

BATTLE OF DRYFE SANDS.*

A. D. 1593.

THE savage conflicts which repeatedly occurred between the septs inhabiting the Scottish Borders are remarkable illustrations of the times, and of the manner in which the government of the country was conducted. In these deadly feuds the "chiefs of clans," says Sir Walter Scott, "made war, or truce, or final peace with each other, with as much formality and as little sincerity as actual monarchs." The jurisdiction of the *Marches*, as the Borders were designated, was always conferred on some powerful nobleman, who was considered the King's lieutenant, and styled *Lord Warden*. In virtue of his office he was entitled to display the royal banner, and to put down all feuds, raids, or forays, and disturbances; but it often happened that the Wardens exercised their power less for the preservation of the public peace than for inflicting vengeance upon their private enemies. If the Warden was at feud with a rival and powerful chief, the royal banner was displayed, and that chief was proceeded against as a rebel to the crown.

John, sixth Lord Maxwell, Warden of the West Marches, soon after the execution of the Regent Morton contrived to obtain in right of his mother, Lady Beatrix Douglas, second daughter of the Regent, a charter to the earldom of Morton in 1581, which was ratified by Parliament towards the end of that year. In 1585, however, the Regent's attainder was solemnly rescinded by Parliament, and the titles and estates were declared to belong to his lawful heir.

* Pitcairn's Criminal Trials; Spottiswood's History of Scotland; Sir James Balfour's Annals; Statistical Account of Scotland; Sir Walter Scott's Border Antiquities; Gordon's History of the Earls of Sutherland.

Maxwell was thus dispossessed of the title of Earl of Morton, and of the property belonging to it. As Maxwell was a strenuous supporter of the Roman Catholic Church, in that same year he was declared the King's rebel on account of his religion and several alleged misdemeanours, and the Laird of Johnstone, chief of the powerful sept of that name, was ordered to apprehend him. He was entrusted with two bands of soldiers for that purpose, who were destroyed by the Maxwells. The Laird of Johnstone was himself shortly afterwards defeated and taken prisoner, and his house of Lochwood set on fire, that "*Lady Johnstone might have light to put on her hood!*" The unfortunate Laird died of grief in April 1586.

These outrages, which originated the deadly hatred between the two septs of Johnstones and Maxwells, and especially between their chiefs, brought Lord Maxwell, who was Warden of the West Marches, under the cognizance of the law, and he was speedily taken and put in prison, on account of his conduct towards the Johnstones and his religious opinions. He was, however, soon liberated on condition of leaving Scotland, which, it is said, he did in the highest disgust. He proceeded to Spain, and offered his services to the King, who was at that time preparing the celebrated *Armada* to invade and subjugate England. His offer was accepted, and being furnished with money and pecuniary assistance from Philip, he returned to Scotland in 1588. He commenced to levy men on the Borders, and numbers of his sept obeyed his summons; but he was soon arrested at Dumfries, made prisoner, and the Wardenship of the West Marches bestowed on his rival, Sir James Johnstone, son of the chief already mentioned, who, besides being thus distinguished by the royal favour, was knighted at the coronation of the consort of James VI. in 1590.

But on account of sundry political reasons, the office of

Warden was taken from Sir James Johnstone, and restored to Lord Maxwell—a procedure calculated to revive the animosities and feuds which had long existed between those two powerful chiefs. Besides occasional skirmishes with the Maxwells, the Johnstones, as well as Lord Maxwell, had occasionally assisted the turbulent Earl of Bothwell in 1592, and it is supposed that this was the cause of the imprisonment of Sir James Johnstone in the Castle of Edinburgh, either for his personal conduct, or as responsible for his retainers, or for failing to give proper security. Nevertheless, in January 1593, he contrived to escape from the castle, and he returned to his own territories, where, through powerful mediation, he and Lord Maxwell were induced to conclude a mutual alliance, binding themselves to support each other in all lawful quarrels. The Johnstones, on the faith of this treaty, thinking they had nothing to apprehend from the Lord Warden if they refrained from plundering any of the name of Maxwell, made a descent upon Nithsdale, committed sundry depredations on Lord Sanquhar, the Lairds of Drumlanrig, Closeburn, and Lagg, and killed eighteen persons. This enterprise so greatly irritated the Government, that, taking advantage of the hereditary feud known to exist between the two septs, a commission was given to Lord Maxwell to pursue the Johnstones with the utmost severity of the law. Sir James Johnstone was informed of this, and besides obtaining assistance from Annandale, he was joined by the Scotts, the Grahams, and the Elliots. It farther appears that he was aided by several of the English Borderers, for in the records of the Privy Council, “divers Englishmen treasonable brocht within this realme, armed in plaine hostilitie,” are mentioned on this occasion as acting with Johnstone. Lord Maxwell, on the other hand, illegally entered into *bonds of manrent* with Sanquhar, Drumlanrig, Closeburn, and others who had been pillaged by the Johnstones, wherein they

bound themselves to render each other sincere and effective assistance in all quarrels.

The rival chiefs thus possessed on each side a large force of retainers and allies, and the ancient feud was now revived. Lord Maxwell, as Warden, and holding the King's commission, ordered the Laird of Johnstone to surrender, and sent Captain Oliphant with some troopers to Lochmaben; but the Johnstones marched suddenly upon them, killed the Captain and some of his troopers, and wantonly set fire to the parish church of Lochmaben, into which a number had fled for shelter, who were thus forced to surrender.

This was an insult not likely to be forgiven by a haughty Border chief, who had been long at enmity with the perpetrator. Lord Maxwell entered Annandale as the King's Lieutenant, raising the inhabitants of the different towns to his aid, and soon mustered no fewer than two thousand men. The Lairds of Drumlanrig, Closeburn, and other gentlemen, with their retainers, were included in this force, and it was the design of the invaders not only to destroy the house of Lochwood, the baronial residence of Sir James Johnstone, but to extirpate the whole sept. On the morning of the 7th of December, Lord Maxwell and his followers came to Lockerby, expecting to find the Johnstones arrayed against them, but they were disappointed; and, after burning the house of Nether Place, belonging to Johnstone, they proceeded to Dryfe Sands,—a plain so called in the parish of Dryfesdale,—not far from Lochmaben, and on the banks of the river Dryfe.

Sir James Johnstone, who had obtained early information of the movements of Lord Maxwell, had mustered his retainers and allies to the number of some hundreds. He soon appeared at the head of forty mounted troopers, with whom he engaged a party of the Maxwells, greatly superior. He nevertheless put them to flight, and pur-

sued them some distance, when, suddenly retreating, he was followed by the whole force of the Maxwells, led by the Warden. They came to the Torwood, on the south side of the Dryfe, where the Johnstones suddenly assailed the Maxwells in full force. After a short but sanguinary encounter, the followers of Lord Maxwell were thrown into disorder, and compelled to retreat. Johnstone stood on a rising ground beholding the issue of the conflict, and, taking advantage of the confusion into which the Maxwells were thrown, he broke in upon them without encountering any resistance, and put them to flight. The Maxwells suffered severely, and in their retreat great numbers were slain. Upwards of seven hundred of them were killed, and among the slain was Lord Maxwell, a "tall man, and heavy in armour," who was overtaken and struck from his horse in the pursuit. "The report went," says Spottiswoode, "that he called to Johnstone, and desired to be *taken, as he had sometime taken his father*, [formerly granted quarter to Johnstone's father, by taking him prisoner instead of putting him to death,] but he was unmercifully used, and the hand that he reached forth cut off; but of this I can affirm nothing. There, at all events, the Lord Maxwell fell, having received many wounds. He was a nobleman of great spirit, humane, courteous, and more learned than noblemen commonly are [or were in those times,] but aspiring, and ambitious of rule."

The Johnstones and their allies pursued the Maxwells through the streets of Lockerby, where numbers of them were cut down. They followed them as far as the Gotterby ford of the river Annan, in which river many were drowned. Most of those who escaped bore the marks of dreadful wounds and gashes on their faces and heads as long as they lived, and these occasioned the proverbial phrase of a *Lockerby lick*. In the Holm of Dryfe, about half a mile below the old churchyard of Dryfesdale, there

are two very aged thorns, with a tumulus at their base, called *Maxwell's Thorns*, and are said to indicate the spot where Lord Maxwell was cut down.

This daring conflict could not fail to attract the attention of the Government, and on the 22d of December a commission was granted to Lord Herries, Sir John Gordon of Lochinvar, Stewart of Gairlies, and others, to examine into the causes of the disturbances of the West Marches, caused by the rebellion of Sir James Johnstone and his accomplices. In the accusation against that chief are enumerated his "breaking ward furth of the Castell of Edinburgh;" his slaughter, "by wicked thieves of his name and others," of the "true men indwellers in the Sanquhar;" the burning of the parish church of Lochmaben; and the conflict at Dryfe Sands, where he "invadit, persewit, and maist cruellie and outragiouslie slew Lord Maxwell and sundrie gentlemen of his name, and others his Majestie's subjects; drownyt, lamit, dismemberit, and tuke a grite nowmer of prisoners; rest and spulzeit thair horses, armour, purses, money, and other goods." But no farther prosecution took place, and Sir Walter Scott observes, that "although the King took it hardly," according to Spottiswoode, "that his Warden, a nobleman bearing his authority, should be thus cut off, yet he found himself unable, in the circumstances of the country, to exact any vengeance for the insult. This is a remarkable instance, among many, of the Warden using the royal name to serve his own private purposes, and of the slight respect in which his authority was held upon such occasions."

The following extract from Mr Pitcairn's Criminal Trials of Scotland is an appropriate conclusion to this narrative of the conflict between the Maxwells and the Johnstones at Dryfe Sands:—"The principal parties, as well as their dependants and kinsmen, lived at such mortal and bloody feud, and the peace of the country was so much disturbed,

that mutual friends, for their own personal safety and comfort, suggested the expedient of an amicable and private meeting between Lord Maxwell (son of Lord Maxwell who fell at Dryfe Sands) and Sir James Johnstone, for finally arranging all their differences. At length they were prevailed upon, under solemn pledges, to meet at a particular spot, each having one attendant, on April 6, 1608, when the principals, with Sir Robert Maxwell of Orchardton (the brother-in-law of Sir James) as a mutual friend, having removed to some distance to converse apart, a quarrel arose between the two attendants. Sir James, having turned to separate them, or to admonish them to keep the peace, Lord Maxwell suddenly and treacherously drew his pistol, fired at him, and shot him in the back with two bullets. There is some reason to suspect that this rencontre between the attendants had been plotted by Lord Maxwell, and arranged before the parties came on the ground. The perpetration of *treasonable murder*, as *slaughter under trust* was then termed, was one which in any circumstances, but especially in such a country as Scotland, at the beginning of the seventeenth century, could not be pardoned. Accordingly, notwithstanding Lord Maxwell's great connections, (having married Lady Margaret, only daughter of John, first Marquis of Hamilton, and being related to many of the principal nobility of the kingdom,) the strictest search was made, and Lord Maxwell was at length committed to ward in the Castle of Edinburgh."

Lord Maxwell contrived to escape from the Castle in a very remarkable manner. He and a gentleman named Sir James Macconnell, with some attendants, assaulted the keepers of the inner and outer gates, and by threats and personal violence succeeded in passing the barriers. Lord Maxwell got clear off, but Sir James Macconnell was seized in the West Port lying on a dunghill, having sustained such injuries in leaping the wall as to render him incapable of

eluding pursuit, and the inhabitants of the street gave notice to the authorities that “ane of them that had brokin ward was lyand in ane midden, and had irons upon him.” Lord Maxwell, to quote Mr Pitcairn’s summary, “was denounced rebel for breaking his Majesty’s ward, and failing to underly the law for the treasonable murder of Sir James Johnstone. After this his Lordship took refuge abroad, where he remained till 1612, when he returned to Scotland, but so hardly was he pressed on the Borders that he had instantly to prepare for embarkation to Sweden. His kinsman, George, fifth Earl of Caithness, dissuaded him from this project, and easily prevailed on him to accept his protection, He lured him to Castle Sinclair, under the pretence of affording him shelter and secrecy, until he could conveniently prepare for his voyage. The real motive of this treacherous nobleman, however, was, that he might obtain favour at court, by delivering up so great an offender—the Earl having got into bad odour at court by creating a broil on the High Street of Edinburgh, where he assaulted George Lord Gordon, and great slaughter might have been committed but for the darkness of the night, owing to which the parties could hardly distinguish their own friends.

“The Countess of Caithness (Lady Jane Gordon, only daughter of George, fifth Earl of Huntly), who was Lord Maxwell’s cousin, and greatly interested in his safety, was likewise deceived by her husband, who told her that a report was spread abroad that it was already known at court that Lord Maxwell was in hiding in Caithness—that it was necessary for their mutual safety to set off for Edinburgh to explain the matter, and thus time would be afforded for Lord Maxwell’s escape. The unfortunate Maxwell, then in poor health from his great exertions, was induced to leave Caithness and pass through Sutherland, in order that he might be taken there, and thus spare the Earl of Caithness the imputation of having so basely violated the

laws of hospitality. But so anxious were his servants to execute their commission, that Maxwell was actually taken within the county of Caithness, conducted to Thurso, where Captain George Sinclair (bastard nephew to the Earl) was impatiently awaiting his arrival, and carried him back a prisoner to Castle Sinclair, where he had so lately been apparently a favoured and honoured guest. By command of the Lords of the Privy Council, Lord Maxwell was shortly afterwards delivered up, and was, on May 21, 1613, beheaded at the Cross of Edinburgh."

Lord Maxwell died in the profession of the Roman Catholic religion, and evinced great penitence at his execution. After expressing his hope that the King would not punish his family for his individual offences, and requesting the forgiveness of the "Laird of Johnstone, his mother, grandmother, and freindis, acknowledging the wrong and harm done to them," we are told that he "retired himself near the block, and made his prayers to God, which being ended, he took leave of his friendis and of the bailies of the town, and suffering his eyes to be covered with an handkerchief, offered his head to the axe, and suffered death on the 21st of May at four o'clock in the afternoon." In the printed diary of Sir James Balfour there is this quaint and summary entry—"The 21st day of this month John Lord Maxwell of Caerlaverock was taken from the tolbooth of Edinburgh to the market cross of the same, where, on a scaffold, he had his head chopped off his body for the slaughter of the Laird of Johnstone."