

#### IV.—ROGER BERTRAM'S LANDS IN BRENKLEY AND BENWELL.

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William, son and heir of sir William Bertram of Bothal, was born on November 24, 1449, and proved his age June 28, 1472.<sup>1</sup> His life was short, for Ewyn, second lord Ogle, who was found to be his heir,<sup>2</sup> died on September 1, 1486.<sup>3</sup> It was not the Ogles, however, who succeeded to the Bertram lands at Brenkley<sup>4</sup> and Benwell, but Roger Bertram, presumably a distant kinsman.

Of Roger Bertram nothing is known beyond the fact that he died leaving four daughters and co-heirs, Isabel, Joan, Agnes and Elizabeth.<sup>5</sup> Agnes, described as Anneta or Agnes Bartrem of Aydon hall, by deeds dated May 15 and 18, 1518, settled lands at Brenkley and Benwell to her own use for life, with remainders to "John Shaftoo, my sister's sonne, heir apparent to Cuthbert Shaftoo" and to George Shafto, brother of John.<sup>6</sup> On October 19, 1528, again as Agnes Bertram, she settled lands in Capheaton with remainders to her kinsman Ambrose, son

<sup>1</sup> *Arch. Ael.*, 2nd ser., XXIV, 127.

<sup>2</sup> *N.C.H.* XII, 523, citing Ogle and Bothal, pp. 50-54.

<sup>3</sup> This date, based on an inquisition taken twenty years later, is not quite certain; he is said to have fought at Stoke (June, 1487).

<sup>4</sup> Probably the whole of Brenkley, except one farm, which once belonged to Brenkburn priory, held in 1535-6 by Roger Swinburne (*N.C.H.* VII, 467), and in 1611 by Roger Swinburne's relict or her assigns (*Pat. Roll* 1903).

<sup>5</sup> *Plea Roll* 1122, m. 173d; cf. *Arch. Ael.*, 3rd ser., VI, 87.

<sup>6</sup> *Inq.* at Ponteland, March 30, 1576, p.m. John Shafto—*Chanc. ser.* II, 174, 43.

of William Swinburne esq., and to Lancelot, brother of Ambrose.<sup>7</sup> As Agnes Green she was, with her nephew William Swinburne and her sister Elizabeth Cowdale, a plaintiff against her brother-in-law Cuthbert Shafto in Trinity term, 1544.<sup>5</sup> In the same year on December 23, as Agnes Green widow, she settled lands in Capheaton in favour of Ambrose and Tristram Swinburne.<sup>7</sup> She died without issue,<sup>7</sup> and her father's lands were thereafter held in shares of one third.

#### BRENKLEY.

*The Shafto third.*—Isabel Bertram was married to Cuthbert, son and heir of Edward Shafto of Little Bavington, before August 10, 1507, when she was mentioned in a deed of her father-in-law.<sup>6</sup> In 1544 she was spoken of as deceased,<sup>5</sup> and her husband, then living, seems to have died before 1552, when John Shafto, their son and heir, entered his pedigree in Harvey's visitation.<sup>8</sup> John, who married Anne, daughter of William Ellerker, had left her a widow before September 6, 1565.<sup>9</sup> Their son and heir, also named John, recorded in 1568 as owner of a third of Brenkley and of lands in Benwell,<sup>10</sup> demised his third of Brenkley, subject to a rent charge of £4, to John Fenwick<sup>11</sup> in Michaelmas term, 1570.<sup>12</sup> At his death, December 26, 1575, he left three daughters and co-heirs, Agnes, Ursula and Elizabeth, who on March 30, 1576, were found to be aged eight, three and two years respectively, but the heir male was his brother Edward Shafto, then aged twenty-eight.<sup>8</sup> By this Edward the annuity from Brenkley was sold in Michaelmas term, 1591,<sup>12</sup> to Thomas Anderson, who died seised of it on May 6, 1628.<sup>13</sup>

<sup>7</sup> Dodsworth MS. 45, f. 57.

<sup>8</sup> Surt. Soc. CXXII, p. 81.

<sup>9</sup> *Ibid.* CXII, p. 32, will of sir Robert Ellerker.

<sup>10</sup> Hodgson, *Northd.* III, iii, p. lxvi.

<sup>11</sup> *Arch. Ael.*, 3rd ser., XVIII, 66-7.

<sup>12</sup> Feet of Fines, *Northd.*

<sup>13</sup> *Inq. p.m. Chanc. ser. II*, 707, 71.

*The Cowdale third.*—Elizabeth, daughter of Roger Bertram, was by 1544 wife or widow of . . . Cowdale.<sup>5</sup> On July 6, 1551, by a charter long disputed but ultimately confirmed, she as of Carlisle widow settled all her lands in Brenkley, Capheaton and Benwell upon her son Richard "Coldall" and his heirs male, with next remainder to John "consanguineo meo,"<sup>14</sup> son and heir of Robert Briscoe of Crofton esq.<sup>15</sup> She is said to have died about 4 Elizabeth.<sup>16</sup> If so, her son Richard Cowdale did not long survive her, for he died on December 29, 1562, leaving no legitimate issue except a daughter Eleanor, aged two and a half in June, 1563.<sup>15</sup> John Briscoe then entered in his own right on the Northumberland lands and, as kinsman, obtained custody of the body and (Cumberland) lands of the young Eleanor, whom subsequently he gave in marriage to his "uncle's son,"<sup>17</sup> Robert Briscoe. It is likely that John Briscoe welcomed or even promoted a belated inquisition, taken at Alnwick in 1571,<sup>15</sup> which confirmed his title to Richard Cowdale's Northumbrian lands, but it is not necessarily true that, as his cousin Robert afterwards alleged, he "procured" his near kinsman, Thomas Swinburne, to be foreman of the jury. The lands at Brenkley with a third of the manor he sold to John Fenwick in Michaelmas term 1573,<sup>12</sup> and the Benwell lands to Thomas Bates by deed dated March 21, 1574-5.<sup>16</sup>

The deaths had occurred of John Briscoe (on

<sup>14</sup> John Briscoe was of age by March 26, 1561; his father had died November 24, 1542 (Court of Wards, 8, 97). His mother was Barbara, daughter of John Coldall (Harl. Soc. VII, p. 12), but it is not safe to assume that Elizabeth was his grandmother, for in 1617-18 it was alleged that, having in 1551 two daughters, Elizabeth and Jane, she was unlikely to ignore them and devise her lands to "strangers."

<sup>15</sup> Inq. at Alnwick, September 17, 1571, p.m. Richard Cowdall (Chanc. ser. II, 158, 8); an earlier inq. at Cockermouth June 18, 1563 (Court of Wards, 10, 14).

<sup>16</sup> Chanc. Proc. James I, B18, 83; Robt. and Geo. Briscoe v. Thos. Bates and others.

<sup>17</sup> Viz., son of Leonard Briscoe, who was younger brother of John's father (Harl. Soc. VII, p. 12).

November 28, 1584, when William his son and heir was aged twenty-one),<sup>18</sup> of John Fenwick ("shortly after" November 24, 1585)<sup>11</sup> and of Thomas Bates (on August 31, 1587),<sup>19</sup> before Robert Briscoe and Eleanor his wife emerged as claimants by bill of complaint against Agnes, widow of John Fenwick, and Robert Bates, brother and heir of Thomas Bates. By way of explaining the delay Robert Briscoe asserted many years later that he and his father had been forced by John Briscoe to enter into a bond not to challenge his action in his lifetime (the time-limit seems most improbable), and that "the sayd ffenwicke and Bayts were men of greate name allyance and bloud in that county." The cause was heard at York before the Council of the North on September 29, 1590. Unable to produce Elizabeth Cowdale's charter (William Briscoe had died about two years after his father, leaving two infant sons), the defendants made no answer, and possession was adjudged by decree to the plaintiffs.

For about three years rent for the Brenkley lands was regularly tendered by the hands of one William Fenwick.<sup>20</sup> Caution, however, had been exercised by John Fenwick when he made his purchase. There was warranty, as the fine shows, both against the heirs of Elizabeth Cowdale deceased and against Thomas Swinburne<sup>21</sup> of Capheaton and his heirs, and he had obtained as security John Briscoe's bond of £500. Thus armed, John Fenwick, his eldest son and successor, went to Mr. Thomas Brathwaite, then apparently guardian and afterwards father-in-law of John Briscoe, son and heir of William, and threatened to put the bond in suit, unless Elizabeth Cowdale's deed were delivered to him. Brathwaite

<sup>18</sup> Inq. p.m. Court of Wards, 21, 50.

<sup>19</sup> *N.C.H.* IX, 86.

<sup>20</sup> Probably Wm. Fenwick of Blagdon, a near neighbour and perhaps a kinsman of the purchaser.

<sup>21</sup> It is suggested that Thomas Swinburne was then proposing purchase of the Cowdale lands in Capheaton and was thus in contact with John Briscoe.

promised to produce the deed and advised Fenwick to "make a peaceable entry," which he did.

Meanwhile Robert Briscoe lost his wife Eleanor about 1593, and then or later transferred to George his son all his interest in the disputed lands. Between George Briscoe and John Fenwick there was litigation at York about 1605 and again in 1608, when Fenwick procured a prohibition for stay of proceedings and Briscoe "having understood what foule matter was proved against him and his father" "surceased to meddell any further in that matter."<sup>16</sup> So said the defendants, about the year 1618, in a suit which belongs primarily to the history of Benwell.

*The Swinburne third.*—Joan,<sup>22</sup> daughter of Roger Bertram, probably died before 1521. Her husband, William Swinburne of Capheaton, was a feoffee of her sister Agnes in October, 1528,<sup>7</sup> but the date of his death is not known. Her third of Brenkley and lands in Benwell are recorded as part of the estate of her son William Swinburne at the day of his death, April 7, 1551,<sup>23</sup> and of her grandson Thomas Swinburne both in 1568<sup>24</sup> and at his death February 21, 1610/11.<sup>25</sup> William Swinburne, son and heir of Thomas, was in 1612 a recusant, holding lands in Brenkley, Benwell and elsewhere.<sup>26</sup> In Michaelmas term 1622 he joined John and Martin Fenwick in

<sup>22</sup> She was described as *Johanna* in 1544, and presumably had died before, for it was her son and heir who was then litigant in the family lawsuit. Hodgson (*Northd.* II, i, 232) describes William Swinburne's wife as *Isabella*, daughter of Roger Bertram. William Swinburne did in fact leave a widow Isabel, who was dwelling at Newcastle December 31, 1551, enjoying revenues secured by deeds of her husband dated April 21, 1521, and of his son William, dated October 20, 1540 (refer to note 23 below). It would seem that Isabel was a second wife, and that Joan née Bertram died before 1521, having borne at least four sons.

<sup>23</sup> Inq. p.m. Wm. Swinburne, at Newcastle, December 31, 1551, when Thomas the son and heir was aged six and a half; there was also a younger son, Ranald, and three daughters, Ursula, Mabel and Joan (Chanc. ser. II, 94, 32).

<sup>24</sup> Hodgson, *Northd.* III, iii, p. lxiv.

<sup>25</sup> Inq. p.m. Thomas Swinburne, at Newcastle, September 16, 1613, when William the son and heir was aged thirty-two and more (Chanc. ser. II, 338, 58).

<sup>26</sup> Pat. Roll 1955.



levying a fine to Robert Fenwick of a moiety of the manor of Brenkley with lands belonging, and a recovery was suffered in the next term. The moiety seems to have comprised all the Swinburne third, added to one sixth ceded by John Fenwick (hitherto owner of two thirds) with the concurrence of Martin, his brother and heir presumptive,<sup>11</sup> and the transaction probably involved a definite transfer to Robert Fenwick, whose identity with the youngest brother of John and Martin is likely, though not quite certain. Robert Fenwick gent. appears next to John Fenwick gent. as a freeholder in Brenkley both in 1628 and in 1638-9,<sup>27</sup> and it was Robert Fenwick who in Michaelmas term 1640<sup>12</sup> with Eleanor his wife<sup>28</sup> alienated to Gawen Foster and Margaret his wife a moiety of the manor with lands of about the same acreage as those mentioned in the fine of 1622. John Fenwick died in 1638 or 1639,<sup>29</sup> and Martin Fenwick his brother and heir, having died without male issue in April, 1644<sup>11</sup> or 1645,<sup>29</sup> was succeeded by his brother Robert.<sup>11</sup>

The moiety alienated in 1640 remained in other hands at least as late as 1663, when Thomas Fenwick, Robert's son and heir, was assessed on not much more than half of Brenkley.<sup>30</sup> It was, however, acquired by Thomas, and the history of the moieties since his death has been written elsewhere.<sup>31</sup>

#### BENWELL.

*The Shafto share.*—Most of it was sold in Michaelmas term 1575; very shortly before his death, by John Shafto of Little Bavington to Mark Shafto merchant,<sup>12</sup> his father's first cousin, and seems to have passed to Mark's nephew, Robert (son of Ninian) Shafto, alderman of Newcastle, who in his will dated September 5, 1623, mentions his

<sup>27</sup> *Arch. Ael.*, 1st ser., II, pp. 318, 322.

<sup>28</sup> Robert Fenwick and Eleanor his wife also levied fines of property in Brenkley to Thomas Mountney esq., Mich. 1630, and to Robert Barker, Mich. 1637.

<sup>29</sup> See Appendix.

<sup>30</sup> Hodgson, *Northd.* III, i, 257.

<sup>31</sup> *N.C.H.* XII, 526-8.

lands of inheritance (besides leasehold lands) at Benwell.<sup>32</sup> A smaller part passed by fine in Easter term, 1626, from John Shafto gent. (probably of the Little Bavington family) to William Swinburne esq.

*The Cowdale share.*—Robert Bates who, as has been stated above, forfeited possession by the decree of 1590, died on October 17, 1592, and Cuthbert Bates, his son and heir, on February 2, 1602/3.<sup>19</sup> Thomas Bates, son and heir of Cuthbert, was only ten years old when he succeeded. When he came to manhood, he began to realize that his right to lands in Benwell purchased by his great-uncle was as good as John Fenwick's<sup>33</sup> right to the Cowdale third of Brenkley, and that lands were held at Capheaton by the same title. He therefore made a lease to Robert Errington his kinsman<sup>34</sup> in order to test his case. Thereupon Robert and George Briscoe exhibited their bill of complaint, dated February 3, 1617/18, against Thomas Bates, Robert Errington, Jane, widow of William Briscoe, and her sons John and William.<sup>16</sup> On February 20, 1618/19, the Court of Chancery permitted the plaintiffs to insert in the bill the name of John Fenwick,<sup>35</sup> who does not seem to have filed a separate answer. An order was made on January 29, 1620/1, that a trial be had at Common Law,<sup>36</sup> and on May 14 following it was reported that the defendants had obtained a verdict.<sup>36</sup> The genuineness of Elizabeth Cowdale's charter was at last confirmed, and in Hilary term 1624/5 Thomas Bates and Dorothy his wife (with Robert Errington and Barbara his wife) levied a fine of the Benwell lands to Robert Shafto (son and heir of the testator of 1623).

*The Swinburne share.*—The William Swinburne who parted with his third of Brenkley in 1622 retained his

<sup>32</sup> Surt. Soc. CXLII, pp. 160-63.

<sup>33</sup> About this time Martin, brother of John Fenwick, married Isabella, sister of Thomas Bates.

<sup>34</sup> Probably his wife's uncle; see Foster's *Northumberland Visitations*, pp. 45 and 10.

<sup>35</sup> Chancery D. & O., 1618A., f. 583.

<sup>36</sup> *Ibid.*, 1620A, f. 597 and 968.

property in Benwell, and probably added to it in 1626 a small portion of the Shafto share. Towards the end of his life he was treated with severity as a "papist delinquent," and lived to see the sequestration of his lands in Benwell and elsewhere. Immediately after his death in November, 1653, they appeared in the third Act for Sale.<sup>37</sup> By William Swinburne, one of his younger sons—perhaps acting as guardian of his father's grandson and heir John (afterwards sir John) Swinburne—a fine of Benwell lands was levied to Robert Shafto in Michaelmas term 1655.<sup>12</sup> Robert Shafto was now, it seems, owner of all the Bertram lands in Benwell, but by 1663 he had transferred more than half to his eldest son, Robert Shafto junior.<sup>38</sup>

## APPENDIX:

The following details apply, as additions or corrections, to a paper on the Fenwicks of Brenkley (*Arch. Ael.*, 3rd ser., XVIII, 66-82), which has been several times referred to above.

Page 67. John Fenwick, the purchaser of two-thirds of Brenkley, was uncle and sole devisee of Mary Lawson, who made her will December 26, 1582, as of "Bringla," aged XVII, and desired to be buried in Cramlington church (Raine's MS. Test. Dun. VII, 141). His wife, as stated above, was named Agnes. His eldest son, John Fenwick, married Jane, sister of Thomas Urwen of Morpeth, attorney, and settled jointure upon her April 6, 1605; she was living May 14, 1647 (Chanc. Proc. Collins, 4, 75, where Martin Fenwick is said to have died about April 25, 21 Charles, viz. 1645). John Fenwick's will, dated July 6, 1638, was proved at Durham in 1639; he mentions his wife Jane, the exec., his brother Martin Fenwick (then of Mersfen and in debt to the testator), his nephew Thomas Barker, William (new to the pedigree) and Jane, children of his brother Robert Fenwick, the two sons of his cousin George Burrell of Newcastle draper, a nephew Michael Fenwick, and a son of his cousin Robert Barker.

Page 67, note 10. In All Saints church, Newcastle, were buried on September 27, 1652, "John son of Jesper Anderson" and "Dorothy Anderson," the latter probably wife of Jasper

<sup>37</sup> Surt. Soc. CXI, pp. 350-2.

<sup>38</sup> Hodgson, *Northd.* III, i, 255.

Anderson and daughter of Martin Fenwick. From Jasper's will dated at Heaton September 23, 1658 (proved December 16, 1658, P.C.C. 683 Wotton), it seems that he had by Dorothy two sons then living, viz: "Tobias Anderson alias fenwicke," presumably born before the parents' marriage, of whom he appoints "my cozen" Nicholas Fenwick [Dorothy's first cousin] a guardian, and Ralph Anderson whom he makes heir to most of his lands at Heaton and commits to the tutorship of "my cozen" Mr. Ralph Bates of Halliwell [Dorothy's first cousin]. He remarried, August 9, 1655, Jane Nicholson widow (probably late wife, married at St. Nicholas November 23, 1641, of Henry Nicholson, and sister of Oswald Matten, whom Jasper calls "brother-in-law"), had by her a daughter Jane (born December 10, 1656), and was buried October 10, 1658 (registers of All Saints).

Page 72. Ann Gardner was, it seems, *third* wife of Thomas Fenwick. On January 2, 1679/80, Mrs. Margaret, wife of Mr. Thomas Fenwick of Brenkley, was buried in the quire (MS. extracts by the late Mr. J. C. Hodgson from the registers of Stannington). The place of burial suggests a probability that this was Margaret, widow in 1650 of William Fenwick of Blagdon (Surt. Soc. CXI, 204). In that case Lionel Fenwick of Blagdon, called "my late sonn in law" by Thomas Fenwick (p. 71), was in fact his step-son, and the identification of Barbara, daughter and heir-at-law of Thomas Fenwick, with Barbara, wife successively of William Widdrington and Lionel Fenwick, may be wrong. And if so, Nemesis was swift to overtake the writer of that paper, who had just (p. 71, note 25) preached caution.

Page 73. It is likely that John, second son of Timothy Fenwick, was John Fenwick, vintner, who married Mrs. Mary Collingwood, spinster (bond August 17) at St. Nicholas, Newcastle, August 21, 1681, had by her two children, Mary (baptized July 4, buried September 6, 1682) and Timothy (baptized June 5, buried September 4, 1684), and was buried June 11, 1688 (registers of All Saints, Newcastle).

Page 74. Robert Fenwick, eldest son of Timothy, carried on the business of vintner at the "Young devill Taverne," an edifice erected by him on leasehold premises in Fleet Street. In administering his effects his wife's executors were embarrassed by sir Thomas Kinsey, who claimed a debt of £3,500, and by bills of complaint of Robert's mother and of Edward Hindmarsh, guardian of Jane Hindmarsh his daughter (Chanc. Proc. Whittington, 244, 29).

Page 75. Grace Hindmarsh was buried June 20 (not 30), 1734.

