CHARTER BY MARK KER, ABBOT OR COMMENTATOR OF NEWBOTTILL, TO HELEN LESLIE AND HER SONS, OF LANDS IN THE PARISH OF TEMPLE, CO. EDINBURGH, BELONGING TO THE ABBEY, DATED 13 JUNE, 1565.

Communicated by JOSEPH BAIN, F.S.A. Scot.

Omnibus hane Cartam visuris vel auditoris Marcus Abbas seu Commendatarius monasterij de Newbottill et eiusdem loci conventus, Sancti Andree Diocesis Superioresque terrarum et molendini subscript' Salute in Domino sempiternam Noveritis nos unanimi consensu et assensu dedisse concessisse et hac presenti carta nostra confirmasse necnon dare concedere et hac presenti carta nostra confirmare honorabili mulieri Helene Leslie in vitali redditu pro omnibus sue vite diebus et Marco Ker eius filio, et hereditibus suis masculis de corpore suo legitime procreandis, quibus deficientibus Andree Ker etiam filio dictae Helene et hereditibus suis masculis de corpore suo legitime procreandis, quibus deficientibus nobis dicto Marco commendatario et hereditibus nostris quibuscunque reversuris Omnes et singulas terras de Huntlawcoit cum molendino de Gledhous vulgo nuncupato Gledhoussmylne, cum terris molendinariis croftis domibus edificiis hortis earundem et astrictis multuris totius Baronie nostre de Morpliet solitis et consuetis Necnon terras de Toksydehill quam quondam Hugo Dowglas Burgensis de Edinburgh in asseadatione habuit cum omnibus suis pertinentiis "Jacen" in Domino nostro de Morphet infra vice-comitatum de Edinburgh. Quo- quidem terre cum molendino terris molendinariis croftis domibus, edificiis et hortis earundem et astrictis multuris antedictis cum singulis suis pertinentiis fuerunt honorabilis viri Joannis Blacater de Tulliallane perprist in feudifirma hereditarie Et quas idem per fustim et baculum ut moris est in manibus nostri dicti Abbatis seu Commentatorii tanquam in manibus Domini sui superioris earundem personaliter apud Edinburghus sussum reddidit puraque et simpliciter resignavit Ac totum jus et clameun proprietatem et possessionem que in eisdem habuit habet seu quoovismodo habere poterit pro se et hereditibus suis omnimodo quiete clamavit in perpetuum Tenendas et Habendas omnes et singulas pre- nominatas terras de Huntlawcoit cum molendino de Gledhous terris molendinariis croftis domibus edificiis et hortis earundem et astrictis multuris antedictis Necnon terras de Toksydehill predictis cum omnibus suis pertinentiibus prefatis Helene Leslie In vitali redditu pro omnibus sue vite diebus et prefato Marco Ker eius filio et hereditibus suis masculis de corpore suo legitime procreandis quibus deficientibus dicto Andree
Iver etiam filio dicte Helene et heredibus suis masculis de corpore suo legitime procreandis quibus deficientibus nobis dicto Marco commendatario et heredibus nostri quisquaque reversuris de nobis et successoribus nostri dicti Monasterij Abbatibus seu Commendatariis et Conventu in feudifirma et hereditate imperpetuum. Per omnes rectas metas suas antiquas et divisas prout jacent in longitudine et latitudine. In boscis planis domibus edificiis moris maresiis viis semitis aquis stagnis lacibus rivolis pratis pascus et pasturis ancupationibus venationibus piscationibus petaruis turbarius carbonibus carbonariis euniculis eunicularis columbis columbariis molendinis multuris et eorum sequelis lignis lapicidius lapide et calce fabrilibus brasinis brueris et genestis silvis nemoribus virgultiis cum curiis et eorum exitibus herezeldis bludewittis et mulierum merclietis cum communi pastura libero introitu et exitu Ac cum omnibus aliis et singulis libertatibus commoditatibus proficuis asiamentis ac justis pertinentibus suis quibuscunque Tam non nominatis quam nominatis tam subitus terra quam supra terram procul et prope ad predictas terras cum molendino terras molendinarias edificia et astrictas multuras antedictas cum pertinentibus spectantibus seu juste spectare valentibus quomodo libet in futurum. Libere quiete plenarie integre honorifice bene et in pace sine aliqua revocatione impedimento aut obstacle aliquali. Reddendo inde annuatim dicta Helena durante vita sua Et deinde prefatus Marcus Ker et heredes sui predicte ac assignati Nobis et Successoribus nostri dictis pro aequo anno eorum introitus ad prefatas terras et molendino prout usus est feudefirme. Ac etiam prefata Helena durante vita sua et postea dictus Marcus Ker heredes sui supraecriti ac assignati prestando tres sectas curie ad trium nostra placita capitalia Baronie nostre de Newbotilli annuatim apud monastereium eiusdem tenenda tantum secundum formam nostre infeodationis feudefirme dicto Joanni Blacater suis heredibus et assignatis desuper confectis Pro omni alie onere exactione quostione demanda seu servitio seculari que de predictis terris cum molendino et pertinentibus per quocunque juste exigi poterit quomodo libet vel requiri. Insuper dilectis nostri Joanni Kirkpatrik et Joanni Forsyt ac vestrum cuilibet coniunctem et divisim Ballivis nostrijs in hac parte specialiter constitutis Salutem, vobis precipimus et mandamus queanmin fisci presentibus indilate statum sasinam hereditariam pariter et possessionem corporalem actualum et realem omnium et singularum prefaturum terrarum de Huntlawcoit cum molendino antedicto terras molendinariai croftis domibus edificiis e ortis eorundem ac astrictis multuris antedictis ac terrarum de Toksydehill antedictarum et omnibus suis pertinentibus dicte Helene Leslie in vitali redditu pro omnibus sue vite diebus ac prefato Marco Ker hereditarie vel suis certis actornatis latoribus presentium secundum tenorem prescriptive carte nostro que de nostris inden habebit juste haberi faciatis et deliberetis. Et hoc nullo modo omittatis ad quod faciendum vobis et vestrum cuilibet coniunctem et divisim Ballivis nostris antedictis nostram plenarium et irrevocabilem tenore presentium committimus potestatem. In cuius rei testimonium haec presenti carte nostro preceptum sasine in se continentis manibus nostrijs subscriptis Sigillum ac Capituli nostri est appensum Apud idem nostrum monas-
tenium decimo tercio die mensis Junii Anno Domini Millesimo Quin-
gentesimo Sexagesimo quinto.

MARCUS COMMENDATARIUS
DE NEWBOTIL.

JOHANNES BANNATYNE.
WILLILUS HAIRLAW.
GORGIUS RYHARDSON.
THOS. GULD.

This Deed is clearly written on parchment, with contractions, which
have been extended. The signatures opposite that of the Abbot are
probably those of the monks. The seal (in fair preservation) is still
appended. It is in red wax enclosed in white, and vesica shaped. In
the upper compartment the Virgin Mary crowned, and seated, under a
canopy. In the lower, an ecclesiastic with a nimbus stands holding a
pastoral staff in his right hand, and a book (?) in his left. On the right
is a small shield with the arms of Scotland. On the left another with the
Commendator's family arms, a chevron charged with three stars, and in
base a unicorn's head. Below the shield the letters M. k. The legend is:—

"[s. Comm]vne + monaste[r]ii + de + newbottil +"
and grantees. Though nothing in the deed shows this, they stood in very close relationship. Abbot Mark Ker was (so far as a churchman could be) the husband of Helen Leslie, to whom he grants the lands in liferent and her [he does not say his] two sons successively in fee. The “Abbot or Commendator,” as he styles himself, was a type of the Scottish Churchmen of the day, who, by accommodating themselves to the new order of things, secured the temporalities of the religious houses over which they presided for their own families. Many, as the records show, were dissolute persons, and provided for their illegitimate offspring; but Abbot Mark was of a different stamp, and founder of the distinguished House of Lothian, the present head of which has shown a noble example to his countrymen in the care and munificence with which he has restored the beautiful ruins of Jedburgh.

In Douglas’ Peerage of Scotland (Wood’s Edition) ii, p. 130, the following account is given of Mark Ker and his immediate descendants. “Mark Ker, second son of Sir Andrew Ker of Cessford, entering into Holy Orders, was promoted in 1546 to the dignity of Abbot of Newbottle, which station he possessed at the Reformation of 1560, when he renounced the profession of Popery, and held his benefice in commendam. He had the vicarage of Linton, co. Peebles, for life, 26th March 1564, got a Charter under the Great Seal to Mark Ker, Commendator of Newbottle, and Helen Lesly his wife, of the lands of East and West Bernis, in the Constabulary of Haddington, 13 May 1567; was appointed one of the Extraordinary Lords of Session, 20th April 1569, and died in 1584. He married Lady Helen Lesly, second daughter of George, 4th Earl of Rothes, and by her had

1. Mark [his successor].
2. Andrew, of Fentoun.
3. George, mentioned in Robertson’s History as an Emissary from the Catholic Noblemen to the Court of Spain 1592.

And a daughter Catherine, m. William, Lord Herries.

II. Mark, Master of Requests, 20 March 1577, confirmed therein in 1581. On the death of his father, the Commendatorship, to which Queen Mary had provided him in 1567, was ratified to him by Letter under the Great Seal, 24th August 1584; was made an Extraordinary Lord of Session, locopatrificus, 12th Nov. 1584.”

He was the first Earl of Lothian, so created by patent 10th February, 1606, to him and the heirs male of his body [according to Douglas]; but Riddell says to his “heirs male” simply, without the limitation. He had at least two sons (1) Robert, second Earl, and (2) Sir William Ker of Blackhope.

III. Robert, second Earl of Lothian, succeeded his father under the patent, and died on 15th July, 1624, leaving two daughters only. The undoubted heir male, his brother Sir William, then assumed the dignities of Earl of Lothian and Lord Newbottle, retaining the title for seven

1 This date is wrong. From a Deed in the Glorat Charter Chest, dated 18th January 1559-7, the then Abbot was James [Husmell], and Mark Ker, styled “Magister Marcus Ker,” was only third in the order of precedence in the Convent.
2 The original of this document, with about two thirds of James VI’s Great Seal appended, is still in the Glorat Charter Chest.
3 Peerage and Consistorial Law, vol. i, p. 73.
years. Earl Robert, however, was said to have resigned his honours to James VI, who made a re-grant, said to have been confirmed by Parliament, to Lady Ann Ker, his eldest daughter and heirress, and her husband Sir William Ker, eldest son of Robert, 1st Earl of Ancrum, through which, and some subsequent transactions, closed by a patent by Charles II in 1678, the Lothian earldom is held by the Kers descended of Ferniherst. But Mr. Riddell1 shews from authorities that the second earl never resigned his honours; there was no re-grant of these by James VI or any confirmation by Parliament. He did resign his Estates, however, in favour of the heirs male of his body, whom failing, his eldest heir female (under which destination his daughter and her husband eventually took) and these were duly granted by the King, and the grant ratified by Parliament in 1621. The subject is too technical to be discussed here; but there are some singular circumstances connected with it. Charles I interfered directly to extinguish the claims of Sir William Ker of Blackhope, the heir male of the first patentee, as appears by a curious letter of 30th October, 1631 (Register of Secretary Alexander), much as he did in the famous Stratherne case about the same time, where he forced William Graham the heir of the lawful Stewart line and possessor of "the redest blood of Scotland" as in an evil hour he boasted, to resign the earldom of Stratherne and Menteith and take the inferior title of Airth in a high-handed fashion that a sovereign could scarcely venture to attempt now. Thus, like the present remarkable position of the double earldom of Mar, there may be two earldoms of Lothian—one under the original patent of 1606, devolving on the heir male (whoever he is) of the Kers of Cessford or Roxburghe; the other under the second patent of 1631, in which Charles I "created" Sir William Ker (of Ancrum), husband of the heiress, Earl of Lothian and Lord of Newbottle, now enjoyed by his representative the present Marquess of Lothian. This noble house has produced many scions who have distinguished themselves in the service of their country.

The site of Newbottle, chosen with that eye to the picturesque which distinguished the Cistercian monks, in a pleasant haugh or holm, half encircled by the river Esk, is very charming. It was one of the foundations of David I, and was a favourite place of resort of the Scottish kings. Such parts of the monastic buildings as remain have been incorporated with the mansion of the Lothian family, which, in its name, Newbottle Abbey, perpetuates the memory of its early owners.

The deed that has suggested these remarks is, with some others connected with the Newbottle estates, in the archives of Sir Charles E. F. Stirling, Baronet, of Glorat, who has permitted the use of it with the liberality that on other occasions has been shewn by his predecessors in regard to their family muniments.

1 Peerage and Consistorial Law, vol. i, pp. 73-82.