granted by Robert Bruce to Roger Crispin of the land of Cnoculeran. This charter is not dated, but was probably granted between the years 1215, when the granter succeeded to his father, William Bruce, and when Robert himself died in 1245. The two seals of the granter are still appended to the charter, both bearing the well-known saltire of the Bruce, and the lion passant in chief. Drawings of both these seals are given on the back of the lithograph of the charter. The ink in which that charter is written is even yet, after the lapse of six centuries, as clear and glossy as when it was originally engrossed. This will be seen from the facsimile here introduced. The charter is printed in this volume.

ROBERT BRUCE, EARL OF CARRICK, FATHER OF KING ROBERT.

Robert Bruce, the seventh Lord of Annandale, augmented his territorial possessions by a romantic marriage with Marjory,² Countess of Carrick in her own right. The marriage took place in 1271. Obscurity hangs over that marriage as well as the inheritance of the dignity of Earl of Carrick. The countess appears to have been recognised as owner of the earldom. But no patent of the peerage is known to exist, and the terms of the limitations are not in any known record. After his marriage Bruce appears as Earl of

¹ The Christian name of Ivo was continued in the Kirkpatrick family for many generations. In a charter by Robert, Duke of Albany, governor of Scotland, to Sir Thomas Kirkpatrick, knight, of the lands of Kyllosburne and others in the shire of Dumfries, on his own resignation, the lands were provided to Sir Thomas and Roger of Kirkpatrick, his brother, and the heirs-male of their bodies, whom failing to Yvo of Kirkpatrick, his

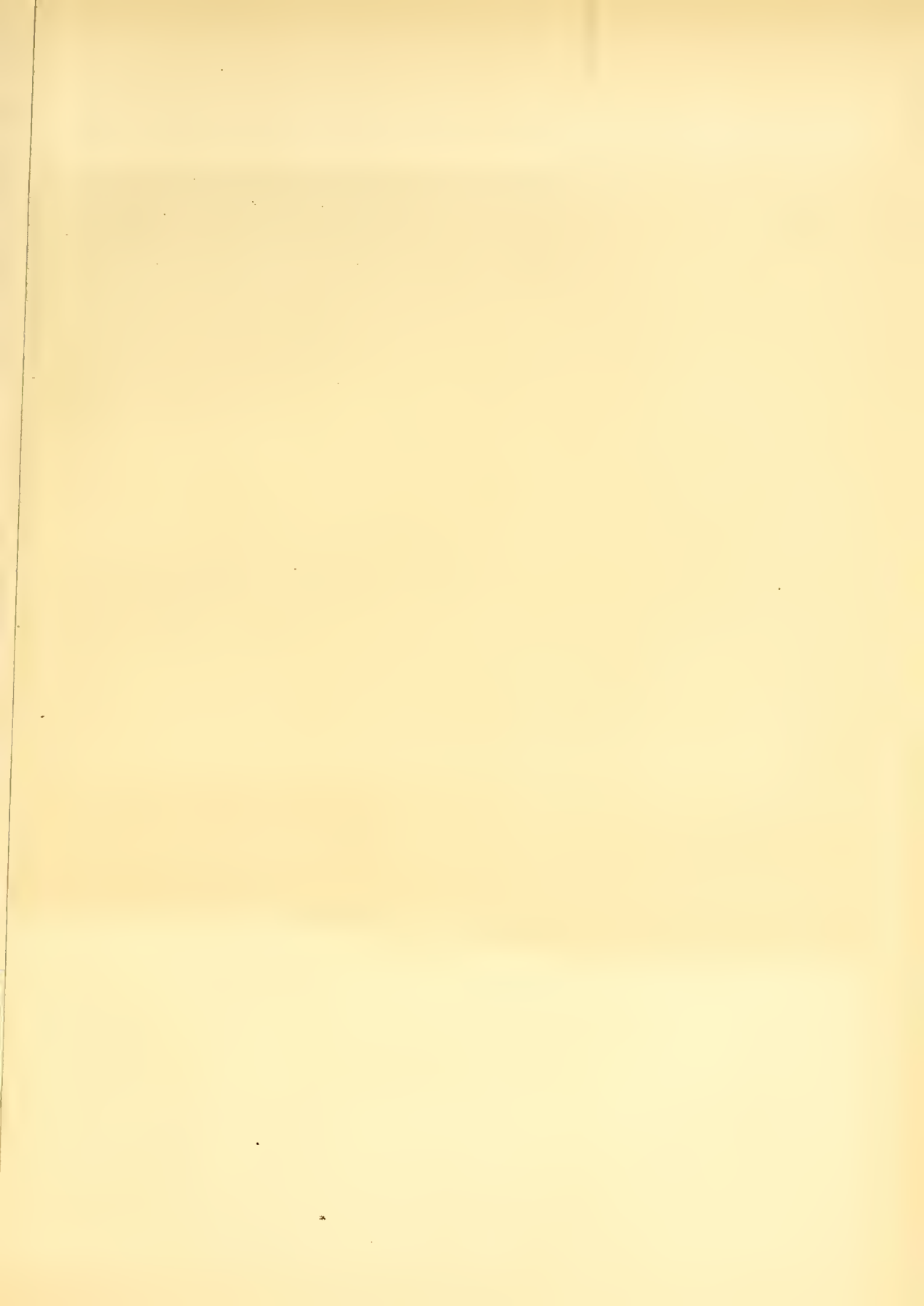
uncle, and the heirs-male of his body, whom failing to Stephen of Kirkpatrick, son of Yvo, and the heirs-male of his body and other heirs (Reg. Mag. Sig., vol. i. p. 240, No. 46).

² This lady is also referred to as Margaret and Martha. But the evidence supports Marjory, and it may have been in remembrance of her that King Robert called his eldest daughter Marjory.

Omnib' ad q' p'sent' scriptu puenit. R'ob de By' s'at. Sciat' oye dedisse & concessisse & hac carta
mea confirmasse Rogo' crism' totam terram de Enocul' cray. infra hal' diuial' n'oratal'. Sat' de
Blak'ebec sub choruthuayr' usq' ad quillam q' i' h'ntum blak'ebec. & sic iuxta uilla' illaoy.
usq' ad bl'ndechuayr'. & sic de bl'ndechuayr' usq' ad q'al'roler'. & sic p' r'mit'u de q'al'roler'.
usq' i' pol'rabay. & sic de pol'rabay. iuxta uiridem uiam. usq' ad sepey de Hol'chnayr'. & sic
p' sepey illu' usq' ad threpland. & sic usq' ad diuial' tre hug' hendemay. & sicut diuialle
cadunt in blak'ebec. Tenendam de oye & h'edib' mel. sibi & h'edib' suis. in feodo & h'editate.
Libe & q'ete. plene & honorifice. Cu' comun' pastura Dalton. & parue Dalton. & quise
fald. & omnib' aliis auxiliamentis ad p'deam terram p'tinentib'. excepto q' h'oiel' manentel' in terra
eide Rogo'. dabunt m'turam & pannagiu'. Ipe uero Rogo' q'et' erit de m'tura & pan
nagio de p'pa domo sua. Hanc p'deam terram dedi eidem Rogo' p' homagio. & seruitio suo.
& in ex'cambiu' tre sue de Kineimund. & dimidie carucate tre quam tenuit in feodo de coot
foch illi' dicit q' i' iuxta Grebec. Faciendo vicelunam p'cem seruitu' un' q'uil'at'. Prades
uero Rogo' & h'edel' sui edificabunt & lantabunt infra lepel' huol'. & omnib' modis q'b' p'cedunt
terram illam infra diuial' h'ual' appabunt. ad op' suu'. Gul' cell'. Willo de heriz. hug' de
corri. G. de sonest. Vinfrido de Gardino. Ric' de bolco. Rogo' de Kark'epac' c. Law
rentio de berkelan. & q' t'is A L'is.



omnes hoc scriptum visurus ut antequam Robertus de Armo castre Elbowayr emissus est nos
concessit et nobis et heredibus nostris imperium quietum dimisit. Robertus de Croxle omnia communa
que nos ut nos et heredes nostri habuimus in feodo de Scapleton. Sed quod nos nec heredes nostri nec illius de nostris
aliquos suos ut alium in feodis communibus sicut hosa de Scapleton. Secundo exigeret portum. Con
cessimus eadem eodem feodo de Croxle et heredibus suis ad habendum librum portum de feodo hoso.
Sed tamen quod pater Robertus de Croxle solent feodum feodo claudere. In cuius testimonium
plena scriptura sigilla nostrum posuimus. testibus. Anno mense de Burghes. Anno dñi de octavo.
Anno octavo de Pontefon. Anno dñi de dimittendi. Ewigore et Baldme. Robertus de Elbowayr et illius.



Quibus hanc Cartam vult vel auditur **R**obertus de Brui's Comes
via nos dedisse concessisse et hac plena Carta nostra confirmasse Alexander de Reth
et habend eadem Alexandro et heredibus suis de nobis et heredibus nostris. libere. quiete.
placariis. et cum omnibus aliis iuribus. libertatibus. commoditatibus. auxiliamentis
forgrundis libertatibus. vel quoquo modo spectare valentibus. sine aliquo retinemento
Et reddendo inde nobis et heredibus nostris annuatim. unum par calcarum
vero **R**obertus de Brui's p[ro]curator et heredes nostri totam etiam p[ro]curam in
dictum est. p[ro] Alexander et heredibus suis contra omnes homines et heredes
donacio et concessio et plena Carta nostre confirmacio firme sint et
Dominus. Alexander de ap[er]ueres. **R**es. maldo de Crautod. **R**es.
de Crauden. **R**oberto de anand. et multis aliis.

Carta et domini valis Anand sacri in domino sempiternam
 sam cum man in tenemento de Langtoirund cum omib; suis pertinencijs. Geneo
 in tege plenarie et honorifice. In plaus natis. plaus paluris. languis. aquis et
 tuncis quib; tam non nominatis qm nominatis ad deam terram de Lang
 to in perpetuum. Faciendo domino. Roci bonilecum ducium inde debitum et conluepi.
 in demuray. pro omni alio ducio. conluetudine. exactione et demanda seculari. Nos
 nemero de Langtoirund cum omnib; iurib; libertatib; et pertinencijs suis ut pre
 uias. Parantizabimus. acquietabimus et in perpetuum defendemus. Et ut hec ma
 ges in perpetuum hanc Cartam sigilli nri manu mine fecimus roborari. His testib;
 eto de Lgan. Robto Boyde militib; nris. Jacris de Schen. Petro



Carrick. But whether he was so styled in virtue of the courtesy in his wife's title, or under a new creation in his own right, does not appear. Of that marriage were born twelve children, five sons and seven daughters. The daughters and their marriages are stated by Mrs. Cumming Bruce in her recent work, "The Bruces and the Cumyns." A question has often been raised as to the birthplace of King Robert the Bruce. Some writers contend for Lochmaben Castle. But as his father and mother lived at the castle of Turnbery in Carrick, where the Countess's numerous family of sons and daughters appear to have been born, the probability is that the king was also born there.¹

A charter was granted by the seventh Lord of Annandale, also under the title of Robert Bruce, Earl of Carrick and Lord of Annandale, to Sir William of Carlyle, knight, of a piece of land for the increase of the land of Kynemund, which is minutely described.²

Another charter was granted by "Robertus de Bruys, comes de Carrik, et dominus Vallis Anandie," to Alexander de Kethe, of the granter's tenement in Langforgrund. The charter bears no date. The granter's seal is still appended and entire. The shield bears the Bruce saltire and a chief. These were the armorial bearings of the Bruces before the marriage with the Countess of Carrick. Bruce took the name and style of Earl of Carrick; but he continued to carry his own arms without any addition or impaling those of his wife. The legend reads "S. Roberti de Brvs."³ This charter has been lithographed for this work and is here introduced. It is printed at length in the Appendix along with a translation. The handwriting is a very favourable specimen of a charter of the thirteenth century.

The eighth Bruce of Annandale was the most renowned and illustrious of them all, the hero of Bannockburn, Robert the First, King of Scotland; and among the numerous charters granted by him to his successful comrade in

¹ Mrs. Cumming Bruce unhesitatingly states that Robert Bruce was born at Turnbery Castle on 11th July 1274, p. 125.

² Charter in this volume, p. 7. The charter

bears no date, but it must have been granted after 1271, the date of the marriage of the granter and the Countess of Carrick.

³ Original charter at Glamis Castle.

arms, James, Lord of Douglas, knight, was one of the whole land of Polbuthy [Polmoodie], within the vale of Moffat. The land was to be held by the grantee and his heirs of the king and his heirs for rendering twelve broad arrows yearly. The charter bears date at Abirbrothoc, 15th December 1318.

The original charter is still preserved in the Douglas charter-chest, and by the kind permission of the Earl of Home, Baron Douglas of Douglas, a lithograph of it is here introduced. The charter itself is also printed.¹

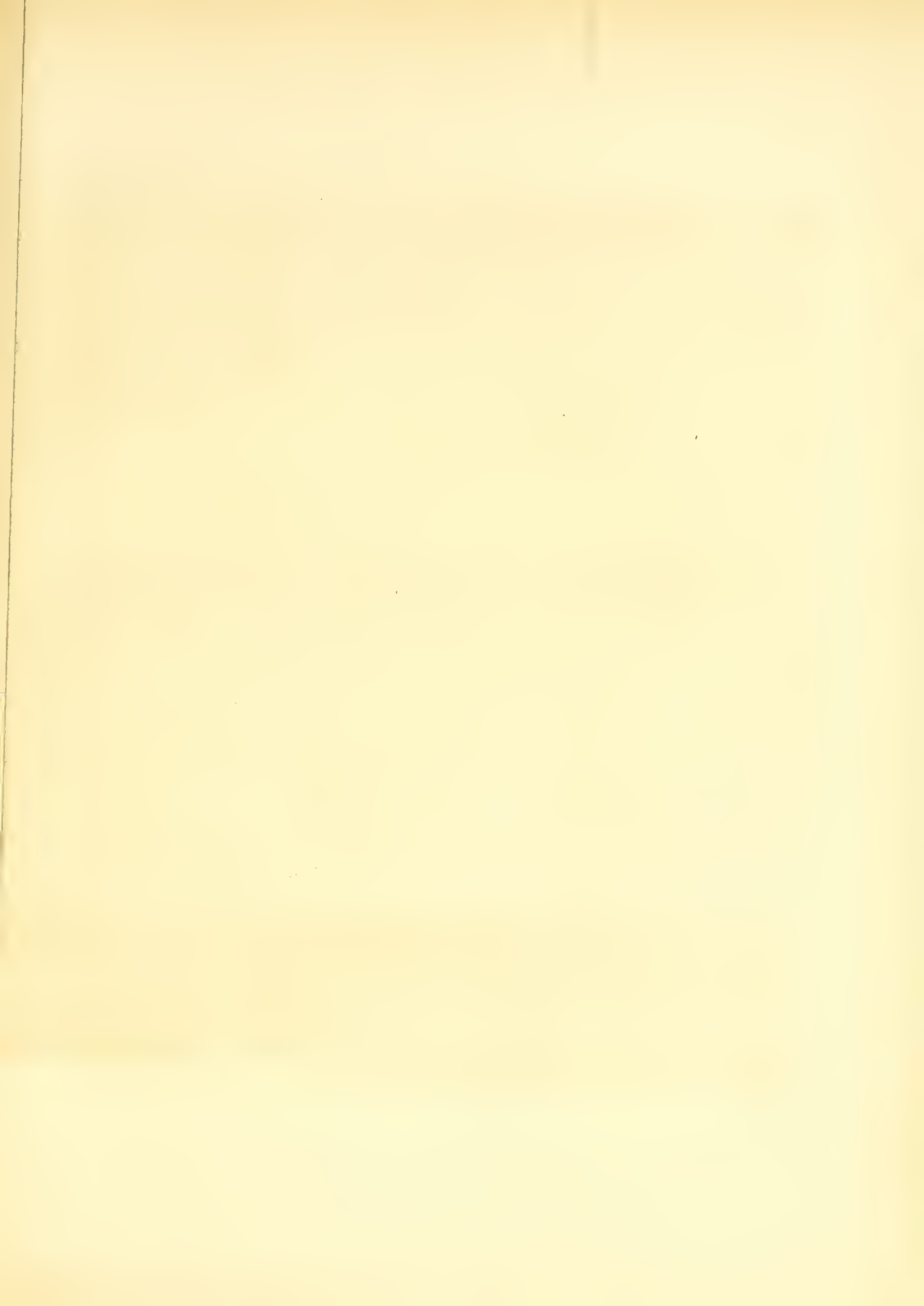
Polbuthy forms part of the extensive Annandale estates, and contains the highest mountain range in the south of Scotland.

RANDOLPH PROVIDED TO ANNANDALE BY HIS UNCLE KING ROBERT BRUCE.

Sir Thomas Randolph was the nephew of King Robert Bruce, being the only son of Lady Isabel Bruce, eldest daughter of Robert Bruce, Earl of Carrick, and sister of the king. Randolph inherited the martial spirit of the Bruces. He rendered great assistance to Bruce at Bannockburn, and the king rewarded him with a grant of the Bruce lordship of Annandale, as well as of the lordship of Man and the great earldom of Moray. Randolph thereafter bore the dignities of Earl of Moray and Lord of Annandale and Man. In all the charters granted by him he places Annandale before Man. His only daughter, Lady Agnes, married Patrick, ninth Earl of Dunbar and March. She is known as "Black Agnes of Dunbar," by reason, as Pitscottie says, she was "black-skinned." This woman, he adds, was of greater spirit than became a woman to be. She is also known as the heroine who successfully defended the castle of Dunbar when it was besieged for many months by the English in 1337. An arrow from one of the Scottish archers killed an English officer who was beside the Earl of Salisbury, one of the besiegers, and killed him on the spot. Salisbury exclaimed, "There comes one of my lady's tire pins; Agnes's love shafts go straight to the heart."²

¹ Page 8 of this volume.

² Tytler, vol. i. p. 428.



Mobius Dei gra Rex Scottoz / Omnibus pro
concessisse et hac presenti carta nostra confirmat
tam terram de Polbutch in fra Vallem de
et habend prefato Jacobo et heredibus suis
et quiete plenarie et honorifice cum omnibus con
pntantibus seu aliquo iure ptere Valentibus
Jacobus et heredes sui singulis Annis Duod
demanda / In cuius Dei testimonium presenti Cart
do lita de lbrbz Cancellario nro Thoma Pam
bro de lach / Johes Wycharde et fergusio marce
Regni in tercio decimo . . .

his hominibus totius terre sue Satam Saatis nos dedisse
et dicit et fidei nro Jacobo Dno de Douglas militi to
ffet p omes Rectas Divisas suas et metas Tenend
nobis et heredibus nostris in feodo et hereditate libere
reditibus libertatibus et assiamentis ad dcam terram
in futurum. Reddendo inde nobis et heredibz nris des
in Saatis Latas pro omni alio servicio exactione seu
nre sigillum nrm precepimus apponi. Testibus Bernar
ph Comite norwiche et Dno Wanne. Gilbro de Haya. Ro
alli militibz ap Abibz. Quintodecimo die Decemby. Anno

George, tenth Earl of Dunbar and March, eldest son of Patrick, the ninth earl and Lady Agnes Randolph, was much disappointed that after his youngest sister Lady Elizabeth Dunbar had been betrothed to David, Duke of Rothesay, in the year 1399, the marriage was frustrated by Archibald, third Earl of Douglas. He was powerful enough to have the marriage of Rothesay celebrated with Mary, otherwise sometimes styled Marjory Douglas, his daughter, in February 1400. The Earl of Dunbar and March complained to King Henry the Fourth by letter, dated, at his castle of Dunbar, 18th February 1400, of the wrong done to him, and renounced his allegiance to the King of Scotland. The Earl of Dunbar and March subsequently made hostile inroads into Scotland, and, after several years, negotiated with the regent, Duke of Albany, for liberty to return home. During the absence of the Earl of Dunbar and March, from 1400 till 1409, Archibald, fourth Earl of Douglas, obtained possession of the lordship of Dunbar and the estates of the earldom of March, as well as the lordship of Annandale. Being possessed of these territories, Douglas declined to agree to the restoration of March unless he obtained the castle of Lochmaben and the lordship of Annandale, in lieu of the castle of Dunbar and the earldom of March. Following out that arrangement, a charter was granted by the regent, Duke of Albany, at Haddington, on 2d October 1409, to his cousin Archibald, Earl of Douglas and Lord of Galloway, of the lordship of Annandale. The charter narrates that the fee of the lordship of Annandale belonged to George of Dunbar, son and heir of George, Earl of March, and that George the son and George the earl resigned the fee and frank-tenement at Haddington in presence of most part of the lords and barons of the kingdom. The lordship of Annandale was to be held by the Earl of Douglas and the heirs-male of his body, whom failing, by the Earl of March and his nearest lawful heirs whomsoever.¹

The lordship of Annandale appears to have been enjoyed by Black Agnes as part of the inheritance of her father, the renowned regent, and her brother

¹ *Registrum Magni Sigilli*, vol. i. p. 241, No. 47.

John, Earl of Moray, his son. King David the Second, however, was in possession of the lordship of Annandale in the year 1361, when, on the 10th December of that year, he granted a charter at Mouswald to John Carruthers. The attestation of the charter bears that the granter's seal of the lordship of Annandale was appended to the charter.¹ King David the Second, as Lord of Annandale, had thus a special seal which he used for all grants of lands applicable to that lordship. The son of Lady Agnes of Dunbar, George, tenth Earl of Dunbar and March, under the additional designation "Dominus vallis Anandie et Mannie," granted a charter in 1375 to which is appended his special seal applicable to Annandale.²

When the Douglas family were in possession of the lordship of Annandale, they quartered the Douglas arms with the arms of Annandale as used in the time of the Bruces, but without the lion passant in chief. The Princess Margaret Stewart, eldest daughter of King Robert the Third, survived her husband, the first Duke of Touraine. The duchess was also styled Lady of Annandale in a crown charter dated 3d May 1426. Her armorial seal quartered the arms of Annandale with those of Touraine and Douglas. Soon after the Earl of Douglas obtained the formal grant of the lordship of Annandale in 1409, he, by charter dated 8th February of that year, granted to Sir Herbert Maxwell the office of steward of Annandale. That office, with the separate one of warden of the marches, led chiefly to the long feuds between the Maxwells and the Johnstones.

The lordship of Annandale continued to be enjoyed by the Douglasses from the time of Archibald, the fourth earl, in 1400, till the death without male heirs of his body of William, sixth Earl of Douglas, in 1440, when, George, eleventh Earl of March, to whom it would have devolved in terms of the limitation in the grant of 1409, being under sentence of forfeiture, it passed to the crown.

¹ Appendix to Sixth Report to the Commissioners on Historical Manuscripts, pp. 709, 710.

² *Ibid.* p. 710.

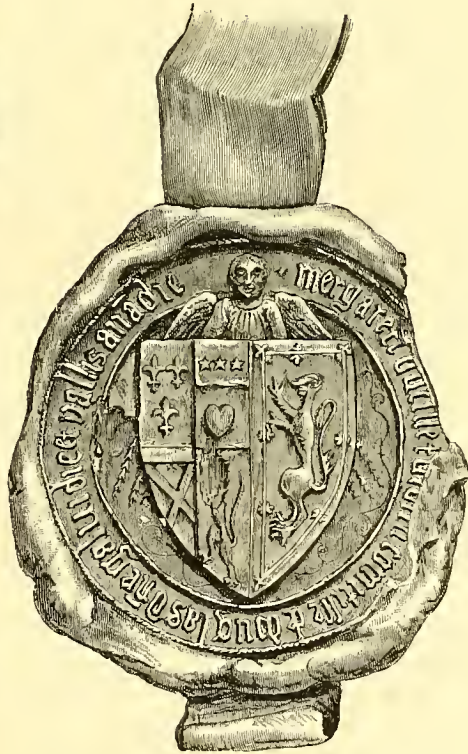
During the possession of Annandale by the Douglasses they quartered the Bruce arms of Annandale with their own. Three of the armorial seals of the Douglasses as Dukes of Touraine are here introduced to show the form in which the Annandale saltire and chief were quartered.



2.—Seal of Archibald, first Duke of Touraine, Earl of Douglas, Lord of Galloway and Annandale.



3.—Seal of Archibald, second Duke of Touraine, Earl of Douglas, etc., Lord of Lauder and Annandale.



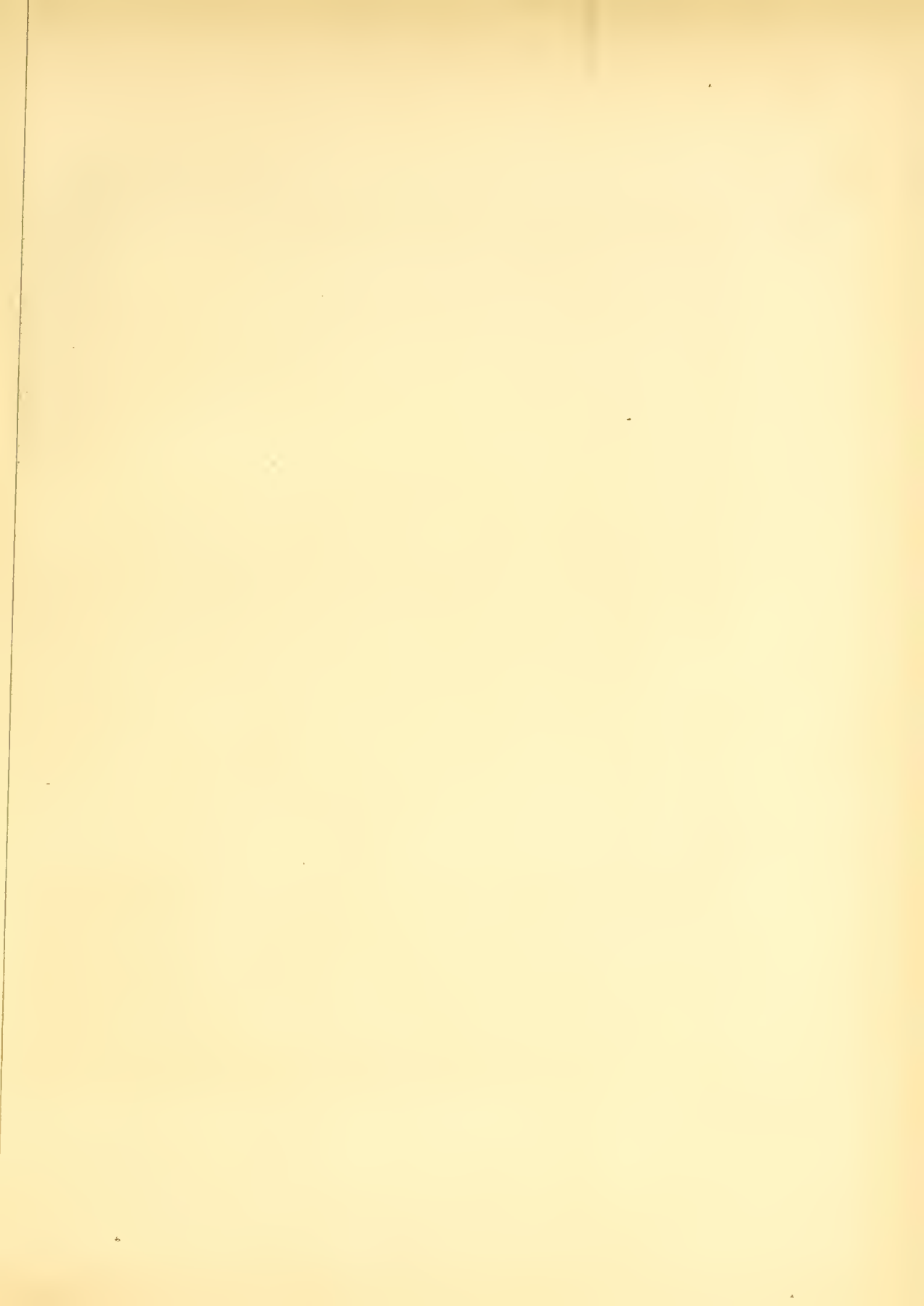
1.—Seal of Princess Margaret Stewart, Duchess of Touraine, Countess of Douglas, Lady of Galloway and Annandale.

EDWARD BRUCE, EARL OF CARRICK AND KING OF IRELAND.

On his succession to the crown of Scotland, King Robert the Bruce showed great generosity in providing large territories to his relatives and friends who had assisted him in his long-sustained struggles for the crown. We have seen that he provided to his nephew Randolph the lordships of Annandale and Man, and also the great earldom of Moray. The king also provided the ancient earldom of Carrick to his brother Edward Bruce, who thereafter became Earl of Carrick. Being of the warlike spirit of his race, the Irish of Ulster, when in their troubles, invited him to come to their aid and assistance, and also acknowledged him as their sovereign. He landed at Carrick-Fergus on 25th May 1315, and was solemnly crowned King of Ireland 2d May 1316. But he did not enjoy the kingdom long, having fallen at the battle of Dundalk on 5th October 1318. During the two years in which Edward Bruce was King of Ireland, he granted, under the style and title of "Edwardus Dei gratia Rex Hibernie," to John of Carlton, the land of Dalmakeran and others. Those formed part of the earldom of Carrick. The reddendo was yearly three sufficient spears on Christmas day at the head manor of Turnbery, and three suits yearly at the granter's court at Girvan. That charter was confirmed by King Robert the Bruce at Scone on 6th July, eighteenth year of his reign (1324). The original confirmation charter is in the charter-chest of Sir Reginald Cathcart of Carlton, Baronet, by whose permission a facsimile is here introduced. The original is printed in the Appendix to this volume, along with a translation.

Edward Bruce, Earl of Carrick and King of Ireland, left no legitimate issue. But his three sons, Robert, Alexander, and Thomas, were successively styled Earls of Carrick. Thomas died without issue, when the earldom of Carrick reverted to the crown.

Alexander Stewart, Earl of March and Lord of Annandale, second son of King James the Second, was made Warden of the March by an act of parlia-



Robertus dei gra Rex Scotorum Omnibus pro
intellexisse Cartam bove memorie dñi Edm
Cancellatam. n̄ in aliqua dñi pte viciatam. n̄
hōmibz totius dñi sue salutem. Gaudeat nos de
q̄ homagio & seruicio suo denariatam dñi. &
denariatam dñi del' Guach et denariatam dñi
gratas tenend & habend eadem Johi & heredi
plenari & honorifici. cū omibz libertatibz comodit
aliquo iure. valentibz. p̄uenire reddendo. inde
competentes. die p̄ualio dñi apud capitale m̄.
Curre n̄r de Seruan ad ea anni. placata. Cap
testionu. p̄sentibz sigillu n̄rū p̄cipim apponi
tibz Gilbro filio dōfnaldi. Ricardo Edger Co
Cartam. in omibz p̄ncipalibz. & condicioribz
& hereditibz n̄rū in p̄p̄tū confirmamus. In
testibz Beruando abbate. de Abur. Cancellō
Ecc̄i marescallo n̄rū milibz. apud Sconam. In

s hominibz vobis de sue salutis gratias nos impexisse ac veracit
a dei gra Regis Hibernie fratris nri Ead. non aboleam. non
hec verba, Edwardus dei gra Rex Hibernie, Omnibz probis
se concessisse et hac pfecta carta nra confirmasse Joh de Cartou
Dalmatiam, quadamcartam de del Can' sup qua sua est insula
de Creuencrasf. cu pmentis p omes terras diuisas suas et
bz suis. de nobis et heredibz nris. in feodo et hereditate libe. gete
bz assiamens. et iustis pmentis ad pdeas et as pmentibz. seu
innuam. nobis et heredibz nris pfecte Johes et heredes sui res la
a de Crubery: et faciendo annuatim
alia p omi alio dūico exacione et demanda seculari In cui Rex
epibz. philypo de goubay Adam moer Joh de Cuodolian mil
o filio dūcam. Joh filio ssergusij: et aliis. Quam quidem
suis. forma parit. et effectu. Ratificam. approbam. et pro nobis
n Rex testom pfecta carta nra sigillu nru fecim appoi
d. Valde dea deo. Gilberto de Hara. Const. nro et Robto de
ano Sexto die July. Anno Regni nri Octauodecimo..

ment passed on 4th August 1455.¹ He was afterwards created Duke of Albany. But having subsequently declared war against his brother King James the Third, and assumed the royal style of "Alexander, King of Scotland," his peerages and landed estates were, by act of parliament passed on 1st October 1487, annexed to the crown.²

THE DUKE OF ARGYLL ON THE BREVITY OF EARLY CHARTERS.

In his interesting and valuable work, "Scotland as it Was and as it Is," the Duke of Argyll enters on the question of "The Age of Charters" in the second chapter. In his researches his Grace was struck, as most charter scholars have been, by the brevity of the early charters in comparison with the verbosity of later writs. "Bits of parchment," the duke says, "one inch in breadth, and a very few inches in length, were enough to convey great earldoms and baronies in the days of David I. Eleven lines on a small parchment conferred the whole of Annandale upon an ancestor of King Robert the Bruce."³ The brevity of early charters, however, is not without exception. Thus, the second charter, printed in this work, by William Bruce, fourth of Annandale, to Adam of Carlyle, son of Robert, of the lands of Kimmont, contains thirty-seven lines of print, and gives a minute and extensive description of the marches of the lands. This charter is dated between 1194 and 1214. Several of the other early charters here printed also contain minute descriptions of the boundaries of the lands conveyed.

His Grace of Argyll is himself possessed of one of the largest parchment charters in Scotland. It was granted by King Charles the Second to Archibald, ninth Earl of Argyll, and is dated 15th October 1667. It contains the whole earldom of Argyll. So minute is the description of the extensive High-

¹ Acts of the Parliaments of Scotland, vol. ii. p. 43.

² *Ibid.* pp. 179, 180. Previous to the passing of that act, the Duke of Albany was accidentally killed at Paris in 1485 by the

splinter of a lance at a tournament, and he was interred in the Celestins in Paris.

³ "Scotland as it Was and as it Is," vol. i. pp. 52, 53.

land earldom that the parchment on which the charter is engrossed measures in length five feet one inch, and in breadth four feet three inches, giving a surface of nearly twenty-two square feet. The charter contains two hundred and thirty-seven lines, and every line, taking an average, contains one hundred and three words, which gives a total of words in the charter of *twenty-four thousand four hundred and eleven words*.

UPPER ANNANDALE.

The district of Upper Annandale forms an important and interesting part of Dumfriesshire. The hills and dales, which are characteristic features, give to this portion of the dale a diversified beauty, and even grandeur, which have not failed to attract the attention and to engage the pen both of the poet and of the romancer. The district includes the three dales of Annan, Moffat, and Evan, so named after the three waters whose channels they respectively follow. Annandale traverses the central portion of Dumfriesshire from north to south, while Moffatdale flanks it on the east, and Evandale on the west, the three dales in their course being almost parallel to each other.

The lands of Moffatdale and Evandale were long a Herries and Maxwell possession. King James the Second granted to David Heris of Trareglis and Margaret Creichtoune, daughter of Robert Creichtoune of Sanquhar, knight, forty merklands in Avandale and four merklands in Hutton, which John Heris, father of the grantee, resigned in the hands of the king as tutor and governor to his son Alexander, Duke of Albany, Earl of March, and Lord of Annandale.¹ It appears from this charter that John Herries was the first possessor of Evandale of the family of Herries. The king, in appointing Herbert Herries as curator to John Herries, excepted from his charge a forty pound land to be given to David the son.² In 1464 he witnesses a charter as Sir David Heris of Avandale.³

¹ Dated 20th July 1459, Register of the Great Seal, vol. ii. No. 734.

² 24th January 1458-9, *ibid.* No. 668.

³ 21st October, *ibid.* No. 816.

At a later date Moffatdale came into the possession of the Herries family. King James the Third granted a charter to Henry, son of James of Douglas, lord of Dalkeith, and to Margaret Douglas, his spouse, of the lands of Moffatdale and others.¹ By the year 1486 they had come into the possession of the Herries family; for the same king in that year granted a charter to Herbert Herries, son and apparent heir of David Herries of Terreglis, of the lands of Moffatdale, Avindale, and others.²

In the time of William, third Lord Herries, the lands of Moffatdale and Evandale, which had previously been included in the BARONY OF HERRIES, were erected into a barony called the BARONY OF MOFFATDALE AND EVANDALE. This must have taken place in or prior to 1550, at which date the barony of Moffatdale and Evandale is mentioned in a precept from the chancery of Queen Mary, and it gives an importance to the lands at this early period.³

By the marriage, in 1547, of the Herries co-heiress, Agnes, eldest daughter of William, third Lord Herries, to Sir John Maxwell, second son of Robert, fifth Lord Maxwell, the Herries estates, including the lands of Moffatdale and Evandale, passed into the possession of Sir John Maxwell, who in 1566 was created Lord Herries.⁴ The lands of Moffatdale and Evandale continued after this to form a part of the Herries and Maxwell estates for upwards of sixty years, when the tenure of them by the Herries family ceased, and they were added to the Johnstone estates.

In the year 1629 the lands and barony of Moffatdale and Evandale were purchased by James Johnstone, afterwards first Earl of Hartfell, from John Maxwell, Lord Herries, and his son John, Master of Herries, for 27,000 merks. The sale is described in the Memoir of the earl.⁵

¹ Crown Charter, dated 3rd September 1473. [Register of the Great Seal, vol. ii. No. 1138.]

² 1st June 1486, *ibid.* No. 1654.

³ 13th February 1550. [Inventories of the Maxwell, Herries, and Nithsdale Muni-

ments, p. 159, No. 86.]

⁴ He received a third part of the extensive Herries estates by his wife, and he acquired the remaining two-thirds from the other co-heiresses, the two younger sisters of Agnes.

⁵ P. clxxv. of this volume.

The remaining dale is that of Annan. This territory continued, as already stated, in possession of the families of Bruce, Randolph, March and Douglas, till the year 1440, when it lapsed to the crown. Thereafter the lordship of Annandale was administered by officers of the crown, until it was bestowed, along with the earldom of March, upon Alexander, second son of King James the Second, and afterwards Duke of Albany, on or before 4th August 1455, when the gift to him of the lordship of Annandale is mentioned.¹ Upon the subsequent forfeiture of the Duke of Albany, the lordship of Annandale and the castle of Lochmaben were annexed to the crown, by act of parliament, and again administered by royal officials.²

The office of steward of Annandale was held under the crown by the family of Maxwell, in the same manner as they had previously held it under the Douglasses.³ They continued to hold it till it was forfeited with the estates by the attainder of John, ninth Lord Maxwell, in the year 1608. After being some years in the hands of the crown, King James the Sixth conferred the heritable office of steward of Annandale upon John Murray of Lochmaben, afterwards raised to the peerage by the style of Earl of Annandale.⁴ On the failure of his heirs the office of heritable steward of Annandale, along with the title of Earl, was conferred by King Charles the Second on James Johnstone, Earl of Annandale and Hartfell.⁵ The courts of the stewartry were held at Lochmaben. For the same period the Johnstone chiefs were lords of the regality of Moffat, holding their regality courts at Moffat.⁶ On the passing of the act of parliament for the abolition of heritable jurisdictions in the year 1747, George, third Marquis of Annandale, was allowed £2200 for the stewartry of Annandale, and for the regality of Moffat £800, in all £3000 sterling in full of his claim for £11,000.

¹ Acts of the Parliaments of Scotland, vol. ii. p. 43.

² 1st October 1487. *Ibid.* p. 179.

³ Exchequer Rolls, vol. xi. pp. 340*, 341*.

⁴ 4th March 1617, Acts of the Parliaments

of Scotland, vol. iv. pp. 664, 665.

⁵ 23rd April 1662, Annandale Peerage, Minutes of Evidence, 1844, pp. 1166, 1167.

⁶ Annandale Peerage, Minutes of Evidence, 1876, p. 103.

Situated within the regality just mentioned is Moffat Spa, described in the Memoir of James, Earl of Annandale and Hartfell. The medicinal well at the spa has maintained its celebrity since its discovery, variously said to be in 1633 and 1653. Attracting visitors to its waters for so long a period, it has become the scene of many interesting associations. An order was issued, signed by General Monck and other three of Cromwell's council in Scotland, for a grant of £25 sterling from the vacant stipends of the parishes of Moffat and Kirkpatrick-juxta to improve the well and enclose it with a wall.¹ The healing virtues of the well at the time are shown in the case of Lady Mary Scott, the youthful Countess of Buccleuch. She visited the well in search of health under the advice of no less than ten physicians and surgeons, met in consultation about her case.²

Several of the annual visitors to the spa about a century later are also named in this volume.³ One of these, Thomas Graham of Balgowan, afterwards Lord Lynedoch, was a Johnstone by descent on his mother's side, being the grandson of Lady Henrietta Johnstone, countess of the first Earl of Hopetoun.⁴ James Macpherson, of Ossian fame, while acting as tutor to Graham at Moffat House, commenced his translations there which brought him celebrity. John Home, the author of "Douglas," and David Hume were also visitors at the spa.

About four miles from Moffat, on the old Edinburgh road, in the parish

¹ P. cccxii of this volume.

² P. cccxi, *ibid.*

³ Pp. cccxxxv, cccxxxvi, *ibid.*

⁴ Thomas Graham succeeded to the estate of Balgowan on the death of his father in 1767. James, third Earl of Hopetoun, and his cousin Thomas Graham were extremely like each other in personal appearance. Graham married the Hon. Mary Cathcart, whose portrait by Gainsborough is so much admired. He acquired the estate of Lyne-

doch in 1785. After the death of his wife he entered the military profession. He raised the 90th Regiment, and took a leading part in most of the Peninsular War. He defeated the French at Barossa in 1811. He was the bearer of the insignia of the Order of the Garter to Wellington in 1813. He was made a peer under the title of Lord Lynedoch, with a pension of £2000, at the close of the war in 1814. He died in December 1843, without issue, when his peerage became extinct.

of Moffat and dale of Annan, is Ericstane, the property of Mr. Hope Johnstone, frequently called Braefoot, from being at the foot of the brae or hill of Ericstane. The lands of the farm of Ericstane extend from the farmhouse, a distance of about two miles, to the popularly called "Deil's Beef Tub." The old Edinburgh road crosses the Annan opposite the farmhouse, and then ascends the brae or hill. The new Edinburgh road, formed in continuation of the old one, passes close to the brink of the precipice of the Tub at the highest part of Ericstane. The bottom of the Tub can be seen from the road. Meikleholmside farmhouse, which also, with the farm, belongs to Mr. Hope Johnstone, bounds the farm of Ericstane on the south. The height of the Tub from the bottom to the south side of the old Edinburgh road is about one hundred and fifty yards. On the northern side the Tub is both higher and steeper, and one hundred and seventy yards is about the average height all round.

The Tub is described in *Redgauntlet* by Sir Walter Scott, who says, "It looks as if four hills were laying their heads together to shut out daylight from the dark hollow space between them."¹ It was formerly used by the Johnstones for penning sheep. In this connection it received the name applied to it by Sir Walter Scott and others of "The Marquis's Beef stand," or "The Beef stand of the Johnstones." The Tub is open only on the south-east side for access for cattle for about a third of its whole circumference.

¹ *Tales and Romances of the Author of Waverley*, 1833, vol. iii. p. 201. Sir Walter narrates the incident of Mr. Maxwell of Summertrees escaping from an armed escort in 1745, when on his way to Carlisle for trial as one of the Jacobites, by flinging his plaid around him and throwing himself on his side and rolling downwards to the bottom of the Tub, and so getting clear away. With reference to this story, it may be pointed out that certain parts of the Tub, particularly on the south, are covered with long grass, and it is possible that a person might roll to the

bottom without being killed. But this would be impossible on the rocky portions. It may be mentioned here in connection with the Dairsie Latimer who figures so largely in *Redgauntlet*, that in the *Inventory of Annandale* writs there is mention of "a laird Latimer" who held property near Ecclefechan. Mr. Maxwell of Summertrees is a mere myth created by Sir Walter in place of the real person of the name of MacEwen or MacMillan, whom Sir Walter once saw in his youth. [*Redgauntlet*, Border edition, vol. ii. p. 343.]

At the top of Ericstane hill, at the northern point of the head of the Tub, the Annan takes its rise out of open ditch water. About a mile north-east of the Annan is the source of the Tweed in springs or open ditch water. The Tweed falls in the opposite side of the hill from the Annan. The rivers Clyde and Evan rise respectively about a mile west of the Annan in Lanarkshire, the former flowing from its source northwards and the latter southwards.

The old mansion-house of Corehead, now belonging to Mr. Younger, stands on the east side of the Tub and at the foot of that part of it known as Corehead hill. The adjacent property to the east is Newton, which includes part of Hartfell Hill, lately acquired by Mr. Younger from the Duke of Buccleuch. Next to Newton, still to the east, is the great Hartfell Hill which as a part of Cappelgill in Moffatdale belongs to Mr. Hope Johnstone. The mountain known as Saddle Yoke also forms part of Cappelgill. The south and east portions of Hartfell, belonging to Mr. Hope Johnstone, form the furthest points north and west of Cappelgill. Corrifin is to the north of Cappelgill, and is the furthest north property on the Annandale estates. Corrifin is the proper spelling of the place, as shown by the ancient writs, and not Corrifferan, as in the Ordnance Survey and in modern use. It is bounded by Peeblesshire. Polmoodie lies to the north-east of Corrifin,

“Where wild Polmoody’s mountains tower,
Full many a wight their vigils keep ;”¹

and Loch Skene and the Grey Mare’s Tail are both on that part of Polmoodie called Birkhill,

“Where, deep deep down, and far within,
Toils with the rocks the roaring linn ;
Then, issuing forth, one foamy wave,
And wheeling round the Giant’s Grave,
White as the snowy charger’s tail
Drives down the pass of Moffatdale.”²

¹ Hogg’s Mountain Bard, p. 78.

² Scott’s “Marmion,” Canto Second, Introduction.

Birkhill farm, next Polmoodie, is the furthest property on the Annandale estates to the north-east in the county of Dumfries. The White Coomb hill is, for the greater part of it, a portion of Polmoodie.¹

Meikle Corrifin belonged to a family named Moffat. John Moffat left three daughters co-heiresses of his estate. John Johnstone of Johnstone bought her third from Janet Moffat in 1543. The rest of Corrifin, after passing through the hands of Johnstone of Raecleuch, Philip Scott of Dryhope and others, was bought by James Johnstone of Johnstone from Dr. Theodore Hay for the sum of 4500 merks.²

Little Corrifane, or as it was sometimes called Corriffholm, was sold under reversion by John, Lord Herries, to James Johnstone, for a feu-farm of £3 Scots yearly, "at two terms, together with the said James Johnstone his personal service against all mortals except the king and the laird of Johnstone his chief allenarly, and specially serving the said lord once in the year to the burgh of Edinburgh upon horseback, upon his own expences, if required."³

The district of Upper Annandale has many interesting associations. In the wild and rocky recesses of the mountains of Moffatdale, just described, many of the covenanters found a secure hiding place in the times of persecution under Charles the Second and James the Seventh, while many others falling into the hands of Claverhouse and his dragoons were mercilessly shot and buried where they fell. Moffatdale abounds with incidents of the twenty-eight years' persecution. Both Sir Walter Scott and James Hogg, the Ettrick

¹ In Sir Walter Scott's "Abbot," vol. i. p. 256, reference is made to the Scours of Polmoodie for falcon's nests. † Dob's Linn on the wild heights of Polmoodie is described by both Scott and Hogg [Waverley Novels, vol. xi. p. 114]. To show the size of the farms under review, it may be noticed that in the valuation roll of the shire of Dumfries for the year 1871-2, the farm of Polmoodie

is entered as of the yearly value of £925 sterling; and Capelgill and Corriffan of the value of £1350 sterling yearly.

² 19th and 29th December 1628. [Annandale Inventory.]

³ 4th September 1620. The lands were redeemed by James, Lord Johnstone, 23rd April and 12th May 1635. [Annandale Inventory.]

Shepherd, have made the places in Moffatdale and Annandale, and the stirring incidents of these times connected with them, occupy a large space in their romances and poetry. Referring to Claverhouse and his famous charger, Sir Walter mentions the tradition that the horse was so fleet and its rider so expert that they outstripped and *coted* or turned a hare upon the Bran Law near the head of Moffat water, "where," he says, "no merely earthly horse could keep its feet or merely mortal rider could keep the saddle."¹ In his *Brownie of Bodsbeck*, Hogg, for the benefit of the credulous, alleges that the mark of the feet of the courser of Claverhouse is still shown on a steep nearly perpendicular, below the Bubby Craig, along which its rider is said to have ridden at full speed to keep sight of a party of the flying covenanters.² Craigieburn in Moffatdale is celebrated in Hogg's *Mountain Bard* in "Mess John," in which figures "The Bonny Lass of Craigieburn." And the Evan Water is the subject of Wordsworth's sonnet entitled "Avon Water."

THE TWO CARRUTHERS HEIRESES OF MOUSWALD AND LOGAN TENEMENT OR
POCORNAL, ETC., IN ANNANDALE.

Recent visits to Annandale have reminded the writer of these pages of a former visit which he made there nearly half a century ago. That visit had special reference to a legal question then depending in the Court of Session, between his Grace, the late Duke of Buccleuch and Queensberry, K.G., as proprietor of the lands of Pocornal or Logan tenement, including Woodfoot, and the late Mr. Hope Johnstone of Annandale, as patron of the parish of Moffat. The question arose in the locality of the stipend of the minister of that parish. The writer had then the honour to be one of the law agents of his Grace, and in that capacity it was his duty to investigate the question at issue, which had reference to the valuation of the teinds of his

¹ *Redgauntlet*, Waverley Novels, Ed. 1830, vol. x. p. 141.

² *Hogg's Brownie of Bodsbeck*, chapter ix.

Grace's lands. The result of these investigations was stated by him in the legal process in a paper entitled "Revised objections for his Grace to the scheme printed in the locality of Moffat in 1852." That legal document disclosed a very interesting chapter in the history of two heiresses of Carruthers or Mouswald, a barony in Annandale, ending in the tragic death of the younger of them on 25th September [1564].

Simon Carruthers of Mouswald at his death, *circa* 1548, left no son, but two daughters, Janet and Marion, who were judicially acknowledged co-heiresses of Mouswald. Immediately on the death of their father, or on 13th August 1548, Queen Mary granted to Sir James Douglas of Drumlanrig the ward and marriage of these youthful co-heiresses. Their mother was a sister of Charles Murray of Cockpool, who was an influential proprietor in Annandale. He appears to have been jealous of the gift of the ward and marriage of his two nieces having been bestowed by Queen Mary on his neighbour, Sir James Douglas. The laird of Cockpool set himself to thwart the benefit of the gift to Douglas, at least in reference to the younger of the co-heiresses, and she ended her life by committing suicide while residing with him at his castle of Cumlongan.

When Sir James Douglas received the gift of the ward and marriage of the two daughters of Simon Carruthers they were barred from succeeding to their paternal landed inheritance by an entail. Acting in their interests, Sir James, at his own expense, procured the reduction of the entail. He also made payment of £2000 to John Carruthers, who claimed to be heir of entail to Simon Carruthers. By these means he secured them in their succession to their father's estates. The gift of their ward and marriage had cost him £1000, and he had for about twelve years sustained them in food, clothing, and other necessaries. The estate of Mouswald, to which they were now the heiresses, had not been a very profitable one to Simon Carruthers, their father. It was situated in "sa troublus" and "sa brokin ane cuntre," that "the maist part was ewthir reft and withhaldin fra him or laid waist."

In these circumstances, holding as he did that his wards "culd neur hauc broukit" their "awin leving peciabilie," Sir James Douglas, following out his legal rights under the royal gift by Queen Mary, entered into a contract with Janet Carruthers, the elder of the co-heiresses. As arranged by that contract, Janet married Thomas Roresoun of Bardannoch. Sir James Douglas engaged to obtain infestment of conjunct fee to Thomas and her, and the survivor of them and their heirs, in the £5 land of Drumragane, in the parish of Glencairn.¹ Thomas Roreson received with Janet Carruthers the sum of one thousand merks in name of tocher by Sir James Douglas, who also provided the heiress and her husband and their servants in sustenance for the space of two years. In return for these advantages conferred on her by Sir James Douglas, Janet disposed to him her half of the lands and barony of Mouswald. The charter granting these lands to Sir James Douglas was confirmed by Queen Mary on 8th January 1562.

After thus providing for the marriage and settlement in life of Janet, the elder co-heiress, Sir James Douglas next proposed a similar arrangement for Marion, the younger sister. But she did not follow the example of her sister, and refused the husband who was proposed to her. She also announced her intention to marry whomsoever she pleased, and to dispose of her right in Mouswald as she saw fit. Lest she should carry out her intentions, Sir James Douglas, on 29th January 1562, raised letters of inhibition to protect his legal rights under the gift of her ward and marriage. On the day following the date of the inhibition, and armed with it, Sir James Douglas visited his ward and offered her as a husband John M'Math, son and heir-apparent to John M'Math of Dalpedder, and required that her marriage to him should be celebrated at the time and place specified by him. But Marion Carruthers again refused his offer in the same

¹ Thomas Rorieson was on 10th July 1563 in the five merkland of Dunragane, etc. retoured heir to his father, Andrew Rorieson, [Retours for Dumfriesshire, No. 6.]

peremptory manner as before, and intimated that "sche wold not be at the said James byddin."¹

Marion Carruthers having thus defied her lawful guardian, more litigation ensued between him on the one hand and herself on the other, acting under the advice of her relatives. Her case came before the Privy Council of Scotland, and an arrangement was made by that Court whereby Marion Carruthers was appointed to reside for a time at Borthwick Castle with John, Lord Borthwick, who appears to have been related to her. But while this arrangement was come to for her benefit, she was taken under obligation not to leave Lord Borthwick under a penalty of £2000, and she had to find caution that she would not marry a traitor or broken man. While thus under judicial supervision, Marion took a step incompatible with the legal provisions made for her in her gift of ward and marriage to Sir James Douglas. Her maternal uncle, Charles Murray of Cockpool, appears to have been her adviser, and she was induced to alienate her half of Mouswald to him. This alienation in his favour was confirmed by Queen Mary, on 24th June 1564. But Sir James Douglas succeeded in having the transaction declared null as an illegal subversion of the gift of her ward and marriage.

Baffled again in her unequal contest with a powerful legal guardian, she next retired to reside with her maternal uncle, Charles Murray of Cockpool, at his castle of Cumlongan. But there she did not find consolation. She took the fatal leap over the highest wall of the castle tower and fortalice, and, in the expressive vernacular of King James the Sixth, "thairthrow wilfullie breking of hir awin craig and banis quhair of sche deit." By that wilful act of suicide, the interest in the unfortunate Marion in Mouswald was escheated to the Crown. King James the Sixth, by gift under the Privy Seal, 17th October 1570, bestowed the interest forfeited by the unhappy suicide in

¹ The late Mr. Charles Steuart of Hillside, long the respected factor on the Annandale estate, after seeing the arrangements made by Sir James Douglas and Marion Carruthers,

expressed an opinion that no final judgment could be formed thereon without more information than was forthcoming.

Mouswald upon Sir William Douglas of Hawick, eldest son of Sir James Douglas. The second grandson of Sir William, James Douglas, was provided to Mouswald, and the Douglasses of Mouswald, as cadets of Drumlanrig, continued for upwards of a century, when Mouswald passed into other hands.¹

RECENT CONTRIBUTIONS TO THE HISTORY OF THE BORDERS.

During the present century several important works have been prepared bearing on the history of the Scottish Border abbeys, as well as on the noble and baronial families on both sides of the Borders. His Grace the late Duke of Buccleuch and Queensberry, K.G., presented, in the year 1837, to the Bannatyne Club the "Liber de Mailros," in two volumes quarto. The work is illustrated with engravings of several of the ancient and beautiful charters, and also many of the armorial seals still appended to them. The wealth of illustration well entitled the work to the style of magnificent. Nine years later, in 1846, His Grace the late Duke of Roxburghe, K.T., presented to the same Club the "Liber de Calchou," in two volumes quarto. That work included a facsimile of the beautiful charter granted by King Malcolm the Fourth to the abbey, which contains in the initial letter of his Christian name two portraits in colours, which have reasonably been supposed to be representations of the youthful Malcolm and his grandfather, the venerable King

¹ The present owner of Mouswald is Mrs. Reid. Her eldest son, the late Mr. J. J. Reid, Queen's Remembrancer in Exchequer, wrote a paper on the "Barony of Mouswald, and Barons; a page of Border History" [Proceedings of the Society of Antiquaries of Scotland, 1888-9, vol. xxiii. pp. 24-79]. It is chiefly derived from the information produced in the Locality of Moffat in 1852, as appears from the numerous references throughout. Mr. Reid's own researches added to

it make his paper a very readable one; although, from the private Drumlanrig Papers to which he seems to have had access, he animadverts too severely on Sir James Douglas as the guardian of the heiresses, without making comment on the conduct of Cockpool. If the poor heiress had followed the advice of her legal guardian, she might have had a better fate than that which she met with in the home of her uncle at Cumlongan.

David the First. A year later the same Club was successful in obtaining a third presentation of the "Liber de Driburgh" from the late John Spottiswoode, Esquire of Spottiswoode. Of the fourth Border Abbey of Jedburgh no cartulary is known to exist. But the noble owner, the Marquis of Lothian, K.T., who, with enlightened taste and patriotic liberality, has done so much to improve and preserve the remains of this splendid ecclesiastical building, has made collections of ancient charters connected with the abbey, with the view of preserving them in a record similar to the volume relating to his separate Abbey of Newbattle, which was presented by the late Marquis to the Bannatyne Club.

Family Histories of the Scottish Border noble and baronial houses have been numerous and exhaustive. The present Marquis of Lothian in the year 1875 printed the correspondence of Sir Robert Kerr, first Earl of Ancram, and his son William, third Earl of Lothian, in two volumes quarto, including many portraits of the families of Ancram and Lothian. The letters extend from the year 1616 to the year 1667, and form a very valuable collection of private and public correspondence.

Two years previous to the printing of the Kerr correspondence, the late William Lord Herries and his brother the late Honourable Marmaduke Maxwell of Terregles, printed, in the year 1873, the "Book of Carlaverock," in two large quarto volumes, which included the charters and correspondence of the Maxwell, Herries, and Nithsdale families, with exhaustive memoirs. Mr. Marmaduke Maxwell previously, in 1865, printed in one quarto volume "Inventories of the Maxwell, Herries, and Nithsdale Muniments."

The late Sir John Maxwell of Pollok, Baronet, printed in the year 1863 the "Pollok-Maxwell Charters and Correspondence," which was described by the late Mr. John Riddell, advocate, as a magazine or storehouse of historical information. The successor of Sir John Maxwell both in his baronetcy and his estates was his nephew, the late Sir William Stirling Maxwell, Baronet of Keir and Pollok, who in acknowledgment of his eminent literary

attainments was made a Knight of the Thistle. Sir William printed in the year 1875 "The Cartulary of Pollok-Maxwell" in one volume quarto. In the six quarto volumes now described the detailed history and abundant muniments of the great Border house of Maxwell have been more fully recorded than almost any other Border surname.

Following at a short interval, "The Scotts of Buccleuch" formed the subject of the distinguished Border House of Buccleuch, in two large quarto volumes printed in the year 1878, profusely illustrated with portraits, charters, correspondence, and other illustrations, all betokening the munificence of the late Duke of Buccleuch and Queensberry, K.G., who was in his day such a commanding figure in the Scottish Border.

Another great Border book under the title of "The Douglas Book," in four large quarto volumes, with numerous illustrations of charters and correspondence, was completed in the year 1885 for the late Earl of Home, Baron Douglas of Douglas, and his son and successor the present Earl. The history of the noble houses of Douglas and Angus, who were so prominently connected with the Borders as wardens and otherwise, are fully recorded in these four quarto volumes.

The privately-printed books now referred to chiefly relate to the Scottish side of the Borders.¹ But there is one book which refers mainly to the

¹ None of these works, nor any of the Border histories published by Mr. Redpath, in the year 1776, and other subsequent writers, make any special reference to the Johnstons in Aberdeenshire. In 1832 Mr. Alexander Johnston, writer to the signet, published a genealogical account of the Johnstons of Caskieben in the shire of Aberdeen. It is chiefly compiled, as he explains, from a manuscript history of the family by an unknown author, written about the year 1610. The first-named member of the family mentioned in their oldest writs, dated in the year 1380, is "Stivene Clerk." He acquired the

lands of Caskieben with the heiress, Margaret, daughter of Sir Andrew Garioch of Caskieben, knight. His descendants afterwards changed the name of the lands to Johnston, and took the designation of Johnston of that Ilk, as if they were the chief or head of all the Johnstones in Scotland. But the investigations made in the present history of the Johnstones, Earls and Marquises of Annandale, show that the alleged connection between the two families is fabulous. The reputed "Stivene Clerk" is not mentioned in any muniment of the Annandale family, which existed for at least five generations

English side, and it deserves honourable mention. The work is entitled, "Annals of the House of Percy." It consists of two noble volumes, printed for private circulation only, in 1887, by the present representative of the great house—his Grace Algernon-George Percy, Duke of Northumberland, K.G. The book is enriched with portraits, castles, armorial seals, and other illustrations.

The Percy Book was completed within two years after the Douglas Book, and they naturally attract notice, owing to the two heroic families of Douglas and Percy having made up so much of the history of the warfare on the Scottish and English borders.

The present work may be considered a fitting companion to the Maxwell and other histories now referred to, and as a record of the Johnstones, Earls and Marquises of Annandale. Although the detailed memoirs have not been brought down to the time of the late Mr. Hope Johnstone of Annandale, it cannot be overlooked how nobly and gallantly he maintained the struggle to protect the interests of his family for the peerages which he firmly believed to be as much his own as the landed estates which he enjoyed. He often expressed his wish that his family muniments should be properly arranged, but he passed away before his wish was accomplished. To the liberality of his grandson, the present representative of the house of Johnstone of Johnstone, this work really owes its existence. This is not the first occasion on which Mr. Hope Johnstone's public spirit has been shown. Soon after his succession to the Annandale estates the great wave of agricultural depression swept over the country, and threatened to be calamitous to not a few of the

at Johnstone in Annandale prior to his time. His name of Stephen never once occurs in the numerous generations of the real house of the Johnstones of Johnstone and Annandale from the year 1170 to the present chief of that house. Although of the same name, the Johnstons of Caskieben never appear in

any of the bonds of clanship entered into by the great Border clan of Johnstone. There are, however, many names other than Johnstone included in these bonds, showing that even they had a closer connection with that clan than the Johnstons of Caskieben had.



numerous and industrious tenantry on his estates. The enlightened consideration with which Mr. Hope Johnstone as proprietor co-operated with them to assist them in their struggles is well known, and a permanent memorial has been gracefully recorded in an address, which was presented to him on the 22nd of June 1883. The address is in the following terms:—

To

JOHN JAMES HOPE JOHNSTONE, ESQUIRE
OF ANNANDALE.

SIR,—The tenantry on your extensive estates of Annandale desire, by means of this address, to convey to you an expression of their feelings of respect and esteem towards you as their landlord.

Your family have long been distinguished by the cultivation of considerate and kindly relations with the tenantry on the estates, and no one ever enjoyed or deserved on this account, as also on general grounds, more profound respect than your lamented grandfather.

It is a high satisfaction and a source of sincere gratitude to us all that you have followed in his footsteps in the interest you have taken in our comfort and welfare.

The general agricultural depression, and the unfavourable seasons which so persistently prevailed over almost the whole country during recent years, influenced our interests to such an extent as to cause many of us to look on the situation with concern as one of great gravity indeed: and it was in these circumstances that your kindly interest in us was exhibited by your spontaneously offering us a reduction of ten per cent. from our rental. Not only has this reduction been with equal spontaneity again and again repeated, but you have given instructions for a revaluation of the pastoral farms on your estate.

We warmly appreciate these repeated acts of generous kindness, and

rejoice that your residence on the estates, and the lively personal interest you take therein, enables you to estimate the position correctly.

We also appreciate your desire and efforts to maintain the high reputation the estates have so long held for advanced agriculture and general improvements: and it is our desire, so far as in our power, to co-operate in such efforts.

In offering this expression of our sincere gratitude for your considerate and generous conduct towards us, we venture to hope that you may long be spared to enjoy your high position, and to receive the profound respect of your tenantry.

Moffat, 22nd June 1883.

The address was signed by all the tenantry on the Annandale estates, and is preserved at Raehills House. Some time afterwards the address was followed by a public banquet given by the tenantry and friends, during which Mr. Hope Johnstone made a feeling and appropriate reply to the address.

It now remains, in closing this Introduction, to acknowledge the courtesy shown by several noblemen and gentlemen in contributing charters of much interest for the present work. His Grace the Duke of Buccleuch and Queensberry, K.T., The Right Hon. the Earl of Home, Baron Douglas of Douglas, The Right Hon. the Earl of Strathmore and Kinghorn, and Sir Reginald-Archibald-Edward Cathcart, Baronet of Carleton, all liberally permitted charters of the Bruces of Annandale both to be printed and lithographed for this work from their respective muniment rooms at Drumlanrig, Douglas, Glamis, and Killochan.

WILLIAM FRASER.

EDINBURGH, 32 CASTLE STREET,
December 1894.

MEMOIRS
 OF THE
JOHNSTONES OF JOHNSTONE,
EARLS AND MARQUISES OF ANNANDALE,
FROM THE TWELFTH CENTURY.

I.—JOHN, FIRST KNOWN ANCESTOR OF THE JOHNSTONE FAMILY, FATHER
 OF SIR GILBERT JOHNSTONE, KNIGHT.
c. 1170-1194.

Previous writers on this family have generally commenced their history with Sir John de Johnstone, knight, and Gilbert de Johnstone, who flourished in the thirteenth century, and gave their oaths of fealty, like the majority of their countrymen, to King Edward the First of England, in the year 1296, when that invader overran Scotland. But recent investigations which have been made in connection with the present history of the Johnstone family have disclosed the fact that they flourished in Annandale in the twelfth century, or upwards of one hundred years anterior to these two members of the family who yielded their fealty to Edward in 1296. It is more satisfactory to be able to commence the history of a really heroic race with true and knightly names, than with later members who were compelled to subscribe the Ragman Roll of the "Hammer of Scotland."

The earliest-traced members of the Johnstone family appear in charters

and other instruments, in close connection with the illustrious house of Bruce so early as 1170. Either from the first Bruce of Annandale, who settled there in 1124, or his immediate successor, "John," father of Sir Gilbert Johnstone, obtained the lands of Johnstone. These were situated in the heart of Bruce's great lordship, and not far distant from his famous castle of Lochmaben, which was included in the grant to him by King David the First.

This sovereign, for the improvement and civilisation of Scotland, planted great families in the north and other parts of Scotland in the same way as he established the Bruces in the south. One of the principal grants in the north was made to "Freskyn," the first known ancestor of the dual families of Sutherland and Athole. "Freskyn" had no surname, and is only known from charters in which his sons Hugh and William are mentioned—"Hugo filius Freskyn," and "Willelmus filius Freskyn." These charters sufficiently preserve the name of "Freskyn," who possessed lands in West Lothian in addition to those in Moray and Sutherland. The extensive possessions of "Freskyn," both in West Lothian and Moray, held by him under King David the First, were confirmed to his son William of Moray by King William the Lion, to be held by the grantee in the same way as they had been held under King William's grandfather King David.

Contemporary with "Freskyn" of the single name was "John," also of the single name, who, either by inheritance or gift from Robert Bruce, received lands in Annandale, and bestowed his own name on them, calling them "Jonestun," now Johnstone, both estate and parish. His son, Gilbert, is called indifferently Gilbert, son of John, or Gilbert de Jonestone; and it is a fair inference that the lands obtained their name from his father. This view accords with that of the learned and impartial author of "Caledonia." He says:—"The parish of Jonestone derived its name from the village and the hamlet, from its having become in Seoto-Saxon times the *tun* or dwelling of some person who was distinguished by the appellation of John."¹ This

¹ Chalmers, "Caledonia," vol. iii. p. 179.

statement is now confirmed by charter records which were unknown to Mr. Chalmers. These describe the earliest known proprietor of Johnstone as "John," who no doubt gave his name to the lands, and he must have been a person of considerable importance to have acquired the territory of Johnstone in the centre of Bruce's lordship of Annandale. It is probable that "John" was a Norman or Saxon under the first or second Bruce, lord of Annandale, though he may have been one of the native inhabitants.

Another family of the Bruce vassals in Annandale begins likewise with the Christian name "Ivo," without a surname. Robert Bruce, *circa* 1190, granted to "Ivo" and his heirs a place between Blawad and the Water of Hesch (Esk) for fishing. Among the witnesses to that charter are Peter of Humez, Hugh of Corrie, Hugh, son of Ingebald, Humphrey of Gardine (Jardine), Richard Flammanc (Fleming), Henry, son of Gerard, and others. The same "Ivo" having acquired the lands of Kirkpatrick, was designated Ivo de Kirkpatrick in a subsequent charter,¹ just in the same way as Gilbert, the son of the first John, is styled in charters Gilbert, the son of John, and also of Johnstone, the name of his lands.

II.—SIR GILBERT JOHNSTONE, KNIGHT, OF JOHNSTONE, SON OF JOHN,
THE FIRST KNOWN ANCESTOR, *c.* 1194-*c.* 1240.

This is the first member of the family of Johnstone who took that surname, derived from the lands called after his father, John. As Gilbert, son of John, he witnessed a charter by William Bruce in which he makes known to all his men and friends, French and English, that he had given to Adam of Carlisle (Karleolo), the son of Robert, the lands of Kynemund in exchange for the lands of Locardebi (Lockerbie), which Robert Bruce, the grantor's father, gave to Robert, father of the grantee, for his homage and service. The witnesses are William of Heriz, Adam, son of Adam, Vdard of Hodelm, Hugh de Brus, Adam of Dunwithie, Richard Flammanc, and others.²

¹ Pp. 1-3 of this vol

² 1194-1214, pp. 1, 2 of this vol.

The earliest mention of this Gilbert occurs in a resignation by Dunegal, son of Udard, who thereby quitclaimed to William Bruce and his heirs, in full court, a carucate of land in Weremundeby (Warmanby) and half a carucate in Anant (Annan), with a toft, for the use of Gilbert, son of John. The witnesses are Adam of Seton, Robert of Hodalmia, Humphrey del Gardine, Adam, son of Adam, Richard of Penresax, William de Herez, Patrick Brown, Udard de Hodalmia, Hugh de Corri, Maleolm Loeard, and others. The resignation was made in full court of the barony, and in presenee of the witnesses. The date is not given, but, from the witnesses' names, it appears to have been made between the years 1194 and 1214.¹

As "G. de Jonistune," he witnessed a charter by William Bruce, grandson of the first Robert Bruce of Annandale, to Ivo of Kirkepatric of the land in the fee of Penresax, which was called Thorbrec and Willambi, and the town of Blaewde. Richard de Boseo, Robert of Crosscobi, William of Heneuile, Alan of Dunwidi, and others, are also witnesses. This is the earliest charter which contains the surname of Johnstone. It is undated, but it must have been granted previous to the year 1214, about which time William Bruce died.

Nor was Gilbert de Jonestun a less important personage when the next Robert Bruce, who was great-grandson of the first Robert Bruce, lord of Annandale, held that lordship in suecession to his father, William Bruce. We find Gilbert Johnstone, or Gilbert, son of John, as he is still called, acting as a security in a transaction between the two great houses of Bruce and Dunbar. William Bruce, lord of Annandale, died in or about 1214; and his widow, Christiana, married, as her second husband, Patrick, first of that name, Earl of Dunbar. In consequence of that marriage, she and Earl Patrick, in the year 1218, entered into an arrangement with her son, Robert Bruce, now lord of Annandale, as to her dower lands in Hertness, Durham. She leased these lands to her son for a term of

¹ P. 3 of this vol. Bain's Calendar of State Papers, vol. i. p. 107.

eight years, at a rent of £36, 6s. of silver yearly, which he engaged to pay to her and her husband so long as they warranted the lands to him. Robert Bruce also bound himself not to dispoise the lands for eight years, and he named certain gentlemen as sureties that he would fulfil his part of the agreement. One of these was Gilbert, son of John, and the others were Humphrey Jardine, Hugh of Corri, William of Heriz, Robert of Crossebi, Richard de "Bosco," and Robert of Tremor.¹ Gilbert, son of John, also appears as a witness, along with Sir Richard de Levinton, Sir Roger Avenel, and the whole "curia" of Sir Robert de Brus of Anant, to a transaction by which Ralf the "Lardener" and his brother David quitclaimed to Robert de Brus all the lands which they held of him in the vill of Anant, instead of some accounts which the Lardener could not pay.² As Gilbert de Joneston he was witness to a charter by Robert Brus to Roger Crispin of the lands of Cnoculeran, apparently near Cummertrees, about the same date as the agreement, in which he figures as a pledge, the witnesses being nearly all the same.³ This charter is a beautiful specimen of the caligraphy of the period, as may be seen from the facsimile in this volume. The ink which it was written with is still remarkably fresh and distinct.

Some time afterwards, Gilbert de Joneston was advanced to the dignity of knighthood. Robert Bruce granted to Robert of Crosby a right of commonty in the wood of Stapleton, and the witnesses are Sir Humphrey of Kirkpatrick, Sir Adam of Carnot, Sir Gilbert of Jonestone, Sir Alan of Dunwidi, and others.⁴ As "Sir Gilbert de Joneston" he witnessed a quitclaim by Roger, son of William French, to Sir Robert Bruce, lord of Annan-

¹ 11th November 1218. Bain's Calendar of State Papers, vol. i. p. 123; p. 4 of this vol.

² Bain's Calendar, vol. i. pp. 123, 124; p. 4 of this vol.

³ P. 5 of this vol.

⁴ Pp. 5, 6 of this vol. Sir Robert Bruce, lord of Annandale, with whom Sir Gilbert

Johnstone was in close alliance as lord superior of Annandale, married the Princess Isabella, second daughter of David, Earl of Huntingdon, younger brother of King William the Lion, and youngest grandson of King David the First. It was as the lineal descendant of that marriage that King Robert Bruce inherited the Scottish Crown.

dale, of lands in Anant towards Wormanby in excambion for lands in the territory of Moffat. Sir John de Rumundebi, Sir Humphrey of Kirkpatrick, and others, are also witnesses. Sir Gilbert Johnstone, knight, died before the year 1249.

III.—GILBERT JOHNSTONE, the Second of the Christian Name of GILBERT.

Circa 1249.

He was probably the son and successor, in the lands of Johnstone, of Sir Gilbert Johnstone. But the second Gilbert Johnstone did not hold such a position as his father did. He is only once traced on record in connection with a transaction by which Robert Bruce, who was the competitor for the crown, and the grandfather of King Robert, obtained from Robert de Dundovenald two carucates of land in the fee of Egilfechan, with the advowson of the church of Egilfechan. Bruce obtained sasine in his full court at Drivisdale on the Thursday after the feast of St. James the Apostle, 1249. The witnesses to that infetment were Sir Walter Cumyn, Earl of Menteith, Sir Alexander Cumyn, Earl of Buchan, Humphrey de Kirkepatrick, Gilbert de Joncston, and others.¹

This Gilbert Johnstone was then acting with the two Comyn Earls of Menteith and Buchan, in the acquisition of property in Bruce's own lordship of Annandale. But friendly relations between the Bruces and Comyns were terminated by the slaughter of the Red Comyn in the Friars' Church of Dumfries.

IV.—1. SIR JOHN JOHNSTONE, KNIGHT, 1296.

“Johann de Jonestone, knight, del Counte de Dunfrys,” swears fealty to King Edward the First at Berwick-upon-Tweed on the 28th of August 1296. In doing so he is accompanied by Johan le Blunt de Eskeby.² The

¹ Bain's Calendar, vol. i. p. 326. Pp. 6, 7 of this vol.

² Bain's Calendar, vol. ii. p. 202; seal, *ibid.* p. 549, Appendix III., No. 329.

armorial seal of this Sir John Johnstone still exists in the Public Record Office, London, being attached by a string to a small fragment of the homage. The seal is thus described—"Shield with 2 garbs (?), and a canton over a 3rd; charges indistinct (stars ?), 'S. JOHIS DE IONESTONE MILITIS.'"

Nothing further regarding the history of this knight of the fealty to the overrunning policy of King Edward the First has been ascertained.

IV.—2. GILBERT JOHNSTONE, 1296.

As Gilbert de Johnstone of Dumfriesshire, he took the oath of fealty to King Edward the First, and appended his seal to a deed of homage on the 28th of August 1296, at Berwick-upon-Tweed. His seal is still appended to the deed of homage in the Public Record Office, London. The seal is different from that of Sir John de Johnstone, who took the oath to Edward at the same time. The seal is thus described—"A gem, a head in profile: 'S. GILBERTI DE IONESTOVN.'" ¹ Along with Gilbert in making oath of fealty were Humfrey de Boys, knight, Roger de Kirkpatric, knight, Hugh Mauleverer, and others. He is probably the same Gilbert de Johnstone who obtained from King Robert the Bruce, in or after 1309, the lands of Hevirterrigs and Redmyre, in the shire of Lanark. ²

The practice of continuing distinguished names in Scottish families has long been observed. The Christian names of John and Gilbert, which were held respectively by the oldest known ancestor of the Johnstone family and his son Sir Gilbert, prevailed in the family from the twelfth to the fifteenth century. In 1484, John Johnstone was proprietor of Johnstone, and his next brother was Gilbert Johnstone. After them the name of Gilbert was dropped in the main line, and those of John and James became the prevailing Christian names, and have continued to the present time—sometimes in conjunction.

¹ Bain's Calendar, vol. ii. pp. 185, 210; seal, Appendix I. (7), p. 531.

² Robertson's Index of Missing Charters, p. 1.

V.—1. JOHN OF JOHNSTONE, *c.* 1320.

John of Johnstone appears as the next owner of Johnstone. After Robert Bruce succeeded to the Scottish throne, he surrendered to his nephew, Thomas Randolph, the lordship of Annandale. As the new lord of Annandale, Randolph, who was also created Earl of Moray, granted a charter to William Murray, his nephew, of the half of the tenements of Cumlongan, and of Ruthwell, in Annandale, formerly possessed by Thomas of Duncurri. That charter is undated, but it was granted between the years 1312, when Randolph acquired the earldom of Moray, and 1332, when he died. The charter is witnessed by "Johanne de Jonestone" and "Gilberto de Jonestone," without any further designation of either of them, and also without any relationship being stated. All the other witnesses to that charter are also connected with Annandale, including the well-known names of Carlyle, Kirkpatrick, Jardine, and Corrie.

John de Johnstone, the senior of these two Johnstone attesting witnesses to the charter by Randolph, appears to have died soon afterwards, as no further trace of him has been found, and the next inheritor of the estate of Johnstone and owner of the lands of Brakenthwait was—

V.—2. GILBERT OF JOHNSTONE, 1333-*c.* 1360.

As stated in the previous Memoir, Gilbert de Johnstone witnessed the charter of Randolph, lord of Annandale, to William Murray, of the lands of Cumlongan and Ryuel [Ruthwell]. After the temporary triumph of King Edward Baliol, in the year 1333, the lordship of Annandale was, at least for a time, partly under Baliol's sway. The lands of Brakenthwait, belonging to Gilbert Johnstone, were granted by King Edward the Third, who then ruled in Annandale, to Percy, ancestor of the Northumberland family.

Gilbert de Jonestone, William of Levington, Robert of Crosby, and other jurors, held an inquest at Lochmaben, on 24th July 1347, under writ of King

Edward the Third, and found that William, son and heir of the late John de Carlyle (Carl'o) is nearest and lawful heir of the late William de Carlyle, his uncle, in the latter's lands held in fee, viz., Luse, with lands in the burgh of Annan, Lougherwode, etc., and that the said William had done nothing against his lord at any time that he should not recover his lands, and that he was of full age. Gilbert de Jonestone is named first in this inquest. Annandale was then under the occupation of the English after the battle of Durham.¹

VI.—SIR JOHN JOHNSTONE OF JOHNSTONE, 1370-1413.

This chief of Johnstone is the first who is specially mentioned by historians as taking an active part in public affairs. He was one of the wardens of the West Marches, and made a stout resistance to various petty invasions of the English borderers between 1377 and 1379. On these occasions he was so uniformly victorious as to draw from one writer the eulogy that praise, if given to each of his memorable acts even though not all recounted, would be tedious, not, indeed, to warriors, but to dainty ecclesiastical readers.² He is celebrated by Wyntown for an encounter on the water of Solway in 1378, and his name is coupled with that of Sir John Gordon, who was carrying on similar operations in the Merse. The date is 1378.

“When at the wattyr of Sulway,
 Schyr Jhon of Jhonystown on a day
 Of Inglis men wencust a gret dele.
 He bare hym at that tyme sa welle
 That he, and the lord of Gordowne,
 Had a sowerane gud renown
 Of ony that was of thar degre,
 For full thai war of gret bounte.”³

¹ During the reign of King David the Second (Bruce), an Adam Johnstone received a crown charter of the lands of Cronanton, Molyn, Monykipper, and Rahill, in the barony of Kirkmichael and shire of Dumfries — [Robertson's Index, p. 47.]

² Fordun à Goodall, vol. ii. p. 385.

³ Wyntown's Cronykil, Book 11. p. 311.

Two safe-conducts in February 1383 and 28th March 1385, addressed to Sir John Johnstone, appear to be granted to the same person. The second safe-conduct, besides granting him personal protection, extended protection to a ship which he had freighted apparently with merchandise from abroad. He is also named in 1385 as the recipient of 300 francs d'or, a share of the money brought from France by Sir John de Vienne as a subsidy to the Scots. This sum was no doubt paid to him as a compensation for damage done by English invasions. He was also one of those who pledged themselves for the observance on the West March of an agreement which had been made between England and Scotland as to the delivery and ransom of prisoners taken on either side during the preceding nine years. In this indenture he stands first on the part of Scotland, and is followed by Sir John of Carlyle, Sir William Stewart of Castlemilk, and others.¹

Sir John Johnstone appears to have died shortly afterwards, and was succeeded by his son.

VII.—ADAM JOHNSTONE OF JOHNSTONE.

JANET SETON, HIS WIFE.

1413-1454.

In modern times more interest has attached to the personal history of this Adam Johnstone of Johnstone than to any of his predecessors. This distinction was not acquired by any famous exploits performed by him exceeding those of any of his ancestors. Several of these had attained to the honour of knighthood, and they were men of valour and renown as became their heroic race. The distinction referred to, which in modern times has led his name to be often quoted in judicial tribunals, arose from the simple fact that the most persistent of all the numerous claimants of

¹ Indenture made at Clochmabanestane, 6th November 1398.—Bain's Calendar, vol. iv. pp. 108, 109.

the Annandale peerages maintained that this Adam Johnstone was the common ancestor of the Johnstones of Johnstone and Annandale and the Johnstones of Westerhall.

In support of that pretension several Scottish chronicles and histories, as well as family tradition and documentary proofs, were all arrayed to prove that a certain Matthew Johnstone was the second son of Adam Johnstone of Johnstone, and also the predecessor of the Johnstones of Westerhall. The earliest of the chronicles referred to is what is commonly known as the compilation of John Asloan, a notary public, who made miscellaneous collections in prose and verse transcribed from MSS. towards the close of the reign of King James the Fourth, or before the year 1514. But the collection only contained transcripts, and no original writs. The Asloan ms. having been acquired by Alexander Boswell of Auchinleck in 1730, came to be known as the "Auchinleck Chronicle." Mr. Thomas Thomson printed privately a few copies of portions of Asloan's collections in prose about the year 1819. In an explanatory note by Mr. Thomson he alludes to the errors of fact and of date, as well as those of transcription, which the collection exhibits. He explains that some of the erroneous dates and accidental mistakes of transcription have been rectified in his print. It is added that several known or suspected errors have been suffered to remain. The chronicle does not even mention the name of Adam Johnstone of Johnstone or of his alleged son Matthew, although it was offered as evidence to prove the important fact of the paternity of Matthew as son of Adam. Such a confessedly erroneous chronicle was utterly worthless as legal evidence, and was rejected by the House of Lords as not admissible in evidence.¹

The next chronicle which was offered by Sir Frederic Johnstone to prove the paternity of Matthew as the son of Adam was a manuscript known as "Law's Manuscript," or "De chronicis Scotorum brevia, 1521." It was produced at a meeting of the Committee of Privileges of the House of Lords on

¹ Minutes of Evidence in Annandale peerage, 21st July 1876, p. 100.

21st July 1876. The witness was the late keeper of the University Library of Edinburgh, in which Law's chronicle is preserved. On behalf of Mr. Hope Johnstone the witness was cross-examined by his counsel, who asked, "What period of Scottish history does the MS. profess to cover?" The witness answered, "It begins at a very early date. It deals with history in general, beginning about the time of Moses, but it comes down to the year 1521."¹ Earl Cairns, who was Lord Chancellor, and attended the Committee, was much amused with the reference to Moses, and he remarked jocularly, "I have no doubt he makes Moses a Scotchman."² Another attempt was made to receive Law's chronicle as evidence, but it was not allowed.

A third production, the history by John Lesley, Bishop of Ross, was received in evidence, but as it contained nothing to show that Matthew Johnstone was son of Adam Johnstone, it was as little to the purpose as the other chronicles.

A fourth manuscript, the history of the Douglas family written by David Hume of Godscroft in the year 1644, was also tendered to prove statements relating to this Adam Johnstone and Matthew Johnstone, but it too was rejected on the ground that it was not written by a contemporary of either of the persons concerned.³

The family tradition was not more satisfactory. The oldest witness produced was the Rev. Canon Johnstone of York, an aged member of the Westerhall family. He was asked if he ever heard in his family who was the founder of the Westerhall family. His answer was, "I have often heard my brother say, from documents which he had in his possession, that he could trace our family back to Adam, who was succeeded by his son Sir Matthew."⁴

All this oral and documentary evidence produced on behalf of Sir Frederic Johnstone, and collected with great labour and expense by himself

¹ Minutes of Evidence in Annandale peerage, 21st July 1876, p. 100.

² This remark is not reported in the minutes, but the writer was present and heard

it made.

³ Minutes of Evidence in Annandale Peerage, pp. 104, 105.

⁴ *Ibid.* p. 706.

and several generations of his family, proved unavailing. The House of Lords adjudged that the paternity of Matthew Johnstone had not been proved, and that Sir Frederic Johnstone had not made out his claim.¹

With this preliminary explanation as to the position claimed by the Johnstones of Westerhall for this Adam Johnstone of Johnstone through his alleged son Matthew, the ascertained facts of his history will now be related.

Adam Johnstone is designated of Johnstone in a safe-conduct to him in 1413, as one of several hostages who went to England as securities for money due by the Princess Margaret Stewart, Countess of Archibald, fourth Earl of Douglas. She borrowed 500 merks from Sir John Philip, an English knight, and the hostages, who were all gentlemen in Galloway and Annandale, were to remain with him in England until the money was paid.²

Adam Johnstone was at this time a feudal subject of the great house of Douglas, the Duke of Albany having conferred the lordship of Annandale upon Archibald, fourth Earl of Douglas, in the year 1409. How long Adam Johnstone of Johnstone remained in England is not known; but, in December 1419, he was a witness at Lochmaben to a charter by this Earl of Douglas of the lands of Grenane in Kirkcudbright to Herbert Maxwell of Carlaverock.³ He is also named in 1441 as a witness to a charter by John Lockhart of Barr to his son Robert, of the lands of Barr and others in Ayrshire; and on the same day Adam Johnstone witnessed a charter by Alexander Lockhart of Lee to his son Alan, of the lands of Lee.⁴

In the Asloan ms. before referred to, it is stated, under date 23d October 1448, that "the lord of Johnstone was present at the battell of Lochmabenstane," along with many of his countrymen against the attack by the English. An invading force of 6000 Englishmen led by young Percy and others had entered Scotland. They crossed the Solway and encamped

¹ Printed judgment, 20th July 1881.

³ The Book of Carlaverock, vol. ii. pp. 420, 421.

² Safe-conduct, 3d November 1413, Annandale Peerage Evidence, 1876, p. 15.

⁴ 8th January 1440-1, Registrum Magni Sigilli, vol. ii. Nos. 258, 261.

on the banks of the river Sark. To check their advance, Hugh, Earl of Ormond, brother of the Earl of Douglas, and some gentlemen of the neighbourhood mustered an army of 4000 men, and, though inferior in numbers, succeeded in completely defeating the English. Two thousand of the enemy were slain and their leaders taken prisoners, to the enrichment, it is said, of their captors.¹

During the years following, from 1449 to 1453, there were frequent renewals of truce with England, and on each occasion Adam Johnstone of Johnstone is named as one of the conservators of the peace on the Scottish border. The Castle of Lochmaben, then held by John Carruthers of Mouswald, as captain, was taken from him in the year 1454 by the treachery of the porter, apparently by Herbert Johnstone, who took forcible possession of the fortress, which King James the Second allowed the captors to keep "to his profit," much to the general astonishment.² This seizure is said to have taken place in August 1454, and the statement is corroborated by the Exchequer Rolls, which show that Carruthers received his salary, as keeper, up till July 1454, while, for the next twelve months, Herbert Johnstone acted as captain, and was paid the fees. It is difficult to explain this sudden seizure of a royal castle from its authorised keeper, and the subsequent condonement of the offence by the king, but the expression in the chronicle that it was for the royal profit suggests that the Johnstones may have acted with the connivance of the king, who may then have been meditating the attack upon the power of the Douglases which he carried out in the following year.

That the Johnstones were attached to the royal party in the struggle with the Douglases is stated by David Hume of Godscroft, the historian of the Douglases, who asserts that the Laird of Johnstone took part in the battle of Arkinholm, on 1st May 1455, where the Earls of Moray and

¹ Asloan ms., 1819, pp. 18, 40. Tytler's History of Scotland, vol. iii p. 211.

² Asloan, pp. 18, 52; the manuscript calls them "the lard of Jhonstounis twa sonniss."

Ormond, brothers of the Earl of Douglas, were defeated. It is said by the Chronicles that Johnstone was himself present; but it could not have been Adam, the subject of this Memoir, as he died before this battle took place. The Steward of Annandale's account, given in on 17th July 1455, shows that the mails of Beltenement and Johnstoune-tenement belonged to the Crown for one term up to Whitsunday, owing to the death of Adam of Johnstone of that ilk.¹

Sir Richard Maitland of Lethington, who was born in 1496, and whose mother was a Seton, wrote a brief account of the Seton family. He mentions the romantic courtship and marriage of Adam Johnstone and Janet Seton. Maitland's quaint vernacular, though inaccurate, is worth quoting:—

“Lord George Setoun, the first of that name, succedit to Lord Johne his father, being bot nyne yeirs of age. In the mein tyme, the Lord Crichtoun being greit in the Court, and hauing the castell of Edinburgh in his hands, gat the said Lord George, and keipit him in the said castell. In the mein tyme, the laird of Johnstoun in Anandaill desyrit the said Lord George his mother in mariage, quha, amang vther talk and communicatioun, schew to the said laird that sho was euill contentit that hir said onlie sone was in the lord Crichtoun his handis, and had great suspition thair of, becaus the said Lord George had bot onlie ane sister, quhilk was narrest air to his hail landis failzeing of him. The laird of Johnstoun perceauing that the said Lord George his mother wald haue had hir son out of the Crichtoun his handis, he waitit his tyme, and maid sic moyan in the castell, that he gat the said George furth of the said castell, and convoyit him secretly to his place callit Lochwood in Annandaill, quhair he was weill nurishit ane lang tyme. The said lady heiring tell that the said laird had convoyit hir sone out of the lord Crichtoun his handis, sho was contentit to marie him, and bair to him monie sones, quhilk war all brether to Lord George on the mother syde, of the quhilk the eldest was callit Gilbert, quha was efter ane valiant man, and maid knight. This Sir Gilbert mareit the heretrix of Elphinstoun, and was the first of the surname of Johnstouns.”²

Whatever be the basis of this story, it is contradicted in several details by various circumstances. Adam Johnstone did apparently marry the

¹ Exchequer Rolls, vol. vi. pp. xxxii, 62.

² Sir Richard Maitland's Genealogy of the House and Surname of Setoun, 1830, p. 28.

mother of George, Lord Seton, but she was not the widow of Sir John Seton, but of his son William. The latter predeceased his father, being slain at the battle of Verneuil in 1424. The son referred to, George, afterwards first Lord Seton, was married to Margaret Stewart, daughter of the Earl of Buchan, in 1436, when a dispensation was procured for their marriage, and Lord Crichton did not come into power until two years later. Janet Seton was apparently still a widow in the year 1433 when a payment was made to her as Janet Seton, mother of George Seton, an entry which implies that her own name was Seton and not Dunbar. It would appear, however, that after the death of King James the First, during 1437 and at least part of 1438, the lands of Seton and others were in ward and under the charge of Lord Crichton, and it is probably upon this fact that Sir Richard Maitland's narrative is founded.¹

Adam Johnstone predeceased his wife, Janet Seton, as appears from the Steward of Annandale's account, who charges himself with the maills of Beltenement and Johnstoune-tenement "dempta tercia de eisdem"—under reservation of the tercc.²

Adam Johnstone had several sons:—

1. John, of whom a memoir follows.
2. Gilbert, who is stated by Sir Richard Maitland to have been a son of Adam Johnstone and Janet Seton. He married Agnes Elphinstone, heiress of Elphinstone in East Lothian, and became Sir Gilbert Johnstone of Elphinstone. The male line is understood to be extinct.
3. Patrick Johnstone, who, in an Instrument of Sasine, dated 17th March 1467, is styled brother of George, Lord Seton, and was therefore a son of this Adam Johnstone and his wife Janet Seton.³ Nothing further has been ascertained regarding him, and he apparently died without issue.
4. Archibald Johnstone, who is named in a precept, dated 1476, by John

¹ Exchequer Rolls, vol. iv. pp. clxxxiii, 602; vol. v. p. 63.

² Account rendered 17th July 1455; *ibid.* vol. vi. p. 62.

³ Minutes of Evidence, Annandale Peerage, 1880, p. 1026.

- Johnstone of that ilk, as his brother, but nothing further is known of his history, and he also apparently died without issue.¹
5. William, who apparently possessed or occupied the lands of Upper Dryffe, and who is referred to between 1475 and 1481 as then deceased. His eldest brother, John, was in possession of these lands after the death of William Johnstone, who apparently died without issue.²

VIII.—JOHN JOHNSTONE OF JOHNSTONE, 1454-1493.

The position of this head and chief of the Johnstone family, as well as that of his eldest son, James Johnstone, has been misunderstood. It has been stated that John Johnstone was infeft in the lands of Johnstone in 1455, that he died on or before 13th September 1484, and that he was succeeded by his son, James Johnstone of Johnstone, who did not long survive his father, having died before May 1488.³ To prove that James Johnstone was the eldest son of John Johnstone of Johnstone, and that he had sasine of the lands of Johnstone in 1484, reference is made to an instrument of sasine dated 13th September 1484. In a modern pedigree of the family of Johnstone, dated 1766, produced by Sir Harcourt Johnstone on 4th April 1878, it is stated that John Johnstone was not present at the famous battle of Arkin, near Langholm, as it is supposed that he was attending his father Adam, then on his deathbed.⁴ These statements are quite at variance with the ascertained facts relating to this John Johnstone and his eldest son James.

The first notice of John occurs on 8th November 1438 as witness to a notarial instrument relating to the marriage of Charles Murray of Revel, in which he is designated John Johnstone, son and heir of Johnstone of that ilk. As he must have been of age to be a witness to such a formal instru-

¹ Minutes of Evidence, Annandale Peerage, Johnstone of Westerhall, Baronet, 1875, pp. (1876), p. 90. 9, 36.

² *Ibid.* 1880, vol. ii. p. 1002.

⁴ Minutes of Evidence in Annandale Peerage, p. 711, No. 331.

³ Case for Sir Frederic John William

ment, it may be inferred that his birth would be in or about the year 1417. As there is proof that he was living in 1493, he would then have attained the age of 76 years at least. Of these years nearly forty were occupied by him as head of the family of Johnstone, and proprietor of the estate of Johnstone. He was a very active chieftain, and is frequently mentioned as conservator of the truces made in the years 1457 and 1459, and also in several other public documents which will be mentioned. The great object of his youthful sovereign, King James the Second, was to break down the unprecedented power of the family of Douglas, but in accomplishing that purpose three murders were committed on the Douglasses, two by the responsible ministers of the king, and a third by the king himself. These crimes cast an indelible stain on the reign of the second James, and led to sanguinary conflicts between the forces of the king on the one hand and those of the surviving Douglasses on the other, till the latter were finally subdued at the battle of Lochmaben in the reign of King James the Third.

During the time of this chief three important battles were fought, in all of which he probably took an active part on behalf of the crown. The first is known in history as the battle of Sark, fought on 23d October 1448 at Lochmabenstane, in the parish of Redpatrick or Graitney, through which the water of Sark flows, and near which an upright stone, known as "Lochmaben-stane," is the only remnant of a large circle of stones which once stood there. This was a battle between the Scots and an invading army of Englishmen, who were severely repulsed. Very little is known of the details of the battle, as the English chronicles almost entirely ignore it. Hugh Douglas, Earl of Ormond, was the commander of the Scottish army. Among those assisting Ormond were "the Lord of Johnstone," as he is designated, who was then Adam Johnstone, and with him Sir John Wallace of Craigie, and others, amounting in all to 4000 men. These were opposed by the English army, amounting to 6000 men, led by the younger Percy and other warlike chieftains of England. As Adam Johnstone bore a con-

siderable share in that battle it is probable that his eldest son John, who had by this time attained manhood, would be there also and actively assisting his more aged father, as well as the other members of the Johnstone clan.

The next active engagement of John Johnstone was at the battle of Arkinholm, now Langholm, on 1st May 1455. The battle arose out of the continued insurrection of the Douglasses to avenge the slaughter of two Earls of Douglas, the sixth and eighth of the name. It was led by Douglas, Earl of Moray, Douglas, Earl of Ormond, and Douglas, Lord Balvany, all three brothers of the ninth Earl of Douglas. They entered Annandale and plundering it, sent the spoil as a present to their mother, then in Carlisle. John Johnstone, with 200 men, met the convoy, and a sharp fight ensued, in which Douglas, Earl of Moray, was slain, and his head was carried and presented to King James the Second as a trophy.¹

In the summer of the same year, 1455, King James the Second personally conducted the siege of Threave Castle, one of the strongholds of Douglas in Galloway. John Johnstone of Johnstone joined that expedition, and for this he was rewarded with the lands of Buittle and Sannoeh in the neighbourhood of Threave Castle, and forming part of the Douglas lands in Galloway.²

The final battle in which John Johnstone was engaged was that of Lochmaben, fought on St. Magdalen's Day, 22d July 1484. Bishop Lesley, in his History of Scotland, extols the presence and valour of Johnstone at Lochmaben, as does Abercrombie in his Martial Achievements of the Scottish Nation. The battle commenced with an attack by Alexander, Duke of Albany, who was lord of Annandale, and younger brother of King James the Third, aided by James, the ninth and last Earl of Douglas. These two noblemen joined in the hope that the old vassals of the Douglasses would rally to the Douglas standard in the same way as at the famous battle of

¹ Tytler's History, vol. iii. p. 260, quoting from Law's manuscript already referred to in the preceding Memoir of Adam Johnstone.

² Exchequer Rolls, vol. vi. p. 203. The rental due by Johnstone for them was £26, 13s. 4d.

Otterburn between Douglas and Percy, when the very name of the Douglas gained the field. But in this expectation both Albany and Douglas were disappointed. The insurrection was quelled. Albany escaped with his life by the fleetness of his horse. Douglas was captured and brought before King James the Third as a prisoner and sentenced to imprisonment in Lindores Abbey. Douglas received his doom meekly, and simply replied, "He that may no better be must be a monk."

In return, probably, for his services against the Douglases, this active and energetic Johnstone chief was the recipient of various grants from King James the Second. He did not immediately make up his feudal titles to his lands on his father's death. He received a remission of the non-entry duties of Johnstone-tenement and Bel-tenement, amounting together to £22, 13s. 4d. The king also remitted to him £85, 6s. 8d., the relief duty on the lands of Johnstone and Kirkpatrick, and also £42, 13s. 4d., the amount of the rents exigible while the lands were in the hands of the king.¹ He also received a grant of the ward of the lands of Drumgrey, valued at £34, 6s.²

This Johnstone chief, like his father, acted as one of the conservators of the truce concluded with England during the year 1457.³ In the same year he was in Edinburgh, where he formed one of a jury who retoured George Moffat as heir to his grandfather, Thomas Moffat, in 12 merks yearly from the customs of Edinburgh.⁴ In 1469 he was present in Edinburgh in the parliament which passed sentence of forfeiture against the family of Boyd, who had for some time wielded the chief power in Scotland during the minority of King James the Third. He was also a member of the parliament of 1471.⁵

Like other Scotch borderers this Johnstone chief, while engaged in the *

¹ Exchequer Rolls, vol. vi. pp. 62, 63, 272, 273.

² *Ibid.* pp. 169, 170.

³ Annandale Peerage Evidence (1876), p. 30.

⁴ Original Retour in Annandale Charter-chest.

⁵ Acts of the Parliaments of Scotland, vol. ii. pp. 93, 98.

more important battles which have been noticed, had his share of smaller actions or law-suits with his neighbours. He was engaged in 1475 in a law-suit, in the supreme civil court, with John, first Lord Carlyle, about the lands of Upper Dryfe. Lord Carlyle claimed 12 merks yearly for nine years, during which period he alleged the chief had wrongfully occupied the lands. The court ordered Johnstone to remove from the lands and to pay Lord Carlyle for his wrongful occupation since the decease of his brother, William Johnstone, and for damages, 40 merks. Power was given to distrain the goods of Johnstone for the amount, but it was still unpaid in 1503.¹

In the following year, 1476, Johnstone by special mandate from the king conjoined with Sir Robert Crichton of Sanquhar and others in defending Edward Livingston of Bowcastle against an act of molestation by William, third Lord Crichton. Livingston, since the death of his brother twenty-two years before, had held the lands of Minnygap, Crunzeanton, Mollin and Rahill (Raehills); but now Lord Crichton vexed and troubled him and his tenants in their possession, and demanded rent from the latter. Johnstone and the others named were to secure Livingston in his possessions, and see that his tenants paid their rents to him.² The royal interposition on behalf of Livingston, however, does not appear to have been effectual, as in January 1478 William, Lord Crichton, granted the lands to his own brother, Gavin Crichton.³

On 11th June 1478, Johnstone is named as a probable witness in a question between Walter Tweedie of Drummelzier and Adam Cockburn of Scraling as to the possession and value of a silver cup with a double-gilt silver cover, which Cockburn had pledged for twenty merks.⁴ In the following March Johnstone himself was a defendant in regard to a claim made against him by Archibald Carruthers of Mouswald, apparently his

¹ Acta Auditorum, p. 40; Annandale Peerage Evidence, 1876, p. 35.

² Royal mandate, 26th October 1476, printed in Minutes of Evidence, p. 31.

³ Registrum Magni Sigilli, vol. ii. No. 1439.

⁴ Acta Auditorum, p. 65.

son-in-law. Carruthers sued for £120 in terms of an agreement between his father and Johnstone, while the latter pleaded that the lands of Elliot [Eliok?] had not been secured to his daughter, a condition to be fulfilled before the money was paid. The court ordered the lady to be infeft in the lands and the £120 to be paid, allowing, however, a proof that £40 had already been paid.¹

In June 1480, Johnstone was concerned in an action and counter-action between himself and William Stewart of Castlemilk. He sued Stewart and his son, with others, for spoliation from the lands of Middleshaw of five cows and oxen. Stewart alleged that he and his son were acting under a warrant from the lady of Castlemilk, who was entitled to rent from the lands, but as they failed to produce their authority, they were ordered to restore the cattle, and to repay any rent taken. In the counter-action, William Stewart of Castlemilk accused Johnstone of wrongfully withholding £100, and also the lands of Middleshaw and Broomhill, mortgaged to him for that sum. It is stated that Johnstone withheld the lands because a marriage proposed between Stewart's son Alexander and Elizabeth Stewart had not been completed. After hearing parties the lords of council decided that Johnstone should give up to William Stewart the lands in dispute without receiving any money on the reversion, and with the necessary charters and evidents, because the marriage had not been completed; but all rents and profits drawn by Johnstone from the lands since they were mortgaged were to remain with him, because of the aid he had given to Stewart for recovering the lands and the goodwill he had shown towards the proposed marriage, although it had not taken effect. Elizabeth Stewart ultimately married Robert Carruthers; and the chief of Johnstone was present as a witness at an inquest held to serve that lady as heir of her grandfather, Archibald Stewart of Castlemilk, in the lands of Middleshaw on 6th July 1484.²

¹ Acta Auditorum, p. 74. 12th March 1478-9.

² *Ibid.* p. 139*. 20th May 1484.

The latest reference to John Johnstone of Johnstone in the judicial records occurs on 5th February 1492-3. In presence of the lords of council, George, Lord Seton, becomes surety that John, Lord Carlyle, and his spouse, shall be harmless of Johnstone, and the latter became surety that John, Lord Carlyle, and his spouse, should be harmless of William Carlyle, his apparent heir, both under a penalty of one thousand crowns.¹

It has not been satisfactorily ascertained who was the wife of John Johnstone, but he had one son, James, who predeceased him, without having been feudally vested in the Johnstone estates. He had also one daughter, apparently married to Archibald Carruthers of Mouswald.

A lady of the border name of Janet Herries was the mother of his younger son, John Johnstone of Wamphray, who received, in 1476, from his father the lands of Wamphray.² Janet Herries may have been Johnstone's lawful wife and the mother of his elder son James as well as of John. John of Wamphray had a son also named John, but the latter died without issue by his wife, Katherine Boyle, who survived him.³

IX.—JAMES JOHNSTONE, YOUNGER OF JOHNSTONE, 1478-1488.

James Johnstone received from his father John an annualrent of five merks Scots out of a tenement in Dumfries on the 8th of June 1478.⁴ The notices of him are excessively meagre; in fact the only other authentic reference to James is in connection with the family arrangement made in the year 1484, whereby John Johnstone, the elder son of James, and the elder grandson of John, was put in possession of the family estates. King

¹ Acta Dominorum Concilii, p. 273.

² Annandale Peerage Minutes of Evidence (1876), p. 90. The precept of sasine states that John Johnstone was the son of John Johnstone of that ilk "et Janetam Heris," but the words "meam sponsam" are not added.

³ *Ibid.*, pp. 90, 91, 281. The John Johnstone of Wamphray, in 1511, and who married Katherine Boyle, appears to have been a son of the first John Johnstone of Wamphray.

⁴ Instrument of resignation in Charterchest at Terregles.

James the Third granted a charter in favour of "John Johnstone, son to James Johnstone," of the lands of Johnstone and others. Neither that charter nor the instrument of sasine following upon it can now be found in the Annandale charter-chest. But in an inventory of the Annandale muniments which was carefully prepared in the year 1744, and is still the working inventory of the estate muniments, the charter and sasine in favour of John Johnstone, son of James, are described in the following entry:—

"Item, instrument of sasine proceeding upon a charter granted by the king in favours of John Johnstone, son to James Johnstone, of the lands and tenement of Johnstone, Kirkpatrick-Fleeming, and Cauwartsholm, with the pertinents, lying in the lordship of Annandale and sheriffdom of Dumfries, dated 13th September 1484. James Fawside, notary thereto."¹

As stated in the preceding Memoir, John Johnstone of Johnstone materially aided the forces of King James the Third at the battle of Lochmaben on 22d July 1484. The king liberally rewarded Kirkpatrick, the actual capturer of Douglas, as well as others who fought for their sovereign. As John Johnstone was one of the most zealous of the royal followers, he received from King James the Third a new crown charter of the family estates in favour of his grandson, John Johnstone, son of James Johnstone, so named only, and not of Johnstone. On that charter sasine was taken on 13th September 1484, being only about two months after the battle of Lochmaben. The original charter is now lost, having probably been burned in the great conflagration of Lochwood Tower in the following century, but no doubt it contained advantages as to the terms of the holding and the crown rents. John, the grandfather, was at the date of that charter, in 1484, far advanced in years, and he had desired that the king

¹ Original large folio inventory in Annandale Charter-chest. Two imperfect copies of that entry were produced from the Westhall Charter-chest. One of those entries is so inaccurate as to have the name of John

deleted and corrected to James, and James deleted and corrected to John.—[Minutes of Annandale Peerage Evidence, 1877, pp. 248, 286.]

would accept of his young grandson John, in place of the grandfather and his son James, to hold the estates, and represent the family, the grandfather probably retaining a liferent. There is no document which shows that James, the son, was ever invested in the family estates or represented the clan as their chief. Certain peerage-writers, however, misunderstanding the evidence afforded by the sasine of 13th September 1484 above quoted, have represented James as having been proprietor of Johnstone.

X.—1. JOHN JOHNSTONE OF JOHNSTONE, 1484-1488.

Although James Johnstone, younger of Johnstone, never was proprietor of the lands of Johnstone, nor attained to the position of chief of the clan Johnstone, but died in the lifetime of his father, he had two sons John and Adam.

This John Johnstone possessed the lands of Johnstone for a briefer period than any of his predecessors. He was infeft in them on 13th September 1484, as shown in the preceding Memoir of his father, James; and he must have been dead before 24th May 1488, when his brother, Adam, was served heir to him. The succession of Adam, his brother, as heir to this chief of the family, is sufficient evidence that John Johnstone of Johnstone left no surviving children.

X.—2. SIR ADAM JOHNSTONE OF JOHNSTONE, KNIGHT.

MARION SCOTT, HIS WIFE.

1488-1509.

Adam Johnstone was infeft in the lands of the tenement of Johnstone, Kyrkpatrik-Flemyng, Cawartholme, all in the stewartry of Annandale, on 24th May 1488, in terms of a charter and precept from King James the Third, which describe him as "son of James Johnstone" simply, and not of

James Johnstone of Johnstone—as the latter would have been if he had inherited the estate.¹ Adam Johnstone was defendant in an action against him as brother and heir of the late John Johnstone of that ilk.² In 1494 he was required by the lords of council to recompense to Tassy (Eustace) Maxwell twenty-one sheep valued at 4s. 6d. each, which had been carried off by a certain John Johnstone, for whom he was surety.³

At a later date, in 1498, Adam Johnstone was concerned in a more serious affair, being one of the leaders of a band of sixty men who made an attack on the house of Glendinning in Eskdale. The laird of Glendinning was sheriff of Eskdale, and private revenge may have prompted the outrage, but Johnstone and his accomplices are charged with seizing the place “under silence of night,” and committing considerable depredation. They forcibly entered the building and carried off four horses, fourteen cows and oxen, with bedding, napery, silver spoons, pots, pans, and other goods, to the value of 100 merks. It would appear that the horses were valued at £40, and that two candlesticks and a goblet were among the spoils. The marauders were summoned before the lords of council, but it does not appear that they were punished, though some compensation appears to have been given.⁴

Various appearances made by Adam Johnstone before the lords of council were not on his own account, but as surety for delinquent members of his clan. One such case has been cited, and another is recorded in 1503 where he is required as the surety for certain clansmen to restore to Thomas Porteous of Hawkshaw forty-eight cows valued at forty shillings each, seven horses and mares each worth the same sum, and goods valued at £40, of all which Porteous had been plundered. The original marauders had

¹ The charter is not extant nor recorded; but the sasine still exists in the Annandale Charter-chest.

² 13th February 1489-90; *Acta Auditorum*, p. 137.

³ *Acta Dominorum Concilii*, p. 372, 11th

July 1494. About the same date he paid 200 merks to the crown for the ward and marriage of the laird of Wamphray. [*Treasurer's Accounts*, vol. i. p. 211.]

⁴ *Ibid.* 21st November 1498; Pitcairn's *Criminal Trials*, vol. i. p. 41*.

received a remission from King James the Third, and Johnstone had then been named as their security for restoration of the goods, but this apparently had not been made, hence the action, the end of which not stated.¹

About the same date, Sir Adam Johnstone was also declared to be responsible for the sum of 40 merks which his grandfather had been adjudged to pay to John, first Lord Carlyle.² In 1504 Sir Adam and his son James are accepted as sureties, the one for the other, that the Murrays of Cockpool were to be free from attack by them or their adherents.³ At the same time he and his wife, Marion Scott, were challenged by the officers of the crown for wrongfully labouring the lands of Polcornell, Whiterig, Appletreewhat and Langwoodend. These lands had belonged to the late Sir Simon Carruthers of Mouswald, and were in the hands of the crown as ward-lands during the minority of his heir. Marion Scott, however, the widow of Archibald Carruthers of Mouswald, appears to have laid claim to the lands, in which Johnstone, now her husband, had thus an interest. Johnstone and his wife were required to produce the evidences of their rights over the lands, failing which they were to desist from the cultivation of them.⁴

In January 1509 a decree of the lords of council was given against Sir Adam Johnstone under circumstances which appear to connect him with the conflict at Lochmaben on St. Magdalen's day, 1484. At that battle John Kirkpatrick, son of John Kirkpatrick in Heslybray, had taken prisoner an Englishman named William Musgrave. This man had been liberated for eighty "angell nobillis of gold," which had been paid to William Irvine of Bonshaw, for whom Sir Adam Johnstone became security that he would hand the ransom to Kirkpatrick. This, however, had evidently not been done, and

¹ Acta Auditorum, 14th February 1502-3. No. 2699.]

Sir Adam Johnstone was, on 2d August 1502, at Edinburgh, where he witnessed a charter by Robert Corsby of Owlcotes to a servant of Lord Maxwell's, that nobleman being also present. [Registrum Magni Sigilli, vol. ii.,

² 15th February 1502-3. Minutes of Evidence in Annandale Peerage (1876), p. 35.

³ 13th August 1504. *Ibid.* (1880), pp. 989, 990.

⁴ 27th August 1504. *Ibid.* pp. 993, 994.

in 1509 Kirkpatrick sued Johnstone for the amount, which he was adjudged to pay, but the money was still unpaid at his death, a few months later.¹

The last appearance on record of Sir Adam Johnstone is as a witness to a charter by John, Lord Maxwell, granting various lands to the archbishop of Glasgow, dated at Edinburgh, 2d May 1509.² In that charter Johnstone is described as a knight.

Sir Adam Johnstone died between 2d May 1509 and 2d November same year, on which date James Johnstone, his son and heir, received a charter of the lands of Johnstone and others.³ Marion Scott, who is named as the wife of Sir Adam Johnstone in 1504, was the widow of Archibald Carruthers of Mouswald, who was alive in June 1484.⁴ She survived her second husband, and was alive in March 1511.⁵ Sir Adam Johnstone had issue, so far as is known, two sons: first, James, who succeeded him, and of whom a memoir follows; second, William, who, in a lease by John Lindsay of Covington, of date 9th March 1519-20, is described as brother of James Johnstone of that ilk. No other mention of William has been found, and he is not named in the entail of the Johnstone lands made by his nephew in 1542, and as no descendants of William are known to exist, the probability is that he died without issue.

XI.—JAMES JOHNSTONE OF JOHNSTONE.

MARY MAXWELL (OF MAXWELL), HIS WIFE.

1509-1524.

This James Johnstone is first mentioned in 1504, when he and his father appear as mutual pledges for each other. He does not again occur on record until November 1509, when, after his father's death, he received from

¹ 11th March 1510-11. Minutes of Evidence in Annandale Peerage (1876), p. 38.

³ Registrum Magni Sigilli, vol. ii. No. 3382.

⁴ *Ibid.* No. 1587.

² Registrum Magni Sigilli, vol. ii. No. 3339.

⁵ 11th March 1510-11. Minutes of Evidence in Annandale Peerage (1876), p. 38.

King James the Fourth, for his many good and faithful services, a charter of the lands of Johnstone, with the advowson of the parish church, and the lauds of Kirkpatrick, including Dunskeillie and Caversholm, and the lands of Wamphray.¹ In that charter the tower and fortalice of Johnstone are mentioned for the first time in a royal charter. The stronghold of Johnstone or Lochwood, as it was called, is, however, referred to as the residence of John Johnstone of Johnstone in 1476, and, according to the tradition of the family, it was erected in the fourteenth century. But any earlier records or charters relating to it were probably burned along with the fortress itself in 1585, when the charter-chest was consumed, and the date of its original building cannot now be ascertained.

The charter is in the terms of a regrant, as the lands had been appraised or confiscated to the king to secure payment of certain fines and amercements inflicted by the justiciary court upon the late Adam Johnstone and those for whom he was responsible. These sums the king now discharged to James Johnstone as heir of Adam, and granted the estates in the same form of holding as before the appraising.

In the year 1511 James Johnstone was sisted, as heir to his father, defender in the action, in the supreme civil court, at the instance of John Kirkpatrick, for the ransom of William Musgrave, as narrated in the previous memoir. In the following year he was fined for not producing before the court of justiciary certain members of his clan and others, for whom he was held responsible, probably as one of the deputy wardens of the West Marches under Lord Home. The crimes committed were chiefly murders, and the amount of fines for which James Johnstone was held liable was £600 Scots, the culprits themselves being declared outlaws and their goods forfeited.²

On the resignation of Robert, fifth Lord Maxwell, brother-in-law of James Johnstone, he received a charter by King James the Fifth, with

¹ Charter, dated 2d November 1509 ; Registrum Magni Sigilli, vol. ii. No. 3382.

² 5th April 1512 ; Annandale Peerage Minutes of Evidence (1880), p. 990.

consent of John, Duke of Albany, regent, of the four merk lands of Quhit-riggs and Mekillhouse; also the lands of Lund, Ersgills, Peatschaws, and others, along with the patronage of the church of Corrie, in the stewartry of Annandale. The charter is dated at Edinburgh, 27th October 1516.¹

Little further is known of the history of James Johnstone. He is named as a procurator by William Johnstone of Escheles and Esby for resigning certain lands into the hands of King James the Fifth.² During the years 1520 and 1521, Johnstone entered into several arrangements with John Lindsay of Covington, who granted to him first a lease of the eighteen merk land of Polmoody in Moffatdale for nineteen years at a yearly rental of eighteen merks, and afterwards a charter of them. The Murrays of Cockpool held a mortgage over Polmoody, but the reversion was assigned to Johnstone for 300 merks. The lands were to be held from Lindsay for a silver penny, and of the king for a red rose at midsummer.³

James Johnstone of Johnstone was, on 15th May 1523, appointed one of the keepers of the West Marches of Scotland, probably as a deputy to his brother-in-law, Lord Maxwell, who was warden. He died in August of the following year, and was succeeded by his eldest son. His wife's name has not been ascertained, but she was probably Mary, eldest daughter of John, fourth Lord Maxwell, as in 1528 John Johnstone, son of this James Johnstone, is described as "sister's son" to Robert, fifth Lord Maxwell. The issue of that marriage was six sons.

1. John, who succeeded his father in the Johnstone and other estates, and of whom a Memoir follows.
2. Adam Johnstone, who received the lands of Corrie from his father, and was designated Adam Johnstone of Corrie. The barony of Corrie formed the greater part of the ancient parish of Corrie, which has been

¹ Annandale Peerage Minutes of Evidence (1876), pp. 38, 39.

² Original procuratory, dated September 1521, in Annandale Charter-chest.

³ Original writs, *ibid.*

annexed to the adjoining parish of Hutton, and both are situated in the stewartry of Annandale and county of Dumfries. Adam Johnstone of Corrie died in 1544, leaving a son, James, whose grandson, George Johnstone, resigned, in 1623, his rights in Corrie to Sir James Johnstone of Johnstone, and received in exchange the lands of Girthhead. The male line of the Johnstones of Corrie and Girthhead ended about the year 1750, and they were then represented by four co-heiresses.

3. William Johnstone, who, in a crown charter, is designated brother-german of John and Adam.¹ He is also referred to in a contract of date 9th July 1558,² but nothing further is known of him.

In the competition for the Annandale peerage Mr. Edward Johnstone of Fullford Hall claimed, without careful investigation, to prove that this William was his ancestor; but his claim was held by the House of Lords not to have been made out. Indeed, the Lord Chancellor held that the William Johnstone of Gratney from whom Mr. Edward Johnstone claimed descent was not a Johnstone of Annandale at all.

4. John Johnstone. He is designated as brother-german of his elder brothers, John, Adam, and William, in a crown charter of 1542-3, but except a reference to him in the Treasurer's Accounts of December 1543, when he received money to buy a horse, nothing further is known of him.
5. Simon Johnstone, who is also referred to in the charter of 1542-3, but regarding whom nothing further has been ascertained.
6. James, not named in the charter of 1542-3, but is referred to in 1561 as a brother of John Johnstone of Johnstone. He held the lands of Wamphray, Pocornell, and others. By his wife, Margaret McLellan, he had issue, but his male line ended in 1656 with the death of John Johnstone of Wamphray, who left an only daughter, Janet Johnstone.³

Besides these, the abbot of Soulseat was a son of James Johnstone. If not identical with John, the son above-named, he must have been a natural son. Lord Wharton in 1548 refers to him as James Johnstone; while in a family contract of 1558 he is styled John Johnstone. Lord Wharton may have made a mistake, or James, abbot of Soulseat, may have died before 1558.⁴

¹ Registrum Magni Sigilli, vol. iii. No. 2874, 2d March 1542-3.

² Annandale Peerage Minutes of Evidence, 1876, pp. 88, 89.

³ *Ibid.* 1881, pp. 1083, 1144-1152.

⁴ *Ibid.* 1876, pp. 89, 701-705. This laird had two natural sons, David and John, in favour of whom was passed a charter of legitimation under the great seal, dated 25th April 1543. [*Ibid.* 1880, p. 823.]

FIRST JOHNSTONE WARDEN OF WEST MARCHES.

XII.—JOHN JOHNSTONE OF JOHNSTONE.

ELIZABETH JARDINE, HIS FIRST WIFE.

NICOLA DOUGLAS (DRUMLANRIG), HIS SECOND WIFE.

1524-1567.

CHAPTER FIRST.

His early life—Border forays—Slays “Meikle Sym Armistrang”—Bonds with Lord Maxwell—Imprisoned in Dumbarton Castle—Battle of Solway—Made warden of the West Marches—Death of King James the Fifth.

This Johnstone chief, who held the estates for more than forty years, appears prominently as taking an active part in Scottish affairs. Owing to the greater fulness of record at the time, we can give his personal history with more detail than has been possible in regard to several of his predecessors.

He was born in the year 1507, as appears from the fact that he was a ward of the crown for four years after his father's death; but he is mentioned in 1525 as a member of the king's council, showing that very soon after his accession to the estates he was active in public affairs. The next notice of him is in a private document, a bond by which he obliges himself to maintain and assist Robert Graham of Thornick, a neighbour borderer, in all causes, in return for manrent services.¹

The Johnstones were now become a very powerful clan, and the friendship of their chief was much sought after, while, on the other hand, he was a formidable rival to Lord Maxwell. This latter fact led, in a later generation, to a deadly feud between the two families, and even at this early period a jealousy had arisen on the part of Lord Maxwell, who had

¹ 16th December 1526. Original Bond in Annandale Charter-chest.

entered into an alliance with the lawless clan of Armstrong, and now incited them to annoy Johnstone as much as possible. There was already a feud between the clans of Johnstone and Armstrong, which had been intensified by the slaughter of "Meikle Sym Armistrang," in 1527, by John Johnstone of Johnstone himself and his accomplices. In the early part of the following year the Earl of Angus, then chancellor of Scotland, made a warden raid upon Liddesdale to punish the Armstrongs, but was compelled to retire, as the Kerrs refused to assist him. The earl then procured royal letters outlawing the Armstrongs, but Lord Maxwell declined to allow the king's proclamation to be executed in his wardenry. Not only did Maxwell thus prevent the arrest of marauders, but, according to a letter from Lord Dacre, he "caused the said Armistranges to make a roode upon the lard of Johnston, his oun sister son, who is at dedely fede with theim for the killing of Mikill Sym Armistrang; where they killed thre of his friends, and the Lord Maxwell hymself laye in a bushement to manteigne theim, purposely to have killed the saide lard of Johnston if he had pursued them."¹

It was no doubt in retaliation for Lord Maxwell's conduct that in June of this year, 1528, John Johnstone made an attack upon the lands of Drumcow or Duncow, in the parish of Kirkmahoe, burning and despoiling them of goods and cattle. The lands were the property of the crown, but had been gifted to Lord Maxwell two years before, and their destruction was intended to hurt his interest. But the fact that the lands were crown property led to a charge of treason, not against Johnstone, but against the Earl of Angus, who with his brother and uncle were at this time dismissed from the royal favour. In the summons against the earl it was alleged that it was at his instigation, and because Johnstone was bound in service to him, that the lands were harried, and that the earl had given assistance in the matter. This charge was, however, indignantly denied, the earl's advocate declaring before the parliament that the earl knew nothing of Johnstone's

¹ State Papers of Henry VIII., vol. iv. p. 492; Lord Dacre to Wolsey, 2nd April 1528.

doings, and gave him neither assistance nor advice. It was further declared that "the truble that fell betwix the Lord Maxwell and the lard of Johnstone" was not the crime of treason, but a neighbour's war; each of them burned the other's lands, and slew men and servants for his own private quarrel. As regarded the particular charge against the earl, it was pleaded that as neither of the principals (Maxwell and Johnstone) had been convicted of treason, no one could be convicted for assisting them.¹

The affair was in fact treated as a mere episode in a private feud, and a few months later, in August 1528, we find Edward Maxwell, brother of Lord Maxwell, and Johnstone acting together when they "burned the mote of Liddale," part of the English king's land in "Nichol forest," apparently on the English border.²

In December 1528 and January 1529, John Johnstone was summoned to Edinburgh to consult with the king, first as to the state of the borders, and secondly as to the government of the country. The Earl of Angus and the heads of the Douglas party had been banished from Scotland, and a peace concluded with England, by which provision was made for subduing the lawless inhabitants of the borders, of whom the Armstrongs were specially obnoxious. It was to advise as to carrying this provision into effect that Johnstone, together with the Earl of Bothwell, Lord Maxwell, the laird of Buccleuch, and other border barons, were summoned to Edinburgh. In June of 1529 King James proceeded to the east marches, where better order had been kept since the truce, and at Peebles, on 25th June, the Earl of Bothwell, as warden, bound himself to secure tranquillity and good rule in Liddesdale.³

The king then directed his attention to the west marches, and on his return to Edinburgh, a number of those responsible for that district appeared before him to answer for their duties of wardenry. They first procured a re-

¹ Acts of the Parliaments of Scotland, vol. ii. pp. 323-325.

² State Papers of Henry VIII., vol. iv. p. 507; Daere to Wolsey, 13th September 1528.

³ Acta Dominorum Concilii, 25th June 1529.

mission for themselves and all their dependants. They then obliged themselves by a formal bond not only to keep good rule in their respective bounds, but also to enter any dependant accused of crime, when required by the justiciary or justice clerk, on fifteen days' warning, under a penalty of £100 on each landed gentleman, 100 merks on each unlanded gentleman, and £40 on each yeoman, failing to keep the bond. These and other provisions of a similar kind were formally agreed to by the barons signing the bond, John Johnstone of Johnstone being one of those who thus promised to keep order on the west marches.¹ Following upon this bond the king and council granted a general remission to the inhabitants of the district affected, including Annandale.² Lord Maxwell also, as warden, bound himself to rule the whole bounds of Dumfries and Annandale in accordance with the conditions of the bond.

Previous to this, Lord Maxwell and John Johnstone had so far made up their differences that the latter granted to the former a bond of manrent, binding himself in the usual form to do service in return for a promise of maintenance. Lord Maxwell, on the other hand, obliged himself to assist Johnstone and to maintain him in his possessions, each of them taking the other's part against all except the king.³ This bond tended nothing to the keeping good rule on the west marches, and in the following year, 1530, when the king decided to govern the borders himself, he began by placing in ward all those who had been responsible. In May 1530 Johnstone was ordered to remain in Doune Castle during the king's pleasure. He was set at liberty in the following September, when he entered into a bond or protestation of fidelity to the government on receiving a remission for past offences. At the same time he gave in to the lords of council a formal list of those clans for whom he became bound that they should keep good rule.

These were the Johnstones, the Dinwiddies, the "Lathamaris" (Latimers) the lairds of Knock, Thornik, Frenchland, and Duncreich, with their respective

¹ Acta Dominorum Concilii, 24th July 1529.

² *Ibid.*

³ Bond dated 11th February 1528-9. Annandale Peerage Minutes, 1876, pp. 39, 40.

servants, the inhabitants of the towns of Lochmaben and Moffat, and others, including various families of the names of Grahame, Bell, Irving, and Moffat.¹

Johnstone had already, sometime previous to that date, given evidence of activity, as on 8th August 1530 a sum of money was paid to him and Edward Maxwell as a reward for the head of a thief taken by them and sent to Edinburgh. Two years later he is specially chronicled as the taker of a most notorious marauder, known as George Scott of the Bog. He was apparently a native or a resident in Liddesdale, as he was excepted by name from a remission granted to the inhabitants of that district. It is said that his ravages excelled in cruelty, as he not only burned the houses of his victims but their wives and children alive. The king was so incensed at the cruel conduct of Scott that his Majesty resolved to inflict upon him the tortures he had caused to others, and sentenced him to be burned alive at a stake, which was done, calling forth from the chronicler the comment "quhilk deid was neuer sene in this realme of befoir, nor will not be heirefter."²

In 1534 Johnstone is referred to in connection with a murder committed by some members of his clan, John Bell of "Cowssethill" and William Johnstone of Lockerbie, upon one of the Armstrongs, no doubt an act of retaliation. Lady Dacre, who reports the event to her husband, states that they lay in wait at Lochar-foot for "Rowe Armestrange, Red Dande son," chased him through Blackshaw and slew him in Carloverock mire. The lady adds that Lord Maxwell, who favoured the Armstrongs, is greatly displeased, while Johnstone wished the murderers to be received in England.³ In June 1536 also, some of the Johnstone clan fought a duel in presence of King James the Fifth himself against two men named Moffat and a third called "Gyrie Panago." The victory remained with the John-

¹ 16th September 1530. Annandale Peerage Minutes of Evidence, 1880, p. 991. The laird, also, on 11th April 1531, received a grant of the ward and marriage of Symon Carruthers, son and heir of the late Symon

Carruthers of Mouswald. [Reg. Sec. Sig., vol. ix. 3, 152.]

² 1532, Diurnal of Occurrents, p. 15.

³ Letters and Papers, etc., Henry VIII., vol. vii. No. 252. February 1534.

stones, though one of their number was slain, while Panago and one of the Moffats were killed.¹

For some reason not now known, Johnstone incurred the king's displeasure, and, in March 1541, was ordered to durance in the fortress of Dumbarton. A number of sureties bound themselves on his behalf that he would remain in ward in the town of Dumbarton under a penalty of 10,000 merks. His restraint was so far relaxed in the month of May following that a mile round the town was prescribed as his liuit under a penalty of £10,000. He remained still in confinement until the beginning of December 1542, when he was released to take a command on the borders.²

He was thus still in Dumbarton at the date of the rout of Solway Moss, but that event no doubt led to his release. Only three days later a letter was issued by the king in his favour, appointing him virtually warden of the west march in the absence of Lord Maxwell, who had been made prisoner. The commission simply speaks of "the absence" of Lord Maxwell, and of his son's "infirmete," whereby the "west marches and bordours of our realme ar destitute of ane wardane and gyder." It appoints Johnstone to see that "the cuntre be wele rewlit," and due resistance be made to England, and all his servants and dependants were required to attend upon him in his new capacity.³

The death of King James the Fifth, however, which took place in the following month of December, somewhat changed the state of affairs. The prisoners taken at Solway were liberated on certain conditions, and Lord Maxwell soon returned to Scotland, while his son Robert, Master of Maxwell, went to England as a hostage in his stead. Before the latter left Scotland he granted to Johnstone a bond of manrent, or rather a bond of maintenance. It narrated that Johnstone was bound in manrent to Lord Maxwell before the imprisonment of the latter, an obligation which was still binding, and

¹ Diurnal of Occurrents, pp. 20, 21.

² Hamilton Papers, vol. i. pp. 321-324.

³ Original Letter, 28th November, vol. ii. of this work, pp. 3, 4, followed by another dated 29th November 1542.

which Johnstone was bound to keep to the Master of Maxwell during his father's absence. In return for the services due the Master of Maxwell promised to assist Johnstone in all his affairs, and to give him, until Lord Maxwell's return, the profits of the ten merk land of Dryfesdale and other benefits.¹ In terms of the above bond and of previous similar obligations, Johnstone's appointment as warden ceased after the return of Lord Maxwell to Scotland.

CHAPTER SECOND.

Opposes English inroads—Burning on the lands of Milk—Capture of Johnstone by ambush, 1547—Sent prisoner to Carlisle—House of Lochwood made an English garrison—Raids of garrison—Lamington burnt—Johnstone removed from Carlisle to Pontefract—Narrative of his imprisonment—Release from imprisonment, *circa* 1550.

From the letters of the English wardens contained in the "Hamilton Papers" recently published, it appears that the conduct of Johnstone gave Sir Thomas Wharton a good deal of anxiety. He found it impossible to secure Johnstone in the same way as he did Maxwell to King Henry's service, though he threatened to do Johnstone a "displeasure" if he did not comply. But Johnstone was too steadfast and sturdy a Scotsman to be seduced to the English interest against his native country.²

In February 1544, Johnstone approved his hostility to England and his zeal in defence of his own country by mustering his men, and checking one of the English warden's destructive raids into Annandale. These raids became a prominent part of Henry's policy, and Wharton was one of the most active instruments for their execution. But on this occasion he writes, with no small chagrin, that his progress had been interrupted. He tells how a party under his command burned the town of Annan "more seurlly" than before, and also how a number of houses and steadings were destroyed. Then

¹ Bond dated 3rd January 1542-3, Annandale Peerage Minutes of Evidence, 1881, p. 1082.

² Hamilton Papers, vol. i. pp. 555, 579; vol. ii. pp. 129, 136, 169, 184.

Johnstone appeared with about 700 men, and although the English warden's force consisted of 3000, the Scots were able to cause such "mysorder" that the raid to a great extent miscarried. Wharton writes that they lost no men, and brought home twenty prisoners, but he desires that in the meantime no more "wardayn roodes" may be ordered.¹ Shortly after this more active and larger expeditions were made by the English, and Wharton had his revenge, for one foray, in April 1544, upon Johnstone's lands on the Water of Milk resulted in the burning of threescore houses, with "muche good corn and catail," while the marauders carried off ten prisoners, eighty nolt, twelve horses, and other property.

About the same time, an encounter took place between the Scots and English at Lockerbie, in which the Johnstones took part, though it is not said that Johnstone was there in person. The conflict was a very sharp one, and the Scots appear to have had the best of it, taking a number of prisoners.² Following upon this Lord Maxwell, to Wharton's great disgust, made a sudden agreement with Johnstone, although a little while before the English warden had described them to the Earl of Hertford as deadly enemies. "I have hard," he says, "Robert Maxwell hym self soundre tymes say so, and speak anempst the Lard Johnston the worst wordes that could be said, and thretenyd that he wold cause hyme to be slane. A litle afore the Lord Maxwells cummyng to your lordshipe they wer ennemyes." It would appear that a message from Lord Maxwell, sent by John Maxwell of Cowhill, was the cause of this sudden reconciliation.³ Wharton was more than ever embittered against Johnstone on this account, and he wrote to Hertford that he would "do no lesse then to thuttermost" for the annoyance of Johnstone and his adherents, who were to be the first to suffer.

From the English warden's account of a remarkable interview and conversation with Sir Walter Scott of Buccleuch, we learn that Johnstone was conjoined in a league with Buccleuch and other border chieftains all bound

¹ Hamilton Papers, vol. ii. pp. 281, 282.

² *Ibid.* pp. 725, 726.

³ *Ibid.* p. 735.

together, so that they might act either for or against England, but their inclinations were in favour of their own country.¹

In June 1545 Johnstone was a member of the parliament held at Stirling, which without one dissentient pledged the country to an alliance with France against England, and to the invasion of the latter country.² At the same time Johnstone, with several others, became surety for Robert, Master of Maxwell, that he would keep the castles of Carlaverock, Lochmaben, and Thrieve for the queen and governor against the English, until Lord Maxwell's return from England, where he was again a prisoner, or until an overwhelming English force was brought against him. The sureties also bound themselves to have no intelligence nor intercourse with England.³

The Master of Maxwell, however, was unfortunately taken prisoner in September 1545, and Lord Maxwell, who was liberated, was coerced into giving up Carlaverock to the English, who took possession of it in October of the same year. The tower of Langholm was already in their hands, but efforts to recover it were made by the neighbouring barons, among whom Johnstone was especially active. We learn this from the correspondence of the English wardens, and in October Lord Wharton reported that Johnstone, with the lairds of Drumlanrig and Lochinvar, was keeping a great watch, by sea and land, day and night, round the castle of Carlaverock. Another letter states that Johnstone and his colleagues had received a letter from the Scottish regent thanking them for their services against the defenders of the castle of Carlaverock, and exhorting them to be of good cheer, as he meant to join them soon and reward them. The expedition referred to was delayed, but ended in gaining the castles of Lochmaben and Thrieve for the Scottish interest.⁴ Wharton wrote at the same time that Lochinvar and Johnstone were the greatest enemies of Lord Maxwell in the west of Scotland, their

¹ Hamilton Papers, vol. ii. pp. 468, 491.

³ Register of the Privy Council, vol. i. p. 9.

² Acts of the Parliaments of Scotland, vol. ii. p. 595.

⁴ Diurnal of Occurrents, p. 41; State Papers, vol. v. pp. 491, 552; The Book of Carlaverock, vol. i. p. 202.

enmity arising from their wish to supplant him in his offices, the one in Galloway, and the other in Annandale. The wily English warden lost no opportunity of using this feeling for the advancement of his master's interests, by preventing the Maxwells and the Johnstones from combining cordially in defence of their country. In the previous February he had boasted to Lord Shrewsbury that he had long endeavoured to stir up discord between Johnstone and the Master of Maxwell, and that a feud had broken out betwixt them, which the Scottish privy council had in vain tried to settle. He had offered Johnstone three hundred crowns as a bribe for himself, one hundred for his brother, the abbot of Souleseat, and one hundred for his followers, if they would put the Master of Maxwell in the warden's power. The writer states that Johnstone had entered into the plot, but that he and his friends "were all so false" that no confidence could be placed in them. But he would be glad to annoy and entrap the Master of Maxwell or Johnstone to the king's majesty's honour and his own poor honesty.¹

In November 1545, the Scottish army assembled at Dumfries, and Lochmaben and Thrieve were retaken from the English, but Carlaverock continued in their possession till May 1546. In the following April 1547, the English privy council, in a letter to Dr. Wotton, their ambassador in France, announce, among other news, that the Scots of late having made many cruel incursions, the warden of the west marches, Lord Wharton, had been compelled to make reprisals, and had taken Johnstone in an ambush.² We have a full narrative of this exploit from the warden himself in a letter to the Duke of Somerset, lord protector of England.

Lord Wharton had received overtures from several Scotchmen in Annandale to serve the English king, and these he resolved to use for his own purposes. Among others two hundred of the name of Irving had offered their service, and boasted that "except the bodies of the lard Johnstone and

¹ Wharton to Shrewsbury, 10th February 1544-5.

² Calendar of State Papers, 1547-1553, p. 11.

John Maxwell," they would compel every one from the English border to the town of Dumfries to serve the king, if "they myght have sune enterteignement, being, as they said, in povertye." This conversation was reported to Johnstone, who had recently returned to Lochwood from Edinburgh, and he immediately summoned before him the chiefs of the Irvings. He told them he had heard of their suit to the English warden, and promised, in the name of the governor Arran, that they would be well recompensed for the damage done to them, adding that the governor was to be at Lochmaben with his whole force in a few days,¹ so that no suit need be made to Wharton. This interview led to a dispute, some of the Irvings accepting Johnstone's proposals, while others doubted him, and adhered to the English warden.

Hearing that Johnstone was then at Lochwood, Wharton resolved on a bold stroke, which may be related in his own words:—

"I caused, upoun Shyr Thursdays² in the mornynge, knowing hym (Johnstone) to be at home, to trape hym if I colde, fortye lyght horsmen of Langholme to burne a towne called Wamfraye halfe a mylle from his house of Loughwod, and appoynted the capitaign of Langholm with the rest of the garyson to lye in ambushe for the relefe of those; and thinkyng that the lard Johnstone wold come to the furst to vyew them, and so he dyd and persued them sharplye to their ambushe, and he being an over partye to them boothe as I thought he wold, and to gyve hym a mor boldnes to persue those tryed men, thynkyng them to have na mor releife, which he dyde, and the garyson being princypall men defended them verey straytlye; he tooke dyvers of the garyson and persued the capitaign and others thinkyng to have all. I appoynted my son Henry Whartone and John Musgrave with the nombre of thre hondrethe men to lye in a second ambushe who at ther tyme brook and ther gave the overthrow to the Scotis and haithe taken prisoneris the lard Johnstone, thabbot of Salsyde his brother, the lard of Corrye, the lard of Knok, the lord of Grauntton, the lard of Dunwedye and his eldest sone Gawen Johnstone, with others horsemen and footmen to the nombre of sevinscore and above."

¹ According to Wharton this interview took place, either on the 2d of April or shortly after, and the governor was to arrive before the 17th of the same month.

² A name given to the Thursday before Good Friday, in this case the 7th of April 1547.

Johnstone did not allow himself to be taken without a struggle, as Wharton states that three spears were broken upon him, and he received a wound in the upper part of the thigh. The letter further says:—

“There was viij Scotis slayne and many hurte. Ther ar four Englishemen hurt, never one slayne nor takyn. They brought away dyverse parcellis of goodes, nolte and sheipe. The prisoneris were takyne xiiij mylles within Scotland from Langholme; Archebald Armestrang, yong lard of Mangertone of Lydysdaill, is the taker of the lard Johnstone. I have hym, the abbot, and the princypall prisoneris with me in the town of Carlisle this Shire Thursday nyght; yt may please your lordshipes to comand how the same shalbe ordered. The kyngis majestie now haith the Maxwellis and Johnstones his hignes prisoneris who haith the borne a gret reulle of the west partes of Scotland.”¹

Within a few weeks after the capture thus narrated, the house of Lochwood itself, now comparatively deserted, was seized by an English borderer and made the source of annoyance to the surrounding district. This was Sir Thomas Carleton of Carleton Hall, Cumberland, who had made himself very conspicuous as a lieutenant of Lord Wharton. He acted as captain of Carlaverock during its occupation by the English. In February 1547 he had, according to his own account, made “a road into Teviotdale and got a great booty of goods.” He had then remained for some time at Canonbie, whence he went to Dumfries, where the people submitted to him, and after various other exploits in the neighbourhood, he and his men returned to Canonbie. After the capture of Johnstone, however, and the submission of the country, this leader, who tells his own story, began to consider Canonbie “to be far from the enemy,” and as every one in his vicinity had changed sides, except the laird of Drumlanrig and Carlyle of Brydekirk, he “thought it good to practise some way we might get some hold or castle, where we might lie near the enemy.” While thus practising, a man named Alexander Armstrong, “son to Ill-Will Armstrong,” told him, on the report of a resident in Annandale, that Lochwood, the late residence of John Johnstone of John-

¹ Original letter, dated 7th April 1547, in Peerage Minutes of Evidence, vol. i. pp. 703, Public Record Office, printed in Annandale 704.

stone, "was a fair large tower able to lodge all our company safely, with a barnekin, hall, kitchen, and stables all within the barnekin, and was but kept with two or three fellows and as many wenches."

The strength of the tower and its natural situation, surrounded by almost impassable marshes, apart from the fact that most of its defenders had been captured, may have led to its being left in so defenceless a condition. In any case Carleton resolved to take advantage of the opportunity and sallied forth with his whole troop, arriving in the vicinity of Lochwood an hour before sunrise. Most of his men lay concealed outside the wall, while about a dozen climbed over it, "stole close into the house within the barnekin and took the wenches and kept them secure in the house till daylight." Two men and a woman were in the tower, and at dawn one of the former, rising in his shirt, went to the tower head and seeing no one astir, he bade the woman who lay in the tower to get up and open the tower door and call up those that lay beneath. Then, adds Carleton, "she so doing and opening the iron door and a wooden door without it, our men within the barnekin brake a little too soon to the door: for the wench perceiving them leaped back into the tower and had gotten almost the wood door to, but we got hold of it that she could not get it close to. So the skirmish rose, and we over the barnekin and broke open the wood door, and she being troubled with the wood door left the iron one open; and so we entered and wan the Loghwood."

Having gained this important point, Carleton left Armstrong in charge and rode off to Carlisle where he reported his success to Lord Wharton, who appointed him keeper of the fortress he had taken. It was well stocked with salted beef, malt, butter, and cheese, and was therefore very valuable as a centre of operation against the Scots. In this capacity Carleton made ample use of it. He writes,—

"I continued there for some time, in the service of his Majesty as captain of that house and governor and steward of Annerdale under the Lord Wharton. In which time we rode daily and nightly upon the King's Majesty's enemies and

amongst others, soon after our coming and remaining there, I called certain of the best horsed men of the garrison, declaring to them I had a purpose, offered by a Scotsman which would be our guide, and that was to burn Lamington, which we did wholly, took prisoners and won much goods, both malt, sheep, horse, and insight, and brought the same to me in the head of Annerdale and there distributed it. . . . After that I made a road in by Crawfurth Castle and the head of Clyde where we seized a great bastil house of James Douglas; which they held till the men and cattle were all devoured with smoke and fire: and so we returned to the Loughwood, at which place we remained very quietly, and in a manner in as civil order for hunting and pastime as if we had been at home in our own houses. For every man within Annerdale being within twelve or sixteen miles of the Loughwood would have resorted to me to seek reformation for any injury committed or done within the said compass, which I omitted not, but immediately after the plaint either rode myself and took the party complained of or sent for him and punished or redressed as the cause deserved. And the country was then in good quietness; Annerdale, Nidsdale and a great part of Galloway, all to the water of Dee were come in and entered pledges.”¹

The later references in the above narrative show how thoroughly the whole west border had been subjugated to English influence. Lists prepared by the English wardens of those gentlemen and barons on the Scottish border who had given in their adherence to England, and their followers, show totals of between 5000 and 7000 persons, according to the districts included. Many Johnstones are included, among whom appears William Johnstone, brother of the chief. Johnstone himself remained a prisoner for some time, notwithstanding the efforts of the Scottish governor, who is said to have been much vexed at his capture. An attempt was made to effect an exchange when Langholm was taken by the Scots, but though one writer states that this was done, the negotiations appear to have been unsuccessful, and a similar fate apparently befell a special remonstrance and embassy despatched by Arran in May 1547.² Johnstone was still in England in November 1547, two months after the battle of Pinkie, where the Scots sustained such a

¹ Carleton's narrative, cited in M'Dowall's *History of Dumfries*, pp. 228-230.

² Thorpe's *Calendar of State Papers*, vol. i. pp. 62, 63; *Diurnal of Occurrents*, pp. 43, 44.

signal defeat. Dumfriesshire, including Annandale, was almost wholly under English rule, and Johnstone appears to have resigned himself to the inevitable. Wharton writes of him in a letter, which is unfortunately much torn, "the larde Johnstone is a good example upon thes marches," the reason apparently being that having lost his house and his property, he had, for the time, desired to swear allegiance to the English monarch. Lord Wharton adds, "I receyvid oothe of hyme before a gret nombre of people; all his men was afore sworne, and thare hostages laide, yet I wold that he, being presoner, and now pledis for hymself, shuld be removed from Carlisle untill thes the kingis majesties servyces be more perfyted."¹

It would appear that such a removal was effected, and that Johnstone was for a time confined in Pontefract Castle. A paper, without date, but probably written about this time or the beginning of 1548, refers to him as a gentleman whose rental was "100 marks sterling or above, for whom the king's majesty has paid 100 merks in part payment for ransom to his taker," he being then in Pontefract.² Johnstone's tower of Lochwood was still in English hands. Of it Lord Wharton writes to the Duke of Somerset:—

"Considering the house of Loughwod the lard Johnstons howse, not to be tenable but for garresoun to lye in the same amongst the contre men assuered, I devysed how the same myght be kept after this gret treasoun,³ and forasmuche as victuall was had therunto from owt of this realme, the contre being wasted and that howse also standing xxx^{te} mylles from Carlisle, and nochtwythstandynge I furnysshed the same wyth all necessaryes and victuall for two moneths yet I could have nather horsemen nor footmen that wold tak on hand to lye ther except vii footmen, wherof the most part was myne owne servantis. And that matter so standynge, and havinge with me James Johnstoun, called Abbot of Salsyd, brother to the lard Johnstoun, and others, cheif of that name whom I have found of the best sorte of Scottis sens they wer wone, resolved to delyver

¹ Wharton to Somerset, 5th November 1547; Annandale Peerage Minutes of Evidence, pp. 704, 705.

² M'Dowall's History of Dumfries, pp. 232, 233.

³ The "gret treasoun" here referred to

appears to be the defection of John, Master of Maxwell, afterwards fourth Lord Herries, from an agreement with the Earl of Lennox and Lord Wharton, which led to the defeat of the Earl, then in the English interest, at Dumfries.

that howse to the kepinge of the said abbott. . . . I trust yet to cause thos Johnstons be with others a scourge to the Maxwellis and ther bandis. I have abayted of the others garresoun for that enterteignement, beseechinge your grace that I may knowe your graces pleasour howe I shall further proced and doo with that howse and the Johnstons."¹

The preceding notices of Johnstone have been supplied from English sources, and these seem to imply that he had given allegiance to England. If this had been so, it might have been supposed he would be set at liberty. Another account, however, and one prepared by the hand of Johnstone himself, throws a different light on the matter, and, allowing for the fact that he is his own witness, is so interesting a narrative that it may be fully quoted from. It takes the form of a letter or application to the queen-dowager, governor, and lords of privy council in Scotland for aid in paying his ransom, and in support of his plea he gives a full narrative of his misfortunes.

The supplication commences with an explanation of the circumstances of his person and place being captured in April 1547 by Sir Harry Wharton, warden-depute of the West Marches of England. In the course of the attack, Johnstone was seriously hurt to the danger of his life, five of his best friends slain, and himself and others taken prisoners to the number of one hundred. As a prisoner of England Johnstone was incarcerated successively in the castles of Carlisle, Lowther, Pontefract, Wharthonhall and Hartlie, in all of which he was treated with great cruelty, as represented by himself:—

“In strait presoun . . . be lang space therin, sumtyme persuadand me be offeris of grete proffit and vtheris promissis to tak parte with thaim for the furth-setting of thair purpose towart the hurt and subiection of this realme, and sumtyme bostand me be scharp wordis and evill treeting to accept the samin, and becaus I refusit to fulfill thair desyris, thai had and careit me fra the said castell of Carlill to the castell of Lowthyr, and thair put and layit me in strait presoun within the samin, and layit irnis and fettaris vpoun and trubillit me thairwith, in sic maner that I behuvit to ly on my bak with all my clathis on my body alsweel be day as nycht be lang space, and frathyne brocht me agane to the said castell

¹ Letter, Wharton to Somerset, 14th March 1547-8. Annandale Peerage, Minutes of Evidence, p. 702.

of Carlill, and presonit me thairin as of befoir, and schortlie thaireftir careit me to the castell of Pumfraycht, and ther held me in strait presoun, within ane house, to the space of tua yeris. . . . In the tyme of my being in the castell of Carlill, intending to haif gottin me secretelie distroyit thai gaif me evill and vnhalsum¹ metis and drinkis, and throu eting and drinking thairof I tuke havy seiknes, and lay therin be the space of sex owkis in parrell of my life, and I being convalessit, had me fra the said castell to Quhartownhall quhair thai gaif me² evill drinkis and metis agane, throu the quhilk I fell in new seiknes and lay in perrell of my life be the space of ane moneth nixt thaireftir, and syne I wes had to the castell of Hartlie, and when the protectour of Ingland com to the Newcastle with the army of Ingland laillie befoir the feild of Pinkiecleuch, I wes send be the warden of Ingland to him, quhair he proponit to me his mischewose purpose takin toward the hurt and destructioun of this realme, and offerrit to me grete rewardis and proffitt to fortyfy the samin, and becaus I refusit to satysfy his desyris, he send me agane to Hartlie, quhair I wes kepit in strait presoun and evill tretit in mett, drink, and bedding, nochtwithstanding that I sustenit grete expensis thairupoun."

Johnstone proceeds to complain that his tower of Lochwood was nocturnally invaded, himself and servants injured, and cattle and sheep plundered :—

"And syne causit, in the moneth of October the zeir of God I^m v^c and xlvii zeris, Thomas Carriltoun, with ane grete oist and garisoun of Ingლისen and Scottis trattouris, to cum to my hous and toure of Lochwod, quhair vnder silence of nycht thai clam the barnkin therof, and enterit in my said hous and brint and distroyit the samin, togiddir with my hail place, and spulzeit and tuke furth of the samin the hail insyght gudis, vie[tua]ls and plenissing therof, the valour of ane thousand and five hundreth pundis, and tuke furth of the ground of my heretage takkis and stedingis ane thousand heid of nowt, and thre flokkis of scheip of my awin propir gudis, and duelt and remanit in my said place, quhill thai had etin and distroyit the hail cornes of my grayngis of Lochwod, Thornhill, and Ricardrig, extending to ane thousand bollis of aittis, quheit and beir, and at that samin tyme brint, hereit and distroyit my pure tenentis, and reft and tuke fra thaim ane thousand heid of nowt, ten flokkis of scheip, twenty scoir of horse,

¹ In the manuscript the original words read "thai stall (stole) poyson in my metis and drinkis," then the words "stall poyson in" are deleted, and "gaif me" interlined, while on the margin opposite are written the words

"evill and vnhalsum."

² "Pysoun" deleted in text. The words "evill drinkes and metis" interlined. The words "in my meitts and drinkis" deleted after the word "agane" in the original.

and meris, togidder with ther haill cornes, insyecht gudis, victualis, and plenissing of thair houssis and stedingis, and put thaim to vtir hirschip and begartie.”

In the next sentence, Johnstone comes to the point and reason of his application :—

“And now laitlie Cuthbert Musgraif, Inglisman, to quhom the counsale of England assignit the proffitt of my ransom at Candilmes last bypast, licent me to cum hame vpoun souirtie to entir agane to him in England vpoun Law-Sunday nixt-to-cum, or ellis to pay to him ane thowsand and tua hundretht crownes of the sone : Howbeit, in verite, I haif na maner of money nor yit gudis to mak money of . . . Heirfore I beseik your graces and lordschippis that sen I haif bene prersonit, demanit, hurt and trubillit in my persoun and my self and my tenentis brint, hereit and distroyit in maner foirsaid, swa that I haif na maner of movable gudis, and my landis and rowmes lyand waist, quhilkis na man will by fra me nor tak in wadset, quhairthrou I can get na money to pay the said soume of ane thousand and twa hundred crownes of the sone ; and sen I haif remanit ane trew Scottisman and subiect to our souerane lady, and nevir tuke proffitt of oure saidis auld inymeis, bot at my vtir power resistit to thair opinioun in defence of this realme and liberte thairof, quhair I wes oft tymes swadit be thaim baytht be proffitt and reward, to have done the contrare ; that ye will tak consideratioun of the premissis, and sen it lyis nocht in my power to outred the said sowme to the said Cutlibert, and in default of payment thairof at the day foirsaid, quhilk approchis neir, [I] man entir in Inglande and nevir able to be releuit furth of the samin ; that ye will for my trew seruice at this tyme support me that the said soume may be payit and I releuit of my entre in England ; and God willing I salbe about to do sic seruice to oure souerane lady, weill and honour of hir realme and lieges in contrare oure saidis inymeis, and for the rest and tranquillite of the cuntre that your graces and lordschippis sall think the samin weill warit, and your ansuer humilie beseik.”¹

What response was made to this earnest appeal is not recorded, but it must have been favourable, as Johnstone appears to have been at liberty in the beginning of the year 1550.

¹ Original draft” supplication, without date, but apparently about April 1549, in Annandale Charter-chest.

CHAPTER THIRD.

Appointed to divide the Debateable land—Bond to him by his clansmen—Member of parliament 1560—Admonished by the Privy Council 1564—Imprisoned in Edinburgh—Dispute with the Master of Maxwell.

In the month of December 1552 the chief of the Johnstones, along with Sir John Maxwell of Terregles, was appointed a commissioner to exchange with the English commissioners the confirmations of the treaty settling the boundaries of the Debateable land. That territory from its position was a constant battlefield, being claimed by England and Scotland in turn, and also being neutral ground it gave a certain refuge for the lawless of both countries. The treaty in question and the division of the territory by a definite boundary line put an end to the main cause of strife on the borders, but the lawless and turbulent habits of the people continued for several generations. The chiefs of clans, especially those who were responsible for good government, were still held liable for the misdeeds of their followers, if they failed to punish these, or to present the offenders before a court of justice. Such a failure caused Johnstone to be confined for a time in the castle of Edinburgh, whence he was liberated by order of the queen-regent in October 1554, on condition of his surrendering certain of his clan who were accused of theft. He was also to enforce restitution of all goods stolen since the tenth day of the previous April. To aid him in this act of justice, a royal proclamation was issued requiring his whole clan and friends and their dependants to assist him, under pain of loss of life and goods if they refused.¹

One result of his efforts on this and similar occasions was a bond granted to the chief by his clansmen, who met at the chapel of Dinwoodie to sign it. They complain that the queen-regent has their pledges or sureties confined "in syndrie castellis for guid reule to be kepit in the cuntre, quhilk is tediis

¹ 19th October 1554, pp. 24, 25 of this volume.

and veray sumptuous to ws and maye nocht guidlie susteine the expense therof." They desire that their chief would find them some remedy, and some ready way by which to have their pledges restored to liberty. In return they bind themselves that if any Johnstone belonging to them while they are pledged shall commit theft, fire-raising, or any other crime, they shall immediately search for and seize the culprit, and present him to their chief to be punished according to his deserts. If they were unable to apprehend the guilty party after using all diligence, they bind themselves "to birne, hery," and expel him from the district, and to give redress to the person aggrieved. This document was signed in presence of Sir James Douglas of Drumlanrig, then warden of the West Marches.¹

In the following February 1556, Johnstone himself entered into a bond to the government. In this writ he refers to his release from confinement in expectation of his good service in punishing offenders against the laws, and states that he has induced the principal men of his surname and clan to bind themselves to assist. He therefore binds himself "to stand and abyde at thair ayse and counsale in all thingis concernyng the quenis grace and tranquillite of the cuntre" in punishing trespassers, keeping good rule, and maintaining his clan in their possessions. He promises to assist in the pursuit of any powerful marauder, and where the execution of justice leads to deadly feud, he will take the side of the oppressed. He also binds himself to obey and attend the warden on days of truce and other assemblies when required. These various mutual bonds do not, however, appear to have given full satisfaction in the carrying them out, as at a later date the Scottish privy council issued a proclamation requiring the principal men of the clan by name to aid in enforcing respect for the laws.²

Johnstone appears to have joined the Protestant party at the Reformation, and was a member of the parliament which, in August 1560, ratified

¹ Bond, dated 14th November 1555, pp. 25, 26 of this volume.

² Proclamation, dated 4th September 1560, narrating the bond of 8th February 1555-6, pp. 26-29 of this volume.

the first confession of faith,¹ but he is nowhere recorded as taking an active part in the history of the period. His name occurs chiefly in connection with the Borders, which continued to be lawless and turbulent, notwithstanding all the means taken to repress crime. There were constant bonds by Johnstone to the warden, then Sir John Maxwell of Terregles, to enter offenders, and by various Johnstones in support of their chief, but no great good resulted from these.

On the other hand, Johnstone himself was looked upon as a promoter of disorder, so much so that he was summoned before the privy council, and received a severe admonition. He was accused of wilfully, with his two sons, remaining "at the horne" or in a state of outlawry (apparently for debt), riding openly with men armed with jacks and spears, and threatening those who were "trew men." He was further charged with maintaining Gilbert Johnstone of Poldean, a fugitive accused of theft and fire-raising, and refusing to deliver him to the warden, even though desired to do so by the culprit's own father. Other accusations were his allowing thieves to dwell on his lands, and that he "preissit to marie his dochtir with Edward Irewing of the Boneschawis sone; and finalie, wes displesit with all guid ordour, as his lyff and doingis did weill declair." The council charged him, without delay, to obey the law and pay his debts, and obtain relaxation from the horne; to deliver Gilbert Johnstone to the warden, and keep his possessions free from theft and reset, and in good order, and that he do not ally his daughter with Irving's son: "Certifiand and assurand him gif he failzeis herein, the quenis majestie will sa vigorouslie puneis him for his offence that the West Marchis sall tak exempill thairof, quhilk sall nocht onelie extend to his awin skayth, bot his hous sall nevir forget it."²

This warning was given on 21st December 1564, and it was added significantly that the punishment was presently omitted rather because of the

¹ Acts of the Parliaments of Scotland, vol. ii. p. 526.

² 21st December 1564. Register of the Privy Council, vol. i. pp. 306, 307.

queen's elemeny and the warden's intercession than because of Johnstone's own life and bygone deserts. He was allowed, until the 1st of January, to consult with his friends, but he was told that if he did not take steps to release himself and his sons from "the horne" before the 1st of February, he was to "lue for na uther favour bot to be repute, haldin, and persewit as a rebellious, wiekit, and dissobedient persoun, and to be puneist thairfoir accordinglie." As already stated, his being at "the horne," as it was technically called, was apparently owing to his being in debt, and liable to diligenee at the instance of some ereditor. From this condition the counail wished him to release himself, but either he failed to do as required or wished to evade the greater punishment threatened, as he and one of his sons were imprisoned for debt, apparently in Edinburgh. A few months later, however, on 17th July 1565, a speeial mandate was signed by the queen for his liberation, because his services were required on the West Marches. In obedience to this mandate, he was, by proclamation at the cross of Edinburgh, released from the proecess of horning against him, and the wand of peae delivered to Robert Johnstone, his son, in his name.¹ It is probable that the hostile attitude of Murray and some other nobles towards the queen's marriage may have led to Johnstone's release. He next appears on the 21st September 1565, along with other gentlemen of his immediate neighbourhood, in a bond of allegiance to the king and queen. They also bind themselves to obey the Earl of Bothwell or any other warden, in resisting their Majesties' rebels or an invasion from England, to which country Murray had appealed for aid.²

In the beginning of the following year, 1566, Johnstone had a serious dispute with the Master of Maxwell, better known as Lord Herries, then warden. The cause of quarrel is not clear, but it may have been excited if not aggravated by the cruel conduct of Maxwell to one of Johnstone's retainers, a noted thief, whom the warden had captured, and

¹ Original letters and messenger's execution, 17th July 1565, in Annandale Charter-chest.

² Register of Privy Council, vol. i. p. 378.

whom he caused to be burned at the cross of Dumfries. Johnstone appears first to have brought a series of accusations against Maxwell and then offered to prove them by way of combat. Maxwell wrote asking Queen Mary's permission to defend himself. He offered in his own person to oppose Johnstone or any of his sons, or any other of that clan, or with forty, fifty, or one hundred Maxwells to enter the lists against a similar number of Johnstones.¹ It does not appear, however, that any such combat took place. Johnstone is referred to in June 1567 as refusing to obey Lord Herries as warden, being supported by Bothwell's influence. A summons was addressed to him on 19th September 1567, by the privy council of Scotland, desiring him and various other gentlemen on the West Marches to meet with the council on 6th October to advise as to the suppression of disorders in that district.²

CHAPTER FOURTH.

Land Transactions of this Chief—Thornyflat ordered to be restored—Occupancy of Branrig—Infest in Johnstone—Lands erected into the BARONY of JOHNSTONE 1543—Lease of Harthope—Gift of Thornick—Rights over Castlemilk.

It is now necessary to direct attention to the various charters obtained by this Johnstone chief, mention of which would have interrupted the course of the main narrative. Of these only two occur before the death of King James the Fifth. The first is a mandate directed by the king on 12th July 1536 to the steward of Annandale requiring him to restore Johnstone to the possession of the lands of Thorniflat, of which he had been wrongfully despoiled.³ The second is a letter by the same king addressed to John Maitland of Auchingassill regarding Johnstone's occupancy of the lands of Branrig and Mitchell Slacks, which he held as tenant under Maitland, and from which the latter had warned him to remove. The king wrote that as

¹ Letters, Lord Scrope to Bedford and Cecil, 16th and 19th January 1565-6. Calendar of State Papers, Foreign, 1566-8, pp. 5, 6.

² Register of the Privy Council, vol. i. p. 570.

³ Vol. ii. of this work, p. 1.

the warning was issued without Johnstone's having committed any fault, he being then warded in Dumbarton, his Majesty must needs defend him in his rights and possessions so long as he was in ward. The king had previously, he says, written to Maitland on behalf of Johnstone's continued occupancy, so long as he paid his rents, and specially during his imprisonment, which missive had been disobeyed, much to his Majesty's astonishment,—“considering it was nevir nor yit is the vse and custume of our realme to put ony auld tenant furth of his maling sa lang as he pais his malis and dewiteis thankfullie and makis na falt.” The king expressly desires, therefore, that Johnstone may be allowed to continue his occupancy in peace “conforme to the said auld lovabill vse and consuetude of our realme obseruit and kept in sic caisses in tymes bigane.” The king concludes with thanks and promises of goodwill, if his pleasure be obeyed, and he requests an affirmative answer by the bearer.¹

The Regent Arran appears to have held the chief of the Johnstones in much favour, both on account of his services against the English, and also perhaps owing to the marriage alliance between the families. In consequence of this the youthful queen, Mary Queen of Scots, with consent of James, Earl of Arran, governor, for the good and faithful service done by John Johnstone of Johnstone, in resisting the old enemies of England on the borders for defence of the kingdom, granted a charter under the great seal to him of the whole lands of Johnstone, with tower and fortalice, with advowson of the parish church of Johnstone, the twenty pound land of Kirkpatrick, namely, the ten pound land of Dowskelly with mill and ten pound land of Caversholme, ten merk land of Wamphray, eighteen merk land of Polbudy (Polmoody), the five pound land of Hardgraif, all in the stewartry of Annandale; also four merks of annual rent from the lands of Thornequhat in the same stewartry, with the office of coroner of Annandale, which all belonged to John Johnstone and were resigned by him. The queen also erects the whole

¹ Original letter, dated 28th June 1542, vol. ii. of this work, p. 2.

lands into a FREE BARONY to be called the BARONY OF JOHNSTONE, ordaining the fortalice of Johnstone to be the principal messuage, one sasine to be taken there sufficing for the whole lands; to be held by the said John Johnstone of that ilk in liferent, and to James Johnstone, his son and apparent heir, and the heirs - male of his body lawfully to be procreated, whom failing to Robert Johnstone, his brother-german, and the heirs-male of his body, whom failing to Adam Johnstone of Corry, William, John, and Symon Johnstone, brothers-german of John Johnstone of that ilk, successively, and the respective heirs-male of their bodies, whom failing to the nearest heirs-male bearing the arms and surname of Johnstone whomsoever, of the queen and her successors in fee and heritage and free barony for ever, for rendering yearly one silver penny at the town of Johnstone at Whitsunday in blench ferm, if asked; and reserving a reasonable teree to Elizabeth Jardine, spouse of the said John Johnstone. The charter had the great seal affixed at Edinburgh, 2d March 1542-3.¹ Arran, the governor, also gave him a lease of the lands of Harthope, Upper and Nether Howcleuch, with Raecleuch, all in the county of Lanark, for nineteen years. A few months later he made his natural son, John Johnstone, his cessioner in the lands so leased.²

Another transaction which John Johnstone of Johnstone entered into with certain members of his clan was an agreement in May 1545 between him and Herbert, Thomas, Gilbert and James Johnstones, sons of the deceased Simon Johnstone of Poldcan. They quitclaimed and resigned in his favour their right to the ward and non-entries of the lands of Laverhay and Broomhills, lying from the Whitelawbeck down, with the profits, as detailed in the gift to Simon their father. Johnstone in return discharged in their favour all

¹ Registrum Magni Sigilli, vol. iii. No. 2874. There are in the Annandale Charter-chest the original resignation of the lands by John Johnstone of that ilk and the crown precept for his infeftment, both of same date

as the charter. They were followed by sasine on 7th March 1543.

² Gift of lease dated 10th January 1543, and assignation to John Johnstone 5th July 1543, in Annandale Charter-chest.

right and kindness he had to the lands of Whitelawbeck upwards, except the lands of Karnehill, Glengap and Garrogill, of the rents of which he grants himself to be paid. He also agreed to give a lease of these lands. The agreement was signed by all parties at the house of Lochwood.¹

Another gift was given to Johnstone of the ward and non-entries of the lands of Thornick and others, belonging to the late Robert Grahame of Thornick, father of the late Robert Grahame of Thornick last deceased; also the marriage of the child or children born between the late Ninian Grahame, son and apparent heir of the last deceased Robert and — Johnstone his widow.² The lady here referred to was Margaret Johnstone, a daughter of Johnstone himself, his relationship being no doubt the cause of the grant to him.

Previous to this, perhaps on his return from captivity in England, and as a compensation for his misfortunes, Johnstone had received a grant of the lands of Castlemilk, forfeited by Matthew, Earl of Lennox. For this grant it would appear a precept was issued so early as October 1545, but it was not till the year 1550 that he received a crown charter of the lands.³

Johnstone had already, by a contract, dated 7th November 1533, between him and Archibald Stuart younger of Castlemilk, acquired rights over a portion of Castlemilk.⁴ The same Archibald, in 1541, had granted a lease of the whole lands of Castlemilk to Robert, fifth Lord Maxwell.⁵ In consequence of this lease, and of the present royal grant of the lands to Johnstone, a competition of rights took place between him and Robert, sixth Lord Maxwell, as succeeding to his father in the lease. The competing rights and some other questions in dispute were submitted to arbitration, and an award

¹ Original Agreement, 22nd May 1545, in Annandale Charter-chest.

² Gift, 16th May 1546, in Annandale Charter-chest.

³ Precept, dated 28th October 1545; charter, under the Great Seal, dated 25th April 1550,

both in Annandale Charter-chest.

⁴ This accounts for the reference to his lands on the water of Milk in 1544, as being harried by the English.

⁵ Andrew Stuart's Genealogy of the Stuarts, pp. 364, 365.

was issued on 7th September 1550. The first clause decerned that Lord Maxwell was to have possession of the lands of Castlemilk, with the tower and place thereof, paying to Johnstone as superior and as having a gift of the ward and marriage of the laird of Castlemilk, the sum of forty-four merks yearly, until Johnstone could prove that Lord Maxwell or his father had renounced the lease referred to in favour of the laird of Castlemilk.

Among other subjects dealt with in the award were the teinds of Lochmaben, from which, as belonging to Lord Maxwell, he was ordained to pay so much yearly to Robert Johnstone, son of the chief, who had obtained right to the benefice and parsonage of Lochmaben. Lord Maxwell was also adjudged to pay to Johnstone what was due of the escheated goods of Thomas Kirkcaldy, last parson of Lochmaben, in terms of a gift from the crown. It was also decerned that Johnstone should enjoy the bailiery he formerly held over the lands belonging to Lord Herries within Annandale. The arbiters conclude with a direction to both parties to abide in friendship with each other.¹

The latest gift from the crown appears to be a grant by Queen Mary and Darnley on 16th August 1565, of their third of the Abbey of Soulseat and the parsonage of Lochmaben. Johnstone was to uplift for his own use the third of the crops for the years 1564-1568, and further at the royal pleasure.²

CHAPTER FIFTH.

Death of John Johnstone of that ilk—His will and testament—His personal estate—Elizabeth Jardine, his first wife—Nicola Douglas, his second wife—His children—John, his successor—Robert of Raeleuch and other sons—His daughters.

John Johnstone of Johnstone died on 8th November 1567, as appears from his confirmed testament. He made his will at Dumfries, 29th December 1562. He is designated "ane ryct honorabill man, Jhone Jhonestoun of

¹ The particulars of this award are taken from a much worn copy in the Annandale Charter-chest.

² Gift, 16th August 1565, signed by both king and queen, in Annandale Charter chest, vol. ii. of this work, p. 6.

that ilk.' He appointed "Nicolas Douglas, Lady Jhonestoun," and "Jhone Maister of Maxwell," his executors. Johnstone also nominated the Master of Maxwell as special guardian of his "sone and air,"¹ to be advised also by the Duke of Chatelherault, and the lairds of Drumlanrig and Elphinstone, and he expressed a wish that his heir should marry into the family of the Master of Maxwell. He leaves portions to his three daughters by Nicolas Douglas, Dorothy, Margaret, and Elizabeth or Bessie, committing Dorothy to the charge of the Master of Maxwell, Margaret to Drumlanrig, and Bessie to her mother, and making various other provisions for their comfort and maintenance. To his son, Robert, he leaves the church of Lochmaben, the lands of Raecleuch, and others. To his son, John Johnstone, he bequeathed his right over the lands of Over Cogie and others. To his grandson, Robert Grahame, he leaves the reversion of the lands of Courrance. The testator ordained "sex bollis of mele of the fermes of Johnestoun to be delt to the purest houshaldaris of Johnestoun be ressonabill discretioun ; Item, I leve to the Maister of Maxwell my harte, my horse, my sworde, and my doggis." The Master of Maxwell did not accept the office of executor, and Nicolas Douglas, the widow of Johnstone, became the sole administrator of her husband's estate.²

The goods, geir and sums of money pertaining to Johnstone at the time of his decease are enumerated and valued in the inventory. These consisted of many bolls of oats and beir stored at his different places of Lochhouse, Thornhill, Thornick and Lochwood ; also of large quantities of hay, oxen, cows, with calves and stirks, scores of sheep, stons of cheese, stons of butter, linen unshaped, linen yarn to be made into cloth, woollen yarn, wool "littit" blue, green, and red ; lint, feathers, and a "pose" or hoard of gold and silver in a coffer in Lochhouse, extending to two hundred pounds of money, and utensils and domicils in silver work, etc. His testament shows an anxious

¹ This refers to his grandson and heir, as his son, James, the young chief of the Johnstones, predeceased him in 1552.

² Testament and Inventory, 29th December 1562, Annandale Peerage, Minutes of Evidence, 1876, pp. 47-49.

provision for his sons and daughters, and different lands are left to the sons and special provisions are made regarding the marrying of the daughters.¹

John Johnstone of Johnstone was twice married. His first wife was Elizabeth Jardine.² By her he had two sons, and apparently one daughter. She died in the month of December 1544, and an inventory of her effects was given up by her son Robert, and confirmed 26th November 1580.³ Johnstone married, secondly, Nicholas or Nicola Douglas, daughter of James Douglas of Drumlanig. A charter was granted to her in February 1545 by James Johnstone, younger of Johnstone, with consent of his father, as his tutor, and for a sum of money paid, conveying the lands of Johnstoneholm and others to her in liferent, while she was still unmarried.⁴

The date of the marriage can be approximately fixed. On the 26th of August John Johnstone of Johnstone received from Mary Queen of Scots a charter of the 5 merkland in Burwanis, 2 merkland in Coittis, 2 merkland in Brigend, 1 merkland in Ker, 2 merkland in Cragylands, 3 merkland in Tassyisholme, 30 shilling land in Over Murquhat, and 1 merkland in Drumcreif, all resigned by Ninian Graham of Thornick.⁵ On the resignation of John Johnstone another crown charter was granted to him and Nicolas Douglas, his spouse, in conjunct fee, and the heirs-male of the marriage; whom failing, the nearest heirs-male of the said John whomsoever.⁶ The grant was made on the 20th of October 1550, and was followed by a similar grant on the 29th October. The marriage appears therefore to have taken place shortly before the 20th of October in that year. As already indicated, they had issue, three daughters, and apparently two sons, and Nicola Douglas

¹ It appears that on 28th June 1576, Nicolas Douglas, as relict and executrix of her husband, sued John Johnstone, his eldest son, for intrmitting with the personal effects of her late husband. [Minutes of Evidence in Annandale Peerage, 1876, p. 44.]

² No writs in the Charter-chests of the Johnstone or Jardine families show that this

“Elizabeth Jardane, Lady Johnestoun,” as she was styled, was of the old border house of her surname.

³ Annandale Peerage, Minutes of Evidence, 1876, pp. 67-69.

⁴ *Ibid.*, pp. 43.

⁵ Registrum Magni Sigilli, vol. iv. No. 503.

⁶ *Ibid.* Nos. 533, 534.

survived her husband, and acted as his executrix. She was still alive in 1576, when an order for summoning witnesses was issued in her favour in an action at her instance against the youthful chief of Johnstone for spoliation.¹

John Johnstone of Johnstone had issue four sons and three daughters.

1. James Johnstone, who predeceased his father. Of him a brief notice follows.
2. Robert Johnstone, second son by the first marriage. He received from his father the lands of Raecleuch, situated in Avondale or Evandale, where the ruins of the former house of Raecleuch are conspicuous near the water of Evan. By the same deed this Robert Johnstone was provided to the parsonage of Lochmaben. In 1565 he and his brother John had a remission for an alleged attack on another Johnstone. In 1580 he gave up an inventory of effects belonging to his mother, Elizabeth Jardine, and was confirmed her executor-dative. He married Marion Maxwell, who was styled "Lady Garuesalloch, elder,"—and in 1571 they received a charter from Robert Douglas, provost of Lincluden, of the lands of Ernemynie, in the barony of Crossmichael and stewardry of Kirkcudbright. These lands had been left by Robert Johnstone's grandfather, James Johnstone of Johnstone, to his son Simon Johnstone, who in 1546 resigned them and others in favour of his brother John Johnstone of Johnstone. Robert Johnstone of Raecleuch died at Carnsalloch, where he resided, on 10th May 1592. He was survived by his wife, who died on or after the 31st October 1601, when she made her testament, and inventory of her goods to her son Robert. He left issue a son, Robert Johnstone, who succeeded him, and another son named Mungo, with, apparently, other children who are not named, perhaps only daughters.²

Robert Johnstone, the second of Raecleuch, died about 1627, leaving three sons, Robert, William, and Alexander, and a daughter, Elizabeth, wife of James Grierson. The sons died before 1656, the two younger without issue, and the eldest, Robert Johnstone of Stapleton, succeeded only by a daughter, Mary Johnstone. Mungo Johnstone above-named had a son, Robert, who died without issue about 1630.

¹ Annandale Peerage, Minutes of Evidence, 1876, p. 44. Minutes of Evidence, 1876, pp. 65-69, 72-74. Robert Johnstone had also a natural daughter

² Papers printed in Annandale Peerage, named Catherine Johnstone; *Ibid.*

3. John Johnstone, eldest son by the second marriage. He had a charter in 1595 of part of the churchlands of Moffat, Kirkpatrick-juxta, and Dryfesdale. He was executed on 23d September 1603 for murder and other crimes. He left a son, James, who was restored in 1630 to his father's forfeited possessions, and was known as James Johnstone of Neiss, which is a small property in Moffatdale. He died without issue.
4. James Johnstone, known as Captain James Johnstone of Lochhouse, near Moffat. He held the lands of Thornick, Pocornell, and various others. He died between 1621 and 1632. He left no lawful issue, but he had an illegitimate son, James Johnstone of Corehead. James Johnstone of Neiss, son of his brother, was retoured his lawful heir in February 1634.¹

The daughters of this chief were

1. Dorothea, eldest daughter of the second marriage. She is said to have married John Maitland of Auchingassel, in the county of Dumfries.
2. Margaret, second daughter of second marriage. She married in 1566, Christopher, son of Edward Irving of Bonshaw, in the county of Dumfries.
3. Elizabeth or Bessie, mentioned with her two sisters in their father's will in 1562, but her later history has not been ascertained.²

XIII.—JAMES JOHNSTONE, YOUNGER OF JOHNSTONE.

MARGARET HAMILTON (SAMUELSTON) HIS WIFE.

1539-1550.

This member of the family of Johnstone, who never succeeded to the estate, although he carried on the line of descent, was the eldest son of John Johnstone of Johnstone by his first wife, Elizabeth Jardine. There is no certainty as to the date of his birth, but there is evidence that it occurred

¹ John Johnstone of Johnstone had also two natural sons—(1) James Johnstone, who, on 1st September 1540, received a crown charter of the lands of Hardgraif; and (2) David Johnstone, who is mentioned several times in connection with his father, but whose further history has not been ascertained.

² John Johnstone of Johnstone had also a natural daughter named Margaret by "Gelis Ewart." She was, on 22d February 1530-31, while still a child, contracted in marriage to Ninian Graham, son of Robert Graham of Thornick. She died before 1546. [Original contract in Annandale Charter-chest.]

previous to 31st October 1539. On that date his uncle, Adam Johnstone of Corrie, granted to him by charter, therein named as his beloved kinsman, James Johnstone, lawful son and apparent heir of his dearest brother John Johnstone of that ilk, the lands of Briskoo and Whitecastle, in the parish of Corrie, and stewartry of Annandale. The lands, which formerly belonged to Robert Corbet of Hardgrave, and were resigned by him, were valued at thirteen merks Scots yearly, and were to be held blench of the granter for one silver penny payable, if asked, in the parish church of Corrie on the feast of the Nativity yearly.¹

The next notice of the youthful heir of Johnstone is on 2d March 1542-3 in the crown charter erecting the lands of Johnstone into a barony, where he is designated as son and apparent heir of John Johnstone of Johnstone. On the same date as the charter, Queen Mary, in accordance with a practice then customary, issued letters-patent under the quarter seal, appointing Sir James Kirkcaldy of Grange, her treasurer, Thomas Johnstone and John Johnstone in Pocorner, to act for a year as attorneys for James Johnstone, son and heir-apparent of John Johnstone of that ilk, in all his business and law pleas.²

The young heir of Johnstone granted to Nicola Douglas, daughter of James Douglas of Drumlanrig, in liferent, the lands of Johnstoneholm Eyrswood, Bennetlaw, and Kerse, in the stewartry of Annandale.³

The references to this youthful chief are scanty and brief. A contract of marriage was made at Dumfries, 1st August 1551, between John Hamilton, archbishop of St. Andrews, on behalf of Jean Johnstone, "daughter to James Jhonstoun, young laird of Jhonstoun," and Margaret Hamilton his spouse [niece of the archbishop] on the one part, and Michael, Lord Carlyle, on behalf of William Carlyle, his eldest son and apparent heir. The contract narrates that the archbishop had obtained a remission to Lord Carlyle for assistance

¹ Charter, dated at Dumbarton, 31st October 1539. Annandale Peerage Minutes of Evidence (1881), pp. 1172-3.

² Original writ, dated 2d March 1542-3,

in Annandale Charter-chest.

³ Registrum Magni Sigilli, vol. iii. No. 3070, 17th February 1544-5; vol. iv. No. 1441, 8th January 1562-3.

given to the English and surrendering to them his place of Torthorwald, and also an infeftment to William Carlyle of all his father's lands except the conjunct fee of Dame Jonet Charteris, spouse of Lord Carlyle, for which Lord Carlyle was obliged to pay the archbishop 1800 merks Scots, which sum he now discharges to Lord Carlyle. His lordship engages to cause his son William to marry Jean Johnstone at her perfect age, or if she should chance to die, any other daughter of the same parents. Lord Carlyle also engaged to infeft Jean Johnstone presently in his lands of Petinane in Lanarkshire under redemption; and the archbishop promised to maintain Lord Carlyle in all his lawful actions.¹ From the terms of this writ it is not absolutely certain whether James Johnstone, younger of Johnstone, were then deceased or not, but if not then dead, he died shortly after.

He married Margaret Hamilton, daughter of John Hamilton of Samuelston, natural brother of the Regent Arran.² They had issue one son and one daughter.

1. John Johnstone, who succeeded his grandfather of the same name in the year 1567, and of whom a memoir follows.
1. Jean, contracted in marriage to William, eldest son of Michael, Lord Carlyle. William died in 1572, leaving issue one daughter, Elizabeth, who afterwards married Sir James Douglas of Parkhead. Jean Johnstone, Lady Carlyle, survived her husband, and was still liferentrix of the lands of Kelhead in 1577.³

¹ Annandale Peerage Minutes of Evidence (1876), pp. 45, 46.

² In May 1552 she married, secondly, David Douglas of Cockburnspath, son of Sir George Douglas of Pittendriech, and titular seventh Earl of Angus; and after his death in June 1557 she married, thirdly, Sir Patrick White-law of that ilk, who died before 1571.

³ Two daughters are sometimes assigned by genealogists to this James Johnstone, Margaret married to Sir Robert Douglas of Coschogill, and Jean, married to William Livingstone of Jerviswood. There was a Nichola Johnstone, wife of Robert Douglas of Coschogill in 1573 [Registrum Magni Sigilli, vol. iv. No. 2145], but it is not stated who she was.

SECOND JOHNSTONE WARDEN OF WEST MARCHES.

XIV.—SIR JOHN JOHNSTONE OF JOHNSTONE, KNIGHT.

MARGARET SCOTT (BUCCLEUCH) HIS WIFE.

1567-1587.

CHAPTER FIRST.

Agreement with Nicola Douglas, 1569—Joins Queen Mary's Party—Surrenders to Murray—Becomes Surety for his Clan—Raid to Morpeth—Lord Scrope's Invasion of the West Marches—Makes his peace with the Earl of Lennox—Marries Margaret Scott of Buccleuch.

The first notice of this chief of Johnstone is in 1553, in a letter of gift by Queen Mary granting to John Hamilton, archbishop of St. Andrews, the marriage of Johnstone, son and heir to the late James Johnstone, with the profits of the marriage of him or any other heir.¹ The ward and non-entry duties of the lands were also conferred upon the archbishop until the entry of the heir, who must have been very young. He was still apparently a minor in November 1569 when he and his curators entered into an agreement with Nicola Douglas, widow of his grandfather, to pay her five hundred merks Scots for her interest in her jointure lands of Johnstoneholm and others. He then leased from her the same lands for a term of nine years at a rental of two hundred pounds Scots yearly. After that date she was to have the use of her house of Lochhouse which Johnstone was bound to maintain during his occupancy. In addition the lady stipulated that her house, woods, and private grounds should after the lease expired, be left "in als gude estait as tha ar now," and that Johnstone should not place "clannis nor broikin men" in the lands, "and in speciall nane of the surname of Johnstoun" nor any others above the rank of yeomen or simple labourers of the ground, nor yet clans of the country, lest she or her children

¹ Gift, dated 6th July 1553; Annandale Peerage Minutes of Evidence, vol. ii. p. 1110.

should receive their lands in worse condition than they were at her husband's death. It was also provided that he should present John Johnstone, his uncle, son of Nicola Douglas, to the parsonage of Johnstone, and should out of the funds of the benefice maintain the presentee at "the scolis" until the age of fourteen, and pay him yearly thereafter the sum of forty merks.¹

But although the young chief's curators are referred to in the above writ, he seems to have acted independently. In May of the previous year one of his clansmen, John Johnstone in Glenkill, renounced in his favour the lands of Arminnie, in the stewartry of Kirkcudbright, with the lands of Kinnelhead and Holmschaw in Annandale, to be occupied by him, without conditions.² Also a few months before the contract recited, we find him entering into transactions independent of his curators. Thus in August 1569, his uncle, John Johnstone, a son of his grandfather, resigned into his hands the lands of Upper Cogie, in Kirkpatrick-juxta, while the other in his own name transferred to his uncle the mains of Moffat.³

This chief also acted independently as head of his clan, and as the person responsible to the government for the good behaviour of the district. He appears, no doubt because of his connection with the Hamiltons, to have supported the claims of Queen Mary after her escape from Lochleven. It is not certain that he was present at the battle of Langside, but after the defeat of the queen's party there, the Regent Murray, with a considerable force, marched into Dumfriesshire, and compelled the submission of the barons in that neighbourhood. Among others thus dealt with was Johnstone, who submitted, and also surrendered his houses of Lochwood and Lochhouse.⁴ After this he remained outwardly in obedience to the new government, although his allegiance, as will be seen, was not very steadfast.

¹ Contract, dated 25th November 1569; Annandale Charter-chest.
Annandale Peerage Minutes of Evidence, 1881, pp. 1173-1175.

³ Original, dated 13th August 1569, *ibid.*

² Original resignation, 30th May 1568, in

⁴ Historical Memoirs of the Reign of Mary Queen of Scots, Abbotsford Club, 1836, p. 106.

In August 1569 he received from various persons of the name of Batie or Beattie an obligation to surrender themselves to ward in the stone house of the Lochwood on forty-eight hours' warning, there to remain until they could be entered with the government as pledges.¹ A few months later they are named among other sureties consigned for safe keeping to the castle of St. Andrews.² This was after the proceedings of the courts held for two days, first at Castlemilk, and afterwards at Dumfries, by the Regent Murray in person. Johnstone was in attendance, and is constantly referred to as security that various members of his clan should not escape from justice. Thus at the camp by the water of Milk on 25th October, he became security for John Johnstone of Howgill, who was a pledge "for all that ar cum of the auld gang of Wamfray." Others for whom he undertook responsibility were John Johnstone in Tundergarth, David Johnstone of Staywood, John Johnstone of the Quais, Gilbert Johnstone of Fairholme, James Johnstone, called James with the Beard, for "the hail gang of the Bankis," the laird of Corrie, and John Johnstone "the chepman's" eldest son. He further promised to bring some of "the principallis of the gang of Willeis of Wamfra" to Dumfries to meet the regent there.³ Thus "the lads of Wamphray" were even then a turbulent race.

For most of the above persons, and others of less importance, Johnstone became liable in sums of money, two thousand merks being a frequent penalty. In one case, however, the responsibility was more serious. He obliged himself to make the laird of Corrie (James Johnstone, a cousin of his own) become security to the regent for certain Irvings who lived on his lands. But if the regent was not content with the satisfaction offered, in that case Johnstone was to "burne thame, and put thame and hald thame furth of the cuntre, under the pane of twa thousand merks." There is, however, no evidence that this punishment was inflicted.

¹ Obligation, dated at Lochwood 5th August 1569, in Annandale Charter-chest.

² Register of the Privy Council, vol. ii. p. 52.

³ *Ibid.* pp. 47-50.

It was in the January following these proceedings that the Regent Murray was assassinated by Hamilton of Bothwellhaugh at Linlithgow.¹ His death was a triumph to the party which favoured Queen Mary, and they at once took measures which plunged the country into civil war. They also showed their displeasure at the interference of the English queen in Scottish affairs, by joining with rebels against her authority, while constant and destructive raids were made over the English border. In these commotions of the period we find Sir John Johnstone playing a considerable part. Even before the death of Murray, his sympathies continued with Queen Mary, and he is mentioned, along with Lord Home, the lairds of Buccleuch, Fernyhirst, and others, as a supporter of the conspiracy against Queen Elizabeth, headed by the Earls of Northumberland and Westmoreland. In the beginning of January 1570 Sir John Forster wrote to the Earl of Sussex, intimating that Westmoreland was in Scotland, and that he and various other fugitives were sheltered by Ker of Fernyhirst and others. He adds that "if they hear of any force of England to pursue them, they purpose to take the sea at Fast Castle, or the West Marches by help of the laird of Johnstone."² This attitude, however, was suddenly abandoned for a more active policy, and on the morning after the regent's death the Earl of Westmoreland, with his allies, the lairds of Buccleuch and Fernyhirst, and Johnstone, invaded England with three hundred horsemen, destroying the country as far as Morpeth.³ This raid is said to have been conducted with special cruelty, for which, however, not the Scots, but the rebel English were held responsible. A few weeks later another rebellion took place in the northern counties of England, headed by Leonard Dacre, a younger son of Lord Dacre of Gillesland, but it was quickly defeated, and Dacre and his brother were

¹ The musket with which the regent was shot long remained in the family of General Hamilton of Orbiston. The general presented the weapon to Alexander, Duke of Hamilton, and it is still preserved at Hamilton Palace.

² Calendar of State Papers, Addenda, 1566-1579, Letter 7th January 1570.

³ Calendar of State Papers, Foreign, Letters, Lord Hunsdon to Queen Elizabeth, 30th December 1569. The Same, 31st January 1570.

forced to take refuge in Scotland, where it is not improbable they were sheltered by Johnstone.

These raids and rebellions provoked retaliation on the part of the English government, and the Earl of Sussex, in the following April, laid waste Teviotdale and the country of Buccleuch, and Ker of Fernyhirst. A similar invasion of the west borders took place a few weeks later under Lord Scrope, who advanced to Dumfries and destroyed the lands of Lord Herries and others. Johnstone was also a sufferer by this raid, which he assisted in repelling. It was the result of a suggestion by the Earl of Morton, addressed to the English ambassador Randolph, that the Lords Herries and Maxwell, and Johnstone, who threatened to come to Edinburgh, might be forced to stay at home, if they were threatened by Lord Scrope.¹ Lord Herries in his *Memoirs* states that he and Johnstone effectually resisted Scrope's inroad by opposing him with their horsemen, while the country people drove their cattle to the moors. Scrope it is said retired, fearing distress in his army, but did a good deal of mischief in his retreat.² The raid, however, was effectual in its desired result, which was to prevent the southern barons coming to the assistance of the Hamiltons, whose country was then being laid waste by the Earl of Lennox, with an English force under the leadership of the Marshal of Berwick. Besides Lord Scrope's invasion, the west borders of Scotland were in August 1570 again subjected to destruction by a force under the Earl of Sussex, which, however, was specially directed against the Maxwells rather than the Johnstones.³

These events may have influenced Johnstone in seeking to make terms with the government, Lennox having been elected regent on the 12th July 1570. He also had some dispute with Lord Herries at this

¹ Calendar of State Papers, Foreign, Morton to Randolph, 25th April 1570; Lord Scrope, 9th May 1570.

² Historical Memoirs of the Reign of Mary

Queen of Scots. Abbotsford Club, 1836, p. 127.

³ Diurnal of Occurrents in Scotland, 1513-1575, pp. 184, 185.

time, probably about the keeping of order in the district,¹ and this may likewise have inclined him to submission. In any case we learn that he, with his former allies Buccleuch and Fernyhirst, travelled to Edinburgh in September 1570 to arrange with the new regent. The terms prescribed to him as the conditions upon which he might receive the king's favour are still preserved, and may be briefly stated. First, he was to swear allegiance to King James as his only sovereign, and to obey the Earl of Lennox as regent; second, the laird becomes obliged to preserve the peace between England and Scotland, and to be answerable therefor in all time coming; third, he shall underlie the law for all offences committed against the peace of the two kingdoms, and for resetting English fugitives; fourth, he is to be responsible for his clan; and fifth, he is to enter six persons as pledges for his good behaviour.² The first interview with the regent was not satisfactory, as the parties separated "unaggreit," but it seems probable Sir John Johnstone was afterwards received to favour, although he does not appear with any prominence in public affairs for a year or two later. He was, however, engaged in transactions with his own clan and in private affairs. Thus, in April 1571, Thomas Johnstone in Fingland, and six other Johnstones, acknowledged that they had "borrowit" from Johnstone, their "cheif and maister," certain persons of the name of Johnstone, who were his "presoneris and captiuis," that they may be at "freedom and liberte." The borrowers then bound themselves in strict terms to restore the prisoners, on forty-eight hours' notice, within the tower of Lochwood, to be entered with the government, and that under a penalty of £1000 Scots to be paid for each person.³ A few weeks later Thomas Johnstone of Craigaburn, John Johnstone, his son, and others, bound themselves in manrent service to their chief in the usual terms.⁴

¹ Calendar of State Papers, Foreign, 2d July 1570, Lord Scrope writes referring to dissensions between Johnstone and Herries.

² Copy of Conditions [no date] in Annandale Charter-chest; Diurnal of Occurrents

in Scotland, p. 188.

³ Original obligation, Lochwood, 1st April 1571, in Annandale Charter-chest.

⁴ Original, dated at Branxholme, 20th June 1571, *ibid.*

The bond of manrent is signed at Branxholme, the residence of Sir Walter Scott of Buccleuch, where Johnstone was apparently on a visit. He married Margaret Scott, the sister of Sir Walter, and the marriage contract, which was a post-nuptial one, was dated in 1568, Johnstone being then still a minor. The date when the marriage actually took place is not certain, but the necessary steps to secure the lady in her jointure were evidently arranged on the occasion of the visit to Branxholme in April. A few months later, on 4th November 1571, Sir John Johnstone obtained a crown precept for infefting him in his lands, as nearest and lawful heir of his father, the late James Johnstone, and in the following January he received sasine, when he immediately granted to his wife, Margaret Scott, a liferent right over his whole lands and possessions. These included the lands of Johnstone, Kirkpatrick, including Dowskellie or Duns-kellie, and Cawartsholm, Wamphray, Pobudy or Polmoody, and Hardgray, and others, with the office of "coronator" within the bounds of Annandale. Sasine was given at the manor-place of Johnstone, commonly called the Lochwood.¹

CHAPTER SECOND.

Bonds with Elliots, Weirs, and Grahams—Morton visits the Borders—Takes pledges—Quarrel begins with Lord Maxwell—Put in ward 1575—Bond to Johnstone by the clan—Defends Robert Scott of Thirlstane.

After this little is recorded of the owner of Johnstone, except in connection with the government of his district. The heads of the border clan of Elliot, Robert Elliot of Reidheuch, Martin Elliot of Braidlie, and others, in December 1572, entered into a bond with him to restore to his custody when required one of their number, John Elliot "of the Steill," who had been taken prisoner by Johnstone. He was then staying at

¹ Sasine, dated 8th January 1571-2, narrating precept, dated at Leith, 4th November 1571, in Annandale Charter-chest. Charter to Margaret Scott, 8th January 1571-2, confirmed 10th March 1573. *Registrum Magni Sigilli*, vol. iv. No. 2126.

Branxholme, the residence of his brother-in-law, in close proximity to Braidlie, and the Elliots appear to have taken advantage of this to submit arrangements for their clansman. They wished to "borrow" him, or obtain his freedom, on a pledge being given for his return to custody at Lochwood, if he and his friends cannot agree on the matters in dispute between them and the Johnstones before the ensuing term of Candlemas. Both parties give assurance of safety to the goods and friends of the other during the intervening period.¹

A few months later another question of a similar character was discussed by Robert Johnstone, uncle of Johnstone, and who acted on his behalf, the other parties being James Weir of Blackwood and his son James, John Bannatyne of Corehouse, and William Weir of Stonebyres. The story is told by a notary, and we learn that Johnstone began the interview, which took place at Clydesholm near Lanark, by desiring to know whether he might understand that the bond of kindness formerly made between him and his friends on one side, and the Weirs and their friends on the other side, stood according to its terms. He then desired the Weirs to deliver up to him four men of the Johnstones, whom, with their armour, horses, and gear, they had taken captive. He further offered to refer the matter to the opinion of four friends of the laird of Blackwood, duly sworn, and to abide by their decision, as when the men were taken "there was na mannis geir fundyn with thame, bot [they were] in ane common ostellar howse, beleving na ewill quhair throw thai suld be trublit." If, however, the Weirs and their friends refused to entertain the offer now made, Johnstone's envoy repudiated his portion of the bond of kindness, which he alleged they had broken by their withholding his friends and servants without cause and without commission from the government.² The result of this meeting is not recorded.

The Regent Morton, in the same month of February 1573, issued to John-

¹ Original bond, dated at Branxholme, 13th December 1572, in Annandale Charter-chest.

² Original writ, 1st February 1572-3, in Annandale Charter-chest.

stone and Robert his uncle, rector of Lochmaben, a precept of remission for their appearance in arms against the king's party at the battle of Langside, in May 1568, but it does not appear that the Johnstones were present.¹ In May of the same year we find the chief acting for himself and "for his surname of Johnstonis and their servandis," on the one part, entering into an agreement with Fergus Grahame of the Mote, Robert Grahame of the Fauld, and a number of other Grahames (excluding Richard Grahame of Netherby, his party and servants), with a few Irvings and Stories, on the other part, in relation to the slaughter of Archibald Johnstone of Myrehead. The parties bound themselves to accept the decree-arbitral to be pronounced by twelve arbiters, six men chosen on either side, who were to meet at Craikhauch a few days after the date of the agreement. There the opposing parties were also to convene and present their respective claims for consideration, pledging themselves to abide by the decision. This agreement was made and signed by Johnstone and the other parties at Craikhauch, in presence of Sir Walter Scott of Branxholme, John Charteris of Amisfield, and others.² A postscript to the agreement contains a clause by which certain Armstrongs also bind themselves to submit to the decision of the twelve arbiters "anent their being vpoun the feild with their freyndis the tyme" that certain Johnstones "gat ony skayth."

Another aspect of the relations in which the chief stood to the members of his clan is afforded by a bond of maintenance which he granted in July 1573 to John Johnstone in the Greenhill, who had become his "man and servand in all tymes cumin, lelelie and treulie to mak" him faithful service on horse or on foot. In return Johnstone bound himself to fortify, maintain,

¹ Original remission, in Annandale Charter-chest.

² Original, dated Craikhauch, 11th May 1573, in Annandale Charter-chest. There is also a writ, without date, in which Fergus Grahame of the Mote and Edward Kirk-

patrick bind themselves to fulfil all their "speikin" with the laird of Buccleuch and laird of Johnstone on "Craikmoir" at their last meeting, and also to keep the time and place appointed on receiving warning and due security [Original, *ibid.*].

supply, and "debait" his "man" against all men having complaint against him "as ane faithfull maister aucht to debait his trew seruand," in all his possessions. In particular he promised to secure his man in the heritable right of the six merk land of Batok or Beattock, in "the kindnes" of a two and a half merks land in Greenhill and a merk land in Kirkpatrick, occupied by the Taits, which were held from him as over-lord.¹

In June of the following year, 1574, Johnstone was summoned to answer to the government for certain borderers, who had been held in ward as pledges for their kinsmen, and who had escaped from custody. In the autumn of 1573, the Regent Morton having, by the fall of the castle of Edinburgh, and the death of Kirkcaldy of Grange, obtained a complete triumph over the party of Queen Mary in Scotland, and secured a comparative peace, led a large force to the Borders, and compelled the marauders there to respect the law. Numerous pledges were exacted for obedience, who were distributed in various strongholds at a distance from their own neighbourhoods, their custodiers being made responsible for their safe keeping under heavy penalties. Besides this, those gentlemen or noblemen in whose territories the pledges resided were also held responsible, and among such Johnstone took a prominent place, being accountable for no fewer than six of the pledges. These had escaped from their respective wards, and he and other sureties were summoned before the privy council to pay the amount of the penalty, £2000 Scots for each person. Neither he nor his co-cautioners answered the summons, and orders were given for the usual legal processes to be taken to obtain the fines.² A further demand for the same sum was also made against Johnstone at the same time because he had failed to enter John Johnstone of Graitnay, one of his clan, with the Government, to answer for certain misdeeds.³

Similar questions again arose a few months later, in November 1574, and

¹ Original bond, signed at Lochwood, 2d July 1573, in Annandale Charter-chest.

² Register of Privy Council, vol. ii. pp. 367-370.

³ *Ibid.* p. 373.

though at first sight they appear such as arose in the ordinary course of border rule, their consequences were far-reaching, as it is at this time that the bad feeling which had formerly existed between the chiefs and clans of Johnstone and Maxwell again began to show itself, to end, as will be seen, in bloody tragedies to both families. The beginnings of the feud at this time arose out of the sympathy with marauders of certain Johnstones who were "fylit" or accused for resetting fugitives from the English side of the border. Where accusations were made against parties on either side of the border, it was customary for the English and Scottish wardens to meet on appointed days called "days of trew" or truce, and decide the cases, either punishing the offenders or balancing the offences so as to secure justice to either nation. On these days the offenders accused were bound to appear, or their chiefs were responsible, and if the latter failed to produce the culprits, the wardens or the government were held accountable for compensation. Johnstone had been required by John, Lord Maxwell, then warden of the west marches, to produce certain Johnstones to answer to the charges against them, and so relieve the warden and the king of their responsibilities. Johnstone, however, in defiance of the well-known laws of the marches, had failed in this duty, and Maxwell complained to the privy council of that, and also of the disobedience and non-compearance of Johnstone's friends and servants before the king's courts of the stewardry of Annandale.

The privy council decided against Johnstone upon both counts, declaring that he ought to enter accused persons on the "days of trew," and also to attend the stewardry courts, while they ordered Lord Maxwell to give safe-conduct to the servants in passing to and from these courts. A secondary question between the parties related to the eating or destruction of certain corn by the servants and horses of Johnstone on the one side, and by Lord Maxwell's brother and his attendants on the other. The council ordered witnesses to be produced, both parties giving security to produce any persons complained against, while they allowed an ordinary civil action to be raised.

Johnstone himself appears to have attended before the privy council, and in reply to its decisions he promised (1) to enter before the council so many pledges of his friends and servants as had gone home without leave; (2) to produce the persons accused at the next "day of trew;" and (3) to cause all his friends in Annandale not already pledged to enter under pledge to the government. Lord Maxwell, who was also present, then joined with Johnstone in an attempt at settling their differences, by each naming so many persons from among their friends, who should meet together and endeavour to compose the quarrel. Meanwhile both parties promised to keep good rule in the district, and safe-conduct to and from the stewartry courts was secured to the Johnstones.¹

Besides the threatened quarrel with Lord Maxwell, Johnstone at this time got into difficulties with the regent and council, who ordered him to be placed in ward until he presented certain members of his clan before them for justice. He apparently remained in custody until the end of February 1575, when the Earl of Glencairn and three others became securities for him to the amount of £10,000 Scots of penalty.² In the following year, Johnstone himself joined with Archibald, Earl of Angus, then lieutenant-general on the borders, in a surety for the appearance of the same culprits.³ A year later he and Lord Maxwell again appeared on opposite sides in a question before the council affecting the warden's procedure. Lord Maxwell as warden had, on 31st March 1575, at a meeting at Gretnakirk, accused a servant of Johnstone's in terms of a "bill" or complaint presented by an Englishman, for the sum of £17 sterling. Johnstone took the part of his servant, and complained to the council of wrongful accusation. Lord Maxwell declared that the alleged culprit, Jok Irving of the Steelhill, was rightly accused, and offered

¹ Register of the Privy Council, vol. ii. pp. 421-423.

² *Ibid.* pp. 421, 434. The sureties were William, Earl of Glencairn, George, Lord

Seton, Sir James Balfour of Pittendreich, and Sir James Cockburn of Scraling.

³ *Ibid.* p. 494.

to produce six witnesses to prove it. The case was adjourned that these witnesses might be present, but nothing further appears on record.¹

These details of border matters may seem monotonous, but they are interesting, because they illustrate, as far as legal documents can, the restless, turbulent life of those over whom Johnstone had jurisdiction, and the incessant conflict they waged with the authorities. A more peaceful aspect is shown in a writ signed by him in December 1577, while residing at Cummertrees, near Annan. The "auld" tenants of the lands of Kelhead, also in that neighbourhood, declare themselves "contentit to cum in his will and make him thankfull payment and dalye service," with multure, bear [barley], and kain-fowls, and to pay their "enteres" between the date and New Year's day next. John Johnstone in return bound himself to defend all those tenants who entered with him and paid their dues and service, the obligation to last during the life of his sister Jean Johnstone, who was life-rentrix of the lands.²

A similar peaceful strain runs through another document dated some months later, and joined in by the clan "that beris and hes the nayme of Johnnstounis in speciall and in generall quha dependis vpoun the lard of Johnnstoun." They bind themselves, when any controversy arises among them about blood, goods, or lands, to refer the dispute to Robert Johnstone in Carnsalloch and eleven other Johnstones "as aimable freindis equalie ehosin be the rest and consent of the nayme that hecht Johnnstoun," Johnstone himself, "thair cheif and maister," acting as oversman. Every one is to abide by the decision of these arbiters in any question, and if any one fail to obey, the rest of the clan are to oppose him and punish him as they think expedient. If any of the arbiters themselves have any dispute it also is to be submitted and decided upon like other questions, and this agreement

¹ Register of Privy Council, vol. ii. p. 593.

² Mutual obligation signed by John Johnstone, 9th December 1577, in Annandale

Charter-chest. Jean Johnstone was the widow of William, Master of Carlyle, who died in 1572.

is to remain in force for a year or longer, according as the chief and his friends think fit.¹

During the same year, 1578, Johnstone was also called on to deal with the affairs of persons in whom he was interested outside his clan. Thus he bound himself under a penalty of £2000 to present before the privy council a man named Alexander Carlile who had been imprisoned in irons for nearly six months by Lord Maxwell as warden.² Later, he appeared before the council on behalf of Robert Scott, the young laird of Thirlstane, to whom he was a curator, to complain of depredations on the Thirlstane estate and mansion-house. The culprit, Sym Scott of Winterburgh, had not only "masterfullie" attacked the house with armed men, but still held it by force. After some delay and a charge being issued by the council to that effect, Sym Scott gave up the house, or promised to do so, under a penalty of £500 Scots.³

CHAPTER THIRD.

Disputes about Wardenship—Johnstone appointed Warden, 1579—Feud between Johnstones and Maxwells—Slaughter of Johnstone of Smallgills by Armstrongs—Compensation for his slaughter—Slaughter of William Johnstone in Hayhill—Johnstone deprived of Wardenry, which was bestowed again on Lord Maxwell, 1581—Imprisonment and execution of James Douglas, Earl of Morton—Johnstone ordered to ward north of River Earn—Truce between Johnstone and Earl of Morton (Maxwell)—Raid of Ruthven—Johnstone again appointed Warden.

There were several changes made in the government of the borders at this time, and proposals made for their regulation, in which John Johnstone was interested. Lord Maxwell, who had been deprived of the office of warden in 1577 and again reinstated, was now in 1579 a second time dismissed, and his uncle John Maxwell, Lord Herries, appointed in his place. Previous to this, William, Lord Ruthven, had been acting as lieutenant-general on the

¹ Original, dated at the chapel of Dinwoodie, 2d December 1578, in Annandale Charter-chest. The names of the arbiters were Robert Johnstone in Carnsalloch,

Thomas Johnstone of Craigieburn, Gilbert Johnstone of Wamphray, and others.

² Register of Privy Council, vol. iii p. 33.

³ *Ibid.* pp. 39, 72.

borders, and had shown a good deal of energy in the office. It was no doubt owing to his recommendation that Lord Herries prepared and presented to the Council a report on the condition of the borders and the best means by which they might be governed. Lord Maxwell denounced the report as "pernicious counsals," intended rather to be prejudicial to himself than for the common good. The result of the debate on the subject in the council was the appointment of Lord Herries as warden.

The report by that nobleman was very favourable to Johnstone, which, perhaps, was one reason why it was unpalatable to Maxwell. Lord Herries recommended that the warden of the west marches, which were most in question, should make his fixed residence in the castle of Lochmaben, or in winter at Dumfries, and should hold the stewartry courts weekly. He further proposed that every landed man should present his servants to that court when required, no exemption to this rule being permitted. He advised that to assist the warden or steward there should be five or six of the wisest men of the district as deputies, and of these two were to be Johnstones "of the wysest and ressonabillest men that culd be found." To give John Johnstone no occasion to think that the correction of his dependants was done either from greed or any kind of partiality, it was suggested as expedient that he should have one-half of the forfeited goods of such of his men as surrendered under his bond to the law and were found guilty and executed. To this last proposal, which he described as giving Johnstone occasion "to lyke weill of his thevis' correctioun," Lord Maxwell strongly objected, as he argued that if Johnstone had this reward of his disobedience, other barons might thereby be encouraged to disobedience until they obtained the same advantage.¹

The report also recommended that the landed men in the district should keep garrisons and reside in their own houses during any time of special turbulence, giving every assistance in their power to the warden for the time. It is not clear what effect was given to this and other suggestions in the

¹ Register of Privy Council, vol. iii. pp. 77-84.

report. There was no immediate result, and on the same day on which it was considered we find Johnstone and others becoming sureties as on former occasions for various borderers who had been in ward as pledges and were now released.¹ He also became surety for several Turnbells and Scotts that they would appear before the council and answer for slaughter and forcible seizing of lands.² The release of the pledges referred to was the result of an arrangement with the government in terms of an obligation by a number of Johnstones for whom the pledges were responsible. They declared that John Johnstone, their "cheif and maister," at their "speciall desire and fervent supplication," had bound himself for their common weal to the king and his lieutenant, and had pledged his life, lands and heritage, that they, and every one of the surname, would be obedient to the laws. He had also faithfully promised to them to relieve their pledges, then in the king's hand, and to put them to liberty. In return they bind themselves and all their kin to assist in searching for and apprehending any of their number who should commit any crime by which their master might incur liability, and to bring the culprit to him to be punished as he thinks fit. Further, if the evil-doer cannot be apprehended, they bind themselves to burn, harry, and put him out of the country, and to satisfy the complainers.³

This bond appears to have been adhered to, and with good effect, if we may judge from the fact that during the next few months no charge against any Johnstone occurs either in the records of the privy council or the justiciary court. In August 1579 Lord Herries resigned the office of warden; and as Lord Maxwell was at the time confined in Blackness Castle, the chief of Johnstone was appointed to the vacant post. The bounds assigned to him were the west marches of Scotland opposite England, and included the districts of Eskdale, Ewesdale, Wauchopedale, Annandale, Nithsdale and Galloway, up and down the Cree, and over these his commission gave him

¹ Register of Privy Council, vol. iii. p. 85.

² *Ibid.* pp. 86, 87.

³ Obligation, dated 3rd January 1578-9, in Annandale Charter-chest.

full justiciary powers.¹ The usual proclamation was issued at the market cross of Dumfries and elsewhere, charging the inhabitants of the district to obey the new warden and assist him in every way, at their peril.² Following upon this, a week or two later, we have a bond in the warden's favour by James Graham of Gillisbe for himself, his men, tenants and servants, binding them all in manrent service in the usual terms.³ In April of the following year, 1580, there was a similar but more significant document signed mutually by the warden, on one side, and Edward Maxwell of Tinwald and James Maxwell of Portrack, for their friends, on the other. The Maxwells bound themselves to take "trew, plane and uprycht pairt" with the warden against their own nominal chief, John, Lord Maxwell, Roger Grierson of Lag, and their party and friends, while Johnstone on the other hand assured them of support and assistance against the same persons.⁴

This bond indicates virtually a new outbreak of the feud between Johnstone and Maxwell. The latter, who had been in ward, was liberated in December 1579 on his promise to behave himself as a dutiful subject, and to assist the warden in preserving the peace. But not long afterwards, at a fray in Dumfries, two of his relatives assaulted Johnstone of Carnsalloch "to the effusion of his bluid in gret quantitie," and as one of the Maxwells was also hurt, John Johnstone and Lord Maxwell were both charged by the privy council to subscribe a mutual assurance to be entered into by both parties and their friends.⁵ This apparently was done, but only a few weeks later Johnstone complained to the council that Maxwell had broken the assurance and had convened the king's lieges "in weirlyke maner." The case was continued for proof, but no record of the matter is preserved, and on 2nd September 1580 they mutually signed another assurance to last for six

¹ Commission, 27th August 1579, in Annandale Charter-chest.

² Register of the Privy Council, vol. iii. p. 207.

³ Bond, dated at Lochwood, 17th Septem-

ber 1579, in Annandale Charter-chest.

⁴ Original, dated Lochmaben, 8th April 1580, in Annandale Charter-chest.

⁵ Register of the Privy Council, vol. iii. p. 265; 9th February 1579-80.

months. A similar bond was given by Lord Maxwell to the Maxwells of Tinwald and Portrack, who were, as we have seen, allies to John Johnstone.¹

Side by side with these petty quarrels among their dependants there were causes of irritation between the principals, arising out of the alleged refusal by Lord Maxwell to deliver to Johnstone certain papers connected with his office. The latter at least complained that Lord Scrope, the warden on the English side, "burdynnit" him to make delivery of persons accused by Englishmen, there being as many or more accusations on the Scottish side of which redress could not be got, as Lord Maxwell, late warden, had all the papers in his possession. Lord Maxwell and his deputy were duly charged by the privy council to produce these documents. They appeared in answer, and declared that the "bills" or accusations and other papers had been offered to Johnstone and refused by him, and further, that Lord Maxwell had himself consigned them to the custody of the council. They therefore claimed to be released from the penalties threatened against them. The council first decided that the letters of charge had been properly executed, because Maxwell had not delivered the papers within the time assigned to him, but afterwards they released him and his deputy.² This matter was scarcely settled when another question was raised, this time by Lord Maxwell, who petitioned to have the use of the house and fortalice of Langholm. These had been taken from him by command of the council and delivered over to the custody of Johnstone as his successor in the wardenry, but, as Lord Maxwell asserted, it served nothing for the use of the new warden, as it remained uninhabited by him or his. The key was left nominally to the care of Lord Maxwell's servants, who, however, were forbidden on pain of their lives to enter the building without the king's permission. In these circumstances Lord Maxwell petitioned that as the want of the house was prejudicial to himself and the district, and as being unoccupied it might be seized by thieves from either side of the border,

¹ Register of Privy Council, vol. iii. pp. 287, 302.

² *Ibid.* pp. 286, 287, 297-299.

it should be restored to him to be used for the better preservation of the neighbourhood. Johnstone was personally present at the hearing of this petition, and, no doubt with his consent, it was directed that Maxwell should have the use of the house, on condition that it be given up to the warden whenever he required it, who in turn should restore it to the owner when not needed for official purposes.¹

In his capacity as warden and also as chief of a clan, Johnstone had to deal with questions of compensation and reparation to surviving members of families or households whose head had been killed. Thus some time apparently not long after his appointment as warden, one of his clansmen, Simon Johnstone of Smallgills had been slain by certain Armstrongs, who made offers of compensation to the injured relatives, as the unhappy event appears to have been unpremeditated. The offers are addressed, on the outside—

* "To the rycht honorabill the lard of Jhonston, lord varden of the west marsches, and to the barnes of wmqhyll Symont Jhonston of Smallgyls, and to James Jhonston in Capellgyll, and to the rest of your brether, your kyn, freyndis, allians, your parte and parttakaris,"

and they are made by

"Arche Armestrang, Ryngen Armestrang, Farge Armestrang, brether, with the assent and consent of our hell brether and brether sones, and kyn, freynds, allians, our parte and parttakaris, for the sodand and vnprovydyt slawchter of wmpqwhyll Symont Jhonston of Smallgylles."

They offer, first, "full repentens to the Lord our God" for the murder, beseeching his mercy that they never attempt the like hereafter. Secondly, they offer "to be fathar to his beirnes and brether to his brether," in all their affairs. Thirdly, they offer to be bound in manrent service for ever to Johnstone and his house. Fourthly, they offer to come to the church of Moffat, or any other place convenient, "in our lyneng clathes, kneleing vpon our kneyes, with our sordes dravne in our handis, and sall delyvar

¹ Register of the Privy Council, vol. iii. pp. 304, 305.

them to yov be the hiltis in tokynnyng of repentens of that wekket and vuprovdyet slawchter." Fifthly, they offer to pay the sum of four hundred merks Scots. Sixthly, they offer, if the above be not sufficient, to abide the judgment of four Johnstones and four Armstrongs, equally chosen by each party, and to fulfil their decision. Seventhly, they offer to give to the eldest son of the slain man a horse worth one hundred merks or else one hundred merks in money, as he prefers, and they conclude by expressing an earnest desire that their offers may be accepted.¹

A similar document was presented to John Johnstone some months later by Edward Irving of Bonschaw, George Grahame of Rainpatrick, and John Irving of Knockhill, offering compensation on behalf of themselves and their friends "for being on the feild at the vnhappe slauchtter" of the late William Johnstone in Hayhill, which they "sayrlie repent." The offers made are for the most part identical in terms with those in the writ already quoted, but there are some differences. Thus their second offer is "to try oure innocens and to acquite ws and all ouris that nane of ws schot that vnhappie schot quhareby the said Williame was slayne, nor bure the said Williame ua rankour in our harttis." Thirdly, they offer to surrender two of their number into the hands of the laird of Johnstone at Lochwood, to abide such trial as he shall appoint "that nane schot the sayde schot," but if either be found culpable, their punishment is consented to without prejudice to other offers. The offer of five hundred merks money to the widow and children is made with a promise of more if desired. They conclude by earnestly desiring the acceptance of the offer.² These writs are of considerable interest as indicating the method of procedure in cases where unpremeditated slaughter had been committed.

Some other documents referring to this period of wardenry may also be noticed. The first is an order of council directing Lord Ruthven

¹ Original, not dated, in Annandale Charter-chest.

² Offers, dated February 1581-2, in Annandale Charter-chest.

as treasurer to pay the warden's wages. We learn from this that he was not only held entitled to a fee, but also to keep up a garrison of horsemen for the service of his office at the expense of the government.¹ The order, however, does not state what the amount of fee was. Another act authorised him as an officer of the crown to arrest and distrain the goods of certain persons who had been sureties for a prisoner named John Batie, who had been released from ward at Dumfries under pledge for his return. This pledge he had violated and was causing trouble in the district, while his sureties were called upon to pay the penalty.² Such pledges for persons liberated on bail and two others were given to the warden about this time. Christy Armstrong of Barnkleis bound himself that certain persons of the name of Little should be forthcoming when required to answer to the complaints made against them on both sides of the border.³ A similar bond was given for Thomas Johnstone of Fingland, who was allowed to go home for five days, that he would enter himself again in Lochmaben, his sons William and Simon remaining within the town till his return, in addition to the caution given in the bond.⁴ Besides, there are various occasions on which Johnstone himself was held responsible for the appearance before the council of defaulting members of his clan.⁵

On the last day of the year 1580, James Douglas, Earl of Morton, formerly regent, was committed to ward on the charge of being accessory to the murder of King Henry Darnley, and, as is well known, this led to his trial and execution six months later. In him Johnstone lost a staunch supporter, and one who had befriended him in all his quarrels with his rival, Lord Maxwell. With the decline of Morton's influence Johnstone's enemies began to make head against him, and in the early part of the

¹ Extract Act of Council, 24th September 1580; Register of Privy Council, vol. iii. p. 316.

² Act in Annandale Charter-chest; Register of Privy Council, vol. iii. p. 315.

³ Bond, dated Lockerbie, 8th February 1580-81, in Annandale Charter-chest.

⁴ Bond, dated Lochmaben, 21st February 1580-81, *ibid.*

⁵ Register of Privy Council, vol. iii. p. 352.

year 1581, various reports were made to the king that the warden was relaxing in the performance of his duties. He had been ordered to hold a "warden raid" upon the borders, and the usual muster of fencible men had been summoned to meet him at Dumfries on 15th December for executing justice on offenders. He does not appear to have obeyed this order, and a similar summons was issued for 15th February 1581, which was again postponed to 20th March. These facts probably gave ground for the reports as to the warden's laxity which the king at first was slow to believe, because of Johnstone's previous good service, but as he failed to appear when charged to clear himself, he was declared a rebel, and the office of warden was again conferred upon John, Lord Maxwell.¹

It is evident that Johnstone was considered a partisan of Morton and of the Earl of Angus, as after the execution of the first and the flight of the second into England, he was taken bound to enter in ward "benorth the water of Erne," and also to deliver up all the wardenry papers remaining in his hands. The warding was, however, postponed for a time, as he had certain actions depending before the privy council.² Later, he was further bound under heavy penalties that he would not intercommune with the Earl of Angus. An order was also issued affecting his property, not his estates, but his moveable goods, which apparently were taken care of by his clan.³ In the beginning of the year 1582, however, Johnstone and a number of others were charged to appear before the privy council to answer inquiries as to certain disturbances on the west marches in which some Englishmen were concerned, "brocht in, as his hienes is informit, be sum evill disposit personis, inhabitantis of the said marche, purposelie as apperis to the troubling of the gude and quiet estate of the cuntre."⁴ It is not improbable, though there is no clear evidence on the point, that the disturbance referred

¹ Register of Privy Council, vol. iii. pp. 332, 339, 355, 374-376.

² *Ibid.* pp. 396, 409.

³ *Ibid.* pp. 414, 434; 9th December 1581.

⁴ *Ibid.* p. 455; 22d February 1581-2.

to was caused by the Earl of Angus, then a refugee in England, who is said to have been so incensed at the title of Earl of Morton being granted to Lord Maxwell that he invaded and laid waste some of that nobleman's lands. About a month after this summons, Lord Maxwell, henceforth to be known as Earl of Morton, and Johnstone entered into a mutual assurance of peace and safety betwixt themselves and their friends, to endure for nine months.¹ One result of this temporary reconciliation was that not long afterwards they were both warned by an order of council not to join in armed convocation, which they proposed to do, being summoned to attend a "day of law" at Edinburgh on 31st May. They were instructed to come to the place of meeting with only twenty-four persons in their company, and "in quiet and peccable maner."² The circumstances for which this "day of law" was appointed have not been ascertained.

For some months after this, nothing is recorded of John Johnstone, until the sudden change of government effected by what was known as the "Raid of Ruthven." The two noblemen who had directed affairs in Scotland since the arrest of the Regent Morton were Esme, Duke of Lennox, and James Stewart, Earl of Arran, the former of whom was the king's favourite while the other was the usurper of Arran. Taking advantage of the temporary absence of both of these from court, the Earls of Gowrie, Mar, and others, secured the person of the young king, and proceeded in his name to administer the government. Arran was seized and imprisoned, while Lennox was compelled to retire to France. The change of politics thus effected had its influence on the fortunes of Johnstone, as his rival, Morton, fell under the displeasure of the new government. He had taken part in an unsuccessful attempt made by the Duke of Lennox to regain his authority, and advantage was taken of the disturbed state of the borders to depose him from office. The Earl of Morton, John, Lord Herries, and Johnstone, with others, were summoned to confer with the privy council, and advise as to the means best fitted for

¹ Register of Privy Council, vol. iii. p. 466.

² *Ibid.* p. 487.

repressing theft and crime on the borders. The others appeared, but Morton did not, and Johnstone was again appointed warden in his stead.¹

The office on this occasion was imposed with conditions, that the warden should obey the instructions laid down in 1579 by Lord Herries for the government of the borders.² But while the new warden was thus placed under regulations, his entrance on office was made as easy for him as possible, as it was enacted that because of the increase of crime in the district since he had formerly been warden, he was not to be bound to give redress to any complainer until the king should give further directions as to redress. Another council order shows that, as on the previous occasion, difficulties were thrown in Johnstone's way by Maxwell and his dependants, as they refused to pay the dues exigible by the warden, as custodier of the castle of Lochmaben, while Maxwell delayed delivery of the necessary official documents.³ It may be added that the Ruthven government paid a good deal of attention to the state of the borders, several acts during their brief tenure of office being devoted to the subject. One of these ascribes the chief cause "of the greit rebellious and contempt" of the king and warden on the west marches to the "ressett of thift and mutuall dealing" made between the thieves on the Scottish side and "thair nychtbouris being of the like conditionis and rank duelland on the opposite merche, common innymeis to baith the realmes." To provide a remedy, Johnstone was specially empowered to consult with the English warden at Carlisle or Dumfries, under safe-conducts on both sides, as to the means of repressing crime. By another order the wardens of the Scottish marches were reprimanded for leaving their jurisdictions, and absenting themselves on private affairs, and were forbidden to do so without the royal licence.⁴

¹ Register of the Privy Council, vol. iii. pp. 527, 528, 531.

² *Ibid.* vol. iii. pp. 77-82; Book of Carlaverock, vol. ii. pp. 483-487.

³ Register of the Privy Council, vol. iii. pp. 539, 540.

⁴ *Ibid.* vol. iii. pp. 560, 567, 568.

CHAPTER FOURTH.

Arran re-established—Johnstone's activity in his office—Attack on house of Bonshaw by Douglas of Drumlanrig—Captain Lamby spoils the lands of Blawatwood—Johnstone raised to knighthood as Sir John Johnstone of Dunskeillie—Quarrel with Maxwell about election of a provost of Dumfries—Lochwood attacked and burnt, 1585—Sir John taken prisoner—His death, 1587—Margaret Scott, Lady Johnstone.

The government constituted by the Ruthven raiders was brought to an abrupt conclusion by a counter revolution on 27th June 1583, and a few weeks later the Earl of Arran came again into power. The fortunes of Johnstone continued to be in the ascendant under the new *régime*, as his rival Maxwell was obnoxious to the powerful favourite. Indeed, it is from this time that we may date the beginning of the fiercest part of the feud which previous events had fostered between the two rival chieftains, and which was soon to be stirred to greater activity. Before the matter reached this climax, we find from the records of council that Johnstone applied himself strictly to the duties of his office. His interpretation of these led him, in August 1583, into a dispute with the provost and bailies of Dumfries, who had seized and detained an Englishman named Gavin Hogson, whom they would not release until the warden gave an assurance that he would be forthcoming when required. The warden refused this, on the ground that the man had a safe-conduct from him which the townsmen had violated. The council, however, decided against the warden, who wished his bond annulled, declaring it must stand, as the man had been apprehended in virtue of royal letters, because he had dealt with certain goods which had been pillaged from some Frenchmen, "freindis and confiderattis" of the kingdom.¹

To mark his sense of Johnstone's good and faithful service, the king granted to his son, James Johnstone, the escheat of the lands of Torthorwald, formerly belonging to Michael Carlyle.² The gift had been granted to

¹ Register of the Privy Council, vol. iii. pp. 590, 591.

² *Ibid.* vol. iii. pp. 596, 597. Shortly after this Johnstone was directed to deliver up the castle of Langholm to John Maxwell, Earl of Morton. [*Ibid.* p. 598.]

George Douglas of Parkhead, but was now revoked in Johnstone's favour. This favour was bestowed upon Johnstone a day or two after he had been summoned to attend the king at St. Andrews. During his temporary absence from his wardenry an incident occurred which drew from him a complaint to the privy council. He narrated the terms of his accepting office, with an allowance for a garrison of horsemen, though he had received little of it. He reminded the council that he had preferred the king's service and the quietness of the country to his own private gain, and assured them that at "lairge and sumptuous charges" he had reduced his troublesome district to such obedience that he could cause all men within his wardenry "to make answer and redres bayth to Scotland and England for onie attemptatis committit be thame." Notwithstanding this, however, taking advantage of his absence, James Douglas, the laird of Drumlanrig, and Mr. Robert Douglas, provost of Lincluden, with a company of their friends and servants, and a following of Carlyles, Irvings, outlawed Scots, English borderers and others, "broken men" whom the laird of Drumlanrig had "interteneit" for the last half year, to the number of fifty men, had made an attack on the house of Bonshaw, belonging to Edward Irving, a connection of the warden, who had placed there a number of Bells and Irvings to be kept in custody "as notorious offendouris, rebellis and dissobedient personis." The Douglasses forcibly entered the house and liberated these persons, whom they carried to the town of Dumfries and the college of Lincluden, where they still remained, while the chief marauders with their outlaw companions returned home to Drumlanrig. The council summoned the Douglasses, who admitted that some of the persons liberated were at Drumlanrig. The laird of Drumlanrig was ordered into custody in Edinburgh Castle, while the provost of Lincluden was warded in Blackness, to remain until those who had been released were produced before the council or the warden.¹

¹ Register of the Privy Council, vol. iii. pp. 607, 608; 29th October 1583. On 1st March 1684, a proclamation was issued for the apprehension of the persons who had thus violently been set at liberty. [*Ibid.* p. 638.]

Johnstone, in his complaint just cited, refers to a garrison of horsemen which was supposed to be kept up by the government for the use and at the service of the warden. This garrison, however, was ill-paid, and seems to have been occasionally a cause of embarrassment rather than a help, if we may judge from an incident which occurred in May 1583, before the close of the Ruthven administration. The leader of the warden's troop at this time was Captain Andrew Lamby, who appears in the privy council register as a strong enemy of the house of Hamilton and the custodier at Linlithgow of the Earl of Arran. Captain Lamby appears to have been a rough soldier, and his conduct on that occasion bears out this view, for he and his men, probably on account of some difficulty as to pay, marched to the lands of Blawatwood, belonging to Arthur Graham, and seized fifty cattle and eighty sheep, with a horse. The cattle were valued by the owner at seven pounds a-piece, and the sheep at twenty-four shillings each, while the horse was worth thirty pounds, all in Scots money. The trespassers also carried off, from the poor tenants, one hundred and twenty nolt or young cattle, valued at one hundred and fifty pounds, and they refused to deliver or restore the spoil until paid that sum. Even then they carried off Graham's own cattle and horse and refused to return them. He complained to the privy council, declaring that Lamby and his troop acted under the orders of the warden, and as they were not responsible he should be held liable. The lords of council directed the warden to restore the goods or their value, to refund £150 paid for the nolt, and give surety in £2000 to be answerable for all "attemptatis bigane and to cum."¹

Johnstone and his men were at a later date called to take active part on a wider field than that of border police. The Earls of Gowrie, Mar, and Angus, and their adherents, who for a period had been in exile or obscurity, suddenly, in April 1584, drew to a head, raised a force, and seized the castle of Stirling. The king, by the activity of Arran, raised an army of about 10,000 men, and

¹ Register of Privy Council, vol. iii. pp. 584, 585 ; 29th July 1583.

marched against the insurgents, who, however, did not await the onset, but made their way southwards, passing into England. Johnstone joined the royal forces with his troop, and when the flight of the rebel lords was reported, he and his men were dismissed homewards. On their way southward, when not far from Lanark, they were descried by the rebel force, who, seeing the small troop of horsemen approaching, despatched a company to see who they were. The leader was Archibald Douglas, sometime constable of the castle of Edinburgh, who, finding that Johnstone was there, submitted as to a clansman, fearing no evil.¹ But Johnstone, fearing that if he allowed his prisoner to escape, it might bring him into disfavour at court, returned to Edinburgh, delivered his captive there, and gave information as to the movements of the rebel lords. It is surmised that Johnstone did this under the belief that Douglas would only be placed in ward, but the court was so bitter against the rebels, while Arran desired to make Johnstone unacceptable to Angus, and draw him to his own faction, that Johnstone was thanked for his service, but Douglas was hanged.²

This activity brought Johnstone into favourable notice at court, and he was raised to the rank of knighthood, as Sir John Johnstone of Dunskenlie, which was part of his lands in the parish of Kirkpatrick-Fleming in Annandale. He received also a grant, to himself and his wife, of the lands of east and west "Mont Berrigers" or Montbengers, and Catslack, in the county of Selkirk. These had formed part of the forfeited estate of the Earl of Angus, and were conferred for Johnstone's services.³ Johnstone's promotion, however, led the Earl of Arran, who was then at the height of his power, to use him as an instrument of annoyance to John Maxwell, Earl of Morton, who had incurred the resentment of the favourite. With this view Arran prevailed upon Margaret Scott, Lady Johnstone, then at

¹ Johnstone and Archibald, Earl of Angus, head of the Douglasses, were sons of the same mother, Margaret Hamilton, wife, first of James Johnstone, younger of that ilk, and

secondly of David Douglas of Cockburnspath.

² Calderwood's History, vol. iv. pp. 33, 35.

³ Original charter, dated 8th September 1584, in Annandale Charter-chest.

court, to persuade her husband to accept the office of provost of Dumfries, which had been held by a supporter of Maxwell. Arran then, at the time of the election in September 1584, wrote in the king's name to the electors, requesting them to choose Johnstone in place of Maxwell's nominee, alleging that if he were made provost of Dumfries he would occupy a position which would make his powers as warden more effective. But Maxwell assembled such a force on the day of election that he prevented Johnstone from entering Dumfries, and secured the re-election of John Maxwell of Newlaw, the former provost. Of this fact Johnstone at once complained to Arran, and alleged that unless Maxwell's power were restrained, it would be impossible to keep order in the district.¹

It was in consequence of Lady Johnstone's influence at court, or so the English historian Holinshed represents it, that two companies of hired soldiers were despatched to the aid of the warden, under the command of Captains Lamby and Cranston. But this force was intercepted on Crawford moor by a party of Maxwells headed by Robert Maxwell of Cowhill, and after a sharp conflict, they were completely defeated, Lamby being killed and Cranston taken prisoner.² The offences of Lord Maxwell and his adherents certainly, in the beginning of 1585, called forth from the privy council a proclamation, requiring the fencible men of the west marches, with fifteen days' provisions, to meet the king's lieutenant at Annan, for service against some inhabitants of the Debateable lands, and also against refractory dependants of Maxwell. A few days later Maxwell was denounced rebel and required to surrender his strongholds of Carlaverock, Thrieve, and others, into the king's hands.³

This order was issued on the 26th February 1585, and on 3d March Maxwell wrote to King James Sixth a long letter, complaining bitterly against Stewart, Earl of Arran, who he declares had stirred up against him his

¹ The Book of Carlaverock, vol. i. p. 260.

² *Ibid.* p. 261.

³ Register of Privy Council, vol. iii. pp. 721, 725.

“deadlie enemye” the laird of Johnstone. He complained also that the charges against him were false, and that the order for his imprisonment in Blackness arose from the ill-will of the Earl of Arran. He petitioned the king that he might have a fair trial or be allowed to leave the country for a time. It does not appear that a favourable reply was given, and owing to the confusion between the rival clans, many lawless persons were set at liberty.¹ Taking advantage of this, Maxwell resolved to revenge his own cause, and his natural brother, Robert Maxwell of Cowhill, at the head of one hundred and twenty English and Scottish rebels, attacked in the night-time the castle of Lochwood, Johnstone’s chief residence, and plundered it, after which they set fire to it and burned it, their leader, it is said, observing, with savage glee, that he would give Lady Johnstone light enough by which to set her silken hood.² This Lady Johnstone was Dame Margaret Scott, a daughter of Buccleuch. In the conflagration Johnstone’s jewels and his charter-chest, as well as all the household furniture, were destroyed.³ This outrage, which took place on 6th April 1585, was connected in the minds of some with English intrigue on behalf of the banished Earls of Mar, Angus, and their adherents. The Master of Gray, then a prominent figure in Scottish politics, wrote to Queen Elizabeth, some days after the occurrence, that a copy letter had fallen into the hands of King James, which was reported to have been written by her to Lord Maxwell “promising him assistance in this his foolish attempt.” The king was not willing to believe she knew of Lord Maxwell’s purpose, but the writer is desirous to know, for the credit of his mission, whether the letter was written by her Majesty, or whether it was issued by Lord Maxwell himself, as the writer thinks.⁴

It was perhaps this suspicion, that Maxwell was in league with the

¹ Letter, Lord Scrope to Walsyngham, sending also a copy of Maxwell’s letter to King James. Hamilton Papers, vol. ii. pp. 636-638, 640.

² Book of Carlawerock, vol. i. p. 262.

³ Original claim against Maxwell, in Annandale Charter-chest.

⁴ Papers relating to Patrick, Master of Gray, pp. 43, 44.

banished lords—a suspicion afterwards abundantly verified—which gave more than usual energy to the preparations made by the government for punishing the outrages committed by the Maxwells. Various proclamations were issued charging the fencible men of the south of Scotland to meet in arms for service against Lord Maxwell and his adherents. He was deprived of the title and rank of Earl of Morton, and the grant of the lands and barony of that name was revoked by the king.¹ A convention of estates was summoned, which voted a taxation of £20,000 for levying men and horses to serve on an expedition against the Maxwells. The expedition thus projected was afterwards postponed on account of the plague, but meanwhile Sir John Johnstone received, as warden, a special commission of fire and sword against Lord Maxwell and his followers. The Earl of Bothwell, Lord Home, Walter Scott of Branxholm, and other border barons and wardens, were ordered to assist in the execution of the commission.² Maxwell, however, did not wait for this array to be brought against him. The commission was issued on 13th May 1585, and only two days later, we find Johnstone writing to a friend from Lochmaben Castle that Lord Maxwell thought to be within their country shortly. He desires his friend to meet him, with as many horse and foot as possible, on the following Monday, at the kirk of Applegirth, that they may defend themselves from invasion.³ But Maxwell's movements were too rapid even for this preparation, as on that very day and the day following, he and his whole force overran the barony of Johnstone “and thair brint, slew, herreit, sackit,” and destroyed the lands and houses, and carried off the goods of the tenants and others.⁴

Sir John Johnstone had already, it would seem, set the example by burning the lands of Cummertrees, Duncow, and Cowhill, belonging to Maxwell, whose attack on the lands of his rival was thus a retaliation. It is

¹ Register of the Privy Council, vol. iii. pp. 734, 735, 737, 741.

² Register of the Privy Council, vol. iii. pp. 745, 746.

³ Thorpe's Calendar of State Papers, vol. i. p. 495, No. 42.

⁴ Claim by James Johnstone against Maxwell, in Annandale Charter-chest.

possibly to this period that an incident belongs which is related by Holinshed, a contemporary English historian. He states that on one occasion Johnstone was so hard pressed by Maxwell that he took refuge in the tower of Bonshaw, the stronghold of the chief of the Irvings. Maxwell laid siege to the place, and even brought cannon against it, with which he so battered the walls that the besieged were on the point of surrendering, when Lord Scrope, the English warden, intervened as a mediator, and an agreement was arranged.¹ This is not improbable, as partly owing to the plague and partly to a special embassy from England, the attention of the Scottish king and court was so occupied that they had little time to bestow on the border. The contest, however, between Maxwell and Johnstone was interrupted for a time by a misadventure to the latter. He had placed a party of his men in ambush at a place "between Tinwald and the Warden-ditches" to attack Robert Maxwell of Cowhill on his way from Dumfries towards Langholm. The party had been observed, and were attacked by George Carruthers of Holmends, captain of the castle of Thrieve under Maxwell, and one of his staunchest supporters. Johnstone's men were completely defeated, and he himself, who was at their head, was taken prisoner.² The date of this incident is not stated, but Sir John was apparently a captive in October 1585, when the banished lords, Mar, Angus, and others, were allowed to return to Scotland. One of their first acts after reaching Berwick was to establish communication with Lord Maxwell, who had been in arms all the summer before on account of his quarrel with the warden,³ and there can be little doubt that much of Maxwell's hostile activity was a protest against Arran's government, and practically a demonstration on behalf of the exiled lords. Even so early

¹ Holinshed, vol. ii. pp. 429-431; Book of Carlareroch, vol. i. p. 262. The draft of an agreement between the Earl of Morton and Sir John Johnstone, containing a mutual assurance to last till 1st May 1586, is still preserved in the Annandale Charter-chest,

but no place is stated, and only the year is given, 1585.

² Holinshed, vol. ii. p. 431; The Book of Carlareroch, vol. i. p. 263 n.

³ Papers relating to Patrick, Master of Gray, p. 59.

as August 1585 he had promised his assistance if they could levy men and come to the borders, which suggests that Johnstone was then in his power.¹

The banished lords, assisted by Maxwell, Bothwell, and others, advanced by easy stages to Stirling, where the king was, and on their arrival Arran fled from court, and a change of ministry took place. Johnstone remained in Maxwell's custody all this time, and it was only in December 1585, at the first parliament under the new government, that Maxwell, in consideration of an act of oblivion in his own favour, offered to set his prisoner at liberty.²

In addition to the assurances for keeping the peace, which have been referred to, another Assurance of a most comprehensive kind was entered into between Sir John Johnstone and his three neighbour chiefs, Maxwell, Drumlanrig, and Applegarth. On the part of Sir John this document contains in all four hundred and fourteen names, besides numerous relatives, tenants and servants, referred to, but not named in the document. It includes many Grahames, Irvings, and others, and is headed as follows:—

“Thir ar the names for quhome Schir Johne Jonstoune of Donscelle, knyecht, is content to be bound for, that thair sall obserw and keip the assurance tayne betuix Johne, erill of Mortoun, the Lairdis off Drumlangrik and Appilgarthe, and the said Schir Johne, quhais names followis, to wit.”³

The first name in this list is “Johne Jonstoun of Gretno,” who is followed by Leonard Irwing in Cawarttisholme, brother to Watty Irwing of Gretnohill, and fourteen others, servants and tenants to John Johnstone of Gretno.⁴

Will Johnestoun of Reidhall, and twelve others, sons, brothers and servants.

Watte Irwing of Gretnohill, with nine others, brothers, sons and servants.

Will Irwing of Gretnohill is responsible for twenty-one other persons,

¹ The Book of Carliaverock, vol. i. p. 267.

² Acts of the Parliaments of Scotland, vol. iii. p. 389.

³ Contemporary copy in Annandale Charterchest. The list bears no date, but it must have been written between the years 1581 and 1587. The list of names is very comprehensive of the Johnstones, Irvings, Grahams,

and their clan followers. It is engrossed in small distinct writing on eight pages folio size. As it is too lengthy to be included *in extenso*, the abstract here given indicates the chief members of this great Border clan.

⁴ Where sons or other relatives and servants and tenants are given, the person to whose name they are attached is answerable for them.

brothers, sons and others, including Edward Irwing of Gretnohill with four brothers and sons, and Ryehe of Gretnohill with four servitors.

Johne Irwing of Steilhill, with brothers, sons and servants, eight in number.

Ryehe Grame "callit the Plumpt" follows with two sons.

Andro Johnestoun in Locirbe, is responsible for seven persons, his brothers, sons and servants, "and for all the said Andro in Locirbeis serwandis and tennentis duelling on the xx pund land of Turmour and Mantorig, except the Johnestounis duelleris thairon and Wille Armestrange."

Thomas Johnestoun of Fynglen, his sons and tenants, and his sons' tenants; who is also said to be answerable for Habe Jonstoun in Hesilbank and his brothers, though they are also entered as responsible for themselves.

Johne Jonstoun in Cartertoun and his brothers and their tenants; Andro Johnestoun in Marriobank and his two sons; Miehell M'Veite in Kindilheid, Jok M'Veite there and his tenants; Fyndlaw Jonstoun in Ershag and his son, and another.

James Johnestoun in Mydilgill, with twenty-eight other persons, his brothers, servants and friends, including Jame Jonestoun in Rewois, James Jonestoun in Craigeland, Thome Grame in Tassisholme, Arehe Corry in Beirholm and others.

Johne Jonstoun of Greinhill and his brother.

Matho Rodger and other two in Baitok; James Jonstoun in Croftheid, and six persons of various surnames, his tenants.

Adame Jonstoun of Langwodend and Johne Johnestoun in the Haueh.

Dawe Johnestoun in Garwaid, his son, and seven tenants and servants.

James Jonstoun in Heselebray and two brothers; Ryngen Jonstoun of Rowintreknow, and his brother Robein; William Johnestoun in Tempilland and four sons; Jok Jonstoun in Brymell, and his brother; David Jonstoun in Brigmure and two brothers; Wille Jonestoun in Todelmaure; Arehe Jonstoun in Stuntok and two sons.

Andro Jonstoun, parson of Tonargarthe, and twenty brothers, friends and servants.

Pait Moffet, his son, and Mathe Moffet; Andro Johnestoun in Cowrenss; Dawe Jonstoun in the Swyre; Jok Jonstoun of the Hill, and seven others; Jok Johnestoun in the Sehaw and his brother; John Johnestoun, son to Androis Johne; James Johnestoun of Bigartis, and his brother, and their servants; Johne Jonstoun in the Burn, his brother and his "eym;" Johne Jonstoun in the Hill and his brother; Joke Johnestoun, Quhytheidis Joke, and his brother; Cude Jonstoun in Hayhill; Paite Johnestoun in Auchinslork, his two brothers and another.

Dawe Jonstoun in Milbank, his three brothers, his "eym," and five tenants and servants; Wille Jonstoun, called Pateis Wille, in Milbank, his brother, servants, and tenants; Martein Johnestoune and his brother in Myrheid, their bairns, brothers, tenants, and servants.

Johne Johnestoun of Howgill and Johne Jonestoun in Kirkhill, and their bairns, brothers, tenants, and servants, and five others.

Adame Jonstoun in Beirfauldboig, and his brothers, and his and their tenants and servants.

Watt Jonstoun of the Miel, his brothers, and their sons, and their tenants and servants; Ryngen Johnestoun of Castellhill and his man; Johne Johnestoun in Mossyid, and another there; Christie Chalmer and another; Habe Jonstoun in the Know.

Johne Harknes in Lokirbe, and his son and his brother; Thome Carrutheris in Lokirbe, and his son; Thome Carrutheris in Vistwoid and his two brothers; Geordie Johnestoun, callit the Chimpt, and his son.

Mungo Johnestoun in Lokirbe, and eight others, being his sons, men, and servants.

Wat Jonstoun in Corre, his brothers, men, servants, and tenants; Watt Jonstoun in the Bankis, his father and brother; Dawe Johnestoun in Kelrigis; Farghe Jonstoun in Mossyid; Thome Jonstoun in the Bankis, and his son; Robein Jonstoun in Righeidis and his son; Arche Johnestoun in Righeidis; Nike Jonstoun in Rayhill, his brother and two sons, and their tenants and servants.

Johne the Grame in Dunvide and his three sons; Rob Johnestoun in Midil-quarter and his son; Symont Jonstoun in Corryphan, and his man.

James the Grame, "layrd of Gillisbe," and forty-four Grames and others.

Thomas Johnestoun, laird of Corheid; Thomas Johnestoun in Podein; James Johnestoun of Brekansyid; Robein Johnestoun in the Newtoun, and James Johnestoun in the Capilgill, all conjointly and severally, to answer for themselves, their men, tenants, and servants dwelling on their lands and steadings of Corheid, Newtoun, Moffett, Podein, Melconmes, Stennerushill, Brekansyid, Murquhat, Capilgill, Glencotho, etc., and for Jame Jonstoun in Nethertoun of Crawford-John.

Robein Moffet in the Altoun, and his tenants there; James Johnestoun, elder in Bromell, and his four sons and a brother's son; Jok Jonstoun of Mantarig and his son; Johne Johnestoun in Rigfuitis and his three brothers, and other two Johnstouns; Gib Jonstoun of Fareholme and his two sons and three brothers; Watte Jonstoun in the Hilhaus.

Adam Grame in Fentoun, Paite Grame in the Lie, Georde Grame in Walter-

heid, Jok the Grame in Bodlandis, Johne Grame in Baitokholm, answer for themselves and twenty-four other Grames.

Gilbert Johnnestoune, laird of Wamfray and his tenants of Logane-tenement. [He is entered a second time as answerable for his whole tenants and servants dwelling on his lands and heritage, except such as had given their particular bands and names for themselves.]

Cuthbert Johnnestoun in Lochmaben and his three brothers; Christe Johnnestoun in Bighill and his brother; Ade Johnnestoun in Hilhous and his son; William Jonstoun in Kellobank; Eduard Jonstoun in Wesland; James Jonstoun in Roberthill.

Robert Fransch, "layrd of Franschland," his son and another.

Thomas Jonstoun in Preistuoidsyid, and other two and their tenants and servants.

Johne Grame of Cannobe and his bairns, tenants, and servants.

Robert Johnnestoun of Brigholme and his tenants and servants; Arche Johnnestoun in Molyng and his father.

Edward Irwing of Boneschaw, William Irwing in Kirkynellvod, his son, the laird of Wyisbe, Christe Irwing in Elderbek, Christe Irwing of the Stank, and "his and thair men, tennentis, and seruandis, duelling on thair landis and steidingis."

It is indicated by more than one historian that Sir John Johnstone died soon after his liberation, and it has been stated that he died of grief on account of his incarceration. The historian Calderwood is one of those who state that Johnstone died early in the year 1586; but that is erroneous.¹ So far from showing grief, the first notice of him in the privy council record after he regained his freedom represents him again in active hostility to Maxwell, who apparently had been again appointed warden on the west marches.² It was complained that a party of four hundred Johnstones, at the command or instigation of their chief, had attacked a party sent out by the warden to apprehend certain delinquent

¹ Calderwood [vol. iv. p. 547] indicates that Johnstone was dead in April 1586.

² In the Privy Council Record of 23d March 1586, Maxwell is described as warden, but a month earlier, on 5th and 11th Feb-

ruary, Lord Scrope writes to Johnstone as if he were still responsible for the Borders, appointing a meeting at Gretna Kirk, where complaints might be redressed and offenders punished. [Hamilton Papers, vol. ii. pp. 706-708.]

borderers, and had killed a number. Further charges were made of barbarous treatment of the slain, killing of prisoners, and despoiling others of "thair claythis, armour and purssis, extending in valu abone fyve thousand merkis."

The captain of the troop, Richard Maxwell, was seriously wounded and was taken captive and detained a prisoner in the house of Andrew Johnstone of Tundergarth. To that house it was alleged Sir John Johnstone himself had come, with his son, and a force of six hundred men, and seized the unfortunate captain, threw him across a work-horse, and carried him off to the house of Boushaw. There he was still detained, and the complainants averred that Johnstone and his men would not allow him to have a surgeon, while they had plundered the one who formerly attended him. Sir John Johnstone and others were summoned to appear to answer to these accusations, but failed to do so and were declared rebels.¹

A few months later, John Charteris of Amisfield, acting for himself and William, Lord Herries, consented to the liberation of certain persons, application for which was made by Sir John Johnstone.² The latter, during the months between July and November 1586, was frequently called upon by the privy council, along with Lord Maxwell and others, to answer for the breaking of "assurances" amongst them.³ The latest mention of Sir John Johnstone in any public record is on 2nd November 1586, and he died, according to the evidence of his son's retour as heir to the lands, on 5th June 1587, a year later than is usually stated.⁴

Sir John Johnstone married Margaret Scott, daughter of Sir William Scott, younger, of Buccleuch, by his wife Grizel, second daughter of John Betoun of Criech. Grizel was sister of Janet Betoun, who figures in "The Lay of the Last Minstrel." After the slaughter of Sir Walter Scott of

¹ Register of Privy Council, vol. iv. pp. 55-57.

² Consent, dated 8th July 1586, in Annandale Charter-chest.

³ Register of Privy Council, vol. iv. pp. 89, 109, 110, 818.

⁴ Annandale Peerage, Minutes of Evidence, 1880, p. 975.



Buccleuch, in a nocturnal encounter with Sir Walter Ker of Cessford, on the street of Edinburgh in October 1552, Janet Betoun rode at the head of the Scott clan to encourage them to redress her husband's death. Her superior abilities induced the superstitious vulgar to believe that she possessed supernatural knowledge. The marriage contract between Sir John Johnstone and Margaret Scott is quoted in a crown charter, as of date at Newark 7th August 1568, but it was apparently post-nuptial, as she is said to be then his wife, and their son was born in 1567.

Margaret Scott, Lady Johnstone, or Lady Johnstone of Dunskeillie, as the wife of Sir John Johnstone was variously styled, possessed the force of character conspicuous in her great border clan of Buccleuch.¹ It was no doubt with reference to this and the determined will which she uniformly displayed, that Robert Maxwell, in 1585, at the burning of Lochwood, singled her out for the unfeeling taunt, already noticed in this memoir, that he would give her light to set her silken hood by. She had a position at court. Spottiswoode says that "Lady Johnston gave attendance at court."² When she was there, it was through her that the ruling authority for the time induced her husband to accept of the provostship of Dumfries in opposition to Lord Maxwell.³ There is further evidence given of her character, two years later, in 1586, in an episode in which she figured prominently. In November 1585, the banished lords, including Lord Hamilton, the Earl of Angus, and others, with the aid of Lord Maxwell, effected a revolution, and they were restored to royal favour and again placed at the head of affairs. They still continued in power a year afterwards when Margaret

¹ Walter, first Lord Scott of Buccleuch, the nephew of Margaret Scott, Lady Johnstone, was the boldest of the bold. It was he who carried out the greatest of Border exploits, the rescue of Kinmont Willie, which occasioned so much correspondence between the sovereigns of the two kingdoms, and is celebrated in Border ballads. With only eighty followers he entered the castle of Carlisle,

which was strongly fortified and well garrisoned, and breaking open the prison in which William Armstrong of Kinmont was confined and in chains, carried him forthwith out of the castle and across the border without the loss of a single life. [The Scotts of Buccleuch, vol. i. pp. 182-206.]

² Spottiswoode's History, vol. ii. p. 325.

³ *Ibid.*

Scott, "Lady Johnstone," evidently presuming upon her position and influence at court, ventured to impugn them to the king. Her attempt, and what it led to, being of some interest may be here narrated. On 4th October 1586 a commission was granted by the privy council for apprehending Margaret Scott, spouse of Sir John Johnstone of Duns-kellie, wherever found, and presenting her before the council. She was charged with "making of lesingis and telling of thame," which it was said "may engenner discord betuix the kingis majestie, his nobilitie and people." But Lady Johnstone was not disposed to submit to be tried, and wilfully absented herself in order to prevent her husband presenting her to the council for that purpose. To secure her apprehension, proclamation was made charging the lieges to convocate with their arms when required, and in the event of her passing to "houssis or strenthis," they were to "assege the houssis, rais fyre, and use all kynd of force and weirlyke ingyne that can be had for wyunning and recovery thairof." If her ladyship, or any of those assisting her, were hurt or slain while being pursued, it was not to be imputed as a crime to the agents, and they were to be exempted from trial therefor. A month later, or on 4th November, the king emitted a declaration which explains the otherwise mysterious charge which gave rise to this prosecution. The declaration shews that Lady Johnstone had deputed Gavin Johnstone to deliver a letter to his Majesty in which she advertised him that the Earl of Angus and the Douglasses, suspecting from his dealings with Lord Hamilton that he designed to introduce dissension among them and so to wreck them, resolved to adopt some remedy and to venture all they had therein. She craved a meeting with the king, when she would furnish particulars of what she stated. She also asked him to keep the matter secret, especially from her husband, adding, "The Lord preserve his Majestie fromme all his oppin fayis and fenzeit friendis."¹ It does not appear that anything further was done in the matter.

¹ Register of Privy Council, vol. iv. pp. 108, 111, 112.

Margaret Scott, Lady Johnstone, is again mentioned so late as April 1613, when Lord Maxwell, having been tried for the murder of her son, Sir James Johnstone, and condemned to death, she and her grandson and his mother, were applied to by the privy council by direction of the king to ascertain if they persisted in holding to their petition to have justice executed upon his lordship. They replied that they did insist, as will be more fully narrated in the next Memoir.

Sir John Johnstone and Margaret Scott, Lady Johnstone, had issue one son and three daughters.

1. James Johnstone, who succeeded his father, and of whom a memoir follows.
1. Elizabeth, who married Alexander Jardine, younger of Applegirth.
2. Margaret, who married, before November 1594, James Johnstone of Westerhall, and had issue.
3. Grisel, who married, first, Sir Robert Maxwell of Orchardton, and, secondly, after 1615, Patrick Vans, younger of Barnbarroch, by whom she had issue.¹

¹ Sir John Johnstone had an illegitimate son, Simon, who in 1604 received a grant of the lands of Brydeholm from his brother James, and renounced them in 1616.

*Margaret Lady
Johnstone*

THE THIRD JOHNSTONE WARDEN.

XV.—SIR JAMES JOHNSTONE OF JOHNSTONE AND DUNSKELLIE, KNIGHT.

THE HONOURABLE SARA MAXWELL, HIS WIFE.

1587-1608.

CHAPTER FIRST.

Period of Johnstone history now entered upon—Sir Walter Scott's summary of it—Birth of Sir James Johnstone—Made commendator of Holywood—Succeeds his father, 1587—Marriage with Honourable Sara Maxwell, 1588—King James' visit to Dumfries, 1588—Johnstone made keeper of Lochmaben Castle, 1588—Attends meeting at Peebles about the Borders—Created a knight, 1590—Bond of amity between Johnstone and Maxwell, 1592.

From the date at which the Memoir of this Johnstone chief begins, down to the year 1613, in the time of the son and successor of Sir James Johnstone, the period is one of the darkest and most sanguinary in the whole history of the Johnstone family. The feud between the two great Border families of Maxwell and Johnstone, which began as stated in the immediately preceding Memoir, becomes now more fierce, bitter, and tragic, and is to be traced in the lurid light of the battlefield, through the dark scenes of treachery, assassination, and public execution. Of these two rival families, and the events so calamitous to both of them, Sir Walter Scott says that during the period now referred to, each of them lost two chieftains: one dying of a broken heart, one in the field of battle, one by assassination, and one by the sword of the executioner. This statement evidently refers, first, to the death of Sir John Johnstone of Johnstone, whose tower of Lochwood was burned by the Maxwells in 1585, along with all his jewels and charter muniments; second, to the death of John, Lord Maxwell, Earl of Morton, at the battle of Dryfesands in 1593; third, to the assassination of Sir James Johnstone of Dunskeillie, knight, in 1608; and, fourth and last, to the execution of John, Lord Maxwell, for that murder in 1613. Sir Walter Scott's statement that four chieftains, two on each side, fell as victims in the long-continued contest is correct in reference to three of them; but in regard to the fourth,

Sir John Johnstone, described in the previous Memoir, Sir Walter's statement is not quite accurate. The destruction of Lochwood Tower in 1585 was no doubt a great loss and annoyance to Sir John. But he did not, as might be inferred from the statement of Sir Walter Scott, take to his bed and expire of a broken heart. On the contrary, he survived for two years, and it has been shown that he was not during that period laid aside by grief, but was very active in his position as a great Border chief.

Before proceeding to narrate the stirring and painful events in the history of Sir James Johnstone, it is necessary to explain that this is not the first time that the author of the present work has followed the fortunes, or rather the fates and misfortunes of the Maxwells and Johnstones through their feuds. The late Honourable Marmaduke Constable Maxwell of Terregles, brother of the late William, Lord Herries, commissioned the writer to prepare a history of the families of Maxwell and Herries, which is embodied in "The Book of Carlaverock," printed in the year 1873. While writing that book, the whole Maxwell and Herries charter muniments, then preserved in the charter-room at Terregles, were made available for the purpose. Not only so, but through the kindness and liberality of the late John James Hope Johnstone, Esquire of Annandale, ready access was afforded to his Annandale charter-chests at Raehills. With the muniments thus placed with such generous confidence at the service of the author by the respective representatives of the two rival chiefs, he was enabled to prepare the history of them recorded in "The Book of Carlaverock," which met the approval at the time of the then representatives of the houses of Maxwell and Johnstone.

Since the publication of "The Book of Carlaverock" little has transpired to alter or affect the story of the feuds as given from the Maxwell muniments, and the present Memoir, as far as it refers to the Maxwells, may be regarded as a second edition of the chapters in "The Book of Carlaverock," in so far as they narrate the tragic results of the feuds.

About two years after the completion of the Maxwell and Herries

Histories, in the year 1873, an old claim to the Annandale peerages was revived by Sir Frederic Johnstone, Baronet, of Westerhall. That claim was opposed by the late John James Hope Johnstone, and, after his death, by his grandson, John James Hope Johnstone, Esquire of Annandale, the present proprietor of the estates and representative of the family. These rival claims gave rise to extensive investigations, both in the public records and in the private family repositories. A large mass of documentary evidence was adduced for both the principal claimants, and also for Mr. Edward Johnstone, a third claimant. The printed evidence extends to upwards of twelve hundred folio pages. The printed cases of the several claimants, the speeches of eminent counsel, and the judgments of the learned judges, extend to several folio volumes. It may thus well be supposed that the history of the Johnstones was fully traced so far as regards the peerages conferred upon them, and also incidentally in relation to the story of their feuds with the Maxwells.

Since the year 1873, the Records of the Great Seal and the Privy Council of Scotland have been printed, and are largely referred to in the present work. But there is not much that is new in reference to the Maxwell and Johnstone feuds. While these Records were in manuscript they were quoted in the History of the Maxwells. The subject has, therefore, to be treated in the present work, which specially belongs to the Johnstones, in the same way as it was formerly dealt with in the special History of the Maxwells.

James Johnstone, the subject of the present memoir, was the only son of Sir John Johnstone of Johnstone and Knight of Dunszellie, and his wife Dame Margaret Scott, daughter of Sir William Scott, younger of Buccleuch. James Johnstone, younger of Johnstone, was born in the year 1567. In his retour of service as heir to his father, expedie 27th August 1588, he is said to be of lawful age.¹ While still a minor, he obtained, through the influence

¹ Annandale Peerage Minutes of Evidence, 1880, p. 975.

of James Douglas, Earl of Morton, a grant from King James of the abbacy of Holywood, near Dumfries. It was then vacant through the death of Thomas Campbell, the last possessor of it.¹ This young commendator of an ancient abbacy was destined before many years to blossom into the commander of a large army which won victories in the greatest of the Border battles. The office of commendator of Holywood remained vested in Sir James Johnstone till the year 1600, when he demitted it in favour of Mr. John Johnstone, advocate, who obtained a crown grant on 15th August 1600.²

The young chief of Johnstone, soon after his succession, on 5th June 1587, to the Johnstone estates, as heir to his father, entered into a marriage contract at Terregles on 25th December 1587 with the Honourable Sara Maxwell, daughter of John Maxwell, Lord Herries, and Agnes, Lady Herries. The contract was made by James Johnstone, with consent of the Earls of Angus and Bothwell, and others, as his curators, on the one part, and Dame Agnes, Lady Herries, and her sons, on the other part. James Johnstone agreed to infest Sara Maxwell for her lifetime in an annual rent of 600 merks Scots out of the barony of Johnstone without prejudice of her reasonable terce. The other contracting parties agreed to pay to James Johnstone 6000 merks Scots, and "the sevint thousand merk" at the will and pleasure of him and Dame Margaret Scott, his mother, at terms specified. In respect of this arrangement James Johnstone and Sara Maxwell renounced all "barnis part of geir," pertaining to the latter by the death of her father.

As Dame Margaret Scott, Lady Johnstone, elder, was possessed of the liferent of the whole Johnstone estates, under a charter granted by her late husband, with the proviso that it should be null on her son's attaining majority, a new contract became necessary. By the new contract James Johnstone, now at his perfect age of twenty-one years, bound himself to relieve his mother

¹ Registrum Magni Sigilli, vol. iv. No. 3004, 28th April 1580; Annandale Peerage Minutes of Evidence, 1876, p. 49.

² Registrum Magni Sigilli, vol. vi. No. 1075.

from all debts due by her late husband, to maintain sufficiently Margaret and Grizel Johnstone, his sisters, to provide husbands for them on his own expenses honourably according to their position and his own credit. He also became bound to warrant and defend his mother in uplifting the rents of her liferent and joint-fee lands, and not to impose any burden upon her tenants and servants without her consent. For these causes Dame Margaret Scott, from her motherly love to her son, and her earnest desire to see him continue in the honourable rank of his father and predecessors, was content, in place of the old living and new conquests of the house of Johnstone, to accept of the lands of Kirkbrydrig, Henneland, Harthope, and other lands, and the leases of the teind-sheaves of the parish of Moffat, and of all lands and goods therein, with her own mill built on the lands of Erschbank, with Dickson's lands in Moffat. She also stipulated that the tenants of Lord Herries' hundred merk land in Moffat parish, as well as those of James Johnstone's own lands there, should come to her mill. Her son bound himself to behave to his mother with all reverence and obedience, as became a bountiful and obedient son to his parent. Provision was also made for payment of the terce of Dame Sara Maxwell, his wife, if she survived her husband.¹

Even in the lifetime of his father this young chief of Johnstone engaged in the struggles with John, Lord Maxwell, Earl of Morton, warden and justice of the West March, as narrated in the previous memoir. Between 9th April 1585, when the king revoked his grant of the earldom of Morton to John, Lord Maxwell, and 10th December following, when the earldom was restored to Maxwell, James Johnstone had received some portion of it from the king. He did not, however, long enjoy it, as on the restoration of Maxwell and the banished lords to power, and the re-grant of the earldom of Morton to Maxwell, an act of parliament was passed which revoked any grant made of the earldom, or any part thereof, to this James Johnstone, and others.²

¹ Original contract, dated 25th January 1590-91, in Annandale Charter-chest.

² Acts of the Parliaments of Scotland, vol. iii. p. 389.

The year 1588 was notable in the history of the Scottish Borders. It was the year of the Spanish invasion of England by the Armada, and John Maxwell, Earl of Morton, who had been in Spain, returned to Dumfries with the object of assisting the Spaniards. So much was this latter circumstance apprehended that King James, during the months of May and June, visited Dumfries to prevent any formidable insurrection. Lord Maxwell was taken prisoner by Sir William Stewart, brother of the ex-chancellor, James Stewart, Earl of Arran. William Maxwell, Lord Herries, brother-in-law of James Johnstone of Johnstone, who was warden of the West March, was unable to prevent the imminence of danger. The king, while still in Edinburgh, by proclamation at Holyrood-house, 22d May, intimated that on account of the dangerous proceedings of certain of the West Marches tending to alter religion, he was resolved to go thither in person, and warned earls, barons, and others to meet him at Dumfries on the 29th of May. On 30th May, the day after he arrived there, he ordered by proclamation the castles of Lochmaben, Langholm, Thrieve, and Carlaverock to be delivered to the proper officers. In other proclamations he states that he found greater contempt, rebellion, and disobedience than he anticipated in the West March. He here, however, refers mainly to wappinschawings, meetings, and musterings at Lochmaben, and brewing ale and carrying the same to Lochmaben for the camp there. Lochmaben was the only place that stood out for Lord Maxwell. It yielded on the 9th of June, when David Maxwell, the captain, and five others, were hanged for resistance. The king left Dumfries in the end of June, promising to return in October.¹ This second visit did not take place, but towards the end of that month, as a reward of the loyalty and services of James Johnstone during these troubles, King James appointed him to keep the castle and fortalice of Lochmaben to the king's use and behoof, and not to remove himself nor his servants from it "vnto the tyme he ressaue expres command thairto out of our awin mouth, not-

¹ Register of the Privy Council, vol. iv. pp. 285, 292.

withstanding quhatsumeuer our charges direct or to be direct in the contrarie."¹ He also shortly after leaving Dumfries appointed him one of a numerous commission to execute the laws against Jesuits and seminary priests.²

The common practice of giving mutual bonds of assurance on the part of one chief or landlord to another for the good behaviour of their respective friends, tenants, and dependants is frequently illustrated in the life of this chief. He both received such assurances, and also gave them to others.³ On the same day on which he was retoured heir to his father, 27th August 1588, we find such an assurance made to him by James Douglas of Drumlanrig, evidently in return for one from him, and one of the first of several which passed between them. It is dated at the Ross.⁴

In the year 1589, apparently through some mistake of the legal authorities, Sir James Johnstone was charged along with Alexander Jardine, younger of Apilgirth, as being art and part in the slaughter of Alexander Baillie of Littlegill and Rachel Baillie, his daughter, and also of other two persons connected with them, as well as burning the place of Littlegill and the Moit. These crimes were committed in the months of February and July previous. James Johnstone of Westraw was also suspected and accused of complicity in the murder. The process against Sir James was deserted, it appears, because the authorities felt that they were accusing a person totally innocent. The laird of Westraw fled to Sir James Johnstone for concealment

¹ Letter, dated at Burlie, 22d October 1588, vol. ii. of this work, p. 12.

² 27th July 1588, Register of the Privy Council, vol. iv. p. 302. James Johnstone was placed upon a similar commission on 6th March 1589-90 [*ibid.* p. 465].

³ During the twenty-one years James Johnstone owned the Johnstone estate and flourished as a Border chief of considerable importance, he was often involved either directly or through his friends and depend-

ants in feuds with his neighbours, and especially with the Maxwells. With a view to prevent and also to remove these, assurances were given and received from time to time. The Register of the Privy Council for this period is now printed, and it bristles with numerous references to these assurances, pledges, and submissions of feuds to neutral persons. To describe these in every case would require more space than can be given. Only where necessary will this be done.

⁴ Pp. 53, 54 of this volume.

and safety in connection with that murder, and ultimately Sir James blamed Westraw for the trouble which he had caused. The real criminals were afterwards discovered, being Thomas Jardine of Birnok and Humphrey his son, who were condemned to death for that and other crimes, and executed at the cross of Edinburgh so late as 1609.¹

For the purpose of marrying the Princess Anna of Denmark, King James set sail for Denmark on 22d October 1589. The marriage took place at Upsal on the 23d November, and during the royal honeymoon and holidays the king enjoyed himself to his bent, and wrote to one of his favourites in Scotland from the castle of Croneburg "where we are drinking and dryving our in the auld manner." He returned to Edinburgh on 1st May 1590. During the king's absence, Lord John Hamilton, afterwards Marquis of Hamilton, was appointed lord lieutenant in the South of Scotland, including the Marches. His lordship, in pursuance of a design to hold a meeting at Peebles with the Maxwells, Johnstones, and other Border lairds, wrote to Johnstone to attend a meeting upon the 30th of November at Peebles, and give his good advice regarding the keeping of the peace, repressing of offenders, and generally concerning the common quietness of the realm. His lordship further desired Johnstone to cause a couple of the principals of every branch of his servants and dependers that were in use of pledging or giving security to be likewise in Peebles on that day that he might understand the names of the pledges, where they lay, and who would interchange them. He added a list of branches, including Jok of Kirkhill and Jok of the Howgill, the Reid Laird's son, Edward Irving of Bonschaw, the Johnstones of Lockerbie and others.² At the meeting Lord Hamilton inquired about the principal troubles and disorders of the Borders. Lord Maxwell, who was present, replied that he knew of none in the West March since the king's departure except the reset of the laird of Westerhall. Maxwell also complained that Johnstone, without commission, held

¹ Pitcairn's Criminal Trials, vol. ii. p. 491; vol. iii. pp. 54, 58. ² Vol. ii. of this work, p. 26.

courts of justiciary within the stewartry of Annandale. This complaint was taken up by James Johnstone and Andrew Johnstone of Mungobank, who complained to the council that Lord Maxwell, on the strength of a letter of charge in his favour by the king, dated 29th September last, had prohibited them from intruding into his offices, by holding courts, etc. They alleged that the letter in question was directed against certain persons, and that their names were not in the body of the deed, but were added on the margin. Johnstone also explained that he only kept such courts as the king by his commission of 8th April 1588 commanded him to keep upon his own lands and bailiary. The lords, however, declared the commission of Johnstone to be null. It will be seen that the king soon renewed the commission to Johnstone of which the lords now deprived him.¹

In the midst of the constant troubles and misunderstandings between the Maxwells and Johnstones attempts were occasionally made to settle all questions between them. Apparently through the intervention of mutual friends, a formal submission was entered into at Dumfries and Lochwood on 12th and 13th March 1589-90, between Maxwell and Johnstone, by which they agreed to submit their quarrels to Sir Robert Maxwell of Spotts and other arbiters for Lord Maxwell, and Robert Johnstone, parson of Lochmaben, and others for Johnstone. The arbiters were appointed to meet at Shiellhill House on the 17th instant, and to give their decision by the 25th with assurance against molestation on either side till that date.²

The only document which has been discovered in connection with this well-meant treaty of peace is the claim made by Johnstone against Maxwell for the burning of Lochwood and other spoliations. The claim is very distinct in its statement of the destructive raids referred to, and of the consequent losses. Johnstone concludes by claiming 100,000 merks as reparation. But no other step was taken in the submission.³

¹ Register of the Privy Council, vol. iv. pp. 442, 443, 826.
in Annandale Charter-chest.

² Original Submission

³ Claim, Charters of this work, pp. 44, 45.

The marriage festivities of King James and Queen Anna celebrated in Denmark were resumed at Holyrood in connection with the coronation of the Queen on 17th May 1590. In honour of the event a number of knights were made by the king. Among these was Sir James Johnstone of Johnstone and Dunsckellie, knight. At the same time, or within a few weeks after, the king renewed the grant of justiciary in favour of Sir James, which had been disallowed by the privy council. The grant bears date at Holyrood House, 10th June 1590: and it makes Sir James Johnstone of Dunsckellie, knight, justiciary and bailie, with power to hold courts of justiciary and bailiary in the bounds of Annandale and Nithsdale over all persons of the surname of Johnstone, their kin and tenants, on all lands belonging to Sir James, and expressly freeing them from appearing in any of the courts of the steward of Annandale, by reason of the deadly feud existing between the steward and Sir James.¹

The abortive attempt in 1590 to reconcile Maxwell and Johnstone did not improve matters between the rivals, and in May of the following year Sir James Johnstone had to invoke the aid of the civil power in order to avert war between the two combatants. He represented to the privy council that, notwithstanding an assurance between him and Maxwell, the latter had obtained commissions and letters of caption against Johnstone's friends for apprehending them, and for raising fire, etc. Johnstone represented that such commissions should not be intrusted to Maxwell in respect of the feud between them, and added that if Maxwell invaded him in his bounds, he would arm himself and his friends for their own defence. This representation produced the desired effect, as the commissions and captions were suspended.²

A year later still another treaty of peace was made between Maxwell and Johnstone. It is dated 5th April 1592. In it Sir James is styled the noble lord's "dear cousing and affine," the two parties and their friends agree

¹ 10th June 1590, Charters of this work, pp. 55, 56.

² 21st May 1591, Register of the Privy Council, vol. iv. p. 623.

for the fear of God, obedience to the king, and their consanguinity and neighbourhood, to remit to each other all rancour and feud, and to live henceforth in firm friendship. Maxwell also agrees to appoint two steward-deputes of the stewartry at the nomination of Johnstone to take cognisance of all matters concerning Sir James or his party; and questions arising about the contract are to be submitted to arbitration.¹ The remission of the mutual rancour promised in this contract did not last long. In the following year, indeed, the renewal of the feuds culminated in a pitched battle between the two families of Maxwell and Johnstone, in which the former was killed and his rival became the victor at Dryfesands.

CHAPTER SECOND.

Johnstone said to have encouraged Bothwell—He breaks ward from Edinburgh Castle—Procession of bloody shirts by the women of Sanquhar—The battle of Dryfesands—Slaughter of Maxwell, 1593—Letters of Respite to Johnstone—Quarrel with Drumlanrig—Act against Sir James—Warded in Dumbarton and Doune—Report of Angus on the Johnstones—The King's measures to terminate the feud, 1600.

Francis Stewart, Earl of Bothwell, made one of his unsuccessful attempts to seize on the king at the palace of Falkland on 28th June 1592. He besieged the tower with three hundred persons from two till seven o'clock in the morning, but he was beaten off and fled. To this attempt Spottiswoode says he had been encouraged by the Earls of Angus and Errol, the Master of Gray, Colonel Stewart, and the Lairds of Johnstone and Balwearie.² The king immediately returned to Edinburgh and thence issued a proclamation for the inhabitants of the neighbouring shires to convene at Dumfries on 7th July, mentioning that a number of thieves, both English and Scotch, had been brought in to harry his peaceable subjects, and were now returned to the bounds of the West March.³ King James himself hastened on a short

¹ Bond of Amity in Annandale Charter-chest.

² Spottiswoode's History, vol. ii. pp. 421, 422. Spottiswoode says, "The company that

came with Bothwell was not great, and did not exceed six score in all."

³ Register of the Privy Council, vol. iv. pp. 762, 767, 769.

visit to Dumfries, and while there made several changes. One of these was the appointment of John, Earl of Morton, Lord Maxwell, to be warden and justice of the West March, the office being demitted by Sir John Carmichael of that ilk, who was made captain of the king's guard. It was on the 11th July that these changes were made. On the following day, also at Dumfries, Sir James Johnstone became caution for Mungo Johnstone of Lockarbie, John Johnstone of Craighoburne, and two others, in two thousand merks each, to enter into ward in St. Andrews within six days and until the king's will was declared regarding their confessed reset and intercommuning with Francis Stewart, Earl of Bothwell, and his accomplices.

Meanwhile the king's mind had already been declared regarding those for whom Sir James thus pledged himself: Two days previous to the date of his becoming caution for them, their escheats were forfeited for their complicity with Bothwell. The mother of Sir James was one of the beneficiaries by the forfeiture. On 10th July 1592, Sir Robert Melvill, as treasurer to the king, made an assignation of the escheat of James Johnstone of Lochhouse, Mungo Johnstone of Lockarbie, John Johnstone of Craighoburne, and forty-five others, Johnstones, Grahams, Moffats, and Irvings forfeited, as explained, to Dame Margaret Scott, Lady Johnstone, as his factor to uplift the same, the one half to the king's and his treasurer's use, and the other half to her own use.¹

While Sir James Johnstone was becoming cautioner for several persons of the name of Johnstone, as above related, Robert Douglas of Cashogill was taking steps to be released as cautioner for Sir James. As the result of a petition from him, the privy council ordered the clerk keeper of the Register Books concerning the Borders to delete the Act where Douglas became cautioner for Johnstone that he would make his men and tenants answerable to justice.² It does not appear from this order why Douglas desired to

¹ Original Assignation in Annandale Charter-chest.

² Extract Act, dated at Dumfries 12th July 1592, *ibid.*

be relieved as cautioner for Sir James. But an entry in the Privy Council Register supplies what is probably the explanation. On 11th August 1591, Douglas complained to the council that he had been illegally charged with certain payments, as surety for Sir James Johnstone, in respect of a considerable number of sheep, each valued at 26s. 8d., stolen by Johnstones and others whom he alleged were not Sir James's men nor tenants. The council decided against Douglas, and hence his present action.¹

After the formal deed of concord which they entered into in the year 1592, mentioned in the previous chapter, Sir James Johnstone and John Lord Maxwell continued in outward appearance on friendly relations for a brief period. They entered into a new contract in the following spring whereby either bound himself not to traffic or agree with Sir James Douglas of Drumlanrig, without the consent of the other; and in case either party should have an action at law against Douglas, the other contracting party engaged to assist against him.²

Only nine days after the date of this new treaty of amity with Maxwell, Johnstone was summoned to attend a meeting of the king and the privy council anent quietness and good rule on the Borders. For some reason not stated Sir James did not appear and he was denounced rebel.³ He was at Lochwood on 22d April when he granted the liferent of Polmoody to his spouse, Lady Sara Maxwell, for the affection which he had for her, and for money paid to him with her by her mother, Lady Agnes Herries.⁴ But shortly afterwards, Johnstone was warded in Edinburgh Castle, probably owing to his not appearing before the king and council on the 22d of March, for we learn that on 3d May James Twedy of Drummelzier became caution for him that he would answer for all attempts by him and those for

¹ Register of the Privy Council, vol. iv. pp. 806, 807.

² 13th March 1592-3, Charters of this work, pp. 58, 59.

³ 22d March 1592-3; Register of the Privy Council, vol. v. p. 55.

⁴ Original Charter in Annandale Charter-chest.

whom he was responsible under the general band till the 22d, when he should re-enter before the king and council.¹

After remaining in Edinburgh Castle for some time, Sir James Johnstone broke his ward on 4th June 1593. Birrell in his Diary under that date says, "The laird of Jonestoune brak ward out of the castell of Edinburghe."² The offence of breaking his ward could not be passed over, and Sir James was by the privy council denounced rebel for not appearing at Holyrood on 21st June to answer for this offence, and for other things which should have been laid to his charge.³

The Johnstones of Wamphray were reported to be a very turbulent gang. William Johnstone of Wamphray headed a party of the Johnstones in a predatory incursion to the lands of Lord Crichton of Sanquhar. Johnstone of Wamphray having been taken, was summarily hanged by the Crichtons. The Johnstones, choosing another leader and increasing their invading force, renewed the attack upon the Crichtons, killing the tenantry, devastating their lands, carrying away their property, and acting in a cruel manner. This Border foray was chosen by Sir Walter Scott to form the theme of his metrical legend of the Borders, entitled "The Lads of Wamphray."⁴ Appeals were made by the injured Crichtons to Lord Maxwell, warden of the West March; and also to the king and the privy council. Poor women were deputed to travel to Edinburgh, and there, with fifteen bloody shirts which had belonged to the slain husbands, sons, brothers, and other relatives, to crave of the king and council legal retribution upon the Johnstones. Meeting with an unfavourable reception from the authorities, they appealed to the people. On the 23d of July 1593 the women marched in procession through the streets of Edinburgh with the bloody shirts carried by "pyoners"

¹ 3d May 1593; Register of the Privy Council, vol. v. p. 733.

² Pitcairn's Criminal Trials, vol. i. p. 359.

³ Register of the Privy Council, vol. v. p. 87.

⁴ The Book of Carlarerock, vol. i. p. 288; Minstrelsy of the Scottish Border, vol. i. p. 308.

in front of them. This spectacle evoked from the crowd both indignation at the apathy of the king and council, and demands for vengeance. The feeling thus excited constrained the government to take some action. Calderwood states that "the king was nothing moved but against the town of Edinburgh and the ministry," and he adds that the court alleged they had procured that spectacle in contempt of the king.¹

Bloody shirts had on former occasions been displayed to excite pity for victims and their surviving relatives. When the Earl of Huntly in 1591-2 murdered his rival the Earl of Moray, in revenge for the old injuries inflicted by the Regent Moray on the house of Gordou, the outcry against Huntly was universal. Lord Forbes, a friend of Moray, carried his bloody shirt on a spear-head for the purpose of inciting to revenge.² In the previous century, on the death of King James the Third in 1488, a number of the nobility were banded to avenge his death. Lord Forbes marched through the country with the king's bloody shirt displayed upon the end of a spear, and that ghastly banner excited multitudes to join the insurrection against King James the Fourth.³ The spectacle, like the robe of Caesar, aroused more intense feeling than any power of eloquence could do.⁴

So soon as legal sanction was obtained to proceed against the Johnstones preparations on an elaborate scale, which extended to the beginning of December, were made to give effect to it on the one hand, and also on the part of the Johnstones to defend themselves on the other. The parties who ranged themselves on each side, the measures which they adopted, and the triumph of the Johnstones, will appear in what follows.

John Lord Maxwell, as warden, received from the king a commission against the Johnstones for their depredations and slaughters. The whole of

¹ Calderwood's History, vol. v. p. 256.

² Tytler's History, vol. vii. pp. 179, 180.

³ *Ibid.* vol. iii. p. 452.

⁴ Pinkerton, vol. ii. p. 8. The Lord Forbes who is here mentioned as the bearer of the

bloody shirt of King James the Third was Alexander, the fourth lord. The Lord Forbes who exhibited the bloody shirt of the Earl of Moray a century later appears to have been William, the seventh lord.

Nithsdale rallied to the support of Maxwell. The landlords, and others who had suffered, fearing remissness in executing his commission on account of the bonds of amity between him and Johnstone, agreed to assist Lord Maxwell in all his quarrels provided he would engage to deal out merited punishment to the guilty Johnstones. Sir James Douglas of Drumlanrig, Robert Maxwell of Castlemilk, the brother of Lord Maxwell, and Thomas Kirkpatrick of Closeburn entered into a bond engaging to assist John, Lord Maxwell, warden of the West Marches, in terms of the royal commission, to apprehend Sir James Johnstone of Dunskeilie, his Majesty's rebel, for divers odious crimes and for reset of the murderers of the men of Sanquhar and sundry other fugitives in his house of Lochwood.¹ It does not appear that Sir James Johnstone had personally taken any part in the raid on Sanquhar, but as chief of his clan and as a landlord, he was responsible in law for the defaults of his tenants and vassals. It was in this way, and also for the reasons alleged in the bond just quoted, that the king's commission to Maxwell was directed against him.

While the preparations which have been described were being zealously prosecuted to secure the apprehension of Johnstone, a task which it was, foreseen would not be an easy one, Sir James was no less active in devising means for his own safety. Evidently with a view to strengthen his position, he opened communications with Francis, Earl of Bothwell, who had considerable power and popularity at this time. To him he undertook, upon his faith, honour, and truth, to support whatever he should promise to the Queen of England concerning the forthsetting of religion, the surety of the king, and the preservation of the amity with England.² There is no evidence that Johnstone received any support from Bothwell. From his maternal kindred, the Scotts of Buccleuch in Eskdale and Teviotdale, he received 500 men, under the conduct of Sir Gideon Murray of Elibank, in place of the

¹ Original bond, dated Blackwodheid, 23d October 1593, in Annandale Charter-chest.

² Lochwood, 12th November 1593; Thorpe's Calendar of State Papers, Scotland, vol. ii. p. 639.

laird of Buccleuch, who was then abroad. He was also supported by the Elliots of Liddesdale, the Grahames of the debateable land, and by other Border tribes.

In making his preparations, Sir James Johnstone had the good fortune to discover the plans of Maxwell. The bond of agreement, already noticed, between Sir James Douglas, Robert Maxwell, and Thomas Kirkpatrick, in his favour, being carelessly kept, fell into the hands of a Johnstone of Cummertrees, a servant of Lord Maxwell, and was divulged to Johnstone, who in this way became aware of the combinations and intentions of his enemies.¹

About the middle of November, when preparations for the final struggle were well advanced on both sides, an incident occurred which brings out the vigilance of the opposing parties and the desire on the part of Maxwell and his confederates to take advantage of every thing to make the position of Johnstone as difficult as possible. On 31st January of this year, Sir James Johnstone had subscribed an assurance guaranteeing Thomas Kirkpatrick of Closeburn and Roger Kirkpatrick of Clinstoun from injury till 11th November 1594. On that occasion Alexander Johnstone of Gubhill had become surety for Sir James to that effect in 10,000 merks. The assurance had not been registered, and Thomas and Roger Kirkpatrick were now the sworn enemies of Sir James Johnstone and at war with him. In these circumstances Sir James refused to consent to the registration of the assurance that execution might follow. The privy council before whom the Kirkpatricks complained ordered the registration of the assurance.²

Shortly after this Lord Maxwell summoned Sir James to surrender in the king's name and submit himself to trial. But the summons was treated with

¹ Spottiswoode's History, vol. ii. pp. 445, 446. Referring to this bond in the following year, Sir James Johnstone says: "Noeth-theles, it is nocht vknawin how he maid one vther priuat band for the wraik of me and my freindis, and throw thir occasiounis it is thocht

that it salbe and is alreddy the breking of the Borderis to the grit wraik of all trew men and innocent pepill in thir pertis." [30th June 1594, Charters of this Work, p. 61.]

² Register of the Privy Council, vol. v. p. 106.

contempt. As warden of the Marches Maxwell called out his forces, numbering in foot and horse about 1500 men, while Johnstone with his own followers and the Scotts and others numbered about 800 men.¹

On or about the 5th of December 1593 Lord Maxwell marched with his forces from Dumfries into Annandale. He sent out a reconnoitring party under the command of Captain Oliphant, who came upon the Johnstones near Lochmaben. The Maxwell party was suddenly attacked and overpowered. Several of the Maxwells were slain, including Captain Oliphant. Others sought shelter in the parish church. But apparently on the principle of self-preservation, and that all is fair in war, the Johnstones set fire to the church and compelled them to surrender. For that sacrilege the king granted a remission to Johnstones some years afterwards.

With the main body of his army, however, Lord Maxwell pushed on. Having crossed the Lochmaben hills he encamped during the night of the 6th of December on the heights of Skipmire. On the forenoon of the following day he crossed the river Annan and found himself face to face with the Johnstones, who were encamped on elevated ground which sloped gradually to the south, and which now forms a portion of the glebe land of the parish minister of Dryfesdale. Sir James Johnstone, by his military skill, selected a position so disadvantageous to Lord Maxwell that the latter could never bring into action more than one half of his force at a time.

Over-confident in his superior numbers, Lord Maxwell did not keep himself sufficiently watchful of the movements of Johnstone's army. Maxwell's forces having been thrown into disorder through crossing the river Annan, the advanced part of his army found themselves in a position in which they had no alternative but to fight or make a disastrous retreat. To force a conflict Johnstone "sent forth some prickers to ride and make provocation,"

¹ Manuscript Account in Advocates' Library, the year 1630; and Chambers's Domestic Annals, vol. i. p. 252. supposed to have been written by Robert Johnston, the historian, who died about

challenging to the conflict, and shouting the Johnstones' war-cry, "Ready, aye ready!" Maxwell, exasperated, sent forth a strong detachment of his men crying, "Wardlaw! Wardlaw! Wardlaw! I bide ye fair, Wardlaw!" which was the slogan of the Maxwells. This detachment was suddenly attacked on all sides by a larger body of Johnstones, who had also the advantage of a more favourable position. The Maxwells broke up and fell back on the main body, which was thus thrown into confusion. The Johnstones, seizing their opportunity, rushed down with their whole force upon their disorganised enemies, who, panic-stricken, fled in confusion, most of them falling back upon and recrossing the river Annan.¹ Thus ended the short but sharp battle of Dryfesands, which was so disastrous to the Maxwells and so victorious to the Johnstones for the time.

One of the traditions connected with this battle is that some days before it took place Lord Maxwell promised a reward of a ten pound land, that is, land valued at that amount for taxation purposes, to the person who should bring him the head or hand of Sir James Johnstone. The latter retaliating said that while he had not a ten pound land to give, he would bestow a farm of the half of that value upon the man who should bring him the head or the hand of Lord Maxwell. Spottiswoode, the only writer of the time who gives details of Lord Maxwell's death, says, "The Lord Maxwell, a tall man and heavy in armour, was in the chase overtaken and stricken from his horse." The tradition on the subject is that Lord Maxwell was pursued and overtaken by William Johnstone of Kirkhill, who on coming up to him struck him off his horse, and disregarding his prayer for mercy, which he alleged in similar circumstances he had given to the Johnstone chief, cut off his hand, and put him to death.² Another tradition is to the effect that William Johnstone

¹ A considerable number of the fugitives fled to Lockerbie. These were wounded to such an extent that the phrase, "A Lockerbie lick," applied to them at the time, afterwards became a proverbial one.

² Sir Walter Scott states that the above account was derived from the daughters of William Johnstone of Kirkhill, who received it from their father.

of Kirkhill cut off the hand of Maxwell and left him mutilated but alive, and that shortly afterwards the wife of James Johnstone of Kirkton, coming out of Kirkton Tower with a few female attendants to search for her husband, and afford relief to the wounded on the field, discovered Maxwell and despatched him by striking him repeatedly on the head with the keys of the Tower, which hung at her girdle. The probability is in favour of the first of the two traditions. But the almost contemporary account of Johnston, the historian, states that Lord Maxwell was slain by the laird of Johnstone's own hand. The manuscript, however, is interlined with the following words—"or, as is alleged, by Mr. Gideon Murray, being servitor to Scott of Buccleuch." The manuscript adds, "Never ane of his awn folks remained with him (only twenty of his own houshold), but all fled through the water; five of the said lord's company were slain, and his head and right arm were taken with them to the Lochwood, and affixed on the wall thereof. The bruit ran that the said Lord Maxwell was treacherously deserted by his own company."¹ No particular parties are named as guilty of the treachery, but in a ballad usually styled Lord Maxwell's "Gude Night," the lairds of Drumlanrig, Closeburn, and Lag are directly charged with the desertion. That ballad professes to have been written by or for Lord Maxwell when he was to fly for safety abroad after his murder of Sir James Johnstone in 1608. But although the poetry is plaintive it is lacking in historical truth. All the traditions relating to the circumstances of the death of Lord Maxwell beyond the accounts of Spottiswoode and Robert Johnston require confirmation. The death of John, eighth Lord Maxwell, Earl of Morton, was lamented by not a few. Spottiswoode describes him as "a nobleman of great spirit, humane, courteous, and more learned than noblemen commonly are; but aspiring and ambitious of rule." He adds, "His fall was pitied of many for that he was

¹ Printed from Robert Johnston's *Manuscript History*, Advocates' Library, in Chambers's *Domestic Annals*, vol. i. p. 252.

not known to have done much wrong in his time, and was rather hurtful to himself than others." ¹

During the month of August 1883 the author of the present work made extensive investigations in Annandale. Among the places visited then was the battlefield of Dryfesands. The old churchyard of Dryfesdale is on the banks of the river Dryfe. There is a couplet attributed to Thomas the Rhymer which says—

“Let picks and spades do what they may,
The Dryfe will wash the kirk away.” *

In fulfilment of the prophecy a former church was actually washed away when the Dryfe was in flood. About a mile lower down the river on the holm, the spot is pointed out where Lord Maxwell was killed by the Johnstones in the battle of Dryfeholm or Dryfesands. Old inhabitants of Dryfesdale and Lockerbie at the time referred to remembered having seen the original “Maxwell Thorns.” As the water of the Dryfe threatened to wash them away, as well as the church, which it afterwards did, a sprout was preserved and planted further from the river in a field close to a clump of seven trees, where it was enclosed for its protection. A pole on the roadside leading to it, with a large wood board affixed to it, had in black letters upon a white-painted ground a notice indicating to strangers the proximity of Maxwell’s Thorn. In the Book of Carlsruerock, a note states that “two large thorn trees, called Maxwell’s Thorns, long marked the place where Lord Maxwell was slain; and that about half a century ago they were swept away when the waters of the Dryfe were greatly swollen.” ² In the Statistical Account of 1793 the minister of the parish states that these two very aged thorn trees with a tumulus at the base were then known as “Maxwell’s Thorns.” This description of the thorns given in 1793 shows that the trees were then in full vigour. If they had been planted soon after the battle in 1593, they had flourished and grown into trees during two

¹ Spottiswoode’s History, vol. ii. pp. 446, 447. ² Book of Carlsruerock, vol. i. p. 292, note 2.

hundred years. In the New Statistical Account of Dryfesdale, published in the year 1845, the statement of the existence of the very ancient thorn trees with the tumulus at their base, called "Maxwell's Thorns," is repeated almost in the same words as in the Old Account. Dryfeholm fields are covered with thorns as if indigenous to the soil, and are used for hedge fences for the fields. Large thorn trees grow at intervals in the ordinary thorn-hedge fences.¹

This conflict, which happened on the 6th of December 1593, is usually called the battle of Dryfesands, from its occurrence upon the sands bearing that name, formed by the floods of the river Dryfe as it falls into the Annan. The slaughter which took place in the battle has been exaggerated, it being asserted that as many as seven hundred were slain. On the contrary, very few appear to have fallen. Calderwood says that twenty of the Maxwells were slain and the rest put to flight.² Robert Johnston in his History records that only five of Maxwell's company were slain in the battle. But the official records shew that the conflict, though not involving so great a loss as some modern writers represent, was yet of a more serious character than that stated by Robert Johnston in his History.³

Tidings of the battle of Dryfesands having been carried to Edinburgh, the king convoked his privy council on the 22d of December that they might

¹ Besides the present large thorn tree at Applegirth in memory of Bell of Albie, who was engaged in the battle against the Maxwells, there was formerly another tree of even larger size, which was blown or taken down. The wood of it was formed into a cabinet for a collection of shells by the late Sir William Jardine. The wood of that thorn tree as shown in this cabinet was white in colour, and of a very fine close grain similar to that of boxwood, used by engravers in wood. The other Albie thorn tree stands south-east from the church of Applegirth in a field on the farm of Springfield. It is about twenty feet in height and is much decayed in the trunk from the ground and for about five feet upwards. A

former tenant of Springfield was allowed £20 to allow this thorn to grow in the field, as it is distant from the thorn hedge. Thorns and thorn hedges abound in this parish as well as in Dryfesdale, and form natural memorials when specially designated.

² MacDowall's History of Dumfries, p. 322; Sir Walter Scott's Tales of a Grandfather at date; Calderwood's History, vol. v. p. 290.

³ In the Book of Carlaverock (vol. i. pp. 294, 295) it is stated that Lord Maxwell was interred in the College of Lincluden, on 30th December 1593, without a monument to mark his grave. This statement was made upon the authority of a letter of invitation

consider the troubled state of the Borders, especially in the West March, and the treasonable rebellion of Sir James Johnstone of Duns-kellie, knight, and his accomplices. The council in their Register under that date state the case against Sir James, and among other averments assert that on the 6th instant, with an armed convocation of the king's lieges, and Englishmen treasonably brought into the realm, he "umbesett, invadit, persewit, and maist cruellie and outrageously slew" the warden, several gentlemen of his name, and other obedient subjects of the king. He likewise drowned, hurt, lamed, dismembered, and took a great number of prisoners, reft and spoiled them of their horses, armour, purses, money, and other goods, and still continued in his "rage and crueltie, heirship and waisting of the countre, in proude contempt of his Hienes authoritie and lawes."

The king resolved to proceed with a force to the West March on 15th February; and until then the council appointed a commission, consisting of William, Lord Herries, and nine other influential gentlemen connected with the shire of Dumfries, to repair to that burgh for the comfort of the good subjects and resisting or pursuit of the rebellious or disobedient; and to

to his lordship's funeral, and also from the tradition in the Maxwell family. In the funeral letter, William Maxwell, Lord Herries, writes to Sir John Maxwell of Pollok on 11th December 1593 :

"Ze have hard of the infortunat slaughter of your cheiff, my Loird Erle of Mortoun. I with advyis of his freindis heir hes thocht meit that the buriall of his body salbe vpon Soneday the penult of December instant."

The Register of the Privy Council (vol. v. pp. 444, 445), under date 16th February 1597-98, contains an order for the burial of the bodies of the Earl of Moray and Lord Maxwell. The order proceeds upon the complaint of certain ministers that the bodies of these two lords continued so many years unburied. The council ordained that they

should be buried in their accustomed burial-places within twenty days. From this order, it may be inferred that Lord Maxwell's body was either not interred on 30th December 1593, as at first intended, or that it had been exhumed by his turbulent son and successor, whose desperate character is recorded in the Act of Parliament passed on 24th June 1609 [Acts of the Parliaments of Scotland, vol. iv. p. 451; The Book of Carlsruock, vol. i. p. 318]. Dame Elizabeth Douglas, Lady Maxwell, the wife of Lord Maxwell, who died at Edinburgh in the year 1637, is stated in a MS. Account of the Herries Family, to have been interred in a vault in the College Kirk of Lincluden, beside the remains of Lord Maxwell. [The Book of Carlsruock, vol. i. p. 299.]

keep peace with England and establish good rule. As the narrative in the commission makes no mention of the slaughter of Lord Maxwell by Sir James's own hand, nor of the carrying of the head and arms of Maxwell to Lochwood, the tradition on that subject, to which reference has been made, is rendered all the more doubtful. But as showing that this negative evidence is not conclusive, it is to be observed that neither does the narrative make any mention of Lord Maxwell's having any special commission to apprehend Johnstone. In connection with this last fact, it may be pointed out that the new commissioners are not directed to apprehend him. From the whole tenor of the commission it is apparent that at this stage the king and council were not disposed to adopt extreme measures against Johnstone if the peace of the border could otherwise be secured. From this time Johnstone evinced a disposition to follow a conciliatory course, as is shown by his restoring part of the property plundered at Sanquhar.

Six months after the battle of Dryfesands Sir James Johnstone made proposals for an amicable agreement with Lord Maxwell's friends. In these he made solemn declaration that the last unhappy and ungodly work that fell out between Lord Maxwell and him arose out of "the grit skaithis of fyris, heirschipis, and slauchteris," done by his lordship upon Sir James's father, which he says "wes his deith." Nevertheless, he adds, he had "buryit thai materis in my hart," and entered into a hearty agreement with Lord Maxwell. But the latter had made another private bond for the wrack of him and his friends, and hence the breaking of the Borders, which had been and was still likely to be. For avoiding this Sir James proposed that mutual assurances should be given by Maxwell's friends and himself to keep the peace and to give redress of wrongs which might be shown to have been inflicted. In case his proposals for a friendly agreement were refused, Sir James resolved that he would present a copy of them to the king and the kirk, and take God to witness of his innocence.¹

¹ Original proposals, dated Lochwood, 30th June 1594, Charters of this Work, pp. 61, 62.

The efforts of Johnstone at reconciliation were not at this time successful, as his proposals were not favoured by the Maxwells. He next endeavoured to make peace with the government. While parliament was sitting, during the month of June, he employed several courtiers to "travel" in the matter. Sir James himself and Johnstone of Westerhall were at the time secretly within five miles of Edinburgh, waiting the result of the negotiations. Lord Hamilton, having heard of Johnstone's presence in the suburbs, received a commission to apprehend him. But before it was subscribed, Sir John Carmichael, captain of the guard, sent his page in haste upon one of the king's horses to give him timely warning.¹ The endeavours of Sir James and his friends ultimately prevailed; and towards the close of the year, and fully twelve months after the battle of Dryfesands, the king out of his special grace, favour, and mercy granted him a respite for art and part in the treasonable slaughter of the late Lord Maxwell, and others, on 6th December 1593, as well as for other crimes mentioned therein.²

The remission now obtained by Sir James from the king, while it could not fail to be satisfactory to him, did not allay either the troubles on the Borders or the feuds between the Johnstones and Maxwells. Previous to the remission disorder was very prevalent. In a list of "wickit thevis, oppressoris, and pece brekaris and resettaris of thift," which was presented to parliament in June 1594, the surname of Johnstone is placed alongside that of many others, including the Armstrongs, Elliots, Nixons, Grahames, Irvines, Jardines, Bells, etc. Parliament enacted that a roll should be made and pledges required of those whose names appeared in it. This order of parliament was now put into execution.³ On the 9th January 1595 the privy council ordered

¹ Calderwood's History, vol. v. p. 336.

² The precept for the respite is without date, but it is subscribed by the king and Sir Robert Melvill, his treasurer [Charters of this Work, p. 62]. The respite itself, which was for five years, is dated at Holyrood-house, 24th December 1594. Many of Johnstone's friends

are included in it, there being in all one hundred and sixty persons named. [Reg. Sec. Sig. vol. lxvii. fol. 43; Book of Carlarverock, vol. ii. pp. 497-499; Annandale Peerage, Minutes of Evidence, 1877, pp. 281, 282.]

³ The Acts of the Parliaments of Scotland, vol. iv. pp. 71, 72.

that the pledges entered by Sir James should not be quarrelled or accused for any offences committed by the persons for whom they pledged before the feast of Yule, but only for such as should be committed after that date. Two days later, the king, with advice of his council, declared to Sir James and to Sir Walter Scott of Branxholme, who had given bond concerning Sir James, both being present, that if any of the branches of Johnstone, or others for whom pledges were entered, committed "stouthreif, oppressioun, or blude," or contravened the conditions on which they were entered, the pledge or pledges of the branch or branches so contravening should be imprisoned, and Sir James and Sir Walter should be required either to satisfy the injured or to enter the offenders before the king and council, or before the justice, within fifteen days after the requisition. If they failed to do so, the pledge or pledges of the branch or branches so offending should be slain; and Johnstone and Scott should be bound to enter other pledges of the same branches.¹

These measures did not accomplish much, and it will be seen that the West March remained as turbulent as ever.

In October 1595 a serious incident took place, which greatly embittered the feud between the Maxwells and the Johnstones. William Maxwell, Lord Herries, acting as warden of the West Marches, in that month went to Lockerbie with 300 men, and apprehended certain persons there. Colville, in a letter to Robert Bowes, asserts that Lord Hay [Herries], with Drumlanrig, accompanied by nearly 2000 men, ran a foray in Annandale, and took away a great booty of goods, which were restored.² A party of Johnstones attacked the warden, rescued the prisoners, and forced Lord Herries to retire with the loss of nearly a score of his men, dead or wounded. Sir John Maxwell of Pollok was among the slain.³

Besides the statements of Colville there is other evidence that King James

¹ Register of the Privy Council, vol. v. pp. 197, 199.

² Letters of John Colville, Bannatyne Club, 1858, Appendix, p. 327.

³ Book of Carlawerock, vol. i, p. 301; Memoirs of the Maxwells of Pollok, vol. i. p. 42.

the Sixth found it again necessary to intervene between the Maxwells and the Johnstones. This he did in a series of measures extending over several months, which fall now to be described. The king and council, with advice and consent of Sir James Johnstone, who was present, set free all prisoners taken by him and his followers at any of the late conflicts between them and the Maxwells, and discharged all bonds or other securities made by them to Sir James.¹ In addition to this, and as a measure of precaution apparently, Lord Herries, Drumlanrig, and Johnstone were warded in Edinburgh Castle. In the end of December, Sir John Carmichael was appointed warden of the West March. In the beginning of January Johnstone was set at liberty,² but he had to give a bond for £10,000 that he would appear before the king and council when required.³ He had also to give pledges for good rule of the several "gangs" under his jurisdiction, bind himself that the pledges entered in ward who escaped should be returned again under a penalty of £1000 for each pledge, and find caution to redress all wrongs committed by those for whom he was liable since the respite granted to him on 24th December 1594.

Besides these measures, assurances were exacted from the Maxwells, Johnstones, and others. William, Lord Herries, who subscribed an assurance to Sir James Johnstone of Dunskenzie, afterwards protested that although he had subscribed it at the express command of the king, he could not answer for the Maxwells in Clydesdale and Renfrewshire, and various other persons.⁴

But the most interesting and surprising of all the measures adopted by King James for suppression of feuds and establishing good rule on the Borders is now to be related. The king, with consent of his council, granted a commission to Sir James Johnstone, appointing him to be warden and justice within the bounds of the West March, including Annandale, Eskdale, Ewesdale, Nithsdale, and Galloway. The commission was to endure

¹ Register of the Privy Council, vol. v. p. 246, 11th December 1595.

² Thorpe's Calendar, vol. ii. pp. 702, 703.

³ 2d January 1595-6. Register of the Privy Council, vol. v. p. 738.

⁴ 8th March 1595-6. *Ibid.* p. 280.

for one year, and longer at the king's pleasure.¹ The West Marches continued to be the scene of much disorder after the appointment of Sir James. The Maxwells were dissatisfied, and soon made preparations to prosecute the feud anew.² King James again repaired to Dumfries, where he held meetings of the privy council, from the 1st till the 9th of April 1597, when he returned to Edinburgh.

In July 1597 Sir James Johnstone and Buccleuch were both committed to ward in the castle of Edinburgh, apparently for failure to deliver their pledges.³ They were soon after released by the king to go and fetch their pledges, and then return to ward.⁴ The king himself again repaired to Dumfries, where he was from the beginning to the end of November. Among other arrangements which he made while there he annulled the bonds taken by Johnstone from dependers upon Lord Sanquhar and the lairds of Drumlanrig and Dalzell, who had been taken and liberated upon bond for re-entry, ordered the subscribing of mutual assurances, and on the 28th of the month appointed Andrew, Lord Stewart of Ochiltree, to be lieutenant and warden of the West March, in room of Sir James Johnstone.⁵

In the beginning of May the very serious charge was preferred against Sir James of breaking his solemn assurance in the following circumstances. Johnstone and some others having lain in wait at Auchinflek for Oswald Bell of the Hill, John Bell called the Hoig, and Fergy Bell, his brother, slew Oswald, chased John and Fergy three miles to the water of Carron, slew Francie and Cristie Carlille, all dependers of Sir James Douglas of Drumlanrig.⁶ Upon the complaint of the latter the matter was

¹ 28th July 1596. Charters of this Work, pp. 64-66.

² Thorpe's Calendar, vol. ii. p. 733.

³ Letter, Robert Bowes to Sir Robert Cecil, Edinburgh, 23d July 1597. Thorpe's Calendar, vol. ii. p. 740.

⁴ 24th August 1597. Vol. ii. of this work, p. 12.

⁵ Register of the Privy Council, vol. v. pp. 421-426, 432.

⁶ This conflict is thus recorded by Birrell [13th July 1597]: "An feicht or combat betuix the laird of Drumlanrick and the laird of Johnestoun and thair assisteris." [Birrell's Diary, p. 44.]

taken up by the privy council. Andrew Johnstone of Kirkcaldy, who appeared for Sir James Johnstone, excused his absence on the ground that by reason of the slaughter committed by him he could not appear personally without his Majesty's dispensation. The council decerned the assurance violated, and declared Johnstone perjured and defamed in time coming. Publication of the sentence upon Sir James was made at the cross of Edinburgh, where he was hung in effigy with his head downward, declared mansworn, and on 5th June put to the horn and pronounced a rebel.¹ Not till 2d July 1600, fully two years after this sentence was pronounced, was Sir James restored to his honours. Meanwhile further troubles were in store for Johnstone. The inhabitants of Nithsdale, Annandale, and other parts of the West Border gave in a complaint to parliament against him in which they enumerated his slaughter of Lord Maxwell, the laird of Nether Pollok, and others to the number of thirty or forty, and stated that he was still "prosequiting a maist wyld and bludie course." Although there were those who ceased not "to travell and interceid in favour of the said laird of Johnnestoun," parliament passed a special act subscribed by the king, inhibiting any to intercommune or assist him in any sort.² His bond of 2d January 1595-6 to appear before the king and council when required was forfeited, and the penalty of £10,000 ordered to be uptaken.³

Sir James Johnstone made endeavours to be reconciled to the king,⁴ and met with ultimate success, as in about eight months after the forfeiture of his bond he was well received at court.⁵

The accusations of Drumlanrig and the sentence pronounced against him

¹ 5th May 1598. Register of the Privy Council, vol. v. pp. 456, 458. Birrell's Diary, p. 46.

² Acts of the Parliaments of Scotland, vol. iv. p. 166.

³ 30th June 1598. Register of the Privy Council, vol. v. p. 747.

⁴ Letter, George Nicolson to Sir Robert

Cecill, 31st August 1598. Thorpe's Calendar, vol. ii. p. 755.

⁵ Calderwood relates that on 2d February 1599 "Huntlie, Hume, and the laird of Johnstoun came to court, were well received,—men renowned for treason, raising of fire, killing, spoiling" [History, vol. v. p. 732].

in consequence of these lay heavy upon the mind of Sir James as reflecting upon his honour. There exists in the Annandale Charter-chest a vigorous vindication of himself from his own pen, which is interesting. The statement is an earnest protest by Sir James of his innocence and his anxiety to have the question settled by the law of arms, which was an old Border practice, and his allusions to his antagonist, the laird of Drumlanrig, in it, are far from complimentary.

Sir James Johnstone heads his vindication with the words, "Reid me and lat me stik still." He then relates the terms of the assurance which Sir James Douglas of Drumlanrig had given him on 29th November 1597, to the effect that for the period of the bond, which was till 1st January 1598, he would not molest him, nor his friends and servants, "under the pane of periurie, infamie, and tynsell of perpetuall honnour and credditt and estimation in tyme cuming." Under the heading "Breks follows nixt," he enumerates five several breaches of the assurance, consisting of acts of violence, burning, and theft, committed by the Bells and Cairlells, and by Reidclok and his accomplices. The first of the five, referring to the burning of a house by David Bell upon "the Leithe day," he enforces with the words, "The quhilk he nather will nor dar deny."

In the remainder of the vindication Sir James Johnstone says that upon being so used by Drumlanrig he wrote to the king, acquainting him with the "brekis" in question, stating that in the circumstances he would no longer think of an assurance, nor lean to it, and asking him to hold him excused whatever fell out thereupon. He says further that he wrote to the same purpose to the lieutenant who had delivered the assurance, but received no answer. He then spoke to the lieutenant, informing him that the assurance was broken in several points, and adding that if he "gat ony of Drumlanrigs befor I wane hame at that present I sould do thame the vorst." He offers to prove by the law of arms that this was all done before he troubled any man, and he desires all gentlemen to make the offer in his name. Thereafter he denounces Drumlanrig in unmeasured terms, speaking of him as

“bot ane feibill and vnhonest periurit creattour,” and applying other strong epithets to him for moving the king and council in his absence “to publeis my schame.” He claims that his statement made it manifest to all men that the king in giving a decree against him, and neither giving him a remission for the slaughter he had committed nor licence to come and go to defend his own cause, had wronged him ; and he challenges any man in Scotland to say he had broken the assurance, when he would answer him. But if no one could say so, he desired to be esteemed honest. Sir James concludes his statement by making offer to Drumlanrig, “that feibill creattour, or to ony of his estait in his name, fra [for] he dar nocht, to pruiiff him periurit, defamit, and noch vordde credit be the vords that is set done herein, and that be the sword.” After desiring all men to excuse “my ruid forme,” Sir James authenticates his vindication by his own signature, “Johnnestoun.”

Sir James Johnstone during the last few years of the preceding narrative figures at one time at Dryfesands on the field of battle, at another time, near Edinburgh, negotiating for the king's remission, and again at his own home wielding the pen instead of the sword, vindicating himself as a man of honour and challenging his adversary to settle their dispute by an appeal to the law of arms. He now figures, to the close of this chapter and during the remaining months of the century, in ward, first in Dumbarton castle, and later in Doune castle. While Johnstone was at large, the most strenuous efforts of the king, council, and warden of the West March to secure the peace of the Border were in vain ; now that he was in ward, their endeavours in the same direction, it will be seen, were equally futile. It was not until Johnstone and Maxwell had both come to a tragic end in their prolonged struggle that the feud between the two clans which they represented was terminated and the peace of the Border secured. What follows is a narrative of the warding of Johnstone and of the action of the government while he was in ward.

In June 1599, Sir James Johnstone was denounced rebel, having failed to present for trial several Johnstones who had violently ejected the com-

commendator of Saulseat from the lands of Courance and Garvall.¹ On 31st July, Johnstone, Lord Herries, and Sir James Douglas, were placed in ward.² This was evidently part of the government course of action for the pacification of the West Border. The persons thus warded failed to enter pledges in compliance with the order of the estates, and were in consequence ordained to surrender the castles of Carlaverock, Dumfries, Drumlanrig, and Lochwood to the warden of the West March, till such time as the pledges in question were entered. On 15th September the privy council, while continuing Johnstone in ward, sent him to the castle of Doune in Menteith. Orders were given to garrison the house of Lochwood and other castles surrendered to William, Earl of Angus, who in June 1598 had been appointed lieutenant of the Borders. This was to be done at the expense of the persons to whom the houses belonged.³

Later in the month the Johnstones and Armstrongs made overtures of submission to Angus. The Johnstones in their offers expressed the desire that upon the entry of their pledges "the laird, our cheiff, may be brocht hame." But their offers were not considered satisfactory nor sufficient.⁴ Angus had already written to Johnstone, before he was removed from Dumbarton Castle, to cause his friends to enter their pledges. Johnstone's reply to the earl showed that he was equal to the occasion. He said, "Thay wald do nathing for him, he being in the place he wes in." Having failed with Sir James Johnstone, the earl next tried Lady Sara Maxwell, his wife,

¹ 7th June 1599. Register of the Privy Council, vol. vi. p. 2. On 23d March 1598-9, Mr. John Johnstone, advocate, received a gift of the office of commendator of Saulseat upon the demission of Mr. John Johnstone, the last commendator. [Annandale Peerage Minutes of Evidence, 1877, p. 282.] A year later, on 14th June 1600, Sir James Johnstone promised to enter Symon Johnstone, brother of the late John, commendator of Saulseat, and John Johnstone, student, in the possession of the lands and fortalice of

Courance and half lands of Over Garvall withiu forty-eight hours after his passing to Annandale, and that he should not be troubled in the lands thereafter. [Register of the Privy Council, vol. vi. p. 116.]

² 31st July 1599. Register of the Privy Council, vol. vi. p. 17. Acts of the Parliaments of Scotland, vol. iv. p. 182.

³ Register of the Privy Council, vol. vi pp. 31, 32, 839.

⁴ *Ibid.* pp. 839-842.

and some of the principal Johnstones. But neither did he succeed with them. They said they would speak to their friends, but would not promise. He wrote again on several occasions to Sir James Johnstone to the same effect as before, and apparently with no better result.

While Angus was considering his answer to their offers of submission, which have been already alluded to, the Johnstones took the castle of Lochmaben, and "reft the poor tenants' geir." Angus thereupon made a raid upon them and burnt some of their houses. He then asked the laird of Lochinvar, younger, to speak to the Johnstones and get them to surrender the castle which they had taken. But the Johnstones with great spirit declined to give it up, saying that they had as good "kindness" to that castle as to any house or land in Annandale, and would render it neither to king, queen, nor lieutenant. Upon this Angus made another raid upon them, and this time "brint Howgill, Davie of Kirkhillis, and sum uther of Wamfra that wes at the taking of Lochmabane." He now made another application to Lady Johnstone by the laird of Elscheillis, to have pledges sent to him. But no pledges were entered nor was the castle of Lochmaben surrendered. Meanwhile the Johnstones were guilty of many depredations. Lady Johnstone wrote to Angus that her husband's friends would do nothing but what the laird of Buccleuch offered to do. By another missive to the earl she guaranteed the safety of true men and the poor tenants of Johnstone only. Sir James Johnstone complained to the king of "the skayth done to his thevis," probably by Angus. The latter referring to his complaint, says that the king should not heed such trifles since they had the "heirschip" of the country and blood of all men betwixt Sanquhar, Carlaverock, and the water of Urr. He added that more harm had been done to the laird of Carmichael within the last six days "upoun a nicht nor all the skaith thai haiff pretendit."¹ The king now supplemented what his lieutenant had done. Those

¹ "Informatioun of the hail proceedingis aganis the Johnstonis." Register of the Privy Council, vol. vi. pp. 843-846.

whom he had for some time kept in ward were directed to submit their feuds to arbitration,—the king to be oversman. Several bonds of assurance to Sir James Johnstone, and an attempt to compel Lord Maxwell to subscribe one to him, were the only outcome of this direction so far as known.

CHAPTER THIRD.

Sir James restored to honour, June 1600—Re-appointed Warden in August same year—Mutual bonds of assurance passed in 1600 and 1601—Lord Maxwell meditates an attack upon Sir James—King's visit to Dumfries, 1602—Letter of Slains to Johnstone—Remission to him, 1605—Story of his slaughter, 1608—Lord Maxwell's trial, 1609—His execution, 1613—Inscription on Johnstone's tombstone—Lady Sara Maxwell, his wife.

Sir James Johnstone continued for the space of two years denounced as perjured and infamous for the alleged violation of an assurance which he had granted to Sir James Douglas of Drumlanrig, noticed in the foregoing chapter. The vindication of himself which he wrote shows the keen manner in which he felt his honesty being called in question in such a way. But beyond writing and communicating to the proper authorities this vindication, until 28th June 1600 he does not appear to have taken any step to be relieved from so odious a sentence. On that date, however, he supplicated for an act of council to be passed in his favour granting him that relief. In his supplication he defended himself from the charge of breaking any assurance which he gave, grounding the sentence passed upon him not upon that crime, but upon the contempt and indignity which he had done to the king in presuming to give up an assurance to his Majesty, and under pretence of it revenging himself upon the king's subjects. The king and council adopted this view of the case, and passed an act in his favour declaring that, "notwithstanding the said decree pronounced by his Majesty against Johnnestoun, he has not, in any point, broken the assurance to the party, and has not incurred the said pain of perjury or defamatioun, which was only irrogat to him for his offence done to his Majestie, and therefore restore him to his fame

and honour, ordaining him to be held an honest and faithful man.”¹ As the sentence declaring Sir James Johnstone infamous had been published at the cross of Edinburgh, so, four days after the passing of the act which practically reduced that sentence, he was, with equal publicity, formally restored to his honours at the cross of Edinburgh by the proclamation of a herald and four trumpeters.² Soon after this Johnstone was one of thirty-nine persons, including the three wardens of the marches, Maxwells, Armstrongs, and others, summoned to meet the king and council at Falkland on 11th August, to advise regarding the disorders on the Borders. They were to be held responsible for any crime committed during their absence.³ There is no record of a meeting of council on 11th August. But at a meeting held two days later, the subject of the West March was fully entered upon and means devised for establishing better rule, as well as encouragements given to the warden and others within the wardenry, all as set forth in the act of council in which they were embodied. Two matters embraced in the business of this meeting specially affected Sir James Johnstone. By one of these, the last provision in the act, Johnstone and other six persons named were, with a sufficient company, ordained to repair to and dwell in the houses designed in the act, the better to resist and oppose the thieves in the country. Lord Herries was to reside in Hoddam or Lockerbie. Sir James Douglas was to dwell in the Ros or the Nnke. Sir James Johnstone had no place assigned to him, but he was to take up his residence “in some plaice quhar the Lord Herries, in cais he be wardane, sall appoint.”⁴ It will be seen that Lord Herries did not continue to be warden.

The other business of the council in which Sir James was specially interested was his appointment as warden of the West March. Lord Herries had been in possession of the office for about two months, and his tenure of it was

¹ 28th June 1600. Register of the Privy Council, vol. vi. pp. 121-123.

² Birrell's Diary [2d July 1600], p. 46.

³ 28th July 1600. Register of the Privy Council, vol. vi. pp. 136-138.

⁴ *Ibid.* pp. 152-155.

made dependent upon the king's pleasure. It is apparent from the foregoing act that there was to the last some probability of his lordship's continuing to hold the office. The very next entry in the Register of the Council to the act about the Border, however, states that the king, with advice of his council, understanding the good affection, and the long experience of Sir James Johnstone for administering the office of wardenry, constituted him warden and justice of the West March. His commission was to endure till it was specially discharged by the king.¹ This was the second time that Sir James was called to hold this important office, and on both occasions he succeeded William, Lord Herries. He now continued to hold the office until its abolition in 1603, upon the succession of King James to the throne of England, and during this period enjoyed the confidence and favour of the king. Sir James Johnstone was thus the last of the wardens of the West March.

The appointment of Johnstone to be warden on this occasion was by no means pleasing to the Maxwells, who from this time, with Lord Maxwell, their chief, became more turbulent than ever. As there was thus a danger of the Johnstone and Maxwell feud breaking out with renewed violence, the king exacted assurances from both parties.² An incident in which Johnstone was involved through his mother falls to be noticed here. The incident, which illustrates the vigorous character of the lady, and shows the co-operation of Sir James with his mother, relates to an attempt made by Alexander Jardine of Applegirth to reduce a commission of justiciary obtained by Sir James Johnstone at the instance of Dame Margaret Scott, Lady Johnstone, his mother, and the mother-in-law of Jardine. A complaint of Jardine to the council which was directed against Lady Johnstone rather than against Sir James, sets forth that her ladyship, who was conjunct fiar of the barony of Wandell, moved with "a gredie and unsatiable desyre" of the whole rooms of the poor tenants in the barony, had endeavoured unsuccessfully,

¹ 13th August 1600. Register of the Privy Council, vol. vi, p. 155.

² Charters of this work, pp. 70, 71. Register of the Privy Council, vol. vi, p. 197.

by fair means, policy, and craft, to get them to renounce their tacks that she might place therein such tenants as he would not be able to remove. She was so enraged and inflamed at their refusal that she "resolved, indirectly under the pretens of law, to have thair lyffis." She had already executed one of them as a thief without any trial. She had since obtained the commission of justiciary for Sir James that she might pursue them. Further, she had only borrowed her son's name in the matter, and she would be practically judge and party, and would not fail to convict the men. The council refused to sustain the complaint of Jardine, and ordained the commission of Sir James Johnstone to be put to execution in all points.¹

The Borders again demanded the special attention of the warden and the government, and occasioned considerable correspondence between England and Scotland. The Armstrongs were raiding upon the English borders. In the papers relating to Scotland preserved in the Public Record Office, London, the letters of this period help to show the actual state of matters, the anxiety which it occasioned to the authorities, and the attempts which were made to cope with the evil. On 31st March 1601, the king wrote to Johnstone and Buccleuch to repress the attempts of the broken men of their bounds upon England, and blaming them for incursions into that kingdom which had lately taken place. Three days later George Nicolson, the English agent, wrote him about "the horrible outrages on the Borders," and as to the best means of preventing them, and also of his communication with the king on the subject. The king at the same time authorised Sir Robert Cary and Lord Scrope, as shown in a letter from George Nicolson to them, to pursue the rebels in England or Scotland, wherever they should have opportunity. George Nicolson had also written a letter complaining that Sir James Johnstone had not met with the English officers for redress of Border matters. Sir James in reply to that letter attributed all the blame to Lord Scrope. In a subsequent letter to Sir

¹ 16th March 1601. Register of the Privy Council, vol. vi. p. 227.

Thomas Erskine and Sir George Home, Nicolson wrote that he understood that Francis Armstrong and others, the late spoilers, had been taken by Johnstone, and recommended them to be delivered up to the queen's officers. On the 22d of April, Nicolson again wrote to Sir Robert Cecil, the English minister, that the Borders were quiet through Johnstone's diligence. King James had one or more interviews with Johnstone, probably towards the end of April, when secret speeches passed between them upon Border disorders, and the delay in staying the incursions upon the English, through the absence of Lord Scrope from his wardenry.

Johnstone succeeded in putting a stop to the incursions upon the English, but the raiding of the English upon the Scotch was not ended so quickly. In the month of August, George Nicolson did not see how the peace could be preserved. A spoil committed upon his honest subjects drew forth a complaint from the king, and Lord Scrope, keeper of the English march, previous to 17th August, forwarded a "defence for the late matter alleged against him of taking certain persons into custody," which the king sent for confirmation to Sir James Johnstone.¹

Other Border troubles soon arose. In violation of an arrangement not to resort to Nithsdale, Annandale, or Galloway, without licence, Maxwell, according to the council, in prosecution of some desperate purpose against Johnstone, and to "disturb and schaik lowse" the whole country, first went home to Nithsdale, and afterwards on 10th May to the outskirts of Dumfries. Although for some reason his lordship did not then succeed in his purpose, he did not abandon it.² The council, as a precaution, exacted assurances from twenty-two Maxwells and Sir James Johnstone, and summoned Maxwell, Herries, and about a score others, to appear before them at Holyrood the following month to submit to such order as should be taken with them.

The Armstrongs followed suit upon the Maxwells in creating Border

¹ Thorpe's Calendar, vol. ii. p. 795-797, 802.

² Register of the Privy Council, vol. vi. p. 240, 317.

dispeace. It was probably in revenge for the apprehension of Francie Armstrong that this unruly clan made a "spoil" on the tenants of Johnstone. This was in November 1601, and in May following there is chronicled in correspondence of the time "a rode upon the laird of Johnstones lands by the Armstrongs."¹ It was a gang of the Armstrongs who murdered Sir John Carmichael, a former warden, on 16th June 1600. The Grahams had reset the murderers. Sir James Johnstone apprehended the resetters. But they were rescued from him within the English bounds, for which the king complained to Queen Elizabeth.²

These Border raids induced the king again to visit Dumfries. While there, from 28th February to 8th March 1602, he bound Lord Herries and other Maxwells not to assist Lord Maxwell; and called for complaints against the Johnstones, Armstrongs, and others. Lord Maxwell meanwhile engaged in hostilities against the Johnstones; and with twenty armed men he marched against William Johnstone, brother of William Johnstone of Elscheschellis, and John Johnstone, brother of James Johnstone of Hislie-bray. Proceeding to Dalfibble, in the parish of Kirkmichael, he drove William Johnstone within his house, set fire to it, and cruelly put him to death when the fire compelled him to come out. He then went to the house of Cuthbert Bratten in the same place, and with equal cruelty set it on fire, and burned James Johnstone called of Briggs, who was within it.³ For these crimes Lord Maxwell, when called before the council on 3d March, was only warded in Renfrew, in the house of Lord John Hamilton, his father-in-law, and prohibited to repair to Nithsdale, Galloway, or Annandale without the king's licence.⁴

The king resolved to return to Dumfries in October, and he appointed

¹ Letter, George Nicolson to Sir Robert Cecil. Thorpe's Calendar, vol. ii. pp. 806, 812. pp. 355-358; The Book of Carloverock, vol. i. p. 305.

² Letter, December 4, 1601. *Ibid.* p. 805.

³ Register of the Privy Council, vol. vi.

⁴ Dumfries, 3d March 1602. Register of the Privy Council, vol. vi. p. 356.

the three wardens of the Marches to attend the council on 8th September to give an account of their proceedings. He concluded his visit to Dumfries by committing to Johnstone the keeping of the place of Torthorwald, on bond to deliver it when required, and not to reset James Douglas of Torthorwald.¹ Soon afterwards the king wrote from Edinburgh to Johnstone and the goodman of Hayning, blaming them for disorders within their jurisdiction, and informing them of orders to the wardens opposite about which he desired their co-operation.² The co-operation referred to was probably the keeping of a day of truce between him and the wardens on the opposite side of his march. In such truces the wardens on the different sides of the marches met, discussed and rectified their mutual grievances, granted compensation for losses, and generally gave satisfaction for injuries inflicted through raids and otherwise. Johnstone held a day of truce on 7th May. Several Border lairds who refused to attend afterwards appeared before the privy council, and pleaded sickness and other reasons for their non-attendance.³ Stewart of Garlies and others who failed to appear were denounced rebels.⁴

The king, in October 1602, returned to Dumfries, where the council sat as a court of justice from 11th to 19th October, and received many complaints for adjudication. It is noticeable that none of these complaints were from or against any one of the surname of Johnstone. The other business overtaken by the council at Dumfries included a general bond against thieves, murderers, and oppressors, which was subscribed by the king, council, and

¹ Register of the Privy Council, vol. vi. p. 358. Sir James subscribed the bond at Lochwood on the 8th March before "Hali-ruidhous" and "Carmichell."

² 31st March 1602. Thorpe's Calendar, vol. ii. p. 810.

³ In the early part of the reign of King James the Fifth, "from the ferocious habits of the Borderers, nothing could be more difficult than to enforce the observance of a truce." Tytler, vol. iv. p. 141.

⁴ 17th June 1602. Register of the Privy Council, vol. vi. p. 395. A few months later an act of council was passed, requiring the lieges of the West March to keep days of "trew," under certain specified penalties, which were assigned to the warden to defray the expenses of his office. [*Ibid.* pp. 829, 830.] *Vide* letters of gift by the king to Sir James Johnstone, dated 26th October 1602, Charters of this work, pp. 72, 73.

Border landlords. The king signed this deed in token of his approbation and allowance of the premiscs. In the bond the signature "Johnstoun" follows immediately after the signatures of the privy council, and takes precedence of all the other signatures. The business of the council also included matters which closely affected Sir James in his capacity as warden. Lord Herries, Thomas Kirkpatrick of Closeburn, Johnstone of Newbie, and others, were appointed assessors to him, by whose advice he was to direct the whole affairs of his office of any importance.¹ Sir James obliged himself to redress certain grievances, and generally to secure the good rule of the country, so long as he continued in office.²

In addition to the redress of grievances, the subscribing of a general bond, the appointment of assessors to the warden, the laying of stringent obligations upon the warden, and other expedients adopted to procure the peace and good rule of the West March, the king, on the eve of departing from Dumfries, sought further to procure these ends by promoting the spiritual well-being of the people. This he did by a commission which he granted to Sir James Johnstone for the plantation of certain parish churches in Annandale. By the terms of this commission the parish churches of Lochmaben, Dryfesdale, and other places were to be rebuilt by the parishioners before 1st October 1603. This commission was granted upon the recommendation of the privy council, who considered Sir James to be the special man of power and authority in the bounds to move the parishioners to that effect.³

Orders were given by the council in December 1602 for the renewal of certain assurances between the Johnstones and Maxwells. Lord Maxwell, who was warded in Edinburgh Castle, refused to assure Sir James Johnstone, and was continued in ward and placed under certain restrictions, but he escaped from his confinement there by stratagem, and was intercommuned.

¹ Register of the Privy Council, vol. vi. pp. 463-474, 825-829.

House, 29th November 1602, in Annandale Charter-chest.

² Extract Act of Privy Council, Holyrood

³ Dumfries, 19th October 1602. Charters of this work, pp. 71, 72.

In connection with the baptism of Sir James Johnstone's son, which occurred this year, a robbery took place of a kind said to be then unprecedented. The circumstances were these:—The laird of Graitney having obtained licence from Mr. Phenick, keeper of Tynedale, to hunt in Tynedale, sent his three sons, with eight or nine servants, to hunt for venison for the banquet which was made by his chief, Sir James Johnstone, at the baptism of his son. When Graitney and his friends were enjoying the sport in Tynedale, Thomas Turnbull, younger of Mynto, Hector Turnbull of Barnhill, and Mark Turnbull of Bewlie, then passing into England for plunder, stole from the Graitney party five horses, with their carriage of bedding and victual, worth £240. The council, before whom the matter was brought, decided against the aggressors for three horses at £40 each.¹

There is nothing further calling for notice in the life of Sir James Johnstone until January 1605, when he was amerced in 1000 merks as cautioner for John Armstrong of Langholm. So far back as the year 1581, Armstrong had seized the castle or tower of Langholm, raised fire, burnt the plenishing of the tower, and committed other depredations. The furniture in the castle belonged to Herbert Maxwell of Cavens, who having sued for redress, Armstrong was denounced rebel and put to the horn, and Johnstone as his cautioner was fined as above. The fining of Sir James as cautioner for Armstrong at the instance of Maxwell of Cavens, after such a lapse of time, was calculated to add fuel to the feud between him and the Maxwells.² In 1605 also, the keeping of Lochmaben castle, which had been held by Johnstone, was given to Sir William Cranstoun, apparent of that ilk, deputy lieutenant of the Borders.³ Sir James, who in March appears to have been warded in his house in Edinburgh for a short time, was in the same month set at liberty.⁴

¹ Jedburgh, 31st October 1602. Register of the Privy Council, vol. vi. p. 476.

² 11th January 1605. Pitcairn's Criminal Trials, vol. ii. p. 451.

³ 31st January 1605. Register of the Privy Council, vol. vii. p. 20.

⁴ March 1605. Charters of this work, p. 76.

The remaining events in the years 1605 and 1606 relating to Johnstone chiefly refer to the interminable feud between him and the Maxwells. In a series of questions proposed by the commissioners of the Borders to the privy council to obtain directions for their guidance, with the answer of the council under each question, it is stated that the feud between Maxwell and Johnstone was no small hindrance to the service. The Johnstones could not repair to Dumfries without peril, in consequence of the general feeling there against them; also the chief refused to be responsible for some of the most broken men of Johnstone. The council in their answers appointed that the Johnstones should appear before the commissioners with their causes at Peebles, and held Sir James answerable for all the Johnstones that "dippit with him in the feud." On the representation of the commissioners that the whole personal property of parties would hardly suffice to make restitution for all the spoils of Maxwells and Johnstones, the council replied, "Do justice herein according to law."¹

It was now sought by a renewed treaty of peace to have the quarrel with the Maxwells healed. This attempt proceeded upon a recommendation of the estates regarding the removing of barbarous feuds. Lord Maxwell, having been charged by the council to submit the feud between him and Sir James Johnstone, declared that he was content, without submission or other ceremony, to take Johnstone by the hand and be reconciled to him.² It was accordingly moved that they be reconciled in the presence of the council. Lord Maxwell at once took Sir James by the hand and remitted any rancour he had against him or his friends for the slaughter of the late John, Lord Maxwell, his father. This auspicious event took place in a full council on the 11th of June 1605. His lordship followed this up by subscribing a letter of Slains to Sir James and his friends for the same.³ The letter of Slains, which is in similar terms to his declaration, and

¹ 21st May 1605. Register of the Privy Council, vol. vii. pp. 709, 710.

² April 1605. *Ibid.* p. 38.

³ *Ibid.* p. 58.

is granted at the special command of the king, and in performance of his promise to the lords of council, accepts Sir James and his kin in hearty love and favour. It was subscribed in presence of John, Earl of Montrose, lord commissioner, Alexander, Earl of Dunfermline, and other members of the privy council, and was afterwards inserted in their books.¹

On the day the letter of Slains was presented to the council, and inserted in their Register, Johnstone entered in ward Cristie Armstrong of Barnegleis, who was charged by Lord Maxwell with assaulting his ploughmen. But Armstrong averred on oath that "with a birk wand" in his hand he only chased some of his lordship's servants off his ground of Darduling, which they were tilling. This the lords found was no breach of the assurance given by Johnstone to Maxwell.² A decree was made in terms of this finding, and the letter of Slains, which had been retained by the council until Sir James should clear himself in this matter, was now formally delivered to him, to be used by him as his own proper writ in time coming.³

The new treaty of peace guarded with such formalities only proved another hollow truce. Within the brief period of a month from the date of the reconciliation Sir James Johnstone complained to the council that Lord Herries and Alexander Stewart of Garlies had given up friendship with him. When questioned on the subject by the council, his lordship and Stewart, while denying that they designed any violent deed against Johnstone, owned that they would not be under any familiarity with him. The council bound them to keep the peace under pain of £5000.⁴ Sir James, however, was still so apprehensive of revenge on the part of Lord Maxwell that he deemed it necessary to adopt additional means the better to secure his own and his kinsmen's safety. It was impossible to obtain from Lord Maxwell any

¹ Register of the Privy Council, vol. vii. p. 64; Charters of this work, pp. 76, 77.

² Register of the Privy Council, vol. vii. p. 65.

³ Charters of this work, pp. 77, 78.

⁴ 9th July 1605. Register of the Privy Council, vol. vii. p. 78. Sir John Charteris of Amisfield became cautioner for Herries [Charters of this work, p. 80].

stronger pledge than that then in force. The only other quarter Sir James could look to was the government. He therefore made application for a remission of all past crimes committed by him and his clan against the Maxwells. A remission under the great seal was granted by the king to Sir James Johnstone and fifty-nine other persons, nearly all of the surname of Johnstone, for art and part in burning the church of Lochmaben, the slaughter of John, Lord Maxwell; and, in the case of Sir James, for breaking ward from the castle of Edinburgh. The remission, which extended to the lifetime of the parties, is dated at Whitehall, 28th September 1605.¹

This remission was in the ensuing April followed by a royal warrant which in effect was another remission in favour of Johnstone, and shows, with the former one, how willing the king was to serve him. The warrant, which is superscribed by the king, discharged his justices to give process in any criminal pursuits against Sir James Johnstone and his friends and servants for whom he was answerable, for crimes alleged to have been committed by them before the month of April 1603 when the king repaired to England.² Sir James produced this warrant in the High Court of Justiciary on 21st January 1607, when the justice depute continued the admitting of it to the 4th of February.³

On the day after Sir James Johnstone presented the king's warrant in his favour to the High Court of Justiciary, he and James Johnstone of Westraw were warded upon forty-eight hours' notice in St. Andrews. The council who pronounced the order do not appear to have known why he was warded. At any rate they place the responsibility of their act upon the king by stating that their order proceeded upon instructions from him for causes known to him. It does not transpire what these causes were. Nor does it appear

¹ Charters of this work, pp. 79, 80.

² Pitcairn's Criminal Trials, vol. ii. p. 521. Warrant subscribed at Whitehall, 6th April 1606.

³ On 4th February 1607 Johnstone was fined sixteen hundred merks for the nonentry of certain persons for whom he had become pledge and security. [Pitcairn's Criminal Trials, vol. ii. pp. 521, 522.]

why Sir James delayed production of the warrant of the previous April, referred to, until the 21st January 1607, at this particular juncture.

The tragic story of the death of Sir James Johnstone by the hand of a treacherous assassin which has now to be recorded commences on 4th October 1607. On that date Lord Maxwell escaped from Edinburgh Castle,¹ where he had been warded since the 11th of August for violence and contempt of state authority. His escape greatly incensed the king, who immediately adopted the most drastic measures to secure his punishment. Lord Maxwell being in constant fear of apprehension was compelled to live either in concealment or surrounded by an armed guard. His lordship found this kind of life anything but desirable. It has been seen in the preceding pages that Sir James Johnstone, distrusting Lord Maxwell in his repeated assurances and professions of reconciliation, felt that he meditated some dark design against him, and only waited a fitting opportunity for putting it in execution. The apprehensions of Johnstone were only too well grounded. Thoroughly alive to his danger, he adopted whatever means prudence dictated for his safety. On the present occasion Lord Maxwell's adverse circumstances seemed to present a favourable opportunity for effecting a sincere and lasting reconciliation between them, when his lordship might reasonably be expected to be more disposed to listen to overtures of peace than at another time.

Probably influenced by these considerations, Sir James sought the mediation of Sir Robert Maxwell of Spotts, his brother-in-law and Lord Maxwell's cousin. He took advantage of Sir Robert being sent on some errand by Lord Maxwell to Lochwood House to request his good offices in effecting an understanding between them. Sir Robert pleaded first that he was sickly, then that he was disliked by Lord Maxwell because he had married Johnstone's sister, and further, that he was disinclined to meddle in their quarrel,

¹ The circumstances of Lord Maxwell's escape are stated in the Book of Carlawerock, vol. i. pp. 306-308.

as it was dangerous to have anything to do with Maxwell. However, he was soon after able to meet the wish of Sir James. Lord Maxwell sent for him, and at their meeting said to him, "Cosine, it wes for this cause I send for yow. Ye see my estait and danger I stand in; and I wald crave your counsell and advise, as ane man that tenderis my weill." Sir Robert replied he could hardly give an answer, as the matter was so far past. His opinion, however, was that Lord Maxwell should keep himself quiet and not further offend his Majesty. After this the conversation turned to the subject of Sir James Johnstone, and whether he had been plotting against Lord Maxwell. The result of what passed was that Sir Robert wrote to Sir James, and received from him a reply, which Lord Maxwell considered satisfactory as a basis for a private meeting of Johnstone and himself taking place for the purpose of bringing about friendship between them. Sir Robert exacted from Lord Maxwell an oath with his lordship's hand "strekitt" in his hands that neither he himself, nor his attendant, should do any wrong at the meeting, whether they came to an accommodation or not. The meeting was arranged to take place in the afternoon of 6th April, beyond the house of Beal. Each of the principals was to have one attendant. No other person except Sir Robert, who was to mediate between them, was to be present. Lord Maxwell chose Robert Maxwell of the Tour as his attendant.

On 6th April Sir James Johnstone set out for the place of meeting, leaving his best horse behind him. William Johnstone of Lockerbie had come to Lochwood about one o'clock, when Sir James took him out into the close and saying to him, "Ye ar velcum, for I haif ane gritar turne ado with you nor evir I had befor this day," told him he was to meet with Lord Maxwell, that he must ride forward to Lytill Lochwood till Sir Robert Maxwell and himself should overtake him, and let no one know where he was riding. About a mile from Lochwood they overtook him, and they all rode together to Cowart Cross, within a mile of the place where Lord Maxwell and Charles Maxwell were "huiffand" [growing restive] on horse-

back together. Sir Robert Maxwell now desired Sir James and his friend to stop where they were until he returned, or gave them a sign to come forward by holding up his napkin upon the point of his riding switch. Riding forward to Lord Maxwell he told him that Sir James was coming accompanied by William Johnstone of Lockerbie. Sir Robert regretted that Lord Maxwell's attendant was Charles Maxwell, from whose character he was apprehensive that treachery or mischief might arise. He, however, did not express his apprehensions, but again solicited Lord Maxwell to renew his oath of strict fidelity. His lordship having complied, Sir Robert left, and when about midway between the two parties, he gave the preconcerted signal by holding up his napkin on the point of his switch. Sir James and his attendant thereupon rode forward to Sir Robert, who told Sir James that Lord Maxwell, accompanied by Charles Maxwell alone, was at the place appointed waiting for them. Sir James declared that he was satisfied with Charles Maxwell in preference to any other person, because he was John Murray of Cockpool's sister's son. Sir Robert took Sir James's oath of fidelity, for himself and his man, as he had done in the case of Lord Maxwell, by his hand laid in his, whether an agreement were come to or not.

Johnstone and Maxwell having joined company, the attendants of both parties were commanded by their respective chieftains to ride off from them and also from each other. Lord Maxwell and Sir James, after mutual salutations, rode together, Sir Robert being in the middle, suitably to his character as mediator between them. Their backs were turned to the two attendants, but Sir Robert upon looking behind saw Charles Maxwell hurrying towards William Johnstone. Immediately an altercation arose. "Gif I had knawn of this tryist," said the former to the latter, "the Lord Maxwell nather culd nor suld haif brocht me heir." "I hoip in God, Charlis," returned the other in a conciliatory tone, "ye sall nocht rew of your cumming heir! For thir twa noblemen hes bene lang in

variance, and I hoip now thai sall aggrie!" "The lard of Johnstoune," retorted Charles Maxwell in evident irritation, "is nocht able to mak ane amendis for the great skayth and injurie he has done to tham." The other answered coolly, "The lard will do to his power to satisfie the lord and his friends." Charles Maxwell, who was evidently determined to fasten a quarrel on his fellow-attendant, became so irritated in temper, that after several angry expressions he fired his pistol at William Johnstone and shot him through the cloak. In return William Johnstone attempted to fire off his pistol, but it would not go off; whereupon he cried out, "Treason."

Sir Robert, afraid of the consequences of this sudden attack, endeavoured to seize the bridle of Lord Maxwell's horse, but missing it, caught hold of his lordship's cloak, which he held with the design of restraining him from any act of violence, and deprecatingly called out, "Fy! my lord, mak not your self a tratour and me baith." "I am wytless," responded Lord Maxwell. In the meantime Sir James Johnstone had ridden away, and was making for the relief of his attendant, when Lord Maxwell, bursting from the grasp of Sir Robert, hurried after Sir James and fired his pistol at him with fatal effect. Sir James was mortally wounded. He kept his seat on the palfrey for a short time, but the animal growing restive the girths broke, and Sir James fell to the ground. He again staggered to his feet, and while William Johnstone of Lockerbie, who had come to his help, was standing beside him, Charles Maxwell again fired at them together. William endeavoured to put his wounded chief on horseback, but failing to do so set him on the ground, and holding him up inquired what he had to say. Looking up to heaven, Sir James said, "Lord have mercy on me! Christ have mercy on me! I am deceived," and soon after expired. "Come away!" cried Lord Maxwell to Charles. "My lord," answered Charles remorselessly, "will ye ride away and leave this bloody thief behind you?" "What rak of him," said Lord Maxwell, as if his thirst for blood had been slaked by the death of the slayer of his father, "for the other has enough." Then they rode away together.

Both in the letters of horning raised against Lord Maxwell and in his indictment the bullets with which he shot Johnstone are stated to have been poisoned. The former says Lord Maxwell "schott him in at his richt schoulder with baith the saidis twa poysonit bullettis, quhair of the ane remanit in his body, and the other was cuttit out at his right pape." Besides the bullets alleged by the crown authorities to have been poisoned, the evidence also points out that Lord Maxwell and his confederate had their pistols cocked and ready for use hidden under their cloaks.¹ Such was the tragic end of Sir James Johnstone of Dunskillie, knight.

Spottiswoode, who epitomised the character of John, eighth Lord Maxwell, and stated the feeling which was entertained by many regarding his death at Dryfesands, thus both chronicles the character of Sir James Johnstone, his rival, and the public reprobation of the crime which deprived him of his life, and drops an expression of pity over his untimely end. He says, "The fact was detested by all honest men, and the gentleman's misfortune sore lamented; for he was a man full of wisdom and courage, and every way well inclined, and to have been by his too much confidence in this sort treacherously cut off, was a thing most pitiful."²

The treacherous murder of Sir James Johnstone as stated in Spottiswoode, created a great sensation, and swift and rigorous retribution was demanded upon the murderer. Proclamation was at once made against him, and as it was rumoured that he purposed to retire out of the kingdom, precautions were taken to prevent his escape by sea. Another proclamation was made

¹ Depositions of Sir Robert Maxwell of Spottis, and of William Johnstone of Lockerbie. [Pitcairn's Criminal Trials, vol. iii. pp. 43-47. The Book of Carluverock, vol. i. pp. 310-313. Register of the Privy Council, vol. viii. pp. 769-773.] Charles Maxwell received from his lordship on the day of the assassination the five pound land of Numbellie in the provostry of Lincluden, parish

of Kirkbean and stewartry of Kirkcudbright. The charter, which is now at Carruchan, states that the lands are given for a certain sum of money, and also for good, faithful and gratuitous services rendered and to be rendered to him by the grantee. [The Book of Carluverock, vol. i. p. 313.]

² Spottiswoode's History, vol. iii. pp. 191, 192.

to take him alive or dead. The king wrote to the council to make diligent search for his reseters. Letters of horning were raised against him by Margaret Scott, Lady Johnstone, elder, Sara Maxwell, Lady Johnstone, younger, relict of Sir James, and James Johnstone the son, Agnes and Elizabeth Johnstone the daughters, and three other near relatives, and also by the lord advocate for the king's interest. Proceedings were taken against the town of Dumfries and against certain persons for resetting him, and in the case of the former, for demonstrating in his favour.¹

Lord Maxwell baffled all the efforts made to capture him, and escaped to France.² It was then resolved to try him in absence. On 26th January of the following year a summons of treason and forfeiture was issued against him to appear before parliament on 12th April to answer for his crimes. Horning was relaxed against him that he might be free to appear.³ Parliament met and adjourned. On the 17th June when it again met the summons was read, Lord Maxwell was called three times at the tolbooth window by the Lyon Herald and his colleagues, and upon his failure to appear the execution of his summons was verified. On 24th June the trial was resumed, and his lordship was again called three times as before without his appearing. Whereupon, the summons was found relevant, witnesses were examined, and his life, goods, lands, tenements, dignities, offices, rights, and all other things belonging to him, were confiscated. His lands were afterwards parcelled out among court favourites.

Wearied with exile and finding that he was closely searched for in France, Lord Maxwell returned to Scotland in March 1612 broken down in health with his wandering life. Here, however, he was more closely pursued than abroad. A commission was appointed to effect his apprehension, and pro-

¹ Register of the Privy Council, vol. viii. pp. 70, 83, 85, 86, 90, 169, 500, 769-773, etc.

"Lord Maxwell's Good-night." *Vide* Book of Carloverock, vol. i. pp. 314-316.

² His lordship's flight is celebrated in a ballad written about that time entitled

³ Register of the Privy Council, vol. viii. p. 781. Book of Carloverock, vol. i. pp. 316, 317.

clamation was made offering a condign reward to the lasting weal of them, and their posterity, who should accomplish it. Finding himself thus pressed, Lord Maxwell looked to Sweden for an asylum. His kinsman, George Sinclair, Earl of Caithness, offered him the protection of his home, and with a deep sense of gratitude he turned thither. The earl, however, with great baseness, in order to purchase court favour, treacherously apprehended his unsuspecting ward, after first getting him to leave his castle. His apprehension took place in July, and by the instructions of government, he was in September brought by sea to Leith, and lodged in the tolbooth of Edinburgh, where two persons were to remain with him by day and by night.¹

So soon as Lord Maxwell was in custody, James Johnstone of Johnstone, only son of Sir James, and also Sara Maxwell, the widow, and Margaret Scott, the mother of Sir James, petitioned to have the death sentence pronounced against him put into execution. Upon instructions from the king, the council wrote to the petitioners to appear before them, and on 28th April 1613, James Johnstone, the son, his mother, Sara Maxwell, and Robert Johnstone of Raecleuch, tutor of Johnstone, appeared personally and in reply to the council insisted upon the execution of Lord Maxwell for the slaughter of Sir James Johnstone. Margaret Scott, Lady Johnstone elder, excused herself from being present on account of disease and sickness, and craved a commission to receive her declaration. A commission having been sent to her, she also insisted in terms of her petition.²

The council reported what they had done to the king. Their letter, which is dated 28th April 1613, is subscribed by the chancellor and seven members of the council, and is as follows:—

“MOST GRACIOUS SOUERANE,—According to youre Maiesties directioun, we wryte for the laird of Johnnstoun, his moder and goode-dame to vnderstand of thame gif thay wald persist in the persute of that petitioun exhibite vnto your

¹ Book of Carlarock, vol. i. pp. 312, 320. Register of the Privy Council, vol. ix. pp. 359, 360, 461, 744.

² *Ibid.* vol. x. p. 29.

Maiestie in thair names, whairby thai craved iustice to be execute vpon the forfeited Lord Maxwell for the slauchter of the laite laird of Johnnstoun. Thay come all to this burgh and the laird of Johnnstoun with his moder and tutour presentit thame selfis before ws, and declairit that thay wald insist in that persute and prosequitioun of that mater according to the tennour of thair petitioun. The auld Lady Johnnstoun, through seiknes and inhabitee of hir persone being vnable to compeir before ws, haueing with grite difficultie come to this burgh for this same errand, we directit and send the Bishop of Caithnes, the Lord Kildrymmie, and lord preuey seale to hir to vnderstand hir will and pleasoure in this mater; vnto quhome scho declairit that scho come heir purposelie for that mater, and that scho wald insist, accoirding to the tennour of the petitioun; sua that now thair restis no farder bot youre Maiesteis will and pleasoure to be declairit quhat forder youre Maiestie will haif to be done; wherein althocht the conclusion of youre Maiesteis letter beiris that we sould proceed to the administratioun of iustice, yitt in respect of a worde cassin in the preface of the lettre, beiring that your Maiestie had not as yitt gevin a direct ansuer to thair petitioun, we haif presomed first to acquaint your Maiestie afoir we proceed ony forder; and whateuir it sall pleis your Maiestie to direct in this mater salbe immediatlle and without delay execute. Thair was a petitioun gevin in this day vnto ws be Robert Maxwell, bruthir to the said laite lord, with some offeris to the partie; bot, becaus the mater concernit not ws, we wald not mell thairin; alwyse, we haif heirwith send the same to youre Maiestie, to be considerit of as your Maiestie sall think goode. So praying God to blisse your Maiestie with all happynes and felicitie, we rest, your Maiesteis maist obedant subiectis and seruitouris."¹

From the above letter it will be seen that the friends of Lord Maxwell, aware of his danger, exerted themselves to save him by making a series of offers to the Johnstone family on his behalf. These, for the greater effect, they desired to be presented by certain ministers of Edinburgh and some bishops. The ministers, bishops, and other persons of quality in town whom they asked, declined to do so without warrant of the council. Robert Maxwell, Lord Maxwell's brother, petitioned the council to direct some Edinburgh ministers to make the presentation, and to inform the king that his brother was willing to satisfy the offended parties—the Marquis of Hamilton and

¹ Pitcairn's Criminal Trials, vol. iii. pp. 50, 51.

the laird of Johnstone and their friends, and humbly to submit himself to his Majesty.¹ The council did not entertain the petition. The offers therefore probably never came before the family of Sir James Johnstone; but they are of considerable importance, and may be thus summarised:—

“In the first, Lord Maxwell craves pardon for his offence against God, the king, and the surviving relatives of Sir James Johnstone, for the slaughter of Sir James. He testifies by oath that the slaughter was not committed upon forethought felony, or set purpose, but mere accident. For the clearing of this he would purge himself by his great oath in public, and he would do what further homage was thought expedient.

“Secondly, he would, for himself, his kin and friends, forgive the slaughter of the late John, Lord Maxwell, his father, committed by the deceased laird of Johnstone and his accomplices, and give security for the safety of those who were guilty either personally or by art and part in that slaughter.

“Thirdly, as Johnstone, daughter to Sir James, was now left unprovided with a sufficient tocher, Maxwell was willing, the better to avoid all enmity that might arise between the houses of Maxwell and Johnstone, and to establish friendship between them, to marry that fatherless daughter without any tocher.

“Fourthly, he desired that the laird of Johnstone should be married to Dame Maxwell, daughter to John, Lord Herries, and sister-daughter to Lord Maxwell, who was a person of like age with Johnstone. He also became bound to pay to Johnstone of tocher, with his said sister-daughter, 20,000 merks Scots, and any additional sum thought expedient by the advice of friends.

“Lastly, he was content, for the further satisfaction of the Johnstones, to be banished the king’s dominions for seven years, or longer at the pleasure of the laird of Johnstone.

“The offers were to be augmented at the discretion of common friends to be chosen for that purpose.”²

The king’s answer to the letter of the council was an order for the execution of Lord Maxwell. It is as follows:—

“Richt trustie and weilbelovit cosine and counsellour, and trustie and weilbelovit counsellouris, we grete you weel: We haif understood that concerning the mater of the lait Lord Maxwell, the partyis interest haif bene before you and haif

¹ Pitcairn’s Criminal Trials, vol. iii. p. 52.

² *Ibid.* p. 51.

peremptorie answerit that thay will insist in the persute of justice; but concerning the other pairt of oure commandiment whiche wes to do justice yf it wer requirit, we understand nothing bot a delay, which causeth us to wounder that with a persone alreddy convictit and by oure lawis condemned, you sould use suche defferring of the executioun of oure commandimentis. It is thairfoir oure pleasour that you proceede to the dew administratioun of justice in this caise according to the ordour, except the pairty interest require a delay or directlie plead for mercye: And withall we will and require you that in all tyme comeing in suche materis whairin we salbe pleasit to signifie oure pleasour, that you nather borrow nor len with oure commandimentis, but directlie proceid to the executioun thairof. Whiche persuading ourself you will do, we bid you fairweill. At our pallice of Whytehall, the fourte of May 1613.”¹

On 18th May the council issued a warrant for the execution of Lord Maxwell to the provost and bailies of Edinburgh. By that warrant he was to be taken from the tolbooth to the market cross on the 21st and to be beheaded. Lord Maxwell was at once apprised of the decision of the king and council. On the day fixed upon he was brought to the scaffold, where he acknowledged the justice of his sentence, asked mercy from God on account of his sins, and expressed the desire that the king would accept his punishment as an atonement for his offences, and restore his brother and house to the rank and place of his predecessors. He also craved forgiveness first from James Johnstone of Johnstone, his mother, grandmother, and friends, whom he acknowledged he had wronged, although without dishonour or infamy “for the worldlie pairt of it”; and then from Pollok, Calderwood, and his other friends present, to whom he had contributed harm and discredit, instead of safety and honour. After giving himself to devotion, and taking leave of his friends and the bailies of the town, Lord Maxwell placed his head upon the block, and was executed. His lordship was buried in the cemetery of Newbattle Abbey.²

¹ Register of the Privy Council, vol. x. pp. 44, 45.

² The Book of Carlawerock, vol. i. pp. 322, 323. Newbattle Abbey is the property of the Lothian family, and it was probably through the influence of Margaret Maxwell,

With the death of Lord Maxwell, the great Border feud between the Maxwells and the Johnstones, which had raged so long, and with so much fierceness and vindictiveness, terminated. Neither of these two great clans showed any desire to renew the feud which had cost both so much. Robert, tenth Lord Maxwell, who ultimately succeeded to the honours and estates of his brother, being himself peaceably inclined, followed a conciliatory course with the Johnstones, and sought in every way to heal the breach between them. James Johnstone of Johnstone reciprocated the spirit thus shown by Lord Maxwell. Ten years, however, elapsed after the execution of Lord Maxwell before a real reconciliation was made. On 17th June 1623, Maxwell and Johnstone came before the council, and vowed strict friendship for the future.¹

As already related, Sir James Johnstone married, in 1588, Sara Maxwell, daughter of Sir John Maxwell of Terregles, knight, and the first Lord Herries of the house of Maxwell. One of the most common means taken to allay feuds both on the Borders and in the Highlands of Scotland, was that of intermarriage between the families of the antagonistic parties. The feud between the Maxwells and the Johnstones was the most inveterate of all the great Border feuds. There were feuds which occurred during the same period, between other Scotch Border families of distinction, which afford an example of what is stated. The great houses of Scott of Buccleuch and Kerr of Cess-

Countess-Dowager of Lothian, and daughter of John, fourth Lord Herries, that Lord Maxwell's remains found their last resting-place there. The opposite sympathies of the two Maxwell sisters thus become apparent: Sara Maxwell insisted upon the death of Lord Maxwell, Margaret, her sister, now gave him a place of sepulchre.

¹ The feud with the Johnstones, although the greatest of all Border feuds, is not the only one which is associated in history with the Maxwells, and which proved calamitous to the Maxwell family. Towards the close of

the fifteenth century there was a feud of some duration between the Maxwells and the Murrays of Cockpool, ancestors of the Murrays, Earls of Annandale. The origin of the feud is not ascertained. But in the course of it, Cuthbert Murray of Cockpool and his friends waylaid John, fourth Lord Maxwell, and slew his eme (uncle) and others, and did bodily injury to several of his friends. Previous to this, Nicol Maxwell, a son of Robert, second Lord Maxwell, was slain by the Laird of Cockpool at football. [The Book of Carlawerock, vol. i. pp. 150, 151, 159.]

ford were at deadly feud for many years, and their strife was the cause of much bloodshed. Great exertions were made to allay it, but without success. At length several marriages were contracted between them, and that feud was so amicably arranged that no two families on the Borders are in greater accord than the Scotts of Buccleuch and the Kerrs of Ferniehirst.

The same method of composing the serious feud between the Maxwells and the Johnstones had early occurred to John Johnstone of that ilk, who died on the 8th November 1567, as appears from his testament made in the year 1562. He appointed as his executors Nicola Douglas, Lady Johnstone, his second wife, and John, Master of Maxwell. The Master was variously designated Master of Maxwell, as heir-apparent to his nephew, the Lord Maxwell, and Sir John Maxwell of Terregles, knight, from his having married Agnes Herries, the eldest of the three daughters of William, Lord Herries of Terregles, with whom he received a third of the Herries or Terregles estate. He also acquired the remaining two-thirds of that estate from the younger sisters of his wife, and was ultimately created Lord Herries. As warden of the West Marches, he possessed great influence and authority on the Borders. He was an ardent adherent of Queen Mary, and conducted her Majesty to Terregles on her way to England after the battle of Langside. As already related, John Johnstone left his son and heir "in gyding to the Maister of Maxwel, and to be counsalit by my Lord Duke Grace," the Master of Maxwell and the lairds of Drumlanrig and Elphinstone. Among other provisions of his will is the following:—"My said sone and air to marie with the maister of Maxwell." His eldest daughter, Dorothea Johnstone, and her gear, he gave to the Master of Maxwell, who was to provide her in marriage, with the profit of the laird of Elschiesheill's escheat.¹ But it was not until the third generation after John Johnstone of Johnstone that a marriage was arranged between these rival families, when in

¹ Testament, Minutes of Herries Peerage (1876), p. 47. Annandale Peerage Minutes of Evidence, 1876, pp. 46-49.

1588, Sir James Johnstone of Johnstone and Dunszellie, knight, was allied in marriage with Sara Maxwell, daughter of John, Lord Herries. The latter died in Edinburgh upon the 20th day of January 1582. He made his will at Terregles on 26th May of the same year. His lordship thereby ordained his son Edward to pay to Sara Maxwell, his daughter, three thousand merks.¹ Agnes, Lady Herries, survived her husband and died at Terregles on the 14th day of March 1593, having on the previous day made her will there. She had several daughters who received special legacies: one legacy is to Sara, Lady Johnstone, of "ane gown of black grow grain taffitie with aucht ellnes of sating to be ane cloik. . . . Item, to the said Lady Johnnestoun ane pair gold braislatis. She ordainet hir hornets of gold to be diuidit amangs her dochteris."²

This marriage alliance with the Maxwells, although happy in other respects, did not serve to compose the feud between the two families. Sara Maxwell, Lady Johnstone, survived her husband, Sir James Johnstone, who was so cruelly killed by her own chief, John, Lord Maxwell, in 1608. As a member of the Maxwell family she might be supposed to have every feeling of commiseration for the unhappy position of her Maxwell chief as the murderer of her husband. But she, with all her feminine tenderness, even after the lapse of years, concurred with her mother-in-law, Margaret Scott, Lady Johnstone, as the mother of the unfortunate knight of Johnstone, in demanding the execution of Lord Maxwell for his crime; and the insisting of these two ladies that justice should be executed upon Lord Maxwell appears to have had considerable weight with the government in following out the sentence of execution upon his lordship, notwithstanding his earnest entreaties for the sparing of his life and the high pecuniary offers he made to the children and other relatives of his victim.

Sara Maxwell, Lady Johnstone, married, secondly, John, Earl of Wigton, and thereafter adopted the style of Sara, Countess of Wigton. She married,

¹ Minutes of Evidence in Herries Peerage (1849), pp. 56-60.

² *Ibid.* pp. 60-62.

thirdly, Hugh Montgomerie, Viscount of Airds, in Ireland. In the second volume of this work there is the letter of the Viscount proposing marriage to the Countess.¹ There are also two letters of Sara Maxwell, Countess of Wigton, written by her at Lochwood.² One of these is to her son James Johnstone, in 1628, advising him as to Lord Herries, who, she says, has ever been "kittill to deill with." It is not clear to what she refers in her criticism of Lord Herries, unless to negotiations for the purchase of Moffatdale and Evandale, which were proceeding at this time, and which were completed, as previously shown, a year later. The other letter is written in 1632, and is to her husband the Viscount of Airds. It is chiefly taken up with the troubles of her daughter, which had brought her to Scotland, and in which she was concerning herself. This letter, and one from the Viscount to her ladyship,³ evince the sincere and ardent affection which subsisted between husband and wife.

In addition to the letters now mentioned, there is printed with the charters in this work (No. 87, pp. 83-84) a testament of Sara Maxwell, Countess of Wigton, dated 22d April 1628, in which she constitutes her three daughters her only executors, and leaves legacies to them and to James Johnstone, her son. Her last will, however, was made shortly before her death in February 1636. In this will she appoints her "weil beloved sone," James, Lord Johnstone, her only executor and legatee, ordains her body to be buried in the abbey of Holyroodhouse, and makes provisions for her two surviving daughters, Lady Jane Fleming, and Elizabeth Johnstone, Lady Hamilton. She subscribes the will with her hand led by the notary, as she could not write herself for sickness. The will is also subscribed by her son, Lord Johnstone, and her daughter, Lady Jane Fleming, and also by Sir William Hamilton, for his wife, Elizabeth Johnstone.

As this will made James, Lord Johnstone, her only executor and legatee, and took no account of her husband, Hugh Montgomerie, Viscount of Airds, it

¹ Vol. ii. of this work, p. 278.

² *Ibid.* pp. 280, 286.

³ *Ibid.* pp. 284, 285.

might have given rise to controversies in law. To obviate this, the Viscount and James, Lord Johnstone, entered into a contract at Edinburgh, on 7th April 1636. In this contract the Viscount, remembering the great love which was between him and his late spouse, ratified her will, and renounced all claim to the bonds, securities, and others which it contained, with certain exceptions therein specified, and also all goods and plenishings in her dwelling-house at Edinburgh at the time of her decease, or in the place of Lochwood, with all jewels, ornaments, and money, and the maills of her conjunct fee, liferent, and terce lands of the living of Johnstone. In respect of which Lord Johnstone acknowledged the generous behaviour of the Viscount, and for himself and his sisters discharged him of all goods, jewels, ornaments, and money which might be charged against him, and in all actions which might be competent to Lord Johnstone to take against him thereanent, as well as of all funeral expenses, and binds himself to give up an inventory of her goods. Lord Johnstone also ratified certain bonds of provision granted to Lady Jane Fleming. Sara Maxwell, Countess of Wigton, died at Edinburgh on 29th March 1636, and was buried in the Abbey of Holyrood.¹ The following entry occurs in the Register of Burials, and shows her interment there:—

“The twenty-ninth of March this year (1636) died Dame Sara Maxwell, Viscountess of Airdes, sister to John, Lord Harreis, and was solemnly interred in the Abbey Church of Holyroodhouse. This lady was thrice married, first to Sir John Johnstone of the same, and by him had issue James, now Earl of Hartfell, Lord Johnstone, and two daughters; and after his death she married to her second husband, John, first Earl of Wigton, and by him had issue one onlie daughter;² and after his death she married to her third husband Hugh Montgomery, Lord Viscount of Airdes, in the Kingdom of Ireland, and by him had no issue.”

¹ Balfour's Annals, vol. ii. pp. 225-6.

² The issue of her second marriage with the Earl of Wigton was two daughters, Ladies Sara and Jean Fleming. Lady Jean

died at Newbie, the mansion of her half-brother, James, the first Lord Johnstone, on 21st December 1638. [Discharge in Annandale Charter-chest.]

The ceremonial of her interment is recorded by Sir James Balfour, and is here subjoined with a few verbal alterations :—

The funeral of the Countess of Wigton was conducted with some state in the order following. In the front of the cortege were twenty-four poor persons in gowns and hoods, with small staves, on which were displayed her ladyship's escutcheons, lozings, and cyphers, preceded by a conductor in mourning. These were succeeded by a horse of state with a crimson velvet woman's saddle, led by a lackey in livery: a trumpeter, open: a horse in doole, led by a lackey in mourning: the great gumpheon, carried by John Johnstone of Redhall: the standard of the three coats of her several marriages carried by Robert Johnstone of Stableton: the four branches on her father's side, carried chiefly by Johnstones: the four branches on her mother's side, carried by John Home, uncle to James, Earl of Home, and others: four trumpeters in mourning: four pursuivants: four heralds: her coronet, borne on a cushion of black velvet covered with criske by Alexander Maxwell, brother to Lord Herries: the Lyon King-of-Arms and other two: the corpse overlaid with black velvet with cyphers, etc., under a pall of black velvet adorned with a coronet on a cushion overcrisped and borne by twelve gentlemen friends: her daughter by the Earl of Wigton and two ladies with their trains carried by three maids in mourning: sixteen ladies two and two in mourning, and the multitude from St. Giles' Church to the church of Holyroodhouse.¹

Sir James Johnstone and Sara Maxwell had issue one son and two daughters :—

1. James Johnstone of Johnstone, who was created Lord Johnstone and Earl of Hartfell, etc., of whom a memoir follows.
1. Agnes Johnstone. Robert Johnstone of Raecleuch was retoured nearest agnate or kinsman on the father's side to her, and Elizabeth Johnstone her sister. Agnes is not mentioned in the will of her mother in 1628, and had predeceased unmarried.²
2. Elizabeth Johnstone, who married, as his first wife, Sir William Hamilton of Manor-Elieston, Ireland, and had issue.

A tombstone, erected at Johnstone church soon after the assassination of Sir James Johnstone, serves to perpetuate not only the memory of this

¹ Balfour's Heraldic Tracts, 1837, pp. 122-125.

² 2d April 1628, Charters of this Work, pp. 83, 84.

celebrated Johnstone, but also the cruel and treacherous deed which deprived him of his life, and the sweeping condemnation of it which was given by the king and parliament. The inscription upon the stone is as follows :—

“Heir lyis the Ry^t Honorabil Sr James Iohnstone of that ilk, Kny^t, Depairtit [this life] of 39 zeirs: Qvha vas maist tresonabillie mvrtherit vnder traist be the schot of ane pestelat behind his bak be Lord [M]axvel on the 6 day of Apryl, the zeir of God 1608 zeirs. For the crevel mvrther he vas maist ivstlie forfatit of his haile landis, his armeis rivene in parlament, and himself banischit the Kingis dominiovns for the trason don be him.”

The armorial bearings upon the stone consist of two shields of arms: On the dexter side, the Johnstone arms, being the saltire with three cushions in chief. At the top of the shield a large S for Sir. On either side in niches an I for James Johnstone. On the sinister side the Maxwell and Herries arms, being the Maxwell cross and three hurcheons in chief, and three in base, surmounted by a label of three points. At the top of this shield is a large D for Dame. On the dexter side in a niche a large S for Sara, and on the sinister side a large M for Maxwell.

James Johnstone
S

Sara
James Johnstone
M

OF 39 ZEIRS QVH AVAS MAIST RESON ABILLIE
 MVR THE RIT VNDER
 GOD 1608 ZEIRS FOR
 THE GREVEL MVRTH
 ER HE VAS MAIST
 VSTLIE FOR FA
 TIT OF HIS HAILE
 LAND IS HIS AR
 MEIS RIVENE IN
 PARLAMENT A
 ND HIM SELF
 BANISCHIT TH
 E KINGIS DOM
 INIONS FOR THE
 TRASON DON BEHIM
 NO RABITLS & JAMES IOHNS STONE OF THAT ILE
 TRASTIBETHESCHOTO FANEPESTELAT BEHIND
 NVT DEPARTT
 HSBAK BELORD



THE JOHNSTONES AS PEERS OF SCOTLAND FROM 1633.

XVI.—JAMES JOHNSTONE, LORD JOHNSTONE OF LOCHWOOD, 1633,
FIRST EARL OF HARTFELL, 1643.

LADY MARGARET DOUGLAS (DRUMLANRIG), HIS FIRST WIFE.

ELIZABETH JOHNSTONE (ELPHINSTONE), HIS SECOND WIFE.

LADY MARGARET HAMILTON (HADDINGTON), HIS THIRD WIFE.

1608-1653.

CHAPTER FIRST.

Birth of James Johnstone, 1602—Tutorship of Robert Johnstone of Raecleuch—King James interferes in favour of the Minor—Curators appointed, 1617—Marriage with Lady Margaret Douglas, 1622—Resides at Newbie—Purchase of Moffatdale and Evandale—Journeys to Edinburgh and London.

This chief of the Johnstones having been in possession of the Johnstone estates for the long period of forty-five years, acquired more landed property and dignities in the peerage of Scotland than any of his predecessors. As the head of a great Border clan, and as a loyalist under King James the Sixth and King Charles the First in the troublous times of the Covenant and the Commonwealth of Cromwell, the memoirs of his life and actions will require some detail. But it is not proposed to enter at large on the contentious questions connected with the covenanting period unless in so far as this chief was directly concerned in them.

James Johnstone was born in 1602. His succession to the Johnstone estates in 1608 was in very unfavourable circumstances: he was then only six years of age, and owing to the untimely death of his father little or no provision had been made for him. The nearest agnate or heir-male on the father's side was a distant relative, Robert Johnstone of Raecleuch. He was the eldest son of Robert Johnstone of Raecleuch and parson of Lochmaben, the immediate younger brother of the minor's great-grandfather, James Johnstone, younger of Johnstone. The minor having no uncle or

grand-uncle, Robert Johnstone, as his nearest heir-male, in accordance with the law of Scotland, was served tutor to him on 23rd June 1608. Robert Johnstone, who was also appointed tutor to the two sisters of James Johnstone, Agnes and Elizabeth Johnstone, on 21st January 1609,¹ from this time figures in the family writs as "Robert, tutor of Johnstone."

Descended, as the tutor of Johnstone was, from a younger son of the Johnstone family, without inheriting any landed property of his own, it was considered that he had not sufficient position and influence to conduct his tutory in the real interest of the minor. Sara Maxwell, Lady Johnstone, the widow of Sir James Johnstone, and a number of the "best friends" of the family, at a meeting held in Edinburgh, deliberated upon this matter. The minute of that meeting bears, that they knew the weakness of the tutor, and that he was neither fit for the government of the "living" nor for the administration of the other affairs belonging to it; and they foresaw that the debt and burdens, amounting nearly to fifty thousand pounds, were likely to overthrow and ruin the estate. They consequently made an offer to him that if he would quit that office, the mother of the minor would administer the living, entertain the minor and his sisters in meat, clothes, and other necessaries, keep house for him and his friends, defray his charge in all public employments, give him yearly five hundred merks for his purse, and pay yearly four thousand merks of the debt. Robert Johnstone of Raecleuch declined these offers, and took upon himself the office of tutor.

The peculiar circumstances in which the house of Johnstone was placed by the death of the late chief, and the minority of his only son, induced King James the Sixth to take a kindly interest in the minor. Between the years 1608 and 1611 his Majesty addressed several characteristic letters to the lords of council and session, and to Robert, tutor of Johnstone. These letters are printed in the second volume of this work.² The import

¹ Annandale Peerage Minutes of Evidence, 1876, pp. 52, 75.

² Vol. ii. of this work, pp. 13-16.

of the letters was to safeguard the interest of the helpless minor by staying all unnecessary litigations against him during his minority, to warn the tutor to be careful of the minor's education, and of the welfare and continuance of his house, to be honest and faithful in his office of tutory, and not to expect or make gain or aggrandisement for himself. To guarantee the carrying out of these injunctions, George Home, Earl of Dunbar, Lord High Treasurer of Scotland, was appointed by the king to superintend the accounts and proceedings of the tutor. The lords of session gave effect to the letter of the king, and superseded all civil actions against James Johnstone until he was of the age of fourteen years.¹ The timely interposition of the king showed a kind solicitude on his part for the preservation of the ancient house of Johnstone, and his care and consideration of its youthful representative is highly creditable to him as acting a fatherly part to the fatherless young chief.

In one of his letters his Majesty refers to the widow of Sir James having been recently married to "a stranger." This lady has been already referred to in the memoir of Sir James. Sara Maxwell, Lady Johnstone, survived her husband for twenty-eight years, and during all that time she was very devoted to the interest of the Johnstone family. Her jointure house at first, after the death of Sir James, appears to have been the tower of Lochwood. Her ladyship was courted there by John, first Earl of Wigton, and became his countess. "Sara, Countess of Wigton," was her usual signature and designation, even after her third marriage to the Viscount of Airds.

An instance of the great advantage which accrued through her to the Johnstone family may here be noticed. The deadly feuds between the Maxwells and the Johnstones were only too well known, and at first sight it seems rather inexplicable how Lord Johnstone, when he was created Earl of Hartfell, and Lord Johnstone of Moffatdale and Evandale in 1643, should

¹ Act dated 9th November 1611 appended to the original letter in the General Register House.

have specially selected those three long cherished Herries and Maxwell properties as the titles of his dignities. Hartfell forms one of the high mountains of the Moffatdale range, and was for centuries part of the extensive territories of the Lords Herries. Evandale was also for centuries one of the possessions of the Lords Herries, one of whom, Sir David Herries of Avandale, 1464-1484, took his territorial designation therefrom. A letter from John, sixth Lord Herries, to Sara Maxwell, Lady Johnstone, his aunt, in the year 1609, whom he addresses as his "verie honorable guid ladie and loving aint, my ladie Johnistoune, youngair," affords a clue to the apparent enigma of the prominent Maxwell-Herries territories becoming not only the territorial property, but also affording the territorial designations in the peerages of the chief of the Johnstones. In that letter Lord Herries says :— "Your ladyschip moist remember it was conditionat no Johnistoune to posses that landis, bott sik as I sould onlie be contentit with, your ladyschipis selff exceptit allanerlie ; quhilk conditione I sall stand vnto except your ladyschip refus satisfaction."¹

At a meeting of the privy council, held at Edinburgh, on 25th September 1612, liberty to go abroad was given to James Johnstone. It is stated in the Register of the Council in the following curt entry of a single line :— "Ane licence past to the laird of Johnnestoun to pas of the countrey."² At that date the young laird was ten years old, and the licence may have been obtained for the purpose of commencing his foreign travels. But no evidence has been found of his availing himself of the permission.

In 1616 James Johnstone of Johnstone attained the age of fourteen. At the close of that year he applied to the privy council for the appointment of curators. Acting on that application, summonses were issued for the appearance before their lordships of Robert Johnstone of Raecleuch and James Johnstone of Thornick or Lochhouse, as two of the nearest of kin on the

¹ Vol. ii. of this work, p. 276.

² Register of the Privy Council, vol. ix. p. 464.

father's side, and of John, Lord Herries, and his brother, Sir William Maxwell of Gribton, on the mother's side.¹ On 9th December 1617 young Johnstone appeared before the council and made choice for his curators of John, Earl of Mar, Robert, Earl of Lothian, William, Lord Crichton of Sanquhar, Walter, Lord Scott of Buccleuch, John Murray of Lochmaben, Sir John Murray of Philiphaugh, Sir Archibald Murray of Eddilstone, William Murray of Denerne, James Johnstone of Lochhouse, James Johnstone of Westerhall, and Edward Johnstone of Ryhill.² Among these Robert, tutor of Johnstone, is not included, and indeed very shortly after their appointment the curators called for his account of intromissions.

The accounts of the tutor showing his intromissions with the rent and money transactions of the Johnstone estates from the year 1608 to 1617, being ten years inclusive, are still preserved in the Annandale Charter-chest. The accounts are made up in considerable detail, and show that the tutor, during these ten years, had been involved in much trouble in the management of the embarrassed affairs of the minor. The tutor made an attempt in 1610 to get the youthful chief out of the charge of his mother, but it met with no success, and only roused the friends of the family to keener resentment against him as the tutor of Johnstone. One of the Johnstone mansion-houses inherited by the minor from his father was Newbie Tower, near Annan. The continued occupancy of that mansion by its former Johnstone owners was a source of much difficulty. The tower and estate of Newbie were acquired by Sir James Johnstone from them, but they were so reluctant to leave the old tower that legal measures had to be resorted to for the purpose of compelling them to do so. Sir James, as the purchaser, was loth to be hard upon persons of the same name, and, instead of evicting them, agreed that several of the children of the previous proprietor should be brought up at Newbie along with his own children. That arrangement

¹ Original Summons, 24th December 1616, in Annandale Charter-chest.

² Annandale Peerage Minutes of Evidence, 1876, p. 54.

might have worked well if Sir James himself had survived to carry it out. But the tutor was unable to cope with the circumstances, and was subjected to much personal annoyance. This appears from one entry in his account for the loss sustained by him and "be the frendis of Newbie, in horse, steilling of our schiep, hocking of my oxin, cutting of my fischeing nettis, cowing of my horse tails, and breking of my multur house, and steilling of the scheilling and meill, steilling of my plewches, irnes and plewch graith, and layit await for my lyffe ij^m m[erkis]." ¹

The discharge or disbursement side of the account of the tutor shows that he had taken a good deal of trouble on behalf of the minor in bringing Lord Maxwell to justice, and also in making up the feudal titles to the barony of Johnstone and various other lands. There is a general charge made by the tutor for the entertainment of Janet, Mary, and Agnes Johnstone, daughters of the laird of Newbie, for three years at the rate of one hundred pounds, besides gowns for the young ladies.

After these accounts of the tutor were lodged in the Court of Session, a litigation ensued regarding their final adjustment, the friends of the minor being dissatisfied with the management of the tutor. In one paper relating to the accounts, it is stated that for the space of ten years the tutor had never all the time of his intronissions furnished to the laird of Johnstone or his sisters "worthe the price of ane pair of schoes." He took possession of Newbie and its tower, and lived there with his family, refusing to give it up to the curators. Decree of ejectment, however, was obtained against him and his family.² But apparently this decree was not executed, as they continued there under a permit previously received from Mungo Johnstone of Howleuch, the tutor's brother, who claimed a right to the lands from his brother, to remain in the house and mill, etc., till their "elding" was burnt.³

¹ 2000 merks. Original account in Annandale Charter-chest.

² 29th November 1621. Annandale Peerage Minutes of Evidence, 1878, p. 725.

³ 24th November 1621. Original in Annandale Charter-chest.

A submission for a settlement of the questions in dispute was entered into in 1621;¹ but it was only in 1623 that a final agreement was arranged by which, in return for a full discharge of all his intrusions as tutor, Robert Johnstone of Raecleuch with his eldest son, and Robert Johnstone of Howcleuch as representing his now deceased father, Mungo, gave up all claim to the estate and mansion of Newbie in favour of James Johnstone of Johnstone.² The tutor himself died in the following year. As we have seen, the young chief did not choose any of the kindred of his mother, Sara Maxwell, to be curators for him. This shows that the former feeling of hostility between the two houses had not yet given place to one of friendship.

In December 1622 James Johnstone married Margaret Douglas, eldest daughter of William Douglas of Drumlanrig, who was afterwards created successively Viscount of Drumlanrig and Earl of Queensberry. The marriage settlement was arranged at Edinburgh on 27th November of that year, and the marriage was to be celebrated before 1st January following. Newbie Tower was given as the residence of Margaret Douglas in case she survived her husband, with an annuity of six thousand merks, and the tocher given with her by her father was eighteen thousand merks.³

As already stated at the close of the preceding memoir, it was in the year 1623, fifteen years after the murder of Sir James Johnstone and ten years subsequent to the execution of John, ninth Lord Maxwell, that a reconciliation between the Maxwells and Johnstones took place. The credit of bringing about this most desirable and important event is due to the king. That formality and public testimony might be given to the reconciliation, Robert, Earl of Nithsdale, Lord Maxwell, and James Johnstone of Johnstone came

¹ 16th March 1621. Charters of this work, pp. 81-83.

² 22d July 1623. Double of Contract, in Annandale Charter-chest.

³ Original Contract of Marriage, *ibid.* Margaret Douglas was a descendant of the

great first Earl of Douglas and Mar, who was owner of Drumlanrig in the fourteenth century. As will be seen in the memoir of her son, he was married also to a descendant of the same first Earl of Douglas and Mar through the Angus line of descent.

before the council and "choppit hands" in their presence. With a view to having every mark of distrust between the parties removed, the king, with the consent of both parties, withdrew the exemption formerly granted to the Johnstones from the ordinary jurisdiction of the Maxwells.¹ If this reconciliation did not at once lead to friendship between these two personages, it at least terminated their feud.

Some years later, however, the Maxwells appear to have been afraid of a renewal of the feud by some of the surname of Johustone, although on what ground does not transpire. This is evident from a testificate by Sir John Skene, lord clerk-register, that on 15th June 1630, surety and law-burrows were found by James Johnstone, William Storie, Richard Storie, John Johnestoun called of Milntoun, and William Johnestoun called of Brome, his servant, that Robert, Earl of Nithsdale, Lord Maxwell, and fifty-eight others, Maxwells, Grahames, Armstrongs, and Bells, etc., and their wives, bairns, men, tenants, and servants, should be harmless and uninjured.²

The exemption of the Johnstones from the ordinary jurisdiction of the Earl of Nithsdale was subsequently renewed on 17th November 1636, on the petition of James, Lord Johnstone, to the privy council to that effect. This was done, as the council state, for certain considerable respects mentioned in the petition. Before granting the exemption, the council having referred the matter to the king, his Majesty replied that it was his express will and pleasure that Lord Johnstone should have an exemption renewed to him in as ample a manner as the former one was.³

The accounts of expenses of James Johnstone, kept by his chamberlain, show that he visited Edinburgh on 1st June 1629. The journey occupied two days, and he remained in the metropolis till the end of July.⁴ The

¹ Extract from Register of the Privy Council at Terregles.

² Original Testificate in Annandale Charter-chest.

³ Fragment extract Act of Privy Council,

ibid. On the subject of exemption of Johnstone from the Maxwell jurisdiction, further details are given in *The Book of Carlawerock*, vol. i. pp. 335, 336.

⁴ Accounts in Annandale Charter-chest.

occasion of this visit appears to have been to carry out the final arrangements for the purchase from John, sixth Lord Herries, of the lands of Moffatdale and Evandale, which was completed while he was there. It has already been noticed, that it was on Sara Maxwell, Lady Johnstone's account, that Lord Herries was willing James Johnstone should become the purchaser of these lands, and that his lordship had stated that no Johnstone should possess these lands but such as he was content with. This was in 1609. Twenty years after, on 16th and 18th July 1629, three several contracts were entered into between John, Lord Herries, and his son John, Master of Herries, and James Johnstone. In the first of these the lands of Moffatdale and Evandale were sold to James Johnstone for the sum of twenty-seven thousand merks. The second contract recites the terms of the previous one, and subsumes that only two thousand five hundred and fifty merks of the price of the lands had been actually paid, and arranges that the balance be paid to certain persons named therein. The third contract contains an assignation to James Johnstone of the right of reversion of the lands of Blacklaws and Corrifirin, comprehended in the lands of Moffatdale and Evandale.¹ The three contracts were subscribed by Lord Herries at Broughton, and by the Master of Herries and James Johnstone at Duddingston. Resignation of the lands of Moffatdale and Evandale in favour of James Johnstone proceeded upon the contract of sale on 24th July 1629, and on the same day Johnstone received a crown charter of the lands. Sasine followed upon the charter on 4th August 1629.² John, Earl of Annandale, appears to have had some intention to call in question James Johnstone's right to the lands of Moffatdale and Evandale. A summons was issued at the instance of the latter, charging the earl to appear before the lords of council and session, and have the right of property declared.³ Nothing further, however, seems to have been done in the matter. During his stay in Edinburgh in June and July

¹ Original Contract in Annandale Charter-chest.

² Inventory of Annandale Charters, *ibid.*

³ Original summons, *ibid.*

1629, James Johnstone entertained the lairds of Elphinstone and Lamington to dinner at Tranent, attended church there, visited the Earl of Wintoun at Seton, and spent the night at Elphinstone. He and his wife, who apparently was with him, lodged, when in Edinburgh, in the house of John Johnstone. In the accounts of his expenses frequent references occur to payments to the poor folk "at your honours closeheidde." He often entertained friends to supper, not in his own apartments, but in one or other of the taverns of the town, and the lairds of Lamington and Lag and the Master of Herries were his frequent companions.

Johnstone was desirous about this time to be appointed to some such official post about the Borders as his predecessors had held, so as to maintain the prestige of the family, and he solicited to this end the assistance of his friend, Sir Robert Kerr, with the king. Sir Robert applauding his desire, and promising to watch for an opportunity to further it, reminded him that he had still youth on his side, and encouraged him to proceed with patience and industry, though cautiously.¹

Johnstone was occasionally, either singly or conjointly with others, employed in judicial or justiciary work, a few instances of which may be mentioned. On 4th March 1624 he received a commission superscribed by the king to be justice for the trial of Thomas Henderson in Corrie, who was charged with the theft of sheep.² In April 1630 he was requested by William Graham, seventh Earl of Menteith, then justice-general of Scotland, in his Majesty's name, to attend a justice-court to be held on the 20th at Jedburgh. Not only were malefactors to be dealt with, but measures were to be taken for preserving the quiet of the country, and this required the personal presence of the noblemen and gentlemen of that quarter of the kingdom, whereof writes the earl, "yow ar ane speciall."³ Upon another

¹ Vol. ii. of this work, p. 29.

² Original Commission in Annandale Charter-chest.

³ Vol. ii. of this work, p. 30.

special commission received from the king for the purpose, on 13th July of this year, and bearing the royal superscription, he acted as justice along with Sir John Charteris of Amisfield, and Sir Robert Greir of Lag, in the trial of two common thieves whom Johnstone had apprehended and committed to ward in the pit of Newbie.¹

In 1631, the year following, probably in connection with a question of teinds, Johnstone had a meeting with the Earl of Menteith and Dr. Walter Whyteford, parson of Moffat, in Edinburgh, and entertained them to supper. The Earl of Menteith, in addition to other offices, held the position of president of the council. He was at that time at the zenith of his power, and the quality of the entertainment was of a very sumptuous kind, as befitted such a distinguished guest.²

In March following Johnstone made a journey to London, going and returning doubtless on horseback, by Penrith, Catterick, Boroughbridge, Ferrybridge, Doncaster, Grantham, Huntingdon, Cambridge, and Royston. He arrived in London on 26th March, and remained there till about the middle of May. While in London he visited Mr. Robert Johnston, the historian, and on one occasion went to a play at Drury Lane.³

CHAPTER SECOND.

Welcomes King Charles the First to Scotland—Created Lord Johnstone, 1633—Appointed Border Commissioner—Joins the Covenanters, 1637—Member of General Assembly at Glasgow, 1638—Trouble with George Buchanan, minister at Moffat—Maintains a horse-watch on the Borders—Signs Commission to Sir Alexander Leslie, 1640—Signs Cumbernauld Bond, 1640—Attends Parliament, 1641—His Second Marriage, 1643.

When King Charles the First resolved to make his first entry into Scotland in the year 1633, William, seventh Earl of Morton, who was a favourite with his Majesty, and who was promoted to the office of High Treasurer of Scotland, was commanded by the king to wait upon him on the occasion.

¹ Original Commission in Annaudale Charter-chest.

² Account, 23d August 1631, *ibid.*

³ Documents, *ibid.*

The earl, wishing to be accompanied by a number of his noblest and best friends, requested Johnstone to do him the honour to come with a dozen or sixteen of his friends or servants in good equipage to the hill before Ayton, on 12th June. He also asked him to provide some wild fowl for the king's entertainment at Dalkeith.¹ As Johnstone was to receive from his Majesty at this time the honour of the peerage, there is no doubt he cheerfully complied with the requests of the lord treasurer. He probably remained in Edinburgh during the sojourn of the king in Scotland, from 15th June to 18th July. During this time, with a view to honour his coronation, which took place on 18th June, in the Abbey church of Holyrood House, his first parliament, and the place of his birth, King Charles created one marquis, ten earls, two viscounts, and eight lords, besides making fifty-four knights. The lords were, Lords Oliphant, Almont, Johnstone, Pitsligo, Balcarres, Fraser, Corstorphine, and Kirkeudbright.²

The patent of Lord Johnstone, following the usual practice of narrating in a preamble the merits of the person ennobled, sets forth that James Johnstone, his father, grandfather, and others of his predecessors, had performed good and eminent services to the king and his progenitors, especially in commissions in the marches between the two kingdoms, and in assisting in the suppression of certain rebels and outlaws there. It further states that as these services merited some token of royal favour, therefore the king created James Johnstone and his heirs-male Lords Johnstone of Lochwood, with the rank and dignity of Lords of Parliament. The patent is superscribed by the king, and sealed with the great seal at Holyroodhouse on 20th June 1633.³

Two years after his elevation to the peerage Lord Johnstone, in conjunction with several of the more influential noblemen of England and Scotland, was appointed a royal commissioner in reference to the disturbed state of the

¹ 23d May 1633. Vol. ii. of this work, p. 31.

² Balfour's Annals, vol. ii. p. 203; vol. iv. p. 371. The last two are added in the second list.

³ Annandale Peerage Minutes of Evidence, 1825, p. 3.

Borders. The commissioners were empowered to hold courts for the trial and condemnation of malefactors.¹ In 1635 also, Lord Johnstone was one of the jury at the trial of Lord Balmerino. The charge preferred against this nobleman was that of speaking against the king and his council and nobility in a supplication to the king by certain nobles and others which was found in his possession. Lord Johnstone voted against Balmerino at the trial. The latter was convicted, and his case was remitted to the king.²

Baillie mentions that in the autumn of 1638 Lord Johnstone resented, on the part of his country, an act of interference by the mayor of Newcastle, which, had it not been promptly redressed, might have precipitated hostilities. Some Scottish horse-dealers had, as was their wont, attended Maton fair, but in leading their purchases through Newcastle, they were stopped by the mayor, and the horses taken from them. In return for this Lord Johnstone caused the Borderers to stop all traffic of cattle and sheep into England. Meanwhile the Scots represented the business to the Marquis of Hamilton, desiring him to take immediate action. Seeing him hesitate, they told him that if he did not take action, they would go themselves without delay, and fetch not only their own horses, but as many more. Upon this the marquis wrote to the mayor of Newcastle, who at once delivered up the horses, and traffic was then allowed to proceed as formerly.³

In the struggle between the king and his Scottish subjects, which began in 1637, and culminated a year later in what is historically known as the second reformation, Lord Johnstone joined the Covenanters and displayed much activity in promoting their cause. He took his turn in attending as a commissioner at the Tables in Edinburgh which represented the Covenanters in their negotiations with the Scottish Privy Council.⁴

¹ State Papers, Domestic, 1635, p. 510.

² Row's History of the Church of Scotland, Wodrow Edition, pp. 386, 387.

³ Baillie's Letters, vol. i, p. 111.

⁴ There were four committees of presby-

terians appointed to attend to the interests of the Covenanters. These committees were in four different rooms, or at four separate Tables in the Parliament House, and from this circumstance were called Tables. Each

In August 1638, at the urgent request of the Earl of Home, in a letter of the preceding month,¹ Lord Johnstone came to Edinburgh, and was one of those who signed the letter from the Tables on 28th August of that year, recommending and directing the presbyteries to choose and send their commissioners to Edinburgh for the holding of a General Assembly, the king's permission to hold which they expected shortly.² Along with other lords of the Covenant he subscribed a letter written at this time to the Covenanters at Aberdeen by the Tables. The letter is entitled "For information to those who hes subscriyved the Covenant in Aberdeen."³ Lord Johnstone also joined with several other noblemen in a written representation and remonstrance to the Marquis of Hamilton, the king's commissioner, against forcing of the swearing of the king's covenant contrary to the undertaking given by the council.⁴

A list of Covenanters and non-Covenanters in the parishes of the presbyteries of Lochmaben and Annan shows that parties were all but equally divided, there being 1521 of the former and 1513 of the latter; and it is noticeable that in Johnstone, the parish with which Lord Johnstone was most identified, the parishioners were all Covenanters, and followed the example of their overlord.⁵ James, Lord Johnstone, was a member of the famous General Assembly held at Glasgow in November 1638. The Assembly met in the Cathedral of St. Mungo; and Lord Johnstone, with the other lords of the Covenant, sat with the elders and commissioners from presbyteries at a long table on the floor of the cathedral. Lord Johnstone

Table or committee was composed of four persons, and comprised respectively noblemen, gentlemen, burgesses, and ministers. There was a Table of last resort or a kind of second chamber. That chamber consisted of one individual from each of the four Tables. These committees acted an important part in public affairs at this time and proved a powerful organisation, their power being felt over the

whole kingdom.

¹ Original letter in Annandale Charter-chest.

² Baillie's Letters, vol. i. pp. 471, 472.

³ Row's History of the Church of Scotland, p. 497.

⁴ Records of the Kirk of Scotland, vol. i. p. 91. Balfour's Annals, vol. ii. p. 29.

⁵ List in Annandale Charter-chest.

attended the Assembly in his capacity as an elder from the presbytery of Middlebie. He was one of the nobles on the committee appointed to deal with the libel against the bishop of Galloway.¹ There were two cases connected with this Assembly in which Lord Johnstone had a particular interest. Mr. George Buchanan, minister of Moffat, was cited to appear before this Assembly, but he declined their authority. He was cited to appear before their Commission at Kirkcudbright on 8th February 1639, but disobeying this citation also, he was deposed from his charge.²

For a time the parish church at Moffat remained vacant, but, upon a petition from the parishioners, a young man, Mr. John Leirmont, was proposed for the vacancy by the patron. Meanwhile Buchanan obtained letters in his own favour from the king, directed both to Lord Johnstone, as patron, and to Mr. Robert Henderson, as moderator of the presbytery of Lochmaben and Middlebie, discharging them from proceeding with the proposed settlement of Leirmont, and directing them to maintain Buchanan in Moffat.³

Lord Johnstone refused to consent to have Buchanan replaced in Moffat church, and remained unmoved either by the king's letter to him or by the threats made by Buchanan of what he would do in that case. The king's letters to Lord Johnstone and the presbytery are dated respectively at Berwick on 2d and 13th July 1639. On 16th July the presbytery proceeded to ordain Mr. Leirmont. Lord Johnstone was present at the presbytery meeting, and, for his own vindication, took instruments that Buchanan had presented to them the letter from the king, which they confessed. A few days previously, at the presbytery's meeting at Applegirth, he had also taken instruments that the parishioners who had come to seek this settlement had not done so at his instance, but of their own accord.⁴ Mr. Leirmont was

¹ Records of the Kirk of Scotland, vol. i. pp. 109, 151.

² Extract Sentence of Deposition in Annandale Charter-chest.

³ Vol. ii. of this work, pp. 16, 17.

⁴ Documents in Annandale Charter-chest.

now settled as minister of Moffat. As the case was to come before the General Assembly at its meeting in August, Lord Johnstone prepared a statement of the case against George Buchanan. This statement contains a long catalogue of sins and crimes alleged against him. These include Sabbath profanation by gathering in the grain to the barnyard, frequent drunkenness, refusal to baptize the child of a Covenanter, praying that the Covenanters might be converted or confounded, comparing them to Korah, Dathan and Abiram, and going to England as an informer against Scotland.

For these causes Lord Johnstone asked condign censure on Buchanan. Before the case was considered by the church court, additions were made to the complaint against Buchanan, including simony, striking his parishioners for not taking off their bonnets to him, and instances of drunkenness too grotesque for repetition, with various other delinquencies. Buchanan's deposition was confirmed by the General Assembly 26th August 1639, because he declined to obey the former Assembly and continued in his contumacy.¹ This parochial contest between the noble patron and the parson of Moffat, who rejoiced in the classical name of George Buchanan, was a symbol on a small scale of the great national struggle which then engaged the Covenanters and anti-Covenanters throughout Scotland.

From the other case in the 1638 Assembly, in which Lord Johnstone was specially interested, it will be seen that Mr. George Buchanan was not the only minister of Moffat with whom his lordship had a variance. In the accusations against Mr. Buchanan above summarised, it is alleged that he was guilty of simony in having procured the benefice of Moffat through purchase or otherwise, from Mr. Walter Whytford, the former minister of the parish. Lord Johnstone complained of Whytford for obtaining unduly leases of teinds of several lands in the parish, and thereby making his

¹ Documents in Annandale Charter-chest. After the Restoration he received, on 22d May 1661, from Parliament a grant of £100

sterling on account of his loyalty and sufferings. [Acts of the Parliaments of Scotland, vol. vii. p. 234.]

lordship pay more than his due proportion of teind duty and other burdens, including the rebuilding or repairing of the "Quere" of the church.¹

Mr. Whytford, who was afterwards made bishop of Brechin, resolved to obey the order by the king that the Service Book should be read in all the churches, although he was advised by his friends not to do so. He went early to the pulpit with his wife and servants, all armed with pistols, etc., and closed the church door before many of the people had arrived, and read the Service Book. As soon as he appeared again outside, he was mobbed, and was compelled to flee to save his life. He was afterwards deposed on several grounds by the General Assembly.²

The proceedings of Lord Johnstone both at the Tables and at the Assembly, apart from the personal interest he had in the two cases now described, show how firmly he agreed with the Covenanters in their ecclesiastical procedure. He as actively and zealously assisted them in the measures they were compelled to take in support of their principles. When forces were being raised to meet the English army with which King Charles the First was marching against his Scottish subjects, Lord Johnstone raised a regiment in his own country, and was placed in command of the Scottish garrison which was set to watch the English at Carlisle. This garrison was apparently located at Annan, as in the English reports during January and February 1639 Johnstone is said to be lying ten miles from Carlisle, but that personally he had been in that town a good deal of late viewing it from all parts.³ About this time the Covenanters resolved to surprise and take possession of all the fortresses throughout the country which were held by those friendly to the king. The

¹ Documents in Annandale Charter-chest.

² Records of the Kirk of Scotland, vol. i. pp. 26, 27; Baillie's Letters, vol. i. pp. 41, 65, 155.

³ State Papers, Domestic, 1638-1639, pp. 386, 457. By instructions from the

Committee of Estates, Johnstone at this time maintained upon the Borders for six weeks a horse watch, twenty-four in number, to each of whom he paid 24s. Scots per day. In August this troop was increased to sixty horse for fifteen days [Account in Annandale Charter-chest].

castle of Carlaverock, on the Solway, was the only stronghold which they failed to get into their hands. The taking of this castle was intrusted to Lord Johnstone, to whom the task would be congenial, as it was the principal dwelling of his rival the Earl of Nithsdale. Johnstone, who it appears had promised some great exploit in the accomplishing of his task, was not to blame for the failure which attended his efforts. The castle was strong and well kept, and the taking of it would have required cannon, with which Johnstone was not provided, and which could not have been brought from Edinburgh castle without the cost of too much time and expense. Besides, the forces under the command of Johnstone were not so numerous as those employed in the defence of the castle. The truth was that the Covenanters in resolving to take the castle of Carlaverock miscalculated its strength.¹

As is well known, the Scots Covenanters, in order to keep on good terms with their English fellow-subjects, and to repel the accusations of treason and rebellion made against them by the king's advisers, printed their defence and circulated it among the English in the form of a pamphlet. Lord Johnstone forwarded copies of the pamphlet to the mayor of Carlisle, John Aglionby, and also to the custumar, for circulation; but these they impounded. One of Lord Johnstone's colporteurs, however, ventured as far as Penrith on what the mayor designates "his saucy enterprise."²

It is not clear whether Lord Johnstone and his men went with the Scottish army which advanced to Duns, in the month of June, or remained to guard the western road from England. While the army lay on the Borders, efforts were made by certain Scottish nobles of the king's party to draw away Lord Johnstone from the Covenanters. In a letter to the English secretary, Windebank, from his son, who was with the king at Berwick, it is stated that the Earls of Roxburgh and Traquair, having been received into great favour, had undertaken to bring over to his Majesty's party Lord

¹ Baillie's Letters, vol. i. p. 196.

² State Papers, Domestic, 1638-1639, pp. 511-513.

Home and Lord Johnstone, two personages, he adds, no question of very great consideration, if by the power, or rather wills, of their undertakers they may be wrested to the king's service.¹ The efforts of the two earls were not immediately successful, but they seem to have borne fruit later. They aimed at getting Lord Johnstone into personal contact with the king by coming to court. But his lordship was dissuaded from this by Mr. Archibald Johnston of Warriston, who wrote to him on 2d January 1639 as follows:—

“Rather do nobly, as my lord of Montrose has done, who having received a letter from the king himself to go up with diligence to his court, convened some of the nobility, showed unto them both his particular affairs and the king's command, and that according to his covenant of following the common resolution, and eschewing all appearance of divisive motion, nobly has resolved to follow their counsel, and has gone home to his own house, and will not go to court at all.”²

In August 1639, Lord Johnstone probably attended the Assembly as a member, as well as in pursuit of his action against George Buchanan. He certainly attended the parliament which was held at Edinburgh at the same time, and at the riding of it a dispute seems to have arisen between him and Lord Kirkeudbright, who was obliged to ride behind Lord Johnstone, but who protested in parliament for his right to take precedence of him.³

In the following year, 1640, when the Covenanters found it necessary to reassemble their army, Lord Johnstone was one of the estates who signed the commission to Sir Alexander Leslie of Balgony to be lord-general of all the Scottish forces.⁴ He was present at the meeting of the parliament held in June, and was appointed on a committee to consider the commissariat of the army.⁵ He apparently then went home to prepare for the campaign, and from English sources we find that he was expected to bring a contingent of

¹ State Papers, Domestic, 1639, p. 268.

² Montrose and the Covenanters, by Mark Napier, vol. i. pp. 300, 301.

³ Acts of the Parliaments of Scotland, vol. v. pp. 251, 254.

⁴ The Melvilles, Earls of Melville, and the Leslies, Earls of Leven, vol. iii. pp. 164-166.

⁵ Acts of the Parliaments of Scotland, vol. v. pp. 258, 264.

eight hundred men to Jedburgh on July 15th. A fortnight later he was at Hawick, but was obliged to return home, as were also the Earls of Loudoun and Argyll, to take measures for protecting the country against a threatened invasion of the Irish. Two weeks later, on August 12th, he is reported to have come to Jedburgh with five or six thousand men, but whether foot or cavalry the narrator could not say.

On the 17th of that month Lord Johnstone was at Lochwood, where he made his will and settlement of his affairs, being "now, God willing, purposit to go on with the armie whithersoever the samin is boun," and that he might be ready to "encounter death whensoever at the pllesour of God it sall hapen." He had then two sons and four daughters, whose names he mentions, and for whom he says he has that day made provision.¹ He made a new will at Edinburgh on 25th November following in the same terms, only adding a reference to the portions that might fall to the younger children in the event of the decease of their mother, Lady Margaret Douglas, as well as of himself.² In both these wills he appoints that, wherever he might die, his burial should take place within the kirk of Johnstone, his body being transported thither. He also appoints tutors for his children.

In the same month of August, however, Lord Johnstone was at Cumbernauld with Montrose and some others, who there entered into a mutual bond of defence, which was undoubtedly undertaken in the interests of King Charles and against the Covenanters. Lord Johnstone signed the Cumbernauld Bond, as it was called;³ but as the transaction soon afterwards came to light, and was dealt with as treasonable and publicly burnt by the parliament, the bonders were obliged in January 1641 to sign a declaration that

¹ Annandale Peerage Minutes of Evidence, 1881, p. 1055.

² Original in Annandale Charter-chest.

³ The Cumbernauld Bond is printed in full by Mark Napier in his works "Montrose and

the Covenanters," vol. i. pp. 325, 326, and "Memoirs of the Marquis of Montrose," vol. i. pp. 269 n., 270. The other subscribing parties to the bond besides Lord Johnstone are Montrose and seventeen other friends of Montrose.

they had done so under a misapprehension, and that they not only were not accessory to any other bonds save the National Covenant, but would also eschew all occasions which might give cause of offence to the public.¹

Lord Johnstone did not accompany the Scottish army into England which immediately after entering was engaged in the battle of Newburn and capture of Newcastle. These events were followed by negotiations for peace, which were protracted for a year, during which the Scots retained possession of Newcastle, and the greater part of the nobles who had accompanied the expedition were free to return to their parliamentary and other duties. As already noticed, Lord Johnstone was in Edinburgh in November 1640, and in the January following he was present at the meeting of parliament. Lord Johnstone attended several other meetings of the parliament during the year 1641, over the principal of which the king presided. This parliament began on 15th July and continued until 17th November, and was an eventful one. During the session Lord Johnstone was employed in various ways. On 28th July he was placed upon the committee for bills, and also upon another committee of six of each of the estates, who were directed to deal with the cases of the "incendiaries" then in ward, of whom the Earl of Montrose was one. Later, on 14th September, he joined with the Earls of Annandale and Queensberry and others of his neighbours in petitioning the parliament not to allow Cochrane's regiment, which had been placed at Dumfries for the defence of the Borders, to be removed under the General Disbanding Act. To this petition two days later the parliament replied by binding over the petitioners to keep the country free from injury from the garrison of Carlisle, and Cochrane's regiment was ordered to proceed to the Borders, and to get four days' provisions from the country for their march. Before the parliament rose, Lord Johnstone himself tendered a petition for the payment of the "officers of fortune" who had served in his

¹ Baillie's Letters, vol. ii. pp. 468, 469. Those subscribing this declaration were Montrose, Johnstone, and ten others.

regiment during the campaign, which was at once given effect to, parliament ordering that these officers in Lord Johnstone's regiment should have full pay given them. On an earlier application to the committee for the army, some question was raised as to the power of the committee to do what Lord Johnstone asked, while they thought he should explain his not going out with the army, and other points in his petition. The account presented to the committee of estates of the payments due to his regiment for eight months, from December 1639, mentions one lieutenant-colonel, one major, two captains, three lieutenants, and two sergeants. The total of two parts of the pay of these officers for the time stated is £3756, 6s. 8d. Of this sum the public are held to be liable only for the months of December 1639 and January 1640, and the remainder is charged against the shire. There is a charge for a horse watch kept upon the Border by Johnstone in 1639, numbering twenty-four, for six weeks; and also for another horse watch, consisting of sixty horse, kept by Johnstone on the Border for fifteen days. There are also statements of pay to the regiment from 1st August 1640 to 1st September 1641, "being thretein moneths at the lyik pay as the officers was pyed in England." These include payments for a colonel, a lieutenant-colonel, two captains, seven lieutenants, seven ensigns, fourteen sergeants, six captains-at-arms, fourteen drummers and pipers, one minister, one quartermaster, one "scriver," one drum-major, and one provost-marshal. The sum due to Johnstone for the pay of these for the thirteen months is given as £29,181, 8s. 4d. The account was still unpaid in 1648. On 14th January of that year a sub-committee, to whom it was remitted, reported to the committee of estates that they had taken the Earl of Hartfell's word of honour that the number of officers and their pay were correctly stated in the account. The account was thereupon declared a public debt due by the kingdom to the Earl of Hartfell.¹

¹ Account in Annandale Charter-chest. Acts of the Parliaments of Scotland, vol. v. *passim*; Balfour's Annals, vol. iii. pp. 2, 5, 22, 44, 65, 160, 165.

Lord Johnstone was married to his second wife, Elizabeth, daughter of the late Sir Samuel Johnstone of Elphinstone, Knight Baronet, in 1643. The contract of marriage, which is entered into between James, Lord Johnstone of Lochwood, and Dame Elizabeth Johnstone, is dated at the Canongate on 6th March of that year. It provides for the celebration of the marriage between the date of the contract and the 1st of May following. Lord Johnstone obliged himself to infest Elizabeth Johnstone in the liferent of the mains of the barony of Newbie, with the tower thereof, and also in an annualrent of 2500 merks out of the lands and barony of Newbie and lands of Dunskeillie, or out of any part of the same, at the option of Elizabeth Johnstone, who accepts the same in lieu of all other liferent and conjunct fee, and of all terce lands and third of movable goods that may fall to her through the death of Lord Johnstone, and she appoints him her cessioner and donator in all bonds and obligations granted to her, and in all goods and plenishings pertaining to her, with power to him to use and dispone the same.¹

CHAPTER THIRD.

Lord Johnstone created Earl of Hartfell, 1643—Montrose's Raid on Dumfries, 1644—Hartfell warded in Edinburgh—Liberated on payment of £1000 sterling, 1645—Joins Montrose at Philiphaugh—Trial at St. Andrews, December 1645—Sentenced to death—His life saved by Argyll—Remission of balance of his fine.

Although in a formal manner Lord Johnstone dutifully acknowledged the bounty of the king in bestowing on him the peerage of Lord Johnstone of Lochwood, his lordship considered he was entitled to a higher dignity of honour. This appears from his correspondence with Sir Robert Kerr of Ancram, who was created Earl of Ancram at the same time that Johnstone was created Lord Johnstone. Lord Ancram, who was a favourite of King Charles the First, and held office at court, recommended Lord Johnstone to

¹ Original Contract in Annandale Charter-chest.

have patience, especially as his Majesty had so recently "shutt his hand," and that his lordship was too long in starting.¹ In another of his letters Lord Ancram adds that if it were in his power, Lord Johnstone should be "at the topp off honour;" but the king was not of the humour to do things so, and must have time to be solicited and consider of matters before he do them.²

After a lapse of ten years, Lord Johnstone was advanced in the peerage to the dignity of Earl of Hartfell, Lord Johnstone of Lochwood, Moffatdale, and Evandale. The patent of the creation of these peerages, which passed under the great seal and is superscribed by the king, is dated at the king's palace at Oxford, on the 18th of March 1643. The patent narrates the previous patent of Lord Johnstone, dated 20th June 1633, and recites the "many conspicuous services" referred to therein. It further narrates that Lord Johnstone, since receiving that patent, had remained true and faithful in his duty to his Majesty, and had shown sufficient proof thereof, so that he had given the king the greatest satisfaction, and thereby consulted the peace and prosperity of the realm of Scotland. His Majesty, therefore, with a view to stimulate and encourage him and his heirs to persevere in the performance of such excellent services, created him, and his heirs-male, Earls of Hartfell, Lords Johnstone of Lochwood, Moffatdale, and Evandale.³ As already stated, these new honours were all taken from territories which had for ages been conspicuous possessions of the noble families of Maxwell and Herries. This fact furnishes a striking instance of the vicissitudes to which all families are more or less subject. In the present instance, the son and successor of Sir James Johnstone, who was slain by Lord Maxwell in 1608, within less than a quarter of a century, acquires, by equitable purchase from the Lord and Master of Herries, some of the oldest possessions of that distinguished house,

¹ Vol. ii. of this work, p. 290.

² *Ibid.* pp. 31, 32.

³ Charters of this work, pp. 88-90; Annandale Peerage Minutes of Evidence, 1825, pp.

5, 6. The original patent was delivered to the Earl of Hartfell by John, first Earl of Loudoun, chancellor, on 2d June 1643. [Extract Act of Privy Council in Annandale Charter-chest.]



WATERFALL

and in a few years later obtains from King Charles the First the earldom of Hartfell and the lordships of Moffatdale and Evandale.

When William Douglas, Viscount of Drumlanrig, was advanced in 1633 to be Earl of Queensberry, he took his new designation from Queensberry Hill, in Dumfriesshire, which from its summit, 2285 feet above sea level, commands extensive prospects both in Annandale and Nithsdale, and is itself a commanding object for many miles around.

The titles of Hartfell, Moffatdale and Evandale were happily selected. Hartfell is 2651 feet above the level of the sea and is one of the loftiest heights in the Moffatdale range of mountains, which are the highest in the South of Scotland. The dale through which the Moffat water runs to its junction with the Annan is known by the name of Moffatdale, and is remarkable for its wildness and beauty. Near the centre of the dale there issues from Loch Skene one of the finest cascades in the country, popularly known as the "Grey Mare's Tail" from the white appearance of the water dashing down like foam from the high hill of Corrifin on the north side of the valley. The mountains of Moffatdale contain many recesses or caves, which were places of hiding and shelter in the times of religious persecution. Sir Walter Scott in his novel of "Redgauntlet" and other works makes reference to the high hills of Moffatdale; and the Ettrick Shepherd's romantic tale of "The Brownie of Bodesbeck" is well known. Evandale also inspired the Muse of Wordsworth in a beautiful ode to Avon water. One of the large ranges in Moffatdale is Polmudie or Polbuthie, a large grazing farm. After one of his famous battles, in which the good Sir James Douglas did great service to Bruce, the king granted him a charter of these lands. The original charter is still preserved in the Douglas charter-chest, and by the courtesy of the present Earl of Home, a lithograph of it is given in the present work.¹

In 1644, the year following his advancement in the peerage, the Earl of

¹ Charters of this work, p. 8.

Hartfell's loyalty to the king and his separate loyalty to the covenanting party were put to the test. The king had broken with the English parliament, and the parliament of Scotland resolved to side with the parliament of England. In the beginning of January the earl attended the meeting of the Scottish parliament. This parliament authorised the despatch of the Earl of Leven to the Borders to lead the Scottish army into England. It also appointed the Earl of Hartfell to be colonel within the bounds of the Stewartry of Annandale, and recommended him to have a special care to preserve the peace of that country.¹ The earl appears to have been residing at Newbie Tower, when, in the middle of April, Montrose, now acting for the king as his lieutenant-general in Scotland, made a dash across the Scottish Border and unfurled the royal standard in Dumfries. But this move was a rash one on the part of Montrose, as he was immediately thereafter obliged to retreat to Carlisle.

The Earl of Hartfell was certainly connected with this hasty raid by Montrose, and he was thereby brought into trouble with the estates. There are two versions of the story of his connection with it. Montrose declared, and Captain John M'Culloch afterwards confirmed his declaration, "that he had assurance from the Earl of Hartfell of his assistance and raising the country in his favour, but that the earl deceived him, having promised from day to day to draw up his men, and yet did nothing but proved the traitor; and further he said he thought to have betrayed him by drawing him to his house." In sending his report to the king by Lord Ogilvy, who was taken prisoner by the way, Montrose charges him to inform his Majesty of the carriage of Hartfell and others, "who refused his Majesty's commission and debauched our officers; doing all that in them lay to discountenance the service and all who were engaged in it."² Guthrie, too, mentions the Earl of Hartfell as being at this time a favourer of the royal cause.³

¹ Acts of the Parliaments of Scotland, vol. vi. part i. pp. 60, 61, 63, 69, 70, 73.

² Napier's Memoirs of Montrose, vol. ii. pp. 400, 407. ³ Bishop Guthrie's Memoirs, p. 126.

Montrose, with his ardent temperament, was no doubt keenly chagrined in being baffled in his first attempt to raise the royal standard under his commission from the king. On his retreat from Dumfries he reported to the king, as already shown, that Hartfell had refused to recognise his Majesty's commission to Montrose. But Hartfell was not the only nobleman who failed to join Montrose in his hurried attempt to raise the royal standard immediately on his receiving the royal commission. Although Montrose, in his report to the king about the Scotch noblemen who "stumbled his service," mentions Hartfell first, his name is followed by those of Morton, Roxburghe, and Traquair, as having also refused his Majesty's commission and debauched his officers. Montrose likewise reported to the king that the Earls of Crawford and Nithsdale crossed his business and abused him, to the great scandal and prejudice of the service. The Earl of Hartfell was thus in goodly company in the alleged charge against him of refusing to support Montrose as the king's lieutenant-general in Scotland.

In vindication of himself, the Earl of Hartfell denied the charges which Montrose made against him, and affirmed that on his invasion Montrose sent a party to Hartfell's house to seize him, and that he with great difficulty escaped. He also pointed to the intercepted instructions of Montrose as evidently showing what his carriage was at that time and how much he was disaffected to that way.¹

In the conflict of evidence the committee of estates, who found it needful to adopt stringent measures in the circumstances, arrested the Earl of Hartfell and also the laird of Amisfield and the provost of Dumfries. This was in the middle of May, and before they had heard Captain M'Culloch's narrative or received the intercepted letters, so that they must have acted on separate information. The earl was placed in ward in Edinburgh Castle. On 3rd June the estates remitted his depositions to the parliament. When parliament met in June 1644, he petitioned the house either to be put to trial, or to be set at

¹ Petition of Earl of Hartfell, c. 1646, in Annandale Charter-chest.

liberty. At the same time several lords and gentlemen asked permission to visit the earl. On the 19th of that month, he again petitioned to the same effect, stating that he had now been in prison for five weeks. Two days later the house held the petition to be reasonable, and ordained the earl and the laird of Amisfield to be put to trial, as soon as the affairs of the parliament would permit. On 2d July, three members of each of the three estates, including the Marquis of Argyll, were appointed to try them and the provost of Dumfries. On the following day permission was granted to the Countess of Hartfell to remain with her husband in the castle during the pleasure of the parliament.

No further progress was made with his case, and the earl, fearing lest the house should terminate its labours without overtaking his trial, and thus continue him a prisoner, again, on 18th July, petitioned parliament to substitute another nobleman for Argyll on the committee (who was probably too busy to attend to it), or that he might be liberated on sufficient caution before the close of the session. To the former the house agreed by naming the Earl of Dunfermline in place of the Marquis of Argyll, and ordained the committee to meet next day at 7 a.m. But the ordinance appears to have been disregarded, for on the 24th a new petition was presented by the earl, desiring to be put to a trial, or freed from prison, and warded within a mile of Edinburgh. The house at first continued him in prison, and, as they had found matter of procedure against him, ordered his process to be made, and him to be summoned and put to trial. But a few days afterwards, finding they could not overtake the trial, as they rose on the 29th of July, they acceded to the last part of his petition, and remitting the trial of his case to the committee of estates, they warded him within the city of Edinburgh and two miles around, under caution of one hundred thousand pounds Scots to keep his ward and appear before the committee of estates, when required. His cautioners were the Earls of Morton, Roxburghe, Annandale, and Southesk, Patrick, Lord Elibank, and Sir John Dalziel of Newton,

whom he obliged himself to relieve in case he contravened the terms of his liberation.¹

Seven months elapsed before parliament again took up the case of the Earl of Hartfell. His lordship, however, from some unascertained reason, did not during the whole of that time enjoy the restricted liberty granted him by parliament to which allusion has just been made. He was confined to the castle of Edinburgh at least from 27th October to 18th December. This appears from a memorandum holograph of the earl preserved in the Annandale charter-chest containing these two entries:—"My wyfe entered to the castlle wpone Mondaye being 27 October and remained with me to ij November." "I wes relesed frome the castlle 18 December." In addition to these particulars there are in the same memorandum entries referring to payments made by the earl to the soldiers and porter during this period.

These may also be quoted here:—

"Item, to remember the sojaers is payd to the 1 November 1644, and maister poirter to the afoirsaed day.

"To remember the sojers is payed be Hew Scotte to the 1 November, and lyekways the maister porter.

"Item, from the 1 November to the xv, bothe sojers and maister porter is payed be William Little, and thatt samne day Will: Little goote frome me 10 dollors.

"Item, geuine to him att thatt samne tym 10 dollors.

"Item, the maister porter and sojers ar be him [payed] other fourteine days from the xv November to the xxix thereof.

"Item, the maister porter is payed by him other fourteine days from the xxix of November, being Fraydaye, to the xiiij of December, being Frydae, and lyckwys the sojers. Geuine to William Little thatt day 10 dollors."

The only instance of the Earl of Hartfell leaving the town during the seven months referred to was on the occasion of a visit to Lord Elibank at Ballincrief in East Lothian, for a few days in January of the following year.

¹ Acts of the Parliaments of Scotland, vol. vi., part i. pp. 136, 233. Balfour's Annals, vol. iii. pp. 176, 189, 191, 203, 224, 234, 241.

For this visit he obtained on the 17th of that month a permit from parliament. Lord Elibank was supposed to be dying, and some business arrangements affecting the earl required his personal attendance. Parliament was now again in session, and towards the end of February the Earl of Hartfell's case came before them, on a report by the committee of processes, which showed that he desired to be heard before a committee of two of each of the estates of parliament. To this the house agreed, and the committee having at once heard and reported the case, parliament accepted the declaration and offers made by the earl, and liberated him. The earl's declaration was as follows:—

“That whereas he had bene misconstrued and doubted of his affectione to the publict and to the good caus, yit he had not done anything which he conceaved might have ather bred or interteaned such jelousies. And now to testifie his reall affectione to bothe, and to the effect these jelousies might be removed, he did voluntarlie make offer of ane thousand pund sterling to be payed to the vse of the publict, and (in the optioun of the parliament) that he should ather find caution or act himselve and his sone for his good behaviour in tyme comeing under what paine the estates of parliament should thinke fitt.”

This the committee thought reasonable and safe, and after a debate the parliament, on 3d March 1645, ordained the earl, besides the payment of the £1000 sterling, to find caution in £100,000 Scots for his future good behaviour and good carriage, and that he would not do nor be accessory to the doing of anything to the prejudice of the estates of the kingdom and the peace thereof, but would be assisting thereto to the utmost of his power against the enemies of the same. Thereupon the earl was dismissed and granted freedom. His cautioners on this occasion, whom he obliged himself to relieve, will be mentioned afterwards. Balfour says that not only the earl, but also his son was set at liberty on these terms.¹

¹ Acts of the Parliaments of Scotland, vol. vi. part i. pp. 94, 136, 233, 292, 338, 367; Balfour's Annals, vol. iii. pp. 255, 285, 287. The son referred to by Balfour was probably James, Lord Johnstone. William Johnstone, the earl's second son, had been incarcerated in

Soon after being set at liberty the Earl of Hartfell went to Douglas Castle, and there arranged the marriage of his eldest son, James, Lord Johnstone, to Lady Henrietta Douglas, daughter of William, first Marquis of Douglas.¹ Later, in the end of July, he attended a meeting of parliament which was held at Perth, probably on account of the plague then raging in Edinburgh. But this parliament did not sit beyond the first week of August, and the earl then probably returned home.²

Meanwhile the Marquis of Montrose had been pursuing his campaign in the north of Scotland as the king's lieutenant, and had with wonderful rapidity gained successive victories over all the armies sent by the Scottish parliament against him. He now descended upon the south and west of Scotland, and paralysed the country by his crowning victory at Kilsyth on 15th August 1645, which placed all at his mercy for the time. Both Glasgow and Edinburgh submitted, and when Montrose set up court at Bothwell, he demanded and received, in his master's name, the allegiance of the noblemen, barons, and others around. The Earl of Hartfell came thither with others and submitted to him.³ Not only so, but he accepted a commission from him, Baillie says, to raise men in the king's interest;⁴ and he is mentioned as actively exercising authority with other noblemen under Montrose, such as granting a protection to the parish of Lesmahago, and another to the burgh of Jedburgh, and demanding, by a subscribed letter to the governor of Carlisle, under threats of vengeance, the release of the Earl of Queensberry, who was then imprisoned there as a royalist.⁵ He went with Montrose to the Borders in September, and was present, on the 13th of that month, at

Edinburgh castle the previous year at the same time as his father. On 3d June 1644 he was allowed by parliament to retire home, for such necessary affairs as concerned his father or him, and that notwithstanding of any act to the contrary. [Acts of the Parliaments of Scotland, vol. vi. part i. p. 94.]

¹ Contract, dated at Douglas Castle 29th

May 1645, Annandale Peerage Minutes of Evidence, 1877, pp. 576-579.

² Balfour's Annals, vol. iii. pp. 298-307.

³ Napier's Memoirs of Montrose, vol. ii. p. 554.

⁴ Baillie's Letters, etc., vol. ii. p. 314.

⁵ The Douglas Book, vol. iii. pp. 330, 331.

Philiphaugh, where Montrose and his followers, having been caught napping, as Napier admits, were within a month after the victory at Kilsyth defeated, and overwhelmed with disaster. The Earl of Hartfell escaped from the field, but was seized in his flight by the country people, and delivered to the forces of the parliament.

The earl was sensible that in acting with Montrose he had incurred the penalty of the bond for his good behaviour, which he had granted in the previous March. But he says that, in accordance with it, he "did indeavour, and wold haue continowit to [have] behaved my selff as a good patriot, if the fear of a prevaileing enemie laid not involued me, with too many others, eftir the wnhappie conflict at Kilsythe, in the desertione at that tyme."

The trial of the Earl of Hartfell took place at the meeting of parliament at St. Andrews in December 1645. Along with certain other prisoners the earl presented a petition on the 4th of that month to the parliament, desiring that their trial should not be before a committee of processes, as was proposed, but in full parliament, at least that they might be tried by their peers, or by the justice-general; and several exceptions were taken against Sir Archibald Johnston, Lord Warriston, on account of his alleged animus against them, and prejudging of their case, but from these exceptions the Earl of Hartfell dissented. The parliament, however, after considering the petition, refused its prayer in all respects, except what referred to Sir Archibald Johnston, which was reserved, and ordered the trial to proceed. As the result of their trial, the earl and his fellow-prisoners were condemned and sentenced to death. On the 10th the earl petitioned the house for mercy. He acknowledged his offences against the country, and would not extenuate them; but submitting himself, and his life and fortune to their disposal, appealed from the rigour of the law to their absolute mercy.¹ The appeal was in vain. He and Lord Ogilvie were singled out to be the

¹ Acts of the Parliaments of Scotland, vol. vi. pp. 479, 484, 486. Balfour's Annals, vol. iii. p. 328.

first to suffer, and were appointed to be executed on 6th January following. The sentence, however, was never carried out. The night before the day named for the execution, Lord Ogilvie, with the assistance of his sister, who lent him her clothes, and took his place in bed, made his escape out of the castle of St. Andrews; and, says Guthrie, Argyll, conceiving this to be done by the means of the Hamiltons, in whom Ogilvie had special interest, his mother being daughter of Thomas, Earl of Haddington, and himself being thereby cousin-german to Crawford Lindsay, therefore to pay it home, he would needs have the Earl of Hartfell spared, whose death they were thought to thirst after as earnestly as Argyll did Ogilvie's.¹ In this way Argyll was induced to procure the pardon of the Earl of Hartfell.

The imprisonment of the Earl of Hartfell lasted a year, during which time he was confined in the castles of Dumbarton, Glasgow, Edinburgh, and St. Andrews, "with quhat accomodatioune and hardschip," he says, "I neid not express." Meantime his bond for £100,000 Scots for his good behaviour was forfeited, and he was called on to pay the sum. For this sum James, Earl of Home, James, Earl of Annandale, Sir William Baillie of Lamington, and Sir Robert Grierson of Lag were cautioners.² The sum was to be employed partly in paying arrears of the Earl of Lanark's regiment. The Earl of Lanark himself, Sir Adam Hepburne of Humbie, treasurer, and the procurators of the estates petitioned parliament to have the fine exacted. Whereupon parliament summoned Sir William Baillie and Sir Robert Grierson to satisfy their cautionry.³ The earl, in a petition to parliament for mitigation of the fine, explains that the committee of processes would give him no benefit of the Act of Classes, but required payment of the whole £100,000 Scots; that being in "firmance," he could not raise the sum, and that on this account his lands were quartered upon, the loss from which he estimates at £100,000 Scots. On his supplication, the committee of processes, on 1st August 1646,

¹ Guthrie's Memoirs, p. 168.

² Acts of the Parliaments of Scotland, vol. vi. part i. p. 539.

³ *Ibid.*

accepted of present payment of 100,000 merks, and continued the payment of the superplus till next parliament. The earl next petitioned the estates, enumerating his sufferings and losses, namely, the payment of 100,000 merks Scots, and of another 1000 merks Scots, the quartering of soldiers upon his lands, and the rifling the house of Newbie of its silver plate and household plenishings, which he estimated to amount to a loss of £2000 sterling; and praying the estates to remit the balance of his fine, so that his family should not be altogether crushed. He asked further to be "redintegrat to the good opinion of the parliament and reputit be them as ane honest and trew patriot."¹

Parliament agreed to the prayer of this petition, and granted the earl a discharge, in full satisfaction of all sentences formerly passed against him.² Also, in respect of the spoiling of Newbie, which had been done by an English officer named Major Barras, from Cumberland, parliament directed the matter to be reported to the English commissioners, and ordained letters of recommendation to be written in his favour to the committee of Cumberland desiring them to see him restored to the property taken out of his house.³

In addition to satisfying the state, the earl had also to satisfy the kirk for his violation of the Covenant. In obedience to their summons, he, on 18th November 1646, after his liberation from prison by parliament, appeared before the Commission of the General Assembly, whose minutes bear that he then declared his sense of his bygone offence in joining with the rebels, and his willingness to submit himself to the censure of the church for the same. Therefore, the Commission of Assembly remitted him to the presbytery of Lochmaben, that they might enjoin and receive his satisfaction according to the act of Assembly, and appointed the presbytery to return account of their diligence herein.⁴

¹ Petition in Annandale Charter-chest.

² Acts of the Parliaments of Scotland, vol. vi. part i. p. 754. Cf. Annandale Peerage Minutes of Evidence, 1878, pp. 726-728.

³ Acts of the Parliaments of Scotland, vol. vi. part i. p. 827.

⁴ Proceedings of the Commission of the General Assembly, 1646-1648, p. 105.

CHAPTER FOURTH.

The Earl's marriage with Lady Margaret Hamilton, 1647—Commutes tithe payments due to the Crown—Provides a permanent residence for himself in Edinburgh, 1648—His visits to various parts of the country, 1650—Death of his Countess, 1652—His purchases of land and consolidation of his estates—Death of the Earl, March 1653—His children.

Elizabeth Johnstone, Countess of Hartfell, the Earl's second wife, appears not to have long survived their marriage in 1643. There is no evidence of the exact date of her death, but she died before January 1647; for on the 30th of that month the Earl of Hartfell contracted his third marriage. His spouse on this occasion was Lady Margaret Hamilton, daughter of Thomas, first Earl of Haddington, and widow of David, Lord Carnegie. James, Lord Johnstone, is a consenting party, and takes a principal part in the contract for carrying out the obligations to Lady Carnegie. On her part the consenters were her nephew, John, fourth Earl of Haddington, her uncle, and other relations. Lady Carnegie was to be infeft in the Mains and house of Newbie, or if she preferred, in an annuity of 2000 merks, with another liferent annuity of 4000 merks; while as tocher she brought to the earl the liferent use of her teree lands, which were Colluthie, Cruvie, and Segy, also Leuchars-Ramsay, and the castle of Leuchars, but into this she only came after the death of her father-in-law, David, Earl of Southesk.¹ Besides the contracting and consenting parties already named, the contract is signed by many noblemen and friends connected with the two families of Johnstone and Carnegie of Southesk.² The marriage itself took place on the day after the signing of the contract.³

As was done by a number of other large landowners in Scotland, the Earl of Hartfell in this year commuted the annual tithe payment due to the

¹ He survived the Earl of Hartfell.

² Original contract in Annandale Charter-chest.

³ History of the Carnegies, Earls of Southesk, vol. i. p. 113.

Crown from his lands into one present act of purchase, for which he paid 2000 merks.¹

In the following year, 1648, he took up a more permanent abode in Edinburgh under a lease of two separate but adjoining houses, between which he opened up a communication. One of these was leased for five years from Mr. James Primrose, eldest son of the deceased Mr. Gilbert Primrose, clerk to the privy council, and his mother, Janet Foulis, being "the uppermost ludging" in his tenement of land in Edinburgh, "in the cloiss commonly called James Prymrois Cloiss, with the two laich chambers lyand foreanent the turnpyke or entrie of the said ludging," with the yard, cellars, and stables belonging thereto. The other house was leased from Thomas Gilmour, merchant in Edinburgh, and was the middle house of his tenement of land, "in Mowbrayes Close, betuixt the tuo Natherbowes, on the south syde of the kingis hie street." Gilmour agrees to make the connection between the two houses by striking a door through the south end of the said middle house into that belonging to Janet Foulis, to be built up on the earl's leaving. Perhaps the necessary operations were performed by John Mylne, the master mason, as he was a witness to this lease. In a notarial deed the earl's lodging in Edinburgh is described as situated "on the southsyd of the gaitt, a lytel above the Ncthirbow." When the five years of the lease expired the earl was dead, and the houses were then given up by his son and successor.²

With the expedition of this year into England for the relief of King Charles the First, known as the Engagement, the Earl of Hartfell did not meddle apparently one way or the other, but after its overthrow and the resumption of the government by the Covenanters, they put him under a new bond to keep the peace with the penalty as formerly of £100,000 Scots,³ and he was required to contribute for the maintenance of their army.⁴

¹ Discharge, 10th August 1647, in Annandale Charter-chest.

² Documents, *ibid.*

³ Note of bond, 13th December 1648, *ibid.*

⁴ Vol. ii. of this work, p. 34.

Accounts kept by Hew Sinelair, who about this time became chamberlain to the earl, and was continued as such for many years by the second Earl of Hartfell, give in some detail the earl's movements during the last years of his life. He was back in Edinburgh by 29th November 1648, and remained until May following. Mention is made of the purchase of a book called the "Independents Joynter" for £3 Scots, and of another book "called the Confession of Faith" for 12s.; also of two payments for carrying money to the earl's lodging, one of the entries being—for carrying 8000 merks there in a "ereil" by a "pyner," 8s. Scots. Lady Janet, the earl's second daughter, receives £100 which she had disbursed on behalf of her brother, the master, as the earl's second son was styled. On 3d May the earl returned home by Auchinon and Carnwath, where he probably visited his Countess's daughter, thence to Douglas, and thence to Moffat, Lochmaben, and Annan. But he did not remain long, as on the 24th he was again at Moffat for a night on his way to Edinburgh, whither he journeyed by Darnhall, near Eddleston, in Peeblesshire. There is on 29th May a payment made to "William Johnston, the whistler." Later in this year the Earl of Hartfell again visited Annandale, as on 26th October another journey to Edinburgh, this time by the Crook and Linton, is chronicled; and also his return a fortnight later by Carlops, Carnwath, and Pettinain, taking with him 2 books "called the Confession of Faith and two dozen single Catechises."

In January 1650 the earl purchased two pair of pistols from John Faleoner for £66, 13s. Scots; and Sir Lues Stewart's man "for spearing out 4000 merks," probably finding out a lender of that sum to the earl, received £13, 6s. 8d. On 4th April the earl is mentioned as being at Dumfries. On the 19th he started, accompanied by six servants on horseback, for the Merse, obtaining the services of a guide between Newbie and Langholm. At Langholm he stayed for a night, and the sight of "some poor women incarcerated for witchcraft" excited his sympathy, and he gave them £2, 18s. From that place he rode to Selkirk and Kelso, visiting both at Floors and

Home Castles, where he spent three nights, and then pursued his way by Gingillkirk (Channelkirk) to Edinburgh, arriving there on the 27th. He returned to Annan by Linton on the 11th of May, but was again in Edinburgh on 6th June.

There is also an entry in the accounts of payments of pew rents in the Tron or south-east Church of Edinburgh, 1650 being mentioned as the third year in which the earl and his countess had sittings there. Another entry of the purchase of twelve pistols "with hulsters and spaners" for £12, 12s. each, in Edinburgh on the 26th of July is suggestive, as Cromwell was then marching on Scotland, and within a few days afterwards had invested that town. But whether the earl remained and took part in its defence, or now left for his home in Annandale, is uncertain, a hiatus in the accounts occurring at this interesting period.

What took place in the country immediately afterwards is well known—how that after a month's ineffectual siege of Edinburgh Cromwell was forced to retire towards Berwick, and was pursued by the Scots to Dunbar, and how by a false movement the Scots army put themselves in Cromwell's hands and were routed, Cromwell returning victorious to Edinburgh, and by degrees making himself master of the entire south of Scotland. The Scottish court, with King Charles the Second in their midst, retreated northwards and held their parliaments at Perth, one in November 1650 and the next in March 1651. Whether the Earl of Hartfell was present at these does not appear; but at the latter he, or his eldest son, Lord Johnstone, in his place, was appointed Colonel over Nithsdale.¹ When the chamberlain's accounts again resume in April 1651 they show the earl to be travelling sometimes with the court and at other times on his own business. On the 6th April he crossed the Forth to Menteith, and stayed a night at Dunblane, paying a visit to Cromlix, whence he obtained a guide to Drumfada, and travelled thence by Boat of Earn to Perth. He passed the night of the 7th there, and next day

¹ Acts of the Parliaments of Scotland, vol. vi. part ii. p. 655.

came to Dundee, where he remained until the 17th. On the 19th he crossed over to Fife but returned the same day to Dundee, then went to Perth, and after staying several days there came south to Dunfermline on the 26th. Here he rested four nights, and had for his companions the Marquis of Douglas and Lord Mordington. On the 2nd of May they went together to Falkland, and spent one night there in company, the reckoning both there and at Dunfermline being shared equally by the three. Next day the Earl of Hartfell went to St. Andrews *via* Anstruther, where he wished to see Sir Lues Stewart, and after spending two days at St. Andrews he went to Dundee by way of Dairsie. On the 13th he was at Cupar. Returning to Dundee he again went to Perth, stayed there several days, and at this time his two sons are mentioned as being in his company. On the 29th of May he was again in Dundee, on the 3rd of June he was in Perth for two nights, and he came from thence to the parliament, which had been sitting at Stirling since the 23rd of May. He is mentioned as subscribing in parliament the bond for security of religion on 3rd June, along with the Marquis of Douglas and the Earl of Tullibardine. He remained at Stirling until the 10th, and before the parliament rose was placed upon the committee of estates appointed to direct the affairs of the nation until the next meeting.¹ Again he returned to Dundee, staying at Perth for two nights on the way, and remaining at Dundee until the 2nd of July, when he came back to Stirling, where the army was lying, and making secret preparations for its expedition into England. He was on the 5th of July with Lord Ogilvie at Torwood, but for the rest of that month he spent his time in the "Leiger," his lodgings being in the house of Bailie Baird in Stirling. He did not accompany the army into England, but after paying a visit to Rossdhu with the laird of Luss on 29th July, and probably spending two nights there, he came through Kilpatrick on 1st August to Kilmarnock, where he spent the night, and next day journeyed home by Cumnock and Dumfries. The route taken by the

¹ Acts of the Parliaments of Scotland, vol. vi. part ii. pp. 678, 679, 684.

Scottish army in its march from Stirling to Worcester was through Aunandale, and the pastures there suffered severely by its depredations, as well as the inhabitants.¹

During 1652 there is little to record of the earl and his movements. In January of that year he again journeyed to Edinburgh by Wandell and Biggar, spending two nights at Ingliston Bridge; but he returned thence in the beginning of February, spending the night of the 2d at Carnwath, and the next day at Hessilside, the residence for the time of the Marquis of Douglas, who the following day accompanied him to Moffat and Lochwood. Sometime during this year, but before August, the Earl of Hartfell lost his third wife by death. The countess made her will at Edinburgh on 4th July 1648, in which, after recommending herself to God, "beleiveing assuredlie to be saved be his frie mercie throw the onlie merits of Jesus Chryst, my redeimer," and directing her body "to be buried among the faithfull in the most modest way and in the neirest convenient place quhair it sall please God to call vpon me out of this lyff," she appointed her "weilbelouet husband, James, Erle of Hartfell," her only executor, and made a number of bequests to members of his family and also legacies to Margaret, Countess of Carnwath, and Dame Magdalen Carnegie, Lady Kilbirnie, her daughters.²

During his long tenure of the family estates of Johnstone, the Earl of Hartfell, amidst many trials and sufferings in connection with his loyal and covenanting principles, not only consolidated his feudal rights to several of the old Johnstone estates, but also made numerous important additions to them. It is unnecessary to relate the whole of these, especially as the more interesting portions of them have been noticed in the previous part of this memoir, where the acquisition of Moffatdale and Evandale are stated in connection with the peerages of Hartfell, Moffatdale, and Evandale, granted to the earl.

The other lands to which the earl's feudal titles were completed may be

¹ Draft Petitions by parishes for redress, in Annaudale Charter-chest.

² Testament and Latter Will. Charters of this work, pp. 90. 91.

briefly noticed. The lands of Newbie lie near the town of Annan, and were acquired by Sir James Johnstone, the father of the Earl of Hartfell, as stated in his memoir. But the transaction was only completed in the time of the earl, who obtained a Crown charter of them on 8th June 1609. This charter erected the lands into a barony called the barony of Newbie, comprehending, besides the lands and tower of Newbie, the lands of Cummertrees, Stableton, Middlebie, Priestwoodside, and others. The tutor of Johnstone allowed the lands to be appraised from his ward, and they were for a time possessed by the tutor's nephew, Robert Johnstone, son of Mungo Johnstone of Howcleuch. Johnstone, however, on reaching his majority, refused to ratify the proceedings, and this led to the ejection of the tutor and his friends already described. The lands were, in 1627, in virtue of a decret-arbitral, disposed to Johnstone by Robert Johnstone for the sum of 16,500 merks, and Newbie thereafter became the chief residence of Johnstone.

On 17th February 1609, Johnstone received a Crown charter of the lands of Knock, Crooks, Crossdykes, Crossdykerigs, Persbiehalls, Hennelland, Ersbank (Archbank), Dryfesdale, Leverhay, Brumell, Brigmure, Bonschaw, and Dumbretton. These lands, situated in different parishes, and in the dale of the Esk, were by this charter erected into the tenantry of Knock.¹

In 1623, the land of Mossknow, in the parish of Kirkpatrick-Fleming, was renounced in his favour by Francis Irvine of Sackrigs. In the same year Johnstone acquired the lands of Corrie from George Johnstone of Gritheid, called of Corrie; and in 1628 he purchased from Sir William Grierson of Lag the lands of Kirkbriderig. In 1632 Johnstone obtained a number of lands. From Adam Cunningham of Woodhall, superior, he received a charter of Dornagills, Kirkgill, Abisterland, the kirklands of Wauchope, and Buragis of Stapilgordon, in Eskdale. From Thomas Johnstone

¹ The lands of Knock and others were acquired by Sir James Johnstone from Margaret Moffat of Knock; and Bonschaw and Dumbretton were resigned for the purposes of this charter. The lands of Knock were long contested by the Earl of Nithsdale and Johnstone of Westerhall.

of Bearholm he acquired Easter Kinnelhead, and from Robert Somerville of Carswell, Biggarts in the parish of Kirkpatrick.

At this time also there was a discussion between William Douglas, Viscount of Drumlanrig, and Johnstone, about the lands of Lochhouse, Thornick, and others. The lands were claimed by both parties. But by the decision of the privy council Drumlanrig prevailed in the contest, and thus acquired a considerable extent of territory in Annandale in addition to his great estates in Nithsdale. The Johnstones were so disappointed, that these lands, which were Johnstone property, and surrounded by Johnstone property, should be added to those of Drumlanrig, that they remonstrated with him about it, but without effect, and applied the uncomplimentary sobriquet to him of "the deil of Drumlanrig." Lochhouse, with the other Johnstone properties thus acquired by Drumlanrig, descended to the late Duke of Buccleuch and Queensberry as part of the great territorial Dukedom of Queensberry.¹

In 1633 Johnstone purchased from James Johnstone of Westerhall the lands of Craigaburn, Craigamyre, Connelbeck, Daligair, and others, in the parish of Moffat; and from James Johnstone of Chapel the lands of Chapel and Coittis. In the following year he added to his possessions of land the superiority of the lands of Hutton-under-the-Muir, which he bought from William, Earl of Morton; also the lands of Broitts, Broitleuch, and Broithill, in the parish of Kirkpatrick-Fleming, from Jaffray Irving of Broitts; and the lands of Milton, Miltonholms, Craigiellands, Marchbanks, and others, in the parish of Kirkpatrick-Juxta, from Samuel Johnstone of Sheens.

In 1637 the Earl of Hartfell acquired by purchase from Sir John Charteris of Amisfield, Dryfeholm, Beckhouse, Dryfesdale, Torwood, Rethill,

¹ The late Duke of Buccleuch shortly before his death sold the Lochhouse lands, with the old tower of that name, to Mr. Younger of Auchincas, whose property they

adjoined. His Grace was very considerate to his Annandale neighbours by excambions of his Annandale lands as accommodations to them.

and other lands in the parish of Dryfesdale, etc. In 1644 he purchased from Alexander Jardine of Applegirth the lands of Sibbaldbie, comprehending the lands of Cleuchheads, Belcathill, Newbigging, and many others, all formerly in the parish of Sibbaldbie, but now in Applegirth.

Besides this vast extension of his territories in the county of Dumfries, the Earl of Hartfell also secured an interest in the county of Lanark, by the acquisition in 1634 of the lands of Raecleuch in the parish of Crawford. The tutor of Johnstone's son had allowed these and other lands to be appraised from him for debt, the right to which appraising was purchased by the Earl of Hartfell in 1636.

In 1635 the earl exchanged the lands of Allarbeck and Bellochard with William Irvine of Bonschaw for those of Rockhallhead, Corthat, and Haregills; and with the Johnstones of Vicarland, in 1639, he exchanged Craigielands and Canteknow for parts of the lands of Millholm, Hallholm, and Mains of Moffat. All these acquisitions of land greatly increased the power and prestige of the Johnstone family, and gave a territory worthy the dignity of being created into an earldom.

The chamberlain accounts show that the Earl of Hartfell went to Edinburgh in the end of November, and remained there until March following. The lease of his mansion-house in Edinburgh extended to Whitsunday 1653, when it terminated. There are the following entries in the chamberlain accounts. On 25th September 1652—"Item, for towes and vtheris to pak the furniture in the loading for transporting it to Annandail." On 19th January—"Item, to James Farreis to carrie his charges and 4 horses with him fra Edinburgh to Newbie." These removals of furniture must either be consequent upon the recent death of Margaret Hamilton, Countess of Hartfell, and the disposing of her furniture and goods in terms of her will, or, as is more probable, the resolution of the earl to give up his house in Edinburgh at the expiry of the lease in the month of May. But the earl did not live till then. In January he was in failing health.

On the 26th of that month the accounts record payments made to Doctors Sibbald, Hay, and Cunnyngame, of fifteen dollars to each of the two former, and of ten dollars to the latter. There is also at the same date a payment made to the earl himself at "your goeing fra Edinburgh." On 7th March there are payments which indicate that on account of his sickness the earl removed to the house of Patrick Vans, his cousin.¹

The first Earl of Hartfell died in April 1653, probably at Newbie. Of his three marriages already noticed he had issue only by his first wife, Margaret Douglas, two sons and three daughters. These were:—

1. James, second Earl of Hartfell and first Earl of Annandale, of whom a memoir follows.
2. Lieutenant-Colonel William Johnstone, of Blacklaws, who was probably named after his maternal grandfather, William Douglas, first Earl of Queensberry. He purchased, in 1647, the lands of Blacklaws in Evandale, from James Johnstone of Corhead. He afterwards went abroad, and was Lieutenant-Colonel in the Scottish regiment in the service of the King of France commanded by Lord George Douglas, and known as the Douglas regiment. He took part in a campaign in Spain. He was for some time styled Master of Johnstone, while apparent heir to his brother in that title. He died at Newbie without issue in December 1656.
1. Lady Mary Johnstone, who married, first, Sir George Graham of Netherby, in the county of Cumberland; and secondly, Sir George Fletcher of Huttonhall, also in Cumberland, and had issue to both. She was alive in 1680, when as Lady Fletcher she is described as the aunt of William, second Earl of Annandale.²
2. Lady Janet Johnstone, who married on 6th February 1653, William Murray of Stanhope, in the county of Peebles, and had issue.
3. Lady Margaret Johnstone, who married, contract dated 11th October 1654, Sir Robert Dalzell, younger of Glenae, son of Sir John Dalzell of Glenae. The chamberlain accounts for 16th December 1654 contain this entry:—"Item, to Lady Stanhope at your lordship's direction, which

¹ Chamberlain Accounts in Annandale Charter chest.

² *Ibid.*

she debursit for Lady Margaret hir sister's black gown before marriage, £28." Lady Margaret died without issue in October 1655.



Elizabeth Johnston & J. Hamilton

THE FIRST EARL OF ANNANDALE, VISCOUNT OF ANNAN, AND LORD LOCHMABEN
(NEW PEERAGES).

XVII.—JAMES, EARL OF ANNANDALE AND HARTFELL, VISCOUNT OF ANNAN,
LORD JOHNSTONE OF LOCHWOOD, LOCHMABEN, MOFFATDALE, AND EVANDALE.

LADY HENRIETTA DOUGLAS, HIS COUNTESS.

1653-1672.

CHAPTER FIRST.

Prospective view of his life—His birth, 1625—His various designations—His attitude in his youth to public affairs—Imprisoned for complicity with Montrose, 1644—Taken prisoner in the rout at Philiphaugh, 1645—His marriage with Lady Henrietta Douglas, 1645—Terms of the contract of marriage—Succeeds his father in 1653—Change in the form of retours of service under Cromwell—Retour of the Earl—Feudal forms in making up title-deeds during the Commonwealth—Member of parliament, 1654—Fined £2000 sterling—His fine reduced to £500—Appointed a commissioner for the shire of Dumfries, 1655 and 1659—Petitions Cromwell's council for Moffat Well, 1657.

The life of this chief of Johnstone marks an epoch in the history of his family. While still under age he made an auspicious marriage with a bride of the great house of Douglas, who was at the time between twelve and thirteen years of age. Of that youthful marriage there was eventually the large family of eleven sons and daughters. The eldest surviving son was raised to the dignity of Marquis of Annandale, and held many of the highest offices of state. The present young chief became involved with his father, both in the troubles of the Covenant and of the Cromwellian government. But at the Restoration, in 1660, he received from King Charles the Second the three additional peerages of Earl of Annandale, Viscount of Annan, and Lord Lochmaben. He also received the high offices of steward of Annandale and hereditary keeper of the castle of Lochmaben, and the erection of many baronies and regalities, including the regality of Moffat. The dominant and ardent desire of his life was that all his peerages of Johnstone and Hartfell, which were inherited by him from his father, as well as

the three additional peerages of Annandale, Annan, and Lochmaben acquired by himself, and also his large landed estates in Annandale, should descend to, and be inherited by, the heirs of his own body, as well sons as daughters, and even by the children of his sisters. He believed that he had secured this arrangement in the years 1657, 1661, and 1662, by resignations of the peerages and estates, and new grants of them, which included the succession to them of the heirs male and female of his body. This was in the future to be a distinguishing feature of the occupancy of his peerages and estates, that they were to be inherited by his heirs-female even to the broad limitation of heirs whomsoever, while he himself had inherited them under limitation to heirs-male alone. The change which this Johnstone chief thus effected, as it has an important bearing on the subsequent history of the Johnstone family, will be unfolded in detail in the course of this memoir.

James Johnstone, younger of Johnstone, was born in the year 1625. Judging from his subsequent correspondence on the business of the large landed estates of Annandale, and also from his management of the public business of the country in which he was officially engaged, he appears to have received a liberal education. No accounts, however, have been found which would show at what university his studies were pursued. His son, the first Marquis of Annandale, was educated at Glasgow University, but the records of that great seat of learning do not afford any evidence that he himself was educated there. This Johnstone chief had various designations at different periods of his history. For the first eight years of his life he was known, according to Scotch practice, as James Johnstone, younger of Johnstone, or the Laird of Johnstone, younger. For the next ten years from 1633, when his father was created Lord Johnstone of Lochwood, he was called the Master of Johnstone. For the ten succeeding years from 1643, when Lord Johnstone was created Earl of Hartfell, he was designated by the courtesy title of Lord Johnstone; and for eight years thereafter, from 1653, when his father died, his appellation was Earl of Hartfell. In 1661 he was created

Earl of Annandale and Hartfell, Viscount Annan, and Lord Lochmaben which continued to be his designation till the close of his life.

When his father was arranging to join the army of the Covenant, "whithersoever the samin is boun," in August 1640, he made his latter will and testament, appointing his son, the Master of Johnstone, the only executor of his large estate. As the Master was then under age, his father showed great confidence in the prudence of his young son to intrust to him this important office.

Four years later he was involved, with his father and only brother, Colonel William Johnstone, in the varying struggles between the royalists on the one side, and the covenanters on the other: but he took no prominent position in these struggles. He was imprisoned with his father in 1644, on suspicion of complicity in Montrose's attempt on Dumfries. After the battle of Kilsyth in August 1645, he joined Montrose and assisted him at Philiphaugh on the 13th of September, where he was captured, and incarcerated in different castles for a considerable time. But parliament did not take proceedings against Lord Johnstone as in the case of his father.

In the month of May, less than four months previous to his capture at Philiphaugh, Lord Johnstone allied himself in marriage to Lady Henrietta Douglas. Her ladyship was the eldest of the six daughters of William, first Marquis of Douglas, by his second marriage with Lady Mary Gordon, third daughter of George, first Marquis of Huntly. This marriage of Lord Johnstone and the previous marriage of his father, the Earl of Hartfell, with Lady Margaret Douglas, of Drumlanrig, brought the Johnstones into close alliance with the Douglasses, including William Douglas, Earl of Selkirk and Duke of Hamilton. Lady Margaret Douglas was descended from James, the second Earl of Douglas and Mar, who was the hero of Otterburn in 1388, while Lady Henrietta Douglas was descended from William, the first Earl of Douglas and Mar through the Douglas line of the Earls of Angus. The marriage contract between James, Lord Johnstone, and Lady Henrietta

Douglas was formally made at the castle of Douglas on the 29th of May 1645.¹ The parties to the contract were James, Earl of Hartfell, for himself, and taking burden for James, Lord Johnstone, his eldest son, and also Lord Johnstone for himself, with the consent of his father, his tutor and administrator, for his interest, on the one part, and William, Marquis of Douglas, Earl of Angus, for himself and for Lady Henrietta Douglas his daughter, and she for herself, with advice and assent of her said father, tutor and administrator, for his interest, on the other part. As already stated in the preamble to the memoir, both the bridegroom and bride were minors at the time of the marriage, the former being twenty years of age and the latter twelve or thirteen.

By the terms of the contract of marriage and in accordance with the usage of that time, sanctioned by the Church of Scotland, Lord Johnstone and Lady Henrietta became bound to complete and solemnize their marriage "in face of Christ his kirk and congregation, as God by his word has appointed." The Earl of Hartfell obliged himself to infeft Lord Johnstone and Lady Henrietta Douglas, and the survivor of them, in conjunct fee, and the heirs-male of their marriage, which failing, Lord Johnstone's heirs-male whomsoever, in a variety of lands, including the manor place of Lochwood, in the parishes of Johnstone, Kirkpatrick-Juxta, and Wamphray, and within the barony of Johnstone, stewartry of Annandale, and shire of Dumfries; also the lands and tenements of Hutton-under-the-moor, Dryfesdalehead and Achinstork, and the tenement of Corrie; also the lands of Sibbaldbie and others. The earl reserved his own liferent of Hutton, Dryfesdale and Corrie, and also warranted the lands provided in conjunct fee to Lady Henrietta Douglas to be of the value of 8000 merks yearly, and the remaining lands to be worth to Lord Johnstone 12,000 merks yearly. The contract provides that in case there be no heirs-male of the marriage but only daughters, Lord Johnstone should pay to them at the age of fourteen, if one daughter 30,000

¹ The contract is recorded in the Books of Council on 21st November 1648 [Annandale Peerage Minutes of Evidence, 1877, p. 576].

merks; and if two, to the eldest 25,000 merks, and to the other 15,000 merks; and in case there be more than two daughters he was to pay to them 45,000 merks, namely, to the eldest 20,000 merks, and among the rest the remainder of the sum in equal divisions. The Marquis of Douglas on his part bound himself to pay as tocher to the Earl of Hartfell 26,000 merks Scots; and Lord Johnstone and Lady Henrietta discharged the Marquis and Dame Mary Gordon, his spouse, of all further claims. A charter was given by the Earl of Hartfell to Lord Johnstone and Lady Henrietta in terms of the contract of marriage, containing precept of sasine. That charter is dated at Lochwood 4th June 1645.¹ The marriage between Lord Johnstone and Lady Henrietta Douglas was duly solemnized in terms of the contract in 1645, and it appears to have been a very happy union.

On the death of his father, James, first Earl of Hartfell, in April 1653, Lord Johnstone succeeded to the peerage of Hartfell and the Johnstone estates, as second Earl of Hartfell. He expedie a service at Lochmaben on 25th October 1653 before the Sheriff of Dumfriesshire, who, at an inquest, made a retour that the deceased James, Earl of Hartfell, father of James, now Earl of Hartfell, died seized as of fee in the lands of Johnstone and others therein described; that James, now Earl of Hartfell, is nearest and lawful heir-male to his father in these lands; that the lands are now held of the keepers of the liberties of England in place of the late king; and that the late Earl of Hartfell died in the month of April 1653.² A precept was issued on 31st October 1653 by the keepers of the liberties of England for infesting his lordship as heir to his father, James, Earl of Hartfell, in the lands and barony of Johnstone.³ Sasine followed on the precept on the 8th, 9th, and 10th November ensuing.⁴ The feudal title of the second Earl of Hartfell to his landed estates was thus formally completed.

¹ Charter in Annandale Charter-chest.

² Annandale Peerage Minutes of Evidence, 1876, pp. 58-61.

³ Annandale Peerage Minutes of Evidence, 1878, p. 711.

⁴ *Ibid.* p. 714.

During his protectorate, Cromwell changed the forms of retours of service by heirs to their ancestors. He provided that the retours should in future be written in the English instead of the Latin language. The service of the second Earl of Hartfell, as heir to his father, was amongst the earliest of the retours framed according to the new rules, and great care was taken accurately to observe them. Commissary Nisbet, the eminent lawyer, was consulted for "two whole days" regarding the service to be expedited.¹

Several sums were necessarily disbursed in the expediting of the service of the Earl of Hartfell. After the lapse of two centuries it may be of some interest to recall a few of these payments as showing the feudal forms observed in the early years of the commonwealth in making up the title-deeds to the extensive Annandale estates. A month after the long consultation with Commissary Nisbet, payments were made as follows :—

"1653, October 25th. To the clerkis of your lordships services at Lochmaben for 3 instruments taken in the church; first, for two protestations againes the service; 2, at the taking of the inqueists, oathes, and the chancelloris report, £4, 10s. 0d."

"For William Chalmers charges at Lochmaben and Dumfreis for 2 nights for his horse and James Murrayes, £9, 4s. 0d."

"1653, October 27th. To him at his going bak to Edinburgh from Newbie for his paines taken and expensis in puting your lordships service in forme, altho ther wes faltes afterward mendit therein be Andro Mairtein, inde £200, 0s. 0d."

"1653, November 9th. For Captain Greins charges, his mans, James Murray, and vther witnesses to your lordships infestments in Moffetdaill and Evandaill, Lochwood, Lochsyd, Brounhill and Newbie, £8, 7s. 0d."

"To William Maxwell in Lochmaben for the expense of meit and drink furnished be him ther, the day of your lordships being served aire, inde £120, 0s. 0d."

¹ This long consultation was held on the 19th and 20th September 1653, and the Commissary's fee was £30. [Accounts in Annandale Charter - chest.] The learned

Commissary was afterwards promoted, first, to be Lord Advocate, and then a Lord of Session under the title of Lord Dirleton.

In the following year one more payment was made in connection with the earl's retour of service. It is thus entered in the account of the Annandale chamberlain under date

"1654, Februarii 18th. Item to Andro Mairtein, writer, for his paines taken in righting your lordships retours and helping of the service which wes severall wayes wrong, £66, 13s. 4d."

In the years 1654 and 1655, the Earl of Hartfell was largely occupied and put to much trouble negotiating the remission of a fine with which he was burdened in the following circumstances: Cromwell's council of state by "An ordinance of pardon and grace to the people of Scotland," dated 12th April 1654, imposed heavy fines on the Scottish nobility and gentry to be paid in two moieties on 2d August and 2d December following respectively, under penalty of confiscation of their estates.¹ The Earl of Hartfell, whose fine amounted to £2000,² in common with others also fined, felt aggrieved, and applied to the council to be relieved from the fine. The council remitted the subject to a committee. In the meantime the Earl of Hartfell was not idle in the matter, as the following excerpts from his chamberlain's accounts for the period will show:—

"1654, June 27th. To Mr. Mosley, clerk to the fynes, for his favour to your lordships particulars in these,	£30 0 0
"To his man, a dollar,	2 18 0
"Item in drink, etc., to a four houres with him,	6 7 0
"1654, October 16th. Item to Mr. Mosley, clerk to the fynes, at the extracting of your lordships report of freedom of the fyne, 10 dollors,	29 12 6
"Item to his deput for an extract of the wholl papers given for your lordship to the commissar,	6 0 0" ³

¹ Acts of the Parliaments of Scotland, vol. vi. part ii. pp. 817-820.

² In an account of his sufferings and fines which the Earl of Hartfell afterwards made use of in his claim for compensation, he states that his fine amounted to £4000 sterling

"thereafter by publict act restricted to £2000." [Annandale Peerage Minutes of Evidence, 1878, p. 733.]

³ Accounts in Annandale Charter-chest. One of the English judges appointed by Cromwell to administer the law at Edin-

On 9th March 1655, Colonel Jones gave in the report of the committee to whom the matter of the fines had been referred, in five articles. By the first article of the report the fine of the Earl of Hartfell was reduced to £500. This reduction was sanctioned by the council of state.¹ His lordship, who was still dissatisfied, renewed his application and made considerable exertions to have the whole amount of the fine remitted. He went to London that he might personally attend to the business. In a letter which he wrote on the subject to Hew Sinclair, his chamberlain, on 24th July, he states that he had delivered a letter from Mr. Howard² with a new petition to Cromwell, and he was that night or next day to get his answer, which he feared would be the same as he formerly apprehended. In support of his fears he states that his countryman, who had shared deeply in his last fine, was obstructing any favour promised or intended by the Protector, and he saw no prospect of success unless Mr. Howard was present in London. He refers to the English council as possessed of an opinion of his "abilitie to satisfye, and deserved suffering," and adds, "For monay I cannot lay doune a course for it except freinds wold lay ther heids together and everie one advance a shaire in so greatt ane exigency." The earl wrote to Mr. Howard to write to four of the council on his behalf.³

A few weeks later, on 7th August, the Earl of Hartfell wrote to his burgh was named Mosley. It was probably this judge, or a relative of his, who was the clerk of the fines referred to in the above excerpts. The clerkship was a lucrative office. It was a boast of the time that Cromwell's English judges gave satisfaction to the people of Scotland, and were more just lawyers than the Scotch judges. One of the latter being taunted with that fact, explained it by the uncomplimentary remark that Cromwell's judges in Scotland were "*a pack of kithless loons*," and had no relatives to require judicial jobs.

¹ Acts of the Parliaments of Scotland,

vol. vi. part ii. p. 845. Annandale Peerage Minutes of Evidence, 1879, p. 766.

² Charles Howard of Naworth, afterwards Earl of Carlisle, was at this time one of the nine persons composing the council of state set up by Cromwell in Scotland for administering all civil affairs there. The council had extensive powers given them in all matters affecting revenue, and therefore Mr. Howard had considerable influence in the matter then concerning the Earl of Hartfell, and he used his influence on behalf of the earl and others.

³ Vol. ii. of this work, p. 303.

countess on the same subject. In this letter he apologises for his prolonged stay in London by saying, "that if my bussines were not one of the neirest and highest of my concernmentts, the pleisours of this place wold not have allured me to stay one weike, nather any companie I am withe." He had used all means and ways in the matter, but ineffectually, and he was now to return home when he received an answer that afternoon to a petition, "the last of a dozen since I came heire."¹ It does not appear what the answer was that was given to the petition of the Earl of Hartfell by the Protector before his lordship left London. But his efforts were soon after this crowned with success, as, on 6th November, an act of remission was passed in his favour. The book of the council of state for that date has the following entry:—"Ordered by his Highness the Lord Protector and the councill that the fine imposed on the Earle of Hartfield by the ordinance of pardon and grace to the people of Scotland be wholly remitted and discharged."²

In the record of Cromwell's second parliament of both nations, held at Westminster 27th July 1654, "Col. James, Earl of Hartfell," is named as a member of parliament for the shire of Dumfries. Of the thirty members for Scotland who were summoned to this parliament only twenty-one obeyed the summons. The Earl of Hartfell was one of those. As a peace-loving subject he had no alternative but to recognise, to a prudent extent, the Protector, whose authority was paramount for the time. The earl attended several of the parliaments of the Protector. By an order and declaration, of date December 21st, 1655, the council of state named commissioners of the shires, burghs, etc., in Scotland. Those named for the shire of Dumfries included General George Monck, one of his Highness' council in Scotland, and the Earl of Hartfell and others. On 17th September 1656, and again on 26th

¹ Vol. ii. of this work, p. 305.

² Annandale Peerage Minutes of Evidence, 1879, p. 767. In an account of the sufferings and fines of the earl, which bears evidence of

being made out subsequent to the year 1661, there is included the fine of "£500 sterling, which fine was of loss and expence above £900 sterling is £10200 : 00 : 0" Scots. [*Ibid.* 1878, p. 733.]

January 1659, when new commissioners of counties and towns of Scotland were appointed, the earl is again named for the shire of Dumfries along with General Monck and others.¹

While Mr. Whyteford, afterwards promoted to be Bishop of Brechin, was minister of Moffat, in the reign of King Charles the First, his only daughter Rachel is popularly stated to have discovered, in 1633, the merits of the far-famed Moffat spa. But another account has been given of the origin of this spa. Matthew Mackaile, in 1659, published an account of the spa under the title of "The Moffet Well, or a topographico-spagyricall description of the Mineral Wells at Moffet, in Annandale of Scotland."

Mr. Mackaile afterwards, in 1664, published a new edition of his work, translated and much enlarged, in which he gives an account of the discovery of the Moffat well. An invalid, he says, who was accustomed to make annual visits to the wells at Brampton, in travelling through Annandale discovered there a smell similar to that of the Brampton wells, and this led him, about the year 1653, to trace out the Moffat well. The invalid discoverer of the well recommended it to his friends, asserting that the water was enriched with the like virtue of the water of Brampton and that of many other spas; and in the course of twelve months all sorts of sick persons resorted to it from all parts of the country.²

As illustrating the celebrity of Moffat spa, it may be noted that, in 1660, Lady Mary Scott, Countess of Buccleuch, then thirteen years of age, whose health had for some years been very unsatisfactory, was recommended by ten physicians and surgeons, met in consultation on 26th April of that year, to follow a course of treatment, including the drinking of Moffat well, which she was to take "according to the direction of the physicians."³

Mr. Mackaile proceeds to explain in his work that two years had not elapsed since the Earl of Hartfell was pleased to command the dressing of

¹ Acts of the Parliaments of Scotland, vol. vi. part ii. p. 839^a, 851^a, 881^b.

² Moffat Well, by Matthew Mackaile, Ed. 1664, pp. 10, 43, 44.

³ The Scotts of Buccleuch, vol. i. p. 375, note.

the well, and also the surrounding of it with a wall, so that the entry to it is much improved. *

In reference to the repair and preservation of the well by the earl, as stated by Mr. Mackaile, there is corroborative evidence that his statement is correct in an order made by Cromwell's council in Scotland as follows :—

By his Highnes Council in Scotland for the government thereof.

Whereas James, Earle of Hartfell, hath petitioned the counnill for some allowance out of the vacant stipends of the parishes of Moffett and Kirk-Patrick-Juxta remaineing in his hands for makeing the Well of Moffett convenient and secure by raiseing a font and walls about the said well, vppon consideracion of the premisses the counnill doe order, and it is heereby ordered that the said Earle bee allowed twenty-fue pounds sterling out of the remainder of the vacant stipends of the parishes aforesaid in the hand of the said Earle to bee putted, by aduice and concurrence of William Rosse, Esquire, commissary of Dumfreeze, for putting the said well of Moffett in such a condicion that people may securely make vse of the said well, which twenty-fue pound aforesaid Mr. Daglish, collector of the vacant stipends, is to allow accordingly. And Mr. Rosse is heereby appointed to see it don according to the intent of this ordour by the first of May next, and giue an accomptt of the issues of the said fue and twenty pound to the counnill about that time. Giuen att Edinburgh the twentieth day of August 1657.

GEORGE MONCK.

J. SUINTOUNE.

AD. SCROPE.

NATH. WHETHAM.

Two years previous to the Act of 1659 appointing General Monck as one of the commissioners for the shire of Dumfries, he made the above order to his colleague in the representation of the county for the improvement of Moffat well.

The order is impressed on the top with the seal of the council of Scotland on wax, a shield, having a Saint Andrew's cross charged in the centre, with an escutcheon bearing a lion rampant. The shield is surrounded with the inscription, "Sigillvm concillii Scotie."¹

Health-seekers have for two centuries resorted to Moffat spa, and many marvellous cures of invalids from its virtues have been recorded. It is situated near Archbank, on the property of Mr. Hope Johnstone. Another spa was subsequently discovered to the east of the Moffat well, in the mountains of Hartfell, and is known as the Hartfell spa.

¹ Original order in Annandale Charter-chest.

CHAPTER SECOND.

Seven years without children of his marriage—Birth of two daughters by 1654—He makes a disposition and entail of his estates, 1655—Provision in favour of his heirs-female, in case of failure of heirs-male of his body, of the earldom of Hartfell—Death of his only brother, Lieutenant-Colonel William Johnstone, without issue, 1656—Consequent failure of male heirs in the main line of the Johnstones—Anxiety of the Earl to secure the succession to his peerages and estates to the heirs of his body—He makes a further entail and resignation of his inherited peerages and estates, 1657—Provisions of the entail in favour of his heirs-female—Circumstances in which the entail was made—Appointed by Charles the Second Commissioner for plantation of Kirks and valuation of Teinds, 1661—He is placed on other commissions—Created Earl of Annandale, 1661—Crown charter of confirmation of the earldom of Annandale and Hartfell, including the peerages, 1662—The validity of his title to the peerages and territorial earldom—Recommended to the king on account of his sufferings and losses—Made a Privy Councillor, 1661—Appointed heritable steward of the stewardry of Annandale, 1662—Made hereditary keeper of the castle of Lochmaben.

In the years 1655 and 1657, the Earl of Hartfell granted a series of deeds the effect of which was designed to change the order of the succession to his peerages and estates. There were strong reasons moving his lordship to take this important step. The moving causes leading up to them, the deeds themselves, and the change which they had in view, together with the subsequent creation of three new peerages in the family in 1661, and the order of succession stated in the grant of these peerages, will now be described.

The two peerages and large landed estates possessed by the first Earl of Hartfell, and to which his son, the second Earl, succeeded on the death of his father in 1653, were held under the restricted limitation to heirs-male general. Female heirs were excluded from the succession. If, therefore, upon the death of the second earl, there was a failure of heirs-male in the main line of the family, the Hartfell and Johnstone peerages and estates would descend to heirs-male collateral. This gave rise to anxiety on the part of the family to have heirs born to them who could inherit their possessions, and it was sought by the marriage in 1645 between Lord Johnstone, when quite young, and his distinguished bride, who was still younger, which has been already noticed, to provide such heirs. The case

was somewhat analogous to that of the nearly contemporary one of the great Marquis of Montrose, an only son, who was married at the early age of seventeen, in the hope of providing heirs to his peerages and estates.

But although the second Earl of Hartfell was thus early married, his hope of having heirs-male of his body to succeed him was at first, and for a long period of years, disappointed. Six years passed away after the marriage and still no child was born to the Earl and Countess of Hartfell. In 1652, the seventh year from the date of the marriage, a daughter was born. In the years 1654, 1657, 1658, and 1659, four children were born in succession, but all of them were daughters. Thus in 1655, ten years after the marriage of the earl, no son was born to him, but only daughters. In these circumstances the Earl of Hartfell, beginning to despair of the continuance of his direct male line, took very formal proceedings in the years 1655 and 1657 for the purpose of securing that his peerages and estates should be inherited by the children of his own body, and not by collateral heirs-male.

On 15th February 1655, his lordship made a bond, disposition, and entail in favour of his countess and their children. The bond narrates that by the marriage contract between them, Lady Henrietta, his countess, was provided in conjunct-fee to the manor-place of Lochwood and adjoining lands, of the annual value of eight thousand merks Scots, and that the earldom of Hartfell, with the lordships, baronies and lands belonging thereto, was entailed to the heirs-male of their bodies, failing whom, to their other heirs-male whatsoever. It recites further, that for the love he had to his countess, and also for certain good deeds done to him by her parents, the Marquis of Douglas and Lady Mary Gordon, his spouse, he obliged himself and his heirs to infest Lady Henrietta in liferent in the manor-place of Newbie and adjacent lands, of the yearly value of 8000 merks Scots, in lieu of the liferent conjunct-fee of the manor-place and lands of Lochwood.

The bond of entail contains the provision that in the event of the decease of the earl, without male issue, his earldom of Hartfell should be inherited by

the heirs-female of his body. It also rescinds all former entails of his lands made by the earl or his predecessors in favour of heirs-male other than those of his own body, and obliges him never to make any entail or disposition of his estates, failing heirs-male of his body, to the prejudice of the heirs-female of his body. The earl obliged himself to warrant the new disposition and entail in favour of his heirs-female at all hands.¹

Two years after making the bond and entail now described, the Earl of Hartfell took still more formal proceedings to secure the object he had in view in making that deed. In the interval between the date of that bond and entail and that of the entail and resignation which he now made, his anxiety upon the subject was considerably increased by an event which materially affected the succession to his peerages and estates. This event was the death of his only brother, Lieutenant-Colonel William Johnstone, without issue. James, first Earl of Hartfell, as shown in his memoir, left of male issue only two sons, James, the second earl, the subject of the present Memoir, and Lieutenant-Colonel William Johnstone of Blacklaws in Evandale. The colonel had for some time received the courtesy title of Master of Johnstone, as heir-presumptive to his brother, Lord Johnstone, until his lordship should have a son born to him. Colonel Johnstone had gone abroad and attained rank in foreign military service. He returned to Scotland, and was residing with his friends in Annandale in the end of the year 1656. In the book of accounts of Hew Sinclair, who was chamberlain to the earl for many years, including the years 1654 to 1662, there occur the following among other entries relating to Lieutenant-Colonel Johnstone, which show that he died at Newbie after sickness, and that his corpse was embalmed and buried there on 19th February 1657.

“1657, 26th January. Item, for 48 torches sent to Newbie to Lieut Coll. Jonstounes buriell the 19th of Februarii 1657, at 12s. the peice is, £28, 16s.

¹ Annandale Peerage Minutes of Evidence, 1878, pp. 719, 720.

“April 1657. Item, to Mr. John Strudgen to give Doctor Nairne in attending the Live. Coll. in his seiknes and imbalmeing his corpes, £66, 13s. 4d.”

As Lieutenant-Colonel Johnstone died unmarried and without issue, his remaining brother, James, second Earl of Hartfell, was the only surviving male representative of the family of Johnstone. The failure of male heirs in the main line of the Johnstones was thus very remarkable. At this juncture, if the Earl of Hartfell himself had died as well as his younger and more robust brother—and Earl James was often in indifferent health, and ultimately died at the comparatively early age of forty-seven—all the peerages of Hartfell, Johnstone, Moffatdale and Evandale, would have been escheated to the commonwealth and lost to the family. The patents were limited to heirs-male, a limitation which has been construed to mean heirs-male collateral. After the lapse of a century and after extensive and exhaustive investigations, no one has been able to establish a claim as heir-male under these patents.

Considerations such as these evidently pressed upon the mind of the Earl of Hartfell. He had by the 18th of January 1657, three daughters, no sons, no brothers, no uncles, and no known male relation direct or collateral. He had, besides his daughters, two sisters, both married, with children, probably nephews and nieces. As the long period of twelve years had elapsed since the date of his marriage, it was only natural that he should begin to despair of the continuance of his direct male line.

Thus the death of the earl's only brother without issue, and the delay of a son of his marriage, really produced a serious crisis in the history of the family. New arrangements for the resettlement of the peerages and estates became necessary, in order to bring in his daughters and sisters and their descendants into the succession. The deed now to be described shows that the Earl of Hartfell acted in this manner. On 14th May 1657, he made a resignation of all his heritable estates, and

also of all his peerages, for a regrant thereof in favour of himself and the heirs-male of his body ; whom failing, to the heirs-female of his body ; whom failing, to his sisters and the heirs of their bodies. The entail and resignation, which is a very formal document, prepared and written by Mr. William Syme, advocate, bears to be made by the earl for the weal and standing of his family, honour and dignity, in his own posterity and children of his body, and failing them, in the persons of his other heirs of entail and provision therein specified. The Earl of Hartfell thereby became bound for himself and his heirs-male, tailzie and provision, and all his other heirs, to make resignation of his honour, title, and dignity, of Earl of Hartfell, Lord Johnstone of Loehwood, Moffatdale, and Evandale, and of all lands, lordships, baronies, and regalities, etc., and all other lands and heritages whatsoever belonging to him, within Scotland. The resignation was to be made in the hands of the superiors of the earl, or their commissioners having power to receive such resignations, in favour of and for new rights and infeftments to be made and granted to the earl himself and the heirs-male of his body, which failing, to the heirs-female of his body, according to their birth successively, without division, and the heirs of their bodies ; which failing, to his sisters, Lady Mary Johnstone, spouse to Sir George Graham of Netherbie, knight and baronet, and Lady Janet Johnstone, spouse to William Murray of Stanhope, and their descendants in the order and under the conditions specified in the entail ; which all failing, to any such person or persons as the earl in his lifetime should nominate and design by any other deed ; and failing of the foresaid heirs of entail, or such designation on the part of the earl, the said title, dignities, and estates were to belong to his heirs and assignees whatsoever.¹

That resignation and bond of entail was subscribed by the Earl of Hartfell at Netherbie, in Cumberland, the residence of his eldest sister, Lady Mary, wife of Sir George Graham of Netherbie, baronet. According to a minute at

¹ Amandale Peerage Minutes of Evidence, 1876, pp. 268-274.

the end of the resignation, on 19th June, James Brown, macer, made the resignation in the hands of Judge Mosley, president of the exchequer, before six witnesses, officials of exchequer, and others not named. The minute of resignation is attested by two notaries-public.¹

The intention of the Earl of Hartfell to divert the succession to his peerages and estates so as to include his heirs-female after the heirs-male of his body is very clear from the entail of 1655 and the entail and resignation of 1657. But it receives further attestation in other deeds of settlement which his lordship also made about this time. One of these is a general assignation in favour of the heirs-male of his body; whom failing, his eldest heir-female, without division, and the heirs of her body; whom failing, his heirs of entail and provision, of all bonds, heritable or moveable, to which he had right, and to all debts and sums of money that might be owing to him at his death.² Another of the deeds referred to is that of a bond of provision by the earl to Lady Margaret Johnstone, his second daughter, for an annual rent out of his lands, which was to be held of him, his heirs-male, and of entail, mentioned in a bond of entail.³

The bond, disposition, and entail by the earl in favour of his countess and their children in 1655, obliging himself to infest the former in the lands of Newbie, the earl now followed with a bond of provision in her favour, whereby he provides her in liferent in the lands of the Mains of Newbie and others in place of the lands of Woodend and others provided to her by her marriage-contract. The bond contains a procuratory of resignation.⁴

These several deeds, including the entail and resignation of 14th May 1657, were all written by Mr. William Syme, advocate, and attested by him and other two witnesses. They are also all subscribed by the earl, but, unlike the entail and resignation, the other deeds are without date, although the bond of provision to Lady Margaret has written at the foot of it the date 14th May

¹ Annandale Peerage Minutes of Evidence, 1876, p. 274.

² *Ibid.* 1877, p. 580.

³ *Ibid.* pp. 583-584.

⁴ *Ibid.* pp. 581-583.

1657. In the Annandale chamberlain's accounts for the period occur the following entries relative to these deeds:—

“1656, April 5. Item, to Commissar Nisbet, with a consultation with Mr. William Syme anent the tailie, quherto the paton of eardom [patent of earldom] wold be sein, and concerning my ladyes excheange of hir ladyships joyntur to Newbie, inde 5 dollers, 014 10 0

“1657, May 17. Item, to Commissar Nisbet at Edinburgh for a consultation anent the paper of . . . drawin be Mr. William Syme, 5 dollers is, 0014 10 0

“1657, September 11th. Item, to Ja. Broun for passing and assisting resignation tailzie to your daughters, to get it quyetlie done,” . . . 006 00 0”¹

The executing of so many deeds on the lines now set forth at this particular time, and in the particular state of the family, brings out the intense desire of the Earl of Hartfell to prefer his daughters and sisters to any heirs-male collateral in the succession to his peerages and estates, and also that he was concerning himself to make provision for his female heirs.

The most important of all these deeds is the bond of entail and resignation of 14th May 1657. The law and practice of resignation taken advantage of by the Earl of Hartfell was common in Scotland. Holders of dignities or landed estates had the privilege of denuding themselves of their rights to these for the purpose of receiving a regrant of them to the same heirs or to a series of heirs different from that vesting at the time of the resignation. The form of resignation varied. It was made either in the hands of the king, or of the privy council, or of the barons or judges of exchequer. In England resignations of peerages were deemed effectual only if made in the hands of the sovereign. But in Scotland each of these forms was recognised, and there are many instances of resignations made, both of peerages and estates, in each of these forms which were followed by a regrant from the king. In the case of a resignation of an estate in any of these forms, the regrant was invariably made to the series of heirs desired by the person making resignation. But in the case of a resignation of a peerage, the crown

¹ Accounts for the year 1656 and 1657, pp. 85, 114, 125, in Annandale Charter-chest.

claimed the prerogative of giving a regrant of the title to the new series of heirs desired, or otherwise. The effect of the resignation of a peerage was that the person resigning was divested for the time of his honours, and he had the use of these only by courtesy until he received a regrant of them. In the interval between the resignation and regrant, the series of heirs under the original grant of the peerage were barred from succeeding to it. But the new series of heirs were vested with no right to the peerage in question until the regrant was given in their favour by the king.

The Earl of Hartfell made resignation of both of his peerages of Hartfell and Johnstone, and also of his estates. His resignation was made in the hands of the judges of exchequer, which was the usual form of making resignations. It was thus in legal form and according to a common privilege. After the Restoration the crown acknowledged the validity of every other resignation made during the commonwealth, although generally with some remark in the *quaequidem* clause about the pretended commissioners of exchequer. It does not therefore militate against the validity of the resignation of the Earl of Hartfell that he made it in the hands of the officers of the commissioners of exchequer at the time. The resignation, as has been seen, was made at a time when an emergency in the history of the Hartfell family had arisen. If the Earl of Hartfell had died after the resignation made by himself in 1657, leaving only daughters, his peerages and estates might have been claimed by the Protector's government as the feudal superiors in place of King Charles the Second. That government claimed to be the true and lawful superiors, and of course they adopted that position with all the obligations attaching to it. The earl could therefore plead urgency in making the resignation.

In ordinary course a regrant would have followed immediately upon the resignation of the Earl of Hartfell, in such terms as the feudal superior decided. In adopting the course of making a resignation of his peerages and estates, and a new disposition in favour of the heirs of his own body, the

Earl of Hartfell was well advised by the ablest feudal lawyers of the day. The step was no hasty or ill-considered one, but carefully advised after long consultation with the learned lawyers. No trace of any charter by Cromwell following upon the resignation of 1657 has been found, either in the Register of Scotch Charters granted by him, or otherwise. Even if Cromwell had made a grant to the Earl of Hartfell of his peerages and estates to a different class of heirs than to those of his own body mentioned in the resignation, King Charles the Second would have disregarded such a grant as inconsistent with the bounty and generosity shown by him in his own patent and crown charter of the old and new peerages and estates.

The commonwealth of Cromwell, which had been maintained by his own firm hand, soon crumbled to pieces under the feebler protectorate of his son, Richard. The restoration of King Charles the Second took place on 29th May 1660, and many of his loyal subjects, including the Earl of Hartfell, who had suffered for the royal cause by fines and imprisonment, had their sufferings and loyalty considered under the restored sovereign.

The king entered London amid great demonstrations of joy upon the part of the people on 29th May. The Earl of Hartfell evidently joined in the general rejoicing, as he was in London from the 28th May to the 12th July 1660, as appears from the following entry in the account of his chamberlain :—

“Item, to my lord at his going to London, and sent to him since betuixt the 28th of May and the 12th of July (60), as ane syde of my paper in my book of charge doeth clearly instruct, £3466, 13s. 8d.”¹

The restored monarch soon conferred upon the Earl of Hartfell substantial marks of his royal favour. On 13th February 1661 he bestowed upon him the three new peerages of Earl of Annandale, Viscount Annand, and Lord Lochmaben. Even so early as July of the previous year, only two months after his restoration, the king must have notified to the earl his intention

¹ Accounts in Annandale Charter-chest.

to grant him a patent of these peerages, and also the high office of steward of Annandale, as the following excerpt bears :—

“25th July 1660.—Item, to Andrew Mairtein for wryteing of my lord’s patent to the erledome of Annandaile, and a signatour for the stewardshipe therof, which was sent to London.”¹

This entry in the account of the chamberlain of Annandale plainly instructs that the king and his advisers had been so very favourable to the Earl of Hartfell, and so anxious to gratify him in reference to the regrant of his peerages and estates, that he actually intrusted the preparation of the new patent of the earldom of Annandale, and also the signature for the office of steward, to the legal advisers of the earl himself.

The patent, which is dated 13th February 1661, narrates the previous patent of the creation of the Earl of Hartfell in 1643, and acknowledges the faith, love, services and losses of the earl in the affairs intrusted to him, fully proved by many testimonies. It then proceeds, that the earl and his heirs might be stimulated to continue their fidelity towards their king and country, and to tread the same track of virtue, considering that James (Murray), Earl of Annandale, died without heirs-male of his body, that his diploma and dignity reverted to the crown, and that no one was so worthy to enjoy the said title, as well because of his merits as of the proximity of the estates of Annandale to those of Hartfell; and the king graciously desiring to confer on the earl some token of his royal love by accumulating honour upon honour, as well on account of his merits as that he and his heirs may be incited to tread in his footsteps; therefore the king created and inaugurated James, Earl of Hartfell, and his heirs-male, whom failing the eldest heir-female of his body, without division, and the heirs-male of the body of the said eldest heir-female, whom all failing the next heirs whomsoever of the said earl, in all future ages, Earls of

¹ Accounts in Annandale Charter-chest.

Annandale and Hartfell, Viscounts of Annand, Lords Johnstone of Lochwood, Lochmaben, Moffatdale and Evandale, and ordained that the earl enjoy the place granted to the deceased Earl of Hartfell in the year 1643.¹

The patent of these peerages which the Earl of Hartfell now received, shows that he was in great favour with the king. It sets forth his services and sufferings in very complimentary terms; it expresses the king's gratitude for these; it introduces the heirs-female in terms of his lordship's resignation, and it bestows upon him three additional peerages. The intention of the king was manifestly to please and gratify the earl. The patent was not merely a grant of new peerages, with new and extended limitations to include heirs-female; it was also a regrant of the old peerages of 1633 and 1643, of which the earl had denuded himself by his resignation of 1657.

King Charles the Second added to the gift of a patent of peerages to the Earl of Annandale and Hartfell the grant of a crown charter dealing with the estates of the earl. Meantime, while this charter was in course of preparation, his lordship received several public appointments. He was appointed one of a comprehensive mission for the plantation of kirks and valuation of teinds. He was also appointed one of the commissioners for raising the annuity of £40,000 sterling to the king.² An act and commission being passed by parliament in favour of James, Earl of Queensberry, and William, Lord Drumlanrig, his son, regarding their losses in 1650 by the invasion and destruction of their property, to the extent of £2000 sterling, the Earl of Annandale and Hartfell was chosen one of the commissioners to take trial of the persons complained of, and to apportion the sum amongst them.³

In parliament on 1st May 1661, Archibald, Marquis of Argyll, was tried for treason. The records of parliament bear that the Earl of Annandale and several other peers did not debate nor vote, because they were to be

¹ Annandale Peerage Minutes of Evidence, 1825, p. 7.

² Acts of the Parliaments of Scotland, vol. vii. p. 91^b.

³ *Ibid.* p. 96.

witnesses in the case. On 6th May of the same year witnesses against Argyll were examined, but Annandale is not mentioned as one of them.¹

On 23d April 1662 the king granted to the Earl of Annandale and Hartfell a crown charter under the sign-manual and great seal. The warrant for the charter, which is still preserved, shows that it had been intended to be completed at the same time as the patent for the peerages.² The limitation of heirs in the charter is in favour of James, Earl of Annandale and Hartfell, Viscount of Annan, Lord Johnstone of Lochwood, Lochmaben, Moffatdale, and Evandale, and the heirs-male of his body, which failing, to the heirs-female of his body, without division, and heirs-male of the body of the said eldest heir-female, carrying the name and arms of Johnstone, which failing, to the earl's nearest lawful heirs whatsoever, of the lands and barony of Johnstone, Corrie, Knock, Newbie, barony of Moffatdale, and the heritable office of keeper of the king's castle of Lochmaben, with the fees and other dues thereunto belonging.

The king also by that new charter granted to the earl, and the heirs-male of his body, whom failing, to the heirs-female of his body, without division, and the heirs-male of the body of his eldest heir-female, which failing, to his nearest and lawful heirs whatsoever, the lands, lordships, baronies, and others therein specified, which the king also thereby erected, created and incorporated into a free barony, lordship, and earldom, regality and justiciary, to be called the earldom of Annandale and Hartfell, and lordship of Johnstone, with the title, style, and dignity of an earl, according to the date of the patent granted to the earl and his father. The king also thereby erected the town and territory of Moffat into the burgh of barony and regality of Moffat.

Throughout this *Magna Carta* of the new earldom of Annandale there

¹ Acts of the Parliaments of Scotland, vol. vii. Appendix, p. 65^a.

² Annandale Peerage Minutes of Evidence, 1844, pp. 94-111. In the testing clause of

the warrant, the year 1662 had been originally engrossed 1661, and deleted, and the year of the king's reign was corrected to the "14th," by the deletion of the word "thirteenth."

are many expressions of the king's gratitude and favour to the earl, of whose loyalty, fidelity, services, and sufferings, he had many testimonies. At the end of the warrant there is a docquet by the Lords Commissioners of Exchequer in Scotland fixing the "composition ane hundreth merks, in respect of his father and his awne knawin affections to, and sufferings for, the kingis service."

The docquet of the secretary of Scotland, which is also appended to the warrant, is signed by the Earl of Lauderdale, who was a very learned officer of state, and thoroughly experienced in the affairs of Scotland. Docquets were intended for the eye of the sovereign before he affixed his sign-manual. This docquet specially mentions "the Earldom of Annandale and Hartfell, with the dignity of ane Earle according to the date of James, Earle of Annandale and Hartfell, and his deceased father, their patents."¹

It is not every peer of Scotland who holds both a formal patent or diploma of his creation as a peer, and a warrant under the sign-manual for a charter, and also the charter under the great seal of Scotland, erecting the landed estate into an earldom of the same name and designation as that created by the patent. The diploma of the peerage, and the crown charter erecting the lands of the grantee into an earldom of the same name, including the peerage itself to the same heirs, is as valid legal evidence of the creation as could be devised at the time.

But the Earl of Annandale's right to the peerage and the territorial earldom was still further fortified by a special act of the parliament of Scotland on 19th October 1669. That act was passed eight years after the valid creation of the dignity, and the crown charter of the title and territory. During these years the Earl of Annandale was in the undisputed right and possession of that peerage both under the diploma and the crown charter. It was in the second parliament of King Charles the Second, held by John, Earl of Lauderdale, as commissioner, that an act was passed, titled "Ratifica-

¹ Annandale Peerage Minutes of Evidence, 1844, p. 111.

tion in favors of James, Earle of Annandale and Hartfell, etc., of the Earledome of Annandale and Hartfell," etc.¹ The act makes special reference to the charter of erection, dated 23d April 1662, with the novodamus therein mentioned, and erection therein specified in a free barony, lordship, carldom, regality, and justiciary, with free chapel and chancellary, to be called the earldom of Annandale and Hartfell and lordship of Johnstone, "with the title, style, and dignity of earle thereof."²

After the restoration of King Charles the Second in 1660, an act of parliament was passed in favour of the Earl of Annandale and Hartfell, on 25th June 1661. The act proceeded upon a report by the commissioners appointed by his Majesty's commissioner and the estates of parliament for trying the losses, fines, and sufferings sustained by the then Earl of Hartfell and his father for their loyalty to the king during the troubles. The commissioners reported that the Earl of Annandale and his father throughout that period gave signal proof of their loyalty to the king, for which they suffered, particularly in 1644, when, having joined the Marquis of Montrose, upon the retreat which followed, the Earl of Hartfell was taken prisoner, kept in Edinburgh Castle for a year, and fined £12,000, the annual rent of which now extended to £24,400 Scots. Also in 1645, after again joining with the Marquis of Montrose, he was once more taken prisoner at Philiphaugh, committed to several prisons, pursued for his life, and after an expensive and tedious process was fined £100,000 Scots, and forced to pay the sums of money which they specified. As the earl's fines and sufferings had been extraordinary, the commissioners recommended his case to the king. Besides the fines mentioned in their report, the commissioners refer to the sufferings the earl sustained by his long imprisonments, the great expense

¹ Acts of the Parliaments of Scotland, vol. vii. p. 641.

² On the same day William Murray, uncle to the Viscount of Stormont, protested that

the ratification in favour of the Earl of Annandale and Hartfell should be without prejudice to the viscount. At the same time, the Earl of Annandale and Hartfell "protested in the contraire."

incurred in his defence, and such hardships as that his whole rents were seized, two troops of horse were quartered on his lands, the loss and damage of which, the commissioners of their own knowledge say, can be no less than £40,000, and his house of Newbie was plundered, and silver plate and household plenishings to the value of £15,000 carried away. The commissioners estimated the whole losses of the earl at £288,700 Scots, which represents in English money £24,058 sterling. The report of the commissioners was subscribed by them at Edinburgh on 15th June 1661. Parliament appointed the report to be recorded in their books, and regarding the Earl of Annandale's losses and sufferings recommended him to his Majesty.¹

King Charles the Second had not sufficient funds to reimburse the Earl of Annandale and Hartfell in money; he had, however, other modes of recompensing his loyal subject. He could confer honours and offices. Charles had already acknowledged the loyalty and sufferings of the earl in this way by creating him Earl of Annandale, Viscount of Annan, and Lord Lochmaben. These new dignities were held by the earl conjointly with the old and with the precedency of the date of the creation of the Earl of Hartfell. In addition to these the king now granted to the Earl of Annandale and Hartfell the *magna carta* of his earldom of Annandale and Hartfell, with baronies, lordships, and regalities, as previously explained, with an extended class of heirs-female in accordance with the earl's desire. He also bestowed other royal favours upon him. He made him a privy councillor.² He also made him heritable and principal steward of the stewartry of Annandale, by a grant under the privy seal at Whitehall, 23d April 1662, and hereditary keeper of the castle of Lochmaben, by the crown charter of 1662, as previously related.

¹ Acts of the Parliaments of Scotland, vol. vii. pp. 277, 278.

² 13th July 1661, Annandale Peerage Minutes of Evidence, 1878, p. 721.

CHAPTER THIRD.

Engaged in suppressing the rising in Galloway, which ended at Pentland in 1666—Appointed captain of a troop of horse, 1667—Names of the officers of his troop—Money raised for payment of the troop—Engaged as a privy councillor in the proceedings against the covenanters—Included in commission of justiciary for the trial of the covenanters, December 1666, but did not act under it—Disbanding of the army, 1667—Present at committee of privy council with reference to conventicles, 1669—Attends the privy council meeting on the same matter, 1670—His circumstances in regard to money matters—His affectionate relations with his countess—His indifferent health—He makes his last will and testament—His death, 1672—His directions for his funeral—His eleven children, four sons and seven daughters.

A few years after the Restoration serious troubles in connection with ecclesiastical affairs broke out in Galloway. Many presbyterians in that and the adjacent districts would not conform to episcopacy. Fines and other exactions were imposed on the non-conformists, such as cess or quartering money for soldiers sent to districts to collect the fines, etc. Sir James Turner was the military officer employed by the government to levy the fines, etc. He was stationed at Dumfries. A party of his soldiers had occasion to be at Dalry, in Galloway, in the discharge of their duties. A few persons in Dalry having seen the soldiers driving an aged man harshly, as they thought, got into collision with them. The country people organised a scheme for the purpose of capturing Sir James Turner and making him a prisoner. In that enterprise they were successful. The people, encouraged by their success, increased in numbers, and formally took the field against the government. This was the beginning of the rising in arms in the year 1666, otherwise commonly called the Pentland insurrection. The insurgents marched to Mauchlin, Ayr, Lanark, and other places. They kept Sir James Turner a prisoner, and carried him with them from place to place. But their first success did not continue on their march towards Edinburgh. By the time they reached the Pentland Hills their army was quite unequal to cope with the army raised by the government, headed by

the veteran, General Thomas Dalzell of Binns.¹ The general succeeded in vanquishing the insurgents on 28th November 1666, at a part of the Pentland Hills known as Rullion Green.

In that battle the covenanters were led by Colonel James Wallace. The ground was chosen by him, and the disposition which he made of his men was the very best, when he had to oppose an enemy three times the number of his own troops. The battle at Pentland was a well-fought field, not a disgraceful rout like that which afterwards happened, under a very different leader, at Bothwell Bridge.²

The Earl of Annandale and Hartfell was appointed to a command in the army of the government in the rising of 1666. On the day of the battle of Rullion Green, Annandale writes to his countess from Drumlanrig, that he expects orders to march to Clydesdale against the covenanters, and on the 30th of the same month he writes again to her that he is marching to Crawford.³ On 1st January 1667 King Charles the Second granted a commission to Annandale to be captain of a troop of horse to be raised by him for service in the regiment of which Lieutenant-General Drummond was colonel. This commission was a coveted one at a time when, according to Wodrow and other contemporary writers, a captain's commission was as profitable as a good estate.⁴ By the terms of his appointment Annandale was to raise the troop with all speed, to exercise it in arms, to keep officers

¹ General Dalzell was a noted royalist, and many stories are related of him in connection with the antagonistic attitude which he assumed towards the covenanters. Many of these stories are apocryphal. At his mansion-house of Binns there is a building attached to it known as the Oven. The general is said to have roasted the covenanters there. But the oven was really required for baking bread for the regiment of Scots Greys raised by him. One of his portraits at the Binns shows him in his very long beard, never shaved

or cut since the execution of King Charles the First. The large toothed bone comb, with which the general dressed his hirsute appendage, is still preserved at Binns House.

² Notices of Colonel James Wallace in *Memoirs of William Veitch and George Brysson*, by the Rev. Dr. Thomas M'Crie; William Blackwood, Edinburgh, 1825, p. 361.

³ Vol. ii. of this work, p. 309.

⁴ Wodrow, *History*, folio edition, vol. i. p. 275; Lamont's *Diary*, 1667, etc.

and soldiers in good order and discipline, and to observe such orders as should be given him from time to time by his superior officers.¹ The earl promptly raised the troop of horse, as the payments made to the troop, commencing on 1st January, show. The troop consisted of himself as captain, Robert, Master of Maxwell, afterwards fourth Earl of Nithsdale, as lieutenant; John, fourth Lord Lindores, cornet; Sir James Johnstone of Westerhall, quartermaster; William Couper, described as servant to the Earl of Annandale, and also as clerk to his troop; four corporals, two trumpeters, and seventy-five private soldiers, representing in all eighty-six officers and men. A book of disbursements to the troop, kept by William Couper, contains entries for payments to seventy-four officers and soldiers, most of which are authenticated by the signature of the person to whom the payment is made.²

The Earl of Annandale appears to have met with difficulty in procuring money to pay his troop of horse. On 13th June 1667, he writes to Hew Sinclair, his chamberlain—

“Being called to marche with my troupe so neire to the Louthianis as I may be within a dayes marche to Eddinburgh, I am resolved to be at Gallashiells to-morrow, and quartter there till further order. . . . I have also desyred some supply for the troupe, being altogither destitutte of monnay. . . . The Lord knowis what will become of ws, for if this warre continow it is impossible we can subsist and keipe credit.³

A month later the earl again writes to his chamberlain from Newbie, 13th July 1667—

“I told you in my lastt I had sentt some of my troupp to Galloway. This people were together ar now in 6 and sevines, robing and pillaging in the counttre. Thay spoylle poore peoples houses, and frightts all the ministers, and that is all thay doe. I have sentt this beirrer expresse with the ane accountte to the commis-

¹ Vol. i. of this work, p. 94.

² Original account-book in Annandale Charter-chest.

³ Original letter in Annandale Charter-chest.

sioner of the certtantie of the bussines. I have also wrytte to him and Sir William Bruce concerning a preceptt for my troupps pay.”¹

After the rising of 1666 was suppressed at Rullion Green, the privy council had a great deal of work in connection with the continued opposition by the presbyterians to the episcopal form of government. The Earl of Annandale and Hartfell, as a privy councillor, had to take an active part in the successive attempts of the presbyterians against conforming to the established form of church-government. He was also named in several royal commissions in connection with the ecclesiastical troubles, and for executing the laws in church affairs. He was a member of the large commission granted by King Charles the Second on 16th January 1664. At the head of that commission was James (Sharpe), archbishop of St. Andrews, who had precedence of the lord chancellor and the lord treasurer. The fourth commissioner named was the archbishop of Glasgow (Burnett), and after him, the Duke of Hamilton, the Marquis of Montrose, the Earl of Argyll, and other earls, including the Earl of Annandale.²

This high commission had precedents in the similar courts established by King James the Sixth and King Charles the First. All those commissions had for their avowed purpose the enforcing of the episcopal religion on Scotland. The latest of these ecclesiastical courts, however, was even less popular than those which preceded it, and in two years it had to be abandoned. The proceedings of the high commission court during the two years of its existence, from 1664 to 1666, have been recorded by Wodrow at considerable length.³ For the purpose of his History he had made a careful examination of the Records of the Privy Council. He explains that the fines and other exactions laid upon the presbyterians led to the rising in the year 1666, already described. The council took alarm at the rising, and,

¹ Original letter in Annandale Charter-chest.

² History of the Sufferings of the Church of Scotland, by Wodrow, 1721, vol. i. p. 192.

³ Wodrow's History, vol. i. pp. 197-240.

among other steps adopted to suppress it, they wrote on 16th November 1666, letters to Annandale and other noblemen who were concerned in the places of the rising, to order the king's forces to march towards these places, and asking them to concur with the forces when they arrived.¹ As showing the anxiety connected with the rising, three days afterwards, on 19th November, the council wrote again to Annandale and other noblemen, empowering them to convocate their followers, and with them to preserve the peace of the country and to attack the rebels.²

After the battle of Rullion Green on 28th November, the council on the following day sent expresses to the Earls of Annandale, Nithsdale and others in that country, to keep the forces together which they had raised, in order to apprehend the rebels on their return.³

Eight days after the battle, on the 5th December 1666, King Charles granted a commission of justiciary under his signet at Edinburgh for the special purpose of trying and executing justice on those who were engaged in that rebellion. The Duke of Hamilton, the Marquis of Montrose, the Earl of Argyll, and several other earls, including the Earl of Annandale, constituted the commission, three of them to form a quorum. The first court of the commissioners was held at Glasgow on 17th December by four of the commissioners, the Earls of Linlithgow and Wigtoun, Lord Montgomery and Mungo Murray. Four of the rebels were indicted and tried. The court found them guilty of treason and sentenced them to be hanged at Glasgow on Wednesday, 19th December. The sentence was carried into effect.⁴

After the proceedings against the unfortunate insurgents at Pentland, and many of them had been executed under the commission of justiciary of 5th December 1666, milder measures occurred to the more humane members of the privy council, including the learned and accomplished Sir Robert Murray, who was lord justice clerk. He was commissioned by King Charles

¹ Wodrow, vol. i. p. 242.

² *Ibid.*

³ *Ibid.* p. 254.

⁴ Wodrow, vol. i. p. 259, and Appendix, p. 100.

specially to inquire into the state of the country. Sir Robert and the party of the council acting with him, on the grounds referred to, and because the Dutch war was brought to a close, succeeded in obtaining a letter from the king, dated 13th August 1667, disbanding the army with the exception of two troops of horse. The troop raised by the Earl of Annandale in 1667 was included in the general disbanding order. The substitutes proposed were a declaration against entering into covenants, or a simple bond to keep the peace. At the council on 13th September, there was a full attendance of members. Among those present was the Earl of Annandale. Warm discussion ensued, and the members were so nearly balanced that the rolls had to be called over thrice before the plurality was formally ascertained in favour of the bond of peace as the opinion of the majority. Annandale probably voted with the moderate members in favour of the bond of peace.¹

Two years after the standing army was disbanded a committee of the privy council met on 18th February 1669 to consider the acts of parliament and council against conventicles, withdrawers from their parish kirks, clandestine marriages and baptisms, and to consider what may be done for restraining them. On the 4th of the following month of March an act of council was issued for the purpose of preventing these irregularities under stringent pains and penalties. The Earl of Annandale was present in council on both these occasions.² Another proclamation was issued against conventicles. But the indulgence granted by the king on 7th June 1669 gave some relief to the presbyterians.³

In the following year, however, a new form of trouble arose in reference to the attacks made on the episcopal incumbents. A commission was issued

¹ Wodrow's History, vol. i. pp. 275, 276. In the year 1668 the privy council were ordered by the king to inquire into the conduct of Sir James Turner and Sir William Bannatyne for alleged cruelties and illegal exactions in the execution of their office as

commanders at Dumfriës. Turner was dismissed the service, and Bellenden or Bannatyne had to leave the kingdom.

² Wodrow's History, vol. i. p. 296.

³ *Ibid.* vol. i. pp. 304-306.

by the privy council at Edinburgh on 7th April 1670 regarding the "Disorders in the West." The commission was signed by Rothes as chancellor, the archbishop of St. Andrews, the Earl of Annandale, and many others. The commission was accompanied by special instructions to the commissioners.¹

On the same subject of conventicles there was a full meeting of council held at Edinburgh on 11th August 1670, at which a series of seven interrogatories were approved of to be put to persons suspected of attending conventicles, etc., with the view of suppressing them by fines, imprisonment, and banishment when necessary.² In the sederunt of that meeting of council the Earl of Annandale's name is entered. It was among the latest of his attendances in council, as he died in April 1672.

When the earl succeeded to the extensive Annandale estates, he at the same time inherited heavy pecuniary incumbrances, which often placed him as the distinguished head of one of the oldest families of Annandale in difficult circumstances. The Annandale estates being situated in Border counties were peculiarly subject to quarterings of armies which were almost ruinous to the owners. The difficulties experienced by the earl in collecting his rents and other dues were often very embarrassing to him. He also suffered from the large debt to which he succeeded with his estates, and from the cautionary obligations which he undertook on behalf of the Earl of Home and other Border friends. The earl, however, did not succumb to his difficulties, but faced them with commendable courage. This was, no doubt, often trying to him, especially when he suffered for the last ten years of his life under indifferent health.

In the earl's indisposition, he found a great comfort in his excellent countess. In a letter from his lordship to the countess, dated Edinburgh, 28th July 1665, he writes her in a tender and affectionate strain. Though portions of the letter have been mutilated by accidental injury, the part which remains will show his great love for his countess :—

¹ Wodrow's History, vol. i. pp. 325, 326.

² *Ibid.* vol. i. p. 320.

“Deirestt Comfortte,— . . . God-willing I intend to observe anent my homecoming as mentioned in former letters. . . . This I only write to let you know how muche my deirestt love is by me . . . and what satisfacione I have in the thoughtts of seeing the shortley. This I houpe will make you dispense better with it since you may believe that the wholl erthe cannot in the leistt divertt from the who artt the onlie desirble objectt of my heartte in a wordle. . . . So praying the Lord to preserve the and the childrine, I am, my deirestt soulle, thy oune intyrlie till dethe.
ANNANDALE.”

One of the latest letters written by the earl to his countess is dated Edinburgh, 17th January 1671, and is in the following terms :—

“My deirestte hairtte,—I have not beene abroade yette since Satturdays nightt I came to toune saive to waite on your brother. . . . The inclosed came heire on Thursday, bot since I have heirde that your dochtir mends verrei weile, I am to send one over the morrow, and shall give yow a speiddei accountte of hir conditione, bot I assure yow, yow neide not be troubled, for the chancelour assures me she tooke a littill fitte for tuo or threi dayes, bot imediatlei it wentt over, and she recovers verrei weille. My deire, I pray God blesse yow and the childrine, and send ws a happy meitting, which shall be the constantt desyre of your oune till deathe.
ANNANDALE.

“For the Countesse of Annandale, haistte.”

The health of the earl did not improve after the date of the letter now quoted to the countess. He appears to have come to Edinburgh for medical advice, and took up his residence in the Canongate. His lordship employed his Edinburgh law-agent, Mr. John Muir, writer to the signet, to prepare his last will and testament. The draft of the will is preserved in the Annandale Charter-chest, and appears to have been prepared for his signature on day of April 1672. The draft does not bear any signature by the earl, nor has any other will or testament by his lordship been discovered. There is, however, a bond of provision by him to George Johnstone, his third lawful son, for 10,000 merks Scots money. It bears to be subscribed by

the earl at the Canongate on the 13th April 1672.¹ The draft unsigned will by the earl is in the following terms:—

“Being for the present seik in bodie, bot perfyt in memorie and spirit (blissed be God). . . In the first, I recomend my sowlle to God to be receaved be him in his eternal mercie through the merites and mediatioun of my Lord and Saviour Jesus Chryst; and ordainis our bodie to be interred in the kirk of Johnstoun.” [He appoints William, Lord Johnstoun, his eldest lawful son, to be his only executor, universal legator, and sole intromitter with his whole goods, etc.] “Item, I make, nominat and constitute Lady Henrieta Dowglas, my spouse, and the Right Honorable William, Duke of Hamiltoun, William, Erle of Quenisberrie, and William, Erle of Dundonald, my beloved freinds, and in caice of our said spous, her deceis, or mariag, the said William, in her vice and place, to be tutors testamentars to the said William, Lord Johnstoun, my sone, and to John, Georg, Henrieta, and Anna Johnstounes, my other childrene who ar within the yeires of tutorie.” [Three of them to be a quorum. He appoints Robert, Lord Maxwell, John, Lord Lindsay, Master of Carmichaell of Hyndfoord, Sir Richard Graham of Netherbie, Sir Robert Sinclare of Longformakhous, advocate, and John Johnstoun of Poiltoun, bailie of Edinburgh, “to be overseirs to my said eldest sone and remanent childrene.” Rescinds all former testaments and concludes:] “Thir presentis ar written be John Mure, wryter to his Majesteis signet, and subscriyved with my hand at the Cannogaite, the day of Aprylle, the yeire of God j^mvj^c thrie scoir tuelf yeiris, befor thir witnessis.”²

The earl's indisposition continued, and he consulted eminent medical men in Edinburgh, in reference to his attacks of ague and hectic fever. One of these doctors prepared a full statement of his case on 17th June 1672, in the hope of promoting his lordship's recovery and preservation, which the practitioner adds is of so great concernment not only to his own noble family, but even to the whole nation.

Exactly one month after the anxious consideration by the medical adviser, the earl died on 17th July 1672. His lordship previous to his death

¹ Annandale Peerage Minutes of Evidence, 1825, p. 56. The earl granted also on 13th April 1672, a bond of provision in favour of his granddaughter, Lady Henrietta Lindsay, daughter to Lord Lindsay, and Lady Mary

Johnstone, his spouse, the earl's eldest daughter. [Note in Annandale Charterchest.]

² Original draft in Annandale Charterchest.

had removed to Leith, to a house occupied by Lady Mary Gordon, Marchioness of Douglas, who was the mother of his countess.

Although the earl was in feeble health, he wrote and subscribed a careful memorandum of directions for the manner of his funeral, only two days before his death, in the following terms :—

“ For the manner of my buriall, I ordain that, how soon efter it shall please God to call vpon me things can be provided, my corps shall be caried in an open mourning coach, without any other ceremony, and be accompanied by my particular friends to the buriall place of my ancestours at Johnstoune, where I appoint it to be interred in the night, with torches and without ceremony. And on the way from the place of my death to that of my buriall I desire the gentlemen hereabout may be entreated to doe me this last duty of waiting on my corps to Lintoun, and the gentlemen of the other shires through which my body is to be carried shall be likewise desired to wait vpon it through their severall shires of Pebles, Dumfreis, and Anandale. And this declaration of my pleasure about my buriall, taken from my mouth and written according to my direction, I have signed with my hand, at Leith, the fifteenth of July in this present year 1672. ANNANDALE.”¹

The Countess of Annandale survived her husband only for eleven months, having died on the morning of Sunday, 1st June 1673.² The body of the countess was put in a lead coffin, at Edinburgh, and transported to the kirk of Johnstone, to be placed by the side of her husband, whose body had been placed there, in lead and wainscoat coffins, in the previous year. There is preserved a copy of the inscription on their respective tombs, as follows :—

“ Here lyes the right honorable James, Earle of Annandale and Hartfell, etc., who died the 17th of July 1672, and of his age 47.” Surmounted by an earl’s coronet and blank shield for arms, and the initials “ J. E. A.”

“ Here lyes Dame Henrietta, Countess of Annandale and Hartfell, daughter to William, Marquess of Douglas, who died the first of June 1673, ætatis 40.”³

Of the marriage of the earl and countess there were born eleven children, four sons and seven daughters. The eldest surviving son was William, who

¹ Original writ in Annandale Charter-chest.

² Accounts of John Muir, W.S., and others, *ibid.*

³ Copy inscriptions and accounts for coffins and other funeral expenses, *ibid.*

succeeded his father as Earl of Annandale and Hartfell, and was afterwards created Marquis of Annandale. Of him a memoir follows.


The following is a list of the eleven children, and the dates of their births :—

- “ Mary Johnston was born the last of January, being Saturday, 1652.
- “ Margaret Johnston was born on Monday, being the 14 of Agust (54).
- “ Hendreta Johnston was born on Sunday, being the 18 of January (57).
- “ Jannett Johnston was born on a Sunday, beeing the 18 of Junii (58).
- “ Isobell Johnston was born on a Teusday, being the 28 off Aprill (59).
- “ James Johnston was born on a Munday, being the 17 of December (60).
- “ William Johnston was born upon a Thursday, being the 17 of Februarie (64).
- “ John Johnston was born upon Sunday, being the 3 of September (65).
- “ George Johnston was born on a Mondy, being the 21 of June (67).
- “ Hendreta Johnston was born upon a Frydy, being the 21 of January (69).
- “ Anna Johnston was born on a Sundy, being the 30 of July (71).”¹

In the Genealogy of the Johnstone family, printed in this work, are included the names of these eleven children, with additional particulars of their births, marriages, and deaths.

¹ Annandale Peerage Minutes of Evidence, 1878, p. 735.

Ja^m: Johnstone *Annandale*
Hartfell *Douglas*



XVIII.—WILLIAM, FIRST MARQUIS OF ANNANDALE.

SOPHIA FAIRHOLM, HEIRESS OF CRAIGIEHALL, HIS FIRST MARCHIONESS.

CHARLOTTE VANDEN BEMPDE, HIS SECOND MARCHIONESS.

1672-1721.

CHAPTER FIRST.

Outline of his life—His birth, 1664—Succession to his father, 1672—Educated at Glasgow Grammar School and University, 1678-1681—Chooses his curators, 1679—Is served heir to his father, 1680—Marriage with Sophia Fairholm, 1682—Burning of Newbie House—On commission to search for Covenanters, 1684—Intercedes for Monmouth, 1685—Attends the Parliament of King James, 1685-6—Appointed captain of a troop of horse, 1688.

This great chief of the Johnstones, the greatest of all the long line of his family, lived in the reigns of six sovereigns. Born a few years after the restoration of King Charles the Second, and surviving till the accession of King George the First, he was thus a subject successively of King Charles the Second, King James the Seventh, King William and Queen Mary, Queen Anne, and King George the First. Annandale was too young to serve in any official capacity under King Charles the Second, but under all the other sovereigns named he was more or less actively engaged in prominent official positions. Under King James the Seventh, he first came into official life in the not very enviable position, in company with Sir Robert Grierson of Lag, of putting down the risings of the covenanters in the western counties of Scotland, a work apparently very uncongenial to the young nobleman. King James also made him a privy councillor. When William of Orange made his descent upon England, the youthful Earl of Annandale warmly espoused the cause of the Revolution. But immediately after, on account of his youth and inexperience, he was easily misled and induced by his brother-in-law,

Sir James Montgomerie of Skelmorlie, to join in the plot which had for its object the restoration of King James the Seventh. Annandale speedily repenting of this political indiscretion candidly confessed his fault, and was the means of ending that intrigue. His frank confession led to his ready pardon by Queen Mary as acting for King William. His revelations showed the extent to which King James the Seventh was ready to make concessions to recover his lost kingdoms. Annandale himself was to be Commissioner to parliament and a marquis, and commissions and patents of peerages were lavishly bestowed upon Montgomerie and Ross, the other two members of the club engaged in the plot, as well as upon their partizans.

Escaping from this youthful error, Annandale was afterwards received into royal favour both by King William and Queen Mary, and the royal commissions by these and subsequent sovereigns granting important offices of state to Annandale, which are still preserved in the Annandale Charter-chest, are probably more numerous than were received by any subject at that time. The mere enumeration of these royal commissions will show the extent to which Annandale was employed and trusted by his sovereigns. By King William he was sworn a privy councillor and appointed an extraordinary lord of session in 1693, while still comparatively young, being in his twenty-ninth year. Two years later he was constituted one of the lords of the treasury, and president of the parliament of Scotland which met at Edinburgh in 1695. In 1701 King William appointed him lord high commissioner to the General Assembly of the Church of Scotland. Queen Anne appointed him, in 1702, lord privy seal of Scotland, and in the same year president of the privy council of Scotland; and in 1705, and again in 1711, she appointed him lord high commissioner to the General Assembly of the Church of Scotland. In 1705 the queen also made him one of her principal secretaries of state for Scotland. In 1714 King George the First appointed him keeper of the privy seal and a privy councillor, and next year, when the rebellion broke out, he made him lord-lieutenant of the

counties of Dumfries, Kirkcudbright, and Peebles. In that office he displayed great zeal and energy in support of the government, and contributed largely to the suppression of the rebellion in these counties.

Such, in general outline, is the official life of this distinguished statesman. The personal distinctions which he received from his sovereigns were as marked as his official appointments. He inherited all the peerages which had been conferred on his father and grandfather by King Charles the First and King Charles the Second. By King William the Third, in 1701, when he represented his Majesty in the General Assembly, he was advanced to the dignity of Marquis of Annandale, Earl of Hartfell, Viscount of Annand, Lord Johnstone of Lochwood, Lochmaben, Moffatdale, and Evandale. And after his appointment as president of the privy council in 1702 he was, in 1704, invested by Queen Anne with the ancient order of the Thistle, re-established only in December of the previous year by her Majesty.

Although Annandale enjoyed so many principal offices of state, and personal dignities, there was still another office and a still higher dignity to which he aspired. The office was that of lord chancellor of Scotland, and the dignity that of Duke of Annand. But he did not survive to receive either of these appointments.

The extensive correspondence of the Marquis of Annandale in connection with the various offices held by him from time to time has been preserved, not entirely, but partially at least, and a large selection of it is printed in the second volume of the present work, which will with the subsequent memoir furnish some idea of his active official life.

William, Lord Johnstone, afterwards successively Earl and Marquis of Annandale, was born on Thursday, 17th February 1664. He probably received his Christian name of William from his maternal uncle, William, Duke of Hamilton. While only in the eighth year of his age, he became

Earl of Annandale and Hartfell by the death of his father. Three days after that event, on 20th July 1672, a meeting was held at Leith of the friends of the Annandale family to consider the affairs of the Annandale estate. The Duke of Hamilton, the Earl of Dundonald, and the now Dowager-Countess of Annandale, who were present at the meeting, gave orders to the chamberlain of Annandale to prepare a rental of the estate for the year 1672, and a list of the late earl's debts, and to furnish other information on matters which they specified.¹ The rental was prepared, and shows a total of £41,757, 8s. Scots, payable out of twenty-three baronies and separate estates.²

At a subsequent meeting on 7th July 1673, the Duke of Hamilton held a consultation with Sir Robert Sinclair, Sir George Lockhart, and Sir John Harper, advocates. The countess-dowager was now dead, and the Earls of Queensberry and Dundonald had not accepted the office of tutor under the will; and the question which his Grace submitted to the advocates was—Could he act as sole tutor to the Earl of Annandale and Hartfell? The lawyers returned an affirmative answer, adding that if his acting as tutor was questioned, the nomination in the will would sustain him. The Duke of Hamilton hereupon accepted the office of sole tutor. Thereafter his Grace and his duchess Anne, in her own right heiress of Hamilton, acted in every way as parents to Earl William and his younger brother, John Johnstone, their two orphan nephews.

The Duke and Duchess of Hamilton placed the earl and his brother, while resident at Hamilton Palace, under the charge of Margaret Hamilton, a superior person and servant to the duchess. In October 1674, they sent the two boys to Glasgow to pursue their education at the Grammar School there. In the meantime Margaret Hamilton having married Mr. John Bannatyne of Corehouse, in the county of Lanark, and having gone with her husband to reside in Glasgow, the earl and his brother lodged in the house of

¹ Minute-Book in Annandale Charter-chest.

² Duplicate Rental, 18th February 1673, *ibid.*

Mr. and Mrs. Bannatyne.¹ Mr. George Glen was the earl's "pedagogue" or private tutor. Soon after joining the school, and again in 1677, the earl had the distinction of becoming "victor" of the Grammar School, a distinction which his brother John also obtained in 1678. Like most boys he and his brother joined with enthusiasm in the sports of the school.² Occasional visits to Hamilton diversified their school life. On these occasions, when setting out on their excursions to the ducal palace, crowds of the citizens of Glasgow turned out to see them leave the city in their carriage, when money was freely distributed among them.

In October 1677, the Earl of Annandale left the Grammar School and entered the University of Glasgow, leaving his brother John to give further attendance at the school. His lordship was associated in the university with several other students of noble rank. In the fourth class, on 4th February 1678, his name heads the list, William Boyd, eldest son of the Earl of Kilmarnock, follows, and he is succeeded by James Campbell, son of the Earl of Argyll; the remainder of the class being sons of gentry and commoners.³ The earl and his brother John continued to lodge with Mr. Bannatyne. Mr. David Carnegie, governor to the earl, and two men-servants, resided there with them. One at least of these servants also attended the university, the earl paying his class fees. His lordship had also a chamber to himself within the university which he furnished, and for which he paid rent. He employed an amanuensis to assist him in extending his "logick notes" and his "ethick and metaphysick notes."⁴

The Earl of Annandale, in company with his brother and Mr. Carnegie, his governor, was at Newbie in the summer vacation of 1680, where,

¹ In his receipt furnished to his Grace, Mr. Bannatyne subscribes himself as "governor to the Duke of Hamilton's children."

² The accounts of this period contain an entry for the price of a football to the school boys "which the victor gives." There are

also entries of purchases of golf balls and golf clubs. [Account in Annandale Charter-chest.]

³ *Monumenta Universitatis Glasguensis*, vol. iii. p. 134.

⁴ Accounts in Annandale Charter-chest.

from August to October, he received visits from a constant succession of friends, who stayed with him for a longer or shorter period. These each brought with them from two to seven attendants, and, in some instances, as many as eleven horses.

His lordship completed his curriculum of four sessions at the university in 1681. While he was still in attendance there, a notice of the large family Bible occurs in the accounts :—

1679, April. “Item, payed for the binding off ane greate hous Byble pertaining to the deceast Countess off Annandaile, and wes given be the deceast countess to the deceast Mr. Robert Lauder to bind, and, at the death of the said Mr. Robert, the Byble was laid in to the hous of Johnne Muire, and now is taken up be the compter, and hes payed for binding of it, £4, 10s. 0d.”¹

In 1679 the Earl of Annandale, being fifteen years of age, took the usual legal steps for the appointment of curators to manage his affairs till he attained to the age of twenty-one years. The persons whom he chose to act for him in this capacity included the Duke of Hamilton, who was a *sine quo non*, the Earl of Crawford, and others. On 29th July of the following year, he was served heir to his father at Edinburgh. He left Hamilton Palace to attend the service, travelling to Edinburgh by Newbie. The retour states that the lands and baronies to which he succeeded were erected into the earldom of Annandale and Hartfell and lordship of Johnstone, according to the form of the charter granted by the king to the late earl, his father, on 23d April 1662. It also retours him in the heritable office of steward of the stewartry of Annandale, and narrates that all the lands mentioned had been in the king's hands since the death of his father on 17th July 1672, for eight years and eleven days, by the non-entry of William, now Earl of Annandale and Hartfell, lawful heir-male of his father in the same.² The retour, which is dated at the Tolbooth or new session-house of Edinburgh on

¹ Accounts in Annandale Charter-chest.

² Annandale Peerage Minutes of Evidence, 1876, pp. 61-64 ; 1878, pp. 963-972.

29th July 1680, is followed by a precept from chancery in his favour, dated 6th, and instrument of sasine following thereon, 13th September 1680, and recorded in the general register of sasines.¹ The earl gave a dinner on 28th July on the occasion of his service,² and thereafter returned to Newbie, his stay at which place has already been described.³

After completing his feudal title to his extensive territories, the young earl resolved on taking another important step in his life. With his handsome personal appearance, as brought out in later life in his portrait by Sir Godfrey Kneller, his many historical peerages and almost boundless Border baronies, and his close relationship to the premier duke of Scotland, Annandale was a noble youth, fitted to charm and captivate his female contemporaries. Even at the early age of sixteen, he was already in correspondence with the parents of a young wealthy and attractive heiress. She was the only child of John Fairholm, owner of the estate of Craigiehall, in the county of Linlithgow, which had been acquired by his father, also John Fairholm, in business, and of additional personal wealth. Sophia, his only child, although in her fourteenth year, had already become an object of attention, not only to the young Earl of Annandale, but to other

¹ Original Precept and Sasine in Annandale Charter-chest.

² The dinner, which was a sumptuous one, included 12 solan geese, 3 boiled legs of mutton, 4 venison pasties, 36 rabbits, and £146 "for wine and seck and aill," etc. [Account in Annandale Charter-chest.]

³ The Hon. John Johnstone, the earl's brother, left the Grammar School at Glasgow when the earl left the university, and was sent to the Grammar School at Haddington, then kept by Mr. Herbert Kennedy. From Haddington Mr. John Johnstone proceeded to St. Andrews to complete his education at the university. He was still there on 8th February 1685 when he was studying fortifi-

cation. William, Marquis of Annandale, resigned the £10 land of Stapleton in favour of Mr. John Johnstone, his brother-german, as a provision for him. These lands were to be holden to the said John and the heirs of his body, which failing, to the marquis and his heirs succeeding in the estate of Annandale. On that resignation a crown charter under the great seal was passed on 23rd September 1702, and sasine followed thereon on 1st, and registered in the Register of Sasines for Dumfriesshire 5th October 1702. John Johnstone of Stapleton died without lawful issue, and the lands of Stapleton reverted to the Marquis of Annandale in terms of the charter of 1702 [Writs in Annandale Charter-chest.]

pretenders for her hand. A certain lady of rank was eager that one of her sons should be the successful lover of the coveted heiress, Sophia Fairholm. The writer of the letter, Lady Christian Hamilton, relict of Sir Patrick Hume of Polwarth, was of an old baronial family, noted for having produced many members of distinction in the legal and other professions. By her first marriage she had a son who became a distinguished nobleman, and her own second marriage was to another Border nobleman. This lady pled the claim of her second son with the Lady Craigiehall in a letter dated the 22d March 1681. The letter is written in the Scotch language, and has considerable force; but it was without success.¹ Already the young earl with all his attractions, which have been referred to, made a favourable impression on the heiress and her parents, and the marriage between them, after a juvenile courtship of two years, was celebrated at Edinburgh on 2d January 1682. The countess was born on 19th March 1668, was a mother before she had completed her fifteenth year, and a grandmother in her thirty-second year.

Allusion has been already made to the enjoyment by the young earl of a summer residence at Newbie Tower on the banks of the river Annan, and his constant succession of visitors there in the summer season. Although the old tower of Lochwood had been for centuries the principal residence of the Johnstone family, the more recently acquired mansion of Newbie was selected as the suitable abode in Annandale of the newly married earl and countess.

While the earl and countess were enjoying themselves at Newbie and entertaining many of the county gentry and other friends, a lamentable accident befel the house. The countess, Lady Applegirth, the minister of Cummertrees' wife, and Sophia Johnstone, were sitting in the commissioner's chamber, when Lady Applegirth cried out she felt the smell of burning timber. By the time the company reached the stairs, they were nearly

¹ Original letter in Annandale Charter-chest.

choked with the smoke. They, however, managed to descend to the entry, by which time the flames were issuing out of the chamber windows. Notwithstanding every endeavour to save the new house and furniture, they were both totally burned, but the old tower was saved, though with difficulty. The inmates lost all their clothes, etc., and Lady Annandale had to ride with her attendants in the middle of the night as far as Kelhead, where they found accommodation for the time.¹

At the close of the year 1684, Annandale received his first public appointment. He was placed by King Charles upon a large commission to act against the covenanters. The king had already in September of this year, by the appointment of commissioners of justice to whom he gave very rigid instructions, adopted more stringent means to prevent conventicles and to bring to punishment those who frequented them. The severities now practised upon the covenanters led to their publishing in November the Sanquhar Declaration by which the king's authority was disowned and war was declared against him. This so incensed his Majesty, that, on 30th December, he granted the larger commission referred to in which Annandale was included. Power and authority to act, in terms of the commission, within the shire of Nithsdale and stewartry of Annandale, were given to the Earl of Annandale, Sir Robert Dalziel of Glenae, Sir Robert Grierson of Lag, Sir James Johnstoun of Westerraw, Thomas Kilpatrick of Closeburn, and Robert Laurie of Maxwelltown,—the Earl of Annandale to be convener. As his lordship was born on 17th February 1664 he was not then 21 years of age; but as he had a large interest in the district, and as his services might be considered of importance to the government, any objection on account of his nonage may have been purposely dispensed with. His lordship's name does not appear in any record under the commission issued for punishing the rebels. But Sir Robert Grierson of Lag and several of the other commissioners associated with the earl were active in the work. Only on one

¹ Letter, countess to her father, vol. ii. of this work, pp. 314, 315.

occasion, so far as known, is the earl found acting under the commission. This was in the parish of Twynam, on 10th June 1685, when his lordship and Sir Robert Grierson of Lag made search for four nonconformists. The earl with his party having come upon David Halliday and George Short, gave them quarter till they should be tried the next day. When Lag came upon the scene he refused them quarter, and although the earl informed him of his promise, he had the men shot on the spot.¹

Annandale is brought into prominence in connection with the condemnation and execution of the Duke of Monmouth. The Right Honorable Charles James Fox quotes in the appendix to his History a paper obtained from the Buccleuch repositories which contains information of what passed in the last days of Monmouth. In doing so, after stating that intimation was made to Monmouth of the time fixed for his execution, he says:—

“All the while he importuned more of his former acquaintance, especially such as he thought to have any credit or interest with the king, to intercede for him; at least for a longer respyte. The Lord Annandale and the Lord Dover were frequently sent for [by Monmouth] to come and speak with him. The latter not being in town could not give him that satisfaction he promised himself if he saw him. The first hade leave to go and see him; and the business was that he would be pleased to go and wait on his Majestie, and reinforce the arguments he had formerly used towards the saving of his life.”²

As is well known, the efforts here referred to failed, and Monmouth was executed on the 15th of July 1685. At the time of Monmouth's execution, Annandale was only 21 years of age, and, if he was employed as here indicated, he had not yet acquired such a position as to make him a prominent intermediary with the king for saving the life of his nephew.

From accounts preserved in the Annandale Charter-chest the earl made a journey to London in the month of March 1685, and remained there during the greater part of the month. As his lordship acquired his full

¹ Wodrow's History, folio edition, vol. ii. p. 509.

² The Right Hon. George Rose on Mr. Fox's History. Appendix No. 8, p. lxxviii.

age about that time, and as King James the Seventh succeeded his brother, King Charles, in the preceding month of February, it is probable that the young earl was presented to the new king.

The town of Sanquhar has been made famous by the declaration of the covenanters in 1684 disowning Charles Stuart as king, and declaring war against him. The same town was the scene of another proclamation in the end of July or beginning of August 1692, of James, Earl of Dalkeith, as king. This last proclamation at Sanquhar was made by thirty or forty "wyld people" at the cross.¹ Thus a small remnant of the faithful proclaimed a grandson of King Charles the Second as king eight years after they had renounced all allegiance to the grandfather himself, and seven years after Monmouth was beheaded for proclaiming himself king.

During the rest of the reign of King James the Seventh, Annandale contented himself with attending to his parliamentary and official duties. He was present in the two sessions of parliament, of which the first was held at Edinburgh on 23rd April 1685, in which William, Duke of Queensberry, was commissioner, and the second on 29th April 1686, in which the Earl of Moray was commissioner. Two years later, on 29th June 1688, he was preses of a meeting of the principal persons in the shire of Dumfries. The object of this meeting, and the circumstances in which it was convened, were these:—Mr. David Houston, a minister of the gospel, who had been in Ireland, was apprehended there, and was being brought to the Tolbooth of Edinburgh a prisoner in charge of a guard of soldiers, for the purpose of being tried for field preaching. A number of the country people ascertaining this, armed themselves, rescued the minister at Carbelly path, in Ayrshire, killed several of the soldiers of the escort and wounded others of them. On 22nd June the council, annoyed at what had taken place, issued a proclamation, ordered the nobility, freeholders, heritors, and indulged ministers in the shires of Ayr, Lanark, Renfrew, and Nithsdale to meet at the head

¹ The Scotts of Buccleuch, vol. i. p. 483.

burgh of their respective shires on the 29th of that month, and charged them to discover, if possible, the persons implicated. The commissioners, justices of the peace, and others of Dumfriesshire met at Dumfries on the day appointed, and, as already related, the Earl of Annandale was preses of the meeting. The report of their proceedings, which his lordship furnished to the lord chancellor, bears that Francis Irving, William Macmillan, and George Campbell, three indulged ministers who had been called to the meeting, petitioned to be relieved from attending, on the plea that it was inconsistent with their sacred office to sit as judges in a civil court. The earl enclosed their petition with his letter to the chancellor, and left it to the judgment of the privy council. The meeting resolved themselves into a committee of twenty, being five for each of the four presbyteries within the shire. These met separately with the heritors within their respective presbyteries, conferred on the matter referred to them, and declared they did not know of any one who was present "at that late rebellious assassination," nor of any field conventicle recently kept within their bounds, and they judged the people peaceable.¹

This same year of 1688, King James made the Earl of Annandale a privy councillor although he was only then twenty-four years of age. Later in the year he received a commission on 18th October 1688 from King James the Seventh to be captain of a troop of horse in the regiment under the command of Major-General John Graham of Claverhouse.² Before Annandale could have assumed his place as captain, William, Prince of Orange, landed at Torbay on 5th November 1688, and the Revolution became an accomplished fact.

¹ The letter of the earl and the petition of the ministers are printed in volume ii. of this work, pp. 41-44. Wodrow states that unless in the case of the shire of Renfrew, he had not seen any account of the procedure in this case adopted in any of the other shires.

(History, fol. edition, vol. ii. p. 629.) The letter and petition now referred to supply such an account so far as Dumfriesshire is concerned.

² Charters of this work, p. 96.

CHAPTER SECOND.

Annandale enters heartily into the Revolution—Signs the declaration that parliament would continue to sit irrespective of King James—Joins the Club—Presents the address of the Club to the king—Involved in Sir James Montgomerie's plot, 1689—Confession by the Earl—Letters of Queen Mary of Modena—The letters and commissions sent by King James to the Plotters—Pardoned by the King and Queen—He retires to the country, 1692.

The Revolution of 1688 was practically accomplished by the absconding of King James the Seventh from his palace of St. James, and the advent of William, Prince of Orange, at the same palace on the same day. That memorable day was the 23rd of December 1688. The outgoing King James left his palace in the early morning, and the incoming King William arrived at the vacated palace the same night. Although this remarkable Revolution dates from the end of the year in which it was accomplished, it had to be completed in a constitutional form, and the arrangements to effect this required the exercise of great wisdom and experience. It was arranged that the Prince of Orange should write circular letters to the barons and burgesses and others, calling a convention of the estates of Scotland to be held at Edinburgh on 14th March 1689. The Earl of Annandale responded to the circular and attended the convention. Although then of very little parliamentary experience, having only attended the two previous parliaments of King James the Seventh after he had come of age, he took part in the proceedings, and several duties were assigned to him by the convention. He signed the letter to the Prince of Orange acknowledging him as their deliverer.

Annandale was appointed colonel of the militia regiment for Dumfrireshire. He was also added, during the absence of the Marquis of Atholl and Viscount Tarbat, to the committee for settling the government of the country. He received a commission from the estates to be captain of a troop of fifty horse to be levied and under the command of Major-General Mackay;¹ and was appointed one of the commissioners to treat for a union

¹ Dated 22d April 1689.

of the two kingdoms. An act was passed in his favour enjoining the Duchess of Buccleuch and her vassals to contribute their proportion of men for the earl's troop from the five parishes of Eskdale, notwithstanding that these parishes were disjoined from the shire of Dumfries and annexed to that of Roxburgh; thirty carbines were ordered to be delivered to the earl's troop, etc. A letter was written by the committee of estates to Annandale, bearing that they were informed that some persons came skulking over the Border from the English side having evil designs against the government, and sending an order from Major-General Mackay to command thirty horse of the English forces for his Majesty's service. The committee authorised Annandale to secure disaffected persons who had crossed the Border, and to give intelligence to the magistrates or officers on the English side if any crossed from Scotland with evil designs.¹ Under these orders, Annandale and Viscount Kenmure were empowered to seize the horses above the value of £8 sterling of any Roman Catholics in the shire of Dumfries and stewartry of Kirkeudbright, to take from them any arms which they wore contrary to the proclamation of the estates, and to require them to take a bond prescribed, and in case of refusal to secure their persons.²

At the convention of the estates, when a special letter was addressed to it by the late King James, Annandale agreed with the convention that the meeting should continue to sit, even should the letter of the king decree its dissolution. The signature of Annandale stands affixed amongst those of the other noblemen.

The convention of estates, which first met on 14th March 1689, continued their sittings till 5th June following. At one of their meetings, they petitioned King William to have the convention considered a free parliament, and its acts and proceedings treated as such from the commencement. King William approved of this, and on 5th June 1689 an act of parliament was

¹ The letter is dated 16th, and a further order 22d May 1689.

² Acts of the Parliaments of Scotland, vol. ix., *passim*.

passed constituting the convention a parliament. As commissioner from the king, and as president of the convention, the Duke of Hamilton touched the act with the sceptre, by which it became law.

Although Dundee and other Jacobites attended the convention of estates, and sanctioned their recent actions, they were engaged in proceedings to restore King James, which culminated in the battle of Killiecrankie, where the army of King James, headed by Dundee, defeated that of King William under Mackay.

In these threatening circumstances parliament required the assistance of the loyal members. But several of the influential representatives of the barons were dissatisfied with certain acts of the convention. These dissentients formed themselves into a separate section popularly known as the "Club." They were for a time numerically the largest voting power in parliament. The leading spirit of the club was Sir James Montgomerie of Skelmorlie,¹ member for Ayrshire, who took a very active part in the debates of the convention. His wife was Lady Margaret Johnstone, one of the sisters of the Earl of Annandale. The young Earl of Annandale was easily drawn into the schemes of his brother-in-law, Skelmorlie, along with Lord Ross.

The Earl of Argyll, Sir Patrick Hume of Polwarth, and other members of parliament, were for some time members of the club. Sir James Montgomerie was a disappointed politician. Amidst the changes consequent upon the Revolution, Montgomerie expected to obtain the office of lord-justice clerk, and he expressed chagrin that it had been bestowed on another. Many questions were urged in the new parliament. On three points the members of the club desired to have new acts of the estates passed—to have the lords of the articles appointed by parliament, to have certain persons who were employed in the late reigns disqualified from office under the new reign, and to have the new judges appointed by parliament. But to none of these

¹ There is a notice of Sir James Montgomerie as the fourth baronet of Skelmorlie in the "Memorials of the Montgomeries, Earls of Eglinton," 1859, vol. i. pp. 163-165.

acts would King William consent. On the 2d of July 1689 a bill for church government was introduced by the Earl of Annandale. It proposed to abolish prelacy, and recommended presbytery as the most agreeable to the people of the nation. Hamilton, as commissioner, raised objections, and certain members of the club inferred that the king did not intend to allow the presbyterian church government to be established. An act was, however, passed, abolishing prelacy, to which their Majesties signified their assent.¹ The parliament was adjourned to 2d August 1689, and did not meet again till the following year.

When Major-General Mackay was arranging his forces to meet the Highland host of Dundee at Killiecrankie, Mackay summoned the Earl of Annandale and Lord Ross to attend him at the head of their respective troops. But these active senators, thinking they were of more consequence in the parliament house than on the battlefield, applied first to the council and then to the parliament, to have the general's order countermanded. This gave rise to new debate, whether the king could call away any man from parliament. Hamilton, as commissioner, decided that officers must obey orders. But Lords Annandale and Ross offered to lay down their commissions rather than obey the orders of Mackay, who did not accept their commissions, and gave them furloughs. In the parliament constituted in the circumstances consequent on a change of sovereigns, many difficult questions were constantly cropping up, and required great skill to pilot them through without explosions. Whether Annandale and Ross did best for the country to remain in parliament, instead of attending the commander-in-chief with their respective troops, may be a matter of opinion. But the fate of the day would probably not have been affected by their presence or absence. Mackay had the troops of Annandale and Ross under his command at Killiecrankie, and their inexperienced captains would not probably have affected the general result. The battle of Killiecrankie was claimed as a victory for King James; but it was dearly bought by the death

¹ 22d July 1689, Acts of the Parliaments of Scotland, vol. ix. p. 104.

of Dundee, his ablest general, who fell mortally wounded on the field of battle. Macpherson, of Ossian fame, published a letter purporting to be written by Dundee the day after the battle, giving an account of his victory. But recent investigations have demonstrated that Dundee actually died in the midst of the battle. Lord Macaulay in his history gives a brilliant account of the battle of Killiecrankie, and states that the alleged letter by Dundee to King James is as impudent a forgery as Fingal.¹

Certain subjects which had been agitated in the convention and parliament were still discussed by the members of the Club and others. These had reference, first, to the nomination of committees by the estates; second, to the act abrogating the act of 1669 asserting the king's supremacy in causes ecclesiastical; third, to those persons not to be employed in public trust; fourth, to the act about nominating the lords of session; and fifth, to the act restoring the presbyterian ministers since 1st January 1661.

Those favourable to these measures prepared a formal address to King William, in September 1689, urging him to ratify the acts voted in the current parliament. The address, which was signed by eleven peers, including Sutherland, Morton, Argyll, Annandale, Ross, and others, and also sixty-one commissioners to parliament,² was a formidable document, and the king ultimately gave favourable consideration to several points in it. But he never consented to the incapacitating act, and he reserved to the crown the nomination of the lords of session.

A proclamation was issued against members of parliament leaving the kingdom. But Lords Annandale and Ross and Sir James Montgomerie disregarding it hastened to London to present the address to the king. A rumour had arisen that the king meant to nominate the lords of session, and this increased their anxiety. They kept pressing Portland upon the subject, who received them in a friendly spirit, and they so far succeeded

¹ History of England, 1855, vol. iii. p. 363.

² The Melvilles, Earls of Melville, etc., 1890, vol. iii. pp. 209-213.

with him that on the 9th of October the nomination was delayed. They came to Newmarket on the 14th, accompanied with Mr. Johnstone, their agent. After some delays and discussions as to who should present the address, Annandale made the presentation. A letter of the period says the king had heard all of them, but they had no reason to brag of kind entertainment; and adds, "the whole clubb is now shatering."¹

Sir James Montgomerie, stung with disappointment, first at not receiving the appointments he expected, and now at losing the king's favour, entered into that scheme known in history as "Montgomerie's Plot." His object was to effect a revolution against King William for the purpose of restoring King James. Annandale, who joined in the plot, being young and inexperienced, came to see his error, and made his escape from it by a frank confession, in which he gives the following account of its inception:—

"After the first adjournment of the Scots parliment in the year 1689, the Earle of Annandall, Lord Ross, Sir James Montgomery of Scalmorely, cam to London, contrair to the King's express command, and presented ane Adres to his Majesty, which with a lybell, called the vindication of it (wryten be Mr. Robert Ferguesson, as Sir James told the earle, who furnished him with the materials),² gave such offence to the king, as mad us quickly see we had totalie lost the king's favour. Thus, the earle continoued at London, without entering into anay desyn, till the beginning of December, about which tyme, Sir James Montgomerie, who is, perhaps, the worst and most restles man alyve, cam to the earle, and proposed to him, that since ther was no hops of doing any thing with the king, we ought to apply our selfs to King James, who was our lawful prince, and who no doubt wold give us what preferments and imployments we pleased. To this purpose, severall days we discoursed, and the earle having agreed to the proposition, it

¹ Letter, 15th October 1689, from David Nairne, *The Melvilles, Earls of Melville*, vol. i. pp. 211, 212.

² The libel referred to bore the following title: "The late Proceedings and Votes of the Parliament of Scotland; contained in an Address delivered to the King, signed by the plurality of the members thereof, stated and

vindicated. Glasgow: Printed by Andrew Hepburn. Anno Dom. 1689." The language employed in this tract is particularly bitter in abuse of the king's ministers of state, and especially Lord Stair and Sir John Dalrymple, his son. The Address is printed at the end of the pamphlet, and is said to have been delivered to his Majesty at Hampton Court on 15th October 1689.

was thereafter proposed by Sir James to the lord Ross, who after much difficulties engaged therein."

The earl in his confession states that he and Lord Ross had little to do but say "Amen" to Sir James, who had drawn out already (1) a commission for Annandale to represent King James in parliament; (2) instructions to his commissioner with thirty-two articles; (3) a declaration for Scotland. These were to be sent to the late king to be signed. Visits were made to the Fleet prison to discourse the project with one Simpson and Neville Payne; and other meetings were held, ending with one at Captain Williamson's house, near Hyde Park, where the papers to go with Simpson and his credentials were signed. Annandale explains that their project was to bring home King James by a parliamentary majority; for though they durst not insinuate as much to the dissenters, they "really abhorring that thought," yet reckoning that many of them would concur to force the king to yield to demands he disliked, they hoped the country might thereby be put into confusion, or a new parliament called, which they expected would be for King James. To carry on the project they returned to Edinburgh, waited on Lord Arran, and told him what they were to do to bring in his old master. The Club, or those of them still under Sir James Montgomerie's influence, now joined with the Jacobites to obstruct the king's affairs. This continued till the meeting of parliament. Meantime the king authorised Lord Melvill to publish his instructions to his commissioner, by which it was shown to the country that the delay in establishing the presbyterian church in Scotland was noways attributable to the king. One effect of this was that leading members of the Club fell away—such as the Earl of Argyll and Sir Patrick Hume, and the Laird of Culloden went on a mission to Scotland to counteract the efforts of Sir James Montgomerie. The Earl of Crawford, writing to Lord Melvill, says, "I am much delighted with his Majesty's instructions to the Duke of Hamilton, the printing of which has already remarkable effects on the people, and throughly cured many of the members of parliament who

formerly wer displeased.”¹ The king ordered the troops of Lords Annandale and Ross to be divided amongst the standing troops, or disbanded.²

Annandale and the other Scottish lords returned home about the beginning of January 1690, and were honoured by many as great patriots.³ The message which Montgomerie and his friends sent to King James in France was acknowledged by his queen, Mary of Modena. Her first letter to Sir James Montgomerie, dated 23d March (1690), expresses her persuasion that she had to do with men of honour, and refers to a cautious abridging of the royal power. Her second letter states at length the arrangements made in France for forwarding the wishes and designs of her husband, King James.

Parliament met on 15th April 1690. The presence of the king being required in Ireland, he sent the Earl of Melvill to attend as his commissioner.⁴ After adjournments to the end of the month, legislation was proceeded with harmoniously till the 22d of July, when it was adjourned till September. But the plan of co-operation in parliament between the remaining members of the club and the Jacobites did not help the club with the dissenters, and even the Jacobites failed them, for, finding the inconveniences that might arise to them from so public an appearance against the interest of the king, the Jacobites told them plainly they would leave them and concur in the money bill. The attempt of the club to have parliament dissolved was thus frustrated.

Mr. Simpson returned to Edinburgh towards the end of May 1690, and brought from King James, then in Ireland, a great bundle of papers in a leather bag sealed with the king's seal, which he delivered to Sir James Montgomerie; and which, according to Annandale's confession, contained the following commissions and letters:—

1. A commission to Annandale to be high commissioner.

¹ Crawford to Melvill, 19th December 1689, Leven and Melvill Papers, p. 349.

² Order dated 4th January 1690. The Melvilles, Earls of Melville, vol. ii. p. 40.

³ Dalrymple to Melvill, 10th January 1690, Leven and Melvill Papers, p. 367.

⁴ His instructions are dated at Kensington 25th February 1689-90.

2. Instructions to him in a large parchment, consisting of 32 articles, and many particular instructions.

3. A commission for a council of five, very ample, to Arran, Annandale, Ross, Sir James Montgomerie; and whether the fifth was blank, or Argyll's name filled up in it, Annandale could not remember.

4. A commission of council, wherein the Duke of Hamilton and most of the old privy council were named, and a blank for the council of Five.

5. A commission for the session, wherein are named Sir James Ogilvie, Sir William Hamilton, and many others.

6. A commission of justiciary.

7. A commission for James Stewart to be lord advocate.

8. A general indemnity, six persons only excepted—the Earl of Melvill, Earl of Leven, L. G. Douglas, Major G. Mackay, Sir John Dalrymple, the Bishop of Salisbry.

9. A great many letters written with the late king's own hand, and above forty superscribed by him, to be directed and delivered as the council of five should think fit.

10. A letter to three that sent the message.

11. A particular letter to Annandale, and a commission to command the castle of Edinburgh, with a patent to be a marquis.

12. A commission to Sir James Montgomerie to be secretary, and a patent to be an earl.

13. The Lord Ross had a patent to be an earl, and a commission to be colonel of the horse-guards.¹

Annandale's confession further explains that the papers were all taken to Lord Arran's chambers in Holyroodhouse, and examined. Afterwards the principal of them were taken to Lord Breadalbane's chamber, and examined by the Marquis of Atholl, the Earl of Breadalbane, and others, where the three leaders were much blamed "for thinking that it was possible to doe King James bussines in a parlimentarie way; and that in place of thos papers, we ought to have sent for ammuniton, and arms, and som forces, if they could be obtained." The papers received from King James

¹ Leven and Melvill Papers, pp. 509, 510. "The Earldom of Air was conferred upon Montgomery." [Dalrymple's Memoirs, 1790, vol. iii. p. 11.]

were thereafter burned in Breadalbane's chamber, as those in the custody of them might find them to be dangerous documents.

The question next arose of making a return to King James's letters. Annandale did not encourage any further communication with the late king, and went into the country to escape the importunities of Sir James Montgomerie. The three principal leaders in this plot now became alarmed, and hastened to make their peace with the government by confessions of the part each had played in the conspiracy. Sir James Montgomerie was the first to write to Lord Melvill, offering to wait upon him and clear himself of the false accusations made against him. He did this to escape imprisonment, which, in the state of his health, would have occasioned his death.¹ Lord Ross was the first actually to offer to make his confession, and was sent by Melvill to Queen Mary. He averred that the burning of the papers received from King James was owing to James's refusal to dismiss his Popish officers. Sir James Montgomerie next offered to make disclosures, but, like Lord Ross, insisted first on an indemnity, and that he should not be used as a witness.²

The Countess of Annandale, who had been kept in total ignorance of the plot, hastened to Lord Melvill, and begged of him a letter to the queen that she might intercede in her husband's favour. Melvill wrote to the queen:—

“I could not refuse the solicitations of a faire lady to give your Majesty this trouble. I doubt not but she is both innocent and ignorant of what hath been her lords carriage, and its no wonder she be much concerned; and I do think him to be the least guilty and the most ingenuous person of the three friends, as the late queen designed them in her letters to them. I wish he had been more frie, and given your Majesty greater satisfaction.”³

The Countess of Annandale lost no time in repairing to London, and immediately waited on Sir William Lockhart, who was solicitor-general, with

¹ Hirst, 18th June 1690. The Melvilles, Earls of Melville, vol. ii. p. 156.

² Leven and Melvill Papers, pp. 454-456.

³ Melvill to the Queen, 6th August 1690. *Ibid.* p. 488.

proposals for a remission to the earl on certain conditions. Sir William states the outcome of these proposals. He says:—

“The queen was verie willing that he should be remited on thir terms; 1st, That he should mak a full discovrie of all he knew, both as to persons and things. 2. That the account shold be in wryting. 3. That he shold surrender himselfe to me, and shold not converse, either by word or wryting, with any person, nor receive anay messadge in relation to the cryme he had been, or knew others to be, guiltie of; and the queen promises he shall not be ane evidence; to which he agreed, and accordingly yesternight he surrendered himselfe. It was latt, and therfor have not had yet much discours with him; onlie he tells me that Sir James Mongomerie is the greatest of all vilains, that he was the author and ajent of all.”

Sir William adds he had been in town since Saturday morning. He had desired to see Annandale, but was refused, and he had been with Ferguson and other rogues “who cut Ross throat.” He states that the queen was to see Annandale that night, and inquires whether Melvill thought he should cause seize Sir James. The queen gave a formal warrant embodying the above conditions, and giving her royal word that the Earl of Annandale should never be used as a witness against any person mentioned in the information she was to receive from him. The earl in his interview with the queen, gave “a full and faithfull account of the Conspiracie” he had been engaged in, which was written down from his mouth by Sir William Lockhart.¹ This confession cleared up most of the obscurities in the case. Sir William was highly satisfied that Annandale had dealt so plainly with the queen, and how providentially he had come in “whyll both the other two, who made much grater professions, have plaid the rogue.”² In another letter he expressed the hope that Lord Melvill was satisfied “of this man’s ingenuitie,” and that he had expressed his sense of the villainy he had been guilty of, that it left impressions on those who heard it. During this trying

¹ Dated 14th August 1690, Leven and Melvill Papers, pp. 506-512.

² Lockhart to Melvill, August 1690, *Ibid.* p. 515.

time for Annandale, Melvill, as commissioner, had shown so much consideration for his lordship that the latter wrote a grateful letter expressing his belief that he owed his being in so good circumstances to his Grace, and assuring him he should ever retain a suitable sense of so great a favour.¹

The question of making further discoveries about the plot continued to engross attention some time longer, even after the king's return from Ireland. Sir James Montgomerie had an interview with the queen. His information was meagre and unsatisfactory; and he afterwards made his escape to France. Lord Ross was sent to the tower of London and liberated without any prosecution. Annandale was not proceeded against for his share in the plot. He was less guilty than his associates, and had made atonement by his ingenuous confession. Annandale now avoided all public communication with the plotters or Jacobites, and became perfectly loyal to King William's government. A good deal of the summer of 1691 he spent at Bath, and afterwards retired to his old tower of Lochwood, where he was only conversant with his papers and private business. He wrote thence in October 1692 congratulating King William's return to England, and saying he would ever be ready to sacrifice for his interest that life and fortune "which in a speciall maner I hold of their Majesties."² Annandale was too important and influential a nobleman to continue spending his time over his private family muniments and the routine business incident to a country gentleman. In the next chapter we shall find that he emerged from his voluntary retirement in his native dale, and took an active and prominent part in the public offices and business of the nation.

¹ Annandale to Melvill, 20th August 1690, Leven and Melvill Papers, p. 495.

² Vol. ii. of this work, p. 55.

CHAPTER THIRD.

Made a member of the Privy Council and an extraordinary Lord of Session, 1693—Death of Queen Mary, 1694—Chosen president of the Council, 1694—Presides in parliament and on inquiry under a royal commission as to the massacre of the Macdonalds of Glencoe, 1695—Marriage of Lady Henrietta Johnstone, 1699—The Darien Scheme, 1699—Commissioner to the General Assembly, 1701—Created Marquis of Annandale, 1701—Death of King William, 8th March 1702—Character of Annandale by King William.

Escaping from the intrigues into which he was unfortunately involved for the restoration of King James the Seventh, we now enter upon a more prosperous chapter in the career of the young earl. His political offence was amply forgiven by King William by a formal remission dated 9th December 1690 and registered in 1693.¹ Annandale was now in his twenty-eighth year, and soon entered upon a course of prosperity under King William.

A cadet of the house of Johnstone had by his talents raised himself to a position of influence in the service of the king. This was James Johnstone, second son of Archibald Johnstone of Warriston, who was a prominent figure and leader among the covenanters. James Johnstone was known as of Twickenham in the county of Middlesex. On the accession of King William, he was sent ambassador to the Elector of Brandenburg. Later, he was recalled, made secretary for Scotland, probably in 1692, as, in a letter to Annandale which he wrote in 1695, he says he had been in office as secretary for three years' time. He held the office for four years. He was afterwards appointed lord clerk register of Scotland by Queen Anne in 1704, an office which his father held for nearly ten years from 1649. John Macky in his "Memoirs of Secret Services," 1733, held Secretary Johnstone in high regard for his honesty, veracity, learning and virtue. He says, "he would not tell a lye for the world," adding, that he was a tall fair man and towards fifty years of age.²

¹ Quoted in List of the earl's patents, commissions, etc., in Annandale Charter-chest.

² Macky, pp. 204-206; vol. ii. of this work, pp. 93, 94.

Annandale and his distinguished Johnstone cadet became very intimate friends about the time that James Johnstone was appointed secretary for Scotland. The cadet seemed proud of his chief, and the chief seemed equally proud of his cadet, who used his personal influence to bring the earl into the government of Scotland. The correspondence between these two Johnstone friends was close and intimate. Many letters of the secretary to Annandale have been preserved, and a selection of them appears in the second volume of this work. These will show the confidential terms in which they stood to each other. In a letter from Mr. Fairholm of Craighiehall, dated Westminster, 1st December 1692, to his son-in-law, Annandale, he explains that he was then in close communication with Secretary Johnstone, from whom he learned that "there were great things on the wheels," and that the secretary was going to Kensington with many papers, being near the close of his waiting, and his head full of business. "He, his brother, and his men, this moneth bygone, hes beene wryting everie day betwixt four and five in the morneing, and just now we hear he hes not now at seven o'clock put on his cloathes." "He has a hand in all things now of consequence, and rises daily."¹ Much of the correspondence of James the secretary was conducted by his brother Alexander, his assistant in his office as secretary, who was the medium of intimating to Annandale that he was appointed a member of the privy council and an extraordinary lord of session. The tone of Alexander Johnstone's letter to the earl shows his own personal satisfaction with the success of his chief. He writes: "The prize is wone. The tyde is turned. Yourself is in councell and one of the extraordinary lords of session too, and this is but, I hope, only an earnest of what will follow for your advantage." He urges the earl to hasten to Edinburgh to take possession of these posts in so critical a time, and to make himself useful if not necessary to the government for the future.² To this

¹ Vol. ii. of this work, p. 56.

² Letter, 2d February 1693, *ibid.* p. 57.

letter Annandale made a suitable acknowledgment. Chancellor Tweeddale also wrote his lordship promising him a welcome at the council board.¹

The fourth session of the first parliament of King William and Queen Mary was begun at Edinburgh on the 18th of April 1693. William, Duke of Hamilton, was commissioner. The act for taking the oath of allegiance and assurance was passed on 19th May 1693 in favour of King William and Queen Mary, as the only lawful sovereigns of the realm, and to maintain their title against the late King James. The oath of allegiance was also ordered to be taken by all noblemen, members of parliament, and persons in public trust.²

Both in and out of the parliament, Annandale gave proof of his zeal for the government, which Lord Carmichael, the lord justice-clerk, and others reported to the king, on their return to London. He succeeded in apprehending a Jacobite emissary named Stanke, and exerted himself to apprehend others on a like mission to the Borders.³ By these and other measures Annandale exposed himself to the malice of the Jacobites. He writes, "I have rendered myself the most obnoxious man in the nation to there malice and envie."⁴ The privy council having under their consideration the case of the Bass men, who had held out the fortalice for King James, the question came to be, Reprieve or not? Lord Cassillis argued the commission of King James as a ground for reprieving the prisoners. When the question came to the vote, Annandale was the first that voted, Not. By the chancellor's casting vote, it was carried for reprieve to the first Friday of May. The council then took the prisoners' petition into consideration, and resolved to set them all at liberty on bond. Annandale writes: "When they came to this, Sir Thomas

¹ Letter, 5th February 1693, vol. ii. of this work, p. 58.

² Acts of the Parliaments of Scotland, vol. ix. pp. 238, 262-264.

³ Alexander Johnstone to the Earl, 15th February 1694, vol. ii. of this work, p. 68.

⁴ Letter to James Johnstone, March 1694, *ibid.* p. 72.

Livingston and I went to the door, so that wee were not actors in it.”¹ From his letters at this period, it will be found that Annandale took a lively interest both in the civil and ecclesiastical affairs in progress, especially in the proceedings of the Assembly. Mr. Carstares, when in Edinburgh, dined with him and professed great friendship.² At the end of the year 1694, Annandale received from the council the nomination to be their president. Secretary Johnstone congratulated him upon the honour, and advised him to write a letter of thanks to Lord Portland, and “not to mince the matter of the fatal step you made.”³ The secretary, on the king’s order, wrote that he was very well satisfied with the council’s choice, but that he did not write this in a public letter, because he was informed there was a point of right in it, and he had not yet heard the case.⁴ Following the counsel of the secretary, Annandale wrote to Lord Portland lamenting the “unjustifiable and false step” he made some years previous, which lost him his lordship’s favour and that of their Majesties; that he had never sought to extenuate his guilt as others had done; but had separated himself from those who were then associated with him. He also craved his lordship’s commands, as the council had asked him to preside till the king’s pleasure was known.⁵ To this letter Portland returned him a courteous answer.⁶

On 28th December 1694, at one o’clock in the morning, Queen Mary died. In a letter of that date, Mr. Secretary Johnstone describes to Annandale the last moments of the queen, and the king’s inexpressible grief. He says, “Lord Portland and the archbishop upon her death carried him to his own room, but he sleeps none. The queen said all along that she believed she was dying. She had her senses to the last. She received the

¹ The Earl to the Secretary of State, 5th April 1694, vol. ii. of this work, pp. 72, 73.

² Letter, the same to the same, 17th and 18th April 1694, *ibid.* p. 75.

³ The Secretary to the Earl, 6th December 1694, *ibid.* pp. 79, 80.

⁴ 11th December 1694, *ibid.* p. 82.

⁵ Letter, December 1694, *ibid.* p. 84.

⁶ 1⁴th March 1695, *ibid.* p. 103.

sacrament, and told the archbishop that she had always been against trusting to deathbed repentance, and therefore had nothing to do. The king says that she never offended him during their seventeen years' married life."¹

As president of the council, Annandale prepared and signed, with other members, an address to the king on the death of his consort.² The address was delivered by the Marquis of Tweeddale, chancellor, and the king said he would answer it, which was all he could do at the time. The chancellor took the opportunity to speak of the necessity of the king's approbation of the council's choice of president, which thereafter was signed late at night and despatched by the secretary.³ The letter of the king to the council, which is printed in this work,⁴ approves the nomination of Annandale to preside in the council during the chancellor's absence, or till the king's further pleasure.

The fifth session of the first parliament of King William was opened at Edinburgh on 9th May 1695. John, Earl of Tweeddale, lord chancellor, who was commissioner, by the king's command appointed Annandale to be president of the parliament. The earl thereupon took his place and swore the oath of allegiance and oath of parliament, and subscribed the allegiance and assurance. After the king's letter to the parliament was presented by the commissioner and read, the Marquis of Tweeddale made a speech to the parliament, and after he had concluded, Annandale, as lord president, followed with a speech of considerable length. He began by saying that it was a great and undeserved honour that he had his Majesty's commands to preside in that session of parliament, for he knew well his own insufficiency to discharge so important a trust, "but duty calls, and I must obey." He refers, among other things, to the king's exposing his person to the dangers of war, to his assurances to maintain the presbyterian government of the

¹ Letter, 28th December 1694, vol. ii. of this work, pp. 88, 89.

² *Ibid.* p. 90.

³ The Chancellor to the Earl, 15th January 1695, *ibid.* p. 92.

⁴ Court at Kensington, 12th January 1695, *ibid.* p. 18

church, and to the sad and irreparable loss which they had sustained of the best of queens, ending with the following peroration :—

“And as we ought to give him (the king) all the assurances imaginable that we will effectually maintain and support his interest and government against all his enemies, so, when we put a just value upon so great a blessing, it may be a prevailing means with God to continue him long and prosperously with us.”

Annandale's speech, along with that of the commissioner, was ordered by parliament to be printed, and they both appear in the printed minutes of parliament.¹

At the early hour of five o'clock on the morning of the 13th of the wintry month of February 1692 a tragedy occurred in the gloomiest of all the Highland glens of Scotland. This tragedy came to be known in history as the “Massacre of Glencoe.” The slaughter included old men, and even women and children, of the Clan Macdonald. Owing to the suddenness, secrecy, and treachery with which the military butchery of this clan was committed, as well as to the remoteness and seclusion of the glen and its inhabitants, and the consequent slow communication which passed between the glen and the outer world,² considerable time elapsed before the incredible reports of the massacre came to be believed. But at length the startling facts became known, and were made a handle of against King William and his government as atrocities greater than any committed under the Stewart kings. The murmurs of the people, both in Scotland and England, and even in France, were so pronounced, that King William and his government found it necessary for their own vindication to institute an inquiry into the circumstances which attended the tragedy. That inquiry was instituted in 1693. But the result of it was unsatisfactory, and two years later a more comprehensive and practical commission was appointed by King William, under the great

¹ Acts of the Parliaments of Scotland, vol. ix. pp. 347, 350, 351 ; Appendix, pp. 95, 96.

² Glencoe is in the district of Lorne, in the united parishes of Lismore and Appin, in the county of Argyll.

seal, on 29th April 1695.¹ The new commissioners were a body of experienced and competent noblemen and gentlemen, nine in number, namely, John, Marquis of Tweeddale, lord chancellor; William, Earl of Annandale; John, Lord Murray; Sir James Steuart, lord advocate; three senators of the college of justice, being Adam Cockburn of Ormistoun, lord justice-clerk, Archibald Hope of Rankeillour, Sir William Hamilton of Whitelaw; and also Sir James Ogilvie, solicitor-general, and Adam Drummond of Megginch. The commissioners were empowered to make inquisition into the mode of the slaughter, and the authority by which it was committed. They were also empowered to call for all warrants or instructions which had been granted thereanent, and to examine all persons connected therewith.

Although Lord Chancellor Tweeddale was formally at the head of the commission, the business connected with it was conducted by the Earl of Annandale as president of the parliament; and it is owing to his connection with that special inquiry that notice requires to be taken of it in his memoir. The parliament unanimously thanked the king for ordering such an inquiry, whereby the honour and justice of the nation might be vindicated.²

The commissioners commenced the prosecution of their labours soon after the date of their commission, and although they had many difficulties in obtaining the attendance of witnesses and recovering the correspondence, warrants, and other papers connected with the massacre, they prepared a report, which they transmitted to the king on 20th June 1695. The report is a full and exhaustive one, extending to 18 quarto pages of print.³ The

¹ Acts of the Parliaments of Scotland, vol. ix., Appendix, p. 98; also Papers relating to the Highlands of Scotland, Maitland Club, 1845, pp. 97, 98.

² Acts of the Parliaments of Scotland, vol. ix., Appendix, p. 98.

³ Papers relating to the Highlands, *ut supra*, pp. 99-116. Before the commissioners

had completed their report, Mr. Hew Dalrymple, advocate, brother of Secretary Dalrymple, printed a pamphlet in his vindication and against the commissioners. The author had to apologise, and his pamphlet was pronounced by the parliament to be false and calumnious. [Acts of the Parliaments of Scotland, vol. ix., Appendix, p. 98.]

commissioners reduce their findings to four general heads—the fourth of which, as it decides where the responsibility for the massacre lay, is here given:—

“Fourthly, that Secretary Stair’s letters, especially that of the 11th of January 1692, in which he rejoices to hear that Glenco had not taken the oath, and that of the 16th of January of the same date with the king’s additional instructions, and that of the 30th of the same month, were no ways warranted, but quite exceeded the king’s foresaid instructions; since the said letters, without any insinuation of any method to be taken that might well separate the Glencomen from the rest, did, in place of prescribing a vindication of publick justice, order them to be cut off and rooted out in earnest, and to purpose, and that suddenly, and secretly, and quietly, and all on a sudden; which are the express terms of the said letters; and, comparing them and the other letters with what ensued, appear to have been the only warrant and cause of their slaughter which in effect, was a barbarous murder, perpetrated by the persons depon’d against.”¹

After transmitting the report to the king, as it had been urgently required for their information, parliament continued their inquiries. On 10th July 1695 they sent an address to the king. It was signed by the Earl of Annandale as president. The address repeated the words of the report by the commissioners that the killing of the Glencoe men was as unwarrantable as the manner of doing it was barbarous and inhuman.²

The principal persons connected with the slaughter of the Macdonalds were ten in number:—

(1) Sir John Dalrymple, Master of Stair, joint-secretary of state for Scotland, who wrote the instructions by the king. The address to the king blames the secretary as the chief cause of the slaughter.

(2) Sir Thomas Livingstone, commander-in-chief of the forces in Scotland. The parliament, in their address to the king, referred to the instructions which Secretary Dalrymple transmitted to Sir Thomas. But they do not blame or justify the commander.

¹ Papers relating to the Highlands, p. 115.

² Acts of the Parliaments of Scotland, vol. ix. p. 424.

(3) Colonel John Hill, governor of Fort William, who also received instructions from the secretary. The parliament decided unanimously that Colonel John Hill was clear and free of the slaughter of the Glencoe men.

(4) Lieutenant-Colonel James Hamilton, who was told off by Colonel Hill with soldiers for Glencoe.

(5) Major Robert Duncanson, commanding Lord Argyll's regiment. At the time of the inquiry, in 1695, he was in Flanders, and the parliament had no access to the orders which he issued. Their address to the king recommended that he should be examined in Flanders and sent home for prosecution.¹

(6) Captain Robert Campbell of Glenlyon, of Lord Argyll's regiment.

(7) Captain Drummond.

(8-9) Lieutenant Lindsay and Ensign Lindsay. These two were of the same regiment as Captain Campbell.

(10) Sergeant Barbour.

Of all these military men who were connected with the massacre of Glencoe, Colonel John Hill, the governor of Fort William, is the only officer who is "cleared" or exculpated in the report by the commissioners and parliament of the "barbarous murder;" all the other officers are directly blamed, and appear to have escaped punishment either by absconding from justice, or by being engaged at the time in active military service in Flanders.

After the report of the commissioners was transmitted to the king on 20th June 1695, Annandale, as president of the parliament, issued a warrant to cite Lieutenant-Colonel James Hamilton to appear before parliament. Upon his non-appearance he subscribed another warrant for his apprehension, and to have him denounced a rebel.² Thereafter parliament, from the infor-

¹ Mr. Hill Burton states that at the period of the massacre a Robert Duncanson was procurator-fiscal of the justiciary of Argyll, and that this was probably the same person who, as a major in the regiment, issued the

instructions for the massacre. [History, vol. i. p. 165, note.]

² Minutes of Parliament, 2d, 4th, and 8th July 1695, vol. ix., Appendix, pp. 110, 117, 119.

mation before them, declared him to be implicated in the murder of the Glencoe men, and that there was ground to prosecute him.

Although the colonel was in Edinburgh at the time of his citation, he was so conscious of his danger, if not also of his guilt, that he declined to face the court of inquiry into his conduct. His letter to Annandale excusing himself therefor is still preserved in the Annandale charter-chest, and is printed in this work for the first time.¹ Parliament next agreed that the king should be addressed to send home from Flanders for prosecution Captain Drummond, Captain Campbell of Glenlyon, and Adjutant Lindsay and others.

This disposed of all the military officers concerned in the Glencoe massacre, and there only remained the question of the guilt of Sir John Dalrymple. Apart from the formal warrants, which he obtained from the king, his private letters to Sir Thomas Livingstone and others, which breathe fierce expressions against the Glencoe men, and give instructions "to be exact in rooting out that damnable sect, the worst in all the Highlands," plainly show his keen desire to have them extirpated.² The subordinate military officers took their cue from the determined spirit of extirpation shown by Dalrymple.

Mr. Hill Burton's *History of Scotland* was published in 1853. He explains that after his account of Glencoe was printed, he was permitted to inspect a collection of papers in the charter-chest of Lord Breadalbane having general reference to the date of the massacre of Glencoe. He states that the letters of Breadalbane, Dalrymple, and one or two others in the secret, have a very "fiendish appearance." They speak about mauling the men of Glencoe in the cold, long nights, when they cannot live on the mountains; about not troubling the government with prisoners; about seeing that the old fox and his cubs do not escape, and about striking the blow silently and secretly, otherwise the victims may flee to the mountains, and the like.

Blame has been frequently thrown upon King William because his formal instructions to Sir Thomas Livingstone, commander-in-chief of the forces in

¹ Vol. ii. of this work, p. 118.

² Papers regarding the Highlands, p. 62.

Scotland, to carry out the military executions against Glencoe were both "superscribed" and "subscribed" by him. On 11th January 1692, Sir John Dalrymple, in a relative letter of that date, specially draws the attention of Sir Thomas Livingstone to this feature of the royal warrant, evidently for the purpose of possessing him with an idea of the strong desire of the king to have the military executions carried out with rigour and zeal. This feature of the royal warrant and the pointed reference to it by the Master of Stair, whatever effect it had upon Sir Thomas Livingstone, has undoubtedly conveyed the deep impression to subsequent historians and to the public generally, desired by the secretary of state, namely, an impression of the king's determination to root out the Highland rebels. Sir Walter Scott, who describes the massacre with much detail, gives expression to this common belief. He observes:—

"It is remarkable that these fatal instructions are both superscribed and subscribed by the king himself, whereas in most state papers the sovereign only superscribes, and they are countersigned by the secretary of state, who is answerable for their tenor."¹

Great injustice has been done to King William by the misrepresentation of the facts on this particular point. The king did not, as has been supposed, depart in the least from the course which he usually followed in subscribing royal warrants and instructions when he superscribed and sub-initialed his instructions to Sir Thomas Livingstone on 11th January 1692, and also his additional instructions to him on the 16th of the same month. The practice of the sovereigns of England was to superscribe all royal warrants. On the other hand, that of the sovereigns of Scotland was to subscribe them. King James the Sixth, after his accession to the throne of England, King Charles the First, and King Charles the Second all followed the English practice of superscribing warrants. King William followed the same course

¹ *Tales of a Grandfather*, 1829, vol. iii. p. 213.

of superscribing his name in full, but also very commonly with the addition of writing his initials of "W. R." at the foot of the warrant. The Earl of Melvill, the first secretary of state for Scotland under William, received many warrants and instructions under the hand of the king, bearing his full name "William R." superscribed at the top and his initials "W. R." at the foot. Occasionally when the king superscribed in full, and did not add his initials at the foot of the warrant, the secretary of state subscribed his name in place of the royal initials. Many examples of warrants so superscribed and initialed by the king to Major-General Hugh Mackay, his commander-in-chief in Scotland, and others have been recently printed for the first time, and bear out what has now been stated.¹ King William, on 18th December 1689, granted a warrant to the Earl of Leven and Major-General Mackay for raising new regiments. That warrant is superscribed by King William and countersigned by Lord Melville.² The king, on the same date, issued separate instructions to Leven and Maekay containing sixteen heads about these regiments. The instructions are superscribed "William R." and sub-initialed "W. R."³ Additional instructions in regard to the forces were issued by the king on 4th January 1690.⁴ These are superscribed "William R." and countersigned "Melvill." Two papers, one containing remarks by King William as to church-government in Scotland, and the other sending these to the Earl of Melville, both dated 22d May 1690, are respectively superscribed "William R." and sub-initialed "W. R."⁵ In the month of February 1690 a warrant was granted by the king to Mackay as commander-in-chief to apprehend certain persons suspected of treasonable practices. That warrant is superscribed "William R." and sub-initialed "W. R."⁶ The following is a copy of the document, including the facsimiles of the king's superscription and sub-initials:—

¹ The Melvilles, Earls of Melville, 1890, vol. ii. pp. 37-48, *et seq.*

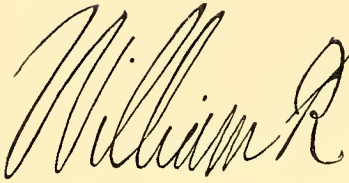
² *Ibid.* pp. 37, 38.

³ *Ibid.* pp. 38, 39.

⁴ *Ibid.* pp. 40, 41.

⁵ *Ibid.* pp. 44-46.

⁶ *Ibid.* p. 41.



“ You are to take and apprehend any person or persons that shall be given up to you in a list sign'd by our right trusty and well-beloved cousen and counsellour, George, Lord Melvill, as practisers against the government, and keep them prisoners till you deliver them to the governour or deputy governour of the castle of Edinburgh, or of any other our castles, and this shall be your warrant. Given under our royall hand and seal at our court at Kensingtoun, the day of February 16⁸⁹/₉₀, and of our reigne the first year.

For Major Generall Mackay, Commander-in-chief of our forces in Scotland.”



Additional instructions were issued by the king to General Mackay in reference to that warrant,¹ which are superscribed “ William R.” and sub-initialed “ W. R.” in the usual way.

Bishop Burnet, who was on intimate terms of friendship with King William, and was familiar with his mode of transacting official business, states that the king signed the two warrants prepared by Secretary Dalrymple against the Glencoe men without any inquiry, for, he adds, he was too apt to sign papers in a hurry, without examining their importance. This was one effect of his slowness in despatching business, by which he suffered things to run on till there was a great heap of papers before him, when he signed them too precipitately. The bishop alleges that Dalrymple obtained

¹ The Melvilles, Earls of Melville, 1890, vol. ii. p. 42.

the superscribing and subscribing of the king, instead of countersigning himself as secretary, that he might escape the odium of the murder and throw it upon the king.¹

The first Lord Balmerino was secretary of state to King James the Sixth from the year 1598. In the following year he obtained the signature of the king to a letter to the Pope, asking for a cardinal's hat for a friend, and praising the Pope and the Catholic religion. The letter was placed among other papers waiting the royal sign-manual. In this way the king's signature was surreptitiously obtained. When the transaction was discovered in 1608, the secretary was tried for treason, found guilty, and sentence pronounced that he should be beheaded, quartered, and denounced as a traitor. But the sentence was not carried into execution, and the erring secretary was afterwards pardoned. It was lucky for Secretary Dalrymple that he had William as his master rather than the implacable James. Burnet says "that the king's gentleness prevailed on him to a fault, and that he contented himself with dismissing the Master of Stair from his service."²

In the light of these facts, no inference hurtful to the name of King William can be deduced from the circumstance that he superscribed and sub-initialed his instructions for the military execution of the Macdonalds and others. The form in which these instructions were signed by him was the usual one in which he authenticated royal warrants and instructions.

Historians who have written since the slaughter of Glencoe have treated the subject largely and gravely. Lord Macaulay, in his great History, published in 1855, entered into the minutest details of the massacre. His graphic account of the murder of old Glencoe and the women and children excites a thrill of horror at what the author calls the "bloody butchery." His detailed account of the massacre is by far the most exhaustive given by

¹ Bishop Burnet's "History of His own Time," second edition, 1833, vol. iv. pp. 159-169.

² *Ibid.* p. 161. Burnet further says that the "not punishing this with due rigour, was the greatest blot in this whole reign."

any author.¹ He had the advantage of the report of 1695 made by the royal commissioners specially appointed for the purpose of inquiring and reporting on the slaughter. The Scottish parliament had become very excited on the subject. They were suspicious that the commission of 1695 might prove a failure, like the previous commission of 1693. Chancellor Tweeddale had difficulty in restraining their eagerness; and when it became known that the report had been issued and transmitted to the king, before it could be laid before parliament, there was a great outcry for its production, and, to satisfy the intense curiosity which prevailed, the report was at length produced. Lord Macaulay acknowledges his great indebtedness to the report, and passes a high eulogium upon it. He says that every intelligent inquirer will concur with its conclusion, "that the slaughter of Glencoe was a barbarous murder," and "the letters of the Master of Stair were the sole warrant and cause."²

The recommendation made by the Scotch parliament to King William to prosecute the Master of Stair, Lieutenant-Colonel James Hamilton, and the other military officers concerned in the massacre, was not acted upon. The king, however, dismissed Stair as secretary, and also upon the advice of Colonel John Hill, reinstated the surviving Macdonalds in their inheritance of Glencoc.³ This reinstatement was speedily done.

The same parliament of 1695, which investigated and reported on the massacre of Glencoe, passed an act on 26th June entitled, "Act for a company trading with Africa and the Indies."⁴ The act is elaborate, conferring very comprehensive powers on the incorporated company, commonly called "the Darien Company," to make settlements, build cities, harbours and fortifications, in any place in Asia, Africa or America, uninhabited, or where

¹ It extends from p. 188 to p. 217 of volume iv. of the History of England, 1855.

² Macaulay's History, vol. iv. pp. 574, 575.

³ The Melvilles, Earls of Melville, vol. ii. p. 169.

⁴ Acts of the Parliaments of Scotland, vol. ix. p. 377. The Company was bound to pay annually to the king and his successors a hogshead of tobacco in name of blench duty.

they obtained the consent of the natives. The directors of the company are John, Lord Belhaven, Adam Cockburn of Ormiston, lord justice clerk, and eight others, including William Paterson, Esquire. The act has been justly called "the most momentous measure of the session, and, indeed, of the age, in so far as Scotland is concerned."¹ The spirit of the time in Scotland was one of trading adventures at home and abroad, and enterprising men like William Paterson and John Holland were the master minds in the mercantile speculations.

The Darien Company promised at first to be a great success, and money was raised over all Scotland to launch the enterprise, but the unsuccessful settlement in the Isthmus brought the company and the whole concern into dreadful disaster, which became a source of annoyance to King William during the remainder of his reign.

During the time of the existence of the Darien Company, there were two principal secretaries of state for Scotland, Sir John Dalrymple, Master of Stair, and James Johnstone, as before mentioned. Both lost their offices soon afterwards. Mr. Burton says, "In the ensuing year Secretary Dalrymple, on whom the wrath of the estates was chiefly concentrated in connection with Glencoe, was dismissed for a time from the king's service; but it has been said that he suffered rather for his service to his country in passing the Darien Company's act than for his cruelty to the Highlanders."² This, however, is a mistake. Secretary Dalrymple had everything to do with Glencoe, and suffered for it. Secretary Johnstone had nothing to do with Glencoe, but he had much to do in passing the act in favour of the Darien Company, and on its disastrous failure he suffered for it.

In the fourth session of the first parliament of King William and Queen Mary, held at Edinburgh on 18th April 1693, the king appointed Mr. Johnstone, to have place and vote in that session³ as one of the secretaries of

¹ Burton, vol. i. p. 277.

² *Ibid.*

³ Acts of the Parliaments of Scotland, vol. ix. p. 245.

state, and he is accordingly entered in the sederunt of parliament after the noblemen as the first of the officers of state, "the Lord Secretary Johnston." In the next or fifth session of parliament, held at Edinburgh on 1st May 1695, when the Earl of Annandale was named lord president of the parliament,¹ "Lord Secretary Johnston" is again ranked as the first of the lesser officers of state, and the letters addressed by the king to the parliament are countersigned by him. Secretary Dalrymple was not present at either of these sessions of parliament. Macky, in his *Memoirs of Secret Services*, says that Secretary Johnston "was a zealous promoter of men of Revolution principles, and a faithful servant to the cause. But passing a bill in the parliament of Scotland for establishing an African and American Company which the parliament of England represented as of ill consequence to their trade, he was at once thrown out of all, and what was very strange, the Whigs, whose interest it was to support him, joined in the blow. This soured him so as never to be reconciled all the king's reign, though much esteemed. But now by the queen he is made lord register, the best employment in Scotland."²

In the second volume of this work three letters are printed from William Paterson, who was so prominently connected with the organisation of the Darien Company.³ Annandale, in common with the most of his countrymen, was a believer in the Darien Company, and in William Paterson its founder. He was a subscriber for £1000.⁴ He also corresponded with Paterson, whose letters contain grateful acknowledgments for his vindicating him and the company. Paterson valued highly the friendship of his lordship. In 1708

¹ Acts of the Parliaments of Scotland, vol. ix. p. 347.

² Macky's *Memoirs*, pp. 205, 206.

³ Pp. 123, 129 : also Appendix.

⁴ Darien Papers, 1695-1700, Bannatyne Club, 1844, p. 391. Macaulay says (*History*, vol. v. p. 211), "The list of the members of

the Darien Company deserves to be examined." Its subscribers for large sums include the Duke of Hamilton, the Duke of Queensberry, Lord Belhaven, John Stewart of Grandtully, and the town of Edinburgh, etc., for £3000 each. Dumfries, from its being the native place of Paterson, contributed largely.

Paterson was a candidate for the representation of the Dumfries burghs in the first parliament of Great Britain. He applied to Annandale for his assistance in the election, "without which," he says, "I cannot expect success therein to my satisfaction." He adds, that Dumfries being the place of his birth, he would most of all rejoice at being useful there. Paterson was elected representative of these burghs. But the return was double, and his opponent was also elected, and upon a reference to the House of Commons Paterson was unseated. Much obscurity hung over the origin of Paterson, but it has latterly been ascertained that his father was a farmer at Skipmyre, in Trailflat, formerly a part of Tinwald, Dumfriesshire, and possessed lands of his own at some distance from his farm. His son, William, was born there in March or April 1655.

One of the ships built by the Darien Company was named "Annandale," probably from the circumstance that the Earl of Annandale took an interest in the passing of the act of parliament incorporating the Darien Company, and also, perhaps, from Paterson being a native of Annandale or Dumfriesshire. The "Annandale" ship was ill-fated. While in an English harbour to obtain English seamen for an Indian voyage, the ship was seized at the instance of the East India Company, and condemned for breach of charter privileges. About the same time a vessel called the "Worcester" had to put into the Firth of Forth for repairs. That vessel was supposed to belong to the East India Company, which had seized the "Annandale," but that was a mistake, the "Worcester" really belonged to the Million Company, a rival to the East India Company. The secretary of the Darien Company captured the "Worcester," and Captain Green, her commander, and some of his crew, were tried for piracy and murder by the court of admiralty, at Edinburgh, on 5th March 1705. They were found guilty and condemned to death.¹

Owing to the serious illness of the Countess of Annandale in London, his lordship was unable to attend the parliament which met in autumn 1696.

¹ Burton, vol. i. pp. 375-378.

The lord commissioner and the parliament excused his non-attendance.¹ Sir Thomas Livingstone, the commander-in-chief, wrote from Edinburgh, on 8th September 1696, to Annandale, cordially congratulating his lordship on the birth of another "brave young son."² This was the third son of the earl and countess, and he was named Lord William Johnstone. Correspondence took place previously, in July 1696, between Annandale and Mr. Robert Pringle, under secretary of state, from which it appears that the king was anxious that Annandale should attend the parliament.³ The solicitude of Annandale for the health of his countess was quite remarkable. The following letter, written at a later date, from him to the countess, in reference to her anxiety as to the health of her mother, Lady Craigiehall, illustrates this feature of his character:—

"Lochwood, the 7th off October [*post* 1699].

"MY DEAREST HEART,— . . . I begg off yow doe nott destroy and undoe your selfe by your excessive grife for your mothers condition. Consider, itt is Gods hand and doing in a good ripe old age ; and wee ought to be thankfull either for our selves or our frinds when he allowes soe mannie yeares on thiss side off tyme, and submitt patientlie and Christianlie to his call when wee see itt is the will off God.

"I am sensible she is a worthie good woman as ever wes borne, and have ever had a greatt esteem for hir, and I wishe heartillie itt may be Gods good pleasure to spare hir mannie yeares, whiche is my sincere prayer ; butt iff itt is otherwayes determined, yow owght to submitt Christianlie, and be thankfull for the tyme yow have had hir, and lett nott your immoderate grife either wrong your healtie or provoke God. I kno your feavrishe fitts yow speake off proceeds from thiss, whiche makes me enlarge upon thiss subject ; and itt may be easier for yow that I am nott with yow, for I should nott be sattisfied to see yow occasion your oun ruine, and doe that whiche is neither agreeable to God nor man ; for consider butt how few enjoy soe mannie yeares as she hes had in thiss world alreddie. I hope youl take thiss in good parte since it proceeds onlie from my concerne for you, and that what I advise is bothe Christian and agreeable to Gods holy word and commands. I am again thy ouu most intyrlie."⁴

¹ Acts of the Parliaments of Scotland, vol. x. p. 23.

² Vol. ii. of this work, p. 126.

³ *Ibid.* pp. 123, 125, 126.

⁴ Original letter in Annandale Charter-chest.

In the seventh session of the first parliament of King William, which met on the 19th July 1698, and continued till 1st September thereafter, Annandale was present and took part in the ordinary business. He was one of the lords elected for the committee for the security of the kingdom. Along with other peers who had been absent, he subscribed the Association on 23d July 1698. Lord Seafield, president of the parliament, in giving Mr Carstares an account of the splendid reception he and Lord Maremont, who was commissioner, received at Edinburgh, notes, "Neither the Earl Annandale, Ruglen, Tullibardine, nor any of the Marquis of Tweedel's family out to meet us."¹ In a second letter, he says, "My Lord Annandale has made me the first visit; and the justice clerk has some hopes that he will go along with what is proposed for the king, though he will not be a manager. My Lord Teviot will also concur."² The king desired the same number of forces to be kept up. Some opposed this in the committee of security, but it was carried, and afterwards passed in parliament. "The Earl of Annandale is a proselyte and spoke with a great deal of zeal, as all new converts use to do."³ Even Argyll has a good word to say of Lord Annandale on this occasion. "Earl Annandale, who we likewise brought into the committee, at the commissioner's desire, has gone frankly on."⁴ The parliament also addressed the king on one of the troubles of the African Company, in the course of which my Lord Annandale "spoke very well" against some of the company's demands.⁵ The parliament adjourned on the 1st of September.

For some time Annandale engaged only in the current business of his office. Lord Teviot's letters show that certain misunderstandings existed between Annandale and Mr. Carstares, and that the latter wished for a reconciliation with his lordship, and assures him he had not concealed

¹ Seafield to Carstares, 9th July 1698, Carstares State Papers, p. 384.

² Seafield to Carstares, 11th July 1698, *ibid.* p. 387.

³ Melvill to Carstares, 23d July 1698, *ibid.* p. 400.

⁴ Argyll to Carstares, 4th August 1698, *ibid.* p. 411.

⁵ Seafield to Carstares, 1st August 1698, *ibid.* pp. 417, 418.

his zeal for the king's service in the last parliament from the king,¹ and that Lord Seafield had also done his lordship justice. Mr. Carstares after this continued on friendly terms with Annandale, and at his request endeavoured to secure him better rooms in Holyrood-house.²

An auspicious event in the family occupied the earl's attention this year of 1699. Hugh Cunningham in a letter to Mr. Carstares thus refers to it: "There is a marriage on foot betwixt Hopeton and the Earl of Annandale's daughter, which I hope will make a better understanding betwixt them."³ The bridegroom was Charles Hope of Hopetoun and the bride Lady Henrietta Johnstone, the only surviving daughter of the earl and countess. The marriage ceremony was celebrated on the 31st of August 1699. Four years thereafter, on 5th April 1703, the Laird of Hopetoun was raised to the peerage as Earl of Hopetoun, Viscount Aithrie, Lord Hope, etc., with limitation to him and the heirs-male of his body, whom failing to the heirs-female of his body.

The news of Darien being deserted created a great stir in Scotland in the year 1699. A meeting of the general council of the company was held, and it was resolved to sign an address to the king. Annandale and others advised delay, only to be overruled. The meeting also voted to address the privy council. "Here my Lord Annandale said he would then treat that address as it deserved. My Lord Tullibardine said these words were not to be endured." The treasurer-depute feared they would have thrown the candlesticks at each other, but the altercation ended with a resolution to address the council.⁴ The Earl of Marchmont was very well satisfied with the part which Annandale acted.⁵ So was Mr. Carstares.⁶ So also was the king, who

¹ 23d January 1699, vol. ii. of this work, p. 177.

² Letter, Loo, 3d July 1699, *ibid.* p. 185.

³ 2d March 1699, Carstares State Papers, p. 464.

⁴ The treasurer-depute to Carstares, 21st October 1699. Carstares State Papers, pp. 503, 504.

⁵ Letter, 23d October 1699, vol. ii. of this work, p. 188.

⁶ *Ibid.* p. 189.

regretted the loss which both the company and the nation had sustained, and engaged that his subjects of Scotland should have the same freedom of commerce with the English plantations they ever had formerly.¹

King William intended to be present in the eighth session of his first parliament held at Edinburgh on 21st May 1700, but the state of public business prevented him. James, Duke of Queensberry, was appointed commissioner. After a short session, parliament was adjourned, and met again on 29th October 1700, which began their ninth session, and continued to sit till 1st February 1701. Annandale was present in the parliament at its opening on 21st May 1700. He went to court in the following month of June. The Duke of Queensberry found it difficult to manage parliament alone, and desired that Argyll and Annandale should attend, adding "for it's not possible that I can doe anything alone."²

Murray of Philiphaugh, lord justice clerk, states that the commissioner had bid him tell Mr. Carstares "that it is indispensably necessary that Argyll and Annandale come here quickly, for not only may their presence, being men of great quality and sense, add life and vigour to the government, but several of the king's servants here are jealous of their being at court."³ In a previous letter Queensberry states that he had represented to the king the desire of Annandale to be a marquis, but it could not be granted without at the same time gratifying others,⁴ which could not be done at the time. Annandale returned to Edinburgh by 31st July.⁵ He wrote to Mr. Carstares from Holyrood-house that he had been much occupied with his daughter's marriage, the council week, and interviews with the secretaries.⁶ Annandale points out the great heat and ferment still raised by the African company, but he was determined to show vigour and fidelity in the king's service.

¹ Seafield to Annandale, 2d November 1699, vol. ii. of this work, p. 189.

² Letter, 20th June 1700, *ibid.* p. 207.

³ 19th June 1700, Carstares State Papers, p. 529.

⁴ 20th June 1700, *ibid.* p. 538.

⁵ Letter of that date, *ibid.* p. 583.

⁶ 16th September 1700, *ibid.* p. 649. 4th November 1700, *ibid.* p. 670. (Cf. 21st November 1700, *ibid.* p. 675.)

Parliament thereafter was chiefly occupied with futile resolutions on "Caledonia," which, as the king pointed out, could not have been made effectual without a general war.

Annandale, however, had a respite from the wranglings of the parliament, being appointed commissioner to the general assembly of the Church of Scotland. His commission is dated 7th February 1701.¹ The Rev. William Veitch, minister of Dumfries, in writing to the earl excusing his own absence from the assembly, takes the opportunity of giving him advice. "Take abundance of patience along with you, and when you speak suggest your words well."²

In his address to the assembly the commissioner proceeds to state that he was warranted in the king's name to give them "full assurances that he is firmly resolved to maintain the presbyterian government of this church as now established." And he reminds the assembly that God had honoured the king to be the restorer of this church as well as the nation's deliverer, and hopes they would proceed to their business with diligence, calmness, and unanimity. Further, he advises them to plant vacant churches, and take such methods as might effectually advance piety and godliness, learning, and true knowledge, and suppress vice, error, and immorality. His Majesty desired nothing more than the prosperity of true religion, and the flourishing of virtue and good order in the church and kingdom would be ever his peculiar concern. His lordship concluded with a few words about his own insufficiency, and his reliance on the assembly's wise and prudent conduct.³

The assembly's answer to the king's letter expresses their grateful sense of the king's protection, and acknowledges the acceptable character of the commissioner in these words: "The Earle of Annandale whom your Majesty hath made choice of to represent your royall person, and to give countenance and protection to this assemblie, is, for his fitness and abilities, as also for the good offices he hath done this church in the other honorable stations wherein he hath been employed under your Majesty, very acceptable."⁴

¹ Original Commission in Annandale Charter-chest.

² 17th February 1701, vol. ii. of this work, p. 210.

³ Copy speech in Annandale Charter-chest.

⁴ Copy of Assembly's letter to the king, dated 22d February 1701, in Annandale Charter-chest.

In the absence of the secretary, Annandale wrote directly to his Majesty that he hoped for a peaceable assembly, notwithstanding the endeavours of some to assert the intrinsic power of the church.¹ After the assembly was closed Mr. Carstares wrote a cordial letter to Annandale, on the proceedings, which he says, "I doubt not but will be much to the king's satisfaction." His lordship's kindness to the ministers gained their esteem and respect.² The king was so well satisfied with Annandale's services, both in the assembly and in his holding of other public offices, that he advanced him to the dignity of a marquis by a patent dated at the Court at Kensington, 24th June 1701. The patent bears to be granted for Annandale's signal and thankful services in sundry eminent offices intrusted to him by the king, and creates him Marquis of Annandale, Earl of Hartfell, Viscount of Annand, Lord Johnstone of Lochwood, Lochmaben, Moffatdale and Evandale. The limitation is to heirs-male whomsoever succeeding to him in his lands and estates.³ Patents to the Duke of Argyll and the Marquis of Lothian were signed on the day previous. On the following day Lord Carmichael was created Earl of Hyndford.

Annandale was desirous of visiting the court the following year in the month of March. The Duke of Queensberry, in answer to his lordship's letter, states that the king's illness had hindered him from bringing the request before the king for some days, but he had done so. His Majesty, in reply, said he was soon to go beyond sea, and designed to call a parliament in Scotland, and was therefore rather thinking of sending down his servants than suffering any to come up, as he judged them neces-

¹ Vol. ii. of this work, p. 19. "March 9. This day Mr. Archibald Wallace told me that the commissioner told several of the ministers that were dining with him that his instructions were large enough, and if they would calmly agree about things among themselves and make noe debates, heats, etc., in open assembly, they might assert what they pleased,

he would not hinder them." [Wodrow's *Analecta*, vol. i. p. 4.]

² Letter, 15th March 1701, vol. ii. of this work, p. 212.

³ Acts of the Parliaments of Scotland, vol. xi. p. 9. Minutes of Annandale Peerage Evidence (1825), p. 13. For warrant see vol. ii. of this work, p. 100.

sary at home to prepare people for an easy and peaceable session. "He had mighty kinde expressions of your lordship, and does think that yow will be verry usefull to him there, in order to this end."¹ King William's good opinion of Annandale elevates his character, being a shrewd judge of the temper and inclinations of his ministers. It was his Majesty's final opinion of Annandale, as the king died on the 8th March 1702, three days after.

CHAPTER FOURTH.

Queen Anne's accession, 1702—Annandale made Lord Privy Seal—On commission for Union, 1702—Invested with the order of the Thistle—Appointed Secretary of State and Commissioner to the Assembly, 1705—Resigns the secretaryship, 1705—His character—He opposes the Union—Appointed Commissioner to the General Assembly, 1711—He goes abroad.

Annandale left Edinburgh for London in the beginning of March 1702, and no doubt received accounts of the death of King William on the 8th of that month somewhere on his journey. News came to Edinburgh on the 13th by an express, when the privy council met, and Queen Anne was lawfully proclaimed.² His lordship arrived in London on the 16th.³ The marchioness followed on the 3d of April, but went to Bath for the benefit of her health. Soon after his arrival in London, Annandale received an application from Simon, Lord Lovat, to make representations on his behalf to the queen; but it does not appear whether his lordship complied with the request or not.⁴

In the change of ministers which took place on Queen Anne's accession in March 1702, Annandale was not forgotten. He was made lord privy seal, with a yearly pension of £1000 sterling,⁵ in place of James, Duke of Queens-

¹ Letter, 5th March 1702, vol. ii. of this work, p. 213.

² Letter, Patrick Johnstone to Annandale, 13th March 1702, vol. ii. of this work, p. 213.

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³ Accounts of expenses in Annandale Charter-chest.

⁴ 19th March 1702; vol. ii. of this work, p. 214.

⁵ Letter of pension, dated St. James's, 6th May 1702, in Annandale Charter-chest.

berry, who was promoted to be secretary of state. The commission to be keeper of the privy seal bears that the queen, having knowledge of his lordship's remarkable loyalty and sufficient ability, constituted him during her pleasure lord keeper of the privy seal of Scotland, with rank and precedency next after the president of the privy council.¹

Annandale intimated both his appointment and pension at the earliest moment to his marchioness. His letter to her is dated 2d May, four days before the date of his commission. He informed her that his pension and the perquisites of his office made up twelve hundred pounds, and that he hoped to be continued at the treasury, but with no monetary advantage. This appointment was highly gratifying to Annandale. In a postscript to the letter just referred to, he says, "You kno the privie seall is what you have always had in veu, and I oune itt is most agreable to me off anie character att thiss tyme." He, however, expected still further promotion shortly, in which he was not disappointed, as will be afterwards seen, for he says, in the same letter to his marchioness, "I am assured thiss is butt ane interim bussinesse in order to better, for the chancellor shall nott be continued long after thiss session of parliament."²

The marquis now returned to Scotland to attend parliament. Before doing so he made a short visit to his marchioness at Bath, where he was on the 15th of May. He was present at Edinburgh on 9th June at the opening meeting of parliament, where he presented his commission and took his seat as lord privy seal. The Duke of Queensberry was lord high commissioner. After several sederunts parliament was adjourned on the 30th of June, and did not meet again till next year. When parliament broke up Annandale returned to England, where he was alternately in London and with the marchioness at Bath.

¹ Commission, dated at St. James's, 6th May 1702, in Annandale Charter-chest. Acts of the Parliaments of Scotland, vol. xi. p. 6.

² 2d May 1702; vol. ii. of this work, p. 215.

Before parliament again met, commissioners were appointed by the queen to treat for a union between the two kingdoms of England and Scotland. Already, on 25th June, an act to enable her Majesty to do this had been approved by parliament, and a letter in terms thereof was sent to her. The commissioners appointed to represent Scotland were twenty-seven in number, and in the order in which their names are given in the commission, the Duke of Queensberry and the Marquis of Annandale are first and second respectively. The commission under the great seal of Scotland was subscribed by the queen at Windsor Castle, 25th August 1702, and that under the great seal of England on 26th September following. Meetings of the commissioners for the two kingdoms began on 27th October, and were continued till 3d February 1703, when the queen adjourned the treaty for a time, expressing herself satisfied with the progress that had been made.¹ At the second meeting it was arranged to interchange the commissions, which was done by Annandale delivering a signed copy of the Scotch commission to the lord keeper of England, who delivered a signed copy of the English commission to his lordship. Annandale was also chosen one of a committee to facilitate the business of the commission. After its adjournment in February the commission did not again meet, as on 3d September it was brought to an end by a vote of parliament.

In the meantime, in December, Annandale had been made president of the privy council, in room of George, Earl of Melvill.² The letters under the great seal conveying this appointment refer to his remarkable loyalty, most faithful services, and singular endowments, and grant him priority and precedence immediately after the principal treasurer. The office of keeper of the privy seal was at the same time given to the Earl of Tullibardine. With his new office Annandale received a yearly pension of a thousand

¹ Acts of the Parliaments of Scotland, vol. xi., Appendix, pp. 145-161.

² Commission, dated St. James's, 15th De-

ember 1702, in Annandale Charter-chest. Acts of the Parliaments of Scotland, vol. xi. pp. 33, 34.

pounds.¹ The first session of the first parliament of Queen Anne began at Edinburgh, 6th May 1703, at which Annandale was present, this time as president of the council. The Duke of Queensberry was again commissioner.

One of the acts endeavoured to be passed this session was an act for the security of the kingdom. The draft of it was read in parliament on 28th May, and thereafter it was considered, clause by clause, up to and including 11th August 1703. Annandale, and others with him, entered a protest regarding two of the clauses. One of these had reference to the privileges of peers, and the other to the succession to the crown. On 14th August the act was voted and approved by parliament. The royal assent was, however, withheld from it. In consequence of this parliament stopped supplies, and the queen adjourned parliament on 16th September 1703.²

After the session was over Annandale returned to London, and appears not to have been in Scotland till June next year. Before parliament again met Annandale was nominated by Queen Anne one of the twelve knights of the Thistle. His nomination is dated 7th February 1704.³ The order with which his lordship was now invested had been re-established by the queen so recently as 31st December preceding.

The second session of the first parliament of Queen Anne met at Edinburgh on 6th July 1704, under John, Marquis of Tweeddale, as commissioner. Annandale was present as president of the privy council. On 25th July, the act of security, which was offered, but not accepted, as a clause to be added to the act of supply, was again considered by parliament, and marked as read a first time. It was resolved not to proceed further with it until the commissioner received instructions regarding it. These were evidently soon after obtained, the queen finding it necessary to yield, as on 5th August, the

¹ Letter of pension, dated St. James's, 15th December 1702, in Annandale Charter-chest

² Acts of the Parliaments of Scotland, vol. xi. pp. 45, 67, 70, 74, 101, 104, 112.

³ Inventory of commissions in favour of William, Marquis of Annandale, in Annandale Charter-chest.

act was read a second time. Before voting, Annandale renewed the protest which he made the previous session against the passing of the act, and craved his dissent to be marked. The same day the commissioner touched the act with the sceptre.¹ The queen was highly satisfied with the conduct of Annandale in parliament at this time, assurances of which were conveyed to him in a letter from Windsor dated 27th July 1704, by Sidney, Lord Godolphin.²

Several changes took place in the ministry next year. Annandale desired to be appointed lord chancellor, and negotiations were entered into to bring this about. The Duke of Argyll was favourable to it, but the appointment was not ultimately made.³

Instead of being made chancellor, an appointment which fell to James, Earl of Seafield, Annandale was in room of the latter made one of the secretaries of state for Scotland, with the usual salary of £1000 sterling a year. His commission bears that the queen was abundantly satisfied of his probity, and other excellent endowments by which he was fitted for this office.⁴ He was on the same day appointed commissioner to the general assembly, an appointment for which there were several applicants, and one which he had been desirous of procuring, as the Earl of Seafield's letter to him shows.⁵ So early as January of this year, Baillie of Jerviswood writes, "54 (Annandale) is already haling at the assembly, and has spoke to me about it."⁶ The granting to Annandale of his wish in this appointment would so far make up for his disappointment about the chancellorship. The marquis wrote to Lord Godolphin expressing his gratitude to the queen

¹ Acts of the Parliaments of Scotland, vol. xi. pp. 130, 133, 135.

² Vol. ii. of this work, p. 217.

³ The Earl of Roxburgh to George Baillie of Jerviswood, 27th February 1704-5. Jerviswood Correspondence, pp. 49, 50.

⁴ Inventory of commissions in favour of

William, Marquis of Annandale, in Annandale Charter-chest. Acts of the Parliaments of Scotland, vol. xi. p. 210.

⁵ Vol. ii. of this work, p. 220.

⁶ To James Johnstone, formerly secretary, 16th January 1705. [Jerviswood Correspondence, p. 39.]

for her commissions, and promising to make all the suitable returns to her of which he was capable.¹ The two commissions now received by the marquis are dated at St. James's, 9th March 1705. The instructions of the queen to Annandale as commissioner are not forthcoming, but in his letter to his lordship as to the management of the assembly, the Earl of Seafield states that they are "verbatim what your lordship had when you were last commissioner."² His additional instructions allow of his approving of synod or presbytery books, even though they asserted the intrinsic power of the church, providing nothing was publicly declared in the assembly touching the same, or that was derogatory to the royal prerogative.³ In her letter to the assembly, intimating the appointment of Annandale as her commissioner, the queen doubted not they would promote piety and religion. She recommended the planting of vacant churches with pious and learned ministers, especially in the Highlands and Islands, and suggested it as worthy of their serious consideration that they distribute the libraries "so piously mortified for the churches in those parts," the transporting of which would be paid out of the treasury.⁴ Mr. Carstares was chosen moderator of the assembly. At the close of the assembly on the 26th of April, Annandale wrote a letter to the queen informing her that the assembly had proceeded with great unanimity, and the greatest deference and duty to her Majesty's authority and government.⁵

As showing the confidence the queen placed in Annandale at this time, she informed him that she depended very much on his fidelity and capacity in giving his counsel and assistance to the Duke of Argyll, her commissioner in the next parliament, "whose youth and warmth," she says, "may possibly have need of your lordship's temper and prudence."⁶ Annandale, in reply,

¹ Vol. ii. of this work, p. 221.

² *Ibid.* p. 220. These instructions are printed *ibid.* pp. 18, 19.

³ *Ibid.* p. 22.

⁴ St. James's, 9th March 1705, vol. ii. of this work, pp. 21, 22.

⁵ *Ibid.* pp. 223, 224.

⁶ Godolphin to the Marquis, 31st March 1705; *ibid.* p. 222.

engaged to prosecute the queen's interest impartially.¹ Before the meeting of parliament, as secretary, he was in correspondence with Lord Godolphin about the instructions to be given to the lord high commissioner.² On 9th May, he complains that the commissioner is so much in the hands of those who were for measures other than those of the queen, and asks that the consequences should not be imputed to him, and that where he differs the queen would allow him a fair hearing. A week later, on 16th May, he says he will be as useful to the commissioner as he can. On 2d June, the queen intimates to him that she has no doubt of his concurrence and best assistance. Annandale, it will be seen, warmly espoused the queen's measures, which were the settlement of the Protestant succession, a treaty of union with England, and the granting of supplies. "I doe assure you," observes Sir David Nairne, who was under secretary of state for Scotland, in a letter to Annandale, "if I should tell your lordship what he (Godolphin) said of your-selfe, it wold look like flattery; but, in short, he said he founde you differed from the queen's servants in the grand point, but that you had wrote better reason on the subject than any body els hes done."³ Lord Godolphin laid two letters of Annandale before the queen, dated respectively 1st and 9th June, and referring, in his letter to the marquis, to the differences of opinion which prevailed between him and the commissioner and others of the queen's ministers, he assures him that her Majesty was very far from being dissatisfied with his lordship for his difference of opinion from some others of her Majesty's servants. She had resolved in view of these differences to recommend to the parliament both the settling of the Protestant succession and a treaty for a union.⁴

Parliament met at Edinburgh on 28th June 1705, John, Duke of Argyll, was lord high commissioner. Annandale was present as secretary of state.

¹ The Marquis to Godolphin; vol. ii. of this work, pp. 224, 225.

² *Ibid.* pp. 225-229.

³ Sir David Nairne to the Marquis, 16th June 1705, *ibid.* p. 230.

⁴ Godolphin to the Marquis, 18th June 1705, *ibid.* p. 231.

On 3d July, the queen's letter to parliament being read and speeches made by the commissioner and the lord chancellor, Annandale moved that these should be printed, which was agreed to by the house.¹ At the next sederunt, on 6th July, he proposed that the parliament should consider such limitations and conditions of government as should be judged proper for the next successor in the Protestant line; and at the same time name a committee to consider the condition of the coin and state of trade as to export and import. The house, however, decided to proceed first on coin and trade by way of overture.² On 17th July, the Duke of Hamilton carried a resolution not to proceed to the nomination of a successor till there was a previous treaty with England in relation to commerce and other affairs, and to proceed to limitations of government before proceeding to the said nomination. Commenting on this, Annandale observes, "Yesterday the Duke of Hamilton, Duke of Atholl, and all there frinds unitted there fullest force to oppose and defcatt the treatie whiclc wes proposed by the queen's servantts." After a warm debate it came to the vote, proceed to a treaty with England or to limitations and regulations of the constitution, when the last was carried by three votes. Annandale used his best endeavours to advance the treaty since the parliament had concluded by a resolution not to name the successor without a previous treaty, and commented on the disingenuity of the other party. The Duke of Hamilton took this to himself and thought it was too hard upon him.³ After this, Annandale came into collision with the commissioner on the question of the appointment of clerk to the council. The duke wished to give it to Mr. Alexander Arbuthnott, who, according to Annandale, was a Jacobite, and his lordship told the Duke of Queensberry that he would not bear such an invasion and encroachment upon the office, because he held that the appointment belonged to the secretary's office. On 21st September, at their concluding sederunt,

¹ Acts of the Parliaments of Scotland, vol. xi. p. 214.

² *Ibid.* p. 215.

³ Letter, 18th July 1705, vol. ii. of this work, p. 232.

parliament passed the important act for a treaty of union with England which had occupied them throughout the session, and adjourned the same day. The passing of this act was a triumph for Argyll. One of the first effects of it was that Annandale, whose differences with the commissioner lasted, as has been seen, throughout the session, was removed from the office of secretary. The Earl of Mar, whose commission is dated 29th September 1705, was appointed in his stead. Annandale was promoted to be president of the privy council. Sir David Nairne, in intimating these changes to the marquis, says :

“ I presumed to aske her Majesty, at signeing the commissions, if she had any dislike of your service in the station of secretarie. She was pleased to say very kindly that she had not, but that she feared the misunderstanding between the commissioner and your lordship might obstruct business and occasion divisions amongst her servants. . . . For my oun pairt, I am quite disapointed.”¹ Baillie of Jerviswood, confirming this, says : “ What did Annandale’s business was the letters he wrote to the treasurer, whereof Argile had copies sent him, which it seems were not favourable to the measures he was upon.” He adds that Argyll and Queensberry denied, with oaths, to the last minute to Annandale that he was to lose his post.² Annandale set off at once for court. He wished that Baillie could have accompanied him. Writing to him, he says he would cheerfully have given him a place in his chariot. He doubted not that it would be “ to verrie good purpose to all our friends when wee are both there.” He says further : “ I am as much my own master now, and att my own disposall as you are, whiche I assure [you] is nott a little agreeable to me, considering the sett I was yoaked with, and the measures they were prosecuting.”³ In his reply, Baillie wished him success in his designs, but could not accompany him to London.⁴ In his next letter to Baillie, dated 25th October 1705, Annandale says : “ I have seen the queen last night, and given up fairlie, soe that they have a faire field and nobodie to oppose them.” That Annandale was considered an important factor in the political situation is evident from the pains taken by Queensberry to persuade Annandale’s friends that he had no hand in turning him out of office.

¹ 29th September 1705, vol. ii. of this work, p. 236.

² Baillie to Earl of Roxburgh, 22d October 1705, Jerviswood Correspondence, p. 132.

³ Holyroodhouse, 6th October 1705, *ibid.* p. 128.

⁴ Mellerstaines, 11th October 1705, *ibid.* p. 129.

Seafield again, according to Baillie, was so afraid of Queensberry and Annandale making it up, that he sent messages to the Marchioness of Annandale "declareing his innocence" in that matter; that it was Queensberry chiefly who did it; that without him it could not have been done.¹ From these various and somewhat contradictory accounts, Annandale appears to have resigned office, and not to have been dismissed. Lockhart, in his usual way, furnishes a travesty of the transaction, asserting that Annandale was displaced, because it was thought he held a private correspondence with the squadron, being more inclined to favour the succession without than with an union, and would not implicitly follow the dictates of Queensberry and his partisans. Lockhart also, at the same time, gives Annandale's character, which is an amusing libel. He says: "He was a man framed and cut out for business, extremely capable and assiduous," of a proud aspiring temper, haughty in success, the most complaisant man alive when affairs were low; he had gone backwards and forwards so often that no man trusted him; "even those of the Revolution party only employ'd him as the Indians worship the devil, out of fear," and "honest men," though they welcomed so capable a person to serve them, yet were secretly glad to see him humbled. His being turned out of the secretary's office was the cause that induced him to oppose the union, "so upon that account he was much caressed, but little trusted, by the cavaliers."²

A better character of Annandale is drawn about this time by Macky, who was the author of so many memoirs of official men. He says:

"He was often out and in the ministry during King William's reign, is extremely carried away by his private interest, hath good sense, and a manly expression, but not much to be trusted; makes as fine a figure in the parliament house as he does in his person, being tall, lusty, and well shaped, with a very black complexion. He is near 50 years old."³

During his stay in London, Annandale went to court about once a fortnight. But he refused to give his concurrence and assistance as president of the council to those whom he considered had ill-treated both him and the queen's interest, unless he had as good a share in the government, and upon

¹ Baillie to Roxburgh, 3d January 1706, *Jerviswood Correspondence*, p. 145.

² *The Lockhart Papers*, vol. i. pp. 137, 138.

³ *Memoirs of the Secret Service of John Macky, Esq.*

as honourable terms as formerly. Annandale's stay in England was longer than he had intended. His purpose was to return to Scotland in the beginning of December, but the lameness of a leg prevented him.¹

In the beginning of 1706 there appeared to be some prospect that Annandale would return to power. His name was much spoken of by the different political parties in connection with various public offices. A great deal of gossip passed upon the subject, and the Whigs set him up as their chief man. Offers were made to him on behalf of the queen to continue president of the privy council. This, however, did not meet the wishes of his lordship, who declined the offers. It was found difficult to procure another post to him. In a letter to Mr. Carstares, the Earl of Seafield says Lords Marlborough and Godolphin both asked him to continue in office, and Lord Loudoun, secretary, was sent to him by the queen, desiring him, as his lordship adds :

“To let him know that she was willing to employ him in that station if he pleased, but he still refused, and the secretaries and I were unwilling to oblige him so far as give him any of our posts, but we were very willing to have served in conjunction with him. He is gone to the Bath, and lies this night at Mr. Johnston's house at Twittenham, where it is like new game may be projected. The Marquis of Montrose is made president of the council, and I hope will be found very useful to her Majesty in that station.”²

Annandale remained at Bath till the month of May. Charles, fourth Earl of Traquair, in writing to Lady Mary Maxwell, his countess, observes, “There is a great crowd of company here already. My Lord Annandale makes the greatest figur of any.”³ Annandale and his marchioness, who had been residing at Lochwood, were both at Craigiehall, near Queensferry, by the beginning of September, when Baillie, in a letter to the marquis, congratulates him upon his safe arrival. Writing on 13th September from that place

¹ Annandale to Leven, 20th December 1705, vol. ii. of this work, p. 236. Annandale to Baillie, 15th January 1706, *Jerviswood Correspondence*, p. 147.

² The Earl of Seafield to Mr. Carstares,

9th March 1706, *Carstares State Papers*, p. 745.

³ Letter, 4th May 1706, *The Book of Carlaverock*, vol. ii. p. 168.

to Baillie, Annandale says, "I have been heare ever since I came home, and designe to continue heare till the parliament meett."¹

The last session of the parliament of Scotland, commonly called the Union parliament, was begun at Edinburgh on 3d October 1706, with Queensberry as commissioner. Annandale was present on the opening day. During the session he attended and voted steadily with the Dukes of Hamilton and Atholl, and others, in opposition to the union. On 4th November, in the debate upon the first article of the treaty, when the vote was about to be taken, he offered two alternative resolutions against an incorporating union with England, which he said would be subversive of the fundamental constitution and claim of right of the kingdom, would threaten ruin to the church as by law established, and would create distractions and animosities among themselves and jealousies between them and their neighbours. His resolutions were to the effect that they enter into such a union with England as would unite them in their respective interests of succession, wars, alliances and trade, reserving to each their sovereignty, independence, immunities, constitution and form of government both of church and state as then established. His lordship did not press the resolutions upon the house, knowing that they were not acceptable to it.

The first article of the union was approved by parliament. Annandale recorded his vote against it, and adhered to a protest made by the Duke of Atholl.² He voted with the government in favour of the second article of the treaty of union, which made the succession to the crown of Scotland the same as in England.³ But he gave his vote against the third article, which placed England and Scotland under one parliament. He also protested and took instruments thereupon, upon the same ground as in his previous protest. The Dukes of Hamilton and Atholl, and the Earl of Errol, and many others,

¹ *Jerviswood Correspondence*, pp. 157, 158.

² *Acts of the Parliaments of Scotland*, vol. xi. pp. 312-315. *The Lockhart Papers*, vol. i. pp. 182, 183.

³ *Acts of the Parliaments of Scotland*, vol. xi. p. 326.

adhered to Annandale's protest. The third article of the treaty was approved of by parliament.¹ In the case of the remaining articles of union, Annandale for the most part voted against them. Indeed, in other matters which came before this parliament, unless in a very few instances, his lordship voted with the opposition.

The treaty of union was ratified by parliament, and touched with the sceptre on 16th January 1707. Lockhart tells a story about a project of the Duke of Hamilton that Annandale should renew his motion to settle the succession of the crown on the house of Hanover, and upon its rejection that a protest be made against the union, and thereafter that the protestors should leave the house in a body. The protest, Lockhart says, was actually put into the duke's hands by Annandale. After surmounting a difficulty that arose about any acknowledgment of the succession of the house of Hanover, which the Duke of Hamilton insisted upon, it was agreed to present the protest, and great numbers of eminent citizens flocked about the parliament house; but the duke was suddenly seized with a violent toothache, and though he was dragged to the parliament house by his friends, he refused to deliver the protest, and inquired who the concert had agreed on to do so. Lockhart insinuates this was done in consequence of a visit of the commissioner the night before, who told him if the treaty was let fall, England would lay the blame upon him, and he would suffer for it.

Though Annandale opposed the union when in parliament, he resolved to do his best to render it beneficial to the country after it had actually become law. He was not chosen one of the sixteen representatives of the Scottish peccage by the parliament in 1707. The election to the parliament of Great Britain which took place at Holyrood on 17th June 1708, gave him an opportunity of becoming a candidate. He was present in Holyrood, and offered a protest against receiving the Earl of Aberdeen's list, because the

¹ Acts of the Parliaments of Scotland, vol. xi. pp. 328-330. The Lockhart Papers, vol. i. pp. 189, 190.

earl, having taken the oaths within the castle of Edinburgh, was not legally qualified to give a vote. The votes obtained by Annandale were forty-six in number, and he was omitted by the clerks in their return of the sixteen peers.¹ Charles, Earl of Sunderland, congratulated his lordship on Lord Johnstone's return, and hoped, by means of the protests, to bring the marquis also into the house. In response to the earl's letter, Annandale writes that "no man living will make itt more his business to make thiss present union and settlement happie to this nation then I shall doe," now that the kingdoms were united. He had a great struggle, and had defeated his Grace of Dover [Queensberry], for his son was put in for the county of Dumfries, and a friend for whom he could answer for the district of burghs.² In another letter, written about the same time, he reverts to the extraordinary pains taken by the Duke of Queensberry and his "shamm" ministry to exclude him in particular, and to declare on all occasions that any of the peers was more agreeable to them than he could be, and also to their using of the queen's name to advance their own interest. Annandale adds in this letter that he expected to be in London by the end of August.³ About this time he wrote a lengthy letter, partly in defence of his own conduct, and partly in deprecation of the conduct of the ministry, which he addressed to the queen.⁴

Many protests having been taken and objections raised to the validity of certain votes given at the election of representative peers already referred to, Annandale and three other peers concluded that upon a more accurate scrutiny they would be found validly elected. Preparatory to an appeal to the house of lords extracts of the official proceedings at the election were indispensable. But to obtain these formed an arduous task. Writing to the Duke of Newcastle, Annandale says, "I am nott indeed returned as onc of the sixteen peers, butt I think I am more duellie chosen then severalls who

¹ Robertson's Peerage Proceedings, p. 36.

² Letter, July 1708, vol. ii. of this work, pp. 238, 239.

³ July 1708, *ibid.* p. 241.

⁴ *Ibid.* pp. 242, 243.

are returned, for we have protestations and objections against ten or twelve of there proxies and voters, that wee think heare are absolutely weel founded in law, and hope will be sustained in the house of peers. I shall presume to give your Grace the truble of sending you a scheme off the whole election, and off all the protestations and objections and the grounds, soe soon as they can be gott reddie." A notarial instrument drawn up by Mr. James Baillie, W.S. and notary, narrates the various efforts made by the four peers to obtain from Sir James Dalrymple and Mr. John M'Kenzie, clerks of session, deputed to officiate at the election of the sixteen peers of Scotland to sit in the ensuing parliament of Great Britain, the extracts, lists and proxies, etc. After several delays, and protests given both by the four lords and the two clerks of session, the latter intimated to the former that the extracts "cannot warrantably be given by us."¹

In pursuance of their claim, Annandale, along with the Earls of Sutherland and Marchmont and Lord Ross, presented a petition to the house of lords, claiming that they were elected to be representative peers of Scotland by a greater number of legal votes than the Marquis of Lothian and the Earls of Wemyss, Loudoun and Glasgow, and pointing out that the clerks, and subsequently the lord clerk register, had refused them extracts of the minutes of the proceedings, etc. The petition was signed by Lords Annandale and Ross.² On the reading of the petition the lords ordered the clerks appointed by the lord clerk register to attend the house on 16th December with all papers relating to the election. The Earls of Sutherland and Marchmont subsequently gave in petitions in similar terms. After a scrutiny, and a recalculation of votes, the deputy of the clerk of the crown amended the return of the sixteen peers from Scotland by erasing the name of the Marquis of Lothian and inserting that of the Marquis of Annandale in its place. Annandale was thus successful in claiming his election, and became one of

¹ Original Notary's Instrument in Annandale Charter-chest.

² 18th November 1708, Robertson's Peerage Proceedings, pp. 38-40.

the representative peers in the first parliament of Great Britain. He was again returned at the general election of 1710.

In the year 1711, his lordship, for the third time, represented her Majesty as commissioner to the General Assembly of the Church of Scotland. In his commission the queen states that Annandale's fidelity and sufficiency were abundantly known to her by many testimonies, and that he was in every way qualified and fit to rightly exercise and undertake the high duties of this office. Upon receiving his appointment, Annandale embraced the opportunity of writing to the queen directly, defending the presbyterians against some misrepresentations that had been made against them, and suggesting that her Majesty should fortify his authority as commissioner by some mark of her royal favour such as might encourage her friends there.¹

The commissioner's instructions were similar to those given him by King William in 1701. His private instructions were the same as those given him by her Majesty in 1705, allowing the approving of synod and presbytery books though they contained acts asserting the intrinsic power of the church, with this addition, that he was to endeavour to recover to the crown the appointment of fasts and thanksgivings.² His commission and instructions were all dated at St. James's, 20th April 1711. The Rev. William Carstares was again chosen moderator of the assembly. Letters were written by Mr. Harley, secretary of state, and Charles, Duke of Shrewsbury, to Annandale, upon the harmonious proceedings in the assembly. Queensberry wrote direct to the moderator, expressing his pleasure at the assembly's letter to the queen, and the care they had taken that the Princess Sophia should be prayed for by all the ministers and in all the congregations. The commissioner wrote both to the queen and to Mr. Harley, secretary of state, regarding the proceedings and conclusion of the assembly, eulogising the good temper and loyalty the members had displayed in all their proceedings. Mr. Harley, now created Earl of Oxford, offered his congratulations to

¹ April 1711, vol. ii. of this work, p. 244.

² *Ibid.* pp. 22, 23.

Annandale on his conduct in the assembly.¹ A few months afterwards, the Earl of Oxford proffered to Annandale the position of chamberlain and chief commissioner on trade. But the offer was declined on the ground that he knew nothing of the business of these offices, and that he would never engage in any part of the queen's service in which he was so little capable to serve her. He said he had been summarily turned out of office the year before the union, and so ill used by the late ministry that he had to refuse the post of president of council, and he could not be useful to the queen unless he were in some settled and fixed post in her service.²

If reports current at the time are to be trusted, Annandale was again, in 1712, offered the office of commissioner to the assembly. But he declined it, at the same time using the freedom to tell the queen when she spoke to him upon it that he would willingly serve her in that capacity, but when he last did so, he had so assured the ministers of absolute security to their constitution that he was ashamed to look them again in the face, considering the encroachments which had since fallen out upon them.³ The patronage bill which had just passed in parliament is no doubt the principal encroachment which Annandale has here in view. It was now found difficult to get any one to accept of the office. The Duke of Atholl, and the Earls of Eglinton and Dunmore, were successively offered it, and refused it. The Duke of Atholl was, however, ultimately appointed.

As no suitable post could be obtained for Annandale, his lordship determined to make a tour on the Continent. For this purpose, he received a pass from Arnold Juste, Comte d'Albemarle, Vicomte Bury, etc., governor of Tournay, with an order for an escort to protect him against robbers in his journey to Aix-la-Chapelle.⁴

From a letter of his marchioness, written in July of this year, it appears

¹ 24th June 1711, vol. ii. of this work, p. 259.

² Letter, November 1711, *ibid.* p. 252.

³ Wodrow's *Analecta*, vol. ii. p. 35.

⁴ Original Pass, dated Camp d'Auehin, 26th May 1712, in Annandale Charter-chest.

that Annandale stayed at Spa for some time, whence he meant to go to Hanover, and from thence to Germany and Italy. When she wrote the letter she had heard from Mr. Baillie that her husband was to be appointed lord clerk register. But in the communication she had received from the Spa there was not a word of such an offer from the court. This, she says,

“I cannot reconcile with the treaty you know has been on foot this great while, much less with the last accounts we had of Argyle’s pleading the queen’s promise to make him register before he went to Spain, and the treasurer and Kinoul’s yielding to it, and that I find every body writes of it as a thing done.”¹

Annandale did not get the appointment in question. The Earl of Glasgow, who was then lord clerk register, continued to hold the office till the accession of George the First in 1714. Annandale received favourable consideration from the Electress Sophia, who wrote recommendatory letters for him to the courts of Berlin and Wolfenbüttel. With his reception at these courts he was well pleased. He also proceeded to Vienna, to which place the letter of the electress was directed.² The marquis prolonged his stay in Italy and other parts of the Continent for about two years. He was at Rome in May 1713; and at Florence in July of the same year. His wife, writing in May of the next year, 1714, observes she did not expect his return so soon as some of his friends did. It had been reported that the family, who were with him the previous winter, were returned alone, and she says, “you may guess by that if his return be soon from Lyons, and seemed positive to go to Geneva,” and she requests all his friends to try to bring him over.³ The marchioness at this time resided sometimes at Moffat and sometimes at Craigiehall, and was ordered by the physicians to spend the winter of 1713-14 at Bath. Annandale did not long remain abroad after this. As previously pointed out, he intended to visit Hanover. With that in view, in the summer of

¹ Annandale Peerage Minutes of Evidence, 1876, p. 210.

² Letter of Electress, 19th November 1712, vol. ii. of this work, p. 24.

³ Letter, Moffat, 17th May 1714, Annandale Peerage Minutes of Evidence, 1876, p. 213.

1714, he sent a letter with Mr. Shelleross to Mr. Robethon, informing him of his projected visit. Mr. Robethon, in replying to his lordship's letter on 3d August 1714, advised him against making the visit then, as the court was much changed since the decease of the Electress Sophia, and meant to go to Gohre at the end of September, where no strangers were admitted, and, in the absence of the court, Hanover was the dullest place in the world. Both the prince and elector were, he said, exceedingly obliged for the zeal which the marquis manifested for their interests.¹

Annandale now returned home by way of Paris, where he remained during August and September 1714. Lady Lucie Stuart, in letters written from Paris, to her mother, Mary, Countess of Traquair, mentions visits paid to her and her sister by the Marquis of Annandale, the Earl of Carnwath, and others.² On the 21st of December the marquis, in very good health, set out from London on his return to Scotland, where he shortly after arrived in safety.³

CHAPTER FIFTH.

Made Lord Privy Seal, 1714—Rebellion of 1715—Rising at Dumfries—Meeting with Simon, Lord Lovat—Escapes from the Jacobites—Defends the burgh—Correspondence with Brigadier-General Stanwix—King George well satisfied with his conduct—Death of the Marchioness Sophia—Marriage with Charlotta Vanden Bempde—The Marquis's death and burial, 1721.

Queen Anne died on 1st August 1714, and was succeeded by King George the First, to whose interest Annandale cordially and unhesitatingly adhered. The loyalty which Annandale showed to the new monarch on his succession was highly appreciated by his Majesty, who immediately, on 24th September, appointed him lord keeper of the privy seal, and Annandale a few days later took the oaths and his seat as a privy councillor. He thereafter concurred with thirty-two other Scottish peers in a representation made to King George

¹ Hanover, 3d August 1714, vol. ii. of this work, p. 253.

² The Book of Carluverock, vol. ii. pp. 185, 192.

³ Letter, Archibald Johnstone, London, to the Marchioness, dated 23d December 1714, in Annandale Charter-chest.

complaining that they were deprived of the hereditary share of the legislature which they had formerly enjoyed, by being declared incapable of patents of honour, with right to sit and vote in parliament. On 3d March 1715, Annandale was elected one of the sixteen representative peers of Scotland.

King George was scarcely a year upon the throne when the Jacobite rising of 1715 took place. Prompt steps were taken by the government to quell the insurrection. One of these was the appointment of lord-lieutenants of the shires of Scotland. Annandale, who exerted himself zealously against the rebellion, was appointed lord-lieutenant and commander-in-chief over the shires of Dumfries, Kirkcudbright, and Peebles. His commission, which is under the union seal, and is dated at St. James's, on 19th August 1715, grants to him the usual powers.¹ The Jacobite standard was formally raised in the beginning of September. An important part of their plans was to surprise Annandale, seize his person, and then take the town of Dumfries. In none of these designs did they succeed. While Annandale was on his way to Dumfries he was surprised by a party of the rebels numbering two hundred well-mounted horse, commanded by the Earls of Nithsdale, Winton, and Carnwath, the Viscount of Kenmure, and other noblemen and gentlemen, who, as Annandale expresses it, were "providentially prevented" in their attempt to capture him. Provost Corbett of Dumfries, having intimation from the lord justice-clerk of the intentions of the rebels with regard to that town, took all necessary steps for its defence. On 12th October, he sent Bailie Corrie, who was accompanied by Mr. Fraser, brother to Lord Lovat, to Annandale to acquaint him with the news he had received.

Major Fraser, one of Lovat's attendants, who seems to be the person mentioned by Provost Corbett as accompanying Bailie Corrie, in going to meet the lord-lieutenant, found him on the way hard pressed by Kenmure. On returning to Dumfries and relating the hazardous position of the lord-lieutenant, a party was sent, who escorted him to the town, where he had a courteous and

¹ Original commission in Annandale Charter-chest.

partly convivial meeting with Lord Lovat. The insurgents, however, being defeated in their first object, and now desiring to obtain possession of Dumfries, came close to the town, and created no small alarm. Major Fraser describes what took place. He says:—

“No sooner the cloth was laid on the table, a cry came to the door that the enemy was entering the town—namely, Kenmure and his party. My Lord Lovat left dinner, and came up with the Marquis of Annandale, who stood with his whole party upon a rising ground at the end of the town. The marquis told the Lord Lovat that he was very glad of his coming, seeing he had more skill to model his horse and foot, having been in the army. Lord Lovat and the major were putting them in the best order they could. Countrymen were coming in from all parts, telling the enemy was coming in this way and that way. The marquis ordered so many men, with axes, to hew down a good many trees by way of barricade. In end they were wearied standing there, and no enemy appearing.”¹

On 13th October the rebels, with increased numbers, again approached Dumfries and came within a mile of it. But by this time the people of the adjacent parishes and the well-affected gentlemen of Galloway were come in considerable numbers to the defence of the place, although they were lacking in arms, ammunition, and officers. These, with the inhabitants of Dumfries, finding the Jacobites afraid to attack them, insisted on making an attack on their headquarters at Lochmaben. This the lord-lieutenant deprecated, and, calling a meeting of the clergy, then assembled in synod, he delivered an address to them and to the people, praising the zeal that had brought them together, but pointing out that they were yet without officers and discipline. He added, that in the contest the first success or failure told upon the spirits of the party greatly beyond its real value; that their enemy, engaged in a desperate cause and better horsed and armed than themselves, should not be despised; they might yet get possession of Dumfries, become masters of the south of Scotland, and obtain a formidable impulse to their bad cause. These sentiments were subsequently addressed to the troops, and received with huzzas.

¹ Major Fraser's narrative, quoted in Burton's History of Scotland, vol. ii. p. 154.

Annandale corresponded with different parts of the country at this juncture, and some of the almost daily letters which he received and despatched during the greater part of October and first week of November are printed in this work. The correspondence includes letters from General Stanwix, Viscount Lonsdale, the Viscount of Townshend, and others, which show the movements and designs of the two opposing forces in the country.¹ They relate among other things, that the rebels had a design upon Newcastle, which, being an open town and much exposed, and also not well affected to the government, was thought to be a favourable place to attack. But they were disappointed, as the place was well defended both by foot-soldiers and dragoons. Carlisle again was fortified, and it also had a strong garrison. Viscount Lonsdale, who commanded there, promised Annandale, in case he was attacked, to join him with four or five hundred men armed with such weapons as the country people could get. General Stanwix also promised him what assistance he could for the public safety. Holy Island, where there were stores of arms and ammunition, was captured by a ship sailing from France, but it was immediately recaptured by a force from Berwick.

Annandale left Dumfries and went to Edinburgh on 20th October, leaving the deputy-lieutenants in charge in his absence.²

The Viscount of Stormont wrote to Annandale offering to surrender to him. His letter is dated 20th October, and overtook Annandale on his way to Edinburgh. The latter replied that if he had known anything of his design he would have stayed at Dumfries. But if Stormont surrendered to him or his deputies he would use his interest to recommend his early submission to his Majesty.³ The Viscount did surrender himself, and was detained by Annandale.

Dumfries was again threatened by the rebels. This was in the beginning

¹ Vol. ii. of this work, pp. 254-263.

² Annandale to Stanwix, 19th October 1715, *ibid.* p. 261.

³ Letters, 20th October, *ibid.* p. 264.

of November; and an account of what happened is given in the volume of correspondence. The rebels, finding that the force at Dumfries would stand their ground, did not make the threatened attack;¹ and the defeat of the Jacobite army at Preston, on 12th November 1715, rendered all other measures of defence on the side of the Borders unnecessary. Annandale received a letter of thanks from the Viscount of Townshend, then secretary of state, who informed him that he had laid a letter of Annandale's of the 3d before the king, who was very well satisfied with the particular account his lordship gave of the state of his part of the country, and the zeal his lordship expressed for his Majesty's service, and stated that his Majesty approved very much of his lordship making the Viscount of Stormont prisoner. With this commendation from the king the connection of Annandale with the active progress of the campaign, appears to have terminated.

The mansion-house of Craigiehall, near Edinburgh, being the paternal inheritance of the marchioness, was a convenient additional residence for Annandale after her succession to the Craigiehall estates. An old lease of the gardens at Craigiehall shows the care which she desired to bestow on their preservation. The lease referred to was entered into by the marchioness, as having commission from her husband, with Mark Coulter, gardener in Abbey Hill, by which she let to him for a year the gardens and two rooms in the house upon the garden wall, for all which Coulter bound himself to keep the gardens, with the parterre or flower-garden, and the bowling-green, in as good condition as they were in at his entry.²

The health of the marchioness at the date of the lease of her gardens now referred to, and indeed for several years previous, was in a precarious state, and required her residence in England. During the summer of 1716, she appears to have gone there, but without any improvement. She died on the 13th of December 1716, and was buried in the south cross of the abbey of

¹ Vol. ii. of this work, p. 266.

² Original lease, dated 20th March 1716, in Annandale Charter-chest.

Westminster on the 18th of the same month. A suitable monument was afterwards erected by her eldest son, James, second Marquis of Annandale, to commemorate her memory. The monument was executed by James Gibbs, architect, and bears the following inscription:—

“Æternæ memoriæ sacrum lectissimæ matronæ D. Sophiæ Fairholm, Annandiæ Marchionissæ, Scotiâ ortæ, cujus ingenii morumque elegantia cum eximia corporis forma certabat, matris uxorisque laudibus inclytæ, tam diligentis autem matris familias ut oblatam rerum domesticarum molem animo virili et negotio pari sustinuerit; tot denique virtutibus ornatæ ut vitam summâ omnium cum admiratione morte omnibus deplorata finiverit: Monumentum hoc qualecunque pietatis gratique animi indicium mœrens posuit Jac. Jo., fil[ius] nat[u] max[imus], Annandiæ Marchio. Obiit 13 Decembris, anno D. 1716. Ætatis 49.”¹

On the same monument are inscriptions to Lord William Johnstone, and James, second marquis, both interred in the abbey, but the latter in the north cross thereof.

“Hic etiam jussu ejusdem Marchionis reconditæ sunt reliquiæ D. Gulielmi Johnston, fratris sui charissimi, et filii natu secundi dictæ Marchionissæ, qui obiit 24° Dec. 1721, Anno ætatis 26. JA. GIBBS, archi.”

“Near this place is also interred James, Marques of Annandale, a nobleman of great parts and many excellent qualities, who died at Naples, 21st February 1730.”²

After the lapse of two years the marquis entered into a second matrimonial alliance with Charlotta Vanden Bempde, only daughter of John Vanden Bempde of Hackness, by Temperance, daughter of John Packer, with whom he acquired considerable property. The marriage was celebrated on 20th November 1718. A bond of provision was granted by the marquis to “his beloved spouse,” Charlotta, Marchioness of Annandale, for the yearly sum of £1000 sterling to be paid to her, after the marquis’s decease, if he

¹ The Register of Burials in Westminster Abbey contains the entry, “The Hon^{ble}. Sophia, Marchionesse of Annandale, was buried in the south crosse of the abbey on

Tuesday the 18th December 1716.” [Annandale Peerage Minutes of Evidence, 1880, p. 1030.]

² *Ibid.* p. 1030.

happened to predecease her. Sasine was taken upon this heritable bond on the various lands enumerated, at the mansion-house of Lochwood, on the 6th of March 1719.¹ After the death of Marquis William, this bond was contested by Marquis James, his son and successor. The contest was carried to the house of lords, who decided in favour of the marchioness.

Marquis William executed his last will and testament at Whitehall, Westminster, on 29th December 1720, in which, to enable his marchioness to educate and bring up Lord George, or any other children of the marriage, suitably to their rank and quality, he appointed Charlotta, Marchioness of Annandale, his spouse, to be his sole executrix and universal legatrix; the will was only to continue during her widowhood; and she became bound to pay his lawful executory and personal debts.²

After the making of his will, the marquis went to Bath, where he died on the 14th of January 1721. The will in express terms ordained his body to be decently interred in the kirk of Johnstone, the burial-place of his ancestors, without pomp or ostentation. This direction was carried out, and the marquis's body was interred at Johnstone kirk.³ The marchioness afterwards married Colonel John Johnstone, a son of Sir William Johnstone of Westerhall. She died at Bath, 23rd November 1762.

The children of the marquis both by his first and second marriage are enumerated in the tabular pedigree in this work. Lord John Johnstone, the younger son of the first marquis by his second marriage, made a gift on 2d August 1739, of two pictures of King William and Queen Mary to the town council and magistrates of Dumfries, from a sense of the respect that had been shown by the magistrates and council to the family of Marquis George and to himself in particular. These pictures were cordially accepted

¹ Copy bond of provision and instrument of sasine, in Annandale Charter-chest.

² Annandale Peerage Minutes of Evidence, 1878, p. 696.

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³ The expense connected with the funeral amounted to £494, 4s. 8½d., which the dowager-marchioness was held to be liable for by the lords of session. [Papers in Annandale Charter-chest.]

by the provost and magistrates of the burgh, and appointed to be fixed and put up in the council house, where they still remain.¹ The earlier history of these two portraits is unknown.

Among the collection of family portraits at Raehills is one of Annandale by the well-known and distinguished artist, Sir Godfrey Kneller. The portrait is now somewhat dim. A mezzotint engraving from this also exists at Raehills. It consists of head and bust, represented with a long flowing wig of the period, and in the official robes of president of the council. The face is fine, and bears out the accounts of his handsome appearance. A colotype of the portrait is included in this work.

¹ Annandale Peerage Minutes of Evidence, 1825, pp. 73-75.

Annandale



J. Annandale

C. Annandale





TABULAR GENEALOGY
OF THE
JOHNSTONES OF JOHNSTONE,
EARLS AND MARQUISES OF ANNANDALE.

I.—JOHN, who gave name to Johnston or Johnstone, in the parish of Johnstone, in the lordship of Annandale and shire of Dumfries. Gilbert, son of John, is named in writs dated after 1194, and John must therefore have been a prominent settler before that date, *c.* 1170-1194.

II.—SIR GILBERT JOHNSTONE, KNIGHT, OF JOHNSTONE. He appears first as Gilbert, son of John, after 1194 as a witness to a charter by William de Brus, grandfather of Robert Bruce, the competitor for the Crown of Scotland, to Adam of Carlyle. About the same date he received land in Warmanby and in Annan, resigned in his favour under the designation of Gilbert, son of John, by Dunegal, son of Udard. He still held the same designation in an agreement dated 11th November 1218. In later writs he is styled "Gilbert de Jonistun" and "Sir Gilibert de Jonestun," *circa* 1230, when he held the rank of knighthood. He died before 1249. He was probably the father of

III.—GILBERT OF JOHNSTONE, who in July 1249, along with the Earl of Menteith and Buchan and others, is a witness to a grant to Sir Robert Bruce (the competitor) of the lands of Ecclefechan. This Gilbert was apparently the father of

IV.—1. SIR JOHN JOHNSTONE, KNIGHT, of the county of Dumfries, who swore fealty to the English king, 28th August 1296.

IV.—2. GILBERT OF JOHNSTONE, who swore fealty to King Edward on 28th August 1296 at Berwick. He obtained from King Robert the Bruce, in or about 1309, lands in the county of Lanark.

V.—1. JOHN JOHNSTONE, who is named as a witness in a charter dated between 1312 and 1332. Of him nothing further has been traced.

V.—2. GILBERT OF JOHNSTONE, who is first named as a witness in a charter by Thomas Randolph, Earl of Moray, Lord of Annandale and Man, in favour of William Murray, of the lands of Cumlongan and Ruthwell. His lands of Brackanthwaite were in 1333 bestowed by King Edward the Third upon Henry Percy. In 1347 he was present at an inquest at Lochmaben, and he is said to have died about 1370. He was succeeded by

VI.—SIR JOHN JOHNSTONE, one of the most active leaders on the Borders, and one of the wardens of the West Marches. Sir John made stout resistance to the English between 1377 and 1379. He had safe-conducts to England in 1383 and 1385. In 1385 he received 300 francs d'or of the French subsidy brought by Sir John de Vienne. In 1398 he was one of the conservators of the truce on the Borders. He died before the year 1413, and was succeeded in Johnstone by his son

VII.—ADAM JOHNSTONE OF JOHNSTONE, who was laird of Johnstone before 1413, when he received a safe-conduct into England. He took part in the battle of Sark on 23d October 1443, and he was afterwards one of the conservators of peace on the Borders. He died before May 1455. He married, after 1433, Janet Seton, widow of William Seton (son of Sir John Seton), and mother of George, first Lord Seton. He had issue, so far as ascertained by charter evidence,

cccxxiv TABULAR GENEALOGY OF JOHNSTONES OF JOHNSTONE AND ANNANDALE.

a

VIII.—JOHN JOHNSTONE OF JOHNSTONE, who succeeded his father 1455. He was present at the battle of Arkinholm, 1st May 1455. He took part against the Douglasses, and in the royal expedition against their castle of Threave in Galloway. He was engaged in the battle of Lochmahen, 22d July 1484. The name of his wife is doubtful, unless Janet Herries, the mother of his son John, was his wife. He is last mentioned in February 1492-93. He had issue.

GILBERT JOHNSTONE, who is stated to have been a son of Adam, laird of Johnstone. He obtained, through his wife, Agnes Elphinstone, the lands of Elphinstone, in East Lothian, and was ancestor of the JOHNSTONES OF ELPHINSTONE, a family now extinct in the male line.

ARCHIBALD JOHNSTONE, John Johnstone of that ilk names his brother Archibald one of his hallies, in precept, dated 22d November 1476.

PATRICK JOHNSTONE, who, in a writ, dated 17th March 1467, is described as a brother [nterine] of George, Lord Seton.

WILLIAM JOHNSTONE, also named between 1475 and 1481 as a brother of John, laird of Johnstone, but he was then deceased, *s.p.*

IX.—JAMES JOHNSTONE, YOUNGER, OF JOHNSTONE. On 8th June 1478 he received from his father an annual rent of five merks Scots from a tenement in Dumfries. He appears to have predeceased his father. He had issue.

JOHN, who received Wamphray from his father in November 1476. He appears to have had a son John, laird of Wamphray, in 1511 and 1513, who married Katherine Boyle, and died *s.p.*

A daughter, apparently married to Archibald Carruthers of Monswald.

X.—1. JOHN JOHNSTONE OF JOHNSTONE, who was infeft in Johnstone and others on 13th September 1484, died before 24th May 1488, without issue, when his brother Adam was infeft in Johnstone, etc.

X.—2. SIR ADAM JOHNSTONE OF JOHNSTONE. He is referred to on 13th February 1489-90 as brother and heir of the late John Johnstone of that ilk. He was, in 1498, concerned in an attack on the house of Glendinning. He died before 2d November 1509. The name of his wife was Marion Scott, widow of Archibald Carruthers, younger of Monswald. He had issue, apparently two sons.

XI.—JAMES JOHNSTONE OF JOHNSTONE, who, in 1504, was snrety for his father, and probably of age. He had, on 2d November 1509, a charter from King James the Fourth of the lands of Johnstone and others, appraised for justiciary fines due by his father Adam. In 1516 he had a charter from King James the Fifth of the lands of Whitrigs and others in the lordship of Corrie. In 1523 he was one of the keepers of the West Marches. He died in August 1524. His wife was Mary, eldest daughter of John, fourth Lord Maxwell. He had issue.

WILLIAM JOHNSTONE, brother of James Johnstone of that ilk, 9th March 1519-20. This William is not named in the Johnstone entail of 1543, and probably died *s.p.*

XII.—JOHN JOHNSTONE OF JOHNSTONE, born 1507, succeeded his father in 1524. On 2d March 1542-3, he obtained a crown charter erecting his lands into the Barony of Johnstone, and entailing them upon himself and his sons James and Robert, and upon his brothers Adam, William, John, and Simon Johnstone, successively. He is frequently named as responsible for his clan to the government. He died on 8th November 1567. He was twice married, first, to Elizabeth Jardine, who died in December 1544; secondly, to Nicola Douglas, daughter of James Douglas of Drumlanrig. He had issue.

ADAM JOHNSTONE of Corrie, to whom his father granted the lands of Corrie. He is named in his brother's entail of 1542-3. He died in 1544. He left issue a son James, whose grandson, George, resigned his rights in 1623 to Sir James Johnstone of Johnstone, for the lands of Girthhead. The male line of Adam Johnstone ended in 1750, when the Johnstones of Corrie and Girthhead were represented by four co-heiresses.

SIMON JOHNSTONE, named in the entail of 1542-3. In 1546 he resigned the lands of Eremynie, in Crossmichael, in favour of his brother John Johnstone of Johnstone.

JAMES JOHNSTONE. He died before 1561, leaving issue by his wife Margaret M'Lellan, who survived him. He held the lands of Wamphray and Pocornell. His male line ended in 1656 by the death of John Johnstone of Wamphray, who left an only daughter, Janet Johnstone.

WILLIAM JOHNSTONE, who is named in his brother's entail of date 2d March 1542-3, and also in a contract dated in 1558. He died *s.p.*

JAMES (or JOHN), ahhot of Soulseat, named in 1543 as brother to the laird of Johnstone. He died *s.p.*

JOHN JOHNSTONE, designated brother-german of his three elder brothers in the Crown charter of 1542-3. He is also referred to in December 1543.

MARIOTA JOHNSTONE, married, in 1544, Symon Carrutheris of Mouswald. She had sasine for life on 12th January 1544 in Middlebye and Haitlandhall.

DAVID and JOHN, who received a charter of legitimation in 1543.

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<p>XIII.—JAMES JOHNSTONE, YOUNGER OF JOHNSTONE, who was born previous to 31st October 1539. He never succeeded to the estates, having predeceased his father before May 1552, when his widow, Margaret Hamilton, married David Douglas of Cockburnspath. He had issue one son and one daughter.</p>	<p>ROBERT JOHNSTONE (second son by the first marriage), who received RAECLEUCH and the PARSONAGE of LOCHMABEN. He died at Carnsalloch on 10th May 1592, survived by his wife, Marion Maxwell, who died on or after 31st October 1601. He had issue two sons, Robert and Mnngo. Robert was tutor of his cousin, James, afterwards first Lord Johnstone. In 1656 the family was represented only by two females, Elizabeth, married to James Grierson, and Mary, only child and heiress of Robert Johnstone of Stapleton, who married Robert Young of Auchenskewoth 1696.</p>	<p>JOHN JOHNSTONE, of Lochhouse (eldest son of second marriage), who had a charter in 1595 of part of the church lands of Moffat, Kirkpatrick-Juxta, and Dryfesdale. He was executed on 23d September 1603. His only son James was retoured heir to him on 18th May 1630. This James Johnstone became of Neiss, in Moffatdale, and he died before 1679, without issue.</p> <p>JAMES JOHNSTONE, known as Captain James Johnstone of Lochhouse. He died before 8th September 1632, without lawful issue. He had a natural son, James Johnstone of Corehead. Male line extinct.</p>	<p>DOROTHEA, said to have married John Maitland of Auchingassel.</p> <p>MARGARET, who married, in 1566, Christopher, son of Edward Irving of Bonshaw.</p> <p>ELIZABETH.</p> <p>MARGARET, natural daughter by Giles Ewart, married, in 1531, Ninian Graham, son of Robert Graham of Thornick, and had issue. She died before 1546.</p>	<p>JAMES JOHNSTONE of Hardgraif. Had Crown charter of Hardgraif, 1st September 1540.</p> <p>DAVID JOHNSTONE. Both natural sons.</p>
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<p>XIV.—SIR JOHN JOHNSTONE OF JOHNSTONE, KNIGHT, OF DUNSKELLIE, who succeeded his grandfather in November 1567. He was zealous in public affairs, and for a time an ardent supporter of Queen Mary. He was, however, obliged to submit to the king's government. He was twice warden of the West Marches, the second time under the government of James Stewart, Earl of Arran. In 1584 he was made a knight. In 1585, his house of Lochwood was burned by the Maxwells, along with his charter-chest, and all his family muniments. He died on 5th June 1587. He married Margaret Scott, daughter of Sir William Scott, younger of Buccleuch, who survived him for many years. They had issue.</p>	<p>JEAN JOHNSTONE, who married (contract dated 1st August 1551) William Carlyle, eldest son of Michael, Lord Carlyle, and had issue.</p>
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<p>XV.—SIR JAMES JOHNSTONE OF JOHNSTONE, called also of DUNSKELLIE. He was born about 1567, and succeeded his father in 1587. In 1580 he received from King James the Sixth a charter conferring upon him for life the abbacy of Holywood. In 1588 he was retoured heir of his father in the lands and barony of Johnstone. He was made a knight at the coronation of Queen Anne, 1590. He and Lord Maxwell endeavoured to enter into friendly relations, but their feud burst out more fiercely than before, and culminated in the battle of Dryfesands on 7th December 1593, when John, eighth Lord Maxwell, was slain. In 1596 he was warden of the West March, but fell for a time under government displeasure. In 1602, the feuds with the Maxwells were renewed, and some years later, at a meeting held to reconcile their differences, Johnstone was treacherously killed by John, ninth Lord Maxwell, on 6th April 1608. He married, in 1588, Sara Maxwell, daughter of John, Lord Herries, who survived, and married, secondly, in 1611, John, first Earl of Wigton, and thirdly, in 1625, Hew, Viscount Montgomery of Airds, dying in March 1636.</p>	<p>ELIZABETH JOHNSTONE, who married Alexander Jardine, younger of Apple-girth, and had issue.</p> <p>MARGARET JOHNSTONE, who married, before November 1594, James Johnstone of Westerhall, and had issue.</p> <p>GRISEL JOHNSTONE, who married, first, Sir Robert Maxwell of Orchardton; secondly, Patrick Vans, younger of Barnbarroch, and had issue.</p>	<p>SIMON, who had the lands of Brydeholm in 1604, and renounced them in 1616. He was a natural son.</p>
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<p>XVI.—JAMES JOHNSTONE OF JOHNSTONE, who was born in 1602, succeeded his father in 1608, while still a minor, and was retoured heir to him on 30th August in that year. In the following year, he had charters of the lands and barony of Newbie, and of the lands of Knock and others. On 20th June 1633, he was created by King Charles the First a lord of Parliament, under the title of LORD JOHNSTONE OF LOCHWOOD, with limitation to his heirs-male. He joined the covenanters in 1637. He received a patent, dated at Oxford, 18th March 1643, granting him the titles of EARL OF HARTFELL, LORD JOHNSTONE OF LOCHWOOD, MOFFATDALE, AND EVANDALE, to him and his heirs-male. Later he took part with the Marquis of Montrose, was taken prisoner in the engagement at Philiphaugh 1645, and was condemned to death, but was pardoned by the influence of the Marquis of Argyll. He died in April 1653. He was thrice married, first, in December 1622, to Margaret Douglas, eldest daughter of William Douglas of Drnmlaurig; secondly, in 1643, to Elizabeth, daughter of Sir Samuel Johnstone of Elphinstone; and thirdly, on 31st January 1647, to Lady Margaret Hamilton, third daughter of Thomas, first Earl of Haddington, and relict of David, Lord Carnegie. By his first wife he had issue.</p>	<p>AGNES JOHNSTONE, who appears to have died young and unmarried.</p> <p>ELIZABETH JOHNSTONE, who married, as his first wife, Sir William Hamilton of Manor - Elieston, Ireland, and had issue.</p>
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XVII.—JAMES, EARL OF ANNANDALE AND HARTFELL, ETC., born 1625. He was, while Lord Johnstone, imprisoned for a time with his father in the castles of Dumbarton, Glasgow, St. Andrews, and Edinburgh. He succeeded his father April 1653, and was returned heir to him 25th October same year. In 1657 he resigned his honours and lands for new infestment to himself and the heirs-male of his body, whom failing, to the heirs-female of his body, etc. On 13th February 1661 he received a patent granting him the titles of Earl of Annandale and Hartfell, Viscount of Annand, Lord Johnstone of Lochwood, Lochmaben, Moffatdale, and Evandale, to him and his heirs-male, and the eldest heir-female of his body, etc. In April of the following year, 1662, he received a crown charter erecting his lands into the earldom of Annandale and Hartfell, with the destination in his resignation of 1657, which was ratified by parliament 1669. He died 17th July (not April as on p. cxxlv), 1672. He married Lady Henrietta Douglas, daughter of William, first Marquis of Douglas, their marriage contract being dated 29th May 1645. She died 1st June 1673. They had issue.

WILLIAM JOHNSTONE, who was major and lieutenant-colonel in the army. He held the lands of Blacklaws, in Evandale. He was designated Master of Johnstone until 1656, when he died, without issue.

LADY MARY, married, first, Sir George Graham of Netherby, and had issue; secondly, Sir George Fletcher of Huttonhall. Was alive 1680.

LADY JANET, married, 6th February 1653, Sir William Murray of Stanhope, Baronet, and had issue. She died April or May 1675.

LADY MARGARET, married Robert Dalzell, younger of Glenae. She died in October 1655, without issue.

LADY BETHIA, named in her father's will in 1640.

XVIII.—WILLIAM, SECOND EARL OF ANNANDALE, ETC., born 17th February 1664. He succeeded his father 1672, while still a minor, and was returned heir to him 1680. He was a supporter of the Revolution, but, in 1689, acted with the opposition in parliament. Next year he joined the Jacobite faction with Sir James Montgomerie and Lord Ross, but confessed the plot, and was received into favour. He held numerous important offices under King William and Queen Anne. He was president of the privy council 1694; president of the parliament of Scotland 1695; high commissioner to the general assembly 1701, 1705, and 1711; lord privy seal 1702; secretary of state and president of the privy council 1705. He received, on 24th June 1701, the dignity of MARQUIS OF ANNANDALE, to himself and his heirs-male whomsoever succeeding to him in his lands and estate. Under King George the First he was made keeper of the privy seal, 1714, and, in 1715, on the breaking out of the rebellion, he was made lord lieutenant of the counties of Dumfries, Kirkcudbright, and Peebles, and took an active part against the insurgents. He died at Bath 14th January 1721. He married, first, on 2d January 1682, Sophia, only daughter and heir of John Fairholm of Craigiehall, who died 13th December 1716. He married, secondly, Charlotta Van Lore, only child of John Vanden Bempde of Hackuess, who survived him. He had issue.

JOHN JOHNSTONE, born 3d September 1665. He was provided by his brother, Earl William to Stapleton in 1702. Upon his death without issue Stapleton reverted to the Earl.

GEORGE JOHNSTONE, born 21st June 1667. He died after a "long and sore sickness" on 10th May 1674.

LADY MARY, born 31st January 1652, married, 8th March 1670, William, fifteenth Earl of Crawford, and had issue.

LADY MARGARET, born 14th August 1654, married (contract dated 14th September 1678), Sir James Montgomerie of Skelmorlie, and had issue. He died in London, September 1694. She died October 1726, and was buried in the abbey of Holyrood.

LADY HENRIETTA, born 18th January 1657. Died young.

LADY JANET, born 18th June 1658. Died young.

LADY ISABEL, born 28th April 1659. Died young.

LADY HENRIETTA, born 21st January 1669, married, 15th May 1684, Sir John Carmichael of Bonnington, in Lanark, and had issue.

LADY ANNA, born 30th July 1671. Died in June 1675.

XIX.—1. JAMES, SECOND MARQUIS OF ANNANDALE. He was, in 1708, chosen member of parliament for Dumfries and Lunithgow, but was incapacitated by an order declaring that the eldest sons of peers could not represent in parliament the commons of Scotland. He succeeded his father in 1721, and died at Naples unmarried on 21st February 1730.

LORD JOHN JOHNSTONE, born 3d August 1688, and died young.

LORD WILLIAM JOHNSTONE, born in August 1696. Died unmarried 24th December 1721.

XIX.—2. GEORGE VANDEN BEMPDE, THIRD MARQUIS OF ANNANDALE, born 29th May 1720. Succeeded Marquis James 21st February 1730. The death of his brother Lord John in 1742 deranged his mind, and he was, 5th March 1747, declared incapable of managing his affairs. He died unmarried 29th April 1792. He was succeeded in his Scottish estates by his grand-nephew, James, third Earl of Hopetoun.

LORD JOHN JOHNSTONE, posthumous, born 8th June 1721. He was M.P. for the Dumfries burghs, 28th May 1741, and died October 1742, unmarried.

XIX.—3. LADY HENRIETTA JOHNSTONE, born 11th November 1682. She married, 31st August 1699, Charles Hope of Hopetoun, who was in 1703 created EARL OF HOPETOUN, etc. He died on 26th February 1742. His countess survived him, dying on 25th November 1750. They had issue, with other children,

LADY MARY, born 15th June 1686. Died in infancy.

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XX.—JOHN, SECOND EARL OF HOPETOUN, born 7th September 1704, succeeded his father in 1742. On 22d June 1758 he was appointed curator to his maternal uncle, George, third Marquis of Annandale. He died 12th February 1781, survived by the Marquis. He married, first, Lady Anne Ogilvy, second daughter of James, fifth Earl of Fiudlater and Seafield; secondly, Jean, daughter of Robert Oliphant of Rossie, Perthshire; thirdly, Lady Elizabeth Leslie, second daughter of Alexander, fifth Earl of Leven and Melville. He had, with other issue,

THE HON. CHARLES HOPE, born 8th May 1710. He succeeded, in 1730, to Craigiehall, under an entail by his grandmother, Sophia, first Marchioness of Annandale, heiress of that estate. In 1733, he acquired Blackwood, in Lanarkshire, by his wife, Catherine, only daughter and heiress of Sir William Weir of Blackwood, and took the name of Charles Hope Weir. She died in 1743. He married, secondly, Lady Anne Vane, eldest daughter of Henry, first Earl of Darlington. He died, 30th December 1791, leaving, among other issue,

XXI.—JAMES, THIRD EARL OF HOPETOUN, born 23d August 1741. He succeeded his father 12th February 1781 in his estates, and on 3d July 1781, as curator to his granduncle, George, Marquis of Annandale. On the death of Marquis George in 1792, he inherited the Annandale estates, and added the name Johnstone to his own name of Hope. Under able legal advice, he claimed by petition to the king the peerages of Annandale and Hartfell, but he did not assume these titles. He died, 29th May 1816, and having no male issue was succeeded in his title and estates of Hopetoun by his brother, John, Lord Niddrie, who became the fourth Earl of Hopetoun, and in his Annandale estates by his eldest daughter, Lady Anne, in virtue of the original and new entails of them. He married, 16th August 1766, Lady Elizabeth Carnegie, eldest daughter of George, sixth Earl of Northesk, and had, with other female issue,

JOHN, fourth Earl of Hopetoun, born 17th August 1765. Succeeded his brother 29th May 1816, and died 27th August 1823. By his second wife, Louisa Dorothea, daughter of Sir John Wedderburn of Ballindean, baronet, he had issue.

JOHN HOPE, fourth son, born 7th April 1739. Merchant in London. Died 21st May 1785. He married, 2d June 1762, Mary, only daughter of Eliab Breton of Norton and Fortyhall, who died 25th June 1767. They had issue three sons. The third was

XXII.—LADY ANNE JOHNSTONE HOPE, who inherited the Annandale estates. She was born 13th January 1768. She married, 8th July 1792, her second cousin Captain William Hope, who added to his name that of Johnstone. She possessed Annandale for two years. She petitioned the king for the peerages of Annandale and Hartfell. But she died at Edinburgh, 27th August 1818, before proceedings were taken to prove her right, leaving issue.

SIR WILLIAM JOHNSTONE HOPE, G.C.B., vice-admiral. Born 16th August 1766. Served with distinction between 1794 and 1801. Served in the same ship with the Duke of Clarence, afterwards King William the Fourth. He married, first, in 1792 Lady Anne Johnstone Hope, by whom he had issue; secondly, without issue, Maria, Countess-Dowager of Athlone, who survived him, dying 4th March 1851. He died 2d May 1831.

XXIII.—JOHN JAMES HOPE JOHNSTONE OF ANNANDALE, born 29th November 1796. He inherited from his mother the Annandale estates, and in 1825 he claimed the titles of Earl of Annandale and Hartfell, but in 1844 it was resolved by the House of Lords that he had not made out his claim. Subsequent to that resolution, a resignation was discovered in 1876. It was made in 1657 by James, Earl of Hartfell, of all his peerages and estates in favour of the heirs-male of his body, and failing them, the heirs-female of his body and other heirs. The claim was re-heard, but the House of Lords, on 30th May 1879, adhered to the resolution of 1844. He died on 11th July 1876. He married, in 1816, Alicia Anne, daughter of George Gordon, Esq. of Halhead, and had issue.

SIR WILLIAM JAMES HOPE JOHNSTONE, admiral, K.C.B., born July 1798; married, 1826, Ellen, eldest daughter of Sir Thomas Kirkpatrick, baronet. He died 11th July 1878, survived by his wife, who died 1880. They had issue three daughters—(1.) Jane Anne, who became a nun, and died in a convent; (2.) Ellen Lucy, born 1838, married, 1865, Captain John D'Arcy, R.N., who died 1884, leaving issue; (3.) Alicia Isabella, born 1840. Died unmarried, 3d December 1893.

CHARLES JAMES HOPE JOHNSTONE, captain R.N., born 1801, married, 1826, Eliza, daughter of Joseph Wood of Hayes, Middlesex, and died 14th April 1835, survived by his wife, who died 31st October 1835, aged 84. They had issue—(1.) Charles James Hope Johnstone, born 1835; a major-general; married, 1859, without issue, Mary Fanny Eliza, daughter of W. Hankey of Middleton Hall, Linlithgow; (2.) Anne Williamson, born 1828, married, 1866, General Charles Fanshawe, and has issue, lives at Ryde, Isle of Wight; (3.) Mary Josephine, born 1833.

GEORGE JAMES HOPE JOHNSTONE, captain R.N., born in 1803, married Maria, daughter of Joseph Ranking, who died 10th September 1844. He deceased 21st May 1842, leaving issue.

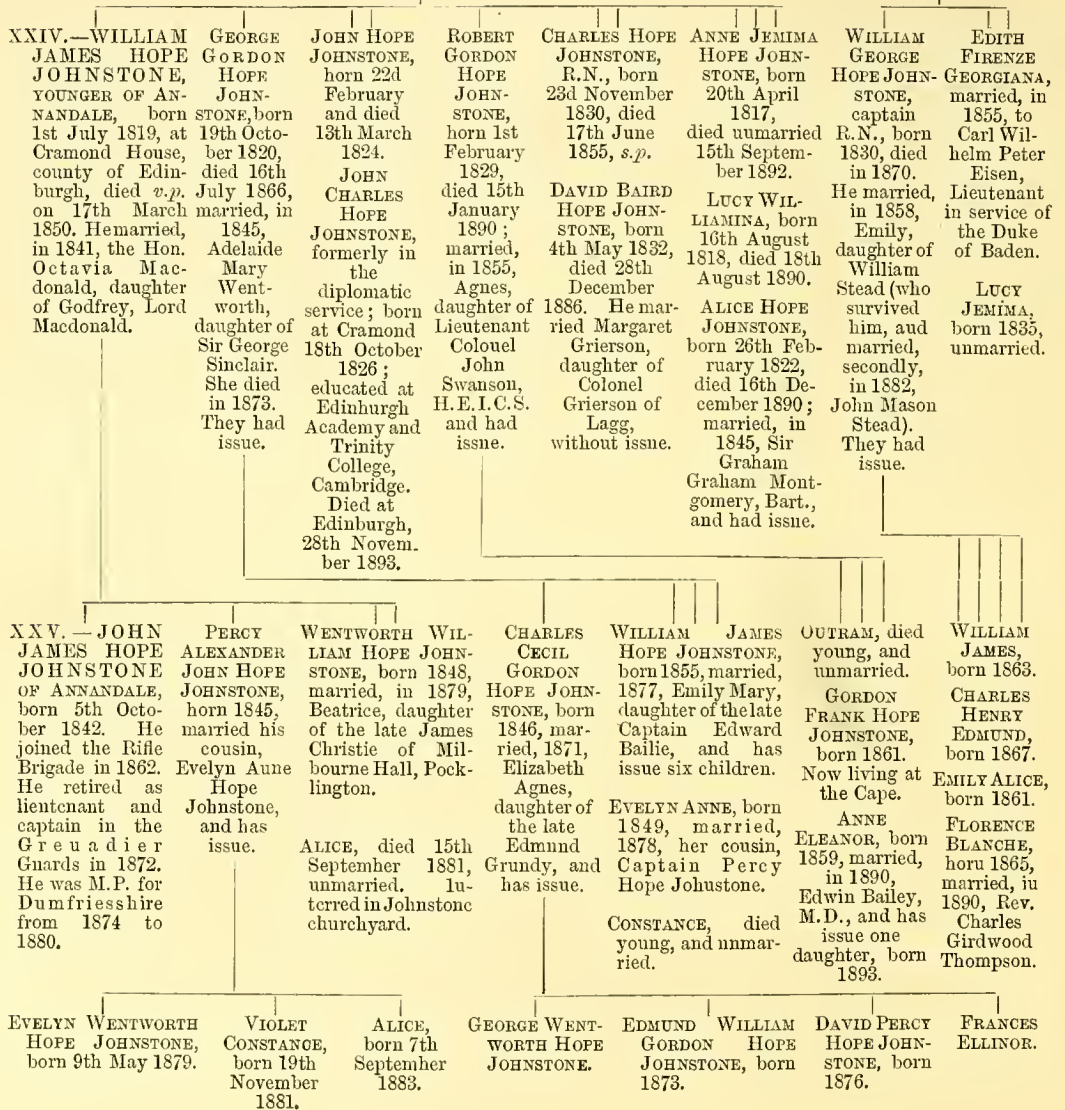
ELIZABETH HOPE JOHNSTONE, who died on 1st November 1864, at Zoffingen, Switzerland, unmarried.

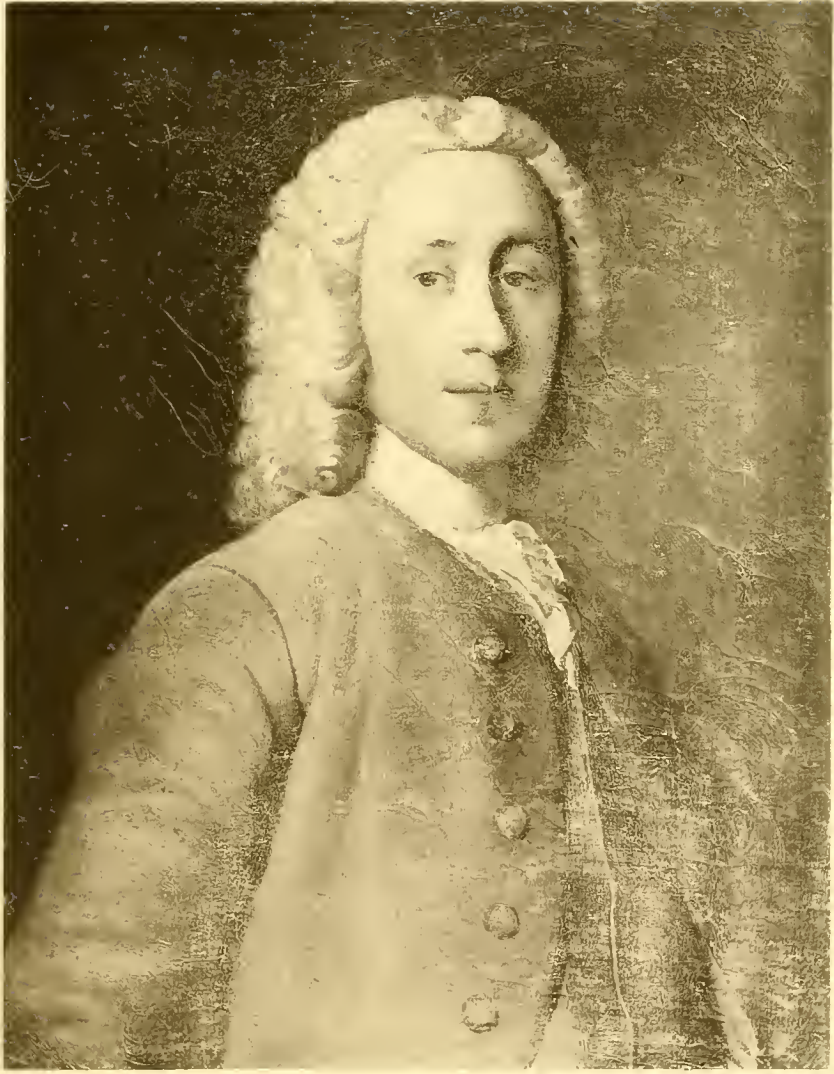
MARY HOPE JOHNSTONE. She was maid of honour to Queen Adelaide for several years previous to 1840. She married, 3d February 1840, the Hon. and Right Rev. Hugh Percy, D.D., lord bishop of Carlisle. She died on 22d November 1851, and was buried in the cathedral at Carlisle, where there is a brass tablet to her memory. Her husband was buried outside the cathedral, by his own desire, owing to the agitation on the subject of burying in churches.

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CCCXXVIII TABULAR GENEALOGY OF JOHNSTONES OF JOHNSTONE AND ANNANDALE.

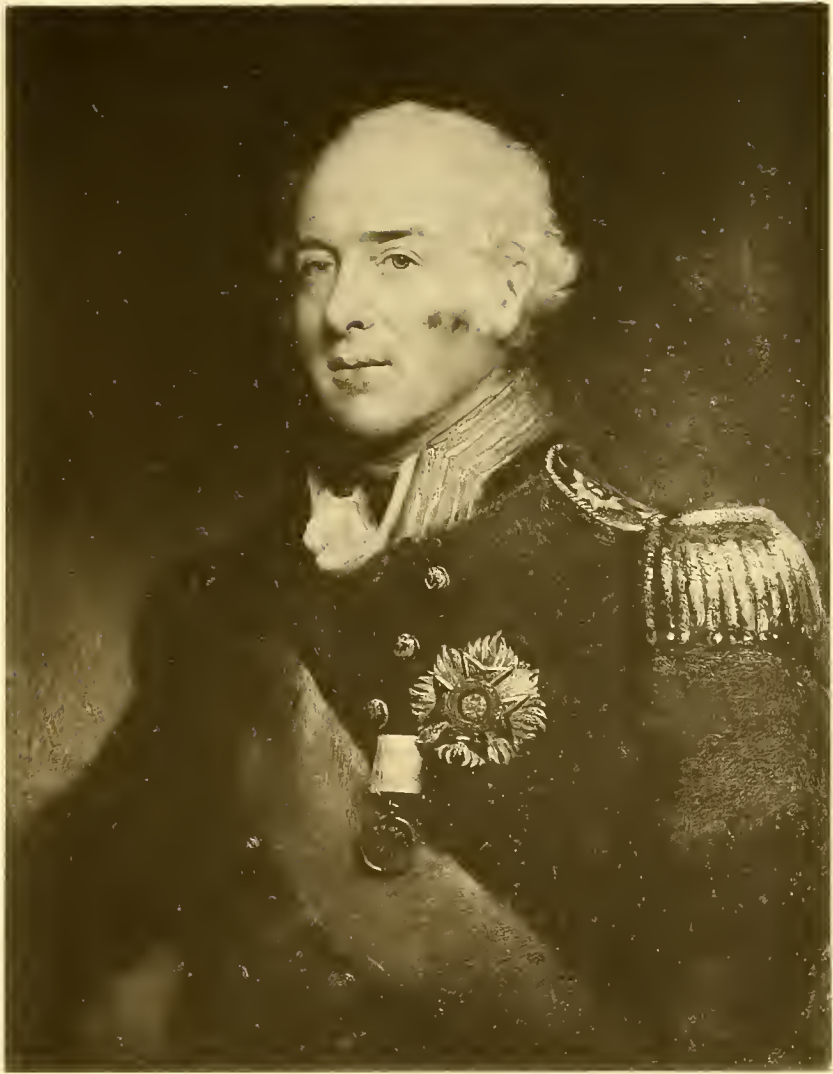
























CASTLES AND MANSIONS OF THE JOHNSTONES OF JOHNSTONE AND ANNANDALE.

1. LOCHMABEN CASTLE.

THREE great castles at one period dominated the whole district of Annandale. These were Lochmaben, Annan, and Auchencass. Lochmaben Castle stood nearly in the centre of the dale, while the castle of Annan was at the south end, and Auchencass was midway between the commencement of the dale on the north and Lochmaben on the south. These three castles were all stupendous in their structure, and were more like the work of communities than of individual owners. They are now all in ruins, and have been so for centuries.¹

The earliest mention of Lochmaben occurs in the great charter by King William the Lion to Robert de Brus, the second of Annandale, of all the land which his father and himself held in Annandale, as freely and by the same bounds as they were held in the time of King David, his grandfather, or King Malcolm, his brother. The charter is dated at Lochmaben, and witnessed by Engelram, Bishop of Glasgow, and a large number of the court. The date is assigned to 1166.² It is next mentioned in a charter by William de Brus to Adam of Carlyle, of the lands of Kinmont, where Carlyle and his men are granted free passage to the market by the forest at Lokmaban through Dalton, and at Dumfries through Rochel. The holding of a fair shows that Lochmaben at the date of the charter (1194-1214) was a place of some importance.³

After King Robert Bruce relinquished Annandale to his nephew Randolph, and in the course of the subsequent history of the castle of Lochmaben, many of the sovereigns of Scotland took a deep interest in it from the time of King David Bruce. In the year 1346 Lochmaben was in possession of the English, having been seized by King Edward the Third. In that year King David the Second marched through Annandale and took the castle from Selby, the English governor under Edward, and occupied Lochmaben. He crossed the border and engaged in the fatal battle of

¹ Mr. Clerk of Eldin made a drawing of the castle of Lochmaben as it existed between the years 1773 and 1779. The drawing was included in the volume of Eldin Etchings for the Bannatync Club in 1865. An engraving was also made for the History of Lochmaben by the late Rev. William Graham. Through

the courtesy of Messrs. Nimmo, Hay and Mitchell, the publishers, it is here reproduced.

² National MSS. of Scotland, vol. i. No. xxxix.

³ Charters of this Work, pp. 1, 2.

Neville's Cross, where he was taken prisoner. The great ransom which had to be paid to England for him, impoverished Scotland for many years.

King James the Second took possession of Lochmaben in 1449 and 1451, for the purpose of checking the power of the Douglases. King James the Fourth was a frequent resident at Lochmaben. The accounts of the lord treasurer contain notices of his being at Lochmaben in the years 1490, 1496, and 1497.¹ He built and made many repairs on the large hall of the castle. After his marriage with the Princess Margaret Tudor, sister of King Henry the Eighth, James and his young bride passed the autumn there. The princess was then only fifteen years of age and the king was thirty-three. Shortly before visiting Lochmaben the king had spent a merry time in the neighbouring valley of Eskdale, and he continued to do so after proceeding there. He was usually attended by many minstrels, and at Lochmaben he had about thirty. The king and queen left Lochmaben on 17th September 1504 for Edinburgh. Nearly forty years afterwards, in 1542, their eldest son, King James the Fifth, visited Lochmaben Castle on his way to the raid called the Solway Moss, which was as fatal to King James the Fifth as Neville Cross was to King David the Second. On receiving the bad news that the Scotch nobles would not fight under Oliver Sinclair, a mere favourite of the king, as commander of the Scottish army, but yielded themselves prisoners to the English, the king left Lochmaben and hastened to Falkland Palace, where he died of a broken heart on 8th December, five days after the birth of his daughter Mary. Among his last utterances were, "It cam with a lass and it will gang with a lass." This "lass," soon after her marriage with Darnley in 1565, visited Lochmaben accompanied by her husband.

King James the Sixth took a great interest in the town of Lochmaben, and granted the burgh a new royal charter in 1612. Several letters by the king have recently been traced during the searches connected with the present work. The first letter is addressed to the Earl of Mar as treasurer, and the other commissioners of the king's rents in Scotland, to pay to John Murray, Viscount Annand, £1600 sterling, to be employed by him by the special advice and direction of the master of the king's work for re-edifying and reparation of our castle of Lochmaben, and with such speed and diligence as conveniently may be.²

Another letter or precept was issued by the king to the Earl of Mar, treasurer, on the 20th of February 1624. It narrates that the king had been pleased to intrust

¹ Vol. i. pp. 171, 306, 335. The payments show that the king sometimes made his journeys on horseback to Lochmaben.

² Original, dated 20th February 1624, in H. M. General Register House, Edinburgh. Vol. ii. of this work, p. 330.



LOCHMABEN CASTLE
1775.

and recommend to Viscount Annand the re-edifying and reparation of the king's decayed castle of Lochmaben, and to pay him £1600 out of the king's rents. His Majesty explains in this second letter that it is his pleasure that the treasurer take the best and speediest course of payment of the foresaid sum, but so as the reparation of the king's other houses formerly recommended may not be impeded. His Majesty also desires that the master of his works shall carefully survey and direct the said work of re-edifying and reparation of Lochmaben Castle.¹

A third letter from King James the Sixth to the Earl of Mar, treasurer, dated 31st January 1625, shows the interest which the king continued to take in the town of Lochmaben, as well as the castle. He narrates that the warden and steward courts have been kept in the church of Lochmaben, which he thought unseemly and unfitting, and he desired the master of works to repair to Lochmaben and select a place for a tolbooth, in such form that the lower rooms may serve for prisons, and the upper, for courts and administration of justice.²

Notwithstanding the anxiety shown in these letters, and in the arrangements which were made when King James the Sixth created John Murray, one of the gentlemen of his bedchamber, Viscount Annand and Lord Lochmaben, it does not appear that the intended re-edification of the castle was carried out. On the other hand, it was made a quarry for stones for neighbouring buildings so long as the valuable stones remained. The great castle of Lochmaben in consequence has long been a sad ruin.

The great charter granted to James, first Earl of Annandale, by King Charles the Second in 1662, contains the heritable office of keeping and governing his Majesty's castle of Lochmaben, with the thirty-two "Mart ky" (cows), called the "Lardner Mart ky," used and wont to be uplifted yearly out of the thirty-two parishes within the stewartry of Annandale, and thirty-nine "geiss" called "meadow geiss," and hens called "Fastings evens hens," and with the patronage of the parish kirk of Lochmaben. The king also granted to him by the same charter the lands and barony of Lochmaben, with the Stainhouse of Lochmaben, the Lady mill and the rest of the mills of Lochmaben, mill lands, etc., with the whole fishings in all the lochs of Lochmaben, the lands of Smellholm and Hietie with the fishings belonging thereto, and two cottages thereof, the lands of Bus, Cunnigh, Herk, and Greenhill, the lands of Lochmabenstaine. The charter provides that a sasine taken at the castle of Lochmaben should be valid for the barony of Lochmaben and the heritable keeping of the castle, and the Lardner Mart kyne, etc.³

¹ Original letter in Charter-chest of the Earl of Mar and Kellie. Vol. ii. of this work, pp. 330, 331.

² *Ibid.*, p. 332.

³ Minutes of Evidence in Annandale Peerage Case, 1844, pp. 94-112.

2. JOHNSTONE, OR LOCHWOOD TOWER.

THIS tower or castle, which is six or seven miles distant from Moffat by the Dumfries road, is by far the oldest habitation of the family. Tradition assigns its erection to the fourteenth century. But as charter evidence recently discovered shows that the Johnstones were designated of Johnstone so far back as the twelfth century, the original Tower of Johnstone may have been built in, if not even before, the thirteenth century.

When the lands of Johnstone and others were erected by Queen Mary, with consent of the Regent Arran, into a BARONY to be called the BARONY of JOHNSTONE, in favour of John Johnstone of Johnstone in liferent, and James Johnstone, his son and apparent heir, in fee, in the year 1542, it was ordained that the tower and fortalice of Johnstone should be the principal messuage of the barony. The name of Lochwood is not given to Johnstone Tower in the charter of the erection of the barony. But in the subsequent charter, granted by King Charles the Second in favour of James, first Earl of Annandale and Hartfell, dated 23rd April 1662, it was provided that one sasine to be taken by the earl at the principal messuage, tower and fortalice of Johnstone, otherwise called Lochwood, or at the tower and manor place of Newbic, should be sufficient to the earl for all the lordships, baronies, etc., although they did not lie contiguous but in several sheriffdoms and jurisdictions, which were all thereby created a free barony, lordship and earldom, to be called then and in all time thereafter, the BARONY, LORDSHIP, and EARLDOM of ANNANDALE and HARTFELL.

Lochwood Tower is situated near the northern boundary of the parish of Johnstone, in a wood of oaks, and surrounded with deep bogs and marshes. In its proximity, about a mile away, is the river Annan. Its situation and environments are described in the two following stanzas:--

“Where placid Annan peaceful flows
And laves its low-laid level vale,
The Lochwood’s lofty towers arose,
Where dwelt the lords of Annandale.

On Johnstone Moor, ’midst waving grass,
The towering fortress frowned afar,
Surrounded with a deep morass,
A safe retreat in time of war.”¹

The name given to the tower was one expressive of its situation. It was bounded on the west by a large loch, and on the east by the oak wood already mentioned.

¹ The Battle of Dryfe Sands, 1858, p. 11.



LOCHWOOD TOWER.



OAKS AT LOCHWOOD.

Many of the oaks in this wood exist in stately grandeur of hoary age. Two of these, popularly called sometimes "The King" and "The Queen," otherwise "The Lord" and "The Lady," are of great size, as may be seen by the accompanying drawing of them. One of the oaks has a girth of $17\frac{1}{2}$ feet. Specimens of these oaks are given in the accompanying sketches. The trees are similar to those in the ancient forest of Cadzow, in which the white Caledonian cattle kept by the Duke of Hamilton have been in possession for a long period of time.

The ancient tower and the great trees have inspired local poets, and even some of wider fame. The late Mr. Thomas Aird thus happily describes the oaks :—

"The reverend oak takes back
The heart to elder days of holy awe.
Such oaks are they, the hoariest of their race,
Round Lochwood Tower, the Johnstone's ancient seat,
Bow'd down with very age, and rough all o'er
With scurfy moss and parasitic hair."

Lochwood Tower as originally built had not been of the same dimensions as the later tower which took its place. It has been long in ruins, and has not been inhabited for upwards of a hundred and seventy years. A portion of the wall and two apartments with vaulted roofs, and the fallen stones and rubbish, are all that remain of this ancient residence of the Johnstones. But the thickness of the walls, and its position in relation to the surrounding marshes, attest it to have been a place of very great strength.¹

This Johnstone stronghold often experienced the vicissitudes inseparable from the raids of border warfare, and in particular from the lamentable feuds which lasted so long between the rival clans of Maxwell and Johnstone. In the course of one of these feuds, in the year 1585, Lochwood Tower was the scene of a destructive conflagration caused by Robert Maxwell, natural brother of Lord Maxwell. This burning of Lochwood, and the language which the spectacle evoked from its perpetrator, are stated in the lines of Mr. M'Vitie :—

"The Lochwood Tower that very night,
He quickly fired in furions mood :
'I'll give,' said he, 'Dame Johnston light
To place aright her silken hood !'"²

¹ A saying having reference to the great strength of Lochwood Tower, and variously attributed to the two sovereigns, James the Fifth and James the Sixth, is that "the man

who built Lochwood, though outwardly honest, must have been a knave in his heart."

² The Battle of Dryfe Sands, p. 13.

The destruction of Lochwood Tower was revenged by the Johnstones at the burning of the parish kirk of Lochmaben, and later still, at the battle of Dryfe Sands on 7th December 1593, when on both occasions the Maxwells were defeated by the Johnstones.

It was in the time of Sir John Johnstone of Johnstone and Dunskeillie, knight, that Lochwood was burned. His son, Sir James Johnstone of Johnstone and Dunskeillie, knight, made a claim against the Maxwells for attacking and burning the house of Lochwood, along with his charter-chests and all his family muniments. This last was an irreparable loss, as although the house and furniture could be renewed, the ancient charters and muniments could not be restored. Their destruction has made the task of writing the history of the early members of the family from the twelfth to the sixteenth century one of difficulty.

Lochwood Tower was afterwards rebuilt and inhabited by the Johnstone family, and it continued to be their principal residence till an accidental fire about the year 1710 destroyed it. Not having been rebuilt, it gradually became a ruin, a part of which is shown in the accompanying sketch.

3. MOFFAT HOUSE.

THIS mansion was erected in the year 1751 by John, second Earl of Hopetoun, who was then in possession of the Annandale estates as tutor-in-law of his uncle, George, third Marquis of Annandale. Lord Hopetoun made it his place of residence during his periodical visits to Annandale attending to the management of the estates. The house stands on the upper portion of the west side, but a considerable distance from the line of the High Street of Moffat. The site of it, and also the grounds attached to it, were formerly a park called Mearspark, extending behind the house to the river Anuan, the boundary on the west. Moffat House is three storeys in height, with wings on each side. The doors and windows are built of red or corncockle stone, the other portions of the house are of black whinstone. The house in appearance is a plain but stately structure, and has considerable architectural effect. The ground allotted to the policies, which was previously bare, was planted by his lordship with ornamental trees. Some of these, especially the oaks, have grown to a great size. The gardens and pleasure-grounds were arranged with taste and skill.

From the comparatively modern date of the erection of Moffat House, no part of the history of the Johnstone family, either before or after the erection, attaches to the mansion. It was not till the time of James, third Earl of Hopetoun, when he became



proprietor of the Annandale estates in 1792, that Moffat House properly became one of the mansions of the Annandale family. As explained in the notice following of the mansion of Raehills, Earl James built Raehills before succeeding to Moffat House. The old mansion continued to answer its original purpose as an occasional residence for the Earls of Hopetoun, while in official charge of the Annandale estates for upwards of thirty years. Since it has ceased to serve that purpose, it has been the residence of various members of the Annandale family, including the parents of the present proprietor, Mr. Hope Johnstone, for several years after their marriage in 1841. The two brothers and only sister of Mr. Hope Johnstone were all born at Moffat House.

A few incidents in connection with this mansion may be here recorded :—

Thomas Graham of Balgowan, afterwards the gallant Lord Lynedoch for his bravery at Barossa, was the son of Lady Christian Hope, daughter of the first Earl of Hopetoun and his Countess, Lady Henrietta Johnstone. When on a visit to Moffat House in the summer and autumn of 1759, eight years after its erection by the second Earl of Hopetoun, Mr. Graham was accompanied by James Macpherson as his tutor. On that occasion Macpherson commenced to translate the poems of Ossian, which subsequently brought him into prominent notice. The translations which he made then at Moffat House were, with an Introduction by Dr. Hugh Blair, published in the following year in a small volume, entitled “Fragments of Ancient Poetry collected in the Highlands of Scotland, and translated from the Gaelic or Erse Language.”

Among the visitors at Moffat Spa when James Macpherson was resident at Moffat House, were John Home, author of the tragedy of Douglas, and Dr. Carlyle, minister of Inveresk. To them were first communicated the translations by Macpherson, and both were delighted with them. Dr. Carlyle was a frequent visitor at Moffat Spa, and was commonly known from his commanding figure as “Jupiter Carlyle.” Sir Walter Scott records that he was the “grandest demigod” he ever saw.

John Home, the author of Douglas, was an annual visitor at Moffat Spa. He wrote the well-known lines on it—

“No grace did Nature here bestow ;
But wise was Nature’s aim :
She bade the healing waters flow,
And straight the Graces came.”

On his first appearance he astonished the natives by thinking aloud or reciting to himself some of his poetical effusions in his wanderings. He was also looked upon with suspicion as a clergyman who had written a tragedy. But all the same he was a great favourite at the gatherings of Moffat society, and his early withdrawal from

any of these social meetings was always matter of regret. According to Carlyle, James Macpherson during his residence at Moffat House was very reserved and proud. He shunned dining at the ordinary with Home and Carlyle on some pretence.

David Hume, the historian, occasionally accompanied these eminent men of letters to Moffat Spa. He, for his part, was sceptical of the authenticity of Ossian. They tried to explain this away by saying that Hume was sceptical about everything. Mr. Hume acted as a paid companion to George, third Marquis of Annandale, in 1745, which gave him an interest in the Moffat district. The following receipt for his remuneration is still preserved :—

“Edinburgh, February 8, 1745.

“Receiv’d from Ronald Crawford, Writer to the Signet, by Direction from the Marquess of Annaudale, one hundred Pounds Sterling. Witness my hand this eighth of February oue thousand seven huudred aud forty-five.

David Hume

4. RAEHILLS HOUSE.¹

THE lands of Raehills, which were originally comprehended in the parish of Garvald, and are now included in the parish of Johnstone, form a part of a twenty pound laud of old extent, in which were also the lands of Mollins, Crunzeanton, Monygaris, Brydanholme, and Wollgills.

The connection of the Johnstone family with the lands of Raehills commences so early as the reign of King David the Bruce, from whom a member of the Johnstone family, whose history has not been traced, obtained a charter of the lands of Cronanton, Melyn, Monykipper, and Rahill, in the barony of Kirkmichael.² But the lands did not long remain with the grantee. In the beginning of the following century they formed part of the Annandale estates of Sir James Douglas, lord of Dalkeith, who resigned them in favour of David Lindsay, first Earl of Crawford. Crawford conveyed Raehills as part of the barony of Kirkmichael to William, lord of Crichtou, knight. The grant was confirmed by King James the Second.³ About that time William Crichton was lord chancellor, and the family of Livingston also held an influential position. Edward Livingston of Bowcastle acquired right to

¹ Raehills occurs with a variety of spellings—Raahill, Rahill, Rahillis, Raehill, Raehills or Raegills, and Ridhill.

² Robertson's Index of Missing Charters, p. 47.

³ 2d March 1439-40, Register of the Great Seal, vol. ii. No. 226.



RAEHILL'S HOUSE

Raehills. Disputes arose concerning the lands between the Crichtons and the Livingstons. King James the Third was appealed to by the latter, and John Johnstone of Johnstone was one of those appointed to maintain and defend Livingston in the lands of Raehills and others.¹

Soon afterwards the lands of Raehills came into the possession of Alexander Kirkpatrick in the following manner:—In the rebellion of Alexander, Duke of Albany, who aspired to the throne of his brother, King James the Third, he was aided by King Edward the Fourth of England, James, the ninth and last Earl of Douglas, William, Lord Crichton, and others. The success which at first favoured the rebels did not continue. The death of King Edward, the discomtenance to their scheme shown by King Richard, his successor, and the apathy of their own vassals and countrymen all contributed to this. A reward was promised of 100 merks of land and 1000 merks in money to any one who should kill or take captive the Earl of Douglas. Accompanied by Douglas, Albany entered Scotland with five hundred horse on St. Magdalen's day, 1484, vowing that they would make their offering that day on the high altar of the church of Lochmahen. But being opposed by the Borderers they were defeated at Burnswark. Albany escaped, but the Earl of Douglas, weary with his long exile from Scotland, surrendered to Alexander Kirkpatrick, an old retainer, and brother to Sir Thomas Kirkpatrick of Closeburne, to whom he had to make himself known. Kirkpatrick was deeply affected with his master's condition, and offered to flee with him to England. But the earl declined, and only desired that his life should be spared, saying, "Thou art well entitled to profit by my misfortune, for thou wast true to me while I was true to myself." The result was that Douglas had his life spared. William, Lord Crichton, and Gavin, his brother-german, were forfeited, and Kirkpatrick received the lands of Molin, Raahill, and others, extending yearly to £30.² The Crown charter conveying these lauds narrates the services of Alexander Kirkpatrick, and specially the capture of James, Earl of Douglas, at the time of the war, and for carrying of his person to the king.³

For the next century, or down to 1597, there are various charters under the great seal in the reigns of King James the Fourth and King James the Sixth, showing that the lands of Raehills and others in the barony of Kirkmichael were possessed in turn by John Ramsay, Lord Bothwell, various members of the Hepburns Earls of Bothwell, and Francis Stewart, Earl of Bothwell.⁴ Upon the forfeiture of the last named

¹ Pp. 13, 14 of this volume.

² The Douglas Book, by Sir William Fraser, K.C.B., vol. i. pp. 492, 493. Playfair's Baronetage of Scotland, p. 346.

³ Register of the Great Seal, vol. ii. No. 1603.

⁴ *Ibid.* vol. ii. Nos. 1784, 2452, 3635; vol. v. Nos. 218, 1316.

nobleman, they were in the hands of Ludovic, second Duke of Lennox, and afterwards of Walter Scott of Branxholm, knight.¹

But these charters may only have conveyed the superiority of the lands, or were granted on account of temporary arrangements with the grantees, as the Kirkpatrickes, who acquired them in 1484, continued in possession of them until the year 1605. A charter which was granted by King James the Sixth on 19th March that year, explains that the Kirkpatrickes had alienated Raehills and other lands without the king's consent as feudal superior. The alienations were made in favour of John Johnstone, commendator of Saulseat, or Simon Johnstone his brother, or others, without licence of the king.² The king confirmed the alienation in favour of Mr. John Johnstone, advocate, and Raehills again reverted to a branch of the Johnstone family.

Seven years later, or on 25th December 1612, Mr. Johnstone resigned the lands of Raehills and others in favour of Sir John Charteris of Amisfield, knight, and Dame Agnes Maxwell, his spouse, in conjunct fee and their heirs-male. In the charter following upon the resignation, and dated 26th February, the lands are erected into the free TENANDRY of MOLLINGS.

The lands of Raehills passed out of the family of Charteris in the year 1636. The new owner of Raehills was John, second Earl of Wigton, who was succeeded in them by his son, John, the third earl. His lordship in 1659 disposed Raehills to James, second Earl of Hartfell, afterwards first Earl of Annandale.³ The lands of Raehills have continued in the possession of the Johnstones to the present time.

Having the management of the Annandale estates as tutor-at-law to his grand-uncle, George, third Marquis of Annandale, James, third Earl of Hopetoun, found it necessary to erect another mansion in connection with the Annandale estates. After much deliberation an elevated portion of the lands of Raehills was selected, on which the new mansion-house should be erected. The earl and his countess, in the course of their visits abroad, were so pleased with a mansion-house which they found there, that they formed the idea of erecting a similar mansion for themselves at Raehills. Many plans were made of the proposed mansion, and much consideration was bestowed on the subject, between the years 1782 and 1786, during which portions of the building were proceeded with annually. At one time it was proposed that the new mansion should be completed by a great dome like that of Her Majesty's General Register House at the east end of Princes Street, Edinburgh, which had recently before been

¹ Register of the Great Seal, vol. v. No. 1888 ; vol. vi. No. 166.

² *Ibid.* vol. vi. No. 1582.

³ Instrument of Sasine, 7th April, registered in the Particular Register of Sasines for Dumfries, 22d April 1657.

erected. But the proposed dome for Raehills was abandoned, as a report was circulated that the dome of the then new Register House was the cause of so much smoke, that the clerks in the rooms could not occupy their several apartments.¹

On the death of George, third Marquis of Annandale, in 1792, James, third Earl of Hopetoun, succeeded as heir to him in the Annandale estates, and the mansion-house of Raehills was thereafter occupied by the earl as his principal Annandale residence.

The house is a very prominent and picturesque object in the vale of the Kenuel river, one of the tributaries of the Anuan, which it dominates from its commanding position. Raehills, as the name indicates, was a bleak, hilly country, and the higher portions of it were frequently used as sporting ground for wild fowl. The Earl of Hopetoun was a great improver of the estate of Annandale, as well when he acted for Marquis George as after his own accession as proprietor. He was an extensive planter of woods, and in many portions of the estate trees were planted of a superior kind, and now adorn the Gallow-hill, on which they are great ornaments. The policies of Raehills were laid out on an extensive scale, and gardens, conservatories, and lakes were added as embellishments surrounding the mansion. Previous to the time that the Earl of Hopetoun undertook the formation of Raehills, a popular opinion prevailed that that hilly district did not contain a single tree on which even a "cat could have been hanged." But in a very few years the minister of the neighbouring parish of Dryfesdale refers in his Statistical Account of that parish to the new and elegant "palace" of the Earl of Hopetoun as seen from Dryfesdale.

Raehills House ever since its erection has been the principal mansion of the owners of Annandale. The earl's grandson and successor, the late John James Hope Johnstone, Esq., of Annandale, in the year 1845, made a large addition to the building, which added greatly to the accommodation and ornamentation of the house, and made it one of the most imposing mansions in the south of Scotland.

A poetic prophecy about the chiefs of Johnstone has been often quoted, and may be here appropriately repeated:—

"Within the bounds of Annandale
The gentle Johnstones ride;
They have been there a thousand years,
A thousand more they'll bide."

¹ Memorandum on plans of Raehills House, August 1786, in Annandale Charter-chest.

MANSIONS FORMERLY BELONGING TO THE JOHN- STONES OF JOHNSTONE AND ANNANDALE.

NEWBIE TOWER.

IN addition to the four mansion-houses now described there were other four which subsequently passed out of the possession of the Johnstones of Johnstone and Annandale. Of these Newbie Tower is the only one that was for any lengthened period inhabited by the family.

This ancient residence of the Johnstones of Annandale is located near Annan. It was acquired from the Johnstones of Graitney by Sir James Johnstone of Johnstone, who was killed by John Lord Maxwell in 1608. Its acquisition, and the difficulties experienced in maintaining peaceable possession of it, are explained in the memoir of James Johnstone, first Earl of Hartfell.

Newbie continued one of the principal mansions of the Johnstones till the time of James, third Earl of Hopetoun, who succeeded the Marquis of Annandale in the Annandale estates in 1792. This earl having other two mansions in Annandale—Raehills and Moffat House,—and having also his noble mansion of Hopetoun House, as well as Ormiston House on his Hopetoun estates, sold Newbie in 1800 to Mr. William Neilson, merchant, Liverpool. Mr. Neilson's trustee in 1820 sold it to Mr. John Irvine, whose nephew of the same name in 1851 sold it to Mr. William Mackenzie. At Mr. Mackenzie's death Newbie passed to his successor, Mr. William Dalziel Mackenzie, who is the present proprietor of Newbie Tower.

STAPLETON TOWERS.

THIS mansion is situated in the parish of Dornock. The first Marquis of Annandale provided the lands of Stapleton to his younger brother, the Honourable John Johnstone of Stapleton, and to the heirs of his body, whom failing, they were to revert to the Marquis and his heirs. Upon the death of John without issue, Stapleton, according to this arrangement, reverted to the Marquis.

On the property there was a strong square tower of hewn stone, three storeys high, with battlements on the top, and vaulted below. The tradition is that the tower was built as a stronghold against the English by one of the numerous Irvings in the district.¹

¹ Old Statistical Account, parish of Dornock, vol. ii. p. 24.

The lands and tower were disposed of by the Annandale family to an Irving, a banker in Annan. From his trustees Stapleton was acquired by its present proprietor, John A. Critchley, Esquire.

CORRIE OR LUN.¹

THE lands of Corrie, which are situated in the united parishes of Corrie and Hutton, were the possession of the Corries of Corrie from the twelfth century. They were acquired by the Johnstones in the beginning of the sixteenth century. On 27th October 1516 James Johnstone of Johnstone received a crown charter of the forty shilling land of Lund and others, which Robert Lord Maxwell personally resigned.² The tower of Lun, which had been the residence of the family of Corrie, was, according to tradition, burned by the Bells³ about this time, and never rebuilt, and there is no evidence that it was ever inhabited by the Johnstones. The site of the tower now forms a part of the farm of Corriemains. The ruins give evidence that the tower had been a considerable erection. It was built of common whinstone. The south gable, which is about thirty feet high, is all that now remains of the building.

The Tower of Lun is situated on a bend of the river Milk, about a mile to the east of Corrie water, at its junction with the Milk at the farm of Balstack. It is surrounded on three sides by the river. Its situation, although low-lying, is very beautiful, and commands fine views up and down the river. The natural earth terraces between the tower or castle and the river are about twenty feet in height, and contributed to make it a place of considerable strength.

WAMPHRAY PLACE.

ON 16th June 1357, confirmation was granted by Robert, steward of Scotland, as lieutenant of King David the Second, of a gift by John of Corry to Roger of Kirkpatrick of the lands of Wamphray.⁴ A century later Wamphray was in the possession of Sir Robert Creichtoun of Sanquhar, who in 1450 received a crown charter of the five-merk land of Wamphray.⁵ Soon after this Wamphray came into the hands of the Johnstones of Johnstone, as on 22d November 1476, James Johnstone of Johnstone

¹ Lun is contracted from Lunnelly.

² Register of the Great Seal, vol. iii. No. 99, pp. 20, 21.

³ They were called of Blackwood House, near Kirtlebridge, and either then, or subse-

quently, these Bells carried off the daughter of Corrie from Lunnelly.

⁴ Charters of this work, p. 11.

⁵ Register of the Great Seal, vol. ii. No. 333, p. 76.

gave a precept of sasine to John Johnstone, his son, in the five-merk land of Wamphray.¹ For generations afterwards, Wamphray continued to be possessed by the main line and by several cadets of the family of Johnstone of Johnstone. It descended to James, third Earl of Hopetoun, as successor to George, third Marquis of Annandale, by whom it was sold to Sir James Stirling, provost of Edinburgh, about the year 1804.

The Castle of Wamphray, or Wamphray Place, occupies a very romantic site in Wamphray glen. It is situated on a high table-land on the north side of Wamphray water. Steep banks, upwards of a hundred feet in height, encircle it on three sides. To the south and south-west it commands an extensive view of Annandale by the Tinwald hills into Nithsdale. On the north the hill of Dundoran towers above the castle. The west side looks down the Wamphray glen towards the parish of Johnstone. On the east the view extends along the glen to the hills above Kirkhill.

The castle had been a place of great strength and almost impregnable. The round hill near the ruins of the castle is called the moat hill of Wamphray, and was made use of as a beacon hill.

An incident relating to 1745, connected with the castle of Wamphray, may be noted here. John Johnstone of Wamphray, who joined in the rebellion of 1745, was warded in the castle of Wamphray. It is told of him that Johnstone of Kirkhill in Wamphray, who came to see him, took his place and allowed him to escape, and that the stratagem was only discovered when John Johnstone should have been led forth to execution.

The Earl of Hopetoun during his possession of Wamphray, made extensive improvements by plantations and otherwise. Adjoining the ruins of the old mansion of Wamphray there are a number of Scotch firs of considerable size and antiquity.

¹ Charters of this work, pp. 14, 15.

CHARTERS

OF THE

JOHNSTONES OF JOHNSTONE, EARLS AND MARQUISES OF ANNANDALE.

1. CHARTER by ROBERT BRUCE to IVO and his heirs, of a place between the fishings of Blawad and the water of Esk, for fishing and spreading his nets. *Circa* A.D. 1190.¹

ROBERTUS DE BRUIS, omnibus hominibus suis et amicis, salutem. Sciatis me dedisse et concessisse et hac carta mea confirmasse Iuoni et heredibus suis locum qui est inter piscariam de Blawad et aquam de Hesch; tenendum de me et heredibus meis ad piscarias suas faciendas et retia tendenda, libere et quiete; reddendo michi annuatim unam libram piperis, uel sex denarios; hiis testibus, Petro de Humez, Hugone de Corri, Hugone filio Iugcbaldi, Roberto de Hodelmia, Waltero de Bosco, Humfrido del Gardine, Ricardo Flamman, Henrico filio Gerardi.

2. CHARTER by WILLIAM BRUCE to ADAM OF CARLYLE, son of Robert, of the lands of Kynemund, to which Gilbert, son of John, is a witness. 1194-1214.²

WILLELMUS DE BRUS, omnibus hominibus suis et amicis, Francis et Anglis, presentibus et futuris, salutem. Sciatis me dedisse et concessisse et hac presenti carta confirmasse Ade de Karleolo, filio Roberti, et heredibus suis, Kynemund, per rectas diuisas cum omnibus pertinenciis, et de incremento totam terram cum bosco et pastura usque Steinreisebech; et sic secundum ductum per medium mariscum qui est de west et de north de Wrennehoc uersus la blanche lande usque ad proximum pontem de la blanche lande preter unum; et ita de illo ponte extendendo usque ad fontem unde ductus uenit qui uocatur Houtieroftebech; et ita secundum illum ductum descendendo

¹ Original charter in Drumlanrig Charter-chest. The tag for seal remains, bearing marks that the seal had been appended.

² Original charter in Drumlanrig Charter-chest.

usque ad siccum in Wiuterbech Scok qui transit per Walter brigge ; et ita secundum illum siccum usque ad Blabech ; et ita secundum Blabech descendendo usque ubi cadit in Gillemartinebech ; et ultra Gillemartinebech communionem pasture cum illis de Millebi ; et cum predictis Brakanepheit ; et unum molendinum cum stagno et sede rationabili ; et cum raciouabilibus uiis ad moleudimm et ad aquam producendam ad molendinum super Polraban in territorio de Cumbertres : Et infra istas diuisas ante nominatas ille et heredes sui poterunt herbergare et essartare et edificia facere ubicunque uouerint preter in Brakanephet, ubi non poterunt domos facere nisi per me. Habebunt etiam uias liberas illi et homines sui ad forum per forestum apud Lokmaban per Daltonam, et ad Dunfres per Rochelam. Omnes istas terras et hec tenementa cum omnibus pertinentiis habebunt et tenebunt ille et heredes sui de me et heredibus meis in feudo et hereditate, libere et quiete, honorifice et iutegre, iu monasterio et molendino, in bosco et plano, in pratis et pascuis, in uiis et semitis, in moris et mareisis, iu stagnis et uiuariis, in omnibus locis et libertatibus et aisiamentis eisdem terris pertinentibus, quietas ab omnibus seruiciis et consuetudinibus : Faciendo michi et heredibus meis seruicium quarte partis unius militis pro omnibus seruiciis ; salua tamen michi et heredibus meis uenatione mea, scilicet, ceruo et bissa, porco et capreola. Ista uero terras cum moleudino prenominate et pertinentiis et aisiamentis eisdem terris pertiuentibus dedi illi et heredibus suis tenendas de me et heredibus meis pro homagio suo et seruicio, et pro excambio de Locardebi, quam Robertus de Brus, pater meus, dedit Roberto patri suo pro homagio suo et seruicio : Et istas terras et tenementa cum omnibus libertatibus et aisiamentis illis pertinentibus ego et heredes mei garantizabimus illi et heredibus suis contra omnes homines in tempore pacis : Et quando garantizare non poterimus, dabimus illis excambia sua de terra nostra in Herternes ad ualenciam, cum eisdem libertatibus, et per idem seruicium ; testibus, Willelmo de Heriz, Ada filio Ade, Vdardo de Hodelmo, Hugone de Brus, Hugone de Corri, Henrico Murdac, Gilleberto filio Johannis, Willelmo de Heriz, iuniore, Hugone Malleuerer, Willelmo de Heyueuile, Ada de Dunwithie, Ricardo Flamanc, Ricardo del Bois, Rogero filio Vdardi, Symone capellauo, et multis aliis.

3. CHARTER by WILLIAM BRUCE to IVO OF KIRKPATRICK, of lands iu the fee of Penuersaugh, to which Gilbert of Johnstone is a witness. *Circa* 1194-1214.¹

OMNIBUS has litteras uisuris uel auditoris Willelmus de Brus, salutem. Sciatis me dedisse et concessisse et hac presenti carta mea confirmasse Yuoni de Kirkepatric

¹ Original charter in Drumlanrig Charter-chest. Part of the seal is still appended. On a shield, a saltire, and a chief—the charge on the latter defaced. Legend, “[S.] Wilelmi D Br[us].”

illam terram in feudo de Penresax que uocatur Thorbrece et Willambi, et villam de Blacwde, cum omnibus pertinentiis suis, pro homagio suo et seruicio : Tenendum et habendum sibi et heredibus suis, de me et heredibus meis, in feudo et hereditate, libere, quiete et plenarie, in bosco et plano, in aquis, in stangnis et in molendinis, in pratis, in pascuis et pasturis, et in ceteris omnibus libertatibus, et aisiamentis communibus ad feudum de Penresax pertinentibus ; salua mihi et heredibus meis donatione ecclesie ; et ad meliorandum sibi prefatas terras infra suas rectas diuisas, et duas carucatas terre in territorio de Penresax, cum toftis et croftis, que Ricardus filius Aldus, Robertus filius Cecilie, A[da] de Willambi, A[da] filius sacerdotis, A[da] filius Astin, Jurdanus, Stephanus, Ricardus filius Siric tenuerunt in Penresax : Faciendo michi et heredibus meis seruicium octane partis feudi vnus militis. Et sciendum est quod ego Willelmus et heredes mei warentizabimus prefato Yuoni et heredibus suis omnes prefatas terras et libertates ; et si illas eis warentizare non potuerimus, ego et heredes mei dabimus sibi et heredibus suis terram in escambium infra uallem Anand ad ualenciam terrarum prefatarum, cum omnibus prefatis libertatibus, et per idem seruicium. Et si in ualle Anand terram non habuerimus, dabimus eis escambium alibi ubi terram iure hereditario possidemus ; hiis testibus, Willelmo de Herice, R[icardo] de Bosco, Hugone de Corri, Wnfrido de Gard[ino], Roberto de Crossebi, G[illeberto] de Jonistune, Rogero de Kirkepatric, Roberto de Turmore, Willelmo de Heneuile, Alano de Dunwidi, et multis aliis.

4. RESIGNATION by DUNEGAL, son of UDARD, of a carucate of land in Warmanbie, for the use of Gilbert, son of John. [1194-1214.]¹

DUNEGAL, son of Udard, resigns and quitclaims to William de Brus and his heirs, in full court (plenaria curia), a carucate of land in Weremundebi, and half a carucate in Anant, with a toft, for the use of Gilbert, son of John. Witnesses, William . . . Adam de Seton, Robert de Hodalmia, Humphrey del Gardine, Adam, son of Adam, Richard de Penresax, William de Herez, L . . . Murdac, Udard de Hodalmia, Hugh de Corri, Hugh, son of Ingebald, Walter de Walram, Patric Brnn, W . . . Walbi, Adam de Dunwidie, Robert de Crossebi, Richard de Bosco, Robert de Levingtona, Roger de Kirk[patric ?], Malcolm Locard, Robert de Tremor, William de Heneuile, Hugh Maleverer, and many others.

¹ Original resignation in Duchy of Lancaster charters, box 'A.' No. 132. Calendar of Documents relating to Scotland, A.D. 1108-1272, by Joseph Bain, Edinburgh, 1881, vol. i. p. 107.

5. AGREEMENT between PATRICK, EARL OF DUNBAR, and SIR ROBERT BRUCE, about lands in Hertness, to which Gilbert son of John is a pledge. 11th November 1218.¹

AGREEMENT made at the feast of St. Martin, in the year of the Incarnation 1218, between P[atric], Earl of Duubar, and C[hristina ?], the countess, and Sir R[obert] de Brus ; viz., the earl and countess have demised to Sir Robert all the land they have in Hertnissa (Hertness), viz., of the countess's dower, for the term of eight years, for 36*l.* of silver, and 6*s.* yearly, one moiety at Pentecost and the other at Martinmas ; saving the third part of the market and the fair of Hertpulle (Hartlepool) to the earl and countess, if they and the said Sir Robert can acquire these. And it is to be observed that Sir Robert shall pay the mouey to the said earl and his said mother, C[hristina ?], the countess, so long as they shall warrant the said land to him. Also the said Robert shall not demise the said land for eight years in such mode as he received it from his graudfather (avi). His pledges are :—Humphrey de Cardino (Jardine), Hugh de Corri, William de Heriz, Robert de Crossebi, Richard de Bosco, G. son of John (Johnston), Robert de Tremor.

6. RESIGNATION by WILLIAM, son of RALF THE LARDENAR, to ROBERT BRUCE, of lands in Annan, to which Gilbert sou of John is a witness. *Circa* 1218.²

WILLIAM, son of Ralf the 'Lardenar,' his brother David, his sons and their heir (*sic*), have quitclaimed, abjured and resigned *per fustum et baculum*, to Robert de Brus and his heirs, all the land which they or their predecessors held of him and his predecessors withiu the vill of Anant, iustead of the account (*compotus*) of David, his brother, when he was servant of Sir Robert de Brus in Herterville, which William undertook to pay, but cannot ; and for 100*s.*, which the said Sir Robert has allowed him (*prebuit*). Appends his seal. Witnesses—Sir Richard de Levinton, Sir Roger Aveuel, William de Brus, John de Brus, William de Heriz, Humphry de Gardiu, Hugh de Corri, Robert de Crossebi, Gillebert sou of John, Roger de Kirkepatric, Robert de Tremor, Richard de Bosco, Richard de Humez, Hugh Mauleverer, Hugh son of Hamelin, William Franceis, Engeram, Thomas the Clerk, and the 'curia' of the said Sir Robcrt de Brus of Anant.

¹ Original agreement in Duchy of Lancaster, Cartae Miscell., vol. iii. p. 12 ; Calendar of Documents relating to Scotland, by Joseph Bain, vol. i. p. 123.

² Original resignation in Duchy of Lancaster Charters, Box 'A,' No. 128 ; Calendar of Documents relating to Scotland, by Joseph Bain, vol. i. p. 123.

7. CHARTER by ROBERT BRUCE to ROGER CRISPIN, of the lands of Cnoculeran, to which Gilbert of Johnstone is a witness. *Circa* 1218.¹

OMNIBUS ad quos presens scriptum pervenerit Robertus de Brus, salutem. Sciatis me dedisse et concessisse et hac carta mea confirmasse Rogero Crispin totam terram de Cnoculeran, infra has diuisas nominatas ; scilicet, de Blakebec sub Thorntuayt vsque ad mussam que est sursum Blakebec, et sic iuxta mussam illam vsque ad Blindethuayt, et sic de Blindethuayt vsque ad Malroser, et sic per riuuulum de Malroser vsque in Polraban, et sic de Polrabau iuxta viridem viam usque ad sepem de Holthuayt, et sic per sepem illum usque ad Threpland, et sic usque ad diuisas terre Hugouis Hendeman, et sicut diuise ille cadunt in Blakebec : Tenendam de me et heredibus meis sibi et heredibus suis, in feodo et hereditate, libere et quiete, plene et honorifice ; cum communi pastura Daltona et parue Daltona et Musefald et omnibus aliis aisiamentis ad predictam terram pertinentibus ; excepto quod homines manentes in terra eiusdem Rogeri dabunt multuram et pannagium, ipse uero Rogerus quietus erit de multura et pannagio de propria domo sua. Hanc predictam terram dedi eidem Rogero pro homagio et seruiicio suo, et in exscambium terre sue de Kinemund et dimidie carucate terre quam tenet in feodo de Moffeth, illius scilicet, que est iuxta Elrebec : Faciendo vicesimam partem seruiicii vnus militis. Predictus uero Rogerus et heredes sui edificabunt et sartabunt infra sepes suos, et omnibus modis quibus poterunt terram illam infra diuisas suas appropriabunt ad opus suum ; hiis testibus, Willelmo de Heriz, Hugone de Corri, G[ilberto] de Joneston, Vmfrido de Gardino, Ricardo de Bosco, Rogero de Kirkepatric, Lavrentio de Berkelai, et multis aliis.²

8. GRANT by ROBERT BRUCE to ROBERT OF CROSBY, of commony in the Wood of Stapleton, to which Sir Gilbert Johnstone is a witness. *Ante* 1245.³

OMNIBUS hoc scriptum visuris uel auditoris Robertus de Brus, salutem. Nouerit vniuersitas vestra nos concessisse et pro nobis et heredibus nostris imperpetuum quietum clamasse Roberto de Crossebi omnia communa que nos uel homines nostri habuimus

¹ Original charter in Drumlanrig Charter-chest.

² Seal appended in green wax, partly injured, with two impressions. The obverse shows a shield bearing a saltire, and on a chief, a lion passant gardant. On the reverse is a counter seal of smaller size with same bear-

ings. The legend on the larger impression is defaced. The legend on the counter seal is less injured, and is "SECRETVM R[OBER]TI DE B[RUS]."

³ Original charter in Drumlanrig Charter-chest.

in bosco de Stapiltone ; ita quod nos nec heredes nostri, nec aliquis de nostris aliquod ius uel clamum in predictis communibus dicti bosci de Stapiltone decetero exigere poterimus. Concessimus etiam eidem Roberto de Crossebi et heredibus suis ad habendum liberum parcum de predicto bosco ; ita tamen quod predictus Robertus de Crossebi predictum boscum faciat claudere. In cuius rei testimonium presenti scripto sigillum nostrum apposimus ; testibus, domino Vmfrido de Kirpatric, domino Ada de Carnoto, domino Gilberto de Jonestone, domino Alano de Dunwidi, Hugone filio Hamelin, Roberto de Herice, et aliis.

9. QUITCLAIM by ROGER, son of WILLIAM FRENCH, to SIR ROBERT BRUCE, LORD OF ANNANDALE, of lands in Annan for lands in Moffat, to which Sir Gilbert Johnstone is a witness. *Ante* 1245.¹

ROGER, son of William Franciscus (French), quitclaims to Sir Robert de Brus, lord of Annandale, and his heirs, two oxgangs of land which the granter held of him in the territory of Anand towards Weremundebe, for the excambion of two oxgangs of land which William Franciscus, the granter's father, formerly held of the said Sir Robert in farm in the territory of Moffet. Appends his seal. Witnesses—Sir John de Rumundebi, Sir Humphrey de Kirkepatric, Sir Roger his brother, Sir Gilbert de Joneston, Sir Robert de Herice, Sir Humphrey Mauleverer, William de Henevile, Adam de Dunwudhi, and others.

10. CHARTER by ROBERT OF DUNDONALD to SIR ROBERT BRUCE, of lands in Ecclefechan, to which Gilbert Johnstone is a witness. *Circa* 29th July 1249.²

ROBERT DE DUNDOVENALD grants and confirms to Sir Robert de Brus and his heirs those two carucates of land in the fee of Egilfechan (Ecclefechan) of which he gave seizin to the said Sir Robert in the latter's 'plena curia' at Drivisdale, on Thursday next after the feast of St. James the Apostle, A.D. 1249 ; together with the advowson of the church of Egilfechan. Should he or his heirs ever question the grant, he binds himself and them in a penalty to Sir Robert de Brus of 1000*l.* 'sterelingorum,' and subjects them to the jurisdiction of the bishop of Glasgow, by excommunication, if

¹ Original writ in Duchy of Lancaster Charters, Box 'A,' No. 127. Calendar of Documents relating to Scotland, by Joseph Bain, vol. i. p. 124.

² Original charter in Duchy of Lancaster, Cartae Miscell., vol. i. p. 82 ; Calendar of Documents relating to Scotland, by Joseph Bain, vol. i. p. 326.

necessary. Appends his seal. Witnesses—Sir Walter Cumyn, Earl of Manthet (Menteith), Sir Alexander Cumin, Earl of Bochan, Sir John Cumin, Sir William de Cuningburht, Hugh de Maulverer, Humphry de Kirkepatric, Gilbert de Joneston, Ivo de Jonesby, Richard de Crossebi, William de Boyville, William de Anand, clerk, and others.

11. CHARTER by ROBERT BRUCE, EARL OF CARRICK, to SIR WILLIAM OF CARLYLE, knight, of a piece of land in Newby. *Post* 1271.¹

OMNIBUS ad quos presens carta peruenerit, Robertus de Brus, Comes de Karrig et dominus Vallis Anandie, salutem in Domino. Noueritis nos dedisse, concessisse et per presentem cartam nostram confirmasse domino Willelmo de Karleolo, militi, et heredibus suis, ad incrementum terre sue de Kynemund, vnam petiam terre de communi pastura nostra tenementi nostri de Neuby : que quidem petia terre incipit ad domum quam Malota tenuit, et se extendit ultra Litelsweit Mor extranuerso usque in Castelbec, et de Castelbec extranuerso usque ad Langgesweit Mos, extranuerso Batemanridding usque ad diuisim terre de Brakansweit et terre quam Hugo filius Laurencii tenuit, et sic descendendo per sepe[m] usque ad domum quondam Johannis Bonde, et de domo illa descendendo per sepe[m] usque ad riulum qui uocatur Gillemartinebec, et sic ascendendo sicut terra domini Willelmi de Karleolo se condonat vsque ad Mikelkeldwelle, et de Mikelkeldwelle ascendendo per le Morhuses usque ad le Holgate que est inter terram de Morhuses et manerium domini Willelmi de Karleolo de Kynemund : Tenendam et habendam totam predictam petiam terre dicto domino Willelmo de Karleolo et heredibus suis, de nobis et heredibus nostris, libere, quiete, pacifice, integre, bene et in pace, cum omnibus suis libertatibus, aisiamentis, ad dictam terram pertinentibus. Volumus etiam et per presentem cartam nostram concedimus pro nobis et heredibus nostris, quod dictus dominus Willelmus de Karleolo et heredes sui dictam petiam terre per suas rectas diuisas, ut supradictum est, possint per sepes et fossas claudere, assartare, edificare, pratum et terram arabilem hinc inde facere, et in omnibus infra dictam petiam terre se approuiare, prout sibi et heredibus suis melius uiderit expedire. Et nos uero Robertus de Brus et heredes nostri totam predictam petiam terre cum omnibus suis libertatibus et aisiamentis suis, ut supra dictum est, predicto domino Willelmo de Karleolo et heredibus suis contra omnes homines et feminas warantizabimus, acquietabimus et imperpetuum defendemus. In cuius rei testimonium huic carte nostre sigillum nostrum apposimus ; hiis testibus, dominis Rogero de Kirkepatrik, Thoma de Torthorald, Jacobo fratre suo, Hugone

¹ Original charter in Drumlanrig Charter-chest.

Mauleuerer, Humfrido de Bosco, militibus, Willelmo de Gardino, Waltero de Corri, Nicholao de Corri, senescallo tunc temporis Vallis Anaudie, Waltero de Bosco et aliis.

12. CHARTER by KING ROBERT THE BRUCE to JAMES, LORD OF DOUGLAS, Knight, of the lands of Polmoody. 15th December [1318].¹

ROBERTUS Dei gracia Rex Scottorum, omnibus probis hominibus tocius terre sue, salutem. Sciatis nos dedisse, concessisse et hac presenti carta nostra confirmasse dilecto et fideli nostro Jacobo, domiuo de Duglas, militi, totam terram de Polbutthy, infra vallem de Moffet, per omnes rectas diuisas suas et metas : Teuendam et habendam prefato Jacobo et heredibus suis de nobis et heredibus nostris, in feodo et hereditate, libere et quiete, plenarie et honorifice, cum omnibus comoditatibus, libertatibus et aysiamentis ad dictam terram pertineutibus seu aliquo iure pertiuere valeutibus in futurum : Reddeudo inde nobis et heredibus nostris dictus Jacobus et heredes sui singulis annis duodecim sagittas latas pro omni alio seruicio, exaccione seu demanda. In cuius rei testimonium preseuti carte nostre sigillum uostrum precepimus apponi ; testibus, Beruardo, abbate de Abirbrothoc, cancellario nostro, Thoma Ranulphi, comite Moraue et domiuo Mannie, Gilberto de Haya, Roberto de Keth, Johanue Wischard et Fergusio Marescalli, uilitibus ; apud Abirbrothoc, quinto decimo die Decembris, anno regni nostri tercio decimo.

13. CHARTER by KING ROBERT THE BRUCE to HUMPHREY OF KIRKPATRICK, of the lands of Torthorwald. 10th July [1321].²

ROBERTUS Dei gracia Rex Scottorum, omnibus probis hominibus tocius terre sue, salutem. Sciatis nos dedisse, concessisse et hac presenti carta nostra confirmasse Vmfredo de Kirkepatrik, dilecto et fideli nostro, pro homagio et seruicio suo, totam terram de Thorthoralde cum pertinenciis, uidelicet, totum dominicum, integraliter a comuna cuiuscumque separatum, et totam villam de Thorthoralde integre, cum multuris et aliis pertinenciis suis quibuscumque, ac eciam terras trium husbandorum ville de Roucan, uidelicet, terram Gilmorduf, terram Johanuis filii Colman, et terram Roberti Scot, vnacum multuris et molendino tocius ville de Roucau, cum libero introitu et exitu ad dictum molendinum : Teueudas et habeudas eidem Vmfredo et heredibus suis, de nobis et heredibus nostris, in feodo et hereditate, per omnes rectas metas et diuisas suas, sine aliquo retinemento inperpetuum, libere, quiete, plenarie et honorifice, in boscis et planis, pratis, pascuis et pasturis, viis, semitis, moris, maresiis, aquis, stagnis,

¹ Original charter in Douglas Charter-chest.

² Original charter in Drumlanrig Charter-chest. Seal wanting.

viuariis, multuris, molendinis et eorum sequelis, vt predictum est, in aucupacionibus, piscacionibus, et venacionibus, in vnam liberam baroniam, cum furca et fossa, soc et sac, thol et theam, et infangandthef, et cum omnimodis aliis libertatibus, comoditatibus, aisiamentis et iustis pertinenciis suis, in omnibus et per omnia, tam non nominatis quam nominatis : Faciendo inde nobis et heredibus nostris, dictus Vmfredo et heredes sui seruicium vnus architenentis et tres sectas per annum ad curiam nostram vicecomitatus de Dunfres, ad tria placita capitalia singulis annis tenenda ibidem. Concessimus eciam eidem Vmfredo, vt ipse et heredes sui habeant, teneant et possideant omnes terras suas predictas cum pertinenciis in liberam warennam inperpetuum. Quare firmiter prohibemus ne quis in eisdem terris cum pertinenciis sine licencia ipsius Vmfredi aut heredum suorum speciali secet, aucupet aut venetur, aut in lacubus seu viuariis suis piscari presumat, super nostram plenariam forisfacturam. In cuius rei testimonium presenti carte nostre sigillum nostrum fecimus apponi ; testibus, venerabilibus [in Cristo p]atribus, Willelmo et Willelmo Sancti Andree et Dunkeldensis ecclesiarum Dei gracia episcopis, Bernardo abbate de Abirbrothok, cancellario nostro, Duncano comite de Fyf, Thoma Ranulphi [comite Moraue, domin]o vallis Annandie et Mannie, nepote nostro, Waltero Senescallo Scocie et Jacobo domino de Duglas, militibus ; apud Sconam decimo die Julii, anno regni nostri sexto decimo.

14. CHARTER by THOMAS RANDOLPH, EARL OF MORAY, to WILLIAM CARLYLE, LAIRD OF LOS, for making a park in the lands of Newlands. *Ante* 1329.¹

OMNIBUS hanc cartam visuris uel audituris, Thomas Ranulphi, comes Moraue, dominus vallis Anandie et Mannie, salutem in Domino [se]mpiternam. Noueritis nos dedisse, concessisse et hac presenti carta nostra confirmasse Willelmo de Carliolo, domino de Los, consanguineo nostro, licenciam specialem ad faciendum parcum de terris de Neulandys et de Dikys, et ad claudendum moram adiacentem usque ad Bochardebech, et sic descendendo ad aquam de Anand, excludendo viam vicinorum que ducit de villa de Los vsque villam de [torn] : Tenendum et habendum d[ic]to Willelmo de Carliolo et] heredibus suis de nobis et heredibus nostris, li[bere], quiete et pacifice inperpetuum. In cuius rei testimonium presenti carte [sigillum] nostrum fecimus apponi ; testibus, Rogero de Kyrke[patrik], Willelmo de Gardino, Patricio de Carnoto, militibus, [torn] . . . Corry, Humfrido de Bosco et aliis.

¹ Original writ in Drumlanrig Charter-chest. Seal wanting.

15. CHARTER by THOMAS RANDOLPH, EARL OF MORAY, LORD OF ANNANDALE AND MAN, to JOHN OF CARLYLE, for inclosing and holding the park of Kinmount in free warren. 29th March 1329.¹

OMNIBUS hoc scriptum visuris vel audituris, Thomas Ranulphi, comes Morauię, dominus vallis Anandie et Mannie, salutem in domino sempiternam. Noueritis nos dedisse, concessisse et hac presenti carta nostra confirmasse Johanni de Carleolo, filio quondam domiui Willelmi de Carleolo, licenciam specialem ad claudendum parcum de Kynnemoth sine saltu, et ad tenendum dictum parcum in liberam warennam per rectas diuisas in perpetuum: Tenendum et habendum dicto Johanni et heredibus suis de nobis et heredibus nostris, libere, quiete et pacifice, sine inpugnatione aut contradictione nostra vel heredum nostrorum, cum omnibus libertatibus, comoditatibus et asiamentis ad dictum parcum pertinentibus uel quoquomodo iuste pertinere valentibus. Quare firmiter prohibemus ne quis in eodem parco secet, aucupet aut venetur, sine licencia ipsius Johannis et heredum suorum speciali, super nostram plenariam forisfacturam. In cuius rei testimonium sigillum nostrum presenti carte est appeusum, apud Logh-maban, vicesimo nono die mensis Martii, anno gracie millesimo ccc^o vicesimo nouo; testibus, Rogero de Kilpatrich, Willelmo de Gardino et Humfrido de Bosco, militibus, Willelmo de Carleolo, Radulpho Frankys, Adam de Corry et multis aliis.

16. CHARTER by JOHN GRAHAM, son of SIR JOHN GRAHAM, Knight, to ROGER KIRKPATRICK, LAIRD OF TORTHORWALD, of an annual rent of 40s. from the lands of Over Dryfe. 5th January 1355-6.²

OMNIBUS hoc scriptum visuris vel audituris, Johannes de Grame, filius et heres domini Johannis de Grame, militis, condam domini de Maskessewra, salutem in Domino sempiternam. Nouerit vniuersitas vestra me inignorasse Rogero de Kyrkpatrik, domino de Torthoralde, totum annualem redditum meum quadraginta solidorum, qui michi de iure hereditario debetur de terra Superioris Drife, in tenemento de Hotoun infra wallem Anandie, pro ducentis libris sterliugorum honorum et legalium; quasquidem ducentas libras sterlingorum ego Johannes de Grame predictus a predicto Rogero in mea magna et vrgenti necessitate plenarie premanibus recepi ex mutuo: Tenendum et habendum totum annualem redditum predictum quadraginta solidorum, eidem Rogero, heredibus suis et suis assignatis, de me et heredibus meis, adeo libere et quiete, bene, integre, honorifice et in pace, sicut ego Johanues et antecessores mei predictum annualem redditum liberius, quiccius et honorifisencius aliquo tempore habuimus seu

¹ Original charter in Drumlanrig Charter-chest. Seal wanting.

² *Ibid.*

quoquomodo habere potuimus, quousque ego Johannes pacauero, vel heredes mei pacauerint predicto Rogero vel heredibus suis vel suis assignatis ducentas libras sterlingorum bonorum et legalium iutegre et plenarie, de bouis nostris propriis vno die ante horam nonam, infra capellam de Kyrkbride in tenemento de Kyrkpatrik iuxta Moffet, infra wallem Anandie, coram summo altari super quodam viridi mantello, sine dolo et fraude. Preterea ego Johannes do et concedo pro me et heredibus meis prefato Rogero, heredibus suis et suis assignatis, totum annualem redditum predictum cum arreragiis inde michi debitis, de libero dono meo pro beneficiis suis michi sepius inpensis, sine allocacione seu compensacione aliqua mihi seu heredibus meis facienda de dicto annuali reddito vel arreragiis medio tempore perceptis vel percipiendis in debito principali; ita quod ego Johannes non potero, nec heredes mei, nec aliquis alius nomine nostro aliquid iuris vel clamii in dicto annuali reddito poterit exigere, quousque eidem Rogero vel heredibus suis vel suis assignatis de predictis ducentis libris sterlingorum, bonorum et legalium, vt predictum est, plenarie fuerit satisfactum. In cuius rei testimonium presenti scripto meo sigillum meum apposui. [D]atum apud Carlauerocke, die Lune proxima aute festum Epiphauie Domini, anno Domini millesimo tricentesimo quinquagesimo quinto; hiis testibus, venerabilibus viris et religiosis dominis, Thoma et Waltero Dei paciencia de Dulci Corde et de Sacro Nemore abbatibus, Johanue Seuescalli, domino de Dalswyntoun, Thoma de Kyrkpatrik, domino de Kylosberne, Alano de Alayntoun et multis aliis.¹

17. CONFIRMATION by ROBERT, Steward of Scotland, as lieutenant of the king, of a gift by John of Corry to Roger of Kirkpatrick, of the lauds of Wamphray aud Dumcreth. 16th June 1357.²

UNIERSIS ad quos presentes litere peruenerint, Robertus Senescallus Scocie, locumtenens domini nostri regis, eternam in Domino salutem. Noueritis nos ratificasse, confirmasse et pro nobis et heredibus nostris penitus approbasse illam donacionem quam Johannes de Corry, domiuus eiusdem, fecit consanguineo nostro dilecto Rogero de Kirkpatrick de terris et domiuis de Wenfray et de Dumcreth cum pertinenciis, infra vallem Anandie, vna cum aduocacione ecclesie de Weufray: Tenendas et habendas prefato Rogero et heredibus suis et suis assignatis predictas terras cum pertinenciis, vna cum aduocacione ecclesie prenotate, in feodo et hereditate et libera warrenna, in omnibus et per omnia, vt carta sibi inde confecta pleuius proportat et testatur. In cuius rei testimonium presentibus sigillum uostrum fecimus apponi, apud Perth, sexto decimo die mensis Junii, auno Domini millesimo ccc^o quinquagesimo septimo.

¹ Seal attached in fair preservation. A shield bearing a saltire and on a chief three scallop shells. Legend, partly illegible, S. [JOH' G]RAME DNI DE MASKESSWA.

² Original writ in Drumlanrig Charter-chest. Seal wanting.

18. CHARTER by ARCHIBALD, EARL OF DOUGLAS, to WILLIAM JOHNSTONE, of the lands of Drumgrey. 24th May 1408.¹

OMNIBUS hanc cartam visuris vel audituris, Archebaldus comes de Douglas et dominus Galwidie, salutem in Domino sempiternam. Sciatis nos dedisse, concessisse et hac presente carta nostra coufirmasse dilecto et speciali nostro, Willelmo de Jonystoun, pro suo fideli seruicio nobis impenso et impendendo, omnes et singulas terras nostras de Drumgrey cum pertinenciis, iacentes in baronia de Amisfelde infra vicecomitatum de Drumfresse : Tenendas et habendas omnes et singulas terras nostras predictas de Drumgrey cum pertinenciis predicto Willelmo et heredibus suis, de nobis et heredibus nostris, in feodo et hereditate imperpetuum, per omnes rectas metas et diuisas suas, in boscis, planis, moris, marresiis, viis, semitis, aquis, stagnis, pratis, pascuis et pasturis, molenidinis, multuris et eorum sequelis, aucupacionibus, venacionibus, piscacionibus, turbariis, petariis, curiis et earum exitibus, cum libero introitu et exitu, ac cum omnibus aliis et singulis libertatibus, commoditatibus, aysiamentis ac iustis pertinenciis suis quibuscunque, tam non nominatis quam nominatis, tam sub terra quam supra terram, tam prope quam procul, ad dictas terras cum pertinenciis spectantibus seu spectare valentibus in futurum, libere, quiete, plenarie, integre, honorifice, bene et in pace, in omnibus et per omnia : Reddendo inde annuatim predictus Willelmus et heredes sui nobis et heredibus nostris vnam sectam curie ad capitale placitum tenendum apud Douglas proximum post festum sancti Michaelis archangeli, pro omni alio seruicio seculari, exactione vel demanda, que de dictis terris cum pertinenciis exigi poterunt uel requiri per nos uel heredes nostros quomodolibet in futurum : Et nos vero predictus Archebaldus et heredes nostri predictas terras cum pertinenciis predicto Willelmo et heredibus suis contra omnes mortales warantizabimus, acquietabimus et imperpetuum defendemus : In cuius rei testimonium sigillum nostrum presentibus apponi fecimus, apud Edinburgh, vicesimo quarto die mensis Maii, anno Domini millesimo quadringentesimo octauo ; testibus, Jacobo de Douglas, fratre nostro carissimo, dominis Willelmo de Douglas de Nithisdale, nepote nostro, Jacobo de [Douglas, domino de Dalketh, Willelmo de Haya de Lochqhorwart, Willelmo de Borthuyk, Willelmo de Crawfurde, militibus, Magistris Alexandro de Carnis, preposito de Lyncloudane, Matheo de Geddes, rectore ecclesie de Foresta, Thoma Turnbule et Alexandro de Hume cum multis aliis.²

¹ The original charter is in the Annandale Charter-chest, and all the other charters printed are also there, unless where another custody is specially mentioned.

² Seal attached in good preservation. Arms

quarterly, 1st and 4th, on a chief 3 stars, and a heart in base ; 2 and 3, a lion rampant, crowned ; supporters two hairy savages. Legend, "SIGILLUM ARCHEBALDI COMITIS DE DOUGLAS ET DNI GALWEDIE."

19. CHARTER by WILLIAM, LORD CRICHTON, to GILBERT OF CORRY, of the lands of Torduff and Dalbank. 18th February 1449-50.¹

OMNIBUS hanc cartam visuris vel audituris, Wilelmus dominus Creghtoun, eternam in Domino salutem. Noueritis me dedisse, concessisse et hac presenti carta mea confirmasse dilecto meo Gilberto de Corry, filio naturali Jacobi de Corry, pro suo seruicio michi impenso et impendendo, terras de Tordoff et de Dalbank cum pertinenciis, iacentes in dominio de Anandirdale infra vicecomitatum de Dumfres: Tenendas et habendas supradictas terras de Tordoff et de Dalbank cum pertinenciis, et de me tanquam domino tenementi de Carutheris et heredibus meis, prefato Gilberto de Corry et Elisabeth, sponse sue, filie Johannis de Carutheris de le Holmeendis, et eorum alteri diucius uiuenti, et heredibus masculis inter ipsos legitime procreatis seu procreandis, quibus deficientibus michi et heredibus meis quibuscunque, in feodo et hereditate imperpetuum, per omnes rectas metas suas antiquas et diuisas, in boscis, planis, moris, marresiis, viis, semitis, aquis, stagnis, pratis, pascuis et pasturis, petariis, turbariis, carbonariis, lapide et calce, cum piscatura maris pertinente dictis terris de Tordoff, ac cum omnibus aliis et singulis libertatibus, commoditatibus et asiamentis ac iustis pertinenciis suis quibuscunque, tam non nominatis quam nominatis, ad dictas terras cum pertinenciis spectantibus, seu iuste spectare valentibus in futurum, libere, quiete, plenarie, integre, honorifice, bene et in pace, sine aliquo retinemento seu obstaculo quocunque: Faciendo annuatim dicti Gilbertus et Elisabeth, sponsa sua, et eorum alter diucius uiuens, quibus deficientibus, heredes sui masculi supradicti, michi et heredibus meis seruicia de dictis terris debita et consueta: Reseruato libero tenemento dictarum terrarum cum pertinenciis dicto Jacobo de Corry pro toto tempore vite sue. In cuius rei testimonium presenti carte mee sigillum meum est appensum; testibus, carissimo filio meo, Jacobo domino Frendracht, milite, Alexandro de Narne de Sandfurde, Roberto de Ledale, magistro Georgeo Schoriswod, Jacobo Kerr et Adam Wawan, apud Streuelyn, decimo octauo die mensis Februarii, anno Domini millesimo quadringentesimo quadragesimo nono.²

20. LETTERS by KING JAMES THE THIRD to JOHN JOHNSTONE of that Ilk, and others, to defend Edward Livingstone of Bowcastell in his lands of Raehills and others. 26th October 1476.³

JAMES, be the grace of God, King of Scottis, to oure louettis Schir Robert of Crech-

¹ Original charter in Drumlanrig Charter-chest.

² Seal attached in fair preservation. On a shield, quarterly, 1st and 4th, a lion rampant;

2d and 3d, a saltire and chief. Legend, "S. WILLIELMI DOMINI CRECHTON."

³ From Minutes of Evidence in Annandale Peerage Claim, 1876, p. 31.

toune of Sanquhar, knicht, Johne of Johnnestou of that Ilk, Archibald of Carrutheris of Mouswald, and Cuthbert of Murray of Cokpule, our schirefis in that part, coniunctly and seueraly, specialy constitute, greting. Forsamekill as it is hevely menit to ws be oure louit Edward of Levingistoun of Bowcastell, that quhar he has bene and is in lauchfull possessioun of the landis of Monygep, Crunzeantoun, Molyne and Rahill, with thair pertenance, liand within our schirefdome of Drumfres, thir xxii yeris bigain seu the deces of his bruder, oure cousing William, Lord Crechtoun, neuertheles schapis to vex, inquiete and distruble the said Edward and his tennandis of the said landis in the broking and joising of thaim, and als schapis to rais and tak vp the malis thairof of this next terme of Martimes, be quhat rycht or colour of rycht he knawis nocht, in gret preiudice, hurt and scaith of him and incontrar of law and justice; considering that he wes neuer callit nor journait be our said cousing vppon the rycht of the said landis befor ws and our counsale, his juge ordiner, nor vtheris as he allegis: Oure will is herfor, and we charge yow straitly and commandis, that ye in oure name and autorite kepe, mantene, supple and defend the said Edward and his tennandis of the said landis vnxexit, vnharmit and vndistrublit in the joising and broking of the samen be our said cousing or ony vtheris his complices, bot as law will, charge . . . tennandis that thai, and ilkain of thaim redyly ansuer, intend and obeye in the payment of thair mailis . . . iteis of the said landis of the terme of Mertimes forsaid, and all vtheris termes to cum, to the said Edward and naue vtheris, ay and quhyl he be lauchfully put fra his possessioun of the said landis, and thai lauchfully won and recouerit fra him as law will, uochtwithstanding ony vtheris our lettres past in the contrare of before, vnder all the hiest pain and charge that efter may folou. And this ye do vnder the pain and charge forsaidis: The quhilk to do we commit to you and ilkain of you coniunctly and seuerali our full pover be thir oure lettres. Gevin vnder our signet at Edinburgh, the xxvi day of October, and of our regne the xvii yere.

Per supremum dominum nostrum regem,
SCHEUEZ.

JAMES R.

21. PRECEPT OF SASINE by JOHN JOHNSTONE of that Ilk in favour of JOHN JOHNSTONE, his son, in the five-merklands of Wamphray. 22d November 1476.¹

JOHANNES Johnnestouue de eodem delectis meis Archbaldo Johnnestouue, fratri meo, Rollando Kerssane, Johanni Charteris et David Gibsone, balliuis meis in hac parti specialiter deputatis, salutem. Quia dedi, concessi et hereditarie alienauit delecto filio

¹ From Minutes of Evidence in Annandale Peerage Claim, 1876, p. 90.

meo, Johanni Johnnestoune, procreato inter me et Janetam Heris, totas et integras quinque mercatas terrarum mearum de Wamfray cum pertinenciis, jacentes in dicto tenemento infra senescallatum vallis Anandie et vicecomitatum de Drumfres, pro suo seruicio michi impenso et impendeudo, prout in carta mea sibi exinde confecta plenius continetur : Vobis igitur et vestrum cuilibet, coniunctim et diuisim, mando firmiter et precipio, quatenus dicto Johanni Johnnestoun, filio meo, vel suo certo actornato, latori presencium, saisinam, possessionem et statum hereditarium predictarum terrarum mearum de Wamfray cum pertinenciis, secuudum tenorem carte predictae, visis presentibus, iuste habere faciatis seu alter vestrum iuste faciat habere sine dilatione : Ad quod faciendum vobis et vestrum cuilibet, conjunctim et diuisim, meam plenariam et liberam potestatem ac mandatum speciale committo presencium sub tenore. Datum sub sigillo meo, apud Lochwod, xxij die mensis Nouembris, anno Domini millesimo quadringentesimo septuagesimo sexto.

22. DECREE of the LORDS AUDITORS against ADAM JOHNSTONE, brother and heir of JOHN JOHNSTONE of that Ilk, in favour of MARION LIDDLE. 13th February 1489-90.¹

[1489] xij Februarii sederunt domini auditores. . . .

Post meridiem sederunt domini auditores. . . .

THE lordis auditouris decrettis and deliueris that Adam of Johnnestoune of that Ilke, brother and are to vmquhile Johnne of Johnnestoune of that Ilke, sall content and pay to Marioune Liddale, the spous and execuatrix of vmquhile Schir Patrik Baroune, knyght, a sek of woll of xxij stane wecht sufficient merchand ware, aucht to the said vmquhile Patrik, be the said vmquhile Johnne of Johuestoune, likas wes prefit be the said vmquhile Johnis obligaciouue vnder his sele, schewin and producit before the lordis ; and ordinis our souerane lordis letterz be direct to distrenze the said Adam his landis and gudis thairfore. And the said Adam wes summond to this actioun, oft tymmis callit and not comperit.

23. BOND OF MAINTENANCE by JOHN JOHNSTONE of that Ilk to ROBERT GRAHAME of Thornick. 16th December 1526.

BE IT KEND till all men be thir present letters, me, Johne Johnstoun of that Ilk, to be bundin and oblist, and be thir present letters and the faith and treuth in my body, lelely and treuly bindis aud oblissis me aud my ayris to ane worschipfull man, Robert

¹From Minutes of Evidence in Annandale Peerage Claim, 1876, p. 34.

Grahame of Thornhuke, and to his ayris. Forsamekle as the said Robert is becummyn my man, and has bundin him and his ayris in speciale manred and service to me and my ayris perpetually for euir in tyme to cum, as his letters of manred maid to me under his sele proportis; herfore I, the said Johne Johnstoun of that Ilk, bindis and oblissis me faithfully, be the tenour of thir present, and myn ayris, to be gud masteris to the saidis Robert Grahame of Thornhuke and to his ayris perpetually for euir in tyme to cum: And I, the said Johne Johnstoun of that Ilk, and my ayris, sal wyth our kin, frendis, men and seruandis, help, supple, manteine and defend the saidis Robert Grahame of Thornhuke and his ayris, our men and thar kin, frendis dependand on thame, and thar men and seruandis, in all and sindry thar actionis, causis and querelis, honest and lefull, movit and to be movit aganis quhatsumeuir persouns at all our gudly pover perpetually for euir in tyme to cum, as gud mastir aw to doo to his man, and as I the said Johne, and my ayris will doo to our mast speciale men in sidlik thingis quhen I or thair salbe requirit tharto, but fraud or gyle. And gif the said Robert or his ayris askis me or my ayris ony counsale, I and my ayris sal gif him and his ayris the best and trevast we can, and sal concele and kepe secrete thar counsale schavin to ws. And for the fulfilling and keping of this present band of supple, mantenance and defens, in forme abone writtin, I, the said Johne Johnstoun of that Ilk, bindis and oblissis me and my ayris to the said Robert Grahame of Thornhuke, and to his ayris, in the mast sekir forme and stratast stile of obligatioun that can be maid or diuisit, all caullation, fraud and gyle secludit and away putt. In witness of the quhilk thing, to thir present letters my sele is hungin, at Drumfres, the xvj day of the moneth of December, in the yere of God Im v^c twenty and sex yeris. And maratour thir thengis forsaide, I, the saide Johne of Johnstoun of that Ilk, bindis and oblises me, my airis and sucessores, to pay yerly, and yere by yere, to the saide Robene the Grahame, to him, his airis and sucessores, the sowme of xx merkis of gud and vsuall monie of Scotland, at twa termes in the yere, Witsonda and Mertymes in wenter. In witnes of all thir premissis, I, the said Johne haif put my seill to thir presens, daye, yere and plase fornamet, befor thir witnes, Gawane of Johnstoun in the Kirkstoun, Harbert his bruthir, and Schir David Aikynhed, with wther diuers.

24. RESIGNATION by ARCHIBALD JOHNSTONE, son of GAVIN JOHNSTONE of Elshieshiels to JOHN JOHNSTONE of that Ilk, of the lands of Greskine and Mellingshaw. 10th March 1527-8.¹

BE IT KENYT tyll all men be their present vrytenis, I, Archibald Johnstone, lawfull and naterall sowne to Gawyne Johnstone of Acscheselis, nodair be stryft nor dredur

¹ From Minutes of Evidence in Annandale Peerage Claim, 1876, p. 1170.

laid, be falsat circumvenit, not coackit nor compellit, bot of my awyne fre motyf will, my vtillite and profet all wayis beand consideret, to haif sauld and analyt, and also puirly and semple has resygnit and owrgewyne fra me, my aris, exsecutoris and assyngnaris, to ane honorabill man, Johne Johnstone of that Ilk, my cheyf, his aris, executoris and assyngnaris, all my rycht, tityll of rycht, clame, clames, tak, assedatioun and possessioun that I haif, had, or ony vayis in tymes cumin may clayme or haif in and to the fyif ma[r]kland of Graskyne and Malynschaw, with thair pertenantis, pertenant to my Lord Heres heritabill, lyand within the stewarte of Anardaill and schirefdome of Dumfraice, withoutyne impediment, contradictioun or obstakill of quhatsumewyr of me or ony vther in my nayme, and that for cartane sowme of money promittit and thankfully payit to me be the said Johne Johnstone of that Ilk ; of the quhilk sowme I exonur, quytelemis and dischargis hym, his aris, executoris and assyngnaris thair of for now and ewyr, be the tenor of thir presens. In witnes of the quhilk thyng I haif subscribit this my littyr of alenacioun with my hand at the pen, at the Mylhowis, the x day of Marcht, the yeir of God ane thowsand fyif vndyr xxvij yeris, befor thir witnes, Schir Steyne Garden, persone of Apillgartht, Willyem Johnstone of Fuldrus, Schir Edward Johnstone, Adam Johnstone of Mofat, with vdaris dyuers.

ARCHEBALD JOHNSTONE, wt̄ my hand.

25. BOND OF MANRENT by JOHN JOHNSTONE of that Ilk to ROBERT, LORD MAXWELL.
11th February 1528-9.¹

BE IT KEND to all men be thir present letters, me, Johne Johnstoun of that Ilk, to be bundin and oblist, and be thir present letters, the faith and treuth in my body, lelely and trewlie bindis and oblissis me in manrent and seruice to ane nobill and mighty lord, Robert, Lord Maxwell, for all the dais of my life ; that forsamekill as the said lord hes oblist him to supple, manteine and defend me in the peciabill brouking and joising of all my landis, rentis, heretageis, takkis, steddingis, rolmis, possessionis, and to tak my afald, lele and trew part in all my gude actionis, caussis and querelis, lefull and honest, aganis al deidlie, his allegeance to our souerane lord the king alanerlie exceptit, as at mare lenth is contenit in his letters of mantenance maid to me thairupoun ; tharfor I sall nowther wit, se, heir nor knaw my said lord and maisteris harme, skaith, danger nor apperand perrell, bot I sall warne him thair of alsone as I may gudelie, and stop and lat it al my power, and sall conceill the connsale he schawis to me, and gif to him the best counsale I can quhen he requiris me thairto, and sall ride and gang with my said lord and maister and for him, and tak his afald, leill and

¹ From Minutes of Evidence in Annandale Peerage Claim (1876), p. 39.

trew part in all his gude actionis, caussis and querelis, lefull and . . . aganis all that levis and dee may, my alle . . . to our souerane lord the king alanerlie exceptit, and he . . . d and oblissis me faithfullie for all . . . of my life in the maist strat forme and sicker stile . . . that can be diuisit, but fraude or gile. . . . of the quhilk thing to thir my letters of manrent subser . . . nd my seill is affixt at Lochmeban, the xi . . . ebruar, the yere of God I^m v^c xxviiij yeris, befor . . . Sir Alexander Jarding of Appil . . . knycht, Schir Robert Grahame, persone of Hodden, . . . chmerton [? Johnstoun] in Powdene, and James . . . stune in Cotis, Gawane Johnstone in Harbet . . . anys, with wytheris diverse.

JOHNE JOHNSTOUN of y^t Ilk,
wy^t my hand at pen.

26. *COMPONITUR* for a Remission to JOHN JOHNSTONE of that Ilk for remaining from the host at Solway. 10th November 1529.

COMPONITUR pro remissione cum Johanne Johnistoune de eodem, infra senescallatum vallis Anandie commorante, pro eius proditoria remanentia ab exercitu regis de Sulway ac aliis supremi domini nostri regis exercitibus quibuscumque, suas contra proclamaciones desuper confectas, et pro omnibus actione et crimine que ei inde quouismodo imputari poterit; necnon pro omnibus aliis actionibus, transgressionibus, criminibus et offensis quibuscumque, per dictum Johannem aliquibus temporibus elapsis ante diem date presentium commissis seu quomodolibet perpetratis, dummodo non sit sub penis nec amerchiatus, proditoria traditione in personam regiam tantum excepta. Subscriptum per dominos compositores apud Drumfres, decimo die mensis Nouembris, anno Domini I^m v^c xxix.

H. CANDIDE CASE.
D. DE AB'BROTHOK.
JHON LORD ERSKIN.
JA. COLUILL.
R. THES^o

Chesolme, etc.

27. *CONSTITUTIONS* of the JUSTICE EYRE of DUMFRIES. 12th April 1540. [Copy.]

THIR ar the ordinance and constitutionis maid in the iustice air of Drumfreiss and Stewartrye of Annanderdail, haldin and begun at Drumfreiss, the xij daye of Aprile, the yeire of God I^m v^c fourty yeris, for the stancheing of thift, reif, murthure, slauchteir, and vthairis crymes in tyme cuming, and for gude rewle to be keppit amang alloure souerane lordis liegis, and speciale the inhabitantis of Annandirdaill, Eskdaill,

Ewisdaill and Wauchopdaill, maid and divisit by me lord iustice and vthairis being with him, be speciale commissioun and charge of oure said souerane lord for halding of the said air, and with consent and assent of Robert, Lord Maxwell, Williame, Lord Hereis, and vthirris lordis, barronis and vthirris gentilmen, havand landis, rowmes and bailleries within the saidis cuntreis of Annanderdaill, Eskdaill, Ewisdaill and Wauchopdaill, and quha hes subscriuit thir presentis with thair handis.

In the first, it is statute and ordanit be my said lord iustice and vthirris being with him for halding of the said air, and with the consent and assent of Robert, Lord Maxwell, stewart of Annanderdaill, greit wardane of the West Marchis foranentis Ingland, and als havand of oure souerane lord the rewle, cure and gyding of Eskdaill, Ewisdaill and Wauchopdaill, Willieame, Lord Herreis, and vthirris lordis, lardis, baronis and gentilmen, that hes subscriuit heirefter thair names, for thame selffis, thair landis and rowmes and bailliereis, liand within the fairsaid cuntreis, as efter followis, that is to saye :—Forsamekle as oure said souerane lord of his speciale grace and faouris hes granttit and gevin full pardoun and remission to all the inhabitantis of the saidis cuntreis of Annandirdaill, Eskdaill, Ewisdaill and Wauchopedaill, that ar cumin and gottin thair componitouris for all cryme, transgressionis and offensis, done and committit be thame befor the begynning of this instant air of Drumfreis, befor the daittis of the saidis componitouris and remissionis, as in the sammen maner (*sic*) speciale is contenit ; swa that all the saidis inhabitantis may perfittlie knaw and vnderstand the last pietie, mercie and clemence, that oure said souerane lord beris toward thame, and that thai maye be his gracious trew liegis in all tymes cuming, and leif at his hienes lawis and obeysance as vthairris trew liegis dois, and nocht to commit in tyme cuming ony enorme falt or offence as thai haue done in tymes bigane : And als all the saidis inhabitantis being accusit in iugement and takand thame to componitouris for oure said souerane lordis pardoun and remission granttit and gevin to thame and vsit be thame in the said air, at the interrogatioun of my said lord iustice, panielie and at lenth schewit and exponit be the iustice clerk, promittit be the extentioun and vphalding of thair rycht handis to leif in all tymes cuming as oure souerane lordis trew liegis, and to be obedient to his lawis, and neur to commit ony cryme or offenssis aganis his maiestie, his realme nor liegis, sic as tressouu, thift, resset of thift, murthur, slauchter, reif, fyir ras[ing] and vthairis sidlike enorme and obhominable crymes : And geif [it hap]pin thame to commit ony sidlike, thai to be realy pvnist thairfoir acco[r]ding to thair demeritis and lawis of this realme. Quhairfoir the saidis lordis, lairdis, baronis, landit men and gentilmen, hes bunding and oblist thame and ilk ane of thame, for the eise, rest and tranquillitie of realme and of all our souerane lordis liegis, that gif ony man duelland or salhappin to d[uell] one thair landis, rowmes or bailliereis, quhairof thai bere cure, happinnis to c[ommit] in ony tymes to cum ony sic crymes, transgressionis,

as is abone writtin, thai [sall] incontinent tak and pvnis the saidis trespassouris according to the lawis of [this] realme and thair demeritis, sa far as thai may be wirtew of thair iurisdiet[ionis] ; and gif the saidis trespas and demeritis beis of sic nature and kynde that the saidis lordis, lardis, landit men and bailliereis may [nocht] hald courte thairupoun, thai sall incontinent with all deligence tak . . . present and deliver the saidis trespassouris to the stewart and wardane, to be . . . be his power and iurisdiction, or vtherways be the kingis graces instice ; and gif the saidis lordis, lardis, barronis and vthir landit men be nocht of power to [tak] and apprehend the saidis trespassouris, thai sall cum or send to the said wardane and his deputis, gif he be nocht present in the cuntre for the tyme, and desyre and require thame in oure said sonerane lordis name to pas, and thair help and supple to the taking and apprehending of the saidis trespassouris in maner foirsaid ; and gif it sal happin thame to be fngitine, the said stewart and wardane, lardis, lordis, barronis and vthir landit men, sall persew thame to the vtirmest, and escheit all thair movable guidis, the twa parte to the kingis grace ; willing the lordis of the grund, to dispone vpoun thair takkis and stedingis at thair plesour, and sall remoif the saidis trespassouris, thair vifis and barnis, fra the saidis stedingis, and sall nocht thole thame to returne nor entir thairto agane, nor yit to jois nor bruke the samin ony maner of way : And gif the said stewart, wardane, lordis, lardis, barronis or vthir landit men or gentill men that hes heir subscriuit be fundin negligent and nocht doand thair vtir diligence in the obseruing and keping of [t]his present and constitutionn, thai salbe callit and pvnist thairfoir at the kingis grace will and plesour.

Item, gif it beis thoct expedient to the parti that sall happin to be offendit, hurt or skaithit in ony maner of way be the committaris of ony crymes, trespassis and offensis foirsaidis, that the lord, barroun or vthir landit men or gentilmen on quais landis, rowmes and bailliereis, the saidis trespassouris dnelland or salhappin to duell the tyme of the committing of ony of the saidis crymes, to be sa suspect that thai feir and dreidis that thai sall nocht nor may nocht minister thame instice, thai sall pas to the stewart and wardane and schaw to him thair complanttis, and he sall incontinent send to the lord and lard of the grund or baillie vnder quhame the saidis trespassouris duellis or sall happin to duell, [and d]esyre [tham]e to [send the] saidis [tres]passouris to him ; and gif the lord, lard, barroun or landit men refusis or postponis in ony maner of way to send the saidis trespassouris, the said stewart and wardane sall pas himself, tak and apprehend thame, quhair euir thai may be apprehendit, and instify thame be his power and auctorite in sa far as he may ; and gif he may nocht for lak of iurisdiction, he sall send thame to the kingis grace Justace and his depntis, to be jugeit and accnsit be thame as accordis of the law : And gif the said stewart and wardane obtenis ane commissioun of justiciarie to the effect foirsaid, he sall vse the samin vpoun

the said trespassouris and pvniss thame according to thair demeretis ; and gif the said wardane and stewart[t] and the saidis lordis, lardis and wthiris landit men and gentlemen, wndir quais jurisdictioun, vpoun thair landis, rowmes and bailliereis the saidis trespassouris duellis, beis remiss and executis nocht justice as saidis, thai salbe halding to refoynd, content and pay to the persoun or personis compleand thair heill skaith, dampnage and interest, and sall answer to the kingis grace vpone their negligance and deferring to do iustice vpoun thair vtirmest chawange.

Item, gif ony lord, barroun, landit man or gentilmen happinnis in tyme cuming to laubour or solist for ane theif or ressettair of th[ift], or to procure or defend him in ony maner of way, he salbe haldin and repute as infame and schamyt and culpable of that thevis deid, if it salhappin him to be convict.

Item, the said Robert, Lord Maxwell, stewart and wardane foirsaid, hes faithfullie promittit in presens of my lord iustice and lordis foirsaidis, sittand in iugement, that gif ony personis duelland within the boundis that he hes cure, rewle and gyding of vndir the kingis grace, that [is to] say, Annandirdaill, Eskdaill, Ewisdail and Wauchopdaill, committis or salhappin to commit in ony tyme cuming sic crymes, trespassis and offences as is abonewrittin, he sall with all rigour justify the personis committ[aris] thair of to the vtirmest poynt, as the lawis of the realme requiris, as he hes or salhappin to haue auctorite of the kingis grace thairto, without fauour or delay, as he sall answer to the kingis grace thairupoun.

Item, it is deuiseit, statute and ordanit, with the auise, consent and assent of the said Lord Maxwell, that frathin furth for the spce of ane yeir he sall hald at the begynning of ilk moneth his stewart court of Annandirdaill, and sall inquire at enery court be the maist famouss and honest men out throw the stewartrie, gif thair be ony personis, thevis or ressettairis of thevis in thair thifteous deidis, sen the ending of this instant air and getting of thair pardoun and remissioun, and as sic personis beis fundin and nottit suspect of thift or resset of thift, he sall pvniss thame conforme to the lawis of this realme in maner abonewritten ; and sall siclike hald courtis for Eskdall, Ewisdail and Wauchopdaill, and als his wardane courtis, swa that the inhabitantis of the saidis cuntreis may be brocht in vse to ken and knaw the ordoure of iustice and to leif thaireftir ; and sall siclike, in all vthiris yeiris to cum, hald the saidis courtis to the effect abone writtin alsoft as he sall thinkis expedient.

Heir followis the subscriptionis of the lordis and barronis of Nythisdail and Annandirdaill, that ar to saye, &c.

on that ane parte, and Johnne Johnnstoun of that ilk, on that vthir parte, in maner, forme and effect as eftir followis ; that is to say, athir of the saidis partiis ar faithfullie bundin, oblist and sworne to vthiris in the sickarest forme that can be devisit, the haly evangelis tuichit, that ilk ane of thame sall in tymes cuming induring thair lyfetymis keip ane leill, trew and afald parte to vthiris, and defend vthiris at thair vtir power, and sall nowther see, heir nor wit vtheris skaithis bot sall aduertise vtheris therofe, and stop and let the samin sa fer as thai may at thair power, and tak vthiris plane partiis, ryde and g[ang with] vtheris in all thair lefull materis, erandis and besines, aganis all maner of persounis, oure souerane lady the qu[enis grace, the erle of Arr]ane, hir tutour and governour, and Robert, Lord Maxwell, alanerlie exceptit ; and att[our ilk ane] of the s[aidis] partiis oblissis thame, as said is, to vthiris, that nane of thame sall tak vthiris steidingis or rowmes, [nor] thair kynnismennis nor freyndis rowmes, possessiouns or steidingis, bot sall defend vthiris at thair vttir power, as said is. And for the obseruing, keiping and fulfilling of the premissis, baith the saidis partiis ar bundin, oblist and sworne to vthiris in maner forsaid ; and this parte of this present indenture with the said James Douglas to remane, the said Johnne Johnnstoun hes seilit and subscriuit with his hand, at the place, day and yeir abone writtin, before thir witnes, Andro Johnston off Elphinstoun, John Litill and Maister Thomas Mariori-banks, vith vtheris diuers.

Andro Johnston off Elphinstoun
Ilk

30. BOND OF MANRENT by NICOL GRAHAME of Meskeswaye to JOHN JOHNSTONE of that Ilk. 8th May 1543.

BE IT KEND till all men be thir present letteris, me, Nichol Grahame of Meskeswaye, to be bound and oblist, and be the tenour of thir presentis bindis and obleces me in manretht faythfullie to ane honorable man, Jhone Jhonstoun of that Ilk, to be faythtfull, leil and trew to him, and to mak him leil and trew seruice faythfullie, and to tak his leil, trew and afald part with my kyne, freyndis, parttakcaris, and thai that will do for me, in all and syndry his materis, actionis, querelis quahatsumevir, als oft as

the said Jhone requiris me thairto, and sal gif him the best consell I cau, and consell the samin, and sall nocht hyd nor consell fra him his hurt, skaytht nor damage, bot sall stop and resist to all sic thiugis at my power ; and sall tak his trew and afald part agane all that de and leif maye, exceband my allegens to our souerane lady the queinis grace, gouvernour, and my ourlord, for all the dais and space of his lif and myne, to be obseruit and keipit in the maist sickir forme and stille of obligatioun that can be deuisit, and onder the pane of periure, menswering, defamatioun and nevir to hane lawte nor credens in tyme cumin, and na remeid of law, cannoun nor ciuil, to be proponit in the contrar of thir premissis. In vitnes of the quhilk thing I hane affixit my seil to thir presentis, with my subscripitioun with my hand led at the peu be the notar onder writting, at Hawik, the aucht daye of Maii, the yeir of God ane thonsand v^c and fourty thre yeris, befoir thir vitnes, Jhon Scot in Thirlstane, Robert Scot, his sone, Hector Scot, Schir Jhone Scot and Dauid Mayne, notaris publik, with wderis diners.¹

NICHOLL THE GRAME, wy^t my hand le at the pene wy^t Schir Johne Scot, notar publice, of my command. Ita est ut supra, JOHANNES SCOT, notarius publicus, manv propria.

31. CHARGE BY QUEEN MARY to all the surname of JOHNSTONE, to assist the Laird of Johnstone in service on the Borders. 19th October 1554.

MARIE, be the grace of God Quene of Scottis, to oure scheref of Drumfreis, stewart of Annanderdail, and thair deputis, and to our Ionittis

messingeris, onre schereffis in that pairt, coniunctlie and seneralie, specialie constitute, greting. Forsamekle as oure deirest moder, Marie, quene dowreare and regent of oure realme, hes put Johne Johnestoun of that ilk to liberte and fredome furth of waird of oure castell of Edinburgh, to the effect that he sall, betuix and the fiftene day of Nonember nixt to cum, bring and entir pleges of certane of his surname, sik as is gevin to him in bill, for keping of gnde rewll in tyme to cum, and als to restoir and deliuer agane all gudis thiftuonslie stowin and wranguslie takin fra the inhabitantis of the cntre be the saidis personis sen the tent day of Aprile last bipast, like as in the actis maid thairmpone at mair lenth is contenit : And to the effect that he may the mair esalie performe the said appointment, it is necessar that his hail surname and vthiris dnelland vudir thame within thair boundis, takkis, stedingis, baillieries and possessionis, concur and assist vnto him in the premisses : Oure will is heirfoir, and we charge yow straitlie and commandis, that incontinent thir oure letters sene, ye pas and in our name and antorite command and charge all and sindry the said Johne Johne-

¹ Portion of seal still affixed, showing a fess between three scallop shells (?), two and one.

stonis surename and freindis, and vtheris duelland vndir thame vpon thair landis, takkis, bailliereis, rowmes and possessionis, personalie gif thai can be apprehendit, or vthirwayis be oppin proclamatioun at the market croce of oure burgh of Drumfreis, as the said Johne best plesis, to concur and assist with the said Johnne in the taking and apprehending of the personis that beis inobedient and refusis to gif plegis, gif neid be ; and to ryse with him to all frayis aud radis, baith on fute and on horse, as thai salbe chargit thairto, vndir the pane of tinsale of lyfe, landis and gudis ; with certificatioun to quhatsumeuir persone or personis that concurris nocht to the effect forsaid with the said Johne, that thai salbe callit to particulare diettis and iustice courtis, and punist thairfoir in personis and gudis, and that anc half of thair gudis that beis convict salbe inbrocht to oure vse, and that vthir to the said Johne for his labouris ; and that thai concur with the said Johne in all seruice of the wardane as thai salbe chargit vndir the pane forsaid, as ye will ansuer to ws thairupone. The quhilk to do we commit to yow, coniunctlie and seueralie our full power be thir oure letters, deliuering thame be yow deulie execute and indorsate agane to the berare. Gevin vndir oure signet at Edinburgh, the xix day of October, and of oure regne the tuelft yeir.

Per dominos secreti consilii, etc.

32. OBLIGATION by the JOHNSTONES, GRAHAMES, and others, to the LAIRD OF JOHNSTONE, for the preservation of order. 14th November 1555.

BE IT KEND till all men be thir present wittingis, ws, Johnnstonis onderritting : Forsamekle as our souerane lady, the quenis grace, hes our plageis in syndrie castellis for guid reule to be keipit iu the cuntre, quhilk is tediis and veray sumptuous to ws, and maye nocht guidlie susteine the expense thairof ; desirand the lard of Johnnstoun that ye vald fynd ws sum remedy and sum reddy gait that we maye haue our plegeis to liberte ; and be the tennour of thir presentis we bynd and obleces ws, coniunctlie and seueralie, be the faytht and treutht in our bodyis, gif happynis ony Johnnstonis per-tening to ws quhom we ar plegit for, man, tennent or seruand, to commit stowitht, reyf, fyre, slauther, oppression or ony cryme, that we sall incontinent efter the cryme be committit, seik and serce the person or personis that makis the falt and committis the cryme quhatsumeuir, or thai beis, and bring hym and delyver hym to the lard of Johnnstoun to be pvnesit for thair demeritis ; and gif we can nocht apprehend the committar of the cryme, we doand our diligens thairto, we bynd and obleces ws in maner forsaid to birne, hery and put of the cuntre, the faltour and committar of the cryme, and to satife and redress the compleinyar with our avine guidis and geir. In vitues of the quhilk thing we haue subscriuit this our obligatioun with our handis at the pen, at the chapel of Dunwiddy, the fourteine daye of Nouember, yeir of [God] 1555

yeris, befor thir vitnes, ane noble man, Schir James Douglas of Drumlanerik, knycht, warden of the west marcheis of Scotland foranentis Yngland, James Johnnstoun of Vamfra, Thomas Johnnstoun of Cragoburn, James the Grayme of Gillisbe, and Thomas Dunwidde of that Ilk, with vtheris diuers.

GAVIN JOHNNSTOUN in Perisbehawis.	JAMES JONSTOUN in the Bankis.
NINIANE JOHNNSTOUN in Fyngland.	GEORGE GRAYME.
DAUID JONSTOUN in Stayvod.	FERGUS THE GRAYME.
JOHNE JONSTOUN in Langsyd.	JAME GRAYME.
DAUID JOHNNSTOUN in Bankis.	MATHO GRAYME of Badok.
JOHNE JONSTOUN in Mantanrig.	JHONE GRAYME of Bordland.
ANDRO JONSTOUN, sone to Vilchole.	ANDRO JOHNNSTOUN in Fuldouris.
DAUID OF JOHNNSTOUN in Hayhillis.	DAUID JONSTOUN his brother.
WILLE JONSTOUN in Hayhillis.	EDUERD JOHNNSTOUN.
ANDRO JONSTOUN his brother.	THOME JONSTOUN.
MATHE JOHNNSTOUN of the Thrid.	JOHNE JONSTOUN of the Court.
VILLE JONSTOUN in Kirkhill.	NIKE JOHNNSTOUN of Fairholme.
VILLE JONSTOUN in Brvymmell.	HERBERT JOHNNSTOUN in Castelhil.
JAMES JONSTOUN his brother.	DAUID JOHNNSTOUN of the Court.

With our handis at the pene led be Dauid Mayne, notar publik, etc.

Indorsed : Ane band betuix the lard and his freindis.

33. LETTERS OF CHARGE to the SURNAME OF JOHNSTON, to assist John Johustone of that Ilk in keeping order, etc. 4th September 1560.

FRANCIS AND MARIE, be the grace of God King and Quene of France and Scotland, to ourre louittis
 ourre schereffis in that part, coniunctlie and seuerallie, speciallic constitute, greting. Forsamekle as in presence of the lordis of ourre secreit counsale, and of the articles in parliament, comperit Johne Johnnestoun of that Ilk, befor quhame this obligatioun vnderwrittin, actit in the bukis of secreit counsale, of befor maid be him in maner following, wes presentit and red, off the quhilk the tennour followis :—BE IT KEND till all men be thir present letteris, me, Johne Johnnestou of that Ilk, to be bundiu aud oblist, and be the tennour heirof bindis and oblistis me in maner followiug, that is to say, Forsamekle as it hes plesit the quenis grace to freith and releve me furth of ward vpoun expectatioun of my gude service to be done in the persewing, taking, apprehending and pvnissing of quhatsumeuir persone of my suirname, and vtheris duelland vnder thame, that salhappin to be dissobedient to ourre souerane ladeis lawis, or to commit ony cryme aganis hir maiestie, realme or liegeis, sic as tres-

soue, thift, ressait of thift, murther, slauchter, reif, fyre rysing or vther sik enorme abhominable crymes ; and to mak me the mair hable hes causit the priucipallis of my suirname and freindis to oblis thame selffis to tak ane leill afauld part with me, and to serve me at thair vter poweris in executioun thairof, as at mair lenth is contenit in thair obligatioun maid to me thairupoun : Thairfoir I bind and oblist me in all tymes cuming to stand and abyde at thair avyse and counsale in all thingis concernyng the quenis grace and tranquillite of the cuntre, pvnissing of trespassouris, and gude rewle of the hale suirname, and to mantene and fortifye euery ane of thame in the peceable bruing and joising of thair heretage and ordouring of the iuhabitantis thairof ; and in cace ony persone occupy or inhabit thair landis on force and incontrair thair will, sua that thai be nocht of sufficient power of thame selffis to put ordoure to him or to tak or apprehend him quhane he sall committ offence, theu I, with all that I may conueue, sall pas, concur, and assist with thame in the persute [of] that persone with all diligence sa oft as I salbe requirit be ony of thame thairto, and sall help and supple thame thairin at my vter power. And becaus in executioun heirof and pvnissing of trespassouris it may chance slauchter to be committit, fyre rasit or vther displesour to be done, quhairthrow the saidis trespassouris, thair freindis, kin and allia, will beir deidlie feid aganis ony persone, being in cumpany the tyme of the doing thairof, in that caise I oblis me to tak ane afauld part with that persone in his defence aganis the beraris of that feid, and neur to transact, compone nor aggre with thame sa lang as thai coutinew in that mynd and without the speciale avise of the partie and my saidis hale freindis. And attour I sall serve the wardane alsweill at the dayis of trewis as at vther assembleis quhilkis salbe deuisit be him, quhen euir I salbe requirit thairto, as at mair leuth is contenit in the said obligatioun, of the date the aucht day of Februar the yeir of God I^m v^c lv yeris. Aud thairfoir the saidis lordis requirit and desyrit the said Johne Johnestoun of that Ilk to abyde at the said obligatioun, and fulfill, serve and keip all and sindrie pointis, passis and articlis contenit thairin in all tymes cuming, for keping of gude rewle in the cuntre ; and he knawing the samyn to be for the suppressing of thevis and tratouris, and commone weill of oure hale realme, promittit, baud and oblist him to fulfill, obserue and keip in all tymes cuming all aud sindrie poiutis, passis and articlis contenit in the said obligatioun, alsweill in peræwing, taking, apprehending and pvnissing of quhatsumeuir persone of his suirname, and vtheris duelland vnder thame, that sal happin to be dissobedient to our lawis, or to committ ony cryme aganis oure maiestie, realme or liegeis, sic as tressone, thift, ressait of thift, murther, slauchter, refe, fyre rysing or vther sik enorme abhominable crymes, as in byding at the avise and counsale of his freindis in all thingis concernyng the tranquillitie and [peace] of oure cuntre, as als in mantenyng all trew men to bruke and jois thair heretages, rowmes aud possessionis ; and in cace ony [persone] occupy or inhabit thair landis on force and

incontrair thair will, sua that thai be nocht of sufficient power of thame selfis [to put ordoure] to him, or to tak and apprehend him quhen [he] sall commit offence, then the said Johne oblissis him that he, with all that he may [convene, sal] pas, concur and assist with thame in the [persute] of that persone [with all] diligence, sa oft as he salbe requirit be ony of [thame thairto] and sall help and supple thame thairin at his [vter power ; and if it chance slauchter] to be committit, fyre rasit or vther disples[ouris done in] executioun of the premissis and persewing, taking, apprehending and pvnissing of the samyn trespassouris, thair kin, freindis and allya, will beir deidlie feid aganis ony persone being in cum[pny the tyme of the doing thairof, in] that caice the said Johne oblissis him to tak ane afald part with that persone in his absence (*sic* l. defence) aga[nis the beraris of that feid, and neur to tra]nsact, compone, nor aggre with thame sa lang as thai continew in that mynd and without [the speciale avise of the partie and his saidis hale frein]dis ; and attoure he sall serue the wardane, alsweill at the dayis of trewis as at vther assembleis quhilkis salbe [deusit be him, quhen eur the said] Johne Johnstoune salbe requirit thairto ; and finalie, to keip all vther pointis contenit in the said obligatioune. Our[e will is heirfoir and] we charge yow straitlie and commandis that incontinent thiroure letteris sene, ye pas and inoure name and autorite command and ch[arge] . . . Johnstoune of Wamfra, James Johnstoun of Corre, James Grahame of Gillisbie, Harbert Johnstoun of Powdene, Thomas Johnest[oun of Cr]agoburne, Gilbert Johnstoun in Corheid, James Johnstoun in the Kirketoun, Cuthbert Johnstoun in Loukarbye, Robert Johnstoun in Newtoun . . . Johnstoun in Elschescellis, Johne Johnstoun in Malingschaw, Williame Johnestoun in Brumehill, Robert Johnstoun of Begyardis, Adame Johnstoun in Bathok, Robert Moffet in Grantoun, and Thomas Moffet of Knok, and the remanent of the hale suirname of Johnestonis and all that duellis under thame, to convene, concur, assist, fortifye and serve the said Johne Johnstoun of that Ilk at all tymes quhen he sall think expedient, and gif thame lauchfull warnyng, for taking, apprehending or persewing of ony persone of thair suirname or vtheris duelland vnder thame that salhappin to be dissobedient tooure lawis, or to committ ony cryme or offence aganisoure maiesties,oure realme or liegeis, sic as tressone, thift, ressait of thift, murther, slauchter, reif, fyre rysing or vther enorme abhominable crymes, and to tak ane afauld, leill and trew part with him thairin without dissimulatioun, feid or favoure, and to ansuer to him for sa mony as duellis within thair heretages, takkis, stedingis, rowmes and bailliereis, and to fulfill the said band maid be thame to him of befoir in all pointis, hedis and articlis, and to serve the wardane alsweill at dayis of trewis as at vther assembleis, quheu thai salbe requirit thairto be him or the said Johne : Certifying thame and thair failyie heirin or to be fund negligent or dissobedient to the said Johne in executioun heirof, thai s[albe] reput as plaine partakaris and assistaris to the said

trespassouris and wickit doaris, and sall incur the semblable panis and be pvnist in thair bodeis, landis and gudis eftir the quantite of the offence and cryme committed be the saidis trespassouris and wickit personis ; as ye will ansuer to ws thairupoun : The quhilk to do we committ to yow, coniunctlie and seueralie, oure full power be thir oure letters, deliuering thame be yow deulie execute and indorsate again to the berare. Gevin vnder oure signet at Edinburgh, the ferd day of September, and of oure regneis, that is to say, of France the first and of Scotland the secound and xvij yeris.

Per actum dominorum Secreti Consilii, etc.,

JOHNSTOUN.

34. CONDITIONS upon which JOHN JOHNSTONE of that Ilk was received to the king's favour. c. 1571.

Conditiones quhairvpoun Johne Johnstoun of that Ilk is ressaute to our souerane lordes fauour and pardoun.

ITEM, the said Johne sall acknawlege the maist excellent prince, James the Sext be the grace of God King of Scottis, as his onely souerane lord during his lyff, and sall trewly serue and obey his hienes and his deirest gudeschir, Matho Erle of Levinax, Lord Dernelie, his hienes lauchfull tutour and regent to his maiestie, his realme and liegis, during his hienes minoritie, and thairvpoun sall gif his solempnit ayth and subscriptioun manuall.

Item, the said Johne be himself, and all vtheris that he or his predecessouris, be the lawes or be vertew of bandis maid heirtfoir, ar oblist and bound for, sall obserue and keip the peace and amytie betuix the realmes of Scotland and England, and salbe ansuerable in that behalff for releuing of king and wardane in all tyme cuming.

Item, for all offences bigane committit be him, his freindis, seruandis and partakers, aganis the said peace and amitye, other in ressetting of the quenis maiestie of [Englandis] rebellis or vtherwise, he sall abyde, vnderly and perform sic ordour as salbe takin and concludit vpoun betuix the princes of baith the realmes, thair lieutenantis, commissioneris or wardanes.

Item, he sall assist, fortefie nor mantene na maner of thevis of the suirname of Johnstonis or vtheris ; and in cais sic as he be vertew of his awin or his predecessouris bandes is oblist to answer for, will not be answerable for discharging of king and wardane at the handes of England, and will not be obedient to the lawes of this realme, be sall other entir thame befor our souerane lord, his regent or justice, quhen the said Johne salbe requirit vpoun sex dayis warnyng, or than sall ryde vpoun thame with fire and swerd, and birne thame or baneis thame the cuntre, conforme to the auld bandis and actis of parliament.

Item, for obseruing, keping and fulfilling of all and sindre the premissis, the said Johne and his freindis sall entir sic plegis to my lord regent as his grace sall name and require to remane in sic place and for sic space as salbe thoct gude.

35. BOND OF MANRENT by THOMAS JOHNSTONE of Cragoburn and others to JOHN JOHNSTONE of that Ilk. 20th June 1571.

BE IT KEND to all men be thir present letteris, vs, Thomas Jhonestone of Craigaburne, and Jhone Jhonestone, his sone and appirand air, for our selffis, and takand the burding vpone vs for our bairnis, seruandis and tennentis, Robert Jhonestone of the Newton for my selff, and takand the burdin vpone me for my bairnis, brether and brether bairnis, duelland within the boundis of Annerdaill, Andro Jhonestone of Kirk-tone, for my selff, and takand the burding vpone me for my bairnis, brether and brether bairnis and emeis bairnis, to be bound and oblist, and be thir presentis bindis and obliss ws to ane nowble man, Jhone Jhonestone of that Ilk, in manrent and seruice, for all the dayis of our lyfytyme for his worththy menteinance of ws, our seruandis and tennentis ; oblissing ws and ilk ane of ws respectiue, during all our dayis, to tak afauld and plane part with hym in all his gud and leffull actionis aganis all deidlie (the authoratie of this realme only beand exceptit), and sell defend hym, be our selffis, our bairnis, brether, brether bairnis and emeis bairnis, seruitouris and tennentis, with our bodyis and gudis, and sell gyf hym our faithfull and trew consell in all his just actionis and lefull effaris, quhair we [ar] askit or vtheris, as neid cravis, and sell nowder knaw nor wit of his harme nor hurt, bot sell resist thairto at our powaris, and mak hym to be aduertesit thairof, sa oft as neid beis ; and sell lelelie and trwlie serve hym in all thing quhan we be lauchfullie requirit thairto, but fraud or gyle. In witnes heirof we haif subscriuit thir presentis for our selffis as efter fallowas, and takand the burding vpone for the personis abone writtin, ilk ane for our awin part respectiue, at Branxholme, the xxth day of Junii 1571, befor thir witnes, Walter Scot of Branxholme, knycht, Mr. Thomas Westone and Jhone Chalmerlane, with vtheris diuers, viz., Walter Scot, sone naturall to vmquhill Walter Scot of Branxholme, knycht, and James Geddas.

THOM. JOHNSTOUN of Cragoborn.

JOHNE JOHNSTOUN of Corheid.

ANDRO JHONISTOUN in Kyrktoun.

RO^T JONSTOUN of Newtown, with my hand at the pen, led
be the notar vnder wrytin becaus I could nocht writ.

Ita est THOMAS WESTOUN, notarius in premissis, teste manu
propria.

36. OBLIGATION by ROBERT ELLIOT of the Redheuch and others, to restore a prisoner to JOHN JOHNSTONE of that Ilk. 13th December 1572.

WE, ROBERT ELLOT of THE REIDHWITHT, Martyne Ellot of the Braidleis, and Hob Ellot of the Schawis, be the tennour heirof grantis ws, coniunctlie and seuerelie, to haif borrowit fra ane honorable man, Johnne Johnnstoun of that Ilk, Johnne Ellot of the Steill, tayne presonar be him ; and bindis and obleces ws, coniunctlie and seuerlie, in the suirast, sickirast and straitast stile of obligation, and faythfullie promittis to enter the said Johnne Ellot in to the place and toure of Lochtuod on the prenuuitioun of saxt dais warneing, and thair to remane quhill lauchfull entre be tayne of him, gif that the said Johnne Johnnstoun of that Ilk, and the said Johnne Ellot of the Steill, and the freindis of his branche aggreis nocht vpoun all thingis debaitable in and amangis thayme betuex and Candillismes nixt cumis ; and in the meintyme the said Johnne Johnnstoun of that Ilk, his freindis and seruandis, to be vnder sicker assurances with the said Johnne Ellot, and all his grane and branche on to thair aggrement or entre of the said Johnne, that thai and ilk ane of thame salbe vnhurt, vnharmit, vntroubillit and vnmolestit in thair bodyis, guidis and geris, lik as the said Johnne Ellot and his grane and brenche salbe suyr of the said Johnne Johnnstoun of that Ilk ; and heirto bindis and obleceis vs, coniunctlie and seuerlie, vnder the paine of defamation, inhabilitie, mensuering, and vnder the pane of oppin tresone, be this our band and obligation subscriuit with our handis as follouis, at Branksholme, the threttene daye of December 1572, befor thir vitnes, the Laird of Bukeleuth, Alexander Chisholm, Johne Ellott of Copschaw, with vtheris diuers.

ROBENE ELLOT of the Reidhewch.

MARTYNE ELLOT of the Braidlie.

HOB ELLOT of the Schawis,

With our handis tuichand the pen.

On an inner page of this writ is the following letter :—“ Mastres, my husband commandit me quhen this band com for Johue Ellot, to send it to you, and bad keip the band and lat Johne Ellot hame, and he ordanit me to desyr you to gar sum of the lardis serwandis to put him wp Ettrik, or sum siker gayt, for thame of Dryf or Gillisbe, becaus of thair feid, and sua God keip you. Writtin be youris at pouer.

THE LADY CORHE[ID].

To ane honorable woman, the Lady Johnnestoun.”

37. SUBMISSION by JOHN JOHNSTONE of that Ilk, FERGUS GRAHAM of the Moat, EDWARD IRVING of Kirkpatrick and others, of their differences to friendly arbitration. 11th May 1573.

AT CRAIKHAUCH, the alevint day of May, the yere of God Im^v threscore and threttene yeris, it is appoyntit, aggreit and finalie compromittit betuix ane honorable man, Johne Johnstoun of that Ilk, for him self, and takand the burdin vpoun him for his surname of Johnstonis and thair seruandis on that ane parte, and Fargus Grahame of the Mote, Robert Grahame of the Fauld, Richarte Grahame of Meidhop, Arthure Grahame of Blawat, Richarte Grahame in Serk, *alias* Plump, Fargus Grahame, sonne to vmquhile Mathew Grahame, Johnne Grahame, sonne to Blak Jok, Wylliam Vrwing of Greitnohyll, Waltir Vrwing, his broder, Richarte Vrwing, Edwarte Vrwing, thair breder, Johnne Grahame of Cannobie, Wylliam Grahame and George Grahame, his sonnys, Edwart Vrwing of Kirkpatrik, Mathew Vrwing of Burelrone, Richarte Grahame, *alias* Garis Richarte, Richarte Vrwing of Hurkildale, Johnne Vrwing of Steillhill, Wylliam Grahame of Serk, Hutchone Grahame, sonne to vmquhile Persevell Grahame, Thomas Storie in Staigmyre, Harbart Storie *alias* Bailie, Qwyntene Grahame in Serk, for thaim selffis, and takand the burdin vpoun thaim, coniunctlie and seueralie, for thair barnis, bredir, bredir barnis, partie and partetakaris (Richarte Grahame of Netherbie, his barnis and thair partie and seruandis except). Quhylkis partiis respectiue abone writtin ar faythfullie bundin, oblist and sworne to stand, abide at, vndirly and fulfyll the sentence decre arbitrale of thir personis vnderwrittin, videlicet, Johanne Johnestoun of Elscheschelis, Robert Johnstoun of Newtoun, Thomas Johnstoun of Craghopburne, Thomas Johnstoun of Fyngland, Wylliam Johnstoun of Tunergaryt and Symon Johnstoun of Cartertoun, chosin for the parte of the said Johnne Johnstoun and his, on that ane parte, and Robert Grahame of Fauld, Arthur Grahame, sonne to Fargus Grahame of Mot, Richarte Grahame of Meidhop, Edwarte Vrwing of Kirkpatrik, Wylliam Armstrang of Mortoun, Arthure Grahame of Blawat, chosin for the parte of the said Fargus Grahame and the rest of the Grahames abone writtin ; and with power gif it happinis that ony of thir personis chosin abone writtin be absent at ony trystis vnto the finale end of thair actionis vnder writtin, that thai sall cheis ane vther siclik man in his place ; anent the slauchtir of vmquhile Archebauld Johnestoun of Myrheid, and anent all bludis, gudis, actionis, caussis, querelis, debaittis and contraverssis quhatsumeuir that ather of the saidis partiis hes to say, allege or propone aganis vtheris before the day of the dait heirof : And the saidis jugiis arbitratouris and amicable compositouris hes instantlie acceptit the saidis actionis and caussis abone namit in and vpoun thaim ; and the jugiis abone writtin sall convene at Craikhauch, the xxvj day of

Maii instant, and assignis the said day to bayth the saidis partiis to convene and exhibyt and produce thair clames in wrytting to thaim ; and the jugiis abone namit hes faythfullie bundin and oblist thaim eftir thair cunning and knowleg to decrete and deliuer in the actionis and caussis abone specifit, for makin of vnite and concorde for weill of bayth the partiis, within fourty dayis nixt and immediatlie following the day of the dait heirof. And howeuer the saidis jugiis decernis, decreitis and ordinis in the premissis, bayth the saidis partiis hes faythfullie bundin and oblist thaim to vnderly and fulfill the samyn in all poynttis, without ony reuocatioun, reclamatioun, contradictioun or agane calling quhatsumeuir, without fraud or gile. And for the mair securite bayth the saidis partiis hes subscriuit thir presentis with thair handis in maner following, day, yeir and place foirsaidis, before thir wytnes, Schir Walter Scot of Branxholme, knycht, Johnne Charteris of Hemptsefeld, Robert Johnestoun, persoun of Lowchmaben, Adam Scot of Bruthertoun, and Johnne Brydin, notar publict.

Mairattour, Abie Armistrang of Wodhouseleis, Wylliam Armistrang of Mortoun, Cristell Armistrang in Auchingavill, takand the burdin vpoun thaim for thair breder and seruandis, to vnderly and fulfill the decrete of thir xij men abone namit anent thair being vpoun the feild with thair freyndis the tyme that Patrik Johnistoun of Mylbank and Cristell Johnistoun thair, Mungo Johnistoun, Edwart Johnistoun, his broder, gat ony skayth, to the quhilk thai haue bundin and oblist thaim to vnderly and fulfill be this present.

JOHNSTONE of y^t Ilk.

THOMAS JHONISTOUN of Cragoborn.

JOHNNE JOHNISTOUN of Elscheschelis.

ROBERT JOHNISTOUN in Newton.

THOMAS JOHNISTOUN of Fyngland.

WILLIAM JOHNISTOUN of Thonnergaryt.

SYMON JOHNNSTOUN of Cartertoun.

ROBERT GRAHAME of Fauld.

ARTHUR GRAHAME, sonne to Fergus
Grahame.

RICHARTE GRAHAME of Meidhop.

EDWAET VRWING of Kirkpatrik.

WILLIAM ARMISTRANG of Mortoun.

ARTHUR GRAHAME of Blawat.

Ita est JOHANNES BRYDIN, notarius
publicus ad premissa, etc.

WYLLIAM ARMISTRANG of Mortoun.

CRISTELL ARMISTRANG, his broder.

THOMAS STORIE in Staigmyre.

FARGUS GRAHAME with my hand.

RICHARTE GRAME of Meidhop.

ARTHURE GRAHAME of Blawat.

RICHART GRAHAME *alias* Plump.

FARGUS GRAHAME, sonne to vmquhile
Mathew Grahame.

ROBERT GRAHAME of Fauld.

JOHN GRAHAME, sonne to Blak Jok.

WYLLIAM VRWING of Gretnohyll.

EDWAET VRWING.

RYCHARTE VRWING.

EDWARTE VRWING of Kirkpatrik.

MATHEW VRWING of Burrelrone.

RICHART VRWING of Huirkyldane.

GEORGE GRAHAME of Cannabe.

JOHN VRWING of Steilhill.

WYLLIAM GRAHAME of Serk.

QUHYNTINE GRAHAME of Serk.

HUCHOUN GRAHAME.

Ita est JOHANNES BRYDIN, notarius publicus ad premissa, etc.

38. OBLIGATION by FERGUS GRAHAM of the Moat and EDWARD OF KIRKPATRICK to JOHN JOHNSTONE of that Ilk, to fulfil their agreements. Undated, but c. 1573.

BE IT KEND be thir present vrytin, I, Furgus the Grame of the Moit, and Eduerd of Kyrkpatrik, that we sall furthfyll all our speikin that we maid to that maist honorabill man, the lard of Buklevecht, and till the lard of Johnstoun, one Craikmoir at owr last meitiu, and sall put it in the lard of Buklewchis hand, and sall keip it faythfulle be the trewth of our bodyis, and sall had it in owr myndis as ane down mater, and sall keip poyntit day and place quhen ye think expedient; and desyris yow to send ws siklyk sekarty till ws with Reche of Ballze that sa the poyntin of the tryst with Rechy of the Balle quhen ye think best, and forder he will tell yow owr stop. Subcryuis this wrytin, I, Furgus the Grame of the Moit, with my hand at the pen, and Eduard of Kyrkpatrik with my hand at the pen, befor thir witenis, Williame Johnstoun of Hayhill, and Thomas of Fyngland and Reche the Balle with vther diuers.

39. BOND OF MAINTENANCE by JOHN JOHNSTONE of that Ilk to JOHN JOHNSTONE in Greenhill. 2d July 1573.

BE IT KEND till all men be thir present vrittingis, me, Johnne Johnnstoun of that Ilk, that forsamekle as Johnne Johnnstoun in the Greinhill is becummit my man and servand in all tymes cumin, lelilie and treulie to mak me faithtfull service on horse or on fute, as he beis requirit; Heirfor be the tennour heirof bindis and obliceis me in the straitast stile of obligatioun, and faythtfullie promittis to fortife, menteyin, supple and debait the said Johnne Johnnstoun, my man, contrare all man haifand questioun, querrell and actioun aganis him, lik as ane faithtfull maister aucht to debait his trew seruand in all takkis, rovmys and possessiounis, guidis movable and vnmovable, present and to cum; and in speciall in the heritable rycht of the saxt merk land of Batok with the pertinentis, the kindnes of tua merk land and ane half in Greinhill, ane merk land in Kirkpatrik occupiit be the Taitis quhilk the said Johnne hes of me, but fraud or gile, be this my baud of menteinens, subscriuit with my hand at the Lochtuod, the second daye of Julij 1573, befor thir vitnes, David Johnnstoun in Moling, and David Mayn, notar, with vtheris diuerse.

40. BOND OF MAINTENANCE by JOHN JOHNSTONE of that Ilk. 9th December 1577.

AT CUMERTREIS, the nynt day of December, the yeir of God Mv^c threscoir sevintene yeiris, it is appointit, concordit and finalle agreit betuixt ane honorable man, Johne Johnstoun of that Ilk on the ane part, and the auld tennentis of the landis of Kelheid on the wther part, in maner, forme, and effect as eftir followes—that is to saye, the said tennentis is contentit to cum in his will and make him thaukfull payment aud dalye seruice with mwltre beir and keyne foulles, aud to pay thair enteres betuixt this and new yeirs daye nixt. And I, the foirsaid Johue Johnstoune of that Ilk, byndis and oblessis me, my airis, to werraud, acquyet aud defend all the foirsaidis tennentis that enteris with me and payis thair dewteis and seruice as is foirsaid at all handis haifand entres, indureing the lyftrent of Jue Johuistoun, my syster, beug lyftrenter thairof. In witnes heiroy I haif subscriyvit this preseat with my hand, day, yeir and place foirsaid, befoir thir witness, Johne Johuistoun of Newbie, Pate Johuistoun of Mylnbank, Eduard Irving of Kirkpatrik, Alexander Acairlyll in Soupilbauk, and Johne Johnistoun of Cumertreis, with wtheris dyverse.

41. SUBMISSION by the CLAN JOHNSTONE of their disputes to the arbitriou of twelve of their number and the Laird of Johnstone. 2d December 1578.

BE IT KEND till all men be thir presentis writtingis, ws that beris and hes the nayme of Johnstounis in special and in generall, quha dependis vpoun the Lard of Johnstoun, that quhar ony actiou or cause of contrauersie is in and amangis ws or ony of ws, as blude, guidis, landis, steidingis, rovmis and possessiounis, vragis or vnkindues, or quhatsumevir cause or causis debaitabill, to be bound, oblesit and suorne, aud be the tenuour of thir presentis biudis and obleceis ws and ilk ane of ws faythfullie to refer,

as be the tennour heirof referis our saidis actioun and causis quhatsumevir thai be, without ony reclame or agane saying, to stand, abyde and vnderlie and fulfill all and quhatsumevir Robert Johnnstoun in Cairnsolocht, Thomas Johnnstoun of Cragoburn, Gilbert Johnnstoun of Wamfray, Robert Johnnstoun in the Newtoun, Thomas Johnnstoun in Podeue, Johnne Johnnstoun in Howgill, Thomas Johnnstoun in Fyngland, Mongo Johnnstoun in Lokirbe, Vilkein Johunstouu of Elscheschelis, Gilbert Johnnstoun in Phairholme, Cirsti Johunstoun in Milbank, Andro Johnnstoun in Marioribankis, as amiable freindis equalie chosin be the rest and consent of the nayme that hecht Johnnstouu, for thair commoun weill, and ane honorable Johnue Johnnstoun of that Ilk, thair cheif and maister, ourman in the said actioun or causis quhatsumeuir it be, decretis, decernis, deliueris and ordannis the parteis haifaud questiouu, persewar or defendar, to do, and thai and ilk ane of thayme to abid, stand and fulfill the said deliuerans, as the saidis personis abone namit aud ourman thus chosin, or the maist part of thaym, in the premissis decretis aud deliueris, without ony reclamatioun, coutradictioun, exceptioun or agane callin quhatsumevir. And gif ony of nayme that hecht Johnnstoun, haifand ony actioun or cause dependand befor the fornemmit personis and ourman sua chosin, fulfillis nocht thair decretit and deliuerans, bot cumis in the contrarie thairof, the fornemmit maister aud ourman, with the rest of the haill uayme of the Johnnstounis, salbe in the failouris contrarie, in the law and by the law, and pvneis him according as thay think guid and expedient. As alsua gif ony of the forsaid tuelf chosin men or ourman haif actioun of thair awin, that quhilk evir he be to be set of that actioun, and the rest to decretit thairupone, and he to fulfill the samen as is abone specifit, but fraud or gyle. In vitnes heirof the saidis tuelf chosin, ourman and principale, of every grane that hecht Johnnstouu, hes subscriuit thir presentis with thair handis as followis, at the Chapell of Dunviddy, the secund daye of December, in the yeir of God ane thousand fif hundereth threscoir and auchtein yeiris, befor thir vitnes.

And this present band for ane yeir efter the dait heirof to endure, or langar, as the Lard of Johnnstoun or his freindis thinkis guid.

ROBERT JHONSTOUN.

GILBERT JHONSTOUN of Vamfray.

THOŃ JHONSTOUN in Poldeñ.

MŪGO JHONESTOUN.

WILKINE JOHNSTOUN.

ANDRO JHONISTOUN in Mergribank.

THOŃ JHONSTOUŃ of Cragobrō.

DAUID JHONSTOŃ, Grantō.

ADAM JHONSTOUN of Core.

ANDRO JOHNSTOUN, persone in Ton-
nergathe.

JHON JHONSTOUŃ, Greñ.

Robert Johnstoun in the Nevtoun, Johne Johnstoun in Hougill, Thomas Johnstoun in Fyngland, Patrik Jonstoun in Mylbank, Gilbert Jonstoun in Fairholme—with our handis at the pen led be Dauid Mayn, notar, of our command becaus we culd nocht writ ourselfis.

Johne Jonstoun in Kirkhill, Archibald Johnstoun, Mertyns Archibald, Johne Jonstoun in Kirkhill, Dauid Jonstoun in Stayvod, John Jonstoun in Cartertoun, Gilbert Jonstoun in Fyngland, John Jonstoun in Glenkill, William Jonstoun in Brigmur, Villiam Jonstoun in Tempilland, James Jonstoun, elder, in Brvymell, Andro Jonstoun in Lokirbe, Criste Jonstoun in Mylbank, William Jonstoun in Reidhaw, Eduard Jonstoun in Quawis, Dauid Jonstoun in Quawis, Mathe Jonstoun in Corwod—with our handis at the pen led be the notar abone writtin at our command.

Jhone Johnstoun off Lowchmaben, and [William] Johnstoun in Pressdykis—with our handis at the pen leid.

42. BOND by the CLAN JOHNSTONE to their chief, JOHN JOHNSTONE of that Ilk, to assist him in keeping his Bond of Caution given by him for them to the king.
3d January 1578-9.

BE IT KEND till men be thir present vrittingis, ws, Johnne Johnstoun in Hougill, Johnne Johnstoun in Kirkhill, John Johnstoun in the Mylne, Adam Johnstoun, sone to Mertyn Johnstoun in the Kirkhill, Johnne Johnstoun, sone to Clementis Ade, Vatte Johnstoun in Hilhous, Criste Jonstoun in Bighill, Thomas Johnstoun in Fingland, Gilbert Johnstoun his sone, Johnne Johnstoun in Cartertoun, Niniane Johnstoun in Fingland, Dauid Johnstoun in Stayvod, Andro Johnstoun in Tynnergartht, persoun thairof, William Jonstoun, sonne to Dauid Johnstoun in Hayhill, Gilbert Johnstoun in Fairholme, William Jonstoun in Preistdikis, Dauid Johnstoun in Roberthill, Niniane Johnstoun in Castelhill, Andro Johnstoun in Lokirbe, Mongo Johnstoun thair, Mertyn Jonstoun in Myrheid, Johnne Jonstoun callit Greinsid, Eduerd Jonstoun, sone to Johnne Johnstoun of the Quavis, Eduerd Johnstoun in Vestuod, Dauid Johnstoun, his brother, Wille Johnstoun, sone to Andro Johnstoun of the Quawis, Johnne Johnstoun of the Burn, Johnne Johnstoun, Chepmannis John, Patrik Johnstoun in Auchtinslock, Cristall Johnstoun in Milbank, Vilkyne Johnstoun of Elscheschelis, James Johnstoun, elder of Brvymell, William Johnstoun in Brigmur, Dauid Jonstoun in the Reidhall, Johnne Johnstoun in Brvymell, sone to vmquhile young James thair, Johnne Johnstoun of Gretno, Robert Johnstoun in Nevbie, Thomas Jonstoun in Preistuodsid, William Jonstoun in Reidhall, James Johnstoun in Capilgill, Robert Johnstoun in Middilquarter, James Johnstoun in Croftheid, Adam Jonstoun his

brother, Thomas Johnnstoun of Podene, Symon Johnnstoun in Stanrehoushill, Vatte Johnnstoun in the Bankis, James Johnnstoun iu Kelrigis, David Jonstoun his sone, Adam Johnnstoun, sone to Vill of the Bankis, Michael Johnnstoun, son to James Johnnstoun callit James with the beird, Thome Johnnstoun, sone to David Johnnstoun in the Bankis. That forsamekle as at our request, speciall desire and feruent supplicatioun, ane honorabill man, Johnne Johnnstoun of that Ilk, our cheif and maister, hes bound and oblesit hyme self and his airis faythfullie for our commoun weill to our souerane lord the kingis grace and his lieutenant in to the last justice court haldin in to Drumfres, in to the quhilk band he hes plegit his lif, land and heritage, for vs and the rest of our surnayne Johnnstounis, that we, our men, tennentis and seruandis salbe ansuerabill to the lawis of the realme in all tymes cumin ; as alsua sall stanche and satife all compleinnaris quhom to we or ony of our surnaym respectiue of our granis, men, tennentis or servandis, hes faltit or faltit to in ony tyme bigane ; and siclik our said cheif and maister hes faythfullie promisit to vs to releif our plegeis at our said souerane lordis hand and put thayme to fredome and liberte : Thairfor we and ilk ane of ws respectiue to be bound and oblesit, as be the tennour of thir presentis bindis and obleceis ws and our airis faythfullie, that housone or quhat tym that ony of our granis respectiue, men, tennentis or seruandis, mackis or comittis ony falt, fail or distribulans criminable, as thift, stoutht, reif, fire or oppressioun or ony vther point criminall or civill, quharthrow the said Johnne Johnnstoun of that Ilk, our cheif and maister, may incur ony danger, or ony viis may be hurtfull to him or his airis be the macking of the said band to our said souerane lord and his lieutenant, in to that cace we and ilk ane of ws respectiue bindis and obleceis ws and our airis faythfullye, at the command and desire of our said cheif and maister, to assist and concur all togidder and with our hail force, strentht and pissans, sall serche, seik and persew the saidis persoun or personis, committaris of the falt or fail quhatsumevir it be, bring and deliuer him to our said cheif and maister, and to handill and pvneis him for his demeritis as he thinkis guid and expedient ; and gif the said committaris of the cryme can nocht be apprehendit efter the committing of the cryme, falt or fail, we doand our exact diligens thairunto, bindis and obleceis ws faythfullie, and our airis, to birn, hery and put the said faltour of the cuntre, satife and redress the said compleinnar quhom to the falt is done with our awin proper guidis and geris, failyeing apprehending of his, and heirto bindis aud obleceis ws and our airis faythfullie vnder the paine of periurie and oppin defamation. Attour we all that is of the nayme of the Johnnstounis and vnder the dominion of the said lard of Johnnstoun, in generall and in speciall, as we salbe requirit, bindis aud obleceis ws and our airis faythfullie to concur with the said lard of Johnnstouu and thir forsaidis personis, macaris of this present band, and sall aid, fortife and supple hyme and thayme with our hail force for

pvneismment of the attemptiuis abone mentionat, but fraud, gile or ony exceptioun. Prouiding alsua that gif be chauce ony slauther beis made or blude drawin in the seirching or apprehendin of the said faltouris, it salbe fund na falt nor faille be the doar thairof in ony tyme cumin, but ilk ane to stand vpricht with wther, likas thai did of before the mackin of thir presentis. In vitnes heirof we and ilk ane of vs hes subscriuit this band with our handis as follouis, at the Southtuodfute, the thrid day of Januar in the yeir of God ane thousand fif hundretht thre scoir and auchtein yeiris, befoir thir vitnes, Thomas Scot, Johnne Litill, Robert Grahame in Langboddum, Patrik Grayme, his brother.

JOHNNE JOHNSTOUN in Hougill.
 JOHNNE JOHNSTOUN in Kirkhill.
 JOHNNE JOHNSTOUN in the Mylu.
 ADAM JOHNSTOUN, sone to Mertyn
 Jonston in the Kirkhill.
 JOHNNE JOHNSTOUN, sone to Cle-
 mentis Ade.
 VATTE JOHNSTOUN in Hilhouse.
 THOMAS JONSTOUN in Fyngland.
 GILBERT JOHNSTOUN, his sone.
 JOHNNE JONSTOUN in Cartertovne.
 ANDRO JOHNSTOUN in Tynnergartht.
 VILLIAM JOHNSTOUN, sone to David
 Johnstoun in Hayhill.
 GILBERT JOHNSTOUN in Fairholme.
 WILLIAM JONSTOUN in Preistdikis.
 DAVID JONSTOUN in Roberthill.
 NINIANE JONSTOUN in Castelhill.
 ANDRO JONSTOUN in Lokirbe.
 MONGO JONSTOUN thair.
 MERTYN JOHNSTOUN in Myrheid.
 JOHNNE JONSTOUN in Greinsid.

EDUERD JONSTOUN, sone to Johnne
 Johnstoun of the Quawis.
 EDUERD JOHNSTOUN in Vestuod.
 DAVID JOHNSTOUN, his brother.
 VILLE JONSTOUN, sone to Andro
 Johnstoun of Quawis.
 JOHNNE JOHNSTOUN in the Burne.
 JOHNNE JOHNSTOUN, Chepmannis
 Johnne.
 PATRIK JONSTON in Auchtinslock.
 JAMES JONSTON in Croftheid.
 ADAM JONSTON, his brother.
 THOMAS JOHNSTOUN in Podayne.
 VATTE JOHNSTOUN in the Bankis.
 JAMES JOHNSTOUN in Kelrigis.
 DAVID JOHNSTOUN, his sone.
 ADAM JOHNSTOUN, sone to Vill of
 the Bankis.
 MECHAEL JOHNSTOUN, sone to James
 Johnstoun callit with the beird.
 THOMAS JOHNSTOUN, sone to David
 Johnstoun in the Bankis.

All thir forsaid personis, and ilk ane of thayme for thair awin part, with thair handis at the pen led be me, notar vndervrittin, hes subscriuit thir presentis, of thair speciall command, request and desire, becaus thai culd nocht writ thame selfis. Vitnes my awin hand.

Ita est DAVID MAYÑ, notarius in premissis de speciali mandato suprascrip-
 tarum personarum multipliciter rogatus et requisitus, teste manu propria,

43. BOND OF MANRENT by JAMES GRAHAM of Gillisbie to JOHN JOHNSTONE of that Ilk. 17th September 1579.

BE IT KEND till all men be thir present vrittingis, me, James Grahame of Gillisbe, for my self and my men, tennentis and seruandis, forsamekle grantis ws to becumit in maureht to ane ryt honorable man, Johnne Johnstoun of that Ilk, warden of the West Marcheis of Scotland foranent Yngland ; heirfor be the tennour of thir presentis bindis and obleceis ws faithtfullie, coniunctlie and seuerlie, lelilie and treulie, to serue and obey him in all maner of his actionis, caussis, and quarrellis [lik]as trew and faithtfull servandis aucht and suld do to thair maister, and contrarie all men to the vtermest of our poweris, the kingis grace and his autorite allanerly exceptit, be this our band subscriuit be me, the said James, for my self, men, tennentis and seruandis, as follouis, at the Lochuod, the sevintein daye of September in the yeir of God ane thousand fif hundreth thre scoir and nyntein yeris, befor thir vitnes, Watter Scot of Touchelaw, Andro Jonstoun in Marioribank, Johnne Jonstoun in the Mylne, and Dauid Mayne, notar, with vtheris diuerse.

JAMES GRAHAME of Gillisbe, for myself, men, tenentis and servandis, with my hand led be Dauid Mayne, notar, of my command, I culd nocht writ my self.

44. COMMISSION by KING JAMES THE SIXTH to JOHN JOHNSTONE of that Ilk, as Warden of the West Marches, and Justiciar within the bounds of Eskdale, Ewesdale, Wauchopedale, Annandale, Nithsdale and Galloway. 27th August 1579.

JACOBUS Dei gratia rex Scotorum, omnibus probis hominibus suis ad quos presentes litere peruenerint, salutem. Sciatis quia nos intelligentes quod officium guardianatus occidentalium marchiarum regni nostri versus Angliam in manibus nostris vacat et remanet, ac ad nostram dispositionem pertinet per dimissionem nostri consanguinei, Joannis, domini Hereis, vltimi guardiani eiusdem; et audientes quod uostri veri et fideles subditi per fures, raptos et alios malefactores grauiter oppressi, spoliati et perturbati sint, sine quorum punitione si remedium oportuum non prouideatur magne inconuenientie desuper sequentur; pro quorumquidem punitione fecimus, constituimus et ordinauimus, ac tenore presentium facimus, constituimus et ordinamus delectum nostrum Joannem Jhonestoun de eodem nostrum guardianum occidentalium merchiarum regni nostri versus Angliam, et infra omnes bondas eiusdem, videlicet, Esdail, Ewisdail, Wauchopdail, Ananderdail, Nythisdail et Galloway, tam supra quam subtus Cre, prout etiam

nostrum iusticiarium infra bondas predictas, cum omnibus feodis et deuoriis eidem officio pertinentibus : Dando, concedendo et committendo eidem nostram plenam potestatem et mandatum speciale guardiani et iusticiarie curias infra bondas predictas, quibuscunque partibus et locis earundem, statuendi, inchoandi, affirmandi, tenendi et quoties opus fuerit continuandi ; omnes et singulos infra dictas bondas inhabitantes quoties per dictum nostrum guardianum requirentur vel sibi expediens videbitur pro regni nostri defensione, ac furum et proditorum prosecutione et captione, malefactorumque punitione concurrere ac secum accedere et equitare causandi ; statuta, acta et ordinationes desuper faciendi ; transgressores, fures et alios delinquentes infra dictas bondas secundum suorum criminum quantitatem legibus regni nostri conformiter puniendi, et ad hunc effectum assisas vnam vel plures personarum minime suspectarum ad numerum sufficientem, quamlibet personam sub pena quadraginta librarum, summoniendi, eligendi et iurare causandi ; deputatos sub ipso in dictis officiis guardiani et iusticiarie, cum clericis, sariandis, adiudicatoribus et omnibus aliis officiariis et membris curie necessariis faciendi, creandi, substituendi et ordinandi, pro quibus respondere tenebitur ; exitus, amerciamenta et eschaetas dictarum curiarum ac bona quoque hominum non hereditariorum nec heredum terrarum infra dictas bondas pro dictis criminibus ad mortem iustificatorum, petendi, recipiendi ac eadem suo proprio vsui importandi et applicandi, et pro eisdem si opus fuerit namandi et destringendi, vnam dimidietatem bonorum hominum hereditariorum terrarum pro dictis criminibus infra dictas bondas ad mortem iustificatorum suo proprio vsui applicandi, alteramque dimidietatem eorundem nobis importandi, ac computum in scaccario nostro nobis inde faciendi ; et generaliter omnia alia et singula faciendi, dicendi, gerendi et exercendi que in premissis et circa ea necessaria fuerint seu quomodolibet oportuna : Firmum et stabile habentes et habituri totum et quicquid dictus noster guardianus et sui deputati in premissis rite duxerit seu duxerint faciendum : Presentibus literis nostris commissionis durante nostra voluntate duraturis. Quare vniuersis et singulis liegiis nostris quorum interest vel interesse poterit striete precipimus et mandamus, quatenus dicto nostro guardiano et iusticiario in omnibus et singulis dictum officium concernentibus, durante spatio predicto, prompte pareant, intendant et respondeant, sub omni pena quam erga regiam nostram in hac parte incurrere poterint maiestatem. In cuius rei testimonium, presentibus magnum sigillum nostrum apponi fecimus, apud castrum nostrum de Striuling, vicesimo septimo die mensis Augusti, anno domini millesimo quingentesimo septuagesimo nono et regni nostri decimo tertio.

Per signaturam manibus supremi domini nostri regis ac dominorum sui secreti consilii subscriptam.

45. OFFERS OF SUBMISSION by Sir THOMAS KER of Fernieherst to the EARLS OF MORTON and ANGUS. 1579.

Thir ar the offeris of me, Thomas Ker of Fernyherst, knycht, as eftir followis.

ITEM in the first, I offer to acknawlege and profes the kingis maiesteis auctorite, and salbe ane faithfull and obedient subiect vnto his heynes, serving his maiestie treulie according to my boundin dewtie to the wtermast of my powar.

Secundly, Albeit I neuer did nor meinit to do ony offens to my lordes the Erles of Mortoun and Angus for my particular evill weill that evir I buir vnto thair lordships, or ony of thair house, bot only for the avainceing the service of ane I professit for the tym, as I was comandit be the said auctorite (as God [is] my jug), yit nevir-theles, being maist villing and desyrous be all meinis [posi]bill to procurir thair lordships favour and benevolence, I offer to cum hefoir thame in presence of quhom and quhair I salbe requirit ; and thair confes and grant all the offenceis that I haif committit aganis thair lordships, and sall crave maist humhly thair pardoun for the sam, doing thairfoir all the lik hououris and homag vnto thame as gif I had committit the saidis offenceis in setting forwart my awin particularis. And farder sal confes that all the skaith domag that evir I haif sustenit at thair lordships handis I haif maist justly deseruit the same.

Thridly, I offer the mariag of my eldest sone frelie to be bestowit at thair lordships discretioun vpon ony of thair freindis of honest and sufficient rank.

Ferdly, That notwithstanding the principall and narest of bluid [to my] bairnis sufferit induring the government of the Erle of Mortoun, I offer the perpetuall band of manreth of me and my saidis bairnes vnto the foirsaidis erles, for to serue thair lordships and thair houses trewly and faithfully against all deidlie, the auctoritie being exceptit.

Prouyding allwayis, that I may haif he thair lordships menis the kingis maiesties pardoun for my offens, and being relaxit fra the horne I may enjoy the benefeit of the act of pacificatioun and be restorit to my hail rowmes, officeis and leving that my prediessouris and I was in possessioun of befoir my foirfaltour ; togidder with my hail letteris and eidentis that com in thair handis be the redditioun of the castell of Edinburgh be the wmqhill laird of Grange ; and also that I may [haif] thair lordships band of mantinece, be the quhilkis I and my bairnes may be menteinit be thair lordships in all our honest and just causes (according to the accustomed fassioun of the realme), and specially in the peceable possessioun of all that appertenis vnto myself, as alsua of that quhilk appertenis or may appertein to my guidmoder the Lady Grang, and to my saidis bairnis be the deceis of hir wmqhill husband, thair guidschyr.

46. ANSWERS by the EARL OF MORTON to the offers by SIR THOMAS KER of Ferniehirst. 1579.

The Erle of Mortounes ansuer to the offeris maid to him be Thomas Ker, suntym of Pharnyherst, knycht.

INPRIMIS, to the first offer it is ansuerit that the same altogither pertenis to the kingis maiestie, and therfoir remittis it to be orderit be his hienes and his consall, considering the said Erll of Mortoun is not now regent.

As to the second offer, quhilk is maid to the said erll and to the Erll of Angus, the Erll of Mortoun maks ansuer thervnto for himself—that is to accept the offer in confessing of the offens committit, befoir bis lordship and sic vtheris as he will appoint to heir the sam, and doing thairfoir sic honour and homag as the said erll sall think gude, with the said Thomas confession that quhat skaith or quhat daunger he bes sustenit at the said lordis hand he bes maist justly deseruit the same, and sall discharg thay thingis in sic sort as the said lord sall desire.

To the thrid offer, for the mariag of his eldest sone, as the offer at mair lenth beiris, my lord is content to accept the offer, and not of his eldest sone, bot of sic a sone as the said lord sall best lyk of, the said Thomas infesting him in his landis with sic sufficient prouisioun as the said lord sall devise.

To the fourt offer, concerning tbe boind of manrent offerit be the said Thomas and his bairnes, the Erll of Mortoun acceptis the sam as the offer beiris, prouyding that the same be maid as the said erll sall devise tbe securitie in the best form. And quhair it is cassin in that the narrest of bluid to the said Thomas bairnes sufferit during the tym of the said erllis regiment, that was done be the kingis maiesties auctorite for offenses worthely deseruit, and thairfoir aucht to be buryit and not to be spoken of.

The last article contains diuerse and sindrie heidis—First, quhair it is desyrit be prouisioun that the Erll of Mortoun sall obtien the kingis maiesties pardoun to the said Thomas for his offense, his lordship can not bind him self heirvnto farther nor to schaw his guidwill and fauour for obteyning of the sam. Secundly, the said Thomas desyris that being relaxt fra the horne, he may enioy the benefeit of the act of pacificatioun and be restorit to his hail rowmes, officeis and leving, that his predicessouris and he was in possessioun of befoir his foirfaltour. To this the said erll ansueris as to the first article, that he cannot be bound heirvnto bot to labour vpon guidwill frelie for obteyning of the said pacificatioun. Bot as to the restitution of him to his hail rowmes, offices and leving that his predicessouris and he was in possessioun of befoir his foirfaltour, the article in that point is generall, for befoir ansuer can be maid thervnto he man condescend in speciall quhat rowmes, offices and leving he desiris to

be possess in. As to the letters that com in the Erll of Mortounes handis, the said erll is content to deliuer the hail letters and eidentis being in his handis to the said Thomas Ker ; and further to let him vnderstand quhat letters ar taken furth of the kist and delywerit to wtheris, to the effect that the sam may be recouerit. As to the band of mantenance desirit, be the quhilk the said Thomas and his barnis may be mantenit, the said Thomas satisfeing the said erll of the conditiones befoir writtin, his lordship wilbe content to grant him band of mantenance. Bot quhair it is desyrit that specially the said erll manteine thame in possessioun of all that appertenis to the said Thomas, as also of that quhilk appertenis, or may appertein, to his guid motber, the Lady Greng, and to the said Thomas bairnes be the deceis of the ladyes wmqhill husband, thair guidschyr, the said erll thiukis that this article suld be maid mair special, and the landis specially expressit quhair of thai desyr to be mantenit ; and in his lordships opiniou he thinkis it not meit to the said Thomas to be curious to mell in this mater, quhill first he war acceptit in the kingis fauour and wer becum his frie liege, sa that thairefter he mycht procure sic fauour thairintill him selfe as he culd.

Farther, the said erll desyris that befoir the conclusioun appointment thair may be appointment maid betuix the laird of Pharnyherst and the toun of Jedburgh, the lairdis of Hudeley, Hunthill, Edzarstoun, and remanent persones of the surenam of Rutherfurd, freindis and dependaris of the said erll, the lard of Beddroule, and remanent persones of the surnam of Trumble, his lordships freindis and dependeris, and the lard of Bonejedburgh and remanent persones, freindis and dependeris of the house of Bonejedburgh, and that in respect of thair faithfull seruice maid to the kingis maiestie, and the Erll of Mortoun during the tym of his regiment and sensyne ; quhilk being done may further the said Thomas to the greter fauour at the kingis maiesteis and consallis hand. Otherwyis gif he refuis it may perhaps be ane occasioun of impediment.

47. BAILBOND by JOHN JOHNSTONE in Carterton and THOMAS JOHNSTONE of Fingland to JOHN JOHNSTONE of that Ilk, for the release of Thomas Johnstone in Fingland from Lochmaben. 21st February 1580.

AT LOWMABEN, the xxi day of Februair, the yeir of God ane thowssand fyve hundreth and foir scoir yeiris : Forsameikle as we, Jhonu Jhonstoun in Kairtertoun and Thomas Jhonnstoun of Fynglane, bindis and oblissis ws, our airis, executouris and assignayis, to Jhone Jhonnstoun of that Ilk, his airis and assignayis, that the said Thomas Jhonstoun now being present in Lowmaben, and to depart to his awin hous, sall cum again wpoun Sunday nixt the xxvj of this instant, and enter in Lowmaben to the said

noble man, and remane quhill lawfull entre be takin off him ; and in this tym is oblist that Wille and Syme Jhonnstonis, his sonis, sall remane in the said towne quhill the said Thomas returne ; and geyf the said Thomas or his sonis foirsaidis does in the contrair, the said Jhone and Thomas is oblist to the said noble man and his foirsaidis, that all thair landis, rowmes and possessionis sall cum in his handis for evir and vnder pane of tressoun and periure in tym [to] cum. In witness of the quhilk thing we haif caussit the notar vnderwrittin subscriv this present obligatioun with our handis laid at the pen becaus we culd nocht wryt, and at our speciall command, befor thir witnessis, George Hendersoun, Jhone Iruing in Tolquhat, and Thomas Scot, notar publict, with wtheris diuerse.

JHONE JHONSTOUN in Cartertoun and THOMAS JHONSTOUN of Finglane, with our handis at the pen becaus we culd nocht wryt.

Ita est THOMAS SCOT, notarius, de mandato dictorum virorum ut supra, teste manu propria.

48. OFFERS by EDWARD IRVING of Bonshaw, GEORGE GRAHAM of Renpatrick, and JOHN IRVING of Knockhill, to JOHN JOHNSTONE of that Ilk, on account of the slaughter of William Johnstone in Hayhill. February 1581-2.

Thir ar the offeris that we, Eduard Irving of Bonschaw, George Grahme of Renpatrick, and Johne Irving of Knockhill, maikis to the rycht honerabill the layrd of Jonstone, and to the wyif and bayrnis of vmquhile Williame Johnstoun in Hayhill, thair kyn, freyndis, payrte aud pairttakeris, for ws,oure kin, freyndis, payrte and payrttakeris, for being on the feild at the vnhappe slauchtter of the said vmquhile Williame, quhilk we sayrlie repent.

IN THE FIRST, we offer full repentance in our harttis, beseiking God of his infinit gudenes that we be newar on the feyld quhare ewar sielyike offensis be committit, and ernistle crawis forgevnes for Godis sake.

Secundlie, we offer to tryoure innocens and to acquite ws and all ouris that nane of ws schot that vnhappie schot quhareby the said Williame was slayne, nor bure the said Williame na rankour in our harttis, and that be sic sufficient men as the layrd of Johnstoun will appoynt that we ar able to get or vill do for ws.

Thridlie, we offer George Irving, sone to the said Eduard, Christe the Grahme, sone to George the Grahme, to be enterit in the hous of the Lochuode to the layrd of Jonstoun, and thaire to byide sic tryale as the layrd will appoynt that nane schot the sayde schot ; and in case ony of thame be found culpable of the schuting of the said Williame, we ar contentit that thay be punisshit for the samyn as ewar the layrd of

Johnstoun best pleassis, and thayr punischment salbe na thing hurtfull to this our offer.

Fourtlie, we offer to cum to sik plaice as the Layrd Johnstoun and his wyise freyndis will appoynt, and thaire into our lynning claythis to sit dovne apone our kneis and desyre forgevnes for Godis caus, and in taikin of homage and repentance take our naikit suourdis be the poyntis in our handis and offer thame to the sayde layrde, bayrnis and freyndis of the said Williame in maner of sufferage, as may best pleisit thame, for being on the feyld quhare that vnhappe slauchter was committit.

Fyiftlie, we offer to be bound as husband and father to the saidis wyif and bayrnis in all thaire lefull and honest caussis, and to take ane trew vprycht payrt with thame in all tymis cuming aganist quhasoeuar sall mein to do thame wrang, excepting the authoratie, our laudis lordis and sic vtheris as we haif committit the lyike offence aganis.

Sextlie, we offer to gyiff of our guidis to the said wyif and bayrnis the sowme of fyve hundreth merkis monye of this realm, and to be payit at sic dayis as the layrd of Johnstoun will appoynt ws.

Sewintlie and last of all, gyve thir our offeris be nocht sufficient we ar contentit that the samyn be agmentit as ewar it sall pleis the rycht honorable the layrd Johnstoun, with aduise of his wyise freyndis, sall think expedient.

And thir our offayris we maist humble offer and beseikis your masterschip for the love of God, and as ye craive to be forgevin of God that ye will forgeve vs and desyre in our names all vtheris to forgeve in lyik maner. Subscreyvit the day of February 1581 yeir, befor thir witnessis, Jhone Jhonstoun of that Ilk and Andro Jhonstoun of the Kirkstoun, and Thomas Scot, notar, with vtheris diuerse.

EDUARD IRWING of Bonschaw.

GEORGE GRAHME of Renpatrik.

JOHNE IRWING of Knokhill.

With our handis at the pen laid be

Thomas Scot, notar.

Ita est THOMAS SCOTT, notarius publicus,
teste manu propria, vt supra.

49. OFFER by WILL BELL of the Nook and another, to vindicate themselves from certain accusations. 6th February 1583-4.

WE haiff resaut your ansuer off ane letter direct be ws, datit the xxij off January, subscriuit onlie be Will Bell of the Nuke, takand the burding one him for the hail

rest, anent the bering of the portiwis off ws four Bellis, quhilk ansuer beris in effect that we war born for tressonable breking of our baud and promeissis and that at command off yow, thair maister. And quhair it is ansuerit that ye resaut laitlie ane vther writing quhairvnto ye culd nocht geve ansuer becaus it wes nocht subscriuit nether be ws nor ony notar in our names ; for ansuer off the quhilkis, ye sall resawe be this present, that I, Will Bell off the Nvik and Will Bell off Blacathous heirefter subscriuit, takis the burding vpon ws for Rany Bell and Watty Bell, our brether, to menteine and werifie that alleggit band quhilk we ar borne for to haive bene dewysit and invented be yow and sik vtheris, we beand in your ward and in dainger off our lywes, and for feir and sawetye off same wes constrynit to subscriye and to do quhat ye wold have ws : And therfoir geve ye or ony that ye can move will beir ws as vnhonest personis for ony pointt contentit iu that pretendit writing, we four will offer our bodeis for tryall of our awin honour and in preving of theis personis vnhonest quhilk falslie wald meine to accuis ws. Prowyding that we may have that securitie to be in na dainger off ony persoun (except sik as we addres ws vnto), quhilk is be geving of sik personis as we sall name to be enterit within the place of Drumlangrig, thair to remane vnto the lauchfull tryall off our debait : Quhilk beand done we ar contentit and refferris vnto yow the tyme and place to be appointed quhilk we sell keep as we have honestie and our lywes to menteine. Writin from the vj day off February I^m v^c lxxx thre yeris.

WEILL BELL, w^t my hand.

WILL BELL of Blacathous w^t my hand.

This wryting be delyveryt to the laird of Jhonstoun.

50. BOND by RICHARD GRAHAM that he will remain within the tower of Torthorwald until Sir John Johnstone of Dunskeillie, the warden, give him his liberty. 10th August 1584.

BE IT KEND till all men be thir present letters, me, Richert Grahame callit Hutschoneis Reche, that forsamekill as the richt honorabill Schir Johne Johnestoun of Dunskeille, knyght, lord wardeu and iustice within the boundis of the Waist Merchis of this realme, haifand tane me and imprisonit me within the towr and fortalice of Terthorwall ; and therfoir becaus I nicht haif na libertie out of the said prisone without this my band and promeis vnderwrettin, I therfoir be the tennour heirop fathfulle bindis and oblissis me that I sall remane within the tour and fortalice of the samyn and yardis therof, and sall nocht pas forthe at the vtter yet of the said place, without leif and licence first askit be me and syne gewin and grantit be the said lord warden,

vnder the panis of trasone, schame, infame, tinsall of perpetuall credit, honestie and estimatioun, and fra thyneforth to be estemet ane tratour, and newer to haif credit in tyme cuming, in caise I contrawene or brekis the tennour heirof. And forder, gif it happenis me, the said Riche, that I meining dereclie or indereclie to gif wp this my band swa that I will be na langer vnder promeis, bot that I will await and lene vpone my avin protecsioun, I vnder the panes abuif specefeit bendis and oblissis me, that I sall befor the vpgifing of the samyn enter myself personallie within the said tour and f6rtalice of Terthorwall, and thair vpgiff the samyn to the said lord warden being present and acceptand the samyn, schawing and declaring to his lordschip I will be na langer vnder band and promeis as said is ; and this to all and syndre I mak it knavin be this present, subscriuit as followis, at Terthorwall, the tent day of August, the yer of God I^m v^c fourscoir foure yeris, befor thir witnes, Mr. William Leslie, brother to the Lard Boquhane, Nicoll Newall, messinger, Patrik Grahame in Cowrance, and Archibald Newall, noter publict, with vtheris dyuerse.

M. V. Lesly, witness.
Nicoll Newall, messing^g,
witness.

RICHERT GRAHAME callit Hutschonis Riche, with my hand led at the pen be the notar vnderwrittin at my command becaus I can nocht wrete.

Ita est ARCHIBALDUS NEWALL, notarius publicus, de mandato dicti Ricardi scribere nescientis, ut asseruit, teste manu propria.

51. ASSURANCE by JOHN MAXWELL, EARL OF MORTON, that JOHN JOHNSTONE called GREENHILL, and others, shall be unmolested by him. 24th August 1585.

WE, JOHNE, ERLL OF MORTOUN, be the tennour heirof assuris Johnne Jonstoun callit Grenchill, Johnne Scot, Rychard Latymer, Andro Johnstoun in Myrheid, James Jonstoun in Rigfuttis, Williame Dingwell, Andro Smyth, Johne Jonstoun, brother to Johne of the Chapell, Thomas Mortoun, Andro Maitland, Johne Anderson, Symon M6ffett, Malcolme Bard, Johnne Lytill, David Wilson, Robene Byrkmyre, Johne Glessurd, David Andersone, Cuithbert Kaa, Jhone Freane, Patie Thomisone, Jok Smyth, now being in the castell off Lochmabane, to be vnhurt, harmit or molestit be ws, oure freyndis, partie or partakaris, in thair bodyis, landis, tenentis, gudis or geir, for ony querrell, cryme or falt that we or oure forsadis may imput to thame in ony tyme bypast to the day and dait heiroff. Attour, we for ws, our freyndis, partie and partakaris, assuris the forsadis personis and every ane off thame and thair foirsadis in tymes cuming, fra the day and dait heroff, to be vnhurt, harmit or molestit be ws, our freyndis, partie or partakaris, in thair landis, bodyis, tenentis, gudis or geir, thay nor

nane of them doand onything hurtfull or preiudiciale heirefter to ws, our freyndis, partie or partakaris, iu our bodyis, laudis, tenentis, gudis or geir, and that the falt or offence to be committit (in case ony be) be ony ane of the foirnammit personis sall nocht be inpute to ony of the rest nocht offeuand : And this our assnrance we promes to be trewly keipit, we promes vpoun our honour, be thir presentis subscrinit with our handis our signet is affixt, at Drumfres, the xxiiij day of August 1585, befor thir witnes, Capitaue James Frissale, Mr. Williame Leslie, Rychard Maxwell in Cavenis, James Frude, and Jhone Makghe, notar p^ublict. MORTOUNE.

[Seal impressed.]

52. SIGNATURE FOR GIFT by KING JAMES THE SIXTH to SIR JOHN JOHNSTONE of Dunsckellie, Knight, and his spouse, of teinds in Lochmaben. *Circa* 1585.

OURE SOUERANE LORD ordauis aue letter to be maid vnder his priwie seill to his hienes weilbelouit Schir Johnne Johnnestoun of Dunsckellie, knycht, warden of the Wast Merche, and Dame Margaret Scot, his spous, thair airis and assignayis, aue or ma, off the gift of the escheit of the tak of the teind schavis, perroching of Lochmaben, of all guidis, movable and vnmovable, dettis, takis, steidiugis, rowmes, possessionis, cornis, cattell, insicht plenissing, maillis, fermes, caynis, custumes, proffittis and dewteis of quahatsumeur landis, baroneis or steidingis, within the bundis of Aunandaill, Esdaill, Ewisdall and Wauchopdaill, togidder with the escheit of the maillis, fermes, caynis, custumes, proffittis and dewteis of the landis and baroueis of Carlaverok, and of the tak of the teind schavis of the toun and perroching of Dumfres, qnhilkis pertenit to Johnne, Erle of Mortoun, Lord Maxwell, and now pertening to oure souerane [lord], fallin and becummin iu his hienes handis be ressoun of escheit, throw being of the said erle ordourlie deuuncit his majesteis rebell aud put to the horne for non entrie of certane personis of the surname of Armistrangis and vtheris, for qnhome he wes bund be generall and particulare banddis befor his hienes aud lordis of secreit counsall, at certane dayis appointtit to that effect, to haue vnderlyue sic ordour as sould haif beue taikin for the quieting of the cuntry, lyk as at mair lenth is contenit in the letteris of horn-ing direct thairvpoun, executioun aud indorsatioun thairof, or throw being of the said Johnne, erle foirsaid, ordourlie chargit to haif compeirit vnder the paue of tressoun and deuuncit his majesteis rebell for non comperauce to vnderly the lawis, or for non comperance befor his majestie and lordis of secreit counsall to haue answerit to sic thingis as sould haue bene layit to his charge, and specialie for taikin of armes, cning and opponing him self with convocatioun of his hienes liegis aganis his majesteis lieutenant, in vsing and exersing of his office thairiu, for rasiug of fyre and biruing of houses within this realme, assaigeing, taikin and detening of houses aud fortalices and of certaue frie

personis, his majesteis trew and faithfull liegis, within the samin, or for non entering his persoun in ward, as at mair lenth is contenit in the actis, letters, proclamationis, executionis and indorsationis maid and directit thairvpoun, or for quhatsumevir vthir caus or causatioun the said erlis escheit may fall : With power to the saidis Schir Johnne, his spouse, thair airis and assignayis foresaidis, to intromett with and vptak the escheit guidis and maillis, fermis, proffittis, caynis, custumes and dewteis of the landis, baroneis and steidingis foresaidis, and specialie of the landis and barony of Carlaverok, togidder with the teind schavis of the saidis tounis and perrochingis of Drumfreis and Lochmaben, during all the yeiris and space thairin contenit yet to rin, and thairvpoun to dispone at thair plesour ; and to occupy the saidis rowmes, takis and steidingis with thair awin proper guiddis and geir, or to sett the samin to tennentis as thai sall think maist expedient ; and to gadder, collect, intromett with the saidis teind schavis, with all and sindrie fredomes, etc., frelie, quietlie, etc., but ony reuocatioun, etc. And forder, that the said letter be extendit in the best forme, with extention of all clauses necessar. Subseriuit be oure said souerane lord, at the day of the yeir of God I^m v^c fourescoir yeiris.

JAMES R.

53. ASSURANCE by JAMES DOUGLAS of Drumlanrig to EDWARD IRVING of Bonshaw for Carlyle, Bell, and Irving of Turnshaw. 22d November 1587.

BE IT KEND to all men be thir present letteris, I, James Douglas of Drumlangrik, taiken the burdein vpon me for Cairlell, Bell and Irwing of Turneschawe, for thayme and thair pairttaikeris quhatsumewyr, assures, as be thir presentis assures Edward Irwing of Boynschawe his pairtye and pairttaikeris, Scottismen quhatsumewyr, alsweill vnnaymet as namet, for baythe the saidis pairtteis, for the spaice of twentye dayis to cum preceeding the day and dait heirof, to be vnhurt, vnhayrmet, vnmolestit or trublit in body or guidis. For the fulfylling, keiping and obserwing of thir presentis, I, the said James Douglas of Drumlangrik, promiseissis faythfullie vpon my honour, faythe and trewthe, to cause this assurance be keippit fayrme and staibill induring the said spaice aboyne writtin. In witnes of the quhilk I haiw subscriwit the samen with my hand at the Lochwoid, the twentetway day of Nowember 1587, beffoir thir witnes, Roger Greirsonn of Lag, Alexander Jairding of Appilgarthe, knyecht, Johne Menzeis of Castelhill, younger, the layrd of Franschlanc, with vtheris dywers.

J. DRUMLANGRIG.

54. BOND by ELIZABETH JOHNSTONE and her husband, ALEXANDER JARDINE, younger of Applegirth, resigning all claims they have over the estates of the late Sir John Johnstone of Dunskeillie. 24th Decemher 1587.

BE IT KEND till all men be thir present letters, me, Elizabeth Johnnestoun, lauchfull dochter of vmquhile Schir Johnne Johnnestoun of Duskellie, knycht, and Alexander Jarding, my spous, for his interes, to be hund and obleist, and be thir presentis hindis and obleiss ws, our airis and assignais, to James Johnnestoun of that Ilk, sone and air of the said vmquhile Schir Johnne, and to his airis maill quhatsumeuer, iu maner efter specifeit: Forsamekle as I, the said Elizabeth Johnnestoun, and the said Alexander Jarding, my spows, for the preseruatioun, weill and standing of the surname of Johnnestoun and of the hows quhairoff I am descendit, heing of guid mynde that extraneand persounis possess nocht the landis or leving pertenyng to the said vmquhile Schir Johnne Johnnestoun, my father, bot that the samyn may remane with the surname of Johnnestoun in all tymes cuming: Thairfoir I, the said Elizabeth, and the said Alexander, my spows, for his interes, he thir presentis consentis, willis and grantis, that in cause the said James Johnnestoun of that Ilk depairt this present lyiff without lauchfull airis maill to be procreat of his hody, that the nerrest and lauchfull air maill of the said James or of the said vmquhile Schir Johune, his father, sall enter and be seruit to thame as nerrest and lauchfull airis in and to all thair landis, rowmes and possessionis, guidis and geris, ony maner of way pertening to the sade James or to his said vmquhile father: Lyikas he thir presentis I and my sade spous for his interes, than as now and now as than, hindis and ohlissis ws, our airis and assignais, to renunce, resigne and frelie geve over fra ws, our airis and assignais, all rycht, titill, entres, clame, proptie and possessioun, that we had, hes, or ony maner of way may haue, in and to quhatsumeuer landis, rowmes and possessionis, pertenyng ony maner of way to the sade James or to his said vmquhile father, iu favouris of thair nerrest aud lauchfull air maill quhatsumeuer; renunceand all henefeit thairoff, jure, lite et causa for ever. And siklyik I and my sade spous for his interes makis, constitutis and ordanis the sade James Johnnestouu of that Ilk and his aris maill foirsadis my verie lauchfull vndowtit and irreuocabill cessioneris, assignais and procuratouris in rem suam, in and to the gyft of the waird, nouentrie, releiff and mariage of the sade James, grautit to me and my airis, with powr to the sade James and his foirsaidis to intromeit thair-with, browik, vse and dispone friele at thair plesour the samyn with all proffeit and commoditie thairoff; and be thir presentis transferris and overgevis the samyn fra ws, our airis and assignais, to the sade James and his foirsaidis for ever. And for the mair securatie I and my sade spous for his iuteres is content and consentis that thir presentis be renewit in maist ampill forme, quhilk we ohleiss ws and our foirsaidis to

performe sa oft as we salbe requyrit, and that thir presentis be registrat in the bnkis of counsall or commissarie buikis of Drumfreis, and the decret of the loirdis or commissar of Drumfreis interponit thairto, and letters and executoriallis to pas thairupon in forme as efferis ; and for registring heiroff makis and constitutis

and ilk ane of thame, coniunctle and seuerallie, our procuratouris, to compeir befor the sadis loirdis or commissar, and consent to the registratioun ; promittentes de rato. In wites heiroff, we haue snbscrynit thir presentis with our handis at the Lochwod, the xxiii day of December, the year of God I^m v^c foure scoir sevin yeris, befor thir witness, James Twedie of Drummelzear, Robert Johnnestoun, persoun of Lochmaben, Robert Johnnestoun, his sone, Johnne Carutherris in Kyrkwod, Dauid Mayne, notar publict.

*Elizabeth Johnstone
Lady apillgarthe zonnar*

Robert Jhonstoun, wtnes.

ALEXANDER JARDING, yonger of Apilgirthe.

Robert Johnston, yunger, wtnes.

Da^d. Mayn, noter and vitnes.

55. ASSURANCE by JAMES DOUGLAS of Drumlanrig to JAMES JOHNSTONE of that Ilk.
27th Augst 1588.

BE IT KEND till all men be thir present letters, I, James Douglas of Drumlanrig, for myself and takand the burding on me for my kin, freyndis, tennentis, seruandis, Bellis, Carles, thair partie and partakeris, alsweill Inglismen as Scottismen, and all vtheris that I may lat, to haif assurit, and be the tenour heirof specialie and expreslie assureis James Johnnestoun of that Ilk, his kin, freyndis, tenentis, seruandis, Eduard Irving of Bonschaw, his kin, freyndis, seruandis, thair partie and pertakeris, alsweill Inglismen as Scottismen, to be vnhurt, vnharkeit, vnmolestit, trublit, or in ony wyis persewit or inuidit be me or my foirsaidis for quhatsumeuir caus, actioun or occasioun bygane, preceeding the dait heirof vnto the fourtene day of September nixtocum inclusie ; promittand to obserue and caus this present assurance to be obseruit and keipit vniolatit or brokin on our part vnder the pane of perjurie, infamie and tynsell of perpetuall credeit and estimatioun in tymes cuming ; and heirto I bind and oblis me for myself and takand the burding on me for my foirsaidis in the suirest maner. In wites qnhaif I haif subscryueit this present assnrance with my hand, at the Ros, the tuentie

sevin day of August, the yeir of God I^m v^c fourscoir ancht yeris, befor thir witnessis, Mr. Robert Douglas, provest of Lynclouden, Samuell Someruell, his seruand, William Douglas of Blacket, and Robert Bannatine, notar publict, my seruandis.

J. DRUMLANRIG.

56. LIST by JAMES DOUGLAS of Drumlanrig of offences against his tenants committed by persons of the name of Johnstone in the years 1587 and 1588. [c. 1589.]

Thir ar ane pairt of the faillis committit be the persounis vnderwrittin the tyme of the assuranceis tane betuix me and yow in the yeiris of God lxxxvij and lxxxvij.

IT IS OF VERITIE that Will Johnnestoun in Bus, Eduerd Johnnestoun the Bruill, George Johnnestoun, son to Mungo of Lokarbie, tuik fra Johme Clerk of Mvsald and his bairnes ten ky and oxiu, with the haill insicht of his hous, extending to xl merkis.

And siclyke, the saidis persounis tuik fra Thome Diksoun in Mvsald twa oxin and ane kow, and insicht worthe xx lib, and this was done about the secund day of September 1587.

It is of veritie that Nicoll Johnnestoun of Milne, Joke Johnnestoun, sone to Ringane of Finglen, Symmie Johnnestoun in Dunvuddie, sone to Mertene of Kirkhill, with their compliceis, come to the Ovir Garvell and reft fra Joke Hunter ane kow, vij scheip, and insicht worth xx merkis, and this was done about the vij of September 1588 yeiris.

It is of veritie that Adie Johnnestoun, callit Merteinis Adie, Symmie and Thome Johnnestouns, his brethir, with their complices, come to the toun of Durisdeir and thair reft and away tuik fra Willie Willsoun and Eduerd Wilsoun thrie ky with calf, ane younge kow and ane young oxe, quhilk was done about the xxx of August 1588.

It is of verietie that Joke Johnnestoun in Sanchtries, Thome and Symmie Johnnestounis, his brethir, come to the Mekleholme and thair reft fra Joke Mvnsie twa ky, xv scheip, and insicht worth xl merkis.

It is of veritie that Ringane Johnnestoun of Castelhill, Joke Johnnestoun of the Hill, come to the landis of Dalphebill to Joke Brettenis, and thair hochit twa ky, and thaireftir oppinit thame, tuik out thair puddingis, laid thame on thair horss and careit thame away ; and sicklyke reft fra the said Bretten twa horss worth xxx pund and insicht worth xl lib, and this was done about the secund of December lxxxvij yeiris.

It is of veritie that Edwerd Johnnestoun in the Quaeis, with his complices, come to the Ovir Garvell and thair reft fra Johnne Rogersounis wyfe twa ky, xx scheip, and insicht worthe xx merkis, about the xxvij of November 1587.

It is of veritie that Merteneis Thome and his brothir Symmie, with thair compliceis, come to Dallphebill and thair reft fra Will Haistie his hail insight, extending to xx lib, about the tent of September 1588.

It is off veritie that Thome Johnnestoun callit Merteneis Thome, with Symmie his brothir, come to the Mekleholme and thair reft fra Thome Mathousoun ane kow, to the taikin thay draiff hir throw Annand at the Kirkfuird of Johnnestoun, about the fyft day of September 1588.

It is of veritie that Symmie Johnnestoun, Joke Johnnestoun of Kirkhill, Willie his brother, Gawie Johnnestoun, brother to the said Symmie, sonnes to Thome a Finglen, Syme Johnnestoun, sonne to Ringane a Finglen, Joke Johnnestoun, his brother, Petir Johnnestoun in Molein, come to the Kirkland of Mortoun and thair reft fra Thome Dobbie xvij ky and oxin, ane gray naige worthe xx lib, and insight worthe xx lib, about the fourt day of December 1587.

It is of veritie that George Johnnestoun, [sone] to Mvngo of Lokarbie, Mvngo Johnnestoun of Castellhill, Joke Johnnestoun thair, Willie Johnnestoun in Myrheid, Gibbeis Joke, Johnnestoun of Schaw, with thair compliceis, come to the landis of Mvsald and thair reft fra William Brattoun of Brokethirst foure kye and oxin, twa naigis, ane gray and aue vther blak, and insight worthe xx lib. And this saidis persounis and thair complices within thrie nichtis thaireftir reft and awaytuik fra the said William Bratten thrie ky and ane naig. And this was donie about the sevint and allevint dayis of December 1587.

J. DRUMLANGRIG.

57. CLAIM made by JAMES JOHNSTONE of that Ilk, against JOHN, LORD MAXWELL, for burning Lochwood, and other spoliation. [c. March 1590.]

Thir ar the aclames that I, James Johnstone of that Ilk, askis and clames off Jhone, Lord Maxwell (for a part) to be decernit aud discussit be yow, gude men arbitouris.

ITEM in the first, that quhair it is of verrittie that Robert Maxwell, brother naturall to Jhone, Lord Maxwell, and wmquhill Mr. David Maxwell, with thair complices, Engless and Scottis rebellis, to the number of sax scoir personis, came to the place of the Louchtwood wpone the saxt day of Appryle, or therby, in the yeir of God four scoir four yeiris [1585] and thair in thair pretendit mauer tressonable brint the place, mantion, and hail hous thairof, with the hail insyecht thairin, bedding, plenesching, and brint and distroyit my chartour kist with my hail evedentis and wreittis, besyd wther jowellis, committit wnder silence of nycht be the command and spetiall directioun of the said Jhoue, Lord Maxwell, and be his hunding, sending aud command, etc.

Secundle, it is of verretie and to rateffe this formar interprysse the said Lord Maxwell him sellff, in proper persone, wpone xv and xvj dayis of May, in the yeir of God foirsaid, with his haill forceis come to my barony of Jhonstoun and wtheris rowmes of my freindis, seruandis and dependaris, and thair brint, slew, herreit, sackit my haill barony, landis, rowmes and possessiounis within Anerdaill and Neidisdail, and his said forceis reft and away tuik, beand baith Engless men and Scottis, thair haill quick guiddis, thair insyecht and planesching in greit quantite, besyd the waisting of my haill heland rowmes this fyve yeir bigane; my haill skaith extending abone a hunder thousand merk at thir tymes abone speceffit, quhilk I craiff to be repairit for the present.



58. COMMISSION by KING JAMES THE SIXTH to SIR JAMES JOHNSTONE of Dunskeillie, knight, as Justiciar and Bailie in the bounds of Annandale and Nithsdale. 10th June 1590.

JACOBUS Dei gracia Rex Scotorum, omnibus probis hominibus suis ad quos presentes litere peruenerint, salutem. Sciatis, quia fecimus, constituimus et ordinauimus ac tenore presentium facimus, constituimus et ordinamus dilectum nostrum dominum Jacobum Jhonestoun de Dunskeillie, militem, nostrum in hac parte iusticiarium et ballium ad effectum subscriptum; dando, concedendo et committendo dicto domino Jacobo nostram plenam potestatem ac mandatum speciale, curias iusticiarie et balliatus infra bondas vallis Annandie et Nythisdaill, apud quamcunque partem vel locum earundem, statuendi, affirmandi, affigendi, tenendi et continuandi, super omnes personas cognominis de Jhonestoun, et omnes alios suos consanguineos, amicos, vassallos, seruitores, tenentes, dependentes et inhabitantes infra dicti domini Jacobi terras, balliatus, assedationes, predia et possessiones vbicunque infra regnum nostrum jacent; sectas vocari faciendi, absentes amerchiandi, transgressores et malefactores secundum huius nostri regni leges puniendi; et ad hunc effectum assisam quamlibet personam sub pena decem librarum minime suspectam et veritatem optime intelligentem, summoniri causandi, deputatos sub ipso, cum clericis, sariandis, adiudicatoribus et omnibus aliis officiariis et curie membris necessariis creandi, substituendi et ordinandi, pro quibus respondere tenebitur; exitus, amerchiamenta et escaetas dictarum curiarum, ac etiam dictorum transgressorum

quibus conuinci contigerit leuandi et accipiendi, et pro eiusdem, si opus fuerit, namandi et distringendi, ynam dimidietatem earundem nostro vsui inducendi ac computum inde in scaccario nostro faciendi, ac alteram dimidietatem vsui dicti domini Jacobi applicandi; eximendo tenore presentium omnes et singulas prenominatas personas cognominis et qualitatatum perprius specialiter expressatorum ab omni comparentia coram senescallo nostro vallis Anuandie suisque deputatis, pro quacunque actione vel causa criminali seu ciuili, respectu lethalis odii stantis irreconsiliati inter dictum nostrum senescallum vallis Annandie, suos amicos, consanguineos et participes ac dependentes, et dictum dominum Jacobum, suos amicos, consanguineos, deperdentes et participes, secuudum formam et tenorem decreti exemptionis eacirca in fauorem quondam domini Joannis Jhonestoun, patris dicti domini Jacobi, per dominos sessionis coucessi (dicto domino Jacobo omni-modo nobis pro integris prenominatis personis secundum suum pactum respondente) et quandocunque ad hunc effectum requisitus seu mandatus fuerit; et generaliter omnia alia et singula faciendi, dicendi, gereudi et exercendi, que in premissis et circa ea necessaria fuerint, seu quomodolibet oportuna: Firmum atque stabile habentes et habituri totum et quicquid dictus dominus Jacobus iusticiarius et balliuus autedictus, suiue deputati et officarii, pro executione iusticie circa premissa rite duxerit seu duxerint faciendum; his nostris literis commissionis durantibus uostra voluntate et semper et quousque dictus dominus Jacobus per nos expresse inhibetur. Quare mandamus omnibus et singulis vicecomitibus, senescallis, balliuis, prepositis, senioribus et balliuis burgorum, comitibus, dominis, baronibus, generosis, liberetenentibus et aliis uostris liegiis et subditis quibuscunque infra predictas bondas, quatenus dicto nostro iusticiario et balliuo in hac parte prenominato in executione presentis nostre commissionis prompte pareant, obediant, concurrent et assistant, sub omni pena quam erga nostram regiam committere poterint maiestatem. Datum sub testimonio nostri magni sigilli, apud Halyrudehous, decimo die mensis Junii, auno Domini millesimo quingentesimo nonagesimo, et regni nostri vicesimo tertio.

Per signaturam mauu supremi domini nostri regis subscriptam.

59. BOND OF RELIEF by the JOHNSTONES of Millbank and Auchiuslock to SIR JAMES JOHNSTONE of Duuskellie, in respect of his bond for them to the king and parliament. 3d November 1590.

BE IT KEND till all meu be this present letter, we, the personis vnder subseryveand, for our sellffis as priucipallis of our brench aud takand the burdein ou ws for sic as we ar oblist for, quahais names salbe speciale gevin in roll. Forsamekle it is of verretie that Schir James Jhonestoun of Duuskelle, knycht, and Robert Duglass of Coschogill ar actit, coniuunctle and seuerle, cautionaris for ws, that we and our foirsaidis sall relieff

the king and his wardenis for all attemptatis committit or to be committit, and that we salbe presentit to justice and satesfe parteis skaithit according to the act of parliament maid thairanent ; and our said cheiff and his successouris is oblist to keipe the said Robert Duglas skaithles, and of all pane and danger he may sustein thairthrow. And for releiff of our said cheiff, his successoris and cautioneris, we, our airis and successouris, ar bound and oblist, as be the tennour heiroff bindis and oblissis ws and eueri ane of ws to freith and releiff and keipe skaithles the said Schir James, and his foirsaidis, and of all pane and danger that thai may fortoun to sustene be the said act of cautionre or act of parliament maid anent the Bordouris for ony attemptattis committit or to be committit be ws or ony of our foirsaidis, and sall satesfe parteis offendit to, conforme to the saidis actis ; and for fullfilling, keiping and obseruyng of this present band we ar content and consentis the samen be actit and regestratt in the buikis of consall, and to haiff the strenth of ane decreit with executoriallis to pas thairvpon in forme as effeiris, and for consenting heirto makis and constituttis thame or ony of thame, our procutouris, to compeir in our names to consent to the regestring of the samyn, with power to thame or ony of thame, etc. In witnes of this our present band we hayf subscriyvit the sam with our handis as followis at Dunwiddegrene, the thrid day of November, yeir of God 1590, befor witnessis, James Jhonistoun of Brekensyd, David Jhonistoun in Gubhill, Matte Jhonistoun, his brother, Andro Jhonistoun, elder of Lokerbe, and Thomas Scott, notar, with wtheris diuerse.

WILLE JHONISTOUN, sone to Paitti in Milbank,
 DAVID JHONISTOUN, JHONE JHONISTOUN, brether
 and sonnys to Cirste, WILLE JHONISTOUN, sone
 to Ald Dave of Milbank, PATTIE JHONSTOUN
 in Auchinslok, for our sellfis as principallis of
 our brenchis, with our handis at the pen becaus
 we can nocht wryte. CIRSTE JHONSTOUN in
 Auchinslock with my hand at the pen.

Ita est THOMAS SCOTT, notarius publicus, de mandato
 dictarum personarum, scribere nescientium, teste
 manu propria.¹ T. SCOTT.

Indorsed : Watterheidis bande.

¹ A similar bond was granted ou 10th November 1590 by John Johnstone, Symon Johnstone, and Gawin Johnstone, brother and sonnys to Thomas Johnstone of Fingland. [Original bond in Annandale Charter-chest.]

60. EXTRACT ACT of the Warden Court of the West Marches in favour of JAMES JOHNSTONE of that Ilk to poind for relief of his cautionries. 16th November 1590.

Curia Justiciarie supremi domini nostri regis tenta et inchoata in pretorio burgi de Drumfreis, xvi^{to} die mensis Novembris 1590, per honorabilem virum, dominum Johannem Carmichaell de eodem, militem, justiciarium et guardianum dicti supremi domini nostri regis infra omnes bondas mercharum occidentalium huius regni versus Angliam; sectis vocatis, curia affirmata.

THE QUHILK DAY James Johnnestoun of that Ilk requyrit act that he had presentit befor my loird vardane and justice his men ou pennell, and discesentit to the replageing socht be my Loird of Mortoun as stewart of Anuanderdaill; and sielyk the said James Johnnestoun of that Ilk requyrit act that the juge ordanit and allowit him to poind thame for the dowbill of all that he beis caution for vpoun his freindis, in cais the principall releiff hym nocht within xxi dayis. Lyik as the said James Johnnestoun of that Ilk protestit that he aud his serwandis mycht haue actione of releiff of sic guidis as thay war decernit to pay being innocent, aganis quhatsumever persoue or pertie culpabill of the stowth of the samyn; and thairvpon askit actis and iustrumentis of the samyn, quhilk the juge admittit. Extractum

A. MILLAR.

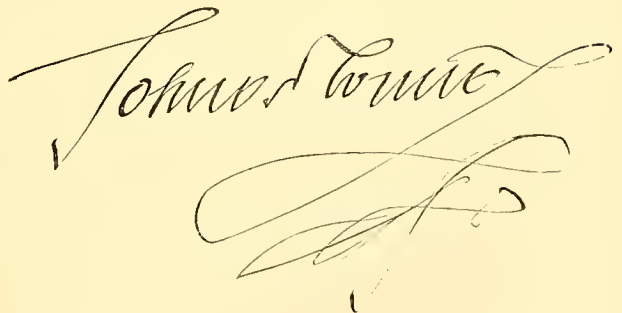
61. AGREEMENT between JOHN MAXWELL, EARL OF MORTON, and SIR JAMES JOHNSTONE of Dunskillie, knight, for mutual amity. 13th Mareh 1592-3.

AT DRUMFREIS, the threttine day of Marche, the yeir of God I^m v^c fourescoir twell yeris, it is finallie agreit betuix the rycht noble and potent loird, Johnne, Erle of Mortoun, Loird Maxwell, etc., for himself and takand burding on him for his haill kin, freindis, men, tenentis, seruandis, pairtie and pairtakerris on the ane pairt, aud the rycht honorable Schir James Johnnestoun of Dulskillie, knycht, for him self and takand burdiug ou him for his haill kin, freindis, men, tenentis, seruandis, depeuderris, pairtie and pairtakerris on the vther pairt, in maner following:—That is to say, the said noble loird and the sade Schir James for thame selfis, and takand burding on thame as said is, faythfullie be the fayth and trewith in thair bodyis bindis and obleissis thame and thair foirsaidis that thai nor nane of thame, nor thair foirsaidis, sall trafficque, assuir or agrie with Schir James Dowglas of Drumlaugrig, knycht, his kin, freindis, men, tenentis, seruandis, dependerris, pairtie and pairtakerris, without the

speciall advyis, counsall and cousent of the vther had thairto, and that bayth thair assurance and agriement with the said Schir James Dowglas salbe done ou ane day. And in caice ony of the foirsaidis pairties or thair foirsaidis sall happin to haue actioun of law agaus the foirsaid Schir James, his kin, freindis, men, tenentis, seruandis, pairtie, pairtakerris and dependerris, the saidis pairteis bindis and obleissis thame faythfullie and thair foirsaidis, ilk ane of thame, to concur, fortifie aud assist vtheris aganis the said Schir James Dowglas and his foirsaidis to the vttermaist of thair poverris, alsweill in obtewing decreit or decreittis aganis him and his foirsaidis, as in putting of the samyn to dew executioun. And geif in the executioun of the saidis decreit or decreittis the saidis pairteis or thair foirsaidis, or the saide Schir James Dowglas or ony of his foirsaidis, sall happin to be hurt, mutilat or slaine, the saidis pairteis in that caice faythfullie promeissis and obleissis thame, ilk ane of thame, and thair foirsaidis, to concur, fortifie and assist vtheris to the vttermaist of thair poverris aganis the saide Schir James Dowglas and his foirsaidis, aud sall tak ane vprycht efald and trew part with vtheris quhill the said feid be agreit or reconcelit ; and heirto bayth the saidis pairteis bindis and obleissis thame faythfullie to obserue, keip and fulfill the premissis to vtheris vnder the paine of defamatioun, periurie and tinsall of perpetuall credit, honour and estimatioun in tyme cuming. In wituess heiroff the saidis pairteis hes subscryuit thir presentis with thair handis, day, moneth, yeir and place foirsaidis, befor thir witnessis, Robert Maxwell of Castelmilk, George Carutheris of Holmendis, Mungo Jhonestoun of Lochirb[ie], and James Jhonestoun of Kyrktoun. with vtheris diuers.



HOLLEMENDS.
MUNGO JHONSTOUN.



R. MAXWELL, wittnes.
JAMES JHONESTOUN.

62. BOND OF MANRENT by HERBERT IRVING of Turnshaw and JOHN IRVING of Luce to SIR JAMES JOHNSTONE of that Ilk. 7th August 1593.

BE IT KEND till all me be thir present vrittiuguis, vs, Herbert Irrving of Turnschaw and Johuue Irrving of Luce, be the tenuour heirof grants ws to becumit men aud manretht to aue ryecht houorabill man, Schir James Johunestoun of that Ilk, knyecht, of Donskelly; quhairfoir biudis and obleceis ws and ilk ane of vs faythfully, lelylie and treuly, to serue the said Schir James as our speciall guid maister, aud as me and faythfull servandis aucht and suld serfe thair maister, iu all his actionis, causis, questionis, querrellis and debatis, he iustantle hes or iu tym to cum is abill to haif, contrarie all me levand or de may, the kiugis hienes and our landis lordis allanerlie exceptit, quhensoeur we be varnit to his seruice, on horse or ou fuit, as tym requiris or vtherviis gif it cumis be ouy haistie accident; aud heirto bindis and obleceis ws and ilk ane of vs to fulfill aud performe this our band and promes vuder the hieast repreif that efter maye follow, be this our band of manretht subscriuit with our handis as follouis, at the Lochwod, the sevint day of August, yeir of God ane thousand fyf hundreth fourscoir aud thretteiu yeris, befor thir vitues, Andro Johunstoun, persoun of Tyunergart, Andro Johnstouu in Lokirbe, and Criste Carrutheris in Dormont, with vtheris diuerse.

HERBERT IRVING, } With our handis at the pen led be David Mayne, utoar,
 JON. IRVING, } of our command becaus we culd nocht vrit.

Cristie Carruyiris, witues.

Andro Johnstouu, psone of, wittues.

63. BAILBOND by AYMER MAXWELL of Carnsalloch, and others, to SIR JAMES JOHNSTONE of Dunskillie, to re-enter themselves as prisoners. 10th December 1593.

BE IT KEND to all men be this present letter, we, Amer Maxwell of Garuselloch, George Maxwell of Druucoutren, Williame Maxwell of Tinwald, younger, Johnie Maxwell of Porterrak, and Mungo Maxwell thair, in respect that we ar tain pryssonneris be Schir James Joustoun of Dowskelly, knyecht, and borrowit our selfis vpon our awiu bandis, quhairfoir we and every ane of ws bindis aud oblissis vs be the faith of our bodyis, aud lykwayis vnder the pane of tressouu, that we sall enter our selfis in the same forme we ar releiffit vnto in the hous of the Lochwod, the aucht day of Januare, and thair remain quhill lauchfull entry be tain of vs be the said Schir James; and in the meantyme we sall nather, be our selfis, nor our moyen nor cousall, trowbill the said Schir James uor nane of his partie, ciuillie uor crimiuallie; and heirto we bind our selfis to keip the heidis of thir premissis without ony exceptioun that can be alledget in the

contrair, vuder the pane of mensueiring, periurie, oppin tressoun, tinsell of perpetuall honestie and credeit for ever. At the Lochwod, the tent day of December, the yeir of God ane thousand fyve hundreth fourscoir threttein yeiris; witnis our awin hand wryttis,

WILLIAMAXUELL, for my self and for Homeir
Maxwell of Carnesello^t.

GEORGE MAXWELL of Drūcollteran.

JHONE MAXWELL of M^cquhainrick.

MUNGO MAXVELL of Kyrkland.

64. PROPOSALS by SIR JAMES JOHNSTONE of Duuskellie for a friendly agreement with
LORD MAXWELL. 30th June 1594.

FORSAMEKILL as I, Schir James Johnstoun of that Ilk and of Donskelly, knycht, considerand Godis glory and kingis maiestyis quyetnes and the commoun welth of this contre, persauand ane grit trouhill to fall out in respect of the last vnhappy and vngodly wark that fell out betuix the Lord Maxwell and his freindis aud pertakeris and me and my freindis and pertakeris, the quhilk I tak God to witnisse and all guid men, how that trouhill com on me iu consideratioun of the grit skaithis of fyris, heirschipis and slauchteris, done he the foirsaid lord and his pertakeris vpon my vnuquhill father and our freindis, the quhilkis skaithis and displesouris wes his deith. Nocht-theles God knawis I had dispensit and buryit thai materis iu my hart, and to verryfie that had maid ane hartly agrement with the foirsaid lord, and thocht never to call to compt sic thingis done of hefoir, as oure handis and haudwrytis heiris in effect. Nocht-theles, it is nocht vnkawin how he maid ane vther priuat hand for the wraik of me and my freindis, and throw thir occassiounis it is thocht that it salbe and is alreddy the breking of the Borderis to the grit wraik of all trew men and innoceut pepill in thir pertis: And for the awoyding of the samyn I am content to gif in hand and mak sic securitie as wyse men and freindis can dewyse, that I nor nane of my perty nor pertakeris that enterit with me iu that last troubill sall do ony skaith in the taking of ony trew menis guidis or ony of thair pertakeris that enterit with the said lord iu the last troubill; prowdeaud that I may haue the lyke securitie to me and my pertakeris fra this tyme furth. And as anentis the perticuller deidly feidis, let that be vssit as the pertyis pleiss, and that in the taking of men and horse as thai may be had; and let all men keip fra the danger thairof as thai hest may. And gif it happinis that ony of my perty or pertakeris ehancis vnwittingly or rakesly to get ony vther guidis and geir that pertenis to ony that hecht Maxwell, or thair perty or pertakeris, that I sall redress the samen agaue within four dayis efter it be maid knawin to me and tryit; As lykeways I to haue the samyn and my freindis and pertakeris. And gif your wisdomis

thinkis this guid, let ane schort day be appointit quhair naturrall guid men may meit for performance of the samen, twa for yow and twa for me : And gif ye cannot allow of this guid ordour, I haue keipit ane copy of the samen, in cais that wer fall out heir-efter vpon your refuissand, I will causs it to be presentit befor his maiestie and the kirk, quhairthrow I sall tak God to witnisse of my innocency, and sall do as I haue done of befor, lein vpon Godis releiff in my lauchfull defence. Subscrywit with my hand at the Lochwod, the last of Junij, the yeir of God I^m v^c lxxxxiiij yeir, befor thir witnesses, the Laird of Wamfray, Mr. Alexander Meinzeis of Carterhallis, John Liude-say, with vtheris diuerse.

JOHNSTONE.

65. PRECEPT by KING JAMES THE SIXTH, directing a remission to be made out in favour of SIR JAMES JOHNSTONE of Dunsquhille, for the slaughter of John, Lord Maxwell. [24th December 1594.]

OURE SOUERANE LORD,—Off his maiesties speciall grace, fauour and mercie, ordanis ane letter of respute to be maid vnder his hienes previe seill in dew forme to his maiesties loutis, Schir James Johnstoun of Dunsquhille, knight, for airt and part of the tressonabill slauchter of vmquhile Johnne, Lord Maxwell, lieutenant of the Wast Merches of this realme for the tyme, and haifand speciall commissioun of his maiestie of the said office of lieutenandrie, and of

kyne, freindis, asistaris and perttaikeris with the said vmquhile Johnne, Lord Maxwell, for the tyme, and for mutilation and demembering of all and quhatsumeur persone or persones being in his companie, vnder his charge and command for the tyme, committit be the said Schir James and vtheris persones particulierlie abone nominat and thair complices, vpoun the saxt day of December last bypast, the yeir of God I^m v^c four scoir threttene yeiris, and for all actioun that may follow thairvpoun, pane, cryme and offence, that may be impute to thame or ony of thame thairthrow in tyme cumming ; and for all vtheris actiounes, crymes and offences quhatsumeur committit be thame or ony of thame at ony tyme bygane preceding the day and dait heirof, and for all pane and penaltie that may follow thairvpoun or be impute to thame or ony of thame ony maner of wayes thairthrow in tyme cumming, and that for the space of yeiris to continew and indure nixt efter the day and dait of thir presentis : And forder, that the said letter be extendit in the best forme, with extensione of all claussis neidfull. Subscryuit be our said souerane lord

at the day of the yeir of God I^m v^c four-
scoir yeiris. JAMES R.

S. ROBERT MELUILL.

66. BOND OF SERVICE by EDWARD IRVING of Stableton, and others of his name, to
SIR JAMES JOHNSTONE of Dunskillie. 26th March 1596.

BE IT KEND till all men be this our present band of seruyce maid be ws to the rycht honorable Schir Jamis Jhonestoun of that Ilk, knycht of Dalskellie, be ws, Edward Irving of Stabiltoun, Jayffra Irving of the Coiff abowf Dulskellie, George Irving of Woddes, Jamis Irving of Clencheidis, Chirstie Irving of Allerbek and Willie Irving callit Wille Dand, for ws, our seruandis and tennentis that duellis vpone our landis, to serue the said Schir Jamis aganis all deidlie, the kingis maiestie being exceptit, when we ar chargeit be him ; and to gewe him our counsall in cais he crawe it for his weill and standing ; and bindis and oblesis ws be the tenour heiroff for our selffis, our men, tennentis and seruandis, to ansuer to him at all tymis when we ar requyrit be him, and to hald him harmeles at the kyngis maiesties hand and his hyenes offiseris of Scotland and also weill annent England, be this onr present band of seruyce maid to his maisterschip, vnder the pane of defamatioun and tynsell of perpetuall credit for ewer to ws. And for the mair verificatioun of this our band of seruyce, we haue causit subserywe the same in our nameis at our commandis becans we culd nocht wrett our selffis. Wrettin at Bounschaw, the xxvj day of Marche, the yeir of God a thowsand fywe hundereth fourschoir sextene yeris, befor thir witnes, Mungo Jhonestoun of Lockarbie, George Jhonestoun, William Jhonnstonns, his sonnes, James Jhonnstonn, Rigfuttis, Robert Grahame alias Huchonis Robsonis Robe, Edward Irving of Bonnschaw, Ryche Irving alias Jokis Ryche, Thomas Reidpeth, Arche Boyid in Drumfreis.
JOFFRAY IRVING.

We, the saidis George Irving of Voddis, Jamis Irving of Cleucheidis, Villiam Irving alias Wille Dand, with our handis at the pen led be the notar vndervrittin at our commandis. Ita est David Millair, notarius publicus, mandato predictarum personarum scribere nescientium premissis requisitus, manu propria.

I, Edward Irving of Stabiltoun, with my hand at the pen led be the notar vndervrittin, at Stabiltoun, the x day of Apryll 1596 yeris, witnes heirto, Geordeis Chirstie Grahame, John Irving, Gribtounes Johnis Geordie. Ita est David Millair, notarius publicus, mandato predicti Edwardi scribere nescientis, manu propria.

67. COMMISSION by KING JAMES THE SIXTH to SIR JAMES JOHNSTONE of DunsKellie, as Warden and Justiciar of the West Marches. 28th July 1596.

JACOBUS Dei gratia rex Scotorum, omnibus probis hominibus suis ad quos presentes litere peruenerint, salutem. Sciatis quia nos nostrique secreti consilii domini, intelligentes presentem perturbatum statum limitum regni nostri, tendentem tam periculo publice pacis inter duo regna stantis quam extreme depredationi et oppressioni nostrorum pacificorum et bonorum subditorum, et ut videtur in vltiorem disordinem quotidie increscere, si disobedientia et insolentia populi extraordinariorum auctorum istius irregularitatis et enormitatum non supprimitur, vnde bona pax et amicitia cum Anglia, justicie executione, debiteque reparationis secundum pactum confectione et receptione obseruari et incertim poterit, et nostri proprii subditi, inhabitantes patrias finitimas prefatis limitibus nostri regni, saluo suarum vite et bonorum viuere poterint : Ac nos dictique domini intelligentes bonam affectionem dilecti nostri domini Jacobi Johnnestoun de DunsKellie, militis, quam habet nobis inseruire, suamque bonam experientiam in officio guardiani et justiciarie Occidentalium Merchiarum regni nostri versus Angliam administrare ; igitur fecimus, constituimus et ordinauimus, ac tenore presentium facimus, constituimus et ordinamus dictum dominum Jacobum Johnnestoun nostrum guardianum et justiciarium infra integras bondas Occidentalium Merchiarum regni nostri versus Angliam, videlicet, infra integras bondas Vallis Annandie, Eskdaill, Ewisdaill, Nithisdaill et Galloway, tam supra quam subtus aquam de Crie ; damusque eidem officium eiusdem cum omnibus honoribus, dignitatibus, feodis, commoditatibus, casualitatibus et deuoriis eidem pertinentibus vsitatis et consuetis : Dando, concedendo et committendo dicto nostro guardiano et justiciario nostram plenam potestatem et mandatum speciale guardionatus et justiciarie curias infra bondas prescriptas statuendi, inchoandi, affigendi, affirmandi, tenendi et continuandi ; sectas vocari facicudi, absentes amerchiandi, exitus amerchiamenta et escaetas dictarum curiarum petendi, leuandi et exitandi, et pro eisdem si opus fuerit namandi et distringendi suoque proprio vsui applicandi ; diesque treugarum cum guardiano opposite merchie Anglie suisue deputatis vel subcustodibus, pro reparatione capienda et danda, secundum pactum et laudabilem ordinem perprius obseruatum statuendi et custodiendi ; omnes et singulos inhabitantes infra dictum guardionatum cum eos requiret et expediens illi videbitur pro custodia conuentionum, dierumque treugarum vel pro prosequutione, captione, apprehensione et punitione furum, raptorum et malefactorum mandandi et requirendi, ad concurrentum equitandam ac cum dicto guardiano exeundum ad dictos dies treugarum vel alias prout occasio ministrabitur pro consultatione super bono ordine ac patrie quietate ; statuta, acta, ordinancias et proclamaciones desuper faciendi, delinquentes aliosque transgressores

infra dictas bondas perscrutandi, querendi, capiendi, apprehendendi et puniendi facto, vel alias secundum qualitatem suarum offensarum; assisas vnam siue plures patrie, toties quoties opus fuerit, quamlibet personam sub pena quadraginta librarum summoniendi, premoniendi, eligendi et jurari causandi; deputatos sub ipso in dicto officio guardionatus et justiciarie, cum clericis, seriandis, adiudicatoribus et omnibus aliis officiariis et membris curie necessariis faciendi, creandi, substituendi et ordinandi, pro quibus respondere tenebitur; escaetas talium qualium non sunt heredes terrarum infra dictas bondas ad mortem justificatorum pro dictis criminibus capiendi et leuandi suoque proprio vsui applicandi; escaetas omnium personarum infra dictas bondas, dominis terrarum existentibus, qui conuicti fuerint et ad mortem iustificati, intromittendi et leuandi, vnam dimedietatem earundem nostro vsui inducendi ac computum eiusdem in scaccario nostro inde faciendi, alteramque dimedietatem suo proprio vsui applicandi, et si opus fuerit pro eisdem namandi et distringendi; omnes personas infra dictas bondas sub lethali odio commorantes mandandi ad dandum et capiendum assecurantiam, ac de omnibus aliis personis cautionem vel pignora prout illi magis videbitur expediens pro patrie vtilitate et quietate recipiendi. Cum potestate etiam dicto nostro guardiano et justiciario agendi, laborandi, tractandi et intercommunicandi cum omnibus exlegibus lie outlawis, fugitiuis et rebellibus, inhabitantibus infra bondas dicti guardionatus pro eorundem in obedientiam reductione et de lesionibus et damnis per eos commissis reparationis fieri causatione. Et si in furum, spoliatorum et malefactorum prosecutione, interfectio, mutilatio, ignis, incendium vel alia inconuenientia quecumque sequi contigerit, volumus et concedimus, ac pro nobis et successoribus nostris decernimus et declaramus, quod eodem vti crimen nec offensum dicto nostro guardiano, suis deputatis nec personis eosdem assistentibus in executionem presentis nostre commissionis non imputabuntur, nec illi nec eorum aliquis pro eisdem criminaliter nec ciuilliter quoquomodo tempore futuro vocabuntur nec accusabuntur, non obstantibus quibuscunque actis, statutis siue constitutionibus in contrarium confectis vel conficiendis, circa que per presentes dispensamus: Inhibendo interim omnes alias commissiones guardionatus et justiciarie infra predictum guardionatum quocunque tempore preterito concessas; et generaliter omnia alia et singula faciendi, dicendi, gerendi et exercendi, que in premissis et circa ea necessaria fuerint seu quomodolibet oportuna. Firmum atque stabile habentes et habituri totum et quicquid dictus noster guardianus et justiciarius sui que deputati in premissis rite duxerint faciendum. Quare vniuersis et singulis quorum interest vel interesse poterit stricte precipimus et mandamus quatenus dicto nostro guardiano et justiciario suisque deputatis officiariis et ministris, in omnibus et singulis premissa tangentibus, prompte pareant, respondeant et intendant, sub omni pena quam erga nostram regiam in hac parte incurrere poterit maiestatem; hiis nostris literis commissionis pro spatio vnius anni et vltius durante nostra voluntate ac semper

et quousque eedem expresse per nos inhibite forent duraturis. In cuius rei testimonium presentibus magnum sigillum nostrum apponi precepimus, apud Falkland, vicesimo octauo die mensis Julij, anno domini millesimo quingentesimo nonagesimo sexto et regni nostri anno vicesimo nono.

Per signaturam manibus supremi domini nostri regis ac dominorum commissionariorum subscriptam.

68. BOND OF ASSURANCE by SIR JAMES DOUGLAS of Drumlanrig, and others, in favour of SIR JAMES JOHNSTONE of Dunskeillie, EDWARD IRVING of Bonshaw, and others. 29th November 1597.

BE IT KEND till all men be thir presentis, we, the personis vnderwrittin, ilkane of ws for oure selfis and takand the burding on ws for our kin, freindis, men, tennentis, seruandis, assisters, dependers and partakers, and all vtheris quhom we may stop or lett, videlicet, Schir James Douglas of Drumlangrig, knycht, Robert Dalzell, younger of that Ilk, Maister Robert Crichtoun, younger of Carco, sheref-depute of Drumfreis, William Creichtoun of Librie, at command of our souerane lord to haue assurit, and be the tennour heirof assuris Schir James Johnnstoun of Dunskeillie, knycht, Edward Irwing of Boneschaw, William Irwing of Kirkconnell, Irwing, his sone, Mongo Johnnstoun of Locarbe, William Johnnstoun, my sone, callit the constable, Cristie Carruthers of Dormond, Andro Johnnstoun of Locarbe, Andro Johnnstoun, persoun of Tonnergarth, Martene Johnnstoun of Myreheid, Thom Johnnstoun of Finglen, Symon Johnnstoun, Thoms Sym of Finglen, Dand Johnnstoun of Brigmuir, Johnne Johnnstoun of Cartertoun, Johnne Johnnstoun of Howgill, Johnne Johnnstoun of Kirkhill, Johnne Johnnstoun in Staywod, Johnn Armstrang in Langholm, Cristie Armstrang in Barngleis, Richard Irwing in Starkheuch, and ilkane of thame, thair kin, freindis, men, tennentis, seruandis, assisters, dependers and partakers, to be vnhurt, vnharmit, vnmolestit, troublit or ony wyse invadit or persewit, for quhatsumeuir cryme, cause or occasioun, vnto the first day of Januar in the yeir of God 1598 yeris: Promittand to obserue and caus thir presentis be obseruit and kept vnviolat in ony point, vnder the pane of periurie, infame, and tinsale of perpetuall honour, credite and estimation, in time cuming. In witnes quhairof we haue sub[scriuit thir] presentis with our handes as followis, at Drumfreis, the xxix day of Nouember, the yeir of God I^m v^c foure score sevintein yeris, befor thir witnessis. Prouiding that the laird of Drumlangrigis partie aduersaris abone writtin gif and subscriue the like assurance to the said laird of Drumlangrig and vtheris abone writtin, vtherwyis this assurance to

be na assurance quhill thai resaiff the samin subscriuit ather be tham selfis or be notaris iu thair names.

R. CREICHTOUN.

WILLIAME of Libr.¹

J. DRUMLANGRIG.

DALZELL, youngar.

69. ASSURANCE by SIR JAMES JOHNSTONE of Duns-kellie to SIR JAMES DOUGLAS of Drumlanrig and his friends. 4th September 1598. Notarial Copy.

BE IT KEND till all men be thir present letters, me, Schir James Johnestoun of Duns-kellie, knicht, for myself and takand the burding vpoun me for my hail kin, freyndis, men, teunentis, seruandis, assistaris, dependeris and partakeris, and all vtheris quhom I may stop or let, at command of my lord lieutenant, and for keping of gude reull in the cuntrie, to be bundin and oblist, and be the tennour heiroff bindis and oblissis me and my foirsaidis to my said lord lieutenant, that Schir James Douglas of Drumlangrig, knicht, his kiu, freyndis, men, tennentis, seruandis, assistaris, dependeris and partakeris (except the Bellis and Cairlellis and thair partakeris), sall be in suir suirtie and assurance, and salbe vnhurt, vnlarmit, molestit, trubillit, invadit, or persewit be me or my foirsaidis, for quhatsumeur caus, cryme or offens vtherwyis nor be order of justice, vnto the first day off October nixt to cum; promittand to caus thir presentis be obseruit vuder the pane of periurie, infame and perpetuall tinsall of honour, credite and estimatioun in tym cuming; and gif ony breik fall out, quhilk God forbid, it salbe tryit befor my said lord lieutenant; be thir presentis subscriuit with my hand, at Douglas, the fourt day off September, the yeir of God I^m v^c lxxxxviij yeris, befor thir witnessis, David Douglas in Glaspen, William Bannatine of Corhous, and Robert Phillope, notar.

This is ane trew copy of the assurance abone writtin, quhilk I, the notar vndir-writtin, affermes.

Ita est ROBERTUS PHILLOPE, notarius publicus in premissis, manu propria.

70. BOND OF ASSURANCE by SIR JAMES DOUGLAS of Drumlanrig to SIR JAMES JOHNSTONE of Duns-kellie. 18th November 1599.

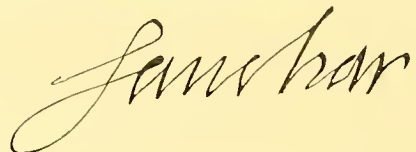
BE IT KEND till all men be thir present letters, me, Schir James Douglas of Drumlangrig, knyght, for my self and takand the burding vpoun me for my kin, freindis, men, teunentis, seruandis, assistaris, dependeris, parttakaris and all vtheris quhom I may

¹ The document also bears the signature of "Jhone Armestrang of Hob," but it has been partially effaced, as it ought properly to be attached to the counter assurance provided for in the last clause of the writ.

stop or latt, at command and for obedience of our souerane lordis charge, to haue assuirit and be the tennour heirop specialie and expreslie assuiris Schir James Johnstoun of Dnnskellie, knyecht, his kin, freindis, men, tennentis, seruandis, assisteris, dependeris and parttakaris, to be vnhurt, vnharmit, vnmolestit, tronblit, invadit or in ony wise persewit be me or myne forsaidis for quahatsnmenir caus, querrell, cryme or offens, vtherwise nor be ordour of law and iustice, vnto the first day of Januare nixtocum. Promitting to obserue and caus thir presentis be obseruit and keipit vnviolat in ony point vnder the pane of periurie, infamy and tinsall of perpetuall credдите, honnour and estimatioun, in tyme cuming. In witnes quhairof, I, for my self and takand the burding vpoun me, as said is, hes subscryuit thir presentis with my hand, at Edinburgh, the anchtene day of November, the yeir of God I^m v^c lxxx nyntene yeir, befoir thir witnessis, Robert, Lord Creichtonn of Sanquhar, William Douglas, seruitour to the said Schir James, and Alexander Douglas, maiser. J. DRUMLANRIG.

71. BOND OF ASSURANCE by ROBERT, LORD CRICHTON of Sanquhar, to SIR JAMES JOHNSTONE of Dunskeillie. 18th November 1599.

BE IT KEND till all men be thir present letters, me, Robert, Lord Creychtoun of Sanquhar, for myself and takand the burding vpoun me for my kin, freindis, men, tennentis, seruandis, assisteris, dependeris and parttakaris, and all vtheris quhom I may stop or latt, at command and for obedience of our sonerane lordis charge, to haue assuirit, and be the tennour heirop specialie and expreslie assuiris, Schir James Johnstoun of Dunskeillie, knyecht, his kin, freindis, men, tennentis, seruandis, assisteris, depeuderis and parttakaris, to be vnhurt, vnharmit, vnmolestit, troublit, invadit or in ony wise persewit be me or myne forsaidis for quahatsnmeuir caus, querrell, cryme or offens, vtherways nor be ordour of law and iustice, vnto the first day of Januare nixtocum ; promitting to obserue and cans thir presentis be obseruit and keipit vnviolat in ony point, vnder the pane of perinrie, infamy and tinsall of perpetuall credдите, honnour and estimatioun in tyme cuming. In witnes quhairof, I, for my self and takand the burding vpoun me, as said is, hes subscryuit thir presentis with my hand, at Edinburgh, the auchtyne day of November, the yeir of God I^m v^c lxxx nyntene yeiris, befoir thir witnessis, William Dowglas, sernitour to the Laird of Drumlangrige, Alexander Douglas, maiser, and Schir James Douglas of Drumlangrige, knyecht.



Note on margin : " Assurance J. Prymrois."

72. EXTRACT ACT OF PRIVY COUNCIL of the obligation of SIR JAMES DOUGLAS of Drumlaurig and SIR JAMES JOHNSTONE of Dunskeillie, to maintain good rule in their districts. 20th November 1599.

Apud Halyruidhouse, vicesimo die mensis Nouembris, anno Domini I^m v^c nonagesimo nono.

THE QUHILK DAY, in presens of the kingis maiestie and lordis of secrete counsale, comperit personalie Schir James Donglas of Drumlangrig, knycht, and Schir James Johnstoun of Dunskeillie, knycht, and band and obleist thame selffis, thair landis, heritagis, levingis, housis, guidis and geir, that they be thame selffis and all sic personis as they ar obleist to ansuer for be the generall band, lawis of this realme and actis of parliament, sall obserue his maiesties peace and keip gude rule and quietnes in the cuntrie, and that they sall redres and satisfie parties skaithit be the entrie of the personis offendouris to be pvneist according to justice, and failyeing thairof to satisfie and redres the billis, and to put and hald thame of thair grund ; and siclike that they nor nane that they ar obleist to ansuer for sall not resset within thair bonndis ony avowit thevis and fugitives, nor the guidis and geir reft and tane be thame fra his hienes subiectis, vnder the pane to be ansnerable and comptable for the said resset efter triall thairof, and to be subiect to the lyke actioun, criminall and ciuile, for the same as for making of the said redres conforme to the actis of parliament and generall band. *Sic subscribitur*, DRUMLANRIG, JOHNSTOUN. Extractum de libro Actorum Secreti Consilii supremi domini nostri regis, penes Hybernie, Insularum ac Marciarum regni ordinem, per me Willelmum Wylie, clericum, eiusdem libri custodem, sub meis signo et subscriptione manualibus. WILLELMUS WYLIE.

73. MINUTE of the WARDEN COURT of LORD HERRIES for the clearing of the Laird of Applegirth and others respecting the slaughter of John Johnstone in Fingland. 1st July 1600.

At Kirkmiehell, the first of July 1600.

THE QUHILK DAY it is thocht guid be the rycht honourable William, Lord Herys, warden of the West Marches, Schir James Dowglas of Drumlangrig, knycht, Thomas Kirkpatrik of Cloisburne, James Murray, apperand of Cokpuill, and Johne Carrutheris of Holmendis, that the Larde of Apilgirthe and his freindis sall acquyit thame selffis according to the rid set doun be the Larde of Johnstonn and his freindis for the slaughter of vmquhile Johne Johnstoun in Fingland, or for ony vther Johnstoun that hes beue slane, fra the tyme of the Larde of Johnstonis entering into warde to the same nycht

the said slauchter was committit, thir personis except, Sanders Niuiane, Gcordie of Kynmontis Cristie, Hectors Wille Armestrang of the Gingillis, Robie Grame of Langrigis, Abraham Johnstoun in Brume, and the Coulehumis, in respect the saidis personis ar fugitiuis and rebellis to our souereae lord, and the maist part of thame vnder deidlie feid with the larde of Apilgirthe. And forder, anentis the generall appointtit in the rid for ony Johnstonis that is vnslane, we find that the saidis parteis sall gif and tak acquittences at the sycht of four freindis, and to amend and repaire all brekis that can be tryit done be ather partie to vtheris during the tyme of the assouerance. As alsua findis guid that thair be ane new assouerance tanc amangis the parteis, during the quhilk tyme the brekis may be tryit and ameidit. And in respect my Lord Sanchar and James Johnstoun ar furthe of the realme, that thare purgatiouu in wryit salbe sufficient, and this we testifie the Larde of Johnstoun and his freindis may with credite resawe, be resoun we wald accept the lyik our selfis in sic caussis. In witnes quhairof we have subseryvit this present with our hands, day and place foirsaid.

HERYS.

J. DRUMLANGRIG.

JAMES MURRAY, Zouger of Cokpuill.

CLOSBURN.

JOHNE CARRUTHERIS, L. of Holmendis.

74. BOND OF ASSURANCE by EDWARD MAXWELL of Tiuwald, and his sons, in favour of SIR JAMES JOHNSTONE of Dunskeillie and his friends. 4th August 1600.

BE IT KEND till all men be thir preseat letters, ws, Edward Maxwell of Tynwall, Harbert, Edward and John Maxwellis, his sones, for our selfis and takand the burding vpouu ws for our kin, freindis, men, tennentis, seruandis, assistaris, dependaris and pertakeris, and all vtheris quhome we may stop or lat, at command and for obedience of our souerane lordis letters, to haue assuirit and be the tennour heirof specialie and expreslie assuiris Schir James Johnstone of Dunskeillie, knycht, his kin, freindis, men, tennentis, seruandis, assistaris, dependaris and pertakeris, to be vnhurt, vnharmed, vnmolestit, troublit, inuidit or in onywyse persewit be ws or our foirsaidis for quhatsumeuir caus, querrell, cryme and offence, vtherwyse nor be ordour of law and justice, vnto the first day of July, in the yeir of God I^m vj^c and ane yeir, vndir the pane of periurie, infamy and tinsale of perpetuall credдите, honour and estimatioun in tyme cuming. In witnes quhairof we for our selfis and takand the burding vpouu ws, as said is, hes subseryuit thir presentis with our handis, at Drumfreis, the fourt day of August, the yeir of God I^m vj^c yeiris, befor thir wituess, Herbert Cunyngham, notar,

wryter of the dait and witnessis of this [present w]rite, Walter Grhame, brother to the laird of Reidkirk, Nicoll Newall, messinger . . . Sandersoun in Corbellie, and Nicoll Dicksoun in Scheringtoun.

EDWARD MAXWELL of Tinwell.

EDWARD MAXWELL, yoner. HERBERT MAXWELL.

I, the said John Maxwell, sone to the laird Tinwell, with my hand at the pen led be the notar vnderwrittin at my command, becaus I can nocht wryte.

Ita est HERBERTUS CUNYNGHAME, notarius, mandato dicti
Joannis Maxwell, scrihere nescientis vt assernit.

NICOLL DYKSSON, vitness. ROBERT CUNYNGHAME, wites.

Note on margin “ Assurance J. Prymrois.”

75. COMMISSION by KING JAMES THE SIXTH to SIR JAMES JOHNSTONE of Dunsbellie, Warden of the West Marches, for the plantation of certain parish churches in Annandale. 19th October 1602.

Apud Drumfreis, decimo nono Octohris 1602.

THE KINGIS MAESTIE and lordis of his secrete counsall, considering how that ane of the cheif and principall caussis quhilk proccris the frequent bludis, stouthis, reiffis and vtheris insolenceis to he committit within the boundis of this West Marche, to the offence and displeasour of God, contempt of his maisteis auctoritie, and to the particular wrak and hurt of grit nowmeris of his hienes peceable and gnid subiectis, hes proceidit fra the want of the preicheing of the word and exercise of the trew religioun within the saidis boundis, swa that na small nowmer of personis for laik of knowlege and instructioun hes rwe louse to all kynd of villanie and mischeif, heing voide of the feir and knowlege of God, and consequentlie of that dew reuerence and obedience quhilk thay aucht to his maestie and lawis : And seing the decay and rwyne of the kirkis within the saidis honndis hes bene a grit latt and impediment to the preiching and exercise of the word ; and his maestie being cairfull, as becommeth him in conscience and honour, to hane the preicheing and exercise of the trew religioun and ministratioun of the sacramentis establisched within the saidis houndis, that thairhy peace, justice and quyetnes may in some measour and degrie tak place within the same, and the formar lousnes and vnquyetnes decay, his maestie for this effect, with anyse of the lordis of secrete counsall, hes resoluut, concludit and ordanit, that the particular parochie kirkis vnderwrittin, thay ar to say, Lochmaben, Dryisdell, Wamfray, Hoddum, Apilgirth, Moussell, Lockarbie, Mortoun, Ruvell, Torthorrell, Sillebie and Middilbie, salbe reedefeit and biggit vp be the parochinaris of the saidis

kirkis betnix and the first day of October nixtcome : And to the effect that the resolutioun and ordinance may tak full effect and executioun, his maiestie hes recommendit the same to Schir James Johnestoun of Dunsckellie, knyecht, wardane of the said West Marche, being the speciall man of powar, credit and auctoritie within the saidis boundis, commanding him as he wilbe ansuerable to his maiestie vpoun the dewtie of his office, to conuene the hail parochynaris of the particular kirkis abonewrittin at sic particular dayis and placeis as he sall appoint to that effect, and to lay to thair charge the reparatioun and reedeifeing of the saidis kirkis, and to vrge and move thame to condisceid and agrie to the payment of the chairgis and expensis to be bestowit thairvpoun, and to nominat and chuse stentouris within euerie parochine to stent thair nychtbouris, and the saidis stentouris haueing acceptit vpoun thame that charge and a stent roll within euerie parochine being maid and sett doun be thame, his maiestie ordanis letters to be direct chargeing the hail parochinaris within the saidis parochinis, to mak payment of that sowme that thay and ilkane of thame are stentit to, to the persouis quhatsumeuir quhilkis salbe appointit collectouris within euerie parochine to ressaue the same within ten dayis nixt efter the charge, vnder the pane of rebellioun and putting of thame to the horue, and gif thay failzie thairin, the said space being bipast, to denunce thame rebellis, etc., and to escheit, etc. *Extractum de libris actorum secreti consilii supremi domini nostri regis, per me, Jacobum Prymrois, clericum eiusdem deputatum, sub meis signo et subscriptione manualibus.*

JACOBUS PRYMROIS.

76. LETTERS OF GIFT by KING JAMES THE SIXTH, bestowing on SIR JAMES JOHNSTONE, Warden of the West Marches, the escheat goods of persous who failed to attend the "dayis of trew." 26th October 1602.

JAMES, be the grace of God king of Scottis, to all and sindrie our liegis and subiectis quhome it effeiris, to quhais knanlege thir oure letters sall come, greting. Witt ye ws, with auise and consent of our trnsty and weilbelouit counsallour, Sir George Home of Spott, knicht, our thesaurair, to haue givin, grautit and disponit, and be the teunour heirof gevis, grantis and disponis to our weilbelouit Sir James Johnnestoun of Dunsckellie, knicht, wardane of the West Marche of our realme, his airis and assignayis ane or ma, the escheit guidis and geir, mouable and vnmouable, of all and quhatsumeuir personis, inhabitantis within the boundis of the said wardanrie, quhilkis hes alreddie or sall remane and byde at hame fra the dayis of trew to be keipit be him with his opposite in tyme comeing during the tyme of his office ; with pouer to our said wardane and his foirsaidis to intromett with the said escheit, vse and dispone thairvpoun at his

pleasour : And to the effect this our gift and dispositioun may be effectuell to the said Sir James, our wardane, and that a ordinair forme of tryall, proces and convictioun salbe vsed aganis the saidis persouis quha sall remaue fra the saidis dayis of trew, quhairthrow thair saidis escheitis may lauchfullie fall afoir the said Sir James intromet with the same, we haue maid and constitute, and be the tennour heirof makis and constitutis the said Sir James our iustice iu that parte to the effect vnderwrittin : Gevand, grantand aud coumittand to him our full pouer and commissioun, expres bidding and charge, be his awne preceptis, to warne all and sindrie personis quha hes or sall remane fra the saidis dayis of trew within the boundis abonwrittin, to compeir befor him at sic tymes and placeis as he sall appoint, to vnderly the law for the said cryme ; and in cais of thair refusall to compeir, with pouer to him to serche, seik aud tak thame quhaireuir thay may be apprehendit, and to keip thame quhill iustice be ministrat vpon thame conforme to the lawis of our realme ; and for this effect justice courtis to sett, begin, affix, hald and continew, suitis to mak be callit, absentis to amerchiat, vulawis, amerchiamendis and escheitis of the saidis courtis to ask, lift and raise, and for the same giff neid beis to poind and distrenzie, and iu the same courte or courtis the said personis to call, be dittay to accuse, and thame to the knaulege of ane assise to putt, and as they salhappin to be found culpable or innocent of thair remaning [fra the saidis dayis of trew] . . . proceed to minister iustice aganis thame as accordis. The e . . . of the said cryme bet . . . or be fugitiue . . . in maner abonewrittin, and to his awne vse to apply . . . that best knawis the veritie iu the said matter, ilk persone [vnder the] pane of fourty pundis, [to sum]mond, warne, cheis and caus be sworne ; clarkis, seriandis and all vtheris officeris . . . of courte neidfull to mak, creat, substitute aud ordane, for quhome our said wardaue sall [be held] to ansuer ; aud generallie all and sindrie vtheris thingis to do, exerce and vse, quhilkis of law or [cousetude] of our realme ar kuawine to pertene. Ferme and stable halding, and for to hald, all aud quhatsumeuir thingis salbe lauchfullie doue heirin. This our commissioun, gift and dispositioun during [the tyme] of the said Sir James office of wardanrie, but reuocatioun to indure. Gevin vnder our signet aud subscriuit with our hand, at Peblis, the xxvj day of October and of our regne the xxxvj yeir, 1602.

JAMES R.

Sr G. HOWME, the^r.

77. BOND OF MANRENT by FRANCIS ARMSTRONG of Kinmont to SIR JAMES JOHNSTONE of that Ilk. 6th February 1603.

BE IT KEND to all men be this present band that I, Francie Armstrang alias Kynmont, bindis and oblis me and my airis to serue the rycht honourabill Schir James John-

stoun of that Ilk, knyght, and his airis, againes all men, the kinges maieste allanerlie being except, in all actiounes the said Schir James hes presentle ado or sall have in tyme cuming ; and for the quhilk caus I, the said Schir James, bindis and oblis me, my airis, to menteiue and debait the said France Armstrang and his airis in all thair actiounis leiffull and honest ; and for the mair suir keeping heirop I, the said France, bindis and oblis me and my foirsaidis to keip and furthfill thir presentis, and to be faithfull and vprycht to the said Schir James and his foirsaidis, vnder the pane of periurrie, opin tressone and tynsell of perpetuall credit and honestie for ever ; And siclyk I, the said Schir James, bindis and oblis me to keip this present band vnder the panes foirsaid for my part ; and gewe neid beis baitht I, the foirsaid Schir James, and France Armstrang, bindis and oblis ws, as is foirsaid, to renew this band sua oft as is neidfull. In witnes of the quhilk we hawe subscryuit thir presentis witht our handis, at Lokerbe, the sex of Feberuiry, ane thousand sex honder thrie yeiris, beffoir thir witnessis, Watter Scott of Tuschalaw, Patrik Porteous of Halkschaw, William Johnston, sone to Mongo of Lokerbe, James Johnstoun, noter and vryter of the samin.

JOHNSTOUNE.

I, FRANC ARMSTRANG foirsaid, witht my hand
at the pen led be James Johnstoun, noter,
at my command, because I could nocht vryt
my selff.

Patrik Portwse off Halkschaw, witnes.
Willyam Jhonstou, witnes.

I, WATER SCOTT of Tuschalaw foirsaid, witnes,
with my hand at the pen led be James
Johnstoun, noter, at my command, etc.

James Johnstoun, noter, witnes.

78. NOTARIAL INSTRUMENT narrating the removal of Elizabeth Stewart, Lady Newbie, from the Tower of Newbie, and her discharge to the Laird of Johnstone. 2d January 1605.

At Newbie, the second day of Januar 1605.

THE QUHILK DAY, Elizabet Stewart, Lady Neube, hes vpon her avin motywe vill remouit hir selff, hir barnis, guidis and geir, with kestis and insyght, furth of the towir of Neube into the leuche hall, quhilk sche allegit to be seasit intill, and na geir left in the towir except tua chaple beddis in the heche hall and fywe staud beddis in the heche chambers, without ony furnesing, togidder with aue counter burd, ane garneell in the leuche seller without ony victuell, and hes promiseit to be countable for hir fywe youngest dochters to the Lard Johnnestoun ; lykas he hes oblist himselff to be ansurable to the counsaill bayth for the hous and the barnis : And siclyke hes grantit the Lard Johnnestoun, his freyndis and seruandis, hes intromittit with na geir that

appertenit to her vmquhile husband and her, except sum fodder and elding. Quhairvpon the said Lard Johnstoun requirit of us, uotaris vndervrittin, notis and instrumentis, befoir thir witnes, James Murray, younger of Cokpuill, Schir David Murray, his brother, Jhon Carrutheris, youngare of Holmendis, Johne Johnstoun of Graituay, Robert Johnstoun, youngare of Wamphray, Jhon M^cBirney, sone to Doctour M^cBirney, Thomas Grahame, seruitour to the young laird Cokpuill, David Miller, and James Jhonstoun, notaris.

Ita est DAVID MILLER, uotarius publicus, iu premissis requisitus manu propria.

JAMES M^cRAY, yoŋgar of Cokpull, witnes.

Ita est JACOBUS JOHNSTOUN, connotarius in premissis requisitus, teste manu propria.

Robert Johnstoun, witnes.

Johne Carrutheris, witnes.

Johne M^cBirnic, yung', witnes.

Jhon Jhonstoun of Grtney, wytnes.

79. OBLIGATION by WILLIAM BELL of Blakethouse and JAMES IRVING of Cleuchhead to SIR JAMES JOHNSTONE of that Ilk, on behalf of a person for whom they were security. 13th January 1605.

I, WILLIAM BELL in Blakethouse, and James Irving of Cleucheidis, grantis ws to haue borrowit fra the richt honourable Sir James Johustoun of that Ilk, knycht, of Duuskelly, Jhone Gowane, servand to Geordie of Kinmouth, the quhilk Johne we bind and obleis ws coniunctlie and seueralie to enter and presente him to the said Sir James quheneuir it sall pleis him to put vpoun ws or ony ane of ws for the entrie of him, and that vpoun fyftene dayis warning, and that vnder the sowme of ane thowsand merkis; quhilk sowme we be thir presentis bindis and obleiss ws, our airis, executouris and assignais, to pay to the said Sir James in caise of failzie of the eutrie of the said Johne Gowane, and gif neid beis that letters be directit heirypon in forme as effeiris. In witnes of the quhilkis (thir presentis wrettin be Robert Scott, messenger) we haue subscriuit the samin with our handis, as followis, at the Lochwod, the threttene day of Januar 1605, befoir thir witness, Alexander Jardane of Apilgirth, Mr. Johne Hoome, leutenant-clerk, Thomas Scott, messenger, and the said Robert Scott.

WILLIAM BELL.

I, JAMES IRVING, foirsaid, with my hand at the pen led be James Johnstoun, uoter, at my command.

T. Scott, messenger, witnes. Ro. Scott, messing., witness. Apylgryth, witnes.

80. WARRANT for the relief of SIR JAMES JOHNSTONE of Dunskeillie from his ward in Edinburgh. March 1605.

THE LORDIS of secrete counsall freithis and relevis Sir James Johnestonn of Dunskeillie, knycht, furth of his presentt waired within his ludgeing hous in Edinburgh, qnhairin he wes commandit to remane, and grantis him libertie and licence to repair in quahatsm-muer part of the cuntrey he pleisis for doing of his lesome effairis without pane or danger to be incnrrit be him in his body or guidis, notwithstanding the command and directioun gevin to him for his remaning in warde, as said is; quhairnent thir presenttis salbe his warrand; snbscryuit be the said lordis at Edinburgh, the day of Marche 1605.

AL. CANCELL^s.

J. BALMERINOth.

81. LETTER OF SLAINS by JOHN, LORD MAXWELL, to SIR JAMES JOHNSTONE of Dunskeillie, for the slaughter of John, Lord Maxwell, his father. 11th June 1605.

AT EDINBURGH, the twenty fyve day of Junii, the yeir of God ane thowsand sax hundreth and fyve yeiris. The quhilk day, in presence of the lordis of secrete counsall comperit personallie maister Lawrence Makgill, aduocat, as procuratour for Johne, Lord Maxwell, and gaif in the letter of slanes vnderwrittin, desyring the same to be insert and registrat in the buikis of secrete counsall ad futram rei memoriam: quhilk desyre the saidis lordis thocht ressonable, and hes thairfoir ordanit and ordanis the same letter to be insert and registrat in thair saidis buikis ad futuram rei memoriam, and hes interponit and interponis thair auctoritie thairto: off the quhilk the tennour followis:—BE IT KEND till all men be thir presentt letteris, me, Johne, Lord Maxwell, for my self and takand the burding vpoun me for all sic personis for quhome I am obleist to ansuer be the lawis of this realme, actis of parliament and general band, and all vtheris quhome I may stope or latt, at the speciall command of the kingis maiestie, my gracious sonerane, and for performance of my promeis maid to the lordis of his maiesteis most honorable previe counsall, to have frelie remittit and forgevin, and be the tennour heirof frelie and frome my harte of deliberat purpos remittis and forgevis all haitrent, rancour, malice, grudge and querrell, invy and evill will, quhilk I or my foirsaidis had, hes or may hane aganis Schir James Johnestoun of Dunskeillie, knycht, his kin, freindis, men, tennentis, servandis, assistaris, dependaris and pairttakeris for the slauchter of vmquhile Johne, Lord Maxwell, my father, and for all vtheris slauchteris, mutillationis and insolenceis quhilkis ensewit and followed thairvpoun, and all actiomm,

criminal and civil, quhilkis may result thairvpoun. Lyke as I for my selff, and takand the burding vpoun me, as said is, haue acceptit, and be thir presenttis acceptis, the said Schir James and his forsaidis in hartlie love and favour, as gif the saidis slauchteris had never fallin oute. And for the mair securitie I am content and consentis that thir presenttis be actit and registrat in the buikis of his maiesteis secrete counsall, thair to remain ad futuram rei memoriam: And for registring heirop constitutis Master Lawrence McGill, aduocat, my procuratour, etc. In witnes quhairof, I, for my selff and takand the burding vpoun me, as said is, haue subseryuit thir presenttis with my hand, at Edinburgh, the elleuint day of Junii, the yeir of God I^m vj^c and fyve yeiris, befor thir witnessis, Johne, Erle of Montrois, lord commissionar, Alexander, Erle of Dumfermling, lord heich chancellor, George, Marques of Huntley, Francis, Erle of Erroll, George, Erle Marschell, Johne, Erle of Mar, Alexander, Erle of Linlythgow, Lord Glamis, Lord Lindsay, James, Lord of Balmerinloch, Androw, Lord Stewart of Vehltrie, Dauid, Lord of Scone, Maister George Gladstanes, archibischope of Sanctandros, Johne, archibischope of Glasgow, Dauid, bischope of Ros, Peter, bischope of Dunkeld, Walter, pryour of Blantyre, Johne, commendatar of Haliruidhous, Schir Richard Cokburne, lord previe seill, Schir Johne Cokburne of Ormestoun, lord justice clerk, Schir Thomas Hammiltoun of Bynny, lord aduocat, with dyuers vtheris of the lordis of his maiesteis previe couisall. *Sic subscribitur*, MAXUELL. Extractum de libris actorum secreti consilii supremi domini nostri regis per me, Jacobum Prymrois, clericum eiusdem, sub meis siguo et subscriptione manualibus. JACOBUS PRYMROIS.

82. DECREE OF THE PRIVY COUNCIL exonerating SIR JAMES JOHNSTONE of Dunszellie from a complaint by JOHN, LORD MAXWELL, about presenting of Cristie Armstrong. 25th June 1605.

AT EDINBURGH, the twenty-fyve day of Junii, the yeir of God I^m sax hundreth and fyve yeiris, anent the terme assignit be the lordis of secrete counsall to Schir James Johnestoun of Dunszellie, knyght, with his awne consent, to haue enterit and presentit Cristie Arnestrang of Barnegleis befor the saidis lordis this present day, videlicet, the twenty-fyve day of Junii instant, to haue ansuerit to the complaint maid vpoun him be Johne, Lord Maxwell, tuicheing the said Cristtie comeing to the said lordis landis of Dalduran in the moneth of Marche last, stryking of his plewmen, putting of his pleuch af the ground, hurting of ane of his plewmen vpoun the face, cutting of his sekis and scattering of his cornes athorte the feildis, quhairby the said lord allegit ane brek of ane assurance aganis the said laird of Johnestoun, as the act maid thairvpoun of the date the elleuint day of Junii instant beris. Quhilk being callit, and the said Schir

James Johnestoun comperand personallie, quha for obedience and satisfioun of the said act presentit and enterit befor the saidis lordis the said Cristie Armestrang of Barnegleis, and the said Johne, Lord Maxwell, comperand be Harbert Maxwell of Cavence, his procuratour, quha gave in iu write befor the saidis lordis ane particular note bearing the wrang foirsaid committit be the said Cristie, quhairvpoun he allegit ane brek of assurance aganis the said laird of Johnestoun, and the said Cristie being callit and examinat heirvpoun, and the wrang and iniurie foirsaid allegit committit be him being referrit simpliciter to his aith of veritie be the said Harbert, and he being deiple suorne, he declarit be his grit aith, that some of the Lord Maxwellis seruandis being laubourand ane pairt of his landis of Daudurane, quhilk pertenis to him in tak and assedatioun, and quhairof he wes in peceable possessioun, he for mantening of his possessioun come to thame and with a birk wand, quhilk he had in his hand, he chaissit thame and the horse af his groud. Quhilk declaratioun maid be the said Cristie, with vtheris, the ressonis and allegationis of baith the pairteis being hard and considerit be the lordis of secrete counsall, and thay ryplie aduysit thairwith, the lordis of secrete counsall findis, decernis and declaris, that the said Schir James Johnestoun of Duskellie, knycht, hes satisfeit, fulfillit and obeyit the act abone writtin be the entrie and exhibitoun befor thame of the said Cristie Armestrang, as said is, and thairfoir exoneris and relevis the said Schir James of the said act for euer; and in respect of the exhibitoun of the said Cristie, as said is, the saidis lordis ordanis Alexander, Erle of Dumfermling, lord chancellor, in quhais handis the said Johne, Lord Maxwell, consignit the letter of slanes subscryuit be him to the said Schir James Johnestoun and his foirsaidis, to haue remanit in the said lord chancellaris handis quhill the exhibitoun of the said Cristie in maner specefeit in the said act, to delyver the same letter of slanes to the said Schir James Johnestoun to be vsit be him as his awne proper euident and write iu tyme comeing; and siclyk the saidis lordis declaris that the cryme and offence foirsaid allegit committit be the said Cristie Armestrang can na wayis infer a brek of assurance aganis the said Schir James Johnestoun; and thairfoir exoneris and relevis him of the said brek for euer; becaus he hes enterit and presentit the said Cristie befor the saidis lordis to ansuer for his awne deid, not as his man, tennent or seruand, bot for obedience and satisfioun of the act foirsaid. And forder, the saidis lordis remittis the wrang foirsaid allegit committit be the said Cristie to be persewit and tryit aganis him selff befor the iudge competent, as accordis of the law. *Extractum de libris actorum secreti consilii supremi domiui nostri regis per me, Jacobum Prymrois, clericum eiusdem, sub meis signo et subscriptione manualibus.*

JACOBUS PRYMROIS.

83. REMISSION under the great seal, granted by KING JAMES THE SIXTH to SIR JAMES JOHNSTONE of Dunskeillie, and his clan, for various crimes. 28th September 1605.

JACOBUS Dei gratia Rex Magne Britannie, Francie et Hybernie, fideique defensor, omnibus probis hominibus suis ad quos presentes litere peruenerint, salutem. Sciatis quia ex nostris speciali gratia et misericordia remisimus, tenoreque presentium remittimus dilectis nostris domino Jacobo Johnestoun de Duniskellie, militi, Johanni Carmichaell de Medoflat, Roberto Johnestoun de Raecleuch, Simoni Johnestoun, fratri naturali prefati domini Jacobi, Niniano Johnestoun de Powdene, Jacobo Johnestoun, eius fratri, Jacobo Johnestoun de Middilgill, Willelmo Johnestoun de Kellebank, Roberto Johnestoun de Newtoun, Roberto Moffet de Grantoun, Nigello Ewart de Boydisbek, Jacobo Johnestoun de Brekanesyid, Simoni Johnestoun in Wodheid, Johanni Johnestoun de Howgill, Johanni Johnestoun in Kirkhill, Willelmo Johnestoun, eius filio, Willelmo Johnestoun in Kirkholme, Johanni Johnestou in Brumelbank, Johanni Johnestoun in Rikkardrig, Roberto Johnestoun in Kirkhill, Dauidi Johnestoun in Baittok, Gilberto Johnestoun, eius filio, Waltero Johnestoun in Cauldholme, Johanni Johnestoun in Kairtartoun, Dauidi Johnestoun, eius fratri, Willelmo Johuestoun in Quhytecastell, Thome Johnestoun in Fingland, Simoni Johnestoun in Raynishill, Georgio Johnestoun in Studeriggis, Johanni Johnestoun in Tynnergairth, Jacobo Johnestoun in Kirktoun, Andree Johnestoun in Caitkynnis, Willelmo Johnestoun in Melduntar, Cuthberto Johnestoun in Corrilaw, Johanni Johnestoun in Mallinschaw, Willelmo Johnestoun in Haldyikis, Adamo Johnestoun in Neis, Willelmo Johnestoun in Lokirbie, Francisco Johnestoun, eius fratri, Andree Johnestoun in Grenesyik, Dauidi Johnestoun in Brigmure, Johanni Johnestoun, eius fratri, Johanni Johnestoun in Brwmell, Alexandro Johnestoun in Gibhill, Waltero Johnestoun, eius fratri, Eduardo Johnestoun ibidem, Johanni Johnestoun in Land, Cristophero Carutheris de Dormont, Cristie Armstrong in Dardurane, Nicolas Johnnestou in Sauchtreis, Thome Johnestoun in Waterheid, Gavino Johnestoun iu Annandholme, Jacobo Johnestoun in Capilgill, juniore, Jacobo Johnestoun in Breidsholme, Jacobo Johnestoun in Runstauefute, Cuthberto Johnestoun in Halse, Johanni Johnestoun in Hill, Gavino Johnestoun in Middilgill, Willelmo Johnestoun, apparenti de Graitnay, et Symoni Johnestoun in Schawsyde, et eorum vnicique, pro arte et parte combustionis ecclesie de Lochmaben, et pro interfectione quondam Johannis domini Maxwell; necnon remisimus prefato domino Jacobo Johnestoun eo quod carcerem nostrum fregerit et de castello de Edinburgh effugerit et euitauerit; et pro omnibus actione et crimine que inde sequi poterint aut que iis eorumve alicui in personis terris et bonis desuper quouismodo

imputari poterint ; et pro omnibus aliis criminibus, transgressionibus et offensis, per prefatas personas aut eorum aliquem commissis diem date presentium precedentibus (criminibus lese maiestatis in nostram personam, mulierum raptus, adulterationis pecuniæ et magie solummodo exceptis), dummodo partibus conquerentibus et damna passis taliter satisfaciaut vt nullam super hoc de cetero justam queremoniam audiamus ; et supradictas personas sub firma pace et protectione nostra juste suscipientes, firmiter inhihemus ne quis eis eorumve cuilibet occasione predictorum criminum malum, molestiam, iniuriam aut grauamen aliquod inferre presumat iniuste, super nostram plenariam forisfacturam ; aut mortem ipsis eorumve cuilibet inferre presumat, sub pena amissionis vite et membrorum. In cuius rei testimonium has literas nostras remissionis pro tempore vite dictorum domini Jacobi Johnestoun de Dunsfellie, militis, suorumque compliceium duraturas, sub nostro magno sigillo ipsis eorumve cuilibet fieri fecimus patentes ; Apud Quhyteball, vicesimo octauo die mensis Septembris, anno Domini millesimo sexcentesimo quinto ac regnorum nostrorum annis trigesimo nono et tertio. [Portion of great seal appended.]

84. ACT OF CAUTIONRY by SIR JOHN CHARTERIS of Amisfield that John, Lord Herries, should not molest Sir James Johnstone of Dunsfellie. 9th July 1605.

Apud Edinburgh, nono die mensis Julii, anno Domini millesimo sexcentesimo quinto.

THE QUHILK DAY, in presence of the lordis of secrete counsall, comperit personallie Schir Johne Charteris of Amisfeild and become actit and oblcist as cautioner and souertie for Johne, Lord Herreis, that Schir James Johnestoun of Dunsfellie, kuycht, his men, tennentis and servandis, salbe harmeles and skaithles in thair bodyis, landis, takis, possessionis, guidis and geir, and onuawayis to be troublit nor molestit tbairin be the said Johne, Lord Herreis, nor na vtheris of his causiug, seuding, houuding out, command, ressett, assistance and ratihabitioun, qubome he may stope or latt, directlie nor indirectlie, in tyme comeing, vtherwayis nor be ordour of law and iustice, vnder the pane of fyve thowsand pundis, the ane half to the kingis maiestie aud the vther half to the pairtie grevit. And the said Johne, Lord Herreis, being lykwyse personallie presentt, obleist him and his airis to warrand and releif his said cautioner of the premissis. Extractum de libris actorum secreti consilii supremi domiui nostri regis per me, Jacobum Prymrois, clericum eiusdem, sub meis signo et subscriptione manualibus.

JACOBUS PRYMROIS.

85. NOTARIAL INSTRUMENT upon the offer and refusal of the Laird of Johnstone's heirship horse. 22d May 1612.

At the Racleuche, the twenty twa day of Maii, the yeir of God I^m sex hundreth and tuelf yeiris.

THE QUHILK DAY, in presence of me, notar publict vnder-subscrywand, and witnessis speciallie efter mencionat, compeirit personallie Andro Cuninghame, procutour lauffullie constitut be the richt honorabill Dame Sara Maxwell, Lady Johnstoun, youngar, Countes of Wigtoun, and Johne, Erle of [Wigtoun, n]ow hir spouse, for his entres, and past to the personall pres[ence of ane] honourabill man, Robert Johnstoun of Racleuche, tutour to James Johnstoun, [now of tha]t Ilk, and thair presentit ane broun hors with ane quhyte quhilk pertenit to the richt honourabill wmqhile Sir Jam[es Johnstoun] of that Ilk of Donskelly, knicht, the tyme of his deceis, and was his best hors the tyme foirsaid, and now apperteinis to James Johnstoun now of that Ilk, sone lauffull to the said wmqhile Sir James, his tutouris and administratouris, as his airschip hors. Quhilk hors the said Andro Cuninghame, procutour foirsaid, in name and behalf of the rycht honourabill the said Dame Sara Maxwell, Countes of Wigtoun, and the said nobill and potent erle, Johne, Erle of Wigtoun, now hir spous, for his entres, desyreit and requireit the said Robert Johnstoun, tutour of Johnstoun, to ressaue in name and behalf of the said James Johnstoun now of that Ilk, as airschip hors to the said James be deceis of his said wmqhile father, Sir James Johnstoun of that Ilk, of Donskelly, knyght. The quhilk hors the said Robert, tutour of Johnstoun, simpliciter refuseit to ressaue in maner foirsaid; quhairvpoin all and sindrie the premissis the said Andro Cuninghame, procutour foirsaid, askit and requireit actis and instrumentis, ane or ma, in the handis of me, notar publict. This was done at four houris efter none or thairby, day, mon[eth, p]lace and yeir of God foirsaid, in presence of Mongo Johnstoun of Ower [Howc]leuche, William Johnstoun of Nether Howleuche, Andro Reidfurd in Harthoip [and] Coupland, petigog to the said James Johnstoun now of that Ilk, with[essis in the] premissis speciallie askit and requireit.

Ita est JOANNES WAUCHE, notarius publicus in premissis, rogatus et requisitus, teste meis signo et subscriptione manualibus.

J. W.

86. PROMISE by JAMES JOHNSTONE of that Ilk and ROBERT JOHNSTONE of Racleuch to abide by the decision of arbiters. 16th March 1621.

AT EDINBURGH, the saxtein day of Marche, I^m vj^c twentie ane yeiris. The quhilk day, in presens of the lordis of counsall, compeirit personallie James Johnstoun of that Ilk,

togidder with Johne Erle Mar, Walter Erle Bucleugh, Robert Erle Louthiane, James Johnestoun of Westraw, and William Murray of Dunernie, fyve of his curatouris, on the ane pairt, and Robert Johnestoun of Raecleugh, callit tutour of Johnestoun, for himself and takand the burding vpoun him for Robert Johnestoun, sone and apparand air to vmquhil Mungo Johnestoun of Howcleugh, that he sall fulfill the decreit arbitrall to follow vpoun the vnderwrittiiu submission; and baith the saidis pairteis being personalie present, as said is, submittit thame selfis to the amicabill decisiou and sentence of the iudges vnderwrittin, videlicet, Thomas Erle Melrose, David Lord Carnegie, and Sir George Hay of Kinfawnis, knicht, clerk of register, or ony twa of thame, for the pairt of the said James Johnestoun of that Ilk, and Sir William Oliphant of Newtoun, knicht, advocat to our soverane lord, Sir James Skein of Curriehill, knicht, Sir George Erskyne of Innerteill, knicht, or ony twa of thame, for the pairt of the said Robert Johnestoun of Raecleugh, anent all actionis, controversies, questiouns, quarrellis, pleyis and debaitis quhatsumevir, quhilk they or ather of thame layes or may lay to vtheris chairges for ony caus or occasioun quhatsumevir; and speciallie anent the said tutour, his intromissioun with the landis and living of Johnestoune during the said Laird of Johnestounes minoritie, and richt quhilk the saidis James Johnestoun of that Ilk, Robert Johnestoun of Raecleugh and Robert Johnestoun of Howcleugh, or ony of thame, hes or can pretend in and to the landis of Newbie, with the pairtis and pertinentis thair of. And baith the saidis pairteis ar content to stand and abyde at the said amicable sentence and decreit of [the] saidis lordis, to be pronuncit betuix thame in the premissis, betuix the date [heirof] and the fyftein day of Julii nixt to cum iu this instant yeir of God I^m vj^e twentie ane yeiris, but revocation or contradicioun quhatsumevir; and in caice of variance betuix the saidis iudges, the saidis pairteis hes nomiut and chosin the haill remanent lordis of sessioun odismen and ovirsmen for decisiou of the [saidis] converseis. And the saidis sax iudges . . . all personalie present ac[ceptit of the] office [of] arbitouris in and vpoun thame . . . nent . . . of vari[auce appou]tit the saidis [remanent] lordis . . . appoynt to gif in thair mutuall clames, defences . . . and the said Robert Johnestoun of Raecleugh to caus the said [Robert] Johnestoun, his brother sone, for whom he takis burding in maner foirsaid, also [to] compeir personalie in preseus of the saidis lordis, and consent to the said submission betuix and the last of Merche instant . . . the saidis lordis declair that the present acceptatioun in and vpoun thame, or the saidis . . . speciall arbitouris abonementionat, of the said office of arbitrie, is not, nor sall not, furnisich ony lafull declinatour in ony tyme cuming for declyning of thame or ony of thame, gif by deserting of this present submission ony questioun anent the premissis heirefter aryse. The said James Johnestoun of that Ilk and his saidis curatouris compeirand personalie, togidder with Mr. Thomas Nicolsoun, his

preloquoutour, and the said Robert Johnestoun of Raecleugh compeirand also personallie, togidder with Mr. Alexander Peblis and James King, his preloquoutouris, askit instrumentis thairvpoun. Extractum de libro actorum per me, S. W. Scor.

Vltimo Martii 1621. This day the pairteis compeirand be thair procuraturis, the lordis ordanis the tutour yit as of befor to compeir the first of Junii, and alshe his brother sone that same day, to consent and than be reddie for thair mutuall claimes ; and the Laird of Johnestoun personallie present declairit that in caice the lordis decerne in this mater vpoun this submissioun amicable, he sall not obtrude to the tutour of Johnestoun the gift of his escheit to exclude him fra payment of what sall be decernit.

29 June 1621. This day the tutour of Johnestoun past fra this submissioun, and declairit he wald not abyde thairat, and thairfoir the lordis grantis proces and ordanis the pairteis to sie the peices.

18 Decembris 1621. Thir same auditouris nominat againe to meit quhen the lordis pleisis efter the 6 of Januar.

12 Julii 1622. Laird Johnestoun present cum Cunyngham, nominat my lordis Carnegie and Reidhouse. The tutour also present with James Oliphant nominat my lordis Innerteill and Currihill to be auditouris to thair comptis.

87. TESTAMENT of DAME SARA MAXWELL, COUNTESS OF WIGTOWN. 22d April
1628.

WE, DAME SARA MAXWELL, Cowntes of Wigtowne, calling to mynd the certantie of death temporall with the desolucione of our soullis and bodies, with the vncertantie of the speciall tyme and houre thairoff, only knowin to the eternall God ; to the end we may be the more riddie and better preparit to await vpon the saidis dissolucione, we declair our letter will and dispones our warldlie effaires as followis :—

In the first, we mak, constitute and nominatis Dame Elizabeth Johnstowne, Ladie Elistowne, Mistris Sara and Mistris Jane Fleimyngis, our lafull dochteris, our only executouris and vniversall intromettouris with our gudis and geir, to be vplifit be thame [hir] for the releiffe of our debtis, and quhat farther is to thair [hir] vtilitie and proffit to be equallie devydit amongst thame.¹

Item, we live and apoyntis to the Lard of Johnstowne, our sone, as followis, to

¹ This paragraph is altered by partial deletions to make Lady Jane Fleming the only executor.

witt, the sowme of four thowsand merkis quhilk is lyand vpon the Lard of Wamphrais landis, with the charter and seasing thairon.

Mair, we live vnto him the sowme of two thowsand merkis quhilk is lyand vpon the landis of Over Howcleuchis, with the charter and the infetment thairvpon.

Mair, we live vnto him the sowme of ane thousand pundis,¹ quhilk is lyand vpon the landis of Ryhill and Cumtries, with charter and seasing thairvpon.

Mair, we live vnto him the heritabill rycht of the fyve merk land of Thorniquhat, lyand vpon the redemptione of four thousand and sax hundreth merkis to be redemit be him from Johnne Johnstowne, possessor thairrof.

Mair, we live vnto him the heritabill rycht we have to the merk land of Lochsyde.

Mair, we live vnto him the sowme of thrie hundreth merkis quhilk we have lyand vpon the fourtie shilling [land] of Ricketrig, to be redemit from him be Johne Johnstoune or his successouris lauffullie, as the contract will testifie.

Mair, we live vnto him the sowme of two hundreth merkis quhilk is lyand vpon the fyve merk land of Mylvie, to be redeimit from him be Abraham Johnstowne of Broome, as his contract will speciefie.

Item, we live and appoyntis to Mistris Sara Fleimyngis, our dochter, the sowme of thrie thowsand merkis, quhilk is in the handis of Daniell Melvin, wrytter in Edinburghe, and Johnne Hunter, tailyeour and burges thare, to be imployit be thame to hir vtilitie and proffit.

Item, we live and appoyntis to Mistris Jane Fleimyngis, our dochter, the sowme of two thousand merkis quhylk is in the handis of the foresaidis Daniell Melvin and Johnne Hunter, to be imployit be thame to hir vtilitie and proffit.

Item, we live vnto Dame Elizabeth Johnstowne, Ladie Elistowne, one neck cheinze with one belt of gold smyth work, conteinyng the wecht of ten vnce or more, with one peair of braiclettis with two cheinzeis and two lockis all of gold.

Item, we live to Mistris Sara Fleimyng, our dochter, one pair of braiclettis, thrie lockis, and thrie cheinzeis, amongis thame conteinyng four vnce wecht of gold, with one pearleit cheinzie of gold and muise beidis.

Item, we live to Mistris Jane Fleimyng, our dochter, one pair of braiclettis of gold, of cheinze fashione, with one cheinze of quhyte pearle.

In witnessing heirof we have subscrivit this our will (wryttin be Johnne Kennedie, our servitour) at Lochwode, the twentie two day of Apryll, the yeir of God I^m vj^c and twentie aucht yeiris, before thir witnessis, Johnne Phareis and Patrik Murray, and the said Johnne Kennedie, wrytter, our servitouris. SARA, COUNTES OF WIGTOUN.

Jo. Kennedie, witnes and wrytter heirof.

Patrik Murray, witnes.

¹ "Two thowsand merkis" is written above this sum.

88. PATENT by KING CHARLES THE FIRST, creating JAMES JOHNSTONE of that Ilk Lord Johnstone of Lochwood. 20th June 1633.¹

CAROLUS Dei gratia Magnæ Britanniae, Franciæ et Hiberniæ Rex, fideique defensor, omnibus probis hominibus suis ad quos presentes literæ pervenerint, salutem. Sciatis, quia nos memoria nostra recolentes quod apud omnes reges liberosque principes antiqua et laudabili consuetudine invaluerit preferre et evehere titulis et gradibus honoris, dignitatis et præ eminentiæ, ante alios illos quorum digna et insignia servitia bene promeruerunt incrementum regiæ celsitudinis et obedientiæ, ac emolumentum et dignitatem ac honorem eorum regionis et patriæ; et nos animo nostro reputantes quod Jacobus Johnstoun de eodem, ejusque quondam pater et avus ac alii suorum prædecessorum, nobis nostroque quondam charissimo patri et aviæ dignissimæ memoriæ aliisque nostris illustrissimis majoribus, et in regno nostro Scotiæ et Angliæ, multa bona et egregia servitia prestiterunt, et specialiter in diversis commissionibus in mediis limitibus inter dictas regiones, et in adjumento et auxilio per eos præstito et impenso in repressione quorundam rebellium et exlegum in illa parte regni nostri Scotiæ; quæquidem servitia aliquam promerentur tesseram seu signum nostri favoris: Igitur, et ad effectum ut dictus Jacobus Johnstoun sui que hæredes masculi melius animentur et incitentur permanere in præstando huiusmodi bono servitio nobis et successoribus nostris, sicuti etiam exemplo benignitatis nostræ in dictum Jacobum Johnstoun hæredesque suos masculos collatæ, alii nostri probi subditi animentur et incitentur præstare nobis et successoribus nostris huiusmodi bona servitia, fecimus, constituimus, creavimus et inauguravimus, tenoreque præsentium facimus, constituimus, creamus et inauguramus memoratum Jacobum Johnstoun DOMINUM JOHNSTOUN DE LOCHWODE, et dedimus, concessimus et commissimus, tenoreque præsentium damus, concedimus et committimus eidem suisque hæredibus masculis in perpetuum, titulum, honorem, ordinem et gradum dignitatis domini parlamenti; cum omnibus et singulis prærogativis, præ eminentiis, privilegiis, libertatibus et immunitatibus eidem pertinentibus et spectantibus. Quoquidem titulo, honore, ordine et gradu dignitatis præfatum Jacobum hæredesque suos masculos investivimus et nobilitavimus, tenoreque præsentium investimus et nobilitamus omni tempore futuro, dominos Johnstoun de Lochwode nuncupandos et indigitandos: Tenendum et habendum memoratum titulum, honorem, ordinem et gradum dignitatis, cum omnibus et singulis prærogativis, præ eminentiis, privilegiis, libertatibus et immunitatibus eidem pertinentibus et spectantibus, præfato Jacobo Johnstoun et hæredibus suis masculis, de nobis et successoribus nostris, in omnibus et singulis nostris et successorum nostrorum parlamentiis, generalibus conciliis,

¹ Annandale Peerage Minutes of Evidence, 1825, p. 3.

publicis et privatis ordinum conventibus, cum jure, loco et potestate in eisdem suffragia ferendi; et cum omnibus aliis prerogativis, dignitatibus et libertatibus, ad aliquem dominum parlamenti infra dictum regnum nostrum Scotiæ quovis tempore præterito vel futuro pertinentibus vel pertinere valentibus. Mandantes Leoni nostro Regi ab armis suisque fratribus fæcialibus, quatenus additionem signorum et insignium presentibus insignibus dicti Jacobi Johnstoun, sicuti in talibus casibus usitatum est dent et prescribant. Præterea volumus et concedimus ac pro nobis et successoribus nostris decernimus et ordinamus quod hæ presentes nostræ literæ patentes sub nostro magno sigillo expediendæ sunt et erunt adeo validæ, effectuales et sufficientes memorato Jacobo Johnstoun bæredibusque suis masculis prædictis, pro fruitione et gavisione prædictorum tituli, bonoris, ordinis et gradus dignitatis domini parlamenti, cum omnibus et singulis præeminentiis, prærogativis, privilegiis, libertatibus et immunitatibus eidem pertinentibus et spectantibus, ac si dictus Jacobus Johnstoun solenni ritu cum omnibus ceremoniis et solennitatibus more antiquo requisitis inauguratus et investitus fuisset, quo circa nos dispensavimus tenoreque præsentium pro nobis et successoribus nostris dispensamus in hac parte pro perpetuo. In cujus rei testimonium presentibus magnum sigillum nostrum apponi præcipimus, apud Halyrudehous, vigesimo die mensis Junii, anno Domini millesimo sexcentesimo trigesimo tertio et anno regni nostri nono.

Per signaturam manu supremi domini nostri regis superscriptam.¹

89. THE LATTER WILL AND TESTAMENT of JAMES, LORD JOHNSTONE of Lochwood.

17th August 1640.

BE IT KEND to all men be thir present letters, me, James, Lord Johnstoun of Lochwood, forsameikill as I am now, God willing, purposit to go on with the armie whitber-soevir the samin is boun, and albeit I be evir most willing and redy to ze . . . tabernacle of clay what tyme . . . the Lord sall visit me, yit being vncertan wber w . . . or what w . . . the samin tabernacle sa . . . dissolved, to the effeck I being fred and disbur[the]ned of all worldlie effairs and bussines, may encounter death whensoevir at the plesour of God it sall hapin, I making testament and letter will as followis, videlicet : In the first, I recomend my soull to God, assuiring my self of sallvatioun throuch the meritis, deatb and blloodie suffering of Jesus Cbryst, his onlie sone and my onlie saviour. Nixt, I recommend my body to be burieed honorabillie within the

¹ A minute of the Privy Council of Scotland on 22d July 1633 records the formal delivery of the patent to Lord Johnstone. [Extract in Annandale Charter-chest, which

also contains a receipt by three of the "ordiner trumpeters" for fifty merks, as trumpeters' fees on the creation of Lord Johnstone, dated 24th July 1633.]

kirk of Johnstoun, and in caice of my deceis at the pllesour of God befoir my return hame, that the samin be transported the moist convenient way thither ther to be interred. As concerning the nominatioun of my executouris, I mak, nominat and apoint James Johnstoun, my elldest lauffull sone and apeirand air, to be my onlie executour and intrometter ; and be the tennour heirof leives, assignes and dispones to him my hail movabill guds and geir, insicht pllenisching and vthers, allswell deids pairt as any vther pairt or portioun therof, so that it is my will he have right be the foirsaid nominatioun, legacie and assignatioun to the hail, and [that] the rather becaus I have provydit my vther bairnes and children be band of the dait heirof in satisfioun of their portioun naturall and bairnes pairt. Item, I nominat and apoint the persones vnderwrittin, videlicet, William, Lord Creichtoun, Sir James Carmichell of that Ilk, thesaurar deputt, James Creichtou, sone to my Lord Drumfries, Wallter Murray of Levingstoun, and Robert Creichtoun, brother to my Lord Drumfries, whom I ordan to be on iu speciall, and his advyse and consent takin therto in speciall to sie all permit, and all of them conjunctlie, and in caice of any of ther deceisses, the supervivours to be tutours to the said James and to William, my vther sone, Mary, Jenatt, Margrett and Bethia, my douchters ; alls nomiuaat and apoints James Marques of Hammiletou, James Erll Hoom, William Erll of Dumfreis, James Erll of Qweinsberry, James Levingstoun of Beill, James and Robert Creichtounis, brether to the Erll of Drumfreis, and Sir Patrik Murray of Ellibank, oversieeris, be whoes advyse, counsall, and directioun the saids personis tutours sall administrat and executt ther said office, and at the isch and expyring of the yeirs of tutourie of my childreu respectiue. It is my will that the said James Marqwes of Hammilltoun, James Erll Home, Francis Erll of Buckeleuch, William Erll of Drumfreis, James Erll of Qweiusberry, William Lord Creichtoun, Sir James Carmichell of that Ilk, thesaurar deputt, James Levingstoun of Beill, on of his majesties bedchallmer, James Creichtoun, sone to the Erll of Dumfreis, James and Robert Creichtouuis, his vnelles, Sir Patrik Murray of Ellibank, Wallter Murray of Levingstoun, and that nothing be doue without the speciall advyse and consent of the foirnameit tutours herein had and reqwyrit therto, vtherwayes to be null ; and sicklyk I nominat and apoint Andro Johnstoun of Turnmuir, Robert Johnstoun of Newtown, Robert Johnstoun of Stabilltoun, David Irving of Mousknow, and Francis Scott of Cairtertoun, or any of thir the said tutours thinks fting, David Irving and Fraucis Scott being two, to intromett with my maillis and dewties, pleuissehing and vthers, they being alwayes countabill to my said air, his tutours and curatours, be choisin curatours to my said bairnes. Item, it is my will and I ordane my said executour to vplift and resave the legacies left to me be vmquhill Mr. Robert Johnstoun, and to imploy the samin for the perticullar vses apointit and destinat be his testament and letter will, and alls ordanes him to be cairfull to sie the samin fulfilled in the form,

maner, and tenour therof set down be the said vmquhill Mr. Robert, so far as is to be performed by vth[ers] ; and to fullfill and perform whatsoever is apointit therby to be done by me, he resaveing the legacies and vthers therein mentionat. In witness wherof I have subscrivit thir present with my hand, writtin be Francis Scott of Cairtertoun, at Lochwod, the seveintein day of Agust, I^m vj^c and fortie yeirs, befor thir witnessis, James Creichtoun, sone to the Erl of Drumfries, the said Francis Scott, and Hew Scott, my servitour.¹

JOHNSTOUN.

Ja. Creichtoune, witness.

Francis Scott, witness.

Hew Scott, witness.

90. PATENT by KING CHARLES THE FIRST, creating JAMES, LORD JOHNSTONE of Lochwood, Earl of Hartfell, etc. 18th March 1643.²

CAROLUS, Dei gratia Magne Britanie, Francie et Hibernie rex, fideique defensor, omnibus probis hominibus suis ad quos presentes litere pervenerint, salutem. Sciatis, quum apud omnes reges liberosque principes vetere et laude digna consuetudine invaluerit preferre ac titulis et gradibus honoris dignitatis et preeminentie ornare eos quorum preclara et egregia servitia iucrementum regie celsitudinis et obedientie ac patrie emolumentum dignitatem et honorem promeruerunt, prout nos, anno Domini millesimo sexcentesimo trigesimo tertio, in memoriam revocantes dilectum nostrum cousanguineum, Jacobum dominum Johnstoun de Lochwod, ejusque quondam patrem et avum, aliosque suos predecessores temporibus retroactis, multis preclaris officiis nos et nostrum quondam charissimum patrem et aviam bone memorie ac alios nostros illustrissimos progenitores, tum in regno nostro Scotie tum Anglie obstrinxisse, et præsertim fidelem operam navasse (pro variis commissionibus mediorum limitum inter dicta regna nostra sibi demandatis,) in reprimendis diversis rebellibus et exlegibus in istius modi partibus dicti regni nostri Scotie (que tesseram aliquam regii nostri favoris demeruerint), eoque nomine nos per literas nostras patentes nostro sub magno sigillo, de data apud Halyruidhous, vigesimo die mensis Junij, anno Domini millesimo sexcentesimo trigesimo tertio predicto, fecisse, constituisse, creasse et inaugurasse dictum Jacobum dominum Johnstoun dominum Johnstoun de Lochwod, ac dedisse, concessisse et commisisse ei

¹ Annandale Peerage Minutes of Evidence, 1881, p. 1055. On 25th November 1640, Lord Johnstone executed another testament in terms precisely similar to the above, only stating more fully that he had provided his younger children to the portion falling to

them "be deceis of vmquhile Dame Margaret Douglas, thair mother." [Original in Annandale Charter-chest.]

² Annandale Peerage Minutes of Evidence, 1825, p. 5.

ejusque hæredibus masculis in perpetuum titulum, honorem, ordinem et gradum dignitatis domini parlamenti, cum omnibus et singulis prerogativis, preeminentiis, privilegiis et libertatibus et immunitatibus eo pertinentibus et spectantibus, ac eisdem eos investisse et nobilitasse, prout dicte litere pateutes de data antedicta latius proportant. Et quia dictus Jacobus dominus Johnstoun continuo ex eo tempore probe et fideliter in officio suo erga nos perstitit, ac sufficiens experimentum ejusdem exhibuit, adeo ut summam gratiam a nobis inierit pacique et emolumento dicti regni nostri Scotie consuluerit ; ideoque et ut memoratus Jacobus dominus Johnstoun ejusque heredes masculi magis excitentur et animentur ad persistendum in talibus egregiis servitiis nobis et successoribus uestris obeundis, utque exeuplo nostro munificentie in eos collate alij nostri subditi stimulentur et incitentur ad similia bona servitia uobis et successoribus uestris in nostrum honorem, regnique pacem et emolumentum prestanda, nos nunc volentes aliam insuper tesseram et significationem regii nostri favoris et amoris in prefatum Jacobum dominum Johnstoun ejusque hæredes masculos predictos conferre, fecimus, constituimus, creavimus et inauguravimus, tenoreque presentium facimus, constituimus, creamus et inauguramus dictum Jacobum dominum Johnstoun ejusque hæredes masculos comites, ut omni tempore futuro COMITES DE HARTFELL, DOMINI JOHNSTOUN DE LOCHWOD, MOFFETDAILL ET EVANDAILL, etc., nuncupentur et designentur ; ac dedimus, concessimus et commissimus, tenoreque presentium damus, concedimus et committimus sibi suisque heredibus masculis pro perpetuo, titulum, honorem, ordinem et gradum dignitatis comitis et domini parlamenti, cum omnibus et singulis privilegiis, preeminentiis, prerogativis, libertatibus et immunitatibus eo pertinentibus et spectantibus : Quoquidem titulo, honore, ordine et gradu dignitatis nos investivimus et nobilitavimus, tenoreque presentium investimus et nobilitamus memoratum Jacobum dominum Johnstoun ejusque heredes masculos omni tempore futuro Comites de Hartfell, dominos Johnstoun de Lochwod, Moffetdaill et Evandaill nuncupandos et designandos : Tenendum et habendum dictum titulum, honorem, ordinem et gradum dignitatis, cum omnibus et singulis prerogativis, preeminentiis, privilegiis, libertatibus et immunitatibus eo spectantibus et pertinentibus, memorato Jacobo domino Johnstoun ejusque hæredibus masculis, de nobis et successoribus nostris, in omnibus et singulis nostris et successorum nostrorum parlamenti, generalibus conciliis, publicis et privatis statuum conventibus, cum jure, loco et potestate suffragia in eisdem ferendi, ac cum omnibus alijs et singulis prerogativis, dignitatibus et libertatibus pertinentibus vel ad quemcunque alium comitem vel dominum parlamenti infra regnum nostrum Scotie quovis tempore preterito vel futuro pertinere valentibus : Mandantes per presentes Leoni Regi nostro Armorum suisque fratribus fecialibus, ut tale additamentum insignium presentibus armis dicti Jacobi domini Johnstoun ut in talibus casibus usitatum est dent et prescribant. Insuper volumus et concedimus, proque

nobis et successoribus nostris decernimus et ordinamus presentes has literas nostras esse et fore tam validas efficaces et sufficientes memorato Jacobo domino Johnstoun ejusque hæredibus masculis antedictis, pro fruitione et possessione dicti tituli honoris et gradus dignitatis comitis et domini parlamenti, cum omnibus et singulis prerogativis, preeminentiis, privilegiis, libertatibus et immunitatibus ad eundem pertinentibus et spectantibus, ac si prefatus Jacobus dominus Johnstoun eodem investitus et inauguratus fuisset solenni ritu cum omnibus ceremoniis antiquitus usitatis, de quibus dispensavimus tenoreque presentium dispensamus in hac parte in perpetuum. In cujus rei testimonium presentibus magnum sigillum nostrum apponi precipimus, apud aulam nostram de Oxford, decimo octavo die mensis Martij, anno Domini millesimo sexcentesimo quadragesimo tertio, et anno regni nostri decimo octavo.

Per signaturam manu supremi domini nostri regis suprascriptam.

91. TESTAMENT AND LATTER WILL of LADY MARGARET HAMILTON, widow of David, Lord Carnegie, and third wife of James, first Earl of Hartfell. 4th July 1648.

I, MARGARET, COUNTES OF HARTFELL, being for the present in guid helth and perfyt memorie and sences, praised be God, and kuowing thair is nothing more certan nor death, but the tym and maner thair of vncertane, and now being willing to dispose vpon my worldlie effairis, that I may be reddie to abyd the guid will and pleasure of almichtie God, quhen it sall please him to call me out of this transitorie lyff to his eternall glorie, have thairfore maid and be thir presents makis my testament and latter will as followis : First, I recomend my self to God, beleiveing assuredlie to be saved be his frie mercie throw the onlie merits of Jesus Chryst, my Redeimer ; and ordanes my bodie to be buried among the faithfull in the most modest way and in the neirest convenient place quhair it sall please God to call vpon me out of this lyff. And as concerning my worldlie effairis, I mak and constitute my weilbelouet husband, James, Erle of Hartfell, my onlie executour and intromitter with my guidis, geir and dettis, to be disposet vpou as followis, with power to him to mak and give vp inventar thair of, conferm testament thairvpou, and do all vther things concerning the said execetrie in sik dew form as neid beis. Item, I assigne, leiff and dispone in legacies to the persounes vndernamet the particular legacies, guidis, geir and vthers efter specifeit, in maner following, to wit, to my eldest dochter, Margaret, Countes of Carnwathe, a grit jewell maid vp in a pair of braicelets, and a littill jewell, estimat to tua thousand and fyve hundreth merkis vsuall money of Scotland. Item, to my said dochter, for the use of hir eldest sone, and failyieing of him be deceis, to that sone of hiris that sall succeid

to the erldome of Carnwathe, and failyieing of him be deceis, to hir eldest dochter, to be kept be my said dochter for the vse of hir said son, to be delyverit to him efter his perfyte age, and failyieing of him be deceis, to hir said dochter, a compleit furneist bed of blak velvet, embroderit with sewit flouris of silk courteines, pairis covering, tabill clothe, a long chyre, tua vther airmet chyris, thrie coverit stooles, a bed lyned with taffitie aud fals coveris, with taffitie for all the saidis chyris and stoollis, also a carpet of fyn arrass four ellis of lenth or thairby, with muche silk in it, all estimat to thrie thousand merkis or thairby. Item, to the secund sone of the said Margaret, Countes of Carnwath, my dochter, a silver baissein, a silver ewer, tua silver saltis, a dussan of silver spoones, a silver sugar box, thrie silver disches, all about the value of ane thousand merkis, all reservet to me to be disposet vpon be me at my pleasur, conform to ane particular inventar thairof subscriyvet be my said husband and me relative to a contract maid betuix ws of the dait, at Edinburgh, the penult day of Januar, I^m vj^c fourtie sevin yeirs. Item, I assigne, leiff and dispone to Dame Carnegie, Ladie Kilbirnie, my secund dochter, a ring with sax diamondis, estimat to
 Item, to hir dochter, Margaret Crawford, a pair of gold braceletts, a gold chenzie, and threttie sex peices of gold, all weichting a pund wecht or thairby, estimat to ane thousand merkis or thairby. Item, to the said Margaret, Couutes of Carnwathe, hir dochteris, equallie among thame, my haill abulziements, cabinets, truuks, and saidillis, with thair pertinents and furnitour. Item I assigne, leiff and dispone to my said weilbelouet husband the haill rents that sall be dew to me in the tennents handis the tyme of my deceis. Item, ane gold ring sett with a diomond of on ston thairin, with the rest of my plenesing, furnitour and guidis that is in my hous (over and abone the particular legacies abone-specifeit), to be disposet vpon be him at his pleasur, if he survive me, and no vtherwayis. Item, I ordane my said weilbelovet husband aud executour foirsaid to pay and delyver the particular legacies respectiue abone-specifeit to the foirnamet persounes, ilk ane of thame for thair awin pairts respectiue as is abone devydit, and lykwayis to pay all detts that sall be awand be me the tym of my deceis, and that without any pley or proces of law, togidder with the chairges to be bestowit vpon my buriell. And this to all and sindrie quhom it efferis, I notifie and mak knowen be thir presentis (writtin be Johue Sempill, wryter to his maiesties signet), and subscriuit with my hand, at Edinburghe, the fourt day of Julii, the yeir of God I^m vj^c fourtie aucht yeiris, befor thir wituessis, the said Johne Sempill and Robert Carmichaell, my servitour.

M. HAMILTON.

J. Sempill, witnes.

R. Carmichell, witnes.

92. PATENT by KING CHARLES THE SECOND, creating JAMES, EARL OF HARTFELL, Earl of Annandale and Hartfell, Viscount of Annand, etc. 13th February 1661.¹

CAROLUS Dei gratia Scotiæ, Angliæ, Franciæ et Hiberniæ rex, fideique defensor, omnibus probis hominibus suis ad quos præsentis literæ nostræ pervenerint, salutem. Sciatis nobis ex vetere et omnium regum et liberorum principum laude digna consuetudine benigne placuisse omnes istiusmodi cives qui de nobis et patria sua benemeriti sunt honore et dignitate prosequi, cumque nobis constiterit dilectissimum nostrum patrem fœlicis memoriæ, per ejus literas patentes sub magno sigillo regni nostri Scotiæ, anno Domini millesimo sexcentesimo quadragesimo tertio, ob multa præclara et egregia officia a demortuo Jacobo, comite de Hartfell etc. ejusque prædecessoribus dicto nostro charissimo patri ejusque ac nostris illustrissimis progenitoribus in regnis nostris Scotiæ et Angliæ prestita, in eum titulum, honorem et dignitatem comitis de Hartfell, domini Johnston de Lochwod, Moffatdail et Evandail etc., contulisse: Et in memoriam revocantes fidem, amorem, obsequia et damna fidelis et dilecti nostri consanguinei, Jacobi nunc comitis de Hartfell, etc., in negotiis sibi demandatis multis testimoniis comprobata, ut dictus comes ejusque hæredes ad persistendum in eadem fide erga nos et patriam suam, aliique ad eandem orbitam virtutis calcandam magis exstimulentur, considerantes demortuum Jacobum, comitem de Annandail, etc., ex hac vita decessisse absque hæredibus masculis ex corpore suo procreatis atque adeo diploma, dignitatem et titulum ejusdem in manus nostras et ad nostram donationem et dispositionem devenisse, ac neminem æque dignum esse qui dicto titulo fruatur, tum ob merita ejus, tum ob viciniam qua terræ et prædia de Annandail patrimonium et prædia de Hartfell contingunt: Et nos clementer cupientes tesseram aliquam regii nostri amoris in dictum comitem conferre, honorem honore accumulando tum ob ejus merita tum ut ille ejusque hæredes ejus vestigiis insistere excitentur: Igitur fecimus, constituimus, creavimus et inauguravimus, tenoreque præsentium facimus, constituimus, creamus et inauguramus memoratum Jacobum, comitem de Hartfell ejusque hæredes masculos, quibus deficientibus hæredem femellam natu maximam, absque divisione ex corpore dicti Jacobi, comitis de Hartfell hactenus procreatam seu procreandam, ac hæredes masculos ex corpore dictæ hæredis femellæ natu maximæ legitime procreandos, cognomen et arma de Johnston gerentes, quæquidem arma semper assumere et gerere tenebuntur omni tempore affuturo, quibus omnibus deficientibus dicti Jacobi, comitis de Hartfell, proximos hæredes quoscunque in omne futurum ævum COMITES DE ANNANDAILL ET HARTFELL, VICECOMITES DE ANNAND, DOMINOS JOHNSTON DE

¹ Annandale Peerage Minutes of Evidence, 1825, p. 7.

LOCHWOD, LOCHMABEN, MOFFATDAILL ET EVANDAILL, etc. Quiu etiam dedimus et concessimus, tenoreque presentium damus et concedimus dicto comiti ejusque hæredibus masculis aliisque hæredibus talliæ antedictis in perpetuum, titulum, honorem, ordinem et gradum dignitatis comitis et domini parlamenti, ut ibidem loco fruatur tanquam comes de Anundaill, secundum literas patentes per prius concessas demortuo comiti de Hartfell, anno Domini millesimo sexcentesimo quadagesimo tertio, quibusquidem honore, titulo, ordine et dignitate, nos investivimus et nobilitavimus, tenoreque presentium investimus et nobilitamus dictum Jacobum, comitem de Hartfell, ejusque hæredes masculos aliosque hæredes talliæ antedictos, ut omni tempore futuro comites de Anundaill et Hartfell, vicecomitis de Annand, domini Johnston de Lochwod, Lochmaben, Moffetdaill et Evandaill vocitentur. Tenendum et habeudum antedictum titulum, honorem, ordinem et dignitatem, (cum omnibus et singulis prærogativis, præ eminentiis, privilegiis, libertatibus et immunitatibus ad dictum Jacobum, comitem de Hartfell ejusque hæredes masculos et alios hæredes talliæ antedictos pertinentibus et spectantibus) de nobis et successoribus nostris, in omnibus et singulis nostris et successorum nostrorum parlamenti, generalibus conciliis, publicis et privatis statuum conventibus, cum jure, suffragio, ordine et præcedentia sibi ibidem tanquam comiti de Annandaill, a data dictarum literarum patentium antedicto demortuo comiti de Hartfell ejus patri concessarum, cum omnibus et singulis prærogativis, dignitatibus et libertatibus ad dictum comitem de Annandaill vel ad quemcunque alium comitem aut dominum parlamenti in dicto regno Scotiæ quovis tempore præterito vel futuro spectantibus. Mandamus porro Leoni Regi nostro armorum ejusque fratribus fœcialibus, ut tale aditamentum armorum presentibus insigniis dicti comitis ut in talibus casibus usitatum est dent et præscribant. In cujus rei testimonium presentibus magnum sigillum nostrum appendi præcipimus, apud aulam nostram de Whythall, decimo tertio die mensis Februarii, anno Domini millesimo sexcentesimo sexagesimo primo et anno regni nostri decimo tertio.

Per signaturam manu supremi domini nostri regis suprascriptam.

Indorsed: At Edinburgh, the eight day of March 1661, the King's Majesty's Commissiouer produced this patent in parliament, which being openly read, and the estates ackuowledging his Majesty's favour to the Earl of Annandale and Hartfell therein mentioned, do ordain him to have and enjoy the place, name, title, privileges and honours therein contained; and in testimony thereof the Lord Commissioner did deliver the same to the Duke of Hamilton, who, in name of the Earl of Annandale and Hartfell, received it upon his knees.

A. PRIMROSE, Cls. Reg^r.

Sealed the seavnt day of March 1661.

JAMES CUNNINGHAM.

Written to the great seal the sixth day of March 1661.

WILL. KERR.

93. COMMISSION by KING CHARLES THE SECOND, appointing JAMES JOHNSTONE, EARL OF ANNANDALE, to be captain of a troop of horse. 1st January 1667.

CHARLES R.

CHARLES THE SECOND, by the grace of God King of Scotland, England, France and Ireland, defender of the faith, etc., to our right trusty and welbeloved cousin and counsellour, James, Earle of Annandaill, greeteing. Wee do by these presentes constitute and appointe yow to be captaine of a troupe of horse to be raised by yow for our service, in the regiment whereof Lieutenant-Generall Drumond, our generall major, is colonell, which wee do hereby authorize yow to raise with all speed. Yow are therefore carefully and diligently to discharge the duety of a captaine by exercising the said troupe in armes, both officers and souldiers, and to keepe them in good order and discipline. And wee do hereby command them to obey yow as their captaine, and yow are to observe such orders and directions as yow shall from time to time receive from your colonell or other superior officers according to the discipline of warre, in pursuance of the trust wee repose in yow. Given at our court at Whitehall, the 1st day of January 1667, and of our reigne the 18th yeare.

By his majesties commaund,

LAUDERDAILL.

94. ORDER by the PRIVY COUNCIL and their WESTERN COMMITTEE to the STEWARD OF ANNANDALE, to procure the signature of the heritors to a bond. 11th March 1678.

At Air, the elevint day of March 1678.

THE LORDS of the comittie of councill mett in the west by commissione from his majesties privie councill, doe, in prosecutione of the said commissione and instructiones given to them, heirby requyre the stewart principall of the stewartrie off Annandaile, or his deputts, to convey the hail heretouris, lyferenters and conjunctfiers, and uthers within the said stewartrie for subscryveing a band, the coppie of quhich band to be subscryved is heirwith sent signed by the lords of the comittie ; ordaneing heirby the said stewart, or his deput, to report ane account of his diligence and obedience to the lords of the comittie at Glasgow, or wher it shall happen them to be for the tyme betwixt and the day of

LINLITHGOW.

ATHOLL.

STRATHMORE.

GLENCAIRNE.

CAITHNES.

AIRLIE.

ROSSE.

96. COMMISSION by KING JAMES THE SEVENTH to WILLIAM, EARL OF ANNANDALE, to be captain of a troop of horse. 18th October 1688.



JAMES THE SEVENTH, by the grace of God king of Scotland, England, France, and Ireland, defender of the faith, etc., to our right trusty and welbeloved cousin and counsellor, William, Earle of Annandale, greeting. Wee doe by these presents nominate, constitute and appoint you to be CAPTAIN of that troop which was lately commanded by the Earle of Airly in our regiment of horse in our ancient kingdome of Scotland, whereof our right trusty and welbeloved counsellor, Major-Generall John Graham of Claverhouse is colonell. You are therefore carefully and diligently to discharge the duty of captain of the said troop by exercising the same in armes, both officers and soldiers, and keeping them in good order and discipline. And wee doe hereby command them to obey you as their captain, and yourselfe likewise exactly to observe and follow all such orders, directions and commands as you shall from time [to time] receive from us or our privy counsell of that our kingdome, our lieutenant-generall or commander-in-chiefe of our forces there now or for the time being, your colonell or any other your superiour officer, according to the rules and discipline of warr, in pursuance of the trust hereby reposed in you. Given under our royall hand and signett at our court at Whitehall, the 18th day of October 1688, and of [our] reign the 4th year.

By his majesties command,

MELFORT.

97. PETITION to the PRIVY COUNCIL by certain inhabitants of Aberdeen who had been imprisoned in the Castle of Dunnottar, for immediate release. [13th September 1689.]

TO THE RIGHT HONOURABLE the lords of his majesties most honourable privie counsell, the supplication of the citizens of Aberdein, now prisoners in the fort of Dunnottar, humbly sheweth : That your petitioners having represented to your lordships by ane bill the severe usage they had mett with by the Master of Forbes his imprisoning of them without any just ground, or so much as the presumption of any guilt made out

against thame, your lordships were pleased yesterday by your justice and compasione to us to ordaine us to be set at liberty upon our granting bond and caution in the termes of your lordships interloquitor ; but by some mistake or other the day appointed for our said liberation is insert in the said interloquitor to be betuixt and the last of this moneth, which (if not rectified) will prejudge us beyond measure ; because (1^o) as wee have bein at the expence of ane hundreth merks per diem since our incarceration in Dunnotter, which was upon the 26 of August, the petitioners being sevintein in number, with wives and servants, besyde the expence of our children and freinds coming to one or other of the petitioners every day from the toun of Aberdein and the countrie round, soe if wee be detained untill the last instant wee will yet be put to the expence of 2000 merks more, besydes other 2000 merks and above spent by us since our confynment, which was at Aberdein on Friday, the 23 of August. (2^{do}) Seing ther neither is nor can be any just cause of our imprisonment instructed, by the common principles of equity (as wee humblie couceave) wee ought to be instantly set at liberty upon sight of your lordships order. (3^{tio}) As the Master of Forbes was only prevailed with by the insinuations of some of our malicious nighbours to imprisone us, out of a wicked contryvance to have us by the said imprisonment incapacitate either to be elected or to have any vote in the eusueing electione of the magistrats of Aberdein, soe in caice wee be not instantly liberat our saids malicious enemies who iufirmed against us, as said is, will obtaine all they did intend and designe, the electione of that burgh being by ther originall chartour of errectione appointed to be upon the Wednesday befor Michealmas yearly, which this year falls on the 25 of September. (4^{to}) Seing our said enemies have had so much power with the Master of Forbes as to cause him imprisone us without a cause, wee have just reason to fear that they will yet prevaiill with him not to come to Dunnotter untill the election be past, and Craigyvar hes so much dependence on the Master that he will doe nothing without his consent, and Edinglassie lives at a great distance and in the shyre of Bamf, wherof he is shirrif, that wee cannot expect he can come to Dunnottar upon our accompt.

Heirfore, wee beseech your lordships to consider the premisses aud ordaine us to be set at liberty upon sight of your lordships order, at least befor the eightein or nyntei instant, allowing the Master till the tenth, yea, the fyftein of October to report if he pleases, and to add to the number of commissioners appointed to sie us subseryve the bond, Major Ænæas Mackay, now at Aberdein, the Laird of Stonywood, commissioner for the parliament, the Lairds of Skeen, Udney, Watertoun, Foveran, or any three of them to be ane quorum, Sir Thomas Livingston or the said Major Anæas Mackay being allways one ; and to convince your lordships that ther is nothing but malice and contryvance in all this affair in caice anie persone will presentlie subscriyve ane informatione importing

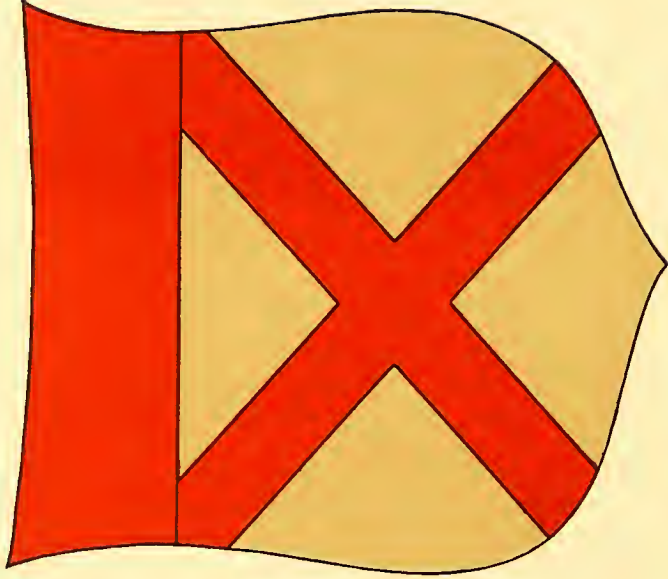
dittie or cryme in the least against any of your petitioners, or in speciall against David and George Ædiæs and Mr. Richard Irving, ther brother-in-law, whom the Masters informers have grossly misrepresented, they are content to give suretie to the commissioners for £1000 sterling per peece to appear be- for your lordships in judgment whenever called, or yet at a peremptor day, the informers allwayes being oblidge at that very day to insist in ther pretended complaint, and to refund the petitioners damage and expences at the sight of your lordships ; and ther being neither depositions taken nor any documents in wryte adduced either by the Master or his informers, its most humbly begged and reckoned upon from your lordships justice and clemencie, that your lordships will not suffer your petitioners to be made a prey to our enemies, who now at last clearly propalls ther whole contryvance to ruine your petitioners by the expence of imprisonment, and to make us vncapable in the place wher wee were borne and bred to elect or be elected as magistrats or councillors of Aberdein ; and your lordships speedy ansuer is in all humility intreated by your petitioners.

98. WARRANT by KING WILLIAM THE THIRD nominating the fifteen ordinary Lords of Session and Sir James Dalrymple as President of the Session. 22d October 1689.

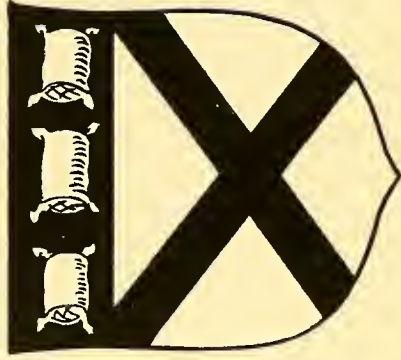
WILLIAM R.

WILLIAM AND MARY, by the grace of God king and queen of Scotland, England, France and Ireland, defenders of the faith, etc., to all and sundry whom it affaires, greeting. Wee, taking to our consideration how necessary it is that now after so long interruption the courts of justice may be established and law administred to our people, do therefore nominate and appoint Sir James Dalrymple of Staire, Sir John Baird of Newbaith, Mr. Alexander Swintoun of Mersingtoun, Sir Collen Campbell of Arbruchell, James Murray of Philiphaugh, James Dundas of Arneston, Mr. John Hamiltoun of Hallcraige, Mr. David Hume of Crosrigg, Sir John Maitland of Revellrigg, Sir John Lawder of Fountounhall, William Enstruther of that Ilk, Sir Robert Sinclaire of Steaphenson, Mr. Archibald Hope of Ranquillor, Mr. James Falconer of Phesdo and Robert Hamilton of Prestmennan, to be the fifteen ordinary lords and senators of our colledge of justice ; and wee appoint the said Sir James Dalrymple (who was formerly nominated and appointed) to be constant president of the session in absence of our chancellor, who by vertue of his office is to preside when he shall happen to be present : giving them power hereby to meet and do every thing for administration of justice to our subjects as fully and freely as any lords of the session nominated by our

The lord of Amundezdale of anby



of anby
of the year 1880



royall predecessors formerly did or lawfully might have done, and according as by the laws and acts of parliament they are warranted : commanding hereby William, Earle of Crawford, to take the oaths of such who have not been formerly sworn and admitted by vertne of our commission, dated the seventeenth day of June last past, and that these presents be recorded in the books of sederunt and books of parliament. Given at our court at Holland House, the 22th day of October 1689, and of our reigne the first year.

May it please your Majesty,—These contain your majestys nomination of the persons above written to be the fifteen ordinary lords of session according to the list signed with your royall hand ; and of Sir James Dalrymple to be constant president of the session in absence of your chancellor.

MELVILLE.

99. EXTRACT BLAZON OF THE COAT ARMORIAL OF WILLIAM, EARL OF ANNANDALE, under the hand of SIR ALEXANDER ERSKINE of Cambo, Lyon King of Arms. 22d November 1694.

TO ALL AND SUNDRY whom these presents do or may concerne, I, Sir Alexander Areskine of Cambo, knight and baronet, lyon king of armes, considering that by the twenty-one act of the thrid session of the second parliament of King Charles the Second of ever blessed memory, I am impowered to visit the whole armes of noblemen, prelates, barons and gentlemen within this kingdom, and to distinguish them with congruent differences, and to matriculate the same in my books and registers, and to give armes to vertuous and well-deserving persons, and extracts of all armes expressing the blason thereof under my hand and seall of office : Which register is by the said act appoynted to be respected as the true and unrepealable rule of all armes and bearings in Scotland, to remain with the lyon office as the public register of the kingdom. Therefore, conforme to the tenor of the said act of parliament, I testifie and make known that the coat armor appertaining and belonging to the right honorable William, Earle of Annandale and Hartfell, Viscount of Annand, Lord Johnston of Lochwod, Lochmaben, Moffetdail and Evendaill, etc., and approven of and confirmed by me to him, is matriculat in my said public register upon the day and date of these presents, and is thus blasoned, videlicet, The said William, Earle of Annandale, etc., for his atcheivement and ensignes armoriall, bears quarterly, first, argent, the cross of Saint Andrew sable, on a cheife, gules, three ensheons, or, as his lordships own paternall coat by the name of Johnston ; second, or, an anchor gules, by the name of Fairholme, his lordship haveing married Lady Sophia Fairholme, heires of Craighall ;

the thrid as the second ; the fourth as the first ; above the sheild an earles coronet and over the same a helmet answerable to his lordships quality, with a mantle, gules, doubling ermine ; and next for his crest is placed on a torse a winged spurr, or : Supported on the dexter by a lyon rampant, argent, armed and langued, azur, crowned with an imperial crown, or ; and on the sinister by a horse, argent, furnished, gules ; with this motto in an escroll above, Nunquam non paratus. Which coat above blasoned I declare to be the said William, Earle of Annandale, etc., his coat and bearing. In testimony whereof I have subscribed this extract and caused append my seall of office hereto. Given att Edinburgh, the twenty-second day of November and of the reign of our sovereign lord and lady, King William and Queen Mary, the sixth year, 1694.

ALEX^R. ARESKINE, Lyon.¹

100. WARRANT under the Sign Manual of KING WILLIAM THE THIRD for making a patent to WILLIAM, EARL OF ANNANDALE, as Marquis of Annandale, etc. 24th June 1701.²

WILLIAM R.

OUR SOVERAIGN LORD, taking into his royall consideration the great and acceptable services performed to his majesty by his right trusty and right well beloved cousin and counsellor, Williame, Earle of Annandale, in the severall eminent trusts wherein he has been employed by his majesty, upon which and other weighty considerations his majesty is resolved to confer a lasting mark of his royal favour upon him and his family ; therfor his majesty ordains a patent to be made and past under the great seal of his majestys ancient kingdom of Scotland, making, constituting and creating, like as his majesty by these presents makes, constituts and creates the said William, Earle of Annandale, MARQUIS OF ANNANDALE, EARLE OF HARTFELL, VISCOUNT OF ANNAND AND LORD JOHNSTONE OF LOCHWOOD, LOUGHMABEN, MOFFATDALE AND EVENDALE, in the said kingdom ; giving and granting to the said William, Earle of Annandale, and his heirs male whatsoever succeeding to him in his lands and estate in all time coming, the title, honour, degree, order and dignity of a marquis, with all and sundry prerogatives, preheminencies, precedencies, privileges, liberties and immunities whatsoever thereto belonging ; with the which title, honour, order and dignity his majesty by these presents invests and inaugurats the said William, Earle of Annandale, and his foresaids in all time coming, to be named and designed Marquises of Annandale, Earles of Hartfell, Viscounts of Annand and Lords Johnstone of Lochwood, Lochmabane,

¹ Seal of Lyon Office appended ; in good condition.

² Annandale Peerage Minutes of Evidence, 1844, p. 113.

Moffatdale and Evendale : To be holden and to be had the foresaid title, honour, degree and dignity, with all prerogatives, privileges and immunities belonging thereto, by the said William, Earle of Anuandale, and his foresaids of his majesty and his royall successors, in all parliaments, conventions of estates, generall councills and other publick and privat meetings within the said kingdom. Commanding hereby the lyon king of arms and his brethren heraulds to give and prescribe to the said William, Earle of Annandale, such an addition to his former coat of arms as by him and them shall be thought convenient upon this occasion. And his majesty wills and grauts, and for himself and his royall successors decerns and ordains this present patent, extended under the great seal aforesaid, to be as valid and sufficient to the said earle and his foresaids, for enjoying the said title, honour and dignity of a marquis, with all privileges and immunities belonging thereto, as if he had been invested and inaugurated therein with all the formalities and solemnities formerly in use upon the like occasions, with which his majesty for himself and his royall successors has dispensed and hereby dispenses for ever. And further ordains the said patent to be extended under the great seal aforesaid *per saltum* without passing any other seal or register ; for doing whereof these presents shall be to the directors of his majestys chancellary for writing the same, and to the lord high chancellor for causing the seal to be appended thereto, a sufficient warrant. Given at his majestys court at Kensington, the 24th day of June 1701, and of his majestys reigu the 13th year.

May it please your majesty,—These contain your majestys warrant for a pateut to be past under your majestys great seal of Scotland *per saltum* upon the considerations above mentioned, making, constituting and creating William, Earl of Annandale, Marquis of Annandale, Earle of Hartfell, Viscout of Annand and Lord Johnstone of Lochwood, Lochmabane, Moffatdale and Evendale ; giving and granting to him and his heirs male whatsoever in all time coming the title, honour, dignity and degree of a marquis, with all preheminiencies and privileges belonging thereto ; commanding the lyon king of arms to give to him such an additiou to his former coat of arms as may be propper on this occasion, and ordaining the said patent to be as valid for his using the said title as if he were invested therein with all the solemnities and formalities of old used on such occasions.

CARMICHAEL.

Sealed the first day of July 1701.¹

¹ The patent, bearing date at the palace of Kensington, 24th June 1701, is also printed in the Annandale Peerage Minutes of Evidence, 1825, p. 13.



ABSTRACTS OF CHARTERS
OF THE
JOHNSTONES OF JOHNSTONE AND ANNANDALE
PRINTED IN THIS VOLUME. 1190-1701.

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| <p>1. Charter by Robert Bruce granting to Ivo and his heirs a place between the fishings of Blawad (Blawatwood) and the water of Esk ; to be held of the granter for purposes of fishing and spreading nets ; rendering yearly a ponnnd of pepper or six pennies. Witnesses, Peter of Humez, Hugh of Corri, Hugh son of Ingebald, Robert of Hodelm, Walter of Bois, Humfrid Jardine, Richard Fleming, Henry son of Gerard. <i>Circa</i> 1190,</p> | 1 |
| <p>2. Charter by William Bruce addressed to his men and friends, Franks and Angles, granting and confirming to Adam of Carlyle, son of Robert, and his heirs, the lands of Kynemund by their right divisions, and of increase the whole land with wood and pasture as far as Steinreisbeck, and so according to the lead by the middle marsh between west and north of Wrennehoc towards the Blanch land to the nearest bridge of the Blanch land bnt one, and so from that bridge as far as the spring whence the lead comes which is called Houticroftebech, and so according to that lead descending to the sike in Winterbech Scok which passes by Walterbrig ; and so by that sike as far as Blabech ; and so by Blabech descending to where it falls into Gillemartinebech ; and beyond Gillemartinebech comonty of pasture with those of Millebi ; and with Brakanepheit ; and one mill with a pond and a reasonable site, and with reasonable roads to the mill and to the water to be led to the mill upon Polraban in the territory of Cumbertres. And within these bounds the grantee and his heirs shall be able to build and cultivate and make erections wherever they will, except in Brakanepheit where they shall not make houses unless by me. The grantee and his men shall also have free roads to market through the forest at Lochmaben through Dalton, and to Dumfries through Rochel : And they shall hold all these lands and tenements of</p> | |

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the granter and his heirs in fee and heritage, for performing the fourth part of a knight's service, reserving to the granter and his heirs the chase of the stag and hind, hog and roe deer. Further the granter has given the lands, with the mill, to the grantee and his heirs to be held of him and his heirs for homage and service, and for excambion of Locardebi, which Robert Bruce, his father, gave to Robert, the grantee's father, for his homage and service. With clause of warrandice and promise that if the granter is unable to warrant the lands, he will give an exchange equal in value from his lands in Hertness. Witnesses, William Heriz, Adam son of Adam, Udard of Hodelm, Hugh Brus, Hngh of Corri, Henry Murdae, Gilbert son of John, William Heriz junior, Hugh Malleuerer, William of Heyneuile, Adam of Dunwithie, Richard Fleming, Richard of Bois, Roger son of Udard, and Simon the chaplain. [1194-1214],.....

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3. Charter by William Bruce, granting to Ivo of Kirkpatrick that land in the fee of Penresax which is called Thorbrec and Willambi, and the town of Blacwde, for his homage and service : To be held to the grantee and his heirs of the granter and his heirs in fee and heritage, reserving the patronage of the church. Granting also the two carucates of land in the territory of Penresax, with tofts and crofts, which Richard son of Aldas, Robert son of Cecilia, Adam of Willambi, Adam son of the priest, Adam son of Astin, Jurdan, Stephen, and Richard son of Siric, held in Penresax, performing to the granter the service of the eighth part of a knight's fee. With clause of warrandice and a promise of exchanging, if necessary, lands of equal value in Annandale or elsewhere. Witnesses, William Herice, Richard of Bois, Hugh of Corri, Umfrid Jardine, Robert of Crossebi, Gilbert of Jonistune, Roger of Kirkpatrick, Robert of Turmore, William of Heneuile, and Alan of Dunwidi. [1194-1214],.....

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4. Resignation by Dnnegal, son of Udard, made to William Bruce and his heirs in full court, of a carcate of land in Warmanbie, and half a carcate in Annan, with a toft for the use of Gilbert son of John. Witnesses, Adam of Seton, Robert of Hodalm, Humphrey of Gardine, Adam son of Adam, Richard of Penresax, William Heriz, Udard of Hodalm, Hugh of Corri, Hugh son of Ingebald, Walter of Walram, Patrick Brun, Adam of Dmwidie, Robert of Crossebi, Richard of Bois, Robert of Levington, Roger of Kirkpatrick, Malcolm Loccard, Robert of Tremor, William Heneuile, and Hngh Maleverer. [1194-1214],

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5. Agreement between Patrick, Earl of Dunbar, and Christina the Countess, and Sir Robert Bruce. The earl and countess demise to Sir Robert all the land they have in Hertness of the countess's dower for the term of eight years at £36 of silver and 6s. yearly, reserving to them the third part of the market and fair of Hartlepool if they and Sir Robert can acquire these. And Sir Robert shall pay the money to the countess, and to the earl, so long as they warrant the land to him. Further, he shall not demise the land for eight years in such mode as he received it from his grandfather, and he gives the following as sureties:—Humphrey of Jardine, Hugh of Corri, William Heriz, Robert of Crossebi, Richard of Bois, G. son of John, and Robert of Tremor. 11th November 1218,.... 4
6. Resignation by William, son of Ralph the "Lardenar," his brother David, his sons, etc., in favour of Robert Bruce and his heirs, of all the lands which they or their predecessors held of him in Annan, in place of the account of David, his brother, when he was servant of Sir Robert Bruce in Herterville, which William undertook to pay, but cannot, and of 100 shillings allowed him by Sir Robert. Witnesses, Sir Richard of Levinton, Sir Roger Avenel, William of Brus, John of Brus, William Heriz, Humphry Gardin, Hugh of Corri, Robert of Crossebi, Gilbert son of John, Roger of Kirkpatric, Robert of Tremor, Richard of Bois, Richard of Humez, Hugh Mauleverer, Hugh son of Hamelin, William Franceis, Engeram, Thomas the clerk, and the "curia of Sir Robert Bruce." [*Circa* 1218], 4
7. Charter by Robert Bruce granting to Roger Crispin the whole land of Cnoculeran, as bounded, namely, from Blakebec under Thornthuayt as far as to the moss [mussam] which is above Blakebec, and so along that moss as far as Blindethuayt, and so from Blindethuayt as far as Malroser, and so by the stream of Malroser as far as in Polraban, and so from Polraban along the green way to the fence of Holthuayt, and so by that fence to Threpland, and so to the marches of Hugh Hendeman's land, and as these marches fall into Blakebec: To be held of the granter and his heirs in fee and heritage, with the common pasture of Dalton, and Little Dalton and Musfald, except that the men living on Roger's land shall give multure and pannage, but he himself shall be quit of multure and pannage from his own house. The lands are granted to Roger for homage and service, and in excambion for his land of Kinemund, and a half carucate of land which he holds near Elrebec in the fee of Moffat,

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performing the twentieth part of a knight's service ; and he and his heirs shall build and cultivate within their own bounds, and in every way possible appropriate the lands to their own use. Witnesses, William Heriz, Hugh of Corri, Gilbert of Jonestone, Umfrid Jardine, Richard of Bois, Roger Kirkpatrick, Laurence of Berkelai. Seal appended. [*Circa* 1218],..... 5

8. Grant by Robert Bruce to Robert Crossebi of all the commonty which the granter or his men have in the wood of Stableton ; granting also to Crossebi to have a free park of the said wood, so that he may be able to enclose it. Witnesses, Sir Umfrid of Kirkpatrick, Sir Adam of Carnoto (or Charteris), Sir Gilbert of Jonestone, Sir Alan of Dunwidi, Hugh, son of Hamelin, and Robert Herice. [*Ante* 1245],..... 5

9. Quitclaim by Roger son of William French, to Sir Robert Bruce, lord of Annandale, of two oxgangs of land in the territory of Annan towards Warmanbie in exchange for two oxgangs of land which William French, the granter's father, formerly held from Sir Robert in the territory of Moffat. Witnesses, Sir John of Rumundebi, Sir Humphry Kirkpatrick, Sir Roger his brother, Sir Gilbert of Joneston, Sir Robert Herice, Sir Humphrey Mauleverer, William Henevile, and Adam of Dunwudhi. [*Ante* 1245],..... 6

10. Charter by Robert of Dundonald, granting and confirming to Sir Robert Bruce and his heirs those two carucates of land in the fee of Ecclefechan, of which he had given sasine to Sir Robert in full court at Dryfesdale on Thursday [29th July 1249], with the advowson of the church of Ecclefechan ; binding himself and his heirs in a penalty of £1000 sterling if they question the grant, submitting them to excommunication by the Bishop of Glasgow, if necessary. Witnesses, Sir Walter Cumyn, Earl of Menteith, Sir Alexander Cumyn, Earl of Buchan, Sir John Cumyn, Sir William Cuningburht, Hugh Mauleverer, Humphrey of Kirkpatrick, Gilbert of Joneston, Ivo of Jonesby, Richard Crossebi, William Boyville, William of Annan, clerk. [*Circa* 29th July 1249],..... 6

11. Charter by Robert Bruce, Earl of Carrick and lord of Annandale, granting and confirming to Sir William of Carlyle, knight, and his heirs, for the increase of his land of Kynemund, a piece of land from the common pasture of the tenement of Neuby, which piece begins at the house which Malota held, and extends beyond Litelsweit Moor transversely as far as

- Castelbec, and from Castelbec transversely to Langesweit Moss across Batemanridding as far as the march of Brakansweit and the land which Hugh son of Lanrence held, and so descending by a fence as far as the house of the late John Bond, and from that house descending by a fence to the rivulet called Gillemartinebec, and so ascending as the land of Sir William Carlyle lies, to Mikelkeldwelle, and from Mikelkeldwelle ascending by the Morhuses to the Holgate, which is between the land of Morhuses and Sir William Carlyle's manor of Kynemund: To be held to him and his heirs of the granter and his heirs, with power to enclose the same by hedges and ditches, to cultivate, build, make meadow and arable land, and act as proprietor in all things within the said piece of land. Clause of warrandice. Witnesses, Sir Roger Kirkpatrick, Thomas of Torthorwald, James his brother, Hugh Mauleverer, Humphrey Bois, knights, William Jardine, Walter of Corri, Nicholas of Corri, then steward of Annandale, Walter Bois, and others. [*Post* 1271],..... 7
12. Charter by King Robert the Bruce granting and confirming to James, lord of Douglas, knight, the whole lands of Polbntthy (Polmoody) within the vale of Moffat; to be held of the king and his heirs in fee and heritage, for furnishing in each year twelve broad arrows. Given under the king's seal at Arbroath, 15th December [1318],..... 8
13. Charter by King Robert Bruce granting and confirming to Humphrey Kirkpatrick, for his homage and service, the whole land of Torthorwald, namely, the whole mains (or demesne—"dominicnm") entirely separated from the commouty, and the whole town (villam) of Torthorald, with multures, etc., also three husband lands of the town of Roucan, namely, the land of Gilmorduf, the land of John son of Colman, and the land of Robert Scot, with the multures and mill of the whole town of Roucan, with free ish and entry to the said mill; To be held of the king and his heirs in fee and heritage, for performing the service of one archer, and three snits yearly at the sheriff court of Dumfries. The king further grants the lands to Humphrey in free warren, and forbids any one to kill, hawk or hunt in the lands without Hnmphrey's special leave, or to fish in his lakes or fish ponds, under pain of forfeiture. At Scone, 10th July [1321],... 8
14. Charter by Thomas Randolph, Earl of Moray, Lord of Annandale and Man, granting and confirming to William of Carlyle, laird of Los [Lnce, near

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- Hoddam], special permission to make a park from the lands of Neulands and of Dikys, and for enclosing the adjacent moor as far as Bochardebech, and so descending to the water of Annan, excluding the way which leads from Los to the town of [torn in original]. To be held of the granter and his heirs for ever. Witnesses, Roger of Kyrpatrick, William of Jardine, Patrick of Carnoto, knights, and Humfrey Bois. [*Ante* 1329],.. 9
15. Charter by Thomas Randolph, Earl of Moray, Lord of Amundale and Man, granting and confirming to John of Carlyle, son of the late Sir William of Carlyle, special permission to enclose the park of Kinmount without a thicket, and to hold the said park in free warren: To be held of the granter and his heirs without contradiction, the granter forbidding any one to kill, hawk, or hunt in that park without licence from John Carlyle. At Lochmaben, 29th March 1329. Witnesses, Roger of Kilpatrick, William Jardine, and Humphrey Bois, knights, William of Carlyle, Ralph Frankys, and Adam of Corry,..... 10
16. Charter by John Graham, son and heir of Sir John Graham, knight, sometime laird of Maskesewra, narrating that he had wadset to Roger of Kirkpatrick, laird of Torthorald, the whole annual rent of 40s. due to him from the land of Over Dryfe in the tenement of Hotoun within Annandale for £200 sterling, paid to the granter in his necessity; the said annual-rent to be held to Roger and his heirs of the granter and his heirs, until the granter can pay the £200 within the chapel of Kirkbride in the tenement of Kirkpatrick juxta (near) Moffat in Annandale, upon a green cloth before the high altar. Further, the annual rent is granted, with its arrears, as a free gift, without compensation to be made to the granter. Dated at Carlaveroch the Monday after Epiphany [5th January] 1356. Witnesses, Thomas, abbot of Sweetheart, Walter, abbot of Holywood, John Stewart, laird of Dalswinton, Thomas Kirkpatrick, laird of Kylosberne, and Alan of Alayntown,..... 10
17. Charter by Robert Steward of Scotland, lieutenant of the king, confirming the grant which John of Corry, laird of that Ilk, made to Roger of Kirkpatrick, of the lands and lordship of Wenfray and Dumereth, with the advowson of the church of Wenfray [Wamphray]: To be held to Roger and his heirs in fee and free warren. Dated at Perth, 16th June 1357., 11
18. Charter by Archibald, Earl of Douglas and lord of Galloway, granting to William Johnstone, for his faithful service, the lands of Drumgrey, in the

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| barony of Amisfield, in the sheriffdom of Dumfries : To be held to William and his heirs of the earl and his heirs in fee and heritage, rendering one suit of court at the capital plea at Douglas next after the feast of St. Michael the Archangel, for all other service. With clause of warrandice. Dated at Ediuburgh, 24th May 1408. Witnesses, James Douglas, the earl's brother, Sir William Douglas of Nithsdale, his nephew, and others named, | 12 |
| 19. Charter by William, Lord Crichton, granting to Gilbert of Corry, son natural of James of Corry, for his service, the lands of Tordoff and Dalbank, in the lordship of Annandale and sheriffdom of Dumfries ; To be held of the granter, as lord of the holding of Carruthers, and his heirs to the said Gilbert Corry and Elizabeth his wife, daughter of John Carruthers of Holmends, the survivor of them and the lawful heirs-male of their bodies ; whom failing, to the granter and his heirs whomsoever, in fee and heritage, for the services dne aud wont from said lands ; reserving the liferent thereof to the said James of Corry for his life. Dated at Stirling, 18th February 1449-50. Witnesses, James, Lord of Fren draught, knight, the granter's beloved son, and others,..... | 13 |
| 20. Letters by King James the Third, directed to Sir Robert Crichton of Sanguhar, knight, John Johnstone of that Ilk, Archibald Carruthers of Mouswald, and Cuthbert Murray of Cockpool, as sheriffs in that part, narrating a complaint by Edward Livingstone of Bowcastle that he had been molested by William, Lord Crichton, in the possession of the lands of Monygep, Crunzeanton, Molyne and Rahill, held by him for twenty-two years since the death of his brother, and charging the said sheriffs to maintain and defend Livingstone in his lauds. Given under the signet at Edinburgh, 26th October 1476,..... | 13 |
| 21. Precept by John Johnstone of that Ilk directed to Archibald Johnstone, his brother, Roland Kerssan, John Charteris and David Gibson, as his baillies, narrating that he had granted and alienated to John Johnstone, his son, boru betwixt him and Janet Herries, five merks of his lands of Wamphray, lying in that holding in the stewartry of Annandale and sheriffdom of Dumfries, and charging his said bailies to give sasine of the said lands. Dated at Lochwood, 22d November 1476,..... | 14 |
| 22. Decree by the Lords Auditors to the effect that Adam Johnstone of that Ilk, brother and heir to the late John Johnstone of that Ilk, shall pay to | |

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| Marion Liddale, spouse and executrix of the late Sir Patrick Baroun, knight, twenty-three stoues of wool, due to Sir Patrick by John Johnstone ; the said Adam's goods to be distraiued, as he did not appear when summoned. 13th February 1489-90,..... | 15 |
| 23. Bond by John Johnstone of that Ilk in favour of Robert Graham of Thoruick, who has become his man, and bound himself in special manrent and service, in return for which the grauter binds himself and his heirs to help supply and maintain the said Robert Grahame and his heirs "as gud mastir aw to doo to his man." Dated at Dumfries, 16th December 1526. Moreover, the granter binds himself to pay Grahame yearly the sum of twenty merks Scots. Witusses, Gavin Johnstone in the Kirktown, Herbert his brother, and Sir David Aikynheid,..... | 15 |
| 24. Resignation by Archibald Johnstone, lawful and uatural sou to Gaviu Johnstone of "Acscheselis" [Elshieshiels], freely resigning and overgiving to John Johnstoue of that Ilk, his chief, all his right to the five mark land of Greskine and Mellingshaw, pertaining heritably to Lord Herries, in the stewartry of Annandale and sheriffdom of Dumfries, aud that for a certaiu sum promised and paid to the granter, and of which he grants discharge. Dated at the Millhouse, 10th March 1527-8,..... | 16 |
| 25. Bond of Manrent by Johu Johnstone of that Ilk, biuding himself in manrent and service to Robert, Lord Maxwell, as the latter has obliged himself to maintain Johnstone in the peaceable possession of his lands. Dated at Lochmaben, 11th February 1528-9. Witnesses, Sir Alexander Jardine of Applegirth, knight, Sir Robert Graham, parson of Hoddam, and others,..... | 17 |
| 26. Componitur for remissiou made with John Johnstone of that Ilk, residing in the stewartry of Annandale, for his traitorous remaining from the army of the king at Solway and from other armies of the king whatsoever, in defiance of the proclamations made thereupon, and for all other actions and crimes committed by him preceding this date. Signed by the lords compositors at Dumfries, 10th November 1529,..... | 18 |
| 27. The Ordinance and Constitutions made in the justice-eyre of Dumfries aud stewartry of Annandale, held at Dumfries 12th April 1540, for the stanching of crime and for good rule to be kept among the king's lieges, and specially the inhabitants of Annandale, Eskdale, Ewesdale and | |

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Wauchopedale, made by the Lord Justice and others commissioned by the king, and with consent of Robert, Lord Maxwell, William, Lord Herries, and other lords, barons and gentlemen holding lands in the district. First, it is ordained by the Lord Justice, with consent of Robert, Lord Maxwell, as steward of Annandale, great warden of the west marches, and the others named, as follows : That as the king has granted remission to the inhabitants of the above districts who have gone and received compositurs for all crimes before this "air," so that they may know the king's clemency, and live in obedience to him, and as all the inhabitants being accused, and receiving remissions, promised "be the extention and vphalding of thair rycht handis" to live as true lieges, and never to commit crimes, but if any are committed they are to be punished ; therefore the lords and barons, etc., have bound themselves, for the peace of the realm, that if any man on their lands commit such crimes they shall themselves immediately punish the trespassers or deliver them to the warden, and if they be fugitive, shall forfeit their goods, while if any of the lords and others are negligent in this they themselves shall be punished. Item, If any party offended or hurt by the committers of any crimes think that any lord or baron on whose lands the trespassers dwell, will not do them justice, they shall complain to the warden, who shall order the trespassers to be sent to him, and in case of refusal, shall apprehend and punish them, or send them to the king's justice for trial. Item, Any lord or baron in future acting or pleading for a thief or resetter of theft shall be held as infamous. Lord Maxwell, as steward and warden, has faithfully promised, in presence of the Lord Justice, that if any person within the bounds named commit the crimes specified he shall punish them to the uttermost, as he has authority. Lastly, it is ordained, with consent of Lord Maxwell, that he shall for the space of a year hold his steward courts monthly, and make enquiries for and punish thieves and other criminals ; and that he shall hold similar courts in Eskdale, Ewesdale, and Wauchopedale, and his warden courts, that the inhabitants may be brought to know the order of justice. [12th April 1540],.....

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28. Obligation by Robert Moubray of Barnbougall, Robert Orrock of that Ilk, and John Halket of Pitfirran, binding themselves, their heirs and assignees, to John Johnstone of that Ilk, that as their kinsman, Henry Stewart of Rossyth, was taken at the raid of Solway Moss, and detained in England,

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| being still unredeemed, and as John Johnstone had promised to do his utmost to redeem the said Henry, they shall, as soon as he is set free, refund and pay to Johnstone whatever sum he happens to give for Stewart's redemption, providing always that the latter's consent be obtained. Edinburgh, 4th January 1542-3,..... | 22 |
| 29. Indenture or Agreement between James Douglas of Drumlanrig on the one part, and John Johnstone of that Ilk on the other part, mutually binding themselves in the surest possible manner that they shall, during their lifetimes "keip ane leill trew and afald parte" to each other, and shall take each other's part against all persons, the Queen, the Earl of Arran, her tutor, and Robert, Lord Maxwell, only excepted. Moreover, the parties bind themselves not to take each other's steadings or possessions, but to defend them. Dated at Edinburgh, 19th January 1542-3,..... | 22 |
| 30. Bond by Nicol Graham of Meskeswaye, binding himself in manrent "to be faythfull, leil and trew" to John Johnstone of that Ilk, and to take his part with his kin, friends and partakers as often as he is required to do so, his allegiance to the queen, the governor and his overlord being excepted. Dated at Hawick, 8th May 1543. Witnesses, John Scott in Thirlestane, Robert Scott, his son, and others, | 23 |
| 31. Letters by Mary, Queen of Scots, directed to the sheriff of Dumfries, steward of Annandale, narrating that Mary, Queen Dowager and Regent, had liberated John Johnstone of that Ilk from ward in the Castle of Edinburgh, that he may, before 15th November next, enter certain of his surname as pledges for keeping good rule, and to restore and deliver again all goods stolen by the said persons since the 10th April last, and as to that end it is necessary that his whole surname assist him, the queen charges the sheriff and steward to pass and command all John Johnstone's surname and friends and others to concur with and assist him in the apprehension of those who refused to give pledges; with certification to those that did not concur that they would be punished, etc. Given under the signet at Edinburgh, 19th October 1554,..... | 24 |
| 32. Bond by the Johnstones to the effect that as the queen has their pledges in sundry castles for good rule to be kept in the country, which is troublesome to them and costly, they desire the Laird of Johnstone that he would find some remedy, and some ready way to liberate their pledges, binding themselves that if any Johnstone for whom they are pledged, | |

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- man, tenant or servant, commit theft, robbery, slaughter, fire-raising or other crime, they will search for and seize the criminal and deliver him to the laird to be punished for his demerits; and if they cannot apprehend the guilty person they oblige themselves to burn, harry and put him out of the country, and to redress the complainer. Signed at the Chapel of Dunwoodie, 14th November 1555, by twenty-three Johnstones and five Grahams. Sir James Douglas of Drumlanrig, warden of the west marches, and others, witnesses, 25
33. Letters by Francis and Marie, king and queen of France and Scotland, narrating that John Johnstone of that Ilk appeared before the Lords of Privy Council, and heard read over the obligation formerly made by him bearing that as the queen had freed him from ward, in expectation of his good service to be done in apprehending and punishing any person of his surname that shall be disobedient to the laws, and had also caused the principal of his friends to oblige themselves to take part with him and serve him, he therefore bound himself to abide by their advice and counsel in all things concerning the queen, the peace of the realm, punishing trespassers, and good rule, and to maintain them in their heritage; that if any person occupy their lands by force which they are unable to resist, he promised to pass, concur with and assist in the pursuit of the offender, and as in punishing trespassers, slaughter "or vther displesour" might be done, causing feuds, he obliged himself to take part against the bearer of the feud; also to serve the warden at the days of truce when required, etc., as stated in the obligation, dated 8th February 1555-6: Wherefore the lords required the said John Johnstone to abide by and fulfil the obligation according to its terms, and the king and queen direct their sheriffs in that part to charge — Johnstone of Wamphray, James Johustone of Corrie, and others named, to convene and concur with and assist him when required to do so. Given under the signet at Edinburgh, 4th September 1560, ... 26
34. Conditions upon which John Johnstone of that Ilk was received to the king's favour. First, he shall acknowledge King James the Sixth, king of Scots, as his only sovereign, and shall truly serve the king's grandfather, Matthew, Earl of Lennox, as regent. Further, he shall, for himself and all for whom he is bound, observe peace and friendship between Scotland and England, and shall be answerable therefor. Likewise, he shall, for all

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- offences by himself and his friends against such friendship, in resetting English rebels or otherwise, underly such order as shall be concluded on between the two kingdoms. Item, he shall not assist nor maintain any thieves of the surname of Johnstone, and in case of disobedience among his dependants, he shall either enter them as pledges, or punish them with fire and sword. Lastly, he shall enter pledges for the observance of these conditions as required. [No date, c. 1571],..... 29
35. Bond by Thomas Johnstone of Craigoburn and John Johnstone, his son and heir, for themselves, and taking burden for their children, etc., Robert Johnstone of the Newton for himself and his "bairnis, brether and brether bairnis" within Annandale, and Andrew Johnstone of Kirkton for himself and others, binding themselves to John Johnstone of that Ilk in manrent and service for life for his maintenance of them, their servants, and tenants, etc. Dated at Branxholme, 20th June 1571. Witnesses, Walter Scott of Branxholme, knight, Walter Scott, natural son of the late Walter Scott of Branxholme, knight, with others,..... 30
36. Bond by Robert Elliot of the Redheuch, Martin Elliot of the Braidlie, and Hob Elliot of the Schaws, binding themselves that, as they had "borrowit" from John Johnstone of that Ilk, John Elliot of the Steill, taken prisoner by him, they will re-enter the said John Elliot in the tower of Lochwood on six days' warning, there to remain until lawful entry be taken of him, if he and John Johnstone and their friends do not agree on matters disputable between them before Candlemas; the said John Johnstone being meanwhile under assurance that he and his friends shall be unharmed by the said John Elliot and his kinsmen, who shall be safe on their part. Dated at Branxholme, 13th December 1572, the Laird of Buccleuch and others being witnesses. [A letter to Lady Johnstone, annexed to this writ, signed by "The Lady Corheid," requests her to release John Elliot, and send him home up Ettrick, or other sure way, because of feud with those of Dryfe or Gillisbie],..... 31
37. Submission between John Johnstone of that Ilk on behalf of the surname of Johnstone, and their servants, on the one part, and Fergus Grahame of the Moat, and a number of Grahames and Irvings, conjunctly and severally (Richard Grahame of Netherby excepted) on the other part, binding themselves to fulfil the decree arbitral of John Johnstone of Elshieshiels, and five other Johnstones, and of Robert Grahame of Fauld,

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- and five others, Grahames, etc., chosen by both parties respectively as arbiters concerning the slaughter of the late Archibald Johnstone of Myrehead, and all controversies between the two parties, who, with the arbiters, are to meet at Craikhauch, 26th May instant, and produce their claims, decree to be given within forty days thereafter. Dated at Craikhauch, 11th May 1573. Witnesses, Sir Walter Scott of Braxholme, knight, John Charteris of Amisfield, Robert Johnstone, parson of Lochmaben, Adam Scott of Brotherton. An additional clause narrates that William Armstrong of Morton, and two other Armstrongs also submit to the decree. Signed by Johnstone of that Ilk, and a number of Johnstones, Grahames, Irvings, and Armstrongs,..... 32
38. Obligation by Fergus Grahame of the Moat and Edward [Irving] of Kirkpatrick that they will faithfully fulfil all their "speikin" to the Laird of Buccleuch and the Laird of Johnstone on "Craikmoir," and will keep the day appointed. Undated, but c. 1573,..... 34
39. Bond by John Johnstone of that Ilk to maintain John Johnstone in the Greenhill, who has become his man and servant, and specially in the heritable right of the six merk land of Batok [Beattock], the "kindness" of two and a half merks land in Greenhill, and one merk land in Kirkpatrick occupied by the Taits. Subscribed at the Lochwood, 2d July 1573,..... 34
40. Agreement between John Johnstone of that Ilk on the one part, and the "auld tennentis" of the lands of Kelhead, that they shall render him daily service, with multure, "beir" and kaiu fowls, and other payments, while he shall warrant and defend them at all hands having interest during the lifetime of his sister, Jean Johnstone, liferentrix of the lands. Subscribed at Cummertrees, 9th December 1577,..... 35
41. Submission by those "that beris and hes the nayme of Johnnstounis" binding themselves to refer any action or cause of controversy amongst them to the decision of Robert Johnstone in Cairnsalloch, and eleven other Johnstones, as "amiablc freindis equalie chosin be the rest," with John Johnstone of that Ilk, their "chief and maister," as oversman, and to abide by any deliverance given by them. And if any one named Johnstone refuse to do this, they shall be punished by the others. This

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- agreement to endure for a year. Signed by the Laird of Johnstone, and thirty-four others, at the chapel of Dunwoodie, 2d December 1578,..... 36
42. Bond by John Johnstone in Howgill, and fifty other Johnstones, to the effect that as John Johnstone of that Ilk, their chief and master, had bound himself to the king and his lieutenant, at the last justice court held in Dumfries, on behalf of the Johnstones, that they would be answerable to the laws of the realm, and would satisfy all complaints against them, and he had further promised to liberate their pledges, they therefore oblige themselves that if any one of them, men, tenants or servants, commit any crime which may prejudice the said John Johnstone in keeping his bond, they shall apprehend such person and deliver him to punishment. Subscribed at the Southwood-foot, 3d January 1578-9,..... 37
43. Bond by James Graham of Gillisbe for himself, his men, tenants and servants, binding them in manrent to John Johnstone of that Ilk, warden of the west marches of Scotland, to serve and obey him as true and faithful servants against all men, the king excepted. Lochwood, 17th September 1579. Witnesses, Walter Scott of Tushilaw, and others,..... 40
44. Commission by King James the Sixth, because the office of wardenry of the west marches of Scotland is vacant in the king's hands by the demission of John, Lord Herries, last warden, and because the lieges there may be grievously oppressed by thieves and malefactors unless a remedy be provided, constituting and appointing John Johnstone of that Ilk warden of said marches within all the bounds of Eskdale, Ewesdale, Wauchopedale, Annandale, Nithsdale and Galloway, up and down the Cree, also justiciar within the bounds, with full powers. Given under the great seal at Stirling, 27th August 1579,..... 40
45. Offers of Submission made by Thomas Ker of Ferniehirst, knight. First, that he will acknowledge the king's authority, and be a faithful subject. Secondly, although he never meant to offend the Earls of Morton and Angus, but for the service of one he followed at the time, yet being desirous to have their goodwill, he offers to come before them admitting his offences, and craving pardon. Thirdly, he offers the marriage of his eldest son to be bestowed by their lordships. Fourthly, he offers his perpetual bond of manrent to the said earls, providing always that by their means he may have the king's pardon, and the benefit of the Act of

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Pacification, restoration of his lands, and the restitution of his evidents now in their hands through the rendering of the Castle of Edinburgh by the late Laird of Grange; and also that he may have their bond of maintenance. [c. 1579],.....	42
46. Answers made by the Earl of Morton to the above offers by Sir Thomas Ker. First, the first offer is remitted to be dealt with by the king and council as the Earl of Morton is not now regent. The second offer the Earl of Morton accepts for himself. For the third offer the earl accepts the marriage, not of the eldest son, but of such son as the earl may choose. Fourth, the earl accepts the offer of bond of manrent. Lastly, (1) the earl does not bind himself beyond goodwill in obtaining the king's pardon, nor (2) in procuring the benefit of the Act of Pacification; (3) the earl desires a particular statement to what possessions Sir Thomas Ker wishes to be restored. The Earl is willing to restore the evidents, and also on conditions to grant the bond of maintenance. He further desires that the Laird of Ferniehirst, to obtain greater favour, may make agreement with the town of Jedburgh and others named, who had done faithful service to the king and to the earl when regent. [c. 1579],.....	43
47. Bond by John Johnstone in Carterton and Thomas Johnstone of Fynlane, binding themselves to John Johnstone of that ilk, that the said Thomas being now in Lochmaben, and about to depart to his own house, shall return on Sunday next, 26th February, and remain in Lochmaben until lawfully entered, his sons, William and Symon Johnstones, remaining in the town till his return; the loss of their possessions being the penalty of failure. At Lochmaben, 21st February 1580-1,.....	44
48. Offers by Edward Irving of Bonshaw, George Graham of Rainpatrick, and John Irving of Knoekhill, made to the Laird of Johnstone and to the wife and children of the late William Johnstone in Hayhill, for being on the field at the unhappy slaughter of the said William. First, they offer full repentance. Secondly, they offer to try their innocence and acquit themselves of firing the fatal shot. Thirdly, they offer George Irving, son to the said Edward, and Christe Grahame, son to George Grahame, to be entered in the Laird's house of Lochwood, to abide such trial as he shall appoint, and to be punished if found guilty. Fourthly, they offer to come to any place to be appointed and make public repentance in usual form, with naked swords in their hands. Fifthly, they offer to aid the	

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widow and children in their affairs. Sixthly, they offer to pay them 500 merks Scots. Lastly, they offer to increase their proposals if not sufficient, and they conclude by again craving forgiveness. February 1581-2,	45
49. Offer by Will Bell of the Nook and Will Bell of Blacathouse, in answer to a statement about their treasonable breaking their bond and promises, taking burden for their brothers, Rany and Watty Bell, offering to maintain and verify that the alleged bond was devised while they were in ward and in danger of their lives, that they were constrained to sign, and they also offer their bodies for trial of their honour and proving their accusers false. 6th February 1583-4.....	46
50. Bond by Richard Grahame called "Hutschoneis Reche," that forasmuch as Sir John Johnstone of Dunskeillie, knight, warden of the west marches, has imprisoned him in the tower of Torthorald, and he can have no liberty without this bond, he therefore obliges himself to remain a prisoner until specially liberated by the warden; and if he desires to be no longer under promise, he will, before giving up the bond, re-enter himself in the tower. Subscribed at Torthorald, 10th August 1584,.....	47
51. Assurance by John [Maxwell], Earl of Morton, that John Johnstone, called Greenhill, John Scot, Richard Latimer, and nineteen others named, now in the castle of Lochmaben, should be unhurt and unmolested by him or his friends in bodies, lands, or goods for any quarrell between the parties, they on their part doing nothing prejudicial to the earl and his friends. Dated at Dumfries, 24th August 1585,.....	48
52. Signature by King James the Sixth directing a letter to be made under his privy seal, granting to Sir John Johnstone of Dunskeillie, knight, warden of the west march, and Dame Margaret Scott, his spouse, the gift of the escheat of the lease of the teindsheaves of the parish of Lochmaben of all goods, profits, etc., of lands in the bonnds of Annandale, Eskdale, Ewesdale and Wanchopedale, with the escheat of the lands of Carlaverock and the lease of the teindsheaves of the town and parish of Dumfries, which belonged to John, Earl of Morton, Lord Maxwell, now belonging to the king by reason of escheat, the earl being declared rebel for non-entry of certain Armstrongs, and also for taking arms against his majesty's lieutenants, with power to intromit with the said goods, etc. Subscribed — [c. 1585],.....	49

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| 53. Assurance by James Douglas of Drumlanrig, taking burden for Carlyle, Bell, and Irving of Turnshaw, that Edward Irving of Bonshaw and his adherents shall be unharmed and unmolested for the space of twenty days, and Douglas promises faithfully to cause the assurance be kept firm and stable. Dated at the Lochwood, 22d November 1587,..... | 50 |
| 54. Bond by Elizabeth Johnstone, lawfull daughter of the late Sir John Johnstone of Dunsbellie, knight, and Alexander Jardine (younger of Apple-girth), her spouse, obliging themselves to James Johnstone of that Ilk, son and heir of the said late Sir John, that in case the said James die without heirs-male of his body, the nearest lawful heir to him or his late father shall enter and be served heir in their lands and possessions ; as she and her spouse renounce and freely resign all right and claim to such lands, etc., constituting James Johnstone their cessioner and assignee to the gift of his ward, non-entry, relief and marriage, etc., with clause of registration. Subscribed at the Lochwood, 24th December 1587,..... | 51 |
| 55. Assurance by James Douglas of Drumlanrig for himself, his kin and friends, Bells, Carlyles, their partakers, as well Englishmen as Scotsmen, that James Johnstone of that Ilk and Edward Irving of Bonshaw, their kin, friends and partakers, as well Englishmen as Scotsmen, shall be unhurt and unmolested for any cause until the 14th of September next, and Douglas binds himself to cause this assurance be kept. Dated at the Ros, 27th August 1588,..... | 52 |
| 56. List by James Douglas of Drumlanrig of offences against his tenants committed by persons of the name of Johnstone during 1587 and 1588, enumerating thirteen separate acts of spoliation of horses, cattle and household goods at intervals in those years. [c. 1589],..... | 53 |
| 57. Claim by James Johnstone of that Ilk against John Lord Maxwell, to be submitted to arbiters, complaining that his natural brother, Robert Maxwell, with the late Mr. David Maxwell and their accomplices, on 6th April 1585, burned the place of Lochwood, furniture, "chartour kist with my hail evidentes and wreitts," and jewells ; also that Lord Maxwell himself in May of the same year had destroyed the barony of Johnstone and harried the complainer's lands in Annandale and Nithsdale, the damage being valued at 100,000 merks Scots. [c. March 1590],..... | 54/ |

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58. Commission by King James the Sixth, appointing Sir James Johnstone of Duns-kellie, knight, justiciar in that part, and bailie to the effect under-written, giving and committing to him full power of holding courts of justiciary and bailiary in the bounds of Annandale and Nithsdale over all persons of the surname of Johnstone, their kin, friends, etc. ; exempting such persons from compearance before the steward of Annandale, in terms of a decree of exemption in favour of the late Sir John Johnstone, father of Sir James, granted by the lords of session, etc. Given under the quarter seal, at Holyrood-house, 10th June 1590,..... 55
59. Bond by William Johnstone and others, principal men of the Johnstones of Millbank and Auchinslock, that because Sir James Johnstone of Duns-kellie, knight, and Robert Douglas of Coschogill are cantioners for them, they will relieve the king and his wardens for all attempts committed or to be committed ; and because their chief is obliged to keep Robert Douglas skaitless, they bind themselves to free and relieve Sir James of all prejndice that may arise from his act of caution. Subscribed at Dinwoodie-green, 3d November 1590,..... 56
60. Extract act of the Justiciary Court held at Dumfries on 16th November 1590, by Sir John Carmichael of that Ilk, knight, warden of the west march, narrating that James Johnstone of that Ilk had presented his men before the warden, and objected to the repludging asked by the Earl of Morton as steward of Annandale. He also wished it declared that the judge allowed him to poid for relief of his caution, and he protested that he and his servants when decerned to pay goods, although they were innocent, might have relief against the culprits,..... 58
61. Agreement between John, Earl of Mortou, Lord Maxwell, etc., for himself, his kin and friends on the one part, and Sir James Johnstone of Duns-kellie, knight, for himself, his kin and friends, on the other part. Both parties oblige themselves that neither of them shall assure or agree with Sir James Douglas of Drumlanrig, knight, his kin and friends, without the consent of the other, and that both agreements shall be made on one day ; and if either party have an action against Sir James or his kin, they bind themselves to assist each other against him, etc. Dated and snbscribed by both parties at Dumfries, 13th March 1592-3. Witnesses, Robert Maxwell of Castlemilk, George Carruthers of Holmends, and others,..... 58

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| 62. Bond by Herbert Irving of Turnshaw, and John Irving of Luce, granting that they had become men and manrent to Sir James Johnstone of that Ilk, knight, of Dunskeillie, and binding themselves to serve him as their special master in all his actions against all men, the king and their own landlords only excepted. Subscribed at the Lochwood, 7th August 1593, | 60 |
| 63. Bond by Amer Maxwell of Carnsalloch, George Maxwell of Drumcutren, William Maxwell of Tinwald, younger, John Maxwell of Portrack, and Mnngo Maxwell there, in respect that they are taken prisoners by Sir James Johnstone of Dunskeillie, knight, and have "borrowit" or bailed themselves upon their own bonds, they therefore bind themselves to re-enter to the house of the Lochwood on the 8th of January, there to remain till lawful entry be taken of them ; and in the meantime they shall not trouble Sir James or his friends, civilly or criminally. At the Lochwood, 10th December 1593,..... | 60 |
| 64. Proposals by Sir James Johnstone of that Ilk and of Dunskeillie, knight, who states that, considering God's glory, the king's peace and the common weal, perceiving great trouble to arise from "the last vnhappy and vngodly wark" between Lord Maxwell and himself, which led to that lord's death, he had buried all resentment, and made an agreement with the late Lord Maxwell, who however had made another private bond designed to ruin Johnstone and his friends, which was likely to disturb the borders. To avoid this Johnstone offers to give security that neither he nor any of his partisans in the late trouble shall do harm in taking goods from any partakers with the late Lord Maxwell, he and his friends having a similar surety. If any goods be taken unwittingly from the Maxwells he promises to give redress ; and further offers to submit the matter to arbiters. Dated at the Lochwood, 30th June 1594,..... | 61 |
| 65. Precept by King James the Sixth directing a letter of respite or remission to be made in due form to Sir James Johnstoue of Dunskeillie, knight, for the treasonable slaughter of the late John, Lord Maxwell, lieutenant of the west marches for the time, and other persons in his company, on 6th December last, 1593, and for all actions that may follow thereon. Date blank [probably 24th December 1594], but signed by the king and Sir Robert Melville, | 62 |
| 66. Bond of service made to Sir James Johnstone of that Ilk, knight, of Dunskeillie, | |

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- by Edward Irving of Stableton, Jeffray Irving of the Cove above Dunskeillie, and four other Irvings named, binding them, their servants, etc., to serve Sir James against all, except the king ; also to hold him harmless at the hands of the king and his officers. At Bonshaw, 26th March, and at Stableton 10th April 1596, 63
67. Commission by King James the Sixth, in consequence of the disturbed state of the borders, endangering the peace and friendship between Scotland and England, appointing and constituting Sir James Johnstone of Dunskeillie, knight, to be warden and justiciar within the bounds of the west marches towards England, namely within the bounds of Annandale, Eskdale, Ewesdale, Nithsdale and Galloway up and down the Cree, with full power of holding courts, punishing offenders, etc. Given under the great seal at Falkland, 28th July 1596, 64
68. Bond by Sir James Douglas of Drumlanrig, Robert Dalzell, younger of that ilk, and others named, declaring that at the king's command they have assured, and do assure Sir James Johnstone of Dunskeillie, knight, Edward Irving of Bonshaw, and various Irvings and Johnstones and Armstrongs named, that they shall be unhurt and unmolested by the granters for any cause until the first day of January 1598. Subscribed at Dumfries, 29th November 1597, with a provision that the opposite party shall give a similar assurance to the granters, 66
69. Notarial copy of assurance by Sir James Johnstone of Dunskeillie for himself and his friends, at the command of the Lord-Lieutenant, that Sir James Douglas of Drumlanrig, knight, his kin and friends (except the Bells and Carliles), shall be unhurt and untroubled by the granters for any offence until the first of October next to come ; and if this assurance be broken, the Lord-Lieutenant shall try the offender. At Douglas, 4th September 1598, 67
70. Bond by Sir James Douglas of Drumlanrig, knight, for himself and friends, expressly assuring Sir James Johnstone of Dunskeillie, knight, his kin and friends, that they shall remain unharmed until the first day of January next. At Edinburgh, 18th November 1599, 67
71. Similar assurance granted by Robert, Lord Crichton of Sanquhar, to Sir James Johnstone. Edinburgh, 18th November 1599, 68

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| 72. Extract Act of the Privy Council of Scotland, narrating that Sir James Douglas of Drumlanrig, knight, and Sir James Johnstone of Dunskeillie, knight, appeared before the council, and bound themselves and their adherents to observe the king's peace and keep good rule in the country. At Holyroodhouse, 20th November 1599, | 69 |
| 73. Minute of the Warden Court, declaring that William, Lord Herries, warden of the west marches, Sir James Douglas of Drumlanrig, knight, and others, thought good that the Laird of Applegirth and his friends shall acquit themselves in the terms set down by the Laird of Johnstone and his friends, for the slaughter of the late John Johnstone in Fingland, or for any other Johnstone slain between the time of the Laird of Johnstone's entry into ward and the night the slaughter was committed, except certain persons named who are fugitive rebels ; advising parties to take acquittances at the sight of friends, and also that a new assurance be taken. Lord Sanquhar and James Johnstone being out of the country, their purgation in writing shall be sufficient. Signed by the warden and four others, at Kirkmichael, 1st July 1600,..... | 69 |
| 74. Bond by Edward Maxwell of Tinwald, Herbert, Edward and John Maxwell, his sons, for themselves, their kin and friends, assuring Sir James Johnstone of Dunskeillie, knight, his kin and friends, that they shall be unmolested until first July 1601. Dated at Dumfries, 4th August 1600, | 70 |
| 75. Commission by King James the Sixth and the Privy Council, narrating their consideration that one of the chief causes of the bloodshed and thefts committed on the west marches has been the "want of the preicheing of the Word and exercise of the trew religioun" within the bounds, and also that the ruin of the churches there has been an impediment to such preaching ; as to which his majesty in council has resolved that the parish churches of Lochmaben, Dryfesdale, Wamfray, Hoddam, Applegirth, Mouswald, Lockerbie, Morton, Ruthwell, Torthorald, Sillebie and Middlebie, shall be rebuilt by the parishioners of the said churches, between this and the first day of October next : And to the effect that this resolution may be enforced, the king has recommended Sir James Johnstone of Dunskeillie, knight, warden of the west march, to convene the whole parishioners, and to move them to agree to pay the necessary expenses and appoint collectors ; ordaining letters to be issued charging each | |

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person to pay his share. Dated at Dumfries, 19th October 1602. Extracted by James Primrose, clerk register,	71
76. Letters by King James the Sixth, granting, with consent of Sir George Home of Spott, treasurer, to Sir James Johnstone of Dunskeillie, knight, warden of the west march, the escheat goods of all persons in the said wardenry who shall remain at home from the days "of trew" arranged between the opposite wardens; constituting Sir James justice in that part, with power to warn all such persons to compear to underly the law, and to hold courts, etc., this commission and gift to endure for the term of Sir James Johnstone's tenure of the wardenry. Peebles, 26th October 1602,	72
77. Bond by Francis Armstrong <i>alias</i> Kinmont, binding himself and his heirs to serve Sir James Johnstone of that Ilk, knight, against all men, the king excepted; in return for which, Sir James binds himself to maintain Armstrong and his heirs. Both parties subscribe at Lockerbie, 6th February 1603,	73
78. Notarial Instrument narrating that Elizabeth Stewart, Lady Newbie, had of her own free will removed from the tower of Newbie into the "Leuche hall," and has also promised to be accountable to the Laird of Johnstone for her five youngest daughters, as he has obliged himself to be answerable to the council for the house and the children. She also grants that the laird has not intromitted with any gear belonging to her or her late husband, except some fodder and fuel. Newbie, 2d January 1605,.....	74
79. Bond by William Bell in Blackethouse and James Irving of Cleucheads, acknowledging that they have "borrowit" from Sir James Johnstone of that Ilk, knight, of Dunskeillie, John Gowan, servant to Geordie of Kinmonth, whom they promise to give up to Sir James on fifteen days' warning, under a penalty of one thousand merks, which sum they bind themselves to pay in case of failure. Dated at the Lochwood, 13th January 1605,	75
80. Order by the Lords of the Privy Council for relieving Sir James Johnstone of Dunskeillie, knight, from his present ward within his lodging in Edinburgh, and allowing him to go where he pleases for doing his lawful affairs. Edinburgh, March 1605,	76

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| 81. Extract Act of the Privy Council, narrating a Letter of Slains, dated at Edinburgh, 11th June 1605, by John, Lord Maxwell, for himself and his dependants, declaring that at the king's command, and because of his promise to the privy council, he freely remits and forgives all hatred and illwill he has or may have against Sir James Johnstone of Dunskeillie, knight, his kin and friends, for the slaughter of the late John, Lord Maxwell, the granter's father ; and he accepts Sir James to favour as if the slaughter had never happened. Signed by Lord Maxwell before the lords of the privy council. Extract dated 25th June 1605,..... | 76 |
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APPENDIX OF ANNANDALE CHARTERS.

101. CHARTER by KING DAVID THE FIRST to ROBERT DE BRUS, of Annandale. c. 1124.¹

DAVID Dei gratia rex Scottorum, omnibus baronibus suis et hominibus et amicis, Francis et Anglis, salutem. Sciatis me dedisse et concessisse Roberto de Brus, Estrahanent, et totam terram a diuisa Dunegal de Stranit usque ad diuisam Randulfi Meschin. Et uolo et concedo ut illam terram et suum castellum bene et honorifice, cum omnibus consuetudinibus suis teneat et habeat; videlicet, cum omnibus illis consuetudinibus quas Randulphus Meschin unquam habuit in Carduill et in terra sua de Cumberland, illo die in quo unquam meliores et liberiores habuit. Testibus, Eustacio filio Johannis, et Hugone de Morvilla, et Alano de Perci, et Willelmo de Sumervilla, et Berengario Enganio, et Randulfo de Sules, et Willelmo de Morvilla, et Herui filio Wariui, et Aedmundo camerario. Apud Sconam.

[Translation.]

DAVID, by the grace of God, King of Scots, to all his barons and men and friends, French and English, greeting. Know that I have given and granted to Robert of Brus, Estrahanent, and all the land from the march of Duncgal of Stranit even to the march of Randulf Meschin. And I will and grant that he hold and have that land and its castle, well and honourably, with all its customs; to wit, with whatever customs Randulf Meschin had in Carduill and in his land of Cumberland, on whatever day he had them best and most freely. Witnesses, Eustace son of John, and Hugh of Morville, and Alan of Perci, and William of Sumerville, and Berengar Engain, and Randulf of Sules, and William of Morville, and Herui son of Warin, and Aedmund the chamberlain. At Scone.

102. CHARTER by KING DAVID THE FIRST to ROBERT DE BRUS, of the Vale of Anant in fee and heritage, and in forest. Circa 1125-1129.²

DAVID, Rex Scottorum, omnibus probis hominibus totius terre sue, Francis et Anglicis, et Galweiensibus, salutem. Sciatis me dedisse et concessisse Roberto de Brus, in feudo et hereditate, illi et heredi suo, in foresto, uallum de Auant, ex utraque parte Aque de Anant, sicut diuise sunt a foresto de Seltschirche quantum terra sua protenditur uersus Stradmitt, et uersus Clud, libere et quiete, sicut aliud forestum suum tenetur melius et liberius. Quare defendo ne ullus uenatur in predicto foresto nisi per ipsum, super forisfactum x librarum, et ne ullus eat per predictum forestum nisi recta uia nominata. Testibus, Waltero cancellario, et Hugone de Moreuilla, et Waltero filio Alani, et Odenello de Vmframuilla, et Waltero de Lindescia, et Ricardo de Moreuilla. Apud Stap[elgo]rtune.

[Translation.]

DAVID, King of the Scots, to all good men of his whole land, French and English and Galwegians, greeting. Know that I have given and granted to Robert of Brus, in fee and heritage, to him and his heir, the valley of Anant, in forest, on both sides of the water of

¹ The National Manuscripts of Scotland, Part I. No. xix.

² *Ibid.* No. xx.

Anant, as the marches are from the forest of Seleschirche as far as his land extends towards Stradnitt and towards Clud, freely and quietly as any other forest of his is best and most freely held. Wherefore I forbid that any one hunt in the aforesaid forest, unless by his authority, on pain of forfeiture of ten pounds, or that any one go through the aforesaid forest unless by a straight road appointed. Witnesses, Walter the chauceitor, and Hugh of Moreuill, and Walter son of Alan, and Odenell of Unframuill, and Walter of Lindesei, and Richard of Moreuill. At Stap[elgo]rtune.

103. CHARTER by KING WILLIAM THE LION to ROBERT DE BRUS, of all the lands which he and his father held in the valley of Annand. *Circa* 1165-1174.¹

WILLELMUS, Rex Scottorum, episcopis, abbatibus, comitibus, baronibus, iusticiis, vicecomitibus, ceterisque probis hominibus totius terre sue, Francis et Anglis, Scottis et Galwahensibus, clericis et laicis, salutem. Sciant presentes et futuri me reddidisse et concessisse, et hac carta mea confirmasse Roberto de Brvs et heredibus suis, totam terram quam pater suus et ipse tenuerunt in valle de Anand, per easdem diuisas per quas pater suus eam tenuit et ipse post patrem suum: Tenendam sibi et heredibus suis, de me et heredibus meis in feudo et hereditate, in bosco et plano, in pratis et pascuis, in moris et mareisis, in aquis et staguis et molendinis, in forestis et tristiis, in saltibus et portibus, in viis et semitis, in piscariis, et omnibus aliis iustis pertinenciis suis, ita libere et quiete, plenarie et honorifice, sicut pater suus uel ipse eam tempore Regis Dauid, aui mei, uel Regis Malcolmii, fratris mei, liberius et quociens, plenius et honorificius tenuit; exceptis regalibus que ad regalitatem meam spectant, scilicet, causa de inuentione thesauri, causa de murdra, causa de assaltu premeditato, causa de femina efforcata, causa de arsiione, causa de rapina, quas causas mihi reseruauit. Concedo etiam ei ut hec cause sint atacheate per uuum hominum de feudo suo quem elegero, et tractate et placitate per ante iusticias meas infra comitatum de . . . s, de Te . . . u et tales consuetudines capiet de hominibus regni mei quales capiuntur apud Rokesbure, excepta asisa baronie sue. Volo itaque . . . predictus Robertus de Brvs . . . de me et heredibus meis . . . libere sicut superius diuisum est, per seruitium x militum, excepta custodia castellorum meorum unde ipsum quietum clamaui. Testibus, Engelramo episcopo de Glasgu, Christiano episcopo de Withern, Ricardo de Moruilla, constabulario, Waltero filio Alani, dapifero, Odenello de Unframuilla, Henrico Luuel, Huctredo filio Fergus, Gilberto filio Fergus, Roberto filio Truite, Waltero de Windlesouer, Waltero Corbet, Gilberto filio Richeri, Rollando filio Huctredi, Willelmo de Haia, Willelmo de Mortemer, Rogero de Monethov, Simone Locard, Hugone clerico meo, Roberto de Chartres, Ricardo clerico. Apud Locmaban.

[Translation.]

WILLIAM, King of the Scots, to the bishops, abbots, earls, barons, justices, sheriffs, and the other good men of his whole laud, French, English, Scots and Galwegians, clergy and laity, greeting. Be it known unto all present and to come, that I have given and granted, and by this my charter confirmed, to Robert of Brus and his heirs, all the land which his father and himself have held in the dale of Annaud, by the same marches by which his father held it, and he after his father. To be held to himself and his heirs, of me and of my heirs, in fee and heritage, in wood and plain, in meadows and pastures, in moors and marshes, in waters, stanks and mills, in forests and trysts, in hills and harbours, in ways and paths, in fishings,

¹ The National Manuscripts of Scotland, Part J. No. xxxix.

and in all its other just appurtenances, as freely, quietly, fully, and honourably as ever his father or he himself most freely, quietly, fully and honourably held that land of King David, my grandfather, or of King Malcolm, my brother; excepting the royal rights which belong to my royalty, to wit, cause of treasure trove, cause of murder, cause of assault aforethought, cause of rape, cause of arson, cause of robbery, which causes I reserve to myself. Moreover, I grant to him that these causes shall be brought into court by one of the men of his fief whom I shall choose, and treated and pleaded before my justices in the earldom of . . . And he shall take the like customs from the men of my kingdom as are exacted at Rokesburc, except the assize of his barony. I will therefore that the foresaid Robert of Brus . . . of me and my heirs . . . freely as is above appointed by the service of ten knights, the ward of my castles excepted, of which I have quit-claimed him. Witnesses, Engelram, bishop of Glasgow, Christian, bishop of Withern, Richard of Moruill, constable, Walter son of Alan the steward, Odeuell of Umframull, Henry Luel, Huctred son of Fergus, Gilbert son of Fergus, Robert son of Truite, Walter of Windlesoure, Walter Corbet, Gilbert son of Richer, Rolaud son of Huctred, William of Hay, William of Mortemer, Roger of Muucthov, Simon Locard, Hugh, my clerk, Robert of Chartres, Richard the clerk. At Loenaban.

104. CHARTER by ROBERT DE BRUYS, EARL OF CARRICK AND LORD OF ANNANDALE, to ALEXANDER OF KEITH, of lands in Langforgrund. *Circa* 1300.¹

OMNIBUS haec cartam visuris uel auditoris Robertus de Bruys, comes de Carrike, et domiuus vallis Anaudie, salutem in Domino sempiternam. Nouerit vninersitas uestra uos dedisse, concessisse et hac presenti carta nostra confirmasse Alexandro de Kethe totam terram nostram in tenemento de Langforgrunde, cum omnibus suis pertinenciis: Tenendam et habendam eidem Alexandro et heredibus suis, de nobis et heredibus nostris, libere, quiete, integre, plenarie, et honorifice, iu planis, pratis, pascuis, et pasturis, staugnis, aquis et piscariis, et cum omnibus aliis iuribus, libertatibus, commoditatibus, aysiamenis et pertinenciis quibuscunque, tam non nominatis quam nominatis, ad dictam terram de Langforgrunde spectantibus nel quoquomodo spectare ualentibus, siue aliquo retiuemento imperpetuum: Faciendo domino regi forinsecum seruicium inde debitum et consuetum: Et reddendo inde nobis et heredibus nostris annuatim vnum par calcarium deauratorum, pro omni alio seruicio, consuetudine, exaccione et demanda seculari. Nos uero Robertus de Bruys predictus et heredes nostri totam terram predictam in tenemento de Langeforgrunde, cum omnibus iuribus, libertatibus et pertinenciis suis, ut predictum est, predicto Alexandro et heredibus suis, contra omnes homines et feminas warrantizabimus, acquietabimus et inperpetuum defendemus. Et ut hec nostra donacio et concessio et presentis carte uostre confirmacio firme siut et stabiles inperpetuum haec cartam sigilli nostri munimine fecimus roborari: Hiis testibus, domiuus Alexandro de Meyueres, Reginaldo de Crauford, Waltero de Logan, Roberto Boyde, militibus uostris, Patricio de Schen, Petro de Grayden, Roberto de Auande, et multis aliis.

[Abstract.]

CHARTER by Robert de Bruys, Earl of Carrike and Lord of Anuaudale, by which he grants to Alexander of Kethe all his lands in the teuement of Langforgrunde; to be held by him and his heirs of the granter and his heirs, for doiug to the king the forensic service thence due and wont, and rendering to the granter and his heirs yearly a pair of gilt spurs. The granter warrants the lands against all men and women, and causes the charter to be confirmed

¹ Original Charter at Glammis.

with his seal. Witnesses, Sir Alexander of Meynercs, Reginald of Crauford, Walter of Logan, Robert Boyde, the granter's knights, Patrick of Scheu, Peter of Grayden, and Robert of Auande. No date, but *circa* 1300.

105. CHARTER by KING ROBERT THE BRUCE, confirming a Charter by the LORD EDWARD, KING OF IRELAND, his brother, to JOHN OF CARLTON, of the lands of Dalmakeran and others [1316-1318]. Confirmation dated 26th July [1323].¹

ROBERTUS, Dei gratia Rex Scottorum, omnibus probis hominibus totius terre sue, salutem. Seiatis nos inspexisse ac veraciter intellexisse cartam bone memorie domini Edwardi Dei gratia Regis Hibernie, fratris nostri karissimi, non abolitam, non cancellatam, nec in aliqua sui parte viciatam, in hec verba:—EDWARDUS, Dei gratia Rex Hibernie, omniibus probis hominibus tocius terre sue, salutem. Seiatis nos dedisse, concessisse et hac presenti carta uostra coufirmasse Johanni de Carltonu, pro homagio et seruicio suo, denariatam terre de Dalmakeran, quadrantatam terre del Carr, super qua sita est insula, deuariatam terre del Enach, et denariatam terre de Treuereragis cum pertinenciis, per omnes rectas diuisas suas et metas: Tenendas et habendas eidem Johanni et heredibus suis, de nobis et heredibus nostris, in feodo et hereditate, libere, quiete, plenarie et honorifice, cum omnibus libertatibus, commoditatibus, aisiamentis et iustis pertineciis, ad predictas terras pertiuentibus seu aliquo iure valentibus pertinere: Reddendo inde annuatim uobis et heredibus nostris prefatus Johaunes et heredes sui tres [lanceas] competentes die natalis Domini, apud capitale mauerium de Turubery, et facieudo [inde] annuatim [tres sectas] curie nostre de Geruane ad tria anni plaecita capitalia, pro omni alio seruicio, exactione et demanda seculari: In cuius rei testimonium presentibus sigillum nostrum precepimus apponi; testibus, Philippo de Moubray, Adam Moer, Johanne de Cnocolian, militibus, Gilberto filio Dofnaldi, Ricardo Edger, Colino filio Duncani, Johanne filio Fergusii, et aliis. QUAMQUIDEM cartam in omnibus punctis, articulis et condicionibus suis, forma pariter et effectu, ratificamus, approbamus et pro nobis et heredibus nostris iu perpetuum confirmamus: In cuius rei testimonium presenti carte nostre sigillum uostrum fecimus appoui; testibus, Bernardo abbate de Abirbrothok, cancellario nostro, Waltero Seneseallo Seocie, Gilberto de Haia, constabulario nostro, et Roberto de Keth, marescallo nostro, militibus, apud Sconam, vicesimo sexto die Julii, anno regni nostri octauo decimo.

[Translatiou.]

ROBERT, by the grace of God, King of the Scots, to all honest men of his whole realm, greeting. Know ye that we have inspected and truly considered a charter of our dearest brother, of good memory, the Lord Edward, by the grace of God, King of Ireland, not annulled, not cancelled, nor vitiated in any part of it, in these words:—EDWARD, by the grace of God, King of Ireland, to all honest men of his whole realm, greeting. Know ye that we have given, granted, and by this our present charter confirmed to John of Carlton, for his homage and service, the penny land of Dalmakeran, the farthing-deal of land of Carr, upon which is situated the island, the penny land of Enach, and penny land of Treuereragis, with the pertinents, by all their righteous meiths and marches: To hold and to have to the said John and his heirs, of us and our heirs, iu fee and heritage, freely, quietly, fully and honourably, with all liberties, commodities, casements and just pertinents belounging, or that can by any law belong to the foresaid lauds: Giving therefor yearly, to us and our heirs, the foresaid John and his heirs, three sufficeint spears on Christmas day at the head manor of

¹ Original charter in Charter-chest of Sir Reginald A. E. Cathcart of Carleton, Baronet.

Turnbery, and making therefor three suits yearly at our court of Gervane, at three head courts in the year, for all other service, exaction and secular demand. In witness whereof, we have commanded our seal to be appended to these presents. Witnesses, Philip of Moubray, Adam Moer, John of Knoedolian, knights, Gilbert, the son of Dofnald, Richard Edger, Colin the son of Duncan, John the son of Fergus, and others. WHICH CHARTER we ratify, approve, and for us and our heirs for ever confirm, in all its points, articles, and conditions in the above form and effect. In witness whereof, we have commanded our seal to be appended to our present charter. Witnesses, Bernard, abbot of Abirbrothoek, our chancellor, Walter Stewart of Scotland, Gilbert of Hay, our constable, and Robert of Keth, our marischall, knights, at Scone, the twenty-sixth day of July, in the eighteenth year of our reign.



