V.

NOTICE OF THE SCULPTURED TOP OF A STONE CROSS FOUND IN THE PARISH OF LESMAHAGOW, A.D. 1866; WITH SOME REMARKS UPON CROSSES, AND THE PRIVILEGE OF SANCTUARY.

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Lesmahagow, in the minds of antiquaries, is associated with the grant of the pious David I., King of Scotland, to the Abbey of Kelso (A.D. 1144), in free and perpetual alms, of the church of Lesmahagow, and the whole of Lesmahagow (ecclesiam de Lesmahag et totam Lesmahagu), according to their proper boundaries, with all manner of pertinents in wood and open, moors and marshes, pasturages and waters, with mills and other buildings, with mansions to be built on their own and as they pleased, to be held for prayers for the weal of souls, the

church to be free from all Episcopal dues and exactions, that the abbot and monks of Kelso might ordain a prior and as many monks of their own order and habit as the place would honestly support, and for the reception of poor travellers; also that it should be a place of refuge or sanctuary for those who, in danger of life or limb, should flee to the said cell or come within the four crosses standing around it, and to such the king granted his firm peace. This was done from reverence to God and St Machute (*Liber. S. Marie de Calchou*, 9, 8). At the king's desire, and with the consent of John, Bishop of Glasgow, a prior and monks of the order and habit of the Tyronenses were there planted, the Tyronensian monks being of the reformed order of Benedictines or followers of St Bennet, first established at Tyron, in the diocese of Chartres, in France.

The proper interpretation of the charter of King David I. being a matter of importance, the author, when engaged in preparing for the press the "Annals of the Parish of Lesmahagow,"[1] devoted some attention to it. One assumption was, that the Church of Lesmahagow, which was conveyed to the Tyronensian monks, might have been a religious edifice (probably belonging to the Culdees), which was believed to have existed at Kirkfield, on the banks of the river Clyde, and within the parish, the names Kirkfield, Kirkfieldbank, Kirkyard Park still surviving in that locality. Mature reflection, however, developed the strong probability, arguing from the words of the grant, that at the period of the pious king's reign the Tyronensians had just erected a church at Abbeygreen of Lesmahagow, with four crosses around it, which existed upon sufferance only, the maxim of the Roman law being applicable, viz., *quidquid solo inædificatur solo cædit*, the *solum* or ground being the property of the Crown. The royal charter constituted a conveyance of this church in favour of the Abbey of Kelso, the king granting at same time to the monks the extensive tract of country, which in the rubric of the deed is styled the "Barony of Lesmahagow," with all the privileges which are enumerated. That the church was then of recent erection is almost a matter of certainty, as the Abbey of Kelso, of which the Church of Lesmahagow was a dependency, had been founded only sixteen years previously.[2]

Edinburgh, 1864. *Printed for subscribers only.* It will be remarked that some of the opinions expressed in that work upon the subject of Lesmahagow sanctuary crosses are modified in this communication.

[2] "Anno M.C.XXVIII. fundata est ecclesia de Kelchehou v. nonarum Maii"—

It is well known that in countries where the Roman Catholic form of worship prevails, stones bearing the names of crosses have been made to subserve various purposes. Some ancient "standing stones" had the emblem of the crucifixion of our Lord carved upon them after Paganism was abolished, and remained standing, frequently to serve as memorials of designation or boundary as much as of Christianity. Some were erected as objects of demarcation for jurisdiction or property. Some served as sepulchral mementoes, or to mark the place of death of some great man; some commemorated battles, murders, or other fatal occurrences; some indicated the places of prayer, others were for public proclamations; while some hallowed the ground where the remains of a person of rank or piety had been halted on the way to interment. Crosses erected for sanctuary purposes were rare in Scotland, although the precincts of a church which was consecrated, and had the right of baptism and burial, were popularly believed to convey the privilege of asylum. According to Stuart ("Sculp. Stones," vol. ii.) it extended to thirty paces around the burial-ground. Some antiquaries allude to crosses erected around the altar as a *sanctum sanctorum*. The monastery of Dull, in Atholl, had its girth-crosses. Wedale (Stow) had the right of sanctuary, also Torphichen, the latter defined by four stones marked with crosses, some of which still remain in their original sites, each about a mile distant from a similar central stone in the churchyard.[1] Dunfermline was a place of sanctuary, also Maerubha at Applecross, the privilege at Maerubha extending for six miles around it in all directions.[2] Malcolm IV. granted the privilege of sanctuary to Inverleithen Church, in which his son's body rested during the first night after his decease, and extended the right to all its territory as fully as Wedale or Tyningham.[3]

Chron. Mailr. "Monasterium illuc translatum per Regem David anno Domini M.C.XXVI, et post duos annos post translationem Conventus, fundavit ecclesiam de Kalco."—*Fordun*, v. 36.

The opinion that Kirkfield was in early times connected with a Culdee establishment, is strengthened by the fact, that the *Liber de Calchou* is silent regarding it. It has been recorded by several writers that there was a chapel at Greenrig, which is in the immediate neighbourhood of Kirkfield, but upon this point the Chartulary of Kelso is also silent.

[1] Stuart's Sculptured Stones, vol. ii.

[2] Ibid.

[3] Scotland in the Middle Ages, p. 198.

The history of the Abbey of Holyrood does not afford a parallel illustration to the sanctuary of Lesmahagow. By royal charter, David I. prohibits every one from executing a poinding on the lands of the Holy Rood, except the abbot of that place shall have refused to do right and justice, thereby establishing and perpetuating a system by which debtors, but not criminals, might receive protection. The Scots Mint or "Cunzie House," and the Castle of Edinburgh (the latter as a royal residence) afforded an asylum, and by the early law of sanctuary, criminals in danger of life or limb had the benefit of protection until the case was fully investigated. Before leaving it they had to "make security to the Schiref anent the crime." ("Stat. Rob. II." c. 9.) By our most ancient law the penalty for violating the king's girth by raising the hand, was four cows to the king, and one to him whom the offender would have struck; and for slaying a man nine cows to the king, and a composition to the kin of him slain. ("Scotland in the Middle Ages," p. 197.)

At first sight it seems probable that subsequent to the period of the grant by David I. in favour of Lesmahagow, boundary crosses would be erected by the monks to define the limits of their jurisdiction. No light is thrown on this point by the *Liber de Calchou.* When the Barony was parcelled out by charter among the vassals of the church, such charters did not embrace the privilege of asylum. "The whole of Lesmahagu," defined in the rubric as the "Barony of Lesmahagow," probably became the area of the modern parish.[1] The word *Crosseford* occurs in a charter by Arnald, Abbot of Kelso in the 12th century, in favour of Theobald the Fleming (*Liber de Cal.* 78, 107), and in the spirituality of Dryburgh we find mention made of *Corsfuird* and *Overcorsfuird.* (*Morton's Monastic Annals*, p. 316.) That a cross was erected at this ford over the river Clyde is highly probable, but whether on the Lesmahagow or Lanark side of it cannot now

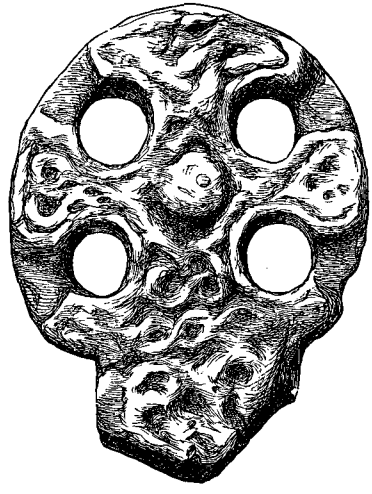
[1] The word *schira*, so often in early charters equivalent to parish, does not occur in the grant, nor does the word *parochia.* The modern signification of parish, viz., the territorial bounds connected with a particular church of the Established religion, and for the support of which alone the tithes within these bounds can be allocated, was at that period unknown. *Parochia* anciently signified the *diocesis* or ecclesiastical jurisdiction of a bishop ("Reg. Glasg." pp. 43, 50, 55). It appears that William the Lion employed it to express a jurisdiction, and it frequently was applied to baptismal church territory, but in process of time it came to be applied to church territory generally.—("Orig. Paroch. Scot." preface, p. 20.)

be determined. The "slender cross" (*gracilis crux*) stood somewhere on the road between the Abbey of Lesmahagow and the town of Lanark, and near the centre of the parish of Lesmahagow. It is referred to in the *Liber de Cal.* 80, 109. It was no doubt a wayside cross, and may also have defined the boundaries of conterminous proprietors, but from its distance from the abbey it is not probable that it was recognised as a sanctuary cross. There is still an extensive morass, extending from the east of the parish towards its centre, which is known as the *Broken Cross Muir.* Sound deduction would lead to the conclusion, that somewhere in this moor there stood a cross, which became ruinous or was broken, but as there is no record bearing upon it, ample scope is left for conjecture.

We now proceed to examine the question of the cross-top, which is brought under the notice of the Society of Antiquaries of Scotland. It was found (A.D. 1866) at Milltown of Lesmahagow by a roadman when widening the parish road, between 400 and 500 yards from the parochial church, which occupies the site of the ancient cell or abbey. It lay with its ornamented face downwards, about twelve or fifteen inches below the surface of the footpath. There are no good grounds for believing that it was carried thither; and the inference is, that about the period of the Reformation, when the monastery of Lesmahagow was demolished, and when all ornamental carving connected with religious objects was regarded as sinful, the cross at the side of the public road at the Milltown (*Villa Mollandini*) was ignominiously pulled down, the top being buried where the cross had for many centuries stood, and the shaft carried away to some building then in the course of erection, that that part of it might be hewn which would stand the application of the square.

The cross-top is of a common type, whether we regard its shape or ornamentation; at least there are preserved in England a good many similar examples. The wheel part being oval instead of circular is, however, a peculiarity. It is elaborately sculptured of an ornamental pattern in each of the four limbs, and there is a projecting boss in the centre. If one separates in imagination the four eyes and the four radiating recesses of the stone, an ornamental cross will remain in relief, planted upon a wheel. When attached to its shaft, the whole pillar probably bore a general resemblance to a cross delineated in the *Journal of*

the British Archæological Association (vol. i. p. 145), and reproduced in that journal for December 1864. It was described in a letter written by the Rev. J. Jones, of Nevern, as standing in the churchyard of Nevern, Haverfordwest. The shaft of the Nevern cross is of one stone,



Cross found at Milltown, Lesmahagow.

which is entire. The cross which surmounts it is loose, and had been fixed at one period by an iron spike. It is 12 feet 10 inches high, 2 feet 4 inches broad, and 1 foot 7 inches thick. From the Rev. Mr Jones' letter, it appears that such crosses are to be met with in various parts of Wales and Cornwall.[1]

[1] A very carefully prepared lithographic illustration of the Cross in Nevern churchyard, Pembrokeshire, will be found in the "Archæologia Cambrensis" for January 1860, page 48. The dimensions of that Cross are there given as follows:—Shaft, height from surface of ground 10 feet; breadth of shaft at base 27 inches, in the middle 24 inches, at top 22 inches. From top of shaft to cross 10 inches, height of cross 24½ inches, width of cross 24½ inches. Partial representations of it have been published in "Gentleman's Magazine," vol. iii., and in the "Journal of the Archæo-

A distinguished English antiquary, to whom a photograph of the Lesmahagow cross was sent, has recorded his opinion that it was probably one of the four crosses to which the grant of David I. (A.D. 1144) relates.[1] No traces of the other three sanctuary crosses or of their sites exist.

With reference to the early Scottish law of girth or sanctuary, suffice it to state that it was mainly founded on Scripture (Exodus xxi. 13; Numbers xxxv. 11), and was conferred on churches by the canon law. Yet was not the law always respected. The church of Lesmahagow was burnt in the year 1336 by John Plantagenet (surnamed of Eltham), brother of Edward III. of England, when many innocent and harmless persons who fled to it, thinking themselves secure from danger, perished in the flames ("Spottiswoode on Relig. Houses"). Whether the story, as told by Fordun and Wyntoun, of the king being so incensed, on learning what his brother had done, as to deprive him of life, be true or not, that part of it which relates to the violation of the sanctuary receives some countenance from the fact that when the foundations of the present church were dug on the site of the old one, in the year 1803, many skeletons were found. When Edward III. proposed an invasion of Scotland, all persons who had taken refuge in sanctuaries on account of

logical Institute," vol. iii. p. 70. From the paper in the "Archæologia Cambrensis," we learn that in addition to the endless variety of the interlaced ribbon pattern (each ribbon having an incised line running along its centre), the south side has at its base a raised pattern of classical design resembling the Grecian fret, of which a larger specimen occurs at the top of the west side. Above this fret, on the south side, is a curious diagonal pattern formed of narrow raised and angulated lines, the general effect produced being that of a St Andrew's Cross, with the space between the arms filled in with four pairs of incised T's produced obliquely, being the tops of each pair placed in opposition to each other. The date of the Nevern Cross is believed to be of the 10th, 11th, or early part of the 12th century.

[1] Mr H. Syer Cuming laid before the meeting a photograph (presented to him by Mr J. B. Greenshields) of the head of a *wheel-cross*, discovered on 18th July 1866, at Lesmahagow, Lanarkshire. There can be little doubt that this is a portion of one of the four crosses within the bounds of which stood the sanctuary or cell of refuge, of which special mention is made in an instrument of the year 1144, whereby David I. granted Lesmahagow to the monks of the Abbey of Kelso. The fragment measures 20 by 14 inches, and the interlaced strap work sculptured on its front closely resembles the decorations seen on Irish and Manx crosses of the eleventh century.—*Journal of the British Archæological Assoc.* for June 1867, p. 207.

felony were pardoned, by royal proclamation, on condition of their serving at their own charges in the army of Baliol (Foedera, v. 328).

Mr Ross, in his Lectures on the Practice of the Law of Scotland, dwells at some length upon the abuse of the privilege of sanctuary. "Asylums, sanctuaries, or places of refuge," says he (vol. i. p. 331), "were known and allowed among the Greeks, Jews, and Romans. The temples, the altars, the cities of refuge, and (when the Empire became Christian) the churches, afforded protection to criminals and debtors insolvent. The clergy, who set no bounds to their usurpations upon the civil authority, turned churches at last into a receptacle for the most atrocious murderers.

"In the reign of James III. it required an Act of Parliament to bring an intentional murderer out of a church to punishment, and even this could not be done until the intention or 'forethought felony' was fixed upon him by a jury. The churchmen would not yield to this most reasonable statute, but defended all sorts of villains who put their trust in them. The mischiefs thereby brought upon the country occasioned the making of another Act, so late as the 4th Parliament of James V., which expressly declares that spiritual men, masters of girths, would not deliver 'forethought felons' to the king's officers: and therefore these spiritual men were ordered to appoint masters of girths under them who should be personally answerable for their proper conduct."

In England the same privileges existed even to a higher degree. Every church and churchyard afforded a sanctuary against legal warrants of every kind, excepting sacrilege and treason. This had descended from the times of the Saxon Church. And, besides this common right, some of the English churches were invested with peculiar privileges. Among these were York, Beverley, Hexham, Croyland, Tynemouth, and Westminster. In some of these *fridstols*[1] were erected, and in two of them, viz., Beverley and Hexham, they still remain (*Stuart's* "Sculp. St." vol. ii.) In the *Archæologia* of the Society of Antiquaries of London (vol. xiv. p. 40), the Rev. W. Gibson, when treating of a stone cross at Hemsby,

[1] *Frith-stol* or *frid-stol*, the seat of peace, a stone seat beside the altar. When the refugee had reached the altar, *frid-stol*, chancel, or any other sanctified or sanctifying place, and had put himself under their protection, his person became sacred, and was protected by their influence, even although he departed from them to a certain number of paces round the church.—*Spelman's Glossary, v. Fridstol.*

in the county of Norfolk, remarks that "both pillars and crosses were placed occasionally in the neighbourhood of churches in England, to mark the boundaries of these privileged spaces, in which fugitives, whether for debt or crime, were sure to find protection. Of such spaces, to a greater or less extent, all consecrated churches were possessed, which, having been indulged to them in conformity with the corruptions of pagan practice rather than the purer precepts of the Mosaic law, first by Christian emperors in foreign countries, and in this country by Christian kings, were afterwards, by Boniface V. and his successors in the Papal chair, fully established and confirmed."

In the same work (*Archæologia*, vol. xvii. p. 198) a register is noticed of the persons who sought sanctuary at St John of Beverley, in Yorkshire, from one of the Harleian MSS. of the British Museum (No. 4292), and appended is the form of oath taken by those who claimed the peace of the place. The bailiff of the town, by whom the oath was administered, was directed to inquire of the refugee "what man he had killed, and wherwith, and both ther names; and than gar hym lay his hand vpon the Book, saying on this wyse, Sir, tak hed on your oth. Ye shal be trew and feythful to my Lord Archbishop of York, lord off this towne, to the provost of the same, to the chanons of this chirch, and all other minstrs thereof.

"Also ye shall bere guide hert to the baillie and XII. governars of the Town, to all burges' and comyners of the same.

"Also ye shall bere no poynted wapen, dagger, knyfe, ne none other wapen agenst the King's pece.

"Also ye shal be redy at the obite of King Adelstan, at the Dirige and the Messe, at such tyme as it is done at the warnying of the belman of the town, and do your dewte in ryngyng, and for to offer at the messe on the morne, so help you God and thies holy Evangelists.

"And then gar hym kysse the Book."[1]

Whether such oath existed at the Abbey of Lesmahagow will never be

[1] The writer just quoted (Henry Ellis, Esq., F.R.S. and F.S.A.) adds—"I do not remember to have met with a sanctuary oath elsewhere." "The bailiff's fee on the occasion appears to have been 2s. 4d., that of the clerk of court 4d." "The register of the sanctuary of Westminster was purchased for Lord Weymouth, in whose library it was placed, and where it may probably be still found."

ascertained, as the "Liber de Calchou," the only record of the monastery which has descended the stream of time, is a register of the charters of the Abbey of Kelso and its dependent religious houses, to which are added a few illustrative documents, of which a register of fugitives and oath taken by them, if such oath was exacted, does not form part.

To touch upon the question of asylums or sanctuaries for debt, viewed from an antiquarian point of observation, is far beyond the scope of this paper. Suffice it to state that such sanctuaries were at one period much abused both in Scotland and England. Most of these abuses disappeared at the Reformation with the religion which gave them birth, and now the Abbey of Holyrood is the only asylum in Scotland which the law recognises. "An Englishman's house is his castle," and into it "even Royalty cannot, dare not enter!" In this the law of England follows that of Rome, the maxim being "*Domus sua cuique tutissimum refugium est et receptaculum.*"