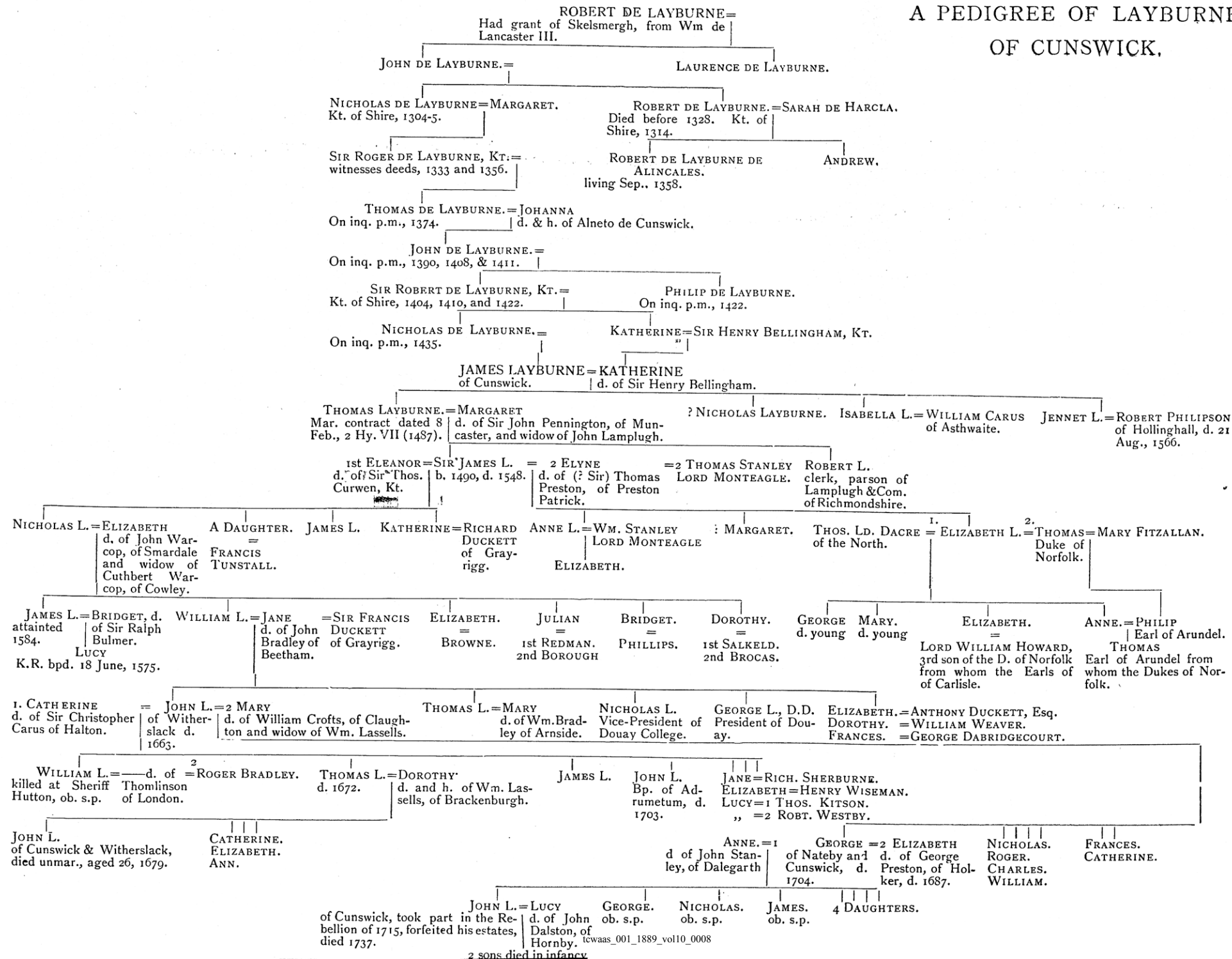


ART. VI. *The Layburnes of Cunswick.* BY WILLIAM WIPER. *Read at Kendal, July 11th, 1888.*

CUNSWICK, anciently written Cunnyswick, and Connyswick, may have had its name from the number of coneyes that found safe hiding in its rocky retreats, or, from the cons that frisked and gambolled amid its leafy screens. But, whether it was the rabbit's retreat, or the squirrel's bower, its lords for 500 years were fittingly represented by the emblems of strength, courage, and magnanimity borne on their shield.

The Layburnes appear to have settled in this neighbourhood in the time of William de Lancaster the third, as the earliest mention of them is in a grant by that potentate, of lands in Skelsmergh, to Robert de Layburne; one of the witnesses was Sir Roger de Layburne, knight. No mystery attaches to the origin of the family, it being perfectly clear that it was of Layburne Castle in Kent. The paternal coat was azure, six lions argent, the Westmorland branch, simply changing the field to gules, and resuming the azure in later generations. Robert de Layburn (of Layburne Castle) who died in 1199 is said to have been grandfather to the Robert who had the above-named grant; the date of which is not given by Nicolson & Burn; it must, however, have been sometime between 1220 and 1246 as William succeeded to the barony in the former and died in the latter year. Robert de Layburne witnessed what appears to be the last deed of this baron; it was a grant or confirmation of certain bounds and fisheries in Windermere to the Abbot of Furness, and is dated November, 1246, at Kendal. This is the last recorded act of Robert, who was (according to Nicolson & Burn) succeeded by his son and heir, John de Layburne, who was in turn succeeded by his son Nicholas,  
but

# A PEDIGREE OF LAYBURNE OF CUNSWICK.



but he would appear to have had another son who stands out more prominently than any other member of this branch of the Layburnes for the next two centuries of its history. He is styled Robert de Layburne son of John de Layburne, in one of the Furness Charters. He acquired the Manor of Elliscales in the parish of Dalton; was sheriff of Lancashire in 1322, and again in 1326; and knight of the shire for Westmorland in 1314. His wife was sister to the brave but unfortunate Andrew de Harcla. There are the germs of a powerful romance in this union of Layburne and Harcla. In the first place there was probably something out of the ordinary in the marriage, as he made an unusual disposition of his possessions, transferring them to three ecclesiastics: viz: Robert de Thweng, rector of Warton, Adam de Bardsea, vicar of Millom, and John le Englis de Coupland, chaplain. These three, after his death, transferred to Robert, son of Sarah, the lands which they had of the gift of Robert de Leyburne, knight, father of the said Robert, remainder to his brother Andrew. Secondly, a tenant disputes the legitimacy of this Robert the son of Sarah, and the case is remitted for enquiry to the Bishop of Carlisle. The verdict recorded in the episcopal registers is that the marriage of Robert de Layburne and Sarah de Harcla was publicly solemnised, and that Robert was lawfully begotten and the true heir of his father. Thirdly, Sarah has a grant of her ill-fated brother's dishonoured remains. One can almost fancy that with them were given as a heritage to the Layburnes the noble words of Andrew de Harcla, which he uttered on hearing the hasty and vindictive sentence passed upon him:—"You have disposed of my body at your pleasure, but my soul I give to God," and not the words only but the undaunted spirit which prompted their utterance, lion-like courage to fight the battle of right, Christian fortitude to bear the ills of life, being also shadowed in the quartering of the Layburne lions with the red cross of Harcla.

Robert

Robert de Layburne the elder died probably before 1328. Robert the younger, in 1358, by letter of attorney dated at Kirkebi in Kendall the Sunday next after the exaltation of the Holy Cross, parted with the Manor of Alinscales. I imagine that he was not the head of the house, as he styles himself "de Alinscales." Meantime there is mention of a Roger de Layburne, knight, probably the son of Nicholas and next in succession. He was witness to the grant of lands in Old Hutton and Holmescales in Kendal by "Robert de Culwen, Lord of Wirkington," to Thomas, son of Patric de Culwen, knight, his uncle. He is also named as witness to a grant of land in Sleddale, in 1356. Thomas is a juror 1374; John in 1390, 1408, and 1411; Philip in 1422. Robert is knight of the shire 1404, 1410, and 1422. Nicholas is kt. of the shire 1425 and a juror in 1435, James is next in Dr. Burn's list who says he married Katherine, daughter of Sir Henry Bellingham, in the reign of Henry the VII, which must be an error, for Henry the VII did not ascend the throne till 1485, and in the following year James Layburne contracts for the marriage of his son and heir Thomas, with Margaret Pennington, then a widow. At this point we get on firm ground, but up to this there is no evidence as to which of the contemporaries was head of the house. I have therefore gathered all the notices together and give them for reference. Thomas Layburne died on the 5th of August 1510, and it was found by the jury that James his son and heir was then of the age of twenty years.

With Sir James Layburne commences what may be called the history of the family, that is, with him it passes from the mere recital of names, to something tangible. The men, but more particularly the women, cease to be shadows, and become real personages. Sir James married to his first wife, Eleanor, daughter of Sir Thomas Curwen, knight, by whom he had Nicholas, his successor,  
and

and Katherine, who married Richard Duckett, of Grayrigg. To his second wife Sir James married Ellen, daughter of Sir Thomas Preston, knight, of Preston Patrick, by whom he had two daughters, and possibly other children, as he had a younger son James, and a daughter, Margaret, but by which of his wives I have failed to make out.

He was a man of considerable influence as may be gathered from the fact that his quota to the defence of the Borders, was twenty horsemen, fully armed—a modest number compared with that of his neighbour, Walter Strickland, Esquire, of Sizergh, who had to put 200 in the field—but still a sufficient number to show that he held no mean rank in the county; he was also knight of the shire for Westmorland in 1542. His death at the comparatively early age of 58 years, took place in 1548. By his will dated 4th July, and proved 31st October of that year, he leaves the manor of Cunswick and certain lands in Skelsmergh to Dame Elyne for life in satisfaction of jointure and dower. The manors of Ashton, Carnforth, and Scotforth, which he had on lease from William, Marquis of Northampton, for a term of 44 years, dating from 4th February, 1st Edward VIth (1547), he also left to her for the term of 18 years, and after that to his younger son James Layburne. Out of the profits of these manors and farms she was to pay his debts, legacies and marriage portions for his daughters. The will is an interesting document in many ways. One item is, that every priest present at his funeral was to have xii pence. Another shows that the poor had a good friend in Sir James whilst he lived, as well as after his death.

Five men beinge in povertie shall have every Sundaye there dynners or els every Sunday every one of them a peny a pece to pray for me, my father and mother, for their natural lyves, and at such tyme as they die my wife to appoint others in their stead who being in poverty have been accustomed every sunday to come to my Manor of Cunmyswick.

I need not quote more, as the greater portion of it will be found in an Appendix.

Lady Ellen Layburne married again, her second husband being Thomas Stanley, second Lord Monteagle. His son, Sir William Stanley married her daughter Anne, by whom he had an only child, Elizabeth, who married Edward Parker, Lord Morley, and became mother to William, Lord Monteagle, who saved the King and Parliament from the horrible fate prepared for them by Guy Fawkes and his accomplices. Elizabeth the other daughter married firstly, Thomas Lord Dacre, by whom she had three daughters and a son ; and secondly, Thomas, fourth Duke of Norfolk, only surviving the second union about a year. Her daughters Anne and Elizabeth were married to Philip, Earl of Arundel, and Lord William Howard of Naworth, and from them are descended respectively the Dukes of Norfolk, and Earls of Carlisle. The memoir of Anne, Countess of Arundel, is perhaps the brightest chapter in the Howard roll of fame. Passing through the fiercest tribulation, she became like gold refined, and her character is worthy of the term "saintly." She was trained, along with her sister and her cousin Elizabeth Stanley, by the Dowager, Lady Monteagle. An indication of this fine old lady's character is given in the account of her granddaughter's education.

" Both these her Daughters knowing the great prudence and care she had used in the education of themselves, prevail'd with her to undertake the education also of their Daughters, which she perform'd with such diligence and discretion, that tho' they were but young when she dy'd, yet they received so much good from that short education, that they enjoy'd great advantages by it all their life time. She carry'd a strict hand over them, not permitting such liberties as many do to the ruin of their children. She reprehended them sharply for their faults, and chastis'd with her own hands, by which means they came not only to know what was evil, but also to have a fear and horror to do it. But above all she took special care to instill Vertue and Piety into 'em, habituating them beside saying prayers,

prayers, in bestowing Almes with their own hands to prisoners and poor people, together with many other good deeds. And indeed such were the good seeds sow'd in her Grandchild Anne (who even to her dying day retain'd a gratefull memory of her, and would often make mention of ye rare endowments she observ'd in her) that from them it may well be thought, divers of the good inclinations and affections which ever after appear'd in her, ow'd their rise and progress.

For first, by what was then ingrafted in her she ever retain'd a good opinion of and affection to the Catholick Religion. Secondly, a propension to works of mercy, and a particular application to the curing of diseases, wounds and the like, wherein her Grandmother did excel. Thirdly, a particular affection for the Society of *Jesus* by hearing her Grandmother rejoice and praise *God* for establishing a new Religious Order which bound itself by a special vow of obedience to the *Pope*, whom all Hereticks did then objure and oppugn.

Before the promulgation of the Council of *Trent's* declaration concerning the unlawfulness of being present at the Protestant Service, Sermons, and the like here in *England*; the Lady *Monteagle* was accustom'd to have Protestant Service read to her by a Chaplain in her house, and afterwards to hear Mass said privately by a Priest. But as soon as she understood the unlawfulness of this practice, she wou'd never be present at the Protestant Service anymore. And once urg'd by the Duke of Norfolk with whom she liv'd a while before her death, and at whose house she dy'd, to do something contrary to the Profession of her Faith, though she much esteem'd and respected him, yet her answer was so round and resolute, that he never mention'd the like any more, but gave her full liberty to have all the assistance desir'd before, and at her death, wherein she was more happy than her Dagughter the *Duchesse*, who dying not long before her in Childbed, tho' she desir'd to have been reconciled by a Priest, who for that end was conducted into the garden, yet could not have access unto her, either by reason of the *Duke's* vigilance to hinder it, or at least by his continual presence in the chamber at that time."

Sir James was succeeded by Nicholas, his eldest son, who married Elizabeth, daughter of John Warcop of Smardale, and widow of Cuthbert Warcop of Cowley. Nicholas died before 1567. A fragment of his will is still in existence; in it he leaves his lands in Skelsmergh and

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and Sleddale to his widow during the minority of his son James, who was still under age when his mother died in 1567. Her will is dated November 17th of that year and is a most interesting document. She recites that her brother, Thomas Warcop, had a lease of the parsonage of Lancaster in the first of Elizabeth for one and forty years and that her late husband Nicholas Layburne did buy it, and she bequeaths the profits of the same for the benefit of her daughters, viz., Elizabeth, Julian, Bridget, and Dorothy, she further says—

I have bought the wardshippe of my son James Layburne of my brother Thomas Warcoppe and paid for him.

The profits of this wardship she leaves to her brother and Sir James Dugdall (whom she styles her servant) towards the marriage and education of her daughters. Sir James Dugdall to keep house with her children as long as they will be ordered by him, during the minority of her son James Layburne. She bequeaths her body to be buried in her parish church; her husband had bequeathed his to be buried in the church of Lancaster. James Layburne married Bridget, daughter of Sir Ralph Bulmer, "but died without issue, for anything that appeareth," says Dr. Burn. The Parish Register, under the head of christenings in 1575, says "Lucy ye daughter of Mr. James Layburne of Skelsmer" on June 18th. The "Boke of Record" in 1582 says—

Mr. James Layburne of his liberality for the use of the town, and those coming and resorting unto the same, did freely give and bestow all his clock, furnished with the sounding bell belonging to the same from his Manor house of Cunswick, over and beside some oak trees for setting the clock upon.

This is a pleasant incident; the next is one of those tragic scenes, the sickening horrors of which—happily for us—are no longer possible in this country. On the 22nd of March,

March, 1583-4, James Bell, a priest, John Finch of Eccleston, and James Layburne, Esq., were executed at Lancaster, and their heads afterwards fixed on the tower of the Collegiate Church of Manchester. Another authority says that the execution took place on April 20th, 1584, and that Bell and Finch suffered at Lancaster and Layburne at Manchester. As there were several Layburnes bearing the name of James, it has been a matter of considerable difficulty to identify the individual who suffered this unhappy fate. The fact is mentioned in the memoir of the Countess of Arundel in the relation of her Catholic kindred.

Her mother's only sister the Lady Monteagle likewise was a Catholick, as also most of that kindred, and among the rest Mr. James Layburne was so resolute and constant therein, that he lost his life for it, being put to a painfull and ignominious death, hang'd drawn and quarter'd at Lancaster, as I take it, in the year 1583, and 26th of Queen Elizabeth, for denying her supremacy in Ecclesiastical Affaires.

It is also mentioned in the Life of George Layburne, D.D.

The estate belonging to the family was formerly very considerable, but by degrees much impaired by heiresses; and in Queen Elizabeth's days it was still more reduced by the unfortunate circumstances of James Leyburn who was executed at Lancaster March 22nd 1583.

In Bishop Challoner's Catholic Martyrology, there is a memoir of James Duckett, who was born at Giltwhaitrigg, apprenticed to a bookseller in London, became a Catholic, and for having had some copies of a Catholic book bound, was found guilty of treason, and executed at Tyburn. It is incidentally mentioned that he had his name James, from James Layburne of Skelsmergh, whose godson he was. "Local Chronology" quoting the will of Sir James, distinctly says—

To

To James Layburne my younger son my lands in Skelsmer.

Taking this as authentic, it seemed to me more likely that it was this younger son rather than the grandson of Sir James who thus suffered, but an extract from the will (kindly procured for me by Mr. R. J. Whitwell) shows that the chronologer has put a wrong construction on the passage he was quoting (from the Surtees' Society's Vol. of Wills, edited by Canon Raine, 1853). However, the identity of the martyr with the good neighbour of the people of Kendal is placed beyond dispute by the following extract from interrogatories and answers in a cause, *John Leyburne v. Henry Fisher*, concerning lands in Skelsmergh in 1612.

Imprimis. Do you know the said parties Plaintiff and Defendant & do you know the Park called Skellesmere Park & the messuage, tenement and lands and one Walk-mill upon the water of Sprett within the Manor or Lordship of Skellesmere . . . . . did you know James Labourne late of Skellesmere aforesaid Esqr. & Willm Laborne Esq. the brother and father of the plaintiff.

William Cowell of Whittington within Co. Lancashire husbandman aged about 52 years deposeth :—That he knows the pltf & deft. & the park called Skelsmergh Park & other the messauges, lands & Tenements & the Walk-mill & did know James Leyburne late of Skelsmergh, Esq. & William Leyburne his brother father of the pltf. He further deposed that the said James Leyburne did seal & deliver the deed now shown unto him bearing date 3rd June xxi Elizabeth (1579).

I submit for your inspection a deed bearing the same date and signed by him. It is an undertaking to free one of his tenants from all fines, gressom, &c., in case of change of lord. This agreement and the sales of land in the same year would seem to point to some great pressure in his circumstances; possibly he was already feeling the weight of the enactments against recusants. I have not been able to find any account of his attainders, but it would seem to have been shortly after his valuable gift to the  
Town

Town of Kendal that the lord of Cunswick was apprehended, as his name appears in the list of recusants imprisoned in 1582 at Manchester, which was the principal place for the confinement of recusants in the diocese of Chester.

William Layburne succeeded to the estate on the death of James. He married Jane, daughter of John Bradley of Bradley in Lancashire, and Beetham in Westmorland, and by her had issue, John, his heir; Thomas who married Mary, daughter of William Bradley of Arnside; Nicholas, vice-president of Douay College; George; Elizabeth, married to Anthony Duckett of Grayrig, Esq.; Dorothy, married to William Weaver of Lancashire; and Frances, married to George Dabridgecourt of Strathfield-saye. Of these, by far the most illustrious was George, the fourth son. He was born in 1597; was entered a member of the English College at Douay, by the name of George Bradley, March 13th, 1607; studied philosophy under Professor Thomas White, otherwise Blackloe; two years more were devoted to theology; he then became tutor, which post he filled with great credit for some years and then completed his own theological studies. He was ordained priest August 5th, 1625. Two years later he left Douay for the University of Paris, and was tutor for two or three years in Arras College. After this he visited his native country and became chaplain to the Queen, but disturbances broke out about the Queen's religious establishment, and her chaplains had to get out of the way; for some reason or other, Layburne did not make his escape, and was confined in the Tower. Imprisonment was changed for banishment through the Queen's influence, and he returned to Douay, where he appears to have been Professor of Philosophy and Divinity. During this period he took his degree of Doctor of Divinity at the University of Rheims. He returned to England at the beginning of the Civil War, only to find himself very quickly an inmate

mate of the Tower again. One of his fellow prisoners was Colonel Monck, with whom he had frequent converse and predicted that he would become the "greatest person of the three nations." This was in 1644, and the narrator was Dr. Thomas Gumble, the biographer of Monck. The same author also says that—

long afterwards the same person being at supper with the General & other friends, a little before his expedition into Scotland with Cromwell, he publicly asserted at the table, that he should within six months, or thereabouts, be a General in the north, & within some years command the three nations.

The General told Dr. Gumble this story himself when in Scotland. When Dr. Layburne was set at liberty he went over to France, and in 1647 was entrusted with a most delicate and difficult mission by the Queen and Prince Charles. He was to visit Ireland and report on the breach between the two Roman Catholic Royalist armies. He drew up an account of this mission which was printed in 1722, with a memoir of the author; to it I am indebted for most of the data respecting him. In 1648 he was appointed Vicar General of England and in 1652 President of Douay College. He filled this important post for 18 years, and resigned it in favour of his nephew in 1670. He visited Rome and England and then settled down at Chalons, where he died on the 29th of December 1677. His anonymous biographer adds that he left behind him

a character becoming the primitive ages; and the inhabitants of Chalons to this day pay a respect to his memory little inferior to that of a canonized Saint . . . he was learned, pious, and warm with zeal, both in public and domestic concerns. His life was attended with several controversies & contradictions, which he always made a hand of to his improvement in virtue, and the worst part of his character was that of being obstinately good.

John, the eldest son of William, succeeded his father in or about the year 1600. He settled at Witherslack,  
perhaps

perhaps in consequence of his mother's marriage to Sir Francis Duckett of Grayrigg, but more probably because of its being a better and more comfortable residence. He married Catherine, daughter of Sir Christopher Carus of Halton, and by her had issue, William, Thomas, James, John, Jane, Elizabeth and Lucy. He married secondly, Mary, daughter of William Croft, of Claughton, co. Lancaster, and by her had George, Nicholas, Roger, Charles, William, and two daughters, Frances and Catherine.

Two of the sons by the first marriage deserve notice. William the eldest was a Cornet in the Queen's Regiment, and fell at Sheriff Hutton. In the opening of Dr. Peter Barwick's *Life of the Dean*, his brother, is this statement :

Wetherslack in Westmoreland, a village formerly of no great note, but render'd famous in the late Troubles, partly by the worth of this great man, and his unshaken Loyalty in the worst Times, partly by the glorious Death of Mr. William Laybourne, a Gentleman also born there, and an intimate acquaintance of Mr. Barwick's almost from his Cradle, who in the beginning of the Civil War bravely lost his life for the King in the Field of Battel, to the great grief of all good men, particularly of his dearest Friend Mr. Barwick, the Rival of his great Virtue.

His widow married Roger Bradley and held Cunswick as her dower, being in possession when Sir Daniel Fleming wrote his *History* in 1671.

John, the fourth son was dedicated to the Church of his fathers, and became a distinguished member thereof. He was educated at Douay, and was for some years tutor to Viscount Montague's eldest son. On the resignation of his uncle George in 1670, he became President of that Institution, a position he held till 1676. After that he was secretary to Cardinal Howard at Rome for some time. In 1685 he was consecrated Bishop of Adrumetum and sent to England by Pope Innocent along with Ferdinand, Count of Adda, who had been appointed Nuncio at the Court

Court of James the II<sup>nd</sup>. They were, if possible, to instil some wisdom into that obstinate descendant of the British Solomon. Macaulay says "they were to inculcate moderation, both by admonition, and by example." He further gives this character of the Bishop:—

One of them was John Leyburn, an English Dominican, who, with some learning, and a rich vein of natural humour, was the most cautious, dexterous, and taciturn of men.

Again, in narrating the events of 1688, when James too late opened his eyes and made concessions he says:—

Indeed he did not yield till the Vicar Apostolic Layburn, who seems to have behaved on all occasions like a wise and honest man, declared that in his judgement the ejected President and Fellows [of Magdalen College] had been wronged, and that on religious as well as on political grounds, restitution ought to be made to them.

There had been no Catholic Bishop resident in England since 1629, consequently many who were of that faith were waiting to be confirmed, not only the children of Catholic parents but others who by the ceaseless activity and earnestness of the persecuted priests had been converted. Bishop Leyburne therefore made a Visitation of the whole of England in 1687. At Wigan he confirmed 1331 persons, and at Durham 1020. One year later all was changed; the rising hopes of the Catholics were swept aside like the baseless fabric of a vision by the strong arm of Protestantism: Bishop Layburn was arrested and imprisoned in the Tower, but was soon after liberated "on the ground of his inoffensive character." He continued to reside in England subject to the condition of reporting to the authorities any change of residence. He died in 1703 at an advanced age.

John Leyburne, Senr., does not appear to have taken any part in the Civil War, as his name is not in the list of Royalists who compounded for their estates but probably  
in

in consequence of his son William's active participation therein, he had to give bond and two sureties in £300 not to travel more than five miles from his dwelling houses of Witherslack and Skelsmergh without licence or a ticket from Col. James Bellingham of Levens nor to hold any intelligence with any of the party in arms against the Parliament. The bond is in the Municipal archives of Kendal, and is dated December 21st 1644. He survived to see the Restoration, and died in 1663.

He was succeeded by Thomas his second son, who married Dorothy, daughter of William Lascelles of Brackenburgh, in the county of York. He died in 1672, leaving one son and three daughters. John Leyburne the son, of Cunswick and Witherslack, died unmarried at the age of 26, in 1679. The Witherslack estate passed to his sisters, but Cunswick, being entailed, was inherited by his uncle George Leyburne, of Nateby, which place he had purchased from Robert Strickland of Sizergh. He married firstly, Anne, daughter of John Stanley, of Dalegarth, and according to Nicolson & Burn had by her John, George, Nicholas, James, and four daughters; secondly, Elizabeth, daughter of George Preston, of Holker, esquire, who had previously been twice married. She died the 16th of April, 1687, at the age of 63, and was buried at Garstang. He died in 1704, and was buried the 14th of May at the same place. John Leyburn, his eldest son succeeded to the estates. He married Lucy, daughter of John Dalston, of Hornby. Frequent mention is made of John, George, and James Leyburne, in the Diary (1712-14) of Thomas Tyldesley Esqr. of Myerscough Lodge. George was the Diarist's godson, and is so styled, the other brothers are familiarly called Jack and Jemmy. Tyldesley was an ardent Jacobite in common with the greater part of the Roman Catholic gentry, and his house was a sort of rendezvous. He died before the landing of the Old Pretender

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Pretender in 1715, but his son and most of his intimates took part in the rash enterprise of that year.

John Leyburn was with the rebels at Preston, and was attainted of high treason. More fortunate than some of his associates, he escaped with his life, but lost his estates, which were forfeited and sold. He survived till 1737, and fully sustained the noble consistency of his family, the history of which displays a remarkable continuity of unswerving attachment to the Romish Church, even under the cruel persecutions of the Elizabethan period.

For forms of faith let graceless zealots fight,  
His can't be wrong whose *Life* is in the right.

His widow erected a monument to his memory in the Parish Church of Kendal, with the following inscription :—

To the Memory of John Leyburne late of Cunswick Esqr. who died ye 9th of Decem: 1737: Aged 69. In whom that Ancient, Loyall and Religious Family is now extinct. Whose example this Inscription recommends to Posterity, For under this stone lies the Remains of a most Affectionate Husband, a Charitable Neighbour, and a Kind Master. In dealings Just, In Words sincere, Was humble in Prosperity, Heroically resigned in Adversity, Whose unaffected Devotion, Strict Sobriety, and Unwearied Practice of Christian Duties, is worthy ye Imitation of All He had two sons who died in their Infancy so hath left no Issue to inherit his *Virtues*. And that the Memory of them may not perish with ye Name Lucy his wife hath placed this Monument, as a Memorial of her Love and Esteem.

Miserimini, Miserimini mei,  
Saltem vos Amici mei! Job 19th.

## APPENDIX A.

- Sir Roger de Layburne 1220 46.      Witness to grant of Skelsmergh to Robert de Layburne.  
Nicolson & Burn, Vol. 1., p. 123.
- Robert de Layburne 1220 46.      Had grant of Skelsmergh from William de Lancaster.  
Nicolson & Burn, Vol. 1, p. 144.
- John de Layburne      Son of Robert      *ibid.*
- Laurence, son of Robert de Layburne 1220 46.      Witness to grant by William de Lancaster of land in Winstertway with Common in Crosthwaite & Crook, to Thomas son of Adam de Raistwaith.  
Hist. MSS. Com. Tenth Rept. App: part iv.  
Capt: Bagot's MSS. p. 325.
- Robert de Layburne Mens Nov: 1246.      Witness to deed between the Abbot of Furness & Wm. de Lancaster Furness Coucher Book.
- Nicholas de Layburne cir 1260      Witness to grant by Amice daughter of Roland de Rosgyle to Roland de Thornberge [her son] of lands in the valley of Sleddale Brunholf.  
*Ibid* 324.
- Cir. 1291.      Witness to grant by William de Lasselles of land in Sleddal Bronnolfe to Roland de Thorneburgh.  
*Ibid.*
- 20 Edward I 1291.      Release by the same to the same, Witnesses Gilbert de Bronholvishelevd, Sheriff of Westmorland, Nicholas de Layburne & others.  
*Ibid* 325.
- 9 Edward I 1280-1      Fine levied between Nicholas de Layburne & Margaret his wife, and John de la Chamber and Sibil his wife of lands in Skailsmer, Syzar & Strickland Ketell; to hold to the said Nicholas in fee.  
Vol. 1, p. 144, Nicolson & Burn.
- 30 Ed. I 1301-2      Grant of Free Warren in Skelsmergh to Nicholas de Layburne, grandson of Robert.  
N. & B. Vol. 1, p. 123.

- 33 Ed. I  
1304-5  
Robert de Layburne  
Son of John  
Oct. 1273.  
Knight of Shire :  
& again in list of M.P.s 8 Ed. 2. (1314-5).  
Vol. 2. p. 559.  
Ibid p. 144
- Hugh de Morisceby grants to Robert de Layburn mineral for one hearth at Elliscales. M<sup>o</sup> cc<sup>o</sup> lxx<sup>o</sup> iii<sup>o</sup>. "Robertus de Layburn filius J[ohannis] de Leiburne" renounces all claim to the said mineral after Hugh's death. This & preceding both dated at Furness Abbey Oct. 15th, 1273.  
Nos. cxxxiii cxxxiv Furness Coucher Book part 2, p. Chetham Society 1887.
- No. cxxxvii is a grant and confirmation by Hugh son of Hugh de Morisceby to Robert de Layburne of all his lands in Elliscales [Alinscalis]. Possibly about the same date.
- Robert de Layburne  
8 Ed. 2. 1314-5  
Knight of the Shire for Westmorland.  
N. & B.
- 16 & 20 Ed. 2  
1322-6  
Sarah, widow of Robt  
Leyburne  
2 Edw. 3. 1328-9.  
Sheriff of Lancashire  
Holds lands at Gosforth, Co Cumb.  
Denton's Cumb. p. 25.
- Robert de Layburne  
1336  
Robert de Layburne claims two acres of land from Ralph de Baggeley; the latter who is in possession pleads that Robert is a Bastard and not heir to his father, to whom the debt: confesses the land to have belonged. The case is remitted to the Bishop of Carlisle to inquire into the charge of bastardy. His official finds that Robert de Layburne Kt. was publicly married to Sarah de Harkla & that Robert their son was legitimate and no bastard.  
Hist. MSS. Com. 9th Rep. App. 1, p. 188<sup>a</sup>.
- Sarah de Layburne  
1337  
Has grant of the four quarters of her brother Andrew de Harla [executed at Carlisle Mch 1323].  
Yarker Genealogy 1883.  
1340

1340  
Robert de Layburne  
14 Ed. 3

Transfers the Manor of Elliscales and lands in Merton & Blawith to Robert de Thweng parson of the Church of Warton; Adam de Bardsea, Vicar of Millom, and John English Chaplain. Deed dated at Warton in Kendal die Mercurii proxima ante festum omnium Sanctorum, Ano Regis Edwardi tertii a Conquestu xiiii.

[Fur. Coucher Bk. cxxxviii Part 2 p.]

Robert de Layburne  
1342.

Grant & conveyance in tail male by Robert de Thweng Rector of Warton; Adam de Bardsea, Vicar of Millom and John le Inglis de Coupland, Chaplain, to Robert de Leiburn (filio Sarrae) Sarah's son of lands in the parish of Orton, Bouesfell, Raisbek, Birkebek, Guthbiggyns, & Keldlith in Co. Westmorland & Gosforth in Co. Cumberland which they had of the gift of Robert de Leiburne Kt., father of the aforesaid Robert, with remainder to Andrew his brother. Dated at Warton, die Jovis prox post festum. Purificationis B. Mariæ Virginis A.D. M<sup>o</sup> ccc<sup>o</sup> xl<sup>o</sup> ii.

cxxxix F. C. B. part 2, p.

Andrew de Layburne  
1342.

[The next deed in the F. C. B. is a grant of one messuage and six acres of land in Elliscales by Robert de Layburne to John de Moriceby. The tenure is the same as that by which Robt. de Layburne Senr. held the same lands from Hugh de Moriceby viz. one rose at the feast of the nativity of St. John the Baptist. This deed possibly should succeed the three next.]

Robert de Layburne  
18 Ed. 3.  
Oct. 1344.

Grant by Walter de Hurworth, Clerk, & John Page Chaplain of the Manor of Elliscales to Robert, son of Robert de Layburne. Grant from the same to the same of all goods moveable & immovable at Elliscales. Letter of Attorney from John Page to W. de. la. Chamber to deliver the Manor

Manor of Elliscales to the said Robert the son of Robert de Laiburne. cxlii. cxliii & cxliv. F. C. B.

- |  |   |
|--|---|
| <p>Robert de Layburne<br/>32 Ed. 3<br/>Sep. 1358.</p>            | <p>Robert de Layburne de Alinscalis gives a letter of Attorney for the delivery of the Manor of Elliscales to William Sharp of Furness. Dated at Kirkebi in Kendall "le samadi prochein apres la fest del Exaltation de S. Crois." On the same day he sealed the Indenture of grant &amp; conveyance "Data apud Alinscalis, die Dominica prox. post. festum Exaltationis S. Crucis. An<sup>o</sup> Regis Edw. tertii post Conquestum xxx<sup>o</sup> ii<sup>o</sup>." cxlv &amp; cxlvi F. C. B.</p> |
| <p>Roger de Layburne Kt.<br/>7 Ed. 3<br/>1333.</p>               | <p>Gilbert de Culwene, lord of Wirkington, releases &amp; quit claims to Thomas de Culwene son of Patric de Culwene Kt. his uncle, all his lands in old Hutton &amp; Holme Scales in Kendal, &amp;c. Roger de Layburne Kt. is a witness.<br/><br/>N. &amp; B. Vol. 1, p. 107.</p>   |
| <p>Roger de Layburne Kt.<br/>30 Ed. 3<br/>1356.</p>              | <p>Witness to grant by Ralph son of John de Patton to Roland de Thornburgh of lands &amp;c. in the hamlet of Sleddale.</p>  |
| <p>* Nicholas de Layburne ?<br/>33 Ed. 3<br/>1359.</p>           | <p>Knight of Shire along with Hugh de Louthre It is curious, if correct, that in the 33 Ed. 2, the two M.P.s for Westmorland should bear the same names as in the 33 Ed. 3.<br/><br/>N. &amp; B. Vol. 2, p. 560.</p>  |
| <p>Thomas de Layburne<br/>48 Ed. 3. 1374.</p>                    | <p>a Juror on Inq. p. m. of Thomas de Thweng.<br/><br/>N. &amp; B. Vol. 1, p. 144.</p>  |
| <p>John de Layburne<br/>14 Ric. 2. 1390-1<br/>9 Hy. 4. 1408.</p> | <p>a Juror on Inq. p. m. Thomas de Roos.<br/>" " " John Parr.<br/><br/>Ibid.</p>  |
| <p>Robert de Layburne<br/>6th &amp; 12th Hy. 4.<br/>1404-10.</p> | <p>} Knight of Shire. " "</p>   |

\* Evidently an error as the name does not appear in the "Return of Members of Parliament," and is nowhere else mentioned.

John de Layburne 13 Hy. 4. 1411.	a Juror on Inq. p. m. of Phillipa, daughter of Ingelram de Coucy.	Ibid.
Philip de Layburne 10 Hy. 5. 1422.	a Juror on Inq. p. m. of John de Clifford. 10 Hy. 6 (should be 10 Hy. 5).	Ibid.
Robert de Layburne 1 Hy. 6. 1422.	Knight of Shire.	Ibid.
Nicholas Layburne 14 Hy. 6. 1435.	a Juror on the Inq. p. m. of John, Duke of Bedford.	Ibid.
James Layburne Hy. 7. 1485-1509.	in the reign of King Henry 7 (? Hy. 6.) mar- ried Katherine, daughter of Sir Henry Bel- lingham of Burneshead.	Ibid.
Thomas Layburne Feby. 8. 2 Hy. 7. 1487.	Agreement between James Laybourne of Konnyswycke, Co. Westmoreland, esquire, and Sir John Pennington of Monkastyr, for a marriage between Thomas son & heir apparent of the said James, & Margaret, daughter of the said Sir John, relict of John Lamplogh. Hist. MSS. Com. Rept. 10, App. 1, p. 228. Lord Muncaster's MSS.	

## APPENDIX B.

*Extracts from the Will of Sir James Layburne of Cunswick, the passages within brackets added from vol 26, Surtees' Society's Publications.*

4th day of July, 1548, 2nd Edw. VI. I Sir James Laybourne of Cunmyswycke in the parish of Kendall in Co. Westmoreland, Knight, do make my last Will in manner & form following.

Whereas the Right Hon. William Lord Marquis of Northampton by the name of William Earl of Essex by Indenture bearing date 4th February 1 Edw. 6 made between himself of the one part and me the said Sir James Laybourne of the other part for certain causes & considerations demised & granted to me the manors of Asheton, Carneforthe and Scottfourth with the appurtenances in Co. Lanc. & all others his messuages, lands, rents etc in Assheton, Carneforthe & Scottfourth

Scottfourth (wards, marriages, reliefs & escheats within the said manors excepted) To have & to hold to me, my executors & assigns for the term of 44 years next ensuing. By virtue of these presents I give & bequeath all the premises aforesaid to my wife Elyne Laybourne to hold from the day of my decease for the term of 18 years fully to be completed, She to pay my debts & legacies with the issues & profits of the same. Immediately after the said term of 18 years then I will that James Layborne my younger son shall have hold & enjoy the said manors & all others the premises during the residue of such & so many years as shall be then to come of & in the premises, Provided always that if James Laybourne happen to die without issue of his body lawfully begotten at any tyme during the said term of 44 years (which God defend!) then I will that Dame Elyne my wife immediately after the death of my younger son shall have & enjoy the premises for the residue of the term. If my wife Elyne happen to die during the term of 44 years then I will that my next heir male shall have & enjoy all the said premises during the term of 7 of the last years of the said term untill such time as the said 44 years from thenceforth shall be fully expired. Further I will that the said Dame Elyne shall immediately after my death have & occupy during her life my manor of Cunnyswycke with the appurtenances in Co. Westmoreland, & certain messuages, lands & tenements in Skelsmer in Co. Westmorland of the yearly value of £10 in full recompense of her jointure & dower according to a fine heretofore by me levied for the same consideration She to hold herself content with the said manor & premises, & to make no claim to any part of the residue of my manors etc. I will that Dame Elyne shall stand charged with the payment of my debts & bequests which payments shall be taken of my farms of the said manors of Assheton, Carnefourth & Scotfourth and of my goods that I have at the said Assheton, Connyswicke, Skelsmer, Sledall or elsewhere. In like manner of all the debts which are owing to me which I will also shall go towards payment of the same as much of them as lawfully may be recovered. I give unto my three daughters Anne, Elizabeth & Margaret the sum of 600 markes equally to be divided among them. [To stand & be in full & hole contentacion for their childs' porcions.] In case any of them happen to die before they attain their lawful ages, or before they are married, that then my daughter or daughters then living shall have the said sum of 600 marks truly paid. [To William Redman, Thomas Redman, and Richard Collynson my trustie and loving sarvents, annuyties] Item. I give unto Thomas Laybourne my uncle's son the tenement and mill of Bulmyerstrands, he paying during his natural life to the lord thereof

6s. 8d.

6s. 8d. annually. Item. I will that every priest being present at my burial shall have xij d apiece. Item. I will that five men beinge in povertie shall have every Sundaye there dynners or els every Sunday every one of them a peny a pece to pray for me, my father & mother [for their natural lyfes] and at such time as they die my wife to appoint others in their stead who being in poverty have been accustomed every sunday to come to my manor of Cunnyswicke. Item. unto my trustie sarvant Charles Laybourne my tenement and farmhold of the bynke with the close that William Atkinson occupied to said Charles to enjoy the same for ever, paying the rent unto the lord thereof. My wife Elyne shall give to my natural brother Nicholas Laborne meat, drinke, yf that he do use himself honestlie unto her or els fower marks of currant money of England yearlie during his naturall lyffe towards his fyndinge & lyvinge which ever she shall think best. [To Sir Robert Bourrowe priest, and Robert Batman my sarvants joyntely together the tythe meale silver of Trantwaite in Underbarrye]. Item. I will that Francis Tunstall my son-in-law shall have xl marks of currant money of England which I do owe unto him of mariage good upon such covenants as be between him & me. [To Christofer Walker, scholar to fynde towards the schole of the universitie the sume of eight shillings yerlie] All such grants and bequests of and in my said annuities which I have given to my aforesaid sarvants shall after their several deceases remain & come to Nicholas Laybourne my son & heir. The several sums of x s. vjs & viij d and xx d given to William Beck my sarvant for xxx yeares are to come to my son Nicholas Laybourne & his heirs in case the said William Beck happen to die during the said term. [Item. I will that v marks be bestowed at the day of my buriall in bread emongs power folks] To the workes of my parish Church x s. [To Sir John Byrkehead the summe of v s annually as long as he should leve.] And further I will that Dame Elyne my wife shall have the tithe corne and tithe hay within the demesne of Connyswicke without any vexation for such years as I have yet in the said tythes. And I will that my wife shall have liberty to take within the said manor of Conniswicke sufficient tymber wodde for building her tenements & houses or amending the same during her life. I also give her all manner of underwoodes growing within the said manor for her life for her necessary fuel. Item. I will that my said son Nicholas Laybourne shall have the tithes yearlie coming within the walls of the parke of Skellsmer he paying to William Readman my sarvant the yearlie rent of xx s. Item. I will that the said William Readman shall pay yearlie xls unto William Readman his son out of the

[T]

the profits of such tythes as I have granted to the said William the father during such years as the said William the father hath yet to come in the said tythes. Further I will the said William Readman senior shall yearly pay the whole rent of £3 18s. 8d. for all such tythes which I have in Lease as long as he shall or may occupy or enjoy such tythes as I have granted to the said William the father. Item. I will that my said son Nicholas shall yearly pay to the said William Readman the sum of 40s after such time as the tythes of Skelsmer shall remain & come to the said Nicholas during such years as shall be then to come in the said tythes. Item. I will that my tenants of Skelmser shall have the tythes corne which shall yearlie come in their tenements for their crops next to be taken within Skelmser, or els that my executors shall content & pay to my said tenants the sum of xxxli in recompense of such money as heretofore I have received of my said tenants for the same tythe corne. I utterly revoke all other Wills of this Will I constitute my wellbeloved wife Dame Elyne, James Laybourne, my younger son, & Anne Preston widow, my mother in lawe, myne executors, and I make Robert Laborne, Clerk, my brother, parson of Lamplough, Adam Charus, clerk, parson of Wynandermere. John Preston, francisse Tonstall, Squires & Thomas Carus, gentlemen supervisors of this my said last Will & testament, & I give them each xxvi s & viij d. I sign & seal this my will in the presence of Nicholas Laborne the younger, John Preston, Frances Tonstell, Esquires, William Travers, William Carus, Thomas Carus, gentlemen, Adam Carus, clerk, Nicholas Carus, gent., Richard Forster and of divers others. [Prob: 31 Oct 2 Edward VI.]

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FROM WILLS & INVENTORIES, SURTEES SOCIETY 1853.

*Will of Elizabethe Laybourne.*

November 17, 1567. I Elizabethe Layburne, of Skelmeserghe, in the parochie of Kendall, and in the countie of Westmoreland, wyddowe —my bodie to be buryed in my parish church. Item whereas my brother Thomas Warkope did tayke a lece of the parsonage of Lancaster in the first yere of the reigne of our soveraigne ladie Quene Elizabethe that now is by her highnes letters patent for one and fortie yeres, and my layt husband Niicholas Laborne did bye the same letters pattents of my said brother Thomas Warcopp, and I grauntinge the same to my cosinge Francis Tunstalle of Aldcliffe—

I

I by virtue of thes presents do give and bequethe all the prophetts of the same with certain lands of my husband bequests in his last will to be tayken and had to the onlie use and prophett of my daughters, that is to saye, Elizabethe, Juliane, Brigitt, and Dorithe, and the same prophetts to be tayken yearlie by the hands of my brother Thomas and Sir James Dugdall my servande, and thei to paye to my said daughters fower hundred pounds of currant monie of England equallie to be devided amongste them.—Item I will that my servente Sir James Dugdall shall kepe house with my children so long as yei will be ordred by him duringe the minoritie of my sonne James Layborne, and I put the holl order and governannce of all my children to my right worshipfull brother Mr. Thomas Warcoppe, and to my wellbeloved servante Sir James Dugdall, to thei come of lawfull age to order theimselves. Also whereas I have bought the wardshippe of my sonne James Layborne of my brother Thomas Warcoppe, and paid for him, I will the said wardshippe shall come and be unto my brother Thomas and my said servante Sir James Dugdall, all the prophetts thereof in as large maner as thei were granted by the Quene's Highnes letters patence to my said brother Thomas, towards the mariaje and educacion of my daughters and bringinge them upp together in house.—Item I give and bequethe unto my servante Sir James Dugdall xxs annuallie, to be taken up and upon my leandes which I have in lese duringe his natural lyfe. Item I give to Thomas Crosse xs for his paynes tayken with my children — my wellbeloved brother Thomas Warcoppe and my said servand Sir James Dugdall myne executours and I mayke my cosinge Allen Bellingham and my cosinge Anthonie Dukkett, esquiers, supervisors. In witness wereof to this my present last will and testament I the said Elizabeth have set to my seale and delivered the same in the presence of Thomas Crosse, Ambros Warton, Anthonie Wariner, with other moo.

A fragment of her husband's will is still remaining, dated 19 July, 156 . in which he directs himself to be buried in the church of Lancaster. He mentions his brother Francis Tunstall, and leaves to his son Francis Tunstall 40l when eighteen. To his wife Elizabeth his lands in Skelmser and Sleddell, till James his son be of age, and the tythe corne of Skelmser to pay his debts. His daughters to marry at the discretion of his wife. His cousin Carus owes him 75l. "The right honourable and my spetiall good lord my Lord Mounteagle, my cossyn Walter Strickland esquire, and my brother-in-law Master Thomas Warcoppe, supervisors. Lord Mounteagle, my brother-in-law Richard Dukkett, Mr. Richard Redman of Gressingham, Chr. Carus, Charles Leyburne, &c. witnesses.

*James*

*James Layburne of Bradleyfylde.*

I H S. 11 June, 1543. I James Layburne of Bradleyfylde, seyki ande evill at ease in my bodye, thrughe the visitation of Gode, yet notwithstandinge holl and perfyte off mynde,—to be burryede in my parishe church of Kendall, as nere my masters grave as may convenientlye be. Item I will that my goods be devidede & separatete in thre parts according to ye laue, one parte for my selffe, and other for my wife and ye thirde for my chyldren James & Charles Item I gyve and beqwethe to Henry Warryner a kelter jacket. Item to Christofof Cayrus a old tawney jacket. Item I will that ye ministers and prests shall brynge me to ye churche and to synge mass for my soule, and every priest to have ij d. I gyve and beqwest xij d to ye works and repaaracions of my parish churche. Item I will yt my towe sonnes James and Charles, shall have my peat mosse at ye Stonyforde bryge, and ye peatcote there builded, eqwally devided betwyxe them.—To Jenet my dau. xx marks to her marryaje. I will that my sons shall make an agrement,—and ye said agrement to be maide at ye determynation, syght and order of my singuler goode Maister Sir James Layburne knyghte, Maister Parson Layburne, Comissary of Rychemundeshyer, and Master Nicholas Leyburne, the elder.

Inventory, 6 June 1543.

Summe xliij li. xv s. viij d. Sir John Lampolow, knight, awes him xxxij s. vj d. Item Maister Nycholas Leyburne, yonger, in lent money, vj li. xij s. iiij d. Item John Godmunde, for Kendall (cloth) of ye last yere, xx s. Item ye same Thomas, for Kendall, lvij s. Item Myles Brygs for Kendall, xxvij s. He awes to Sir Alan Shepherd, vj s. Inv. Item a close of grese, xiiij s.

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APPENDIX C.

*Exchequer Depositions by Commission, Easter 10, Jas. I, No. 26.*

Westmorland.

Writ dated 12 February, 9 James I.

Interrogatories to be ministred to the witnesses to be produced by & on the parte and behalfe of John Laborne Esq. plaintiffe against Henry Fisher, Defendt.

1. Inprimis doe you know the said parties plaintiffe and defendt. And doe you know the Park called Skellesmere Parke and the Mesuage

suage tente & landes and one walk-mill uppon the water of Sprett within the Mannor or Lordship of Skellesmere in the countye of Westmorland now in the tenure or occupation of the said defendt. or of his assigns & now at variance between the said parties And did you know James Laborne late of Skellesmere aforesaide Esq & Willm Laborne Esq his brother and father of the plt And did you know James Warde of Skellesmere aforesaid yeoman & John Harrison of London draper. And how long have you known them and every of them?

2. Item whether did the said James Laborne seal and as his deed deliver the deed now showed unto you at the tyme of this your examination and dated the thirde day of June in the one & twentithe yeare of the Reigne of our late sovereigne Lady Queen Elizabeth. And when and to whom did he so seal & deliver the same deed. And whether did the said James Laborne subscribe his name to the same deed. And whether were you a witness of the sealing and deliverye of the same deed. And what other person or persons were witnesses thereof. What is your knowledge herein And how knowe you the same to be true?

3. Item whether did Willm Norris & William Cowell indorse or wryte their names on the backe side of the saide deed as witnesses thereof And whether did Ambrose Warton set his mark to the indorsement or backe side of the same deed as a witness also thereof. And whether were the said Willm Morris Willm Cowell & Ambrose Warton honest men. What is your whole knowledge concerning the sealing & deliverye of the said deed and the witnessing thereof. And how know you or what moveth you to think the same to be true?

4. Item what other matter or thing do you know and how doe you know. Or do you think and what moveth you to think that the said James Laborne did convey & assure the said Parke Messuage tente landes mill & premisses to the said Willm Laborne his brother & his heirs. And when did you first know the intent and purpose of the said James Laborne to convey the said premisses to the use of himself for his life only and after his death to the use of the said Willm Laborne & of his heirs for ever, and that he did convey the same accordingly.

5. Item whether is the said James Laborne deceased And whether is the said William Laborne also deceased and when dyed the said Willm Laborne And whether is the said complt son & heir to the said Willm Laborne deceased And of what age was the said complt at the time of his said father's death.

6. Item what other matter or thing doe you know or have credibly heard and doe believe to be true whith proveth or induceth to prove the

the said complt. to have right and title in or to the premisses now in variance. And how do you know or what moveth you to think the same to be true.

7. Item whether were you present at a triall at the Common law at Applebye brought by one Robt. Tunstall lessee from Willm Leyburne Esq. the plt's father and in his behalf against Willm Ward & others for the Recovery of the lands in Skelsmerghe now in variance, And whether upon full evidence did the verdict then pass for the plt. against the deft. and whether was one Ambrose Warton then sworn to the sealing and delivery of the deed of uses which then carried away the lands upon the said verdict.

8. Item whether have you any part of the lande in possession which did belong to the said James Leyburne & which are included in the deed of uses made to the use of the said Willm Leyburne & what estate or title do you clayme therein & at what rate was the said lands purchased of the said James Leyburne & whether did he give some part thereof again at the payment of the money for the lands by him sold.

9. Item whether have you given Summons to the said Ambrose Warton to be at the Commission to have him again re-examined to the sealing and delivery of the deed of uses before expressed, declare your knowledge therein.

Primo die Aprilis 1612.

Ex parte Johis Leyburne Ar.

Depositions of Witnesses taken at Kendall within the County of Westmorland the first day of Aprill In the yeares of the Raigne of our Sovereigne Lord James etc of England xth & of Scotland xlvth Before George Preston Esq. John Wood, George Stockdale and Randell Nubye gent by force of his Majesty's Commission out of his highness Court of Exchequer to them directed. To examine witnesses in a cause there depending between John Leyburne Esq. plt. & Henry Fisher deft.

Willm Cowell of Whittingham within Co. Lancashire husbandman aged about 52 years sworne & examined to the 1st Interrogatory deposeth

1. That he knows the plt. & deft & the park called Skelsmergh Parke & other the Messuages lands & Tenements & the Walke mill  
in

in the Interrogatory mentioned, And did know James Leyburne late of Skelsmergh Esq. & Willm Leyburne his brother father of the plt. And did know James Warde of Skelsmergh & John Harrison of London draper, & hath for a long time known them & every of them.

2. 3. To the 2nd & 3rd Inter. he saith that the said James Leyburne did seale & deliver as his deed the deed now shewed unto this examinat bearing date 3rd June, xxi Eliz. And that the said deed was sealed & delivered unto the above named James Warde & John Harrison. And that the said James Leyburne did subscribe his name unto the said deed. And that this examinat——was a witness of the sealing & delivery thereof. And that there were present together with this examinat at the sealing & delivery thereof one Willm Norris and Ambrose Warton And this he know to be true for that he wrote his name with his own hand upon the back side of the said deed. And that Willm Norris wrote his name upon the backside of the said deed with his own hand And that Ambrose Warton was a witness & put his marke to his name set upon the backside of the said deed. And he further said that the said Willm Norris & Ambrose Warton were honest men and so accounted in the countrye.

4. To the 4th Inter. he deposeth that the cause (as he thinketh) which moved the said James Leyburne so to convey his land as above-said was the disagreement between him & his wife, And that he knoweth that the said James Leyburne had an Intent to convey the same before the date of the deed above mentioned. And that his knowledge therein doth arise from the speeches of the said James Leyburne.

5. To the 5th Inter. he saith that the said James Leyburne & Willm Leyburne are both deceased, & that the said Willm Leyburne deceased about 12 years ago & that the said Complt. is heir of the said Willm Leyburne, And that the said Complt. was about the age of 9 or 10 years at the death of the said Willm Leyburne his father.

*Peter Mawson* of Skelsmergh in the County of Westmorland yeoman about the age of 50 years sworne & examined.

1. To the 1st Inter. he deposeth that he knoweth the parties plt. & deft. & all the rest in the Inter. mentioned except John Harrison.

7. To the 7th he saith that he was present at a trial at the Common Law at Apleby brought by one Robert Tunstall lessee from Willm Leyburne Esq. the plt's father, And in his behalf against Willm Ward & others for Recovery of lands in Skelsmergh, but not the lands now in variance, And that the verdict did pass for the plt. against

against Warde, At which time Ambrose Warton (as he thinketh) was examined & sworn upon the deed of uses then given in Evidence.

8. To the 8th Interr. he deposeth & saith that he hath part of the lands & possessions which did belong to James Leyburne parcel of the Manor of Skelsmergh but he saith that the same are not contained within the deed of uses made to Willm Leyburne to his knowledge, And that he paid after the rate of xxxi years for the same lands And that upon payment of the said money the said Willm did give him some part thereof again according to his promise at the Bargaine makeing.

*Thomas Gilpin* of Skelsmergh about the age of lxij years sworn & examined

1. To the 1st Interr. he saith as William Cowell hath said.

7. To the 7th he deposeth that he was present at a trial at the Common Law at Apleby brought by Robert Tunstall lessee from Willm Leyburne plt's father, & in his behalf against Willm Ward & others for the Recovery of Lands in Skelsmergh but not the lands now in variance, And that the verdict did then pass for the plt. against Warde, And that Ambrose Warton (as he verily thinketh was then sworn upon a deed of uses which then carried away the verdict.)

8. To the 8th as Peter Mawson hath said.

*Nicholas Baitman* of Underbarow within the county of Westmorland about the age of xxxv years sworn & examined saith

1. To the 1st he saith as Peter Mawson hath said.

9. To the 9th he saith that he was at the house of Ambrose Warton to give him Summons, and hearing by some of his folks that he was about his own house did leave a precept under the hand of one of the Commissioners upon the table within the house of the said Ambrose Warton.

GEORGE PRESTON.

JOHN WOOD.

GEO. STOCKDALE.

RANDELL NEWBYE.

Interrogatories to be mynestered to the Witnesses to be produced on the part & behalf of Henry Fisher deft. against John Layburne Esq. complt.

1. Imprimis whether do you know the said parties plt. & deft. And whether do you know the Manor of Skelsmergh in Co. Westmorland And the Messuages Cottages lands & tenements thereunto belonging

belonging and now in variance betwene the said partyes. And whether did you know James Layburne the plt's late uncle deceased, yea or noe.\*

Interrogatories to be mynestered to the Witnesses to be produced on the part & behalf of Henry Fisher deft. against John Layburne Esq. complt.†

6. What have you heard William Cowell or Ambrose Warton or either of them confess or affirm touching a former deposition made by them or either of them concerning an Indenture by which William Laburne made suite heretofore in this County for his brothers landes or any parte of it. What manner of confession was the same made by them or either of them. What was their speeches and to what effect were their words or speeches soe spoken soe near as you can remember. And when & where were the same wordes so spoken. And upon what Occasion & in whose presence & how long since, declare & speak the truth herein so near as you can remember.

Primo die Aprilis 1612. } *Peter Mowson* of Skelsmergh in Co. West-  
Ex parte Henrie Fisher } morland yeoman about the age of seventy  
deft. } years sworn.

1. To the 1st Interr. he deposeth that he knoweth plt. & deft. in this suit & the Manor or Lordship of Skelmsmergh, And the Messuages lands and tenements thereunto belonging now in variance. He knew James Laburne deceased plt's late uncle.

2. 3. He saith to these Interr. that James Laburne did shewe to this Ext. an Indenture by him sealed & delivered leading the use of a Fine formerly levied by him the said James Laburne of the said lands & premises in Skelmsmergh to James Ward & John Harrison & the heirs of the one of them, which Indenture did lead the same Fine to the use of him the said James Laburne & his heirs for ever, And he is certain to depose herein for that he did read over the same Indenture so shewed to him by the said James Laburne in his life time which he is so shewed of intent to satisfy him this exat. & such other as had bargained with him for lands in Skelmsmergh.

4. 5. He hath seen a copy of an Indenture which was holden to be a true Copy of the said Indenture made by the said James Laburne declaring the uses of the said lands and premises to be to

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\* It is unnecessary to print these interrogatories, as their purport can be gathered from the answers.

† *Ibid*, except interrogatory 6.

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him the said James Laburne & his heirs as formerly he hath depored. And he thinketh the writing now to him shewed is a true Copy of the same Indenture which this exat. did see and read And, the rather for that the uses therein limited are to the same effect & in such manner as the said Indenture doth import & declare.

7. The said James Laburne was accompted and generallie taken to be the absolute and lawfull owner of the said Manor lands tents & premises in fee simple until the time of his attaynder, And did dispose & use the same as his own fee simple lands of Inheritance so long as he lived.

9. To the 9th Interr. he saith that Robert Bunting did affirm upon his oath at Appleby Assizes before Justice Rodes that one Indenture then shewed to him leading the uses of a Fyne knowledged by the said James Layburne of the said Manor & premises to the use of himself for life, and after to William Laburne was not Signed by the said James Laburne with his own hand because the same differed in some letters of his name from his usual writing & from other writing then shewed forth where unto he had subscribed his name, whereupon the same writing was then much doubted by the said Justice Rodes to be indirectlie made, And he knoweth thus to depose herein for that he was present when the same Indenture was so shewed & questioned And the said Bunting did then confess that he had seen the true Indenture made by the said James Laburne which was to the effect as in the 2 & 3 Interr. this exat. hath deposed, as the said Bunting then affirmed.

*Edward Collinson* of Hawes in the said County about the age of 63 years sworn & examined.

1. To the 1st he saith as his precotest Peter Mowson hath said.

2. To the 2nd he saith that he hath heard it reported & he verily hinketh there was a Fine levied of the said Manor and premises by the said James Laburne unto one one James Warde & John Harrison & their heirs or the heirs of the one of them, And as he thinketh the Fine was levied to the use of the said James Laburne his heirs & assigns for ever.

3. To the 3rd he saith that he verilie thinketh he hath seen the "Counterpayne" of one Indenture made between the said James Laburne of the one part & the said James Warde & John Harrison of the other part touching the said Manor & premises declaring (as he verily thinketh) the same to be to the use of the said James Laburne & his heirs & assigns, which was long ago.

4. To the 4th he saith that he hath seen divers old Evidences and read some of them, & hath seen (as he thinketh) the counterpayne of the said Indenture before mentioned, whereunto was annexed two scedules and the name of the said John Harrison & the marks of the said James Warde subscribed thereunto which Indenture had two seals & concerned the Manor of Skelmsergh & certain lands, tents & hereditaments there mentioned in the same Indenture. And that he did see a piece of Evidence in a box which which he supposeth was a Fine thereof And this ext. wrote & was privie to divers conveyances & assurances made by the said James Laburne to divers persons dwelling in Skelmsergh Bradleyfield and Underbarrow of parcel of his lands lying there, As to Christopher Sprott one tente in Skelmsergh, to Adam Shepperd one tente in Bradleyfield and to Randell Bateman one or more tenemts. in Underbarrow, And of divers others in the said several places which he doth not now remember, By which said several assurances the said several tentes were conveyed to the uses of the said several parties purchasers their heirs & assigns for ever. And saith that as he now remembreth the said Counterpayne of the said Indenture was to the proper use & behoof of the said James Laburne his heirs & assigns for ever. And as he now thinketh the copie now to him shewed is a true coppie of the same Indenture.

5. To the 5th he saith as he hath deposed to the 4th. And further saith he hath heard it reported that there was a Fine levied & knowledged by the said James Laburne to the said John Harrison and James Warde. And he hath also heard it reported that the cause of the knowledging of the same fine was to the end that he might make better assurance to such persons as should purchase any lands of him comprised in the said Fine.

*Nicholas Warde* of Burrelmaynes in the said Countie yeoman about the age of lx years sworn & examined.

1. To the 1st he saith as his procotest Peter Mowson hath said.

2. To the 2nd he saith that he being sent to the said James Laburne to deal with him for some lands in Skelmsergh in the behalf of one William Warde his kinsman, he did move some doubt to the said James Laburne of an entail of his lands in Skelmsergh whereunto he answered that he had knowledged a Fine to cut away all entails thereof to the end that he might make a good assurance of the said lands to such as should purchase the same which he said he might sufficiently do, And that they might so purchase without any danger.

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6. To the 6th he saith that William Cowell told this ext. that he thought he had seen the likeness of his old Master James Laburne after his death, willing him to take heed & do no more wrong or to the like effect as he now remembreth. And he then further said that he was sorry for the "oth" which he had taken touching the said lands in Skelsmergh.

*Roger Dawson* of Firbank in the said Countie aged about lx years.

1. To the 1st as Peter Mowson hath deposed.
2. 3. To these he cannot depose but by report.
4. To the 4th he saith that one Edward Collinson did deliver to this ext. a copy of an Indenture which he said was a true copy of one Indenture which was made by James Laburne Esq. of the Manor of Skelsmergh & other lands there to the use of him & his heirs. And as he now remembreth this ext. wrote a Copie of the same Copie, And he believeth that the copy now read to him is the same Copie which he wrote & subscribed his name to which he cannot directlie speak to because it hath pleased God partly to take away his sight, yet by the report of his familiar friends who know his hand, this Copy to him now read is the same Copie so by him written which was examined before good witnesses who subscribed their names thereunto.

*Thomas Gilpin* of Skelmsmergh about the age of lxij years.

1. To this Interr. as Peter Mowson hath said.
2. 3. He being about the purchasing of a tenement in Skelmsmergh parcel of Jame's Laburne's lands there, did tell the said James he feared he could make no good estate thereof whereunto he answered that he had knowledged a Fine & sealed an Indenture leadings the uses thereof whereby he had settled his lands aforesaid to the use of him & his heirs, And that therefore he might make a good estate of the said lands. And willed this ext. to bring his Counsel to see the same, whereupon he brought one Robert Bunting who upon the sight of the same Fine & Indenture told this ext that he might well purchase and parte of the said lands without danger.
4. Hath seen a copy of an Indenture which copie was written furth of the original Indenture by Edward Collinson as he upon his oath confessed at Appleby Assizes And the same copy was delivered to William Warde who (as he thinketh) carried it to London, which copie is recorded in the Exchequer at London as this Ext hath heard credibly reported.

6. He saith that William Cowell coming to Skelmsmergh to demand an annuity told Ext that he had seen a vision in the likeness of James Laburne his old Master which as he thought spoke these or the like words, "take heed Cowell they will deceive thee," And he then further said that he repented himself of an oath which he had formerly taken in the behalf of the said Willm Laburne touching the said lands in Skelmsmergh. And if he should be brought to swear again he would swear otherwise than formerly he had done.

7. 8. Same as Peter Mowson.

*Lancelott Warde* of Skelmsmergh aged about lvij years.

1. Same as Peter Mowson.

2. 3. 4. To these he cannot certainlie depose.

6. To the 6th he saith, he heard it reported by Ric. Cowell that Will. Cowell his brother had done wrong touching a deed concerning Mr. Laburne's lands.

GEORGE PRESTON.

GEORGE STOCKDALE.

JOHN WOOD.

RANDALL NEWBIE.