

## RECORDS OF THE CARRUTHERS FAMILY

always complimentary to the owner, usually taking the form of reference to some bodily disfigurement, some event in the person's life or other well-remembered feature. Examples will illustrate this: "Lang-nebbit Will", "Bastard Jok", "Christie's Will", "Half-hangit Johnnie", &c. In other cases they were known of their tower or dwelling-place, for example, "Jok o' the Syde", "Will o' the Shaws", &c. The Laird, or head of the family, was always known by his territorial designation, for instance,— "Irving of Bonshaw" was known as "Bonshaw", "Carruthers of Holmends" as "Holmends", &c.

By the Union of the Crowns of England and Scotland in 1603, through the accession of James VI of Scotland as James I of England, the Borders became the "middle shires", but Border raiding did not forthwith cease and it was many years before the Border folk learned to live peaceably at home cultivating the land and earning their sustenance by honest toil. As a result of the Union the laws peculiar to the Border became obsolete, but customs died hard. The Union of the Parliaments at the beginning of the Eighteenth Century was not favourably looked upon by many on the Border and an outcome was, for many years, the smuggling of contraband articles.

The Industrial Revolution wrought further great changes in this district which rapidly became depopulated as a result of its inhabitants removing to the towns or emigrating to the Dominions, and the present-day population must be considered small when compared with the number who previously dwelt in the West March of Scotland.

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## CHAPTER II

### CARRUTHERS AND MOUSWALD

ACCORDING to Dr. Robert Clapperton the first mention of the Carruthers family in mediæval times is in the reign of Alexander II (1215-45), when William de Carruthers made a donation to the Abbey of Newbattle. Among those who swore fealty to Edward I of England in 1296 was Simon Carruthers, parson of Middlebie.<sup>1</sup> Carruthers, now in the parish of Middlebie, once was, like Pennersaughs (Pennersax), a separate parish, but both were united with Middlebie in 1609. It is stated by Bain that the Carruthers family were Stewards of Annandale and keepers of Trailtrow Preceptory and guardians of the "Old Kirk Ford" of Hoddam under the Bruces when Lords of Annandale.<sup>2</sup>

The family were loyal supporters of King Robert Bruce and accordingly were rewarded for their services, receiving, about the year 1320, a charter, granted to Thomas the Clerk, son of John of Carruthers, of all the lands of "Musfald et de Appiltretwayt cum pertinenciis". This Thomas would appear to have married one of two heiresses of Applynden, for in the same year he was granted a charter of half of all the lands, with pertinents, which belonged to "Roberti de Applingdene in valle Anandie" in right of his spouse Joan.<sup>3</sup>

Thomas's loyalty to the Bruces does not seem to have stood the test of time, for in the year 1334 he accepted office under King Edward III of England; <sup>4</sup> his brothers appear, however, to have remained faithful to the Scottish king and possibly Thomas only bent before the storm. One of these brothers, William, is mentioned both in the Book of Pluscarden and in Wyntoun's "Cronykil".<sup>5</sup>

<sup>1</sup> Hist. MSS. Comm., 6th Rept., Appx., p. 709.

<sup>2</sup> Proc. of Soc. of Ant. of Scot., 1888-9, p. 24, vide "Barony of Mouswald and its Barons".

<sup>3</sup> Reg. Mag. Sig., Vol. i, Nos. 92 and 93.

<sup>4</sup> Rotuli Scotiæ, Vol. i, p. 263.

<sup>5</sup> Liber Pluscardensis, Book ix, Cap. 31; Wyntoun's "Cronykil", Book viii, Cap. 29. William's loyalty to the Bruce-Stewart party is also mentioned in John Major's "Historia", Book v, Cap. xiii.

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Sir Nigel Carruthers, possibly one of the Mouswald family, was, in 1340, Chamberlain to the Regent.<sup>6</sup> In all probability he is the Chamberlain who is stated to have fallen at the battle of Durham on October 17, 1346.<sup>7</sup> Living almost at the same time as the Chamberlain was another Nigel Carruthers, an ecclesiastic and described as canon of Glasgow.<sup>8</sup> Several references to him are to be found; one, on October 10, 1335, being a "Safe conduct".<sup>9</sup>

It is not known whether Thomas Carruthers, first of Mouswald, had any sons, but he was undoubtedly succeeded in the Mouswald Estates by his brother William. It is probable that following Thomas's espousal of the English cause his lands were in due season handed over to his next brother. Should Thomas have had sons it may account for the appearance, at a very early date, of the name Carruthers in Cumberland, Northumberland, Durham and Yorkshire, in which three latter counties it is found in varying forms.

The date of the removal of the Carruthers family to Mouswald is not known, but it would seem to have been in the second quarter of the Fourteenth Century. On September 10, 1349, a Charter was granted by David, King of Scots and Lord of Annandale to William of Carrutheris and his heirs of all the land in the tenement of "Mydilby" which formerly belonged to Thomas of Lyndby and which had come into the King's hands by reason of forfeiture. Amongst the witnesses to this charter was "John of Carrutheris, the King's chancellor of Annandale".<sup>10</sup> This John was in all probability the unnamed brother of William mentioned in Wyntoun's "Cronykil" referred to above. It is possible that the same John was the recipient of the Charter, granted by King David on December 10, 1361, of the half lands (unspecified), which had formerly belonged to John de Raffols, lying within the Mouswald tenement.<sup>11</sup> If this should be the case, it would go to prove the direct connection between the Carruthers families of Holmains and Mouswald, for the John Carruthers who was granted the Charter of the half lands was almost certainly the ancestor of the Carruthers family of Holmains. A further clue to this John Carruthers being a member of the Mouswald family is the fact that amongst the witnesses is Robert Carruthers, Laird of Mouswald.

On January 17, 1370-1, John de Carruthers, rector of Ruthwell in

<sup>6</sup> Exchequer Rolls, Vol. i, pp. 458 and 462.

<sup>7</sup> Liber Pluscardensis, Book ix, Cap. 40.

<sup>8</sup> Calendar of Entries in Papal Registers Relating to Great Britain and Ireland, 1342-62.

<sup>9</sup> Rotuli Scotiae, Vol. i, p. 382, and Cartulary of Paisley, p. 140.

<sup>10</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, pp. 54-5.

<sup>11</sup> Hist. MSS. Comm., 6th Rept., Appx., pp. 709-10.

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Scotland, obtained permission from Edward III of England to go to Oxford University for two years for the purpose of studying.<sup>12</sup>

On September 17, 1394, Simon de Carruthers witnessed a deed<sup>13</sup> and amongst the names of persons mentioned as having agreed to the conditions for the observance of the truce and promoting peace with England, on November 6, 1398, that of John Carruthers is to be found.<sup>14</sup>

During the fifteen years between 1409 and 1424 the Carruthers family were the recipients of numerous grants of land from the powerful Archibald, Earl of Douglas, viz. Mouswald, Middleby and Dornock, with the patronage of the parish churches, also the lands of Hoddam, Westwood, Rockcliffe, Logan-tenement, Hetlandhill and Tundergarth, which rendered as follows: Mouswald, Hetlandhill and Logan-tenement three silver pennies yearly and for the rest the services used and wont.<sup>15</sup>

The first charter was granted at Lochmaben on December 4, 1411, to "Simon of Carrutherys" and comprised "his tenement of Mouswald, with the pertinents, within his forest of Daltoun, his lands of Appultrethwate, with the pertinents, lying in the lordship of Anandale, for service done and to be done to the granter, which . . . the foresaid Simon had resigned in presence of many noblemen in the justice eyre of Anandale, held at the town of Louchmabane." . . . In this Charter Simon Carruthers is referred to as esquire (scutifero).<sup>16</sup>

At the same time as the foregoing charter the Earl granted four other charters, all to Simon Carruthers, viz.:

- (i) Charter of the lands of Hetlandhill, "in the forest of Daltoun and lordship of Anandale", which Simon had resigned in the justice eyre;
- (ii) Charter of the tenement of "Logane" in the parish of "Moffet" and lordship of Annandale, also resigned;
- (iii) Charter for service and homage, to "Simon of Carrutheris of Mouswald of the granter's lands of Middilby and Dronnok" with the pertinents in the lordship of Annandale, also resigned;

<sup>12</sup> Rotuli Scotiae, Vol. i, p. 942.

<sup>13</sup> Cart. of Paisley, p. 108.

<sup>14</sup> Cal. Doc. Rel. to Scot., Vol. iv, No. 512, and Rymer's "Foedra", Vol. iii, Pt. 4, p. 152.

<sup>15</sup> Locality of Moffat, 1852. (Note.—Enquiry at the General Register House, Edinburgh, elicited the information that these papers cannot now be traced. All references to these papers have therefore been made from J. J. Reid's "Barony of Mouswald and its Barons", produced in the Proceedings of the Society of Antiquaries of Scotland, 1888-9.)

<sup>16</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 56.

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- (iv) Charter for service and homage of the "lands of Dornok", in the lordship of Annandale, also resigned, with the pertinents and with the donation and advocation of the parish Church of Dornok.

The three following charters are in the Inventory of the Drumlanrig Charter Chest, but the originals have not been seen, viz.:

- (i) Charter, dated December 4, 1411, by the same Earl to Simon Carruthers of the lands of Hoddam, Tundergarth, Westwood and Rockcliffe;
- (ii) Gift, dated May 5, 1428, by Archibald Earl of Douglas and "Longavell", to Sir Thomas Kilpatrick of Closeburn of the right of patronage of the Kirk of "Pennersex".
- (iii) Charter, dated September 10, 1438, by Archibald, "Duke of Turrairie, Erle of Douglas, &c.", to John Carruthers of Mouswald, of the five merk land of Cumlonganwood.<sup>17</sup>

In 1419 a "Safe Conduct" for a year through the King's dominions of France and England and elsewhere was granted to "Thomas Morwe, abbot of Paisley", with Nigel Carruthers, his chaplain, and "John Perysshone", and a servant, horses, &c.<sup>18</sup> References are also found in the Exchequer Rolls in the year 1436 to a Sir Laurence Carruthers, chaplain to Master John Gray at Bruges, who was on some secret service at that time.<sup>19</sup> It is quite possible that Sir Laurence was a member of the Mouswald family.

In the "Calendar of Documents relating to Scotland" (Vol. ii, p. 405) it is stated that on July 12, 1429, Commissioners were chosen for the East, Middle and West March, and Sym of Caruthirris was appointed Commissioner of the West March.

On August 31, 1439, John Halliday of Hoddam, having been in great difficulties and having borrowed £10 from John Carruthers of Mouswald, as security mortgaged to the latter his lands called Holcroft, a coteland formerly the possession of William of Johnstone, and two oxgangs of land, called the Tynkler's land, in Hoddam tenement.<sup>20</sup>

This John Carruthers was Captain of the Royal Castle of Lochmaben from 1446 to 1454. Many references to him are to be found in the Exchequer Rolls, payments being made to him in that capacity. According to the Introduction of the Historical MSS. Commission's Sixth Report and the Asloan MS., it appears that owing to the treachery of a gate porter the castle of Lochmaben was, in 1454, taken by the Laird of Johnstone's

<sup>17</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, pp. 55-6.

<sup>18</sup> Cal. Doc. Rel. to Scot., Vol. iv, No. 891.

<sup>19</sup> Exch. Rolls, Vol. iv, p. 676.

<sup>20</sup> The Family of Carruthers, p. 5.

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sons and John Carruthers and his sons captured and imprisoned. Not only were the Johnstones allowed to keep possession of the castle, but they were also permitted to receive the salary of £40 per annum, thus showing the weakness of the State at that time. This salary, or annuity, of £40 per annum was paid partly from the fermes of the burgh of Dumfries and partly from those of Annandale. John Carruthers also is mentioned as the receiver of large payments for household expenses on the occasion of visits of the King and Queen to Lochmaben.<sup>21</sup>

King James II, on January 20, 1446/7, granted a Licence to "Elizabeth of Dunwedy" to infest her eldest son, John Carruthers, in her lands of "Houthwate, Stanrase, and Wamfra" with the pertinents and in consequence of this Licence, Elizabeth "sometime spouse and relict of Andrew of Caruderis, lady of Houthuat, Stanres and Wamfra" gave a charter, dated March 7, 1446/7, to her son and heir of the above lands. On April 6, 1449, John Carruthers of Mouswald had a precept from the King to infest him in these lands on the resignation of his mother and sasine was given on the 30th of the same month.<sup>22</sup>

The above lands seem to have come to the Carruthers family as Elizabeth's dower, at all events they all lie in the neighbourhood of Dinwoody.

In 1447, Simon de Carruthers, probably a member of the Mouswald family, had a seisin of the lands of Searigg, near Denbie, and on June 10, 1452, William Lord Creichton, Chancellor of Scotland, granted "to his well beloved cousin, John Carutheris of Mousfald . . . the lands of Kyrtill-hous and lands of Dundoby, in the lordship of Ananderdale in Lord Creichton's tenement of Carutheris . . ." Further, on August 20, 1452, the King, James II, granted to the same John "the lands of Mousfald, Loganetenement, Medilby, Dronnok, Ellirbek, Hatilland Hill, Cummertries, Hod-dome, Tunnergath, Hallathis, Cumlungand, Hultvhate, Stanrase and Wamfray . . . which belonged to the said John heritably and were resigned by him in the King's hands at Edinburgh: all which the King unites into one free barony to be called the barony of Carutheris".<sup>23</sup> . . .

On November 18, 1454, "Archibald of Caruderis" of Mouswald, on brief from chancery and precept from Robert Lord Maxwell, as Steward of the Stewartry of Annandale, received sasine of all the lands of the Barony of Mouswald.<sup>24</sup> It may be inferred from this record that John Carruthers, Captain of the Royal Castle of Lochmaben, was either killed at the time of its capture by the Johnstones or that he was put to death or died in prison.

<sup>21</sup> Exch. Rolls, Vol. v, pp. 521 and 669-70.

<sup>22</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 57.

<sup>23</sup> Ibid., pp. 57-8.

<sup>24</sup> Ibid., p. 58.

In 1468 an assembly was held at Lincluden for the revision of the Border Laws, and among other things it was agreed that a beacon be kept on Pantath-Hill in the Barony of Mouswald.<sup>25</sup>

Elizabeth Ridewood, Lady of Robbiewhat, granted a tack to Gilbert Carruthers on February 27, 1469; <sup>26</sup> and on December 1, 1469, John of Mouswald, Vicar of Kilmaurs, appears as a witness to a deed.<sup>27</sup> It is possible that both were related to the Mouswald family.

On May 14, 1471, Archibald Carruthers of Mouswald brought an action against Thomas Corry of Newby for taking the customs and tolls of Annandale and the "foggage of wodcokkar". Both parties claimed that they belonged to them by gift and tack of the Duke of Albany, but Archibald was successful in obtaining a judgment in his favour as Corry's tack had been made by "Robert umquhile Lord Boyd" whose family had recently been disgraced.<sup>28</sup>

The next mention of the family is on March 3, 1472, when Simon, the brother of Archibald Carruthers of Mouswald, brought an action against John Maxwell, Steward of Annandale, for the wrongful withholding of Hugh Kennedy, a child, who with consent of himself and his friends had been placed in charge of Simon; for the wrongful troubling of the said Simon in the holding of his court upon his lands of "Havolathis" (Halleaths); for the wrongful invasion of his fair mansion with "multitude of men of arms"; and for the breaking of the Sovereign's protection;—against Hugh Kennedy for the performance of an indenture made between him and the said Simon;—against Thomas Kennedy for the wrongful withholding of £40 lawfully obtained;—and against numerous persons who, in company with John Maxwell, had broken the Sovereign's protection.<sup>29</sup> Over two years later, on May 18, 1474, it was decreed by the Lord Auditors that Hugh Kennedy pay to Simon Carruthers for his cost and expense at due times £20 and ordained letters be written to distrain his lands and goods therefor.<sup>30</sup>

[Note.—It would seem that Hugh Kennedy, a minor, had been placed in Simon's charge by consent and that John Maxwell claimed to be the tutor. From the record dated May 18, 1474, Simon appears to have lost his case in that he had to give up his charge, but received compensation to the extent of £20.<sup>29</sup> Halleaths was a possession of the Kennedy family.]

<sup>25</sup> Riddell's MSS., Vol. ii, p. 224, per "Barony of Mouswald and its Barons".

<sup>26</sup> Queensberry Charters per "Barony of Mouswald and its Barons".

<sup>27</sup> Cartulary of Paisley, p. 313.

<sup>28</sup> Acta Auditorum, p. 13.

<sup>29</sup> Ibid., p. 22.

<sup>30</sup> Ibid., p. 35.

Archibald Carruthers of Mouswald is stated, on October 26, 1473, to be a "schirefis in that part" in Letters by King James III to John Johnstone of that Ilk and others to defend Edward Livingston of Bowcastle in his lands of Raehills and others.<sup>31</sup>

Amongst those who witnessed a charter, dated April 5, 1476, granted by the Duke of Albany to John, son and heir of John Carruthers of Holmains, of Holmains, Little Dalton and other lands, was Archibald Carruthers of Mouswald.<sup>32</sup>

The Seal was appended at Cockpool on March 1, 1477, to a Precept of Sasine by Cuthbert Murray of Cockpool directed to John Carruthers of Holmends and Simon Murray, his baillies in that part, stating that he had granted heritably to Archibald Carruthers of Mouswald his lands of "Colnlungane Wode" and commanding them to give state and possession of the said lands to the said Archibald Carruthers.<sup>33</sup>

Simon Carruthers, possibly brother of Archibald Carruthers of Mouswald, would seem to have raided Robert Charteris of Amisfield's lands, for on October 20, 1478, the Lords of the Council decreed that Simon pay Charteris 40/- for the maills (i.e. rents) of "trayleflat" (Trailflat) for the previous year and ordained letters to be written to distrain his lands and goods, and further with regard to the cow and 40 sheep which he had taken from the said Robert's tenants the Lords deemed him quit thereof as he had stated on oath that he had restored them all except one sheep which he was to restore.<sup>34</sup>

Archibald was once more at law, on March 12, 1479, this time against his father-in-law. The action was against John Johnstone of that Ilk anent the sum of £120 claimed by Carruthers to be due to him on an indenture made between them. Johnstone alleged that he should not be bound to pay the sum until the lands of Ellioc (Eliock) were given in joint-fetment to his daughter. The Lord Auditor decreed that the said lands had been given by charter and sasine in due form to the daughter and that Johnstone should pay the sum of £120. Johnstone then alleged that £40 of the sum had been paid and May 10 next, with continuation of days, was fixed for him to prove such payment.<sup>35</sup> Whether Archibald ever received the money is not known, but the slow process of the law is illustrated by the fact that the action had been pursued on October 16, 1478, and at that date had been continued to January 11 next.<sup>36</sup>

<sup>31</sup> Family Book of the Johnstones.

<sup>32</sup> Hist. MSS. Comm., 6th Rept., Appx., pp. 711-12.

<sup>33</sup> Ibid., 15th Rept., Appx. viii, p. 58.

<sup>34</sup> Acts of the Lords of the Council, p. 17.

<sup>35</sup> Acta Auditorum, p. 74.

<sup>36</sup> Acts of the Lords of the Council, p. 12.

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On the same date (March 12, 1479) John, Lord Carlile of Torthorwald, is found claiming £20 sterling, probably for ransom, from Archibald Carruthers for an Englishman named Robert Simson, who presumably had been taken prisoner. Seven days later, on March 19, 1479, John, Lord Carlile, claimed that Archibald had wrongfully taken and withheld from him the sum of £3 for 3 kye. The matter, however, was not decided, and was continued to May 10 next to enable Lord Carlile to prove that Carruthers had done as was alleged.<sup>37</sup> Later, on October 11, in the same year, Archibald became surety for his brothers, Symon and James.<sup>38</sup>

The family lands seem to have suffered a severe raid in the early part of 1483, for on March 27 of that year Archibald Carruthers is found pursuing Archibald Douglas of Colschogill and Elizabeth Menzies, Lady of Craigdarroch, for the wrongful "spoiling" from him of 3,010 sheep by Douglas out of the lands of Conred, and for the tack to Archibald Carruthers of the lands of Conred alleged to belong to Elizabeth Menzies in joint-fetment by a charter with Precept of Sasine, and to have been occupied for the past twenty-one years, or thereby, by her. No decision was arrived at and the action was continued to May 8 next, fresh witnesses being summoned. A further action on the same day, in which Euphemia Maxwell, Lady of Pothouse, and Archibald Douglas of Colschogill were the complainants and Archibald Carruthers of Mouswald, Elizabeth Menzies and others the defendants, regarding the "spoiling" of 200 cattle was undecided and also continued to May 8 next, other witnesses being called.<sup>39</sup>

Archibald Carruthers seems to have been a pugnacious personality and frequently "at law". The downfall of the Douglasses, however, may have had something to do with this, for in the Fifteenth Century the loss of powerful friends was the opportunity for rapacious neighbours, and the Mouswald family may for some years have had a hard task preserving their estates. Archibald was once more the plaintiff in an action recorded on February 20 and 27, 1484, against Robert Crichton of Sanquhar, Sheriff of Dumfries, and Edward Crichton, his deputy, regarding the alleged bastardy of Henry Carruthers, son of umquhile Symon Carruthers. He, however, lost his case as he was declared to be in the wrong in pursuing an action of bastardy.<sup>40</sup>

In the same year King James III granted a charter to Archibald Carruthers of Mouswald of the 20/- land of "Raffulgill" (old extent).<sup>41</sup> The Instrument of Sasine relates that the land belonged heritably to Herbert

<sup>37</sup> Acta Auditorum, p. 82.

<sup>38</sup> Ibid., p. 99.

<sup>41</sup> Reg. Mag. Sig., 1424-1513, No. 1587.

<sup>38</sup> Ibid., p. 86.

<sup>40</sup> Ibid., pp. 131\* and 135-6\*.

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Grymme and was resigned in the King's hands on his behalf. Precept was given under the quarter seal on June 3, and the Sheriff delivered sasine on June 9, 1484.<sup>42</sup>

It would appear that Archibald was married twice, his first wife being, as previously mentioned, a daughter of John Johnstone, the second, Marion Scott. It may be assumed that Archibald died, or was killed, about 1484, for, although he was of the King's party, he was not included in the list of those who were declared traitors after the murder of King James III at Sauchieburn in 1488. There is also a reference to his son Symon in 1485. On his death his widow, Marion Scott, married Sir Adam Johnstone of that Ilk.<sup>43</sup>

According to a short notice of the Carruthers family which appeared in the "Annandale Observer" of July 5, 1878, Sir Simon Carruthers, son of John Carruthers, was killed at the battle of Kirtle in 1484. This was probably Archibald's brother previously mentioned in 1479. It is likely that both Archibald and Simon, who was Warden of the West March, perished together in the battle.

After the succession of Simon Carruthers to the family lands, Marion Scott, who had married Sir Adam Johnstone of Johnstone, is again heard of. She and her husband "were challenged by the officers of the Crown for wrongfully labouring the lands of Polcornell, Whiterig, Appltrewhat 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 evidences of their rights over the lands, failing which they were to desist from the cultivation of them".<sup>44</sup>

Simon, son of Archibald Carruthers of Mouswald, was betrothed to Euphemia, daughter of John, Lord Carlyle of Torthorwald. For some reason or other this projected marriage was not carried through, for on June 29, 1485, there is a Notarial Instrument narrating that, though Simon was ready to complete the marriage, yet John, Lord Carlyle, had not obtained a dispensation for the marriage although "a most reverend father in Christ, James 'Episcopus Imolen', legate a latere" was in the kingdom and gave such dispensations.<sup>45</sup> John, Lord Carlyle, would seem to have

<sup>42</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, pp. 58-9.

<sup>43</sup> Family Book of the Johnstones, Vol. i, p. xxvii; Scots Peerage, Vol. i, p. 239; Hist. MSS. Comm., 6th Rept., Appx., p. 709.

<sup>44</sup> Ibid., p. xxvii.

<sup>45</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 59.

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paid to Simon's father, Archibald Carruthers, 400 merks as part of his daughter's dowry and on the breaking off of the engagement this sum apparently was not refunded. Lord Carlyle accordingly took action and summoned Simon to make repayment. Simon, on his part, claimed that he had a letter of acquittance but seems to have been unable, or unwilling, to produce it. On three occasions, viz. November 14, 1487; January 31, 1488; and February 6, 1489—the case had been previously heard and the Lord Auditor decreed on February 13, 1490, that Simon pay the money owing because he had failed to show the discharge, and ordered letters to be written to distrain his lands and goods therefor.<sup>46</sup> The case dragged on for years. On March 9, 1492, the action was continued to May 7 next, Simon being the pursuer . . . "to here and se a pretendit act and decrett gevin be the lorde auditore for the tyme for the said Johne lord carlile agane the said symon" . . .; and the letters for distraining the Laird of Mouswald were for the time being suspended.<sup>47</sup> The case was continued to October 8, next on July 6, 1492, and execution of letters further delayed, whilst on February 27, 1493, it was deferred until May 8 next.<sup>48</sup> The next that is heard of the case is on June 23, 1494, when John, Lord Maxwell, Steward of Annandale, is sued by both parties; firstly by Simon for wrongfully distraining his lands and goods for the sum of 400 merks whilst the case was still undecided, and secondly by Lord Carlyle for failing to hand over the proceeds of the said distraining. The Lords of Council found that Lord Maxwell had committed no wrong and directed him to put the letters into execution and . . . "mak the said Johne lord Carlile be content and pait of the said soume . . ." <sup>49</sup> No satisfactory settlement seems to have been arrived at, and the action was still being pursued in the early part of the Sixteenth Century and was being carried on on behalf of the Carlyles by William, grandson of John, Lord Carlyle, who was now dead, Simon now alleging that his part of the indenture had been lost or stolen.<sup>50</sup> The action was finally decided some time prior to July 1, 1516, when, as will be seen later, Simon Carruthers, son of the Simon concerned in this long-protracted action for "breach of promise", had married Catherine Carlile, niece of Euphemia Carlile, the lady "in the case". It is possible that the action was settled when the Lords of the Council transferred a debt of 400 merks due by Simon Carruthers to the King to William, second Lord Carlyle, on February 15, 1502/3.<sup>51</sup>

<sup>46</sup> Acta Auditorum, p. 135.

<sup>47</sup> Acts of the Lords of the Council, p. 227.

<sup>48</sup> Ibid., pp. 242 and 295.

<sup>49</sup> Ibid., p. 336.

<sup>50</sup> Ibid. (unprinted), Vols. xiii and xiv.

<sup>51</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 61, and Scots Peerage, Vol. ii, p. 387.

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In 1487 another churchman is mentioned, Sir William Carruthers, Rector of Dalton, and it is probable that he was a member of either the Holmains or Mouswald family.<sup>52</sup>

On January 30, 1489, Simon Carruthers of Mouswald became law-burrows for John Gordon of Lochinvar, his servants and tenants.<sup>53</sup> Seven days later, on February 7, 1489, Simon was declared to be in the wrong in disturbing the above John Gordon, assignee to John Shaw of Knokhill in the occupation and manuring of the lands of "rokcale and Culyne" (Rockhall and Collin) and was ordered to desist therefrom in time coming; he was also to make restitution for the profit he had made in so doing, and letters were to be directed to distrain his lands and goods therefor.<sup>54</sup> Simon does not appear to have taken much notice of orders of the Lords of the Council, for previously on October 17, 1488, he had been ordered to cease from intruding with the same lands and to hand them over to John Shaw of Knokhill. The latter record concludes . . . "the said Symone was summond to this actioun oft tymes callit and not comperit".<sup>55</sup> Ten years later, on June 26, 1498, Simon was in trouble on John Gordon of Lochinvar's account when the Lords of the Council decreed that Simon "aucht til freith, relief and keip skaithles" John Murray, son and heir of the late Cuthbert Murray of Cockpool, "of the payment of the soume of fifti merkis usuale money of the realme" after the tenor of the obligations under seal produced before the Lords.<sup>56</sup>

Simon Carruthers had become pledge for "Johne Raa duelland with the laird of Cokpule", who seems to have carried out an extensive raid on the property of Thomas Corry of Newby, judging by the goods and cattle enumerated which were driven away. Like many others who both before and since that date have become sureties, Simon found himself held responsible and was ordered by the Lords of Council on October 13, 1490, to pay to the said Thomas Corry the extent of the damage suffered. Again Simon appears to have taken little notice of the orders of the Lords of the Council and nearly four years later, on June 25, 1494, he was once more ordered to make restitution to Thomas Corry, assignee of umquhile Thomas Corry of Newby, and letters were instructed to be written to distrain his lands and goods therefor.<sup>57</sup>

In 1492 Simon Carruthers obtained a sasine of Mouswald, Logan-

<sup>52</sup> Muniments of Glasgow University, Vol. ii, p. 248.

<sup>53</sup> Acts of the Lords of the Council, p. 103.

<sup>54</sup> Ibid., p. 114.

<sup>55</sup> Acta Auditorum, p. 118.

<sup>56</sup> Acts of the Lords of Council in Civil Causes, p. 235.

<sup>57</sup> Acts of the Lords of the Council, pp. 149 and 337.

tenement, Raffles, Hetland Hill, Middleby, Dornock, Hoddam, Dunnabie, Kirtlehouse and Westwood.<sup>58</sup> According to Dr. Carruthers Logan-tenement consisted of the farms of Craigbeck, Breconside, Logan Woodhead, Logan Woodfoot and Crofthead. The estate was called the Procornal or Logan, and on it are still to be seen the remains of a small keep called the Cornal Tower.<sup>59</sup>

Simon Carruthers seems to have suffered at the hands of John Gillespie, for on March 28, 1495, the latter obtained a "Precept of ane Remissioun . . . for the forthocht felony done apone Symond Carutheris, and for al uther actionis that may impit apone him thairthrow" . . . and for all other offences done up to November 16, 1493.<sup>60</sup>

There were further actions by Simon in 1498, the first, on July 4, against John Jardine of Applegarth for detaining from him eight stud mares and their foals, the price of them being stated to be £10, and Jardine was ordered to restore them; the second, on July 16, was against his nephew by marriage. Simon apparently married Isabella, daughter of David Scott of Buccleuch and the 600 merks due under the marriage contract still remained unpaid, accordingly Simon sued Walter Scott, heir to the deceased David Scott his grandfather, for this sum. No decision was reached, the defender being absent, and the Lords of Council continued the case until January 15, 1499, Simon being requested to prove then that the marriage had taken place and the joint-fetment duly given in the £10 land of Dronnok.<sup>61</sup>

On June 15 and 20, 1498, Simon obtained a grant from Adam de Kirkpatrick of the 5-merk land of Westscales in the parish of Gretna.<sup>62</sup> Prior to this acquisition the Mouswald estates had been further extended by the purchase on May 9, 1495, from Adam Kirkpatrick of Pennersaugh, of his 3-merk land of old extent in the town of Pennersaugh. This land formerly had been leased to David Bell by the late Isabella Johnstone, Kirkpatrick's grandmother. Four years later, on July 3, 1499, Simon Carruthers acquired from Adam Kirkpatrick of Pennersaugh (but in the records styled as "of Dalgarnok") the lands of Pennersaugh extending to a £20 land of old extent.<sup>63</sup> The lands, which were an inheritance of the family, had been in the hands of the Kirkpatricks from the early part of the Fourteenth Century. The acquisition, which was an important one, carried with it the advowson of the parish church.

<sup>58</sup> Exch. Rolls, Vol. x, p. 764.

<sup>59</sup> The Family of Carruthers, p. 5.

<sup>60</sup> Reg. Sec. Sig., Vol. i, No. 47.

<sup>61</sup> Acts of the Lords of Council in Civil Causes, Vol. ii, pp. 245 and 276.

<sup>62</sup> MS. Inventory (per "Barony of Mouswald and its Barons").

<sup>63</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 53; and Reg. Sec. Sig., Vol. i, No. 498.

Simon appears once more as a litigant, this time against three female cousins, daughters of the Sir Simon Carruthers who was killed at the battle of Kirtle in 1484. The cause of action does not appear, but it would seem to have been in connection with the disposal of the late Sir Simon's possessions. "Mr James Henresone, procurator for Hew of Kennedy of Hawlaithis, Elspeth Carutheris, his spouse, Margaret Carutheris, and Janet Carutheris, wife of Cristale of Jarding, protested" on December 5, 1500, that since a Statute of Parliament made on erroneous facts should be pursued within three years Simon Carruthers should not be heard in the following of his summons, whilst the latter declared that he had "made his diligence" and craved a new summons.<sup>64</sup> The outcome of the action is not known.

Until his death in 1504, as recorded later, Simon would seem to have been very fully occupied as both plaintiff and defendant in a large number of law cases. On February 14, 1500, he, with a number of other persons, was charged with putting his seal to a retour of curatory of Terreglis "impetrat be George Heres of Terraughti". It is stated that they had "served a brief 'of ydeotry' apone . . . Herbert, 'Lord of Terreglis,'" and that the action was brought "for wilful and manifest error, 'because thai retourit under thair selis the v day of Februar the yere of God, etc. nynti and thre yeris, and als thai retournand the sammyn under a part of thair selis the last day of Januar immediat precedand the sade v day of Februar'". Only Simon and two others put in an appearance and because part of the summons concerned crime that part of it was referred to the King's Justice and the remainder was continued "'til the thrid day of the next justice are of Drumfreis'".<sup>65</sup>

Simon, along with John, Lord Maxwell, Adam Johnstone of that Ilk, John Murray of Cockpool, John Jardine of Applegarth, and Sir Adam Murray, were responsible for bringing sixteen persons, being "trespassouris", before the King and in default were to be amerced in the sum of 100 merks for each person. Complaint was made on April 6, 1500, by Sir Robert Lundy of Balgony, the Treasurer, that they had failed to produce these persons and the Lords ordained that they pay the fines in conformity with their subscribed bonds. Symon had the care of nine persons and should have delivered six of them and was amerced in the sum of 600 merks which was to be paid before April 28 under pain of warding.<sup>66</sup>

On December 7 in the same year there was an action at the instance of Simon Carruthers against Gavin Murray in "Coklakis", Adam Carruthers

<sup>64</sup> Acts of the Lords of Council in Civil Causes, Vol. ii, pp. 384, 393 and 467.

<sup>65</sup> Ibid., Vol. ii, p. 395.

<sup>66</sup> Ibid., Vol. ii, pp. 408-9.

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in Robbiewhat, John Carruthers in Over Denby, and Robert Carruthers of Denby for the wrongful occupation of 8 merks' worth (of old extent) of his lands of Hetlandhill. The Lords of the Council ordained that the parties be called and if the lands were found to be part of the Mouswald estate to give order for payment of the intromission.<sup>67</sup>

As a respite from the numerous actions at law it is interesting to note that the family estates were further added to on September 12, 1501, by the acquisition from Walter Scott of Buccleuch of the 4-merk land of Roberthill and the 1-merk land of "Tukkisholm", of old extent.<sup>68</sup>

In addition to the numerous litigations in which Simon Carruthers of Mouswald was involved, and which have been noted previously, there are a large number recorded, but as yet unpublished. In 1500-2 there was an action for theft and with reference to corn, concerning Borthwick, the parson of Mouswald; an action by Patrick, Earl of Bothwell, with regard to the pasturing of cattle on the Foggage of "Wodcokkar"; an action against Simon Moffat for unlawfully occupying the lands of Selcleuch and Foukschaw; an action by Sir William Borthwick, Parson of Mouswald, for 10 score bowls of meal at 6/8, 3 score bolls bere 4/-, and the tiends for 1496, 1497, 1498, 1499 and 1500; in 1503-4 an action in connection with the lands of Appletreewhat and Langwoodend in which Marion Scott, widow of Archibald Carruthers, and now wife of Adam Johnstone, was concerned; and an action by Borthwick, Parson of Mouswald, for 20 score of oatmeal, and 6 score of bere.<sup>69</sup>

On January 15, 1503, Simon received sasine of the 6-merk lands of old extent of the lands of Trailflat.<sup>70</sup> In 1504 Robert Carruthers became surety for William, brother of the laird of Mouswald, who was accused of being art and part in assaulting John Dickson of Locharwood under cover of night.<sup>71</sup>

It was in the latter year that Simon (or Sir Simon, as he is styled in the MS. Record of the Privy Seal) was foully murdered by Thomas Bell of the Broom and Thomas Bell of Currie.<sup>71</sup> The reason for the crime is not known, but it may possibly have been in connection with the acquisition of the Pennersaugh estate, for the two Bells were probably related to the Bells of Middlebie which is adjacent to Pennersaugh. Sir Simon Carruthers of Mouswald enjoyed the "kepping of the wod and forest of Wodcokkar", being appointed to this office for a period of nine years, on

<sup>67</sup> Acts of the Lords of Council in Civil Causes, Vol. ii, p. 471.

<sup>68</sup> Hist. MSS. Comm., 6th Rept., Appx., p. 709, and 15th Rept., Appx. viii, p. 59.

<sup>69</sup> Acts of the Lords of the Council, Vols. x, xi, xii, xiii, xiv and xv (unpublished).

<sup>70</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 59.

<sup>71</sup> Justiciary Records MSS., Vol. i, per "Barony of Mouswald and its Barons".

## CARRUTHERS AND MOUSWALD

February 20, 1503. Owing to his untimely death, he held this appointment for only a short time and John Murray of "Faulohill" was appointed, on April 12, 1504, to the "office of forestarschip" for the time during which his heir(s) happened to be the King's ward(s). Following on this, John Murray was given the ward and marriage of the heir(s) of the late Sir Simon.<sup>72</sup> The office of "forester" would appear to have been an hereditary one in the Carruthers family of Mouswald.

According to the National Gazetteer Sir Simon was termed the "belted knight". He was married firstly, as previously stated, to Isabella, daughter of David Scott of Buccleuch, their daughter Ellen marrying Adam, son of Adam Carlyle of Brydekirk, under Papal dispensation (February 17, 1502);<sup>73</sup> secondly, to a daughter of Douglas of Drumlanrig. There is an effigy in the Churchyard at Mouswald of this Sir Simon—it is in red sandstone, its head is pillowed, its feet on a lion, its hands in an elevated posture, but it has neither date nor inscription. There was also a statue to his wife, but owing to the predisposition of the villagers to the freestone of which it was composed none of it now remains.

The Lady of Mouswald, probably Sir Simon's widow, became surety in 1504 for four of the family of Rae, viz. Robert, called "Knewlta"; another Robert, John, and Thomas, called "hannay".<sup>74</sup> In 1505 the name of James Carruthers appears as a witness; it is probable that he is the same James who is mentioned in 1479 as a brother of Archibald, then Laird of Mouswald.<sup>75</sup>

There is a Precept of Clare Constat on March 16, 1512, by Adam, Earl of Bothwell, charging his baillies in that part to give sasine to Simon, son of the late Sir Simon Carruthers of Mouswald, of the lands of Dunnabie, Kirtlehouse and Carruthers.<sup>76</sup> It is interesting to note that, although the family removed to Mouswald in the early part of the Fourteenth Century, the original estate from which the name was derived was still in its possession and seems to have remained so until the lands were obtained by the Douglasses. It will have been noted that at the time of its erection in 1452 the Barony was called the Barony of Carruthers, thus retaining the name of the more ancient family residence.

Simon Carruthers would appear to have come of age in 1512, for on August 8 in that year he obtained from King James IV a Charter of the family estates which are enumerated and thus give an indication of the impor-

<sup>72</sup> Reg. Sec. Sig., Vol. i, Nos. 912 and 1029-30.

<sup>73</sup> Scots Peerage, Vol. ii, pp. 228 and 382.

<sup>74</sup> "Barony of Mouswald and its Barons", p. 46.

<sup>75</sup> Acts Parl., Vol. ii, p. 265, and Acta Auditorum, p. 86.

<sup>76</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 59.



tance of the family at that time. The estates comprised the 20-merk land of old extent of the dominical lands of Mouswald, with the mill, the 10-merk land of Holthwaite and Hetlandhill, the £10 land of "Drunok", the 24-merk land of Pennersaugh, the £5 lands of Middlebie, the 10-merk lands in Logan-tenement, and 5-merk land of Westscales, with the pertinents, and advowsons of the churches of the said lands. The Charter stated that these lands, which all belonged heritably to the late Simon Carruthers, had been appraised, in default of movable goods, for the sum of 750 merks of fines adjudged in the "Justice eyres of Drumfreis" and after appraising were assigned to the King who now discharged Simon as heir to his late father.<sup>77</sup> On October 12 and 13, 1512, Sasine of the above lands was given, John Carruthers of Holmains and John Carruthers, his son and apparent heir, being amongst the witnesses.<sup>78</sup> The phrase "in default of movable goods" indicates, or would seem to indicate, the comparative poverty of the Border Barons. Of furniture they appear to have had little or none, and owing to the possibility of raids and invasion, no great material comfort seems to have been provided. The system of defending their towers, as previously explained, also called for little furniture.

Simon Carruthers of Mouswald is mentioned in the Retour of the Service of Robert, fifth Lord Maxwell, as heir of his father, John, fourth Lord Maxwell, in the lands of Garnsalloch and Dursquhen on November 4, 1513; <sup>79</sup> he was also one of the party, headed by the Warden of the Scottish Borders, who on November 27, 1515, burnt a Grange and sixteen cottages in the village of Arthuret, near Longtown.<sup>80</sup>

On July 1, 1516, Catherine Carlile, wife of Simon Carruthers of Mouswald, resigned into her husband's hands, as superior, the 7-merk land of "Dronok", the 1-merk land of Cumbertries, the 3-merk land of Howthwaite, the 4-merk land of Panthwaite, the 5-merk land of Hetlandhill, and the 5-merk land of Cockett of old extent, and following upon this King James V on July 8, 1516, granted a charter of confirmation of the above lands to Simon and his wife, Catherine Carlile. Later, on August 9, 1516, in the chamber of the Warden of the Friars Minors of Dumfries, before William, Lord Carlile, father of Catherine, Simon produced an indenture made upon the contract of marriage, which had now been consummated, and declared that he had fulfilled the various items contained therein.<sup>81</sup>

<sup>77</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, pp. 59-60, and Reg. Sec. Sig., Vol. i, No. 2420.

<sup>78</sup> Ibid., Appx. viii, p. 60. <sup>79</sup> Book of Carloverock (Fraser), p. 454.

<sup>80</sup> Historical Families of Dumfriesshire and the Border Wars, p. 81.

<sup>81</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 61, and Reg. Mag. Sig., 1513-46, No. 85.

Simon Carruthers of Mouswald, together with John Carruthers of Holmains, Archibald Carruthers in Loganwoodend, and others, were appointed procurators, on November 14, 1517, for resigning in the King's hands the lands of "Sorowsik and Medilschaw" (Middleshaw).<sup>82</sup> It would seem that Simon Carruthers was in pecuniary difficulties, for on September 22, 1528, he disposed of his 20/- worth of land called Loganwoodhead, "otherwise called Ker and Thasseholme, of old extent", occupied by George Carruthers and Thomas Ramsay, together with the office of forestership of his wood called Loganwoodhead, to Gavin Johnstone in the Kirktown of Kirkpatrick-Juxta on the condition that when Simon on forty-days' notice should pay him £20 Scots and give him a tack of the lands for the nine years following at a yearly rental of 20/- he would return the lands to Simon.<sup>83</sup> Whether or not Simon recovered his lands is not known, for he died in April, 1531, leaving as heir his infant son, Simon, then aged about 14 years, the ward and marriage being gifted to John Johnstone of that Ilk and his assignees.<sup>84</sup>

In the Drumlanrig Charter Chest there is a MS. Protocol Book of Mark Carruthers, presbyter of St. Andrew's diocese and notary public (Dumfries).<sup>84A</sup> The entries in this book begin on October 17, 1531, and cover the long period of thirty years to February 18, 1562.<sup>85</sup> Under the date January 31, 1532, Simon Carruthers of Mouswald appears as a witness to an instrument narrating that Robert Johnstone, baillie of Lochmaben, gave sasine to John Carruthers of Holmains, son and heir of the late John Carruthers of Holmains, in a tenement in that burgh and also other burgh tenements. On the same date there is a further instrument narrating that the above Robert Johnstone gave sasine to Simon Carruthers as son and heir to his father, Simon Carruthers of Mouswald, in various lands mentioned. Later, under the date August 7, 1532, it is recorded that Simon Carruthers of Mouswald, a minor, appeared and was asked by John Johnstone of that Ilk if he was willing to pay and refund all the expenses that Adam Johnstone of Corrie had incurred in building and constructing the place and tower of Polcornar<sup>86</sup> from that time until the entrance thereto of the said Simon. Simon replied that he was willing to do so, whereupon John Johnstone demanded instruments on behalf of Adam Johnstone his brother.

<sup>82</sup> Hist. MSS. Comm., 6th Rept., Appx., p. 712.

<sup>83</sup> Ibid., 15th Rept., Appx. viii.

<sup>84</sup> Accounts of the Lord High Treasurer of Scotland, Vol. v, p. 401; Reg. Sec. Sig., Vol. ii, No. 870; and see also later.

<sup>85</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 63.

<sup>86</sup> This is undoubtedly the Procornal Tower the ruins of which can still be seen close to the Moffat-St. Mary's Loch Road just outside Moffat.

\* He is probably same as Mark Carruthers, Rector of Mouswald, natural son of late Simon, of Mouswald [(2 DEC 1530) Reg. Sec. Sig. Vol II No 771]

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There is a memorandum dated November 16, 1535, recording that Simon Carruthers of Mouswald, in his own court held at Cockett, within the lands of Logan-tenement, warned Adam Johnstone of Corrie to remove himself and his belongings from further intromission with, and occupation of, the lands of Polcornar, Logan-tenement, together with the tower, &c. of Polcornar. Amongst the witnesses named are John Carruthers of Woodfoot, and George and David Carruthers, his brothers. The Protocol Book also records that on February 21, 1536, Simon Carruthers bound himself to ratify a letter of life-rent made by the late Simon Carruthers of Mouswald, his father, to Archibald Carruthers, uncle of the said Simon, of the lands of Hetland hill.

Simon Carruthers married Agnes, daughter of Cuthbert Murray of Cockpool, in the year 1538, and on February 24 in that year a Charter was granted by the King in contemplation of the marriage. The lands concerned were, viz. £10 land of "Dronok", of old extent, with fisheries, and 7 merks of Mouswald, of old extent.<sup>87</sup>

On March 16, 1543, John Carruthers of Holmains and others were directed to be summoned to appear before the Privy Council on May 10 next as the jury which on October 9, 1535, had served Simon Carruthers as son and heir of the deceased Simon Carruthers of Mouswald. John Johnstone of that ilk had been granted the ward and marriage of Simon Carruthers and whilst he was in prison "by command of the King" Simon had been served heir and Johnstone had lost the profits that appertained thereto. At his instance those who had served on the jury were to be charged with declaring that Simon was of lawful age on that date whereas he was only 18 or 19 years of age; that they had stated the value of the lands at £64, and as much in time of peace, without distinguishing the difference of value in time of peace from that in time of war; that they had valued the lands as worth only £64 whereas they were worth 300 merks and as they had not distinguished between the values of the old and new extent they had "greatly prejudiced the duties of ward and relief pertaining to the Crown, and to those having right from it". Robert, Lord Maxwell, Steward of Annandale, was also charged with having failed to give the prescribed fifteen days' notice required before proceeding to serve an heir.<sup>88</sup>

The Laird of Mouswald on December 27, 1544, obtained from Queen Mary a re-erection of the Barony, together with the grant of additional lands. The lands comprised in the Charter were as follows: the £20 lands

<sup>87</sup> Reg. Mag. Sig., 1513-46, No. 1922.

<sup>88</sup> Hist. MSS. Comm., 15th Rept., Appx. ix, pp. 18-19; and Exch. Rolls, Vol. xvi, p. 597.

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of old extent of Mouswald, Howthwaite and Hetlandhill, with tower, fortalice, mill and advowson of the church of Mouswald; £20 (old extent) of Logan-tenement with mill; £10 (old extent) of "Dronok" with fisheries; 40/- (old extent) of Cumertries; 1 merk in Stenries; £20 (old extent) of Pennersaugh, with advowson of the church; 10 merks (old extent) of Middlebie with advowson of the church; 5 merks (old extent) of Westscales; 2 merks (old extent) in Hoddam; 1 merk (old extent) in the Holms of Annan (called Blaeberrylands); and ½ merk in Westwood, with tenants, &c. In view of the events which followed, the entail to this charter was to be of importance. After passing to the male heirs of his body the lands were entailed in the following order, viz. to his brothers, John, William and Christopher, in that order; then to his uncle Archibald; then to Archibald Carruthers in Roberthill, and to his brothers George and David; then to John Carruthers in Woodfoot, who was also probably a brother of Archibald of Roberthill; and finally to John Carruthers in Holmhead; in each case passing to the heirs male.<sup>89</sup> The instrument of sasine following upon this was dated January 11, 1544/5.<sup>90</sup>

It is evident that Simon's first wife, Agnes Murray, must have died some time previous to 1544, for in January of that year he married Mariota, sister of John Johnstone of that ilk, a notarial instrument relating the giving of sasine of Simon's 10 merks of Middlebie, of old extent, and 10 merks of Hetlandhill to his spouse, Mariota Johnstone, in conjunct fee for her life, on January 12, 1544.<sup>91</sup> Following on this, on August 30, 1544, John Johnstone, for himself and his heirs, quitclaimed to Simon Carruthers of Mouswald and his heirs, &c., all debts, lawsuits, sums of money and complaints between them, up to date; the witnesses inter alia, being John Carruthers of Holmains, John Carruthers, brother of the Laird of Mouswald, and David Carruthers in Banks.<sup>92</sup>

After the capture of Annan by Lords Lennox and Wharton on September 20, 1547, Holinshed wrote that the Border country was in such fear that the next day all the clans of the lower part of Annandale came and took an oath of obeisance as subjects of the English King. In Bell's MS., preserved in the Carlisle Cathedral Library, there is preserved a list of the chiefs and the number of their followers who surrendered to the English at this time. The list differs slightly from the two lists preserved amongst the State papers of King Edward VI, as do those from each other. "John Carruthers of Holmends" is mentioned in Bell's MS., whilst "Carruthers

<sup>89</sup> Reg. Mag. Sig., 1513-46, No. 3041.

<sup>90</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 62.

<sup>91</sup> Ibid., Appx. viii, p. 61; and Scots Peerage, Vol. i, p. 242. <sup>92</sup> Laing Charters, 488.

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of Mouswald" is mentioned in one of the official lists.<sup>93</sup> From the roll of gentlemen and landowners which Lord Wharton, the English Warden, submitted to his Government Simon Carruthers of Mouswald is stated to have been able to supply seventy-one fully equipped men. Following upon the wholesale surrender of the families dwelling in the southern part of the West March a number of them were charged with the crime of treason and *lèse-majesté* in an Act of Parliament on June 12, 1548, and amongst those enumerated was Carruthers of Mouswald.<sup>94</sup>

Simon Carruthers seems to have been killed in July 1548, in a fight with the "thieves" dwelling in the Debatable Lands, for it is recorded that the thieves of the Scottish West March with the assistance of English thieves had slain the principal barons nearest adjacent to the marches, viz. Lord Carlile, and the Lairds of Mouswald, Kirkmichael, Kirkconnell and Logan in Annandale and many other landed men.<sup>95</sup> Simon died without leaving male issue and on August 13 of the same year Queen Mary granted to Sir James Douglas of Drumlanrig the ward and marriage of Janet and Marion, the two daughters of the deceased Simon Carruthers.<sup>96</sup> Upon the sudden death of Simon a lawsuit ensued between Sir James Douglas and the heir according to the entail of the Charter of December 27, 1544, viz. John Carruthers, Simon's eldest brother. In this law suit Sir James was successful by bargaining for a sum of money with the heir; the entail was set aside and the two daughters of Simon became co-heiresses.<sup>97</sup>

The history of the Carruthers family of Mouswald now commenced to close rapidly. Following on Simon's death Robert, Lord Maxwell, seems to have occupied the house, probably as it was desirable to have the place in strong hands in such unpropitious times, but Sir James Douglas, having secured the ward and marriage of the two heiresses, obtained an order from the Lords of the Secret Council on April 20, 1550, relieving Lord Maxwell of his charge and commanding him to deliver it to Sir James Douglas during the time of ward.<sup>98</sup>

The late Simon Carruthers does not appear to have made up his title to certain of his lands, for on January 19, 1558, Janet Carruthers expedes a Retour in the Burgh Court of Edinburgh before the Stewards of Annan-

<sup>93</sup> Hist. Fam. of Dum. and the Border Wars, pp. 94-8.

<sup>94</sup> Acts Parl., Vol. ii, p. 481.

<sup>95</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 62, and Reg. Priv. Conc.

<sup>96</sup> Original produced in Locality of Moffat, 1852.

<sup>97</sup> Vide "Barony of Mouswald and its Barons" and History of the Douglas Family of Morton, Appx. C, No. 166; see also later.

<sup>98</sup> Reg. Priv. Conc., Vol. i, p. 96, and Book of Carlawerock, p. 217.

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dale as the elder granddaughter of Simon Carruthers of Mouswald who died in April, 1531, vested in the lands of Cumlonganwood, Dunnabie, Kirtlehouse and Carruthers. Cumlonganwood was held from Charles Murray of Cockpool for a red rose yearly, Dunnabie and Kirtlehouse from James, Earl of Bothwell, for a penny yearly, and Carruthers from the same Earl for ward and relief.<sup>99</sup>

Sir James Douglas seems to have kept a tight hand on the two young girls, for on March 21, 1558, Charles Murray of Cockpool, Archibald Murray and Cuthbert Murray, their uncles, obtained letters from the Lords of Council commanding Sir James to produce Janet and Marion, who were stated to be "now past tuttorie and 14 years of age complete", before the Lords of Council at Edinburgh, as he would not permit them liberty to visit their friends.<sup>100</sup>

In the year 1560 Janet Carruthers was married to Thomas Rorison of Bardannoch. This marriage was soon turned to account by Sir James Douglas, for he persuaded the Lady of Bardannoch to make over to him her half of the Barony of Mouswald for the services he had rendered to her. The Contract which was dated March 14, 1560, is very plausible and proceeds on the lines that the lairdship of Mouswald lay in a very troublous country and that there was little profit to be gained from the lands; that Sir James had got the entail to the Charter of December 27, 1544, set aside in favour of the two daughters at his own expense and had made great payments in satisfying the late John Carruthers, the heir according to the entail, to the extent of £2,000 Scots, of which Janet's part was £1,000 Scots; that he had paid on her behalf whilst she was his ward £1,000 Scots and had sustained her in . . . "meit drink and cleithing and other necessars" . . .; that he had found her a husband in Thomas Rorison of Bardannoch; that he would obtain her an infestment in conjunct fee in the £5 land of old extent of "Drumragane with the pertinents by and in the parochine of Glencairn" and pay her dowry of 1,000 merks to her husband and also sustain them and their servants for the space of two years.<sup>101</sup> One cannot help feeling that Sir James obtained far more than he gave, for the Mouswald estates were extensive, and though they undoubtedly lay in an exposed place, having regards to Border raids and warfare, yet they were valuable as is evidenced by the payments made to the Exchequer when Janet entered into her half-share of the baronial-lands in June, 1561.<sup>102</sup> A Precept for a Charter of Confirmation of a Charter of

<sup>99</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 61.

<sup>100</sup> Douglas Family of Morton, Appx. C, No. 232.

<sup>101</sup> Orig. prod. in Loc. of Moffat, 1852. <sup>102</sup> Exch. Rolls, Vol. xix, pp. 472-3.

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Alienation (dated July 16, 1562),<sup>103</sup> by Janet Carruthers, with consent of her husband, Thomas Rorison of Bardannoch, to Sir James Douglas of Drumlanrig was obtained on January 8, 1562/3.<sup>104</sup> Thus Sir James obtained for himself and his heirs Janet's half of the Mouswald estates.

It is interesting here to note the extensive possessions of the Mouswald family in the middle of the Sixteenth Century. The Estates comprised: £20 land of old extent of Mouswald, Howthwaite, and Hetlandhill, with tower, fortalice, mill and advowson of the church of Mouswald; £20 land of old extent of Logan-tenement, with mill; £10 land of old extent of "Dronok", with fisheries; 40/- land of old extent of Cummertries; 1-merk land of Stenries; £20 land of Pennersaugh, with advowson of the church; 10-merk land of old extent of Middlebie, with advowson of the church; 5-merk land of old extent of Westscales; 2-merk land of old extent in Hoddam; 1-merk land of old extent in the Holms of Annan called Blaeberrylands; ½-merk land of Westwood, with tenants, &c., and the 20/- land of Rafflegill. These lands were held directly from the Sovereign. In addition there were the lands of Cumlonganwood, Dunnabie, Kirtlehouse and the most ancient holding of all, Carruthers, the first-named held from the Murrays of Cockpool and the three latter from the Earls of Bothwell. There were also other lands, e.g. the 6-merk land of old extent of the lands of Trailflat.

Having disposed of Janet Carruthers to his advantage, Sir James now turned his attention to the younger daughter, Marion. She seems to have had a stronger spirit and to have been less pliable than her elder sister, for she made a valiant fight for her half of her ancestral estates. On January 28, 1563, Marion and her uncle, Charles Murray, appeared before Queen Mary and the Lords of Secret Council and sought permission for her to consult her friends in Edinburgh regarding the things required of her by the Council. The permission was granted and Charles Murray bound himself to present Marion before the Council again on January 30 next, undertaking that she should not get married or dispose of her lands in the meantime.<sup>105</sup> It is obvious that the "thing" required of Marion was that she should marry the husband whom Sir James Douglas had found for her. It appears that Charles Murray in order to protect Marion had obtained letters requiring Sir James again to produce the two daughters of the deceased Simon Carruthers. He produced Marion, placing her under the Chancellor's care, and declared that as Janet was only bound to her hus-

<sup>103</sup> Reg. Mag. Sig., 1546-80, No. 1440. Janet Carruthers had sasine of her half of Mouswald and the rest of her father's lands on July 14 and 15, 1562. (Hist. MSS. Comm., 15th Rept., Appx. viii, p. 62.) <sup>104</sup> Douglas Family of Morton, Appx. C, No. 139.

<sup>105</sup> Reg. Priv. Conc., Vol. i, p. 233.

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band he could not produce her. The following day (January 29) the whole of the proceedings against Sir James were suspended, a letter from the Queen requiring the Lords to abandon the action being produced. On the same day letters of restraint were raised by Sir James and therein is related that he had offered her a suitable husband whom she had absolutely refused; further, that she intended to marry whom she pleased and also to dispose of her lands and goods.<sup>106</sup>

Marion appears to have made up her mind not to marry the husband provided for her, possibly she was in love with someone else, but the records do not explicitly tell of this. At all events Sir James himself went to see her on the next day (January 30) and offered her in marriage John, son and heir of James McMath of Dalpeddar, and required her to "compleit the said band of matrimonye with the said Johne McMath as effeirit oweir in the Kirk of Borthick, quhare . . . that sche was ordainit be the counsale to remove for the tyme or into ony place quhare sche plesit upon the first day of Merche next to cum thaireftir, or uthir convenient day sche plesit to appoint and gif sche failzeit he protestit for the double avail of hir mariage quhilk the said Marioun refusit to do, and declarit that sche wald not be at the said James' byddin".<sup>107</sup>

Two days later (February 1, 1563), Marion left Edinburgh and went to reside for a period of forty days with the family of her kinsman John, Lord Borthwick, but before being allowed to depart both she and Lord Borthwick had to bind themselves under a penalty of £2,000 that Marion would remain with him and not depart to Annandale or any other place and that after the space of forty days she should not depart until notice had been given thereof to the Queen and Council by Lord Borthwick.<sup>108</sup>

At the end of the forty days Marion seems to have been able to return to Annandale, for on March 13, 1563, she expedes a retour at the Court of Lochmaben making up her part of the Barony of Mouswald as second daughter and one of the two heiresses of the late Simon Carruthers.<sup>109</sup> It is interesting to note from this record that Marion was 21 years of age on the feast of Saint Andrew last, which gives her date of birth as November 30, 1541.

In September Marion was evidently still as determined as ever not to marry the man chosen for her by her guardian, for, on September 13, 1563, Thomas Borthwick of Pryncards and Michael Borthwick of Glengelt became sureties, jointly and severally, for Marion Carruthers that she should

<sup>106</sup> Orig. prod. in Loc. of Moffat, 1852.

<sup>107</sup> Ibid.,

<sup>108</sup> Reg. Priv. Conc., Vol. i, p. 233.

<sup>109</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, p. 62; see also Exch. Rolls, Vol. xix, pp. 509-10.

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not marry a traitor or other "Brokkin Man" of the country, nor join herself with any such person under a penalty of £1,000.<sup>110</sup>

Presumably in an endeavour to safeguard her estates Marion attempted to dispose of her lands to her uncle, Charles Murray of Cockpool, and a Charter of Confirmation was granted by the Queen on June 24, 1564.<sup>111</sup> The lands mentioned are incomplete and others are different from those appearing in the charter of 1562 granted to Sir James Douglas and it seems that the list of the lands comprising her portion of the barony had been compiled from memory. Obviously, Sir James could not let this pass unchallenged and he immediately obtained letters of inhibition (February 16, 1565) contending that Marion could not legally dispose of her heritage without his consent in view of the gift of ward and marriage which had been obtained by him.<sup>112</sup>

The struggle still continued, but evidently Marion was beginning to realise that the case was hopeless as the law was against her. Whether in despair she committed suicide, or whether she was murdered, it is difficult to state, but on October 17, 1570, King James VI granted an escheat in favour of Sir William Douglas of Hawick. The Deed narrates that the lands of Mouswald had fallen into the hands of the Crown through "the said Marioun Carrutheris wilfull slaying of himself in leiping ovir the wall of the Castell touer and fortalice of Cullyngane, upoun the twenty-five day of September last bipast, and thairthrow wilfullie breaking hir awin craig and banis quhairof sche deit".<sup>113</sup> The above record states that she committed suicide, but the traditions of the surrounding district assert that she was murdered, for she was found dead with strong suspicions of foul play. It also seems difficult to understand why she should take her life while residing with her uncle who, throughout her struggles to preserve her inheritance and her right to choose a husband, had so befriended her.

During the thirty years since Simon Carruthers's death all had been confusion at Mouswald and this is pointed out by Lord Herries, in his report on the West March in the year 1578-9, who advised that since there was no capable defender of Mouswald it should be taken possession of by some laird.

On March 8, 1588, the history of the Carruthers family of Mouswald comes to an end, for on that date Sir James Douglas resigned all the lands of Carruthers, Mouswald and Logan-tenement, into the hands of King James VI for infeftment to himself and his heirs male. Following upon this, on March 18, 1588, came a charter of resignation and an erection of

<sup>110</sup> Pitcairn's Criminal Trials, Vol. i, p. 434\*. <sup>111</sup> Reg. Mag. Sig., 1546-80, No. 1537.

<sup>112</sup> Hist. MSS. Comm., 6th Rept., Appx., p. 709.

<sup>113</sup> MS. Inventory—per "Barony of Mouswald and its Barons".

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Logan-tenement into the barony of Drumlanrig, and upon which sasine was given on April 11, 1589.<sup>114</sup> Sir James resigned all the lands of Mouswald into the hands of the Crown, but in point of fact only half of the barony belonged to him, although for some time past he had treated the deceased Marion's part as his own. It was not until May 11, 1604, ten years after he had obtained in 1594 an Act of Parliament to bolster up his title to the Mouswald estates, that he received the necessary conveyance to himself from Janet, she having become entitled to her sister Marion's inheritance. For this conveyance Sir James was stated to have paid great sums of money, though the exact amount is not specified; it is probable, however, that he obtained far more than he gave.<sup>115</sup> On September 4, 1607, Sir James Douglas was granted a charter of the younger sister's half of the barony<sup>116</sup> and sasine followed on November 6, being registered in the Secretary's Register of the Sheriffdom of Dumfries and Stewartries of Kirkcudbright and Annandale on November 27, 1607.<sup>117</sup> The lands of Cumlonganwood were also acquired by Sir James Douglas from Janet on January 22, 1607, for "certain sums of money paid to her".<sup>118</sup> Sir James Douglas was undoubtedly determined to have his "pound of flesh", for on December 13, 1600, he obtained a decree against Janet for 5,000 merks in full of "the double avail" of the marriage of Marion, with £20 for expenses, and £5 paid to the collector of the Lords of the Privy Council. This decree was assigned to his son on April 6, 1613.

The last act as far as the Carruthers family was concerned was the granting of a charter, by King James VI, on September 1, 1613, to William Douglas, son and heir of James Douglas of Drumlanrig, of Marion's half of the Mouswald estates.<sup>119</sup> This William was destined to become the first Earl of Queensberry. A charter of subfuedation, dated Oct. 7/8, 1608, had previously been granted by Sir James Douglas of Drumlanrig to his second son James, the founder of the Douglas family of Mouswald.<sup>120</sup>

Mouswald remained in the possession of the Douglas family of Mouswald for about a century, reverting then to the House of Queensberry. As a possession of that House its fate was to become an outlying and neglected portion of a great estate. Ere long the fine old tower of Mouswald, by permission of the Duke, was stripped of its coping and corner stones, and the entrance gateway carried off to oblige a neighbour, Grierson of Lag,

<sup>114</sup> Orig. prod. in Loc. of Moffat, 1852. <sup>115</sup> "Barony of Mouswald and its Barons".

<sup>116</sup> Reg. Mag. Sig., 1593-1608, No. 1968.

<sup>117</sup> "Barony of Mouswald and its Barons".

<sup>118</sup> Hist. MSS. Comm., 15th Rept., Appx. viii, pp. 62-3.

<sup>119</sup> Reg. Mag. Sig., 1609-20, No. 911. <sup>120</sup> "Barony of Mouswald and its Barons".

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who wanted them for his stables. Similarly, no objection was taken to the acquisition by the same family of the old burying-place in the churchyard, where, over the entrance, can still be traced the arms of Douglas, with I. D. (James Douglas) and A. R. (Agnes Rome) on either side and the date 1655 below.<sup>121</sup> There is also still to be seen a stone, built into the oldest portion of the modern mansion house, bearing a device no longer decipherable, but which is known once to have had its place over the arch of the drawbridge gate.

The Tower of Mouswald was oblong in plan and measured approximately 24 feet by 17 $\frac{3}{4}$  feet, the walls being 6 feet thick. There were three storeys below the wall head, the ground floor being provided with gun-loops, but it does not appear to have had a vaulted roof. The Tower is now in a ruinous condition, little of the north wall remaining, but the south, east and west walls are still about 30 feet high and have been buttressed where necessary.<sup>122</sup>

As regards the Church of Mouswald, this was dedicated to St. Peter. In 1815 the old church was taken down and very little is now known of this building. It is stated by one who remembered it to have looked very old and was like a barn on entering; it was two steps below the level of the ground. It had very small windows and the original seats had all been carved, but some new ones had been put in. At the north end there was a gallery, whilst at the south end there was a small gallery where they kept the benches and the tent which they used on the occasion of the observance of the Lord's Supper, the church being too small to hold all the people. The font is stated to have borne the armorial bearings of the ancient family of Torthorwald of that Ilk. If such be the case, it must be considered to be of considerable antiquity, for the main line of the Torthorwald family became extinct on the death, in 1296, of Sir David de Torthorwald, whose only daughter, Isabel, married Humphrey Kirkpatrick. It has been conjectured that Mouswald in the Thirteenth Century formed a portion of the Torthorwald estate, which was forfeited on account of the family taking the side of the Edwards of England against Scottish independence, and that on the overthrow of the English by Bruce, who, whilst giving to Isabel's husband, as one of his own supporters, Torthorwald itself, assigned Mouswald to the Carruthers family who had steadily supported him.<sup>123</sup>

According to Sir David Lindsay of the Mount (1542) the Arms of Carruthers of Mouswald were—Gules, a chevron between three fleurs-de-lys argent.<sup>123</sup>

<sup>121</sup> "Barony of Mouswald and its Barons". <sup>122</sup> Hist. Mon. of Scot. Comm., No. 515.

<sup>123</sup> "Barony of Mouswald and its Barons".

## CHAPTER III

### WOODFOOT AND MILNE

WOODFOOT and Milne is probably the senior traceable branch of the Carruthers family at the present day, as descendants of the earlier heirs of the entail to the Mouswald Charter of 1544 cannot now be traced.<sup>1</sup>

The relationship of the first four heirs to the Mouswald estates is stated in the entail, namely three brothers and an uncle: the relationship of the last five was possibly too complicated to be set forth in detail. The link must be looked for, therefore, at least one generation earlier. Sir Simon Carruthers, who died about 1504, had a brother William, mentioned in that same year;<sup>2</sup> he would be born c. 1465-70 and his children would probably be born from about 1495 onward, and would be around 50 years of age at the time of the death, in 1548, of Simon, the last baron. The fifth to eighth heirs of entail, Archibald of Roberthill, George, David and John in Woodfoot, were apparently four brothers. The first three are so designated in the document, and it is known that John in Woodfoot had brothers called George and David, who along with him witnessed a memorandum on November 16, 1535.<sup>3</sup> If his brothers George and David were not the same George and David as the brothers of Archibald, then their names also should be among the heirs of the entail in 1544, unless the supposition is adopted that both of them had died between 1535 and 1544. The likely reason why John was not described in the entail as a brother of the three former was probably owing to the ancient Scottish custom of describing landed men by a territorial title. Sir Simon's brothers and uncle do not seem to have been landed men and are, therefore, described by their relationship to him. The next heir, Archibald, was a landed man; two of his brothers were landless and are described by their relationship,

<sup>1</sup> The precise connection of the Woodfoot family is not a matter of actual certainty, though it can be deduced with a very high degree of probability.

<sup>2</sup> Justiciary Records MSS., Vol. i, per "Barony of Mouswald and its Barons".

<sup>3</sup> MS. Protocol Book of Mark Carruthers (Drumlanrig Charter Chest).