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Cumberland and Westmorland from circa 1250 to circa
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ABSTRACT

Cumberland and Westmorland differed significantly from the rest of Mediaeval England. They were subjected to the English crown later than the rest of England and as a result the lordships of the region retained extensive powers comparable to those exercised on the March of Wales. Thus local lords played a larger role in government than elsewhere and they also enjoyed political dominance. Seigneurial officials bore the main burden of law enforcement. Cumbria evolved its own customs for law enforcement but crime remained a serious problem.

In the early reign of Edward I the region enjoyed peace but since lordship there was of limited financial value, it was also largely neglected by its lords. In Cumberland, especially, absentee lordship was common. In Westmorland the Clifford family, which had gained land there, attempted to establish local dominance. This resulted in disputes both with the borough of Appleby and the lords of Kendale. Robert de Clifford was able to complete his family's acquisition of land in the reign of Edward II but these gains were temporarily negated by the rebellion and forfeiture of his son Roger IV in 1322.

The outbreak of war caused enormous material damage and rendered absentee lordship impossible. Edward II's failure to defend the border and minorities in leading local families left the region specially vulnerable. Scots raids resulted in the total disruption of local government and leadership was exercised by a series of military commanders the most notable of whom was Andrew de Harclay. These commanders enjoyed enormous opportunities for self-advancement,

but they defended the Border badly. After Harclay's fall his place was taken by Anthony de Lucy and Ranulph de Dacre and with the resurgence of English power under Edward III they emerged with the Cliffords as the dominant local powers. The pattern for the region, thus, remained that set in the reign of Edward II.

TITLE

THE LORDS AND LORDSHIPS OF THE ENGLISH WEST MARCH:

CUMBERLAND AND WESTMORLAND FROM

CIRCA 1250 TO CIRCA 1350

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DEPARTMENT OF HISTORY

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C O N T E N T S

Acknowledgements

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On a personal note I would like to pay tribute to the support and encouragement of my parents, without whom this thesis would not have been started and of my wife, Netta, without which it would not have been completed.

ABBREVIATIONS

Bain

J Bain

Calendar of Documents relating to Scotland

vol I (1108-1272), vol II (1272-1307)

vol III (1307-1357)

1881-1887

Barrow, Bruce

G W S Barrow

Robert Bruce and the Community of the

Realm of Scotland

Edinburgh 1978

Bridlington

W Stubbs

Gesta Edwardi de Carnarvon auctore

Canonico Bridlingtoniensi in Chronicles
of the Realms of Edward I and Edward II

v2 (Rolls series 1883)

C Chart R

Calendar of Charter Rolls preserved in
the Public Record Office

CCR

Calendar of Close Rolls preserved in the
Public Record Office

C Curia Regis R

Calendar of Curia Regis Rolls preserved
in the Public Record Office

CFR

Calendar of Fine Rolls preserved in the
Public Record office

C Inq Misc

Calendar of Inquisitions Miscellaneous

preserved in the Public Record Office

CIPM

Calendar of Inquisitions Post Mortem

preserved in the Public Record Office

CPR

Calendar of Patent Rolls preserved in

the Public Record Office

CRO

Cumbria Record Office,

Carlisle Castle, Carlisle

Duncan, Kingdom

A A M Duncan

Scotland, the Making of the Kingdom

Edinburgh 1978

EHR

English Historical Review

Feodary

F W Ragg

The Feoffees of the Cliffords

Transactions of the Cumberland and

Westmorland Antiquarian and Archeological

Society - New Series v8 (1908) 253 - 330.

Fryde, Tyranny

N Fryde

The Tyranny and Fall of Edward II

Cambridge 1979

HEL F Pollock and F W Maitland
The History of English Law to the Time
of Edward I
2 vols, Cambridge 1968

Hist and Antiq J Nicholson and R Burn
The History and Antiquities of the
Counties of Cumberland and Westmorland
2 vols, 1777

Lanercost J Stevenson
Chronicon de Lanercost
Edinburgh 1839

Lib Quot J Topham
Liber Quotidiannus Contrarotulatoris
1787

Maddicott, Lancaster J R Maddicott
Thomas of Lancaster - a study in the
reign of Edward II
Oxford 1970

NH Northern History

NP C M Fraser
Northern Petitions
v194 (Surtees Society) 1981

NRO Northumberland Record Office,
Melton Park, Newcastle

Palgrave, Documents F Palgrave
Documents and Records Illustrating the
History of Scotland
1831

Parl Writs F Palgrave
Parliamentary Writs and Writs of Military
Summons
2 vols (Record Commission) 1830

Phillips, Aymer J R S Phillips
Aymer de Valence, Earl of Pembroke
Oxford 1972

PQW W Illingworth
Placita de Quo Warranto
(Record Commission) 1818

Reg Halton T F Tout
The Register of Bishop Halton
2 vols (Canterbury and York Society)
1913

Reg Holm Cultram F Grainger and W G Collingwood
The Register and Records of Holm Cultram
Abbey
Kendal 1929

Reg St Bees

J Wilson

Register of the Priory of St Bees

v126 (Surtees Society) 1915

RS

D McPherson and Others

Rotulise Scotiae

(Record Commission)

Edinburgh 1814

SA MS

Society of Antiquaries Manuscript

Stones, Relations

E L G Stones

Anglo-Scottish Relations

Glasgow 1965

Trans of C&W II

Transactions of the Cumberland and

Westmorland Antiquarian and Archaeological
Society

New Series

VCH

S Wilson

Victorian History of the County of
Cumberland

2 vols, 1905

Vita

N Benholm-Young

Vita Edwardi Secundi

Oxford 1957

INTRODUCTION

Cumbria¹ was the region of mediaeval England where Celtic institutions enjoyed their longest currency and where they had their most important effect on the nature of local government and society in the middle ages. The vital local institutions were the lordships of the March for it was through these that the area was governed, administered, policed and managed. It is impossible to understand the importance and the strength of the lordships without consideration of the history of the region from an early date. Though this forms only a preliminary to the study of the lords and lordships of the West March during the thirteenth and fourteenth centuries, it is an indispensable prelude. It is only by understanding the nearness of the Celtic period in Cumbria that one can appreciate the strength, persistence and importance of such Celtic survivals as cornage payments, the role of the serjeants of the peace in local policing and most important the profound influence the Celtic past had on the nature and powers of the lordships of the region².

Secondly a survey of the history of Cumbria illustrates another fact of prime importance. The English crown was *unable* to exert full control over the area before the twelfth century and as a result the lords of Cumbria were able to develop the extensive powers which were one of the hall-marks of marcher lordship.

1 Cumbria is used here to mean exclusively the English counties of Cumberland and Westmorland, the occasionally co-incident Kingdom of Strathclyde will be called only by that term.

2 G W S Barrow 'The Pattern of Lordship and Feudal Settlement in Cumbria'. Journal of Mediaeval History, v8, 1965

Numerous scholars have attempted such a survey, but, despite this there are few secure foundations on which to base such an account. The starting point, however, must be the native British, the Cymry, from whom the region has taken its name. During the eighth and early ninth centuries, Northumbrian expansion into Southern Dumfries and Galloway created a cordon which excluded the kings of Strathclyde from their former influence in Cumbria. The establishment of this cordon facilitated further Northumbrian expansion into Cumbria and this expansion probably continued even after the death of the Northumbrian King Egfrith at Dunnichen in 685³, since monumental evidence in the region suggests that Carlisle and the low lying land around in the region remained strongly influenced by Northumbrian culture for almost two hundred years after Dunnichen⁴.

The period of Scandinavian dominance in Britain inaugurated by the sack of Lindisfarne in 792 saw further important developments in the history of Cumbria. Initially Cumbria was little affected by the Norse invasions, though one important result was a further weakening of the kingdom of Strathclyde as Kenneth MacAlpin having subdued the Picts was able to establish a recognisably Scottish Kingdom based principally in Lothian⁵.

3 D Kirby - Strathclyde and Cumbria 'Trans of C&W II', v62 (1962) 82

4 A Armstrong, A Mawer, F M Stenton and B Dickens - The Place Names of Cumberland. (English Place Name Society 1950-52, v22) xxii

5 W C Dickinson - Scotland from the Earliest Times to 1603 (Oxford 1977), 27



More direct Norse influence in Cumbria occurred in the ninth century. In the fourth decade of it, the Northumbrian king Raedwulf was killed in battle by the Vikings⁶ and extensive Norse settlement in Northumbria effectively crippled the Northumbrian monarchy during the remaining part of the century. These attacks on eastern Northumbria probably ended Anglian settlement west of the Pennines which had developed earlier in the century. There was, however, extensive Norse settlement in Cumbria beginning late in the ninth century and continuing into the tenth. Most of this Norse settlement was from the Viking settlements in Ireland but it did not wholly displace the existing Celtic population and Celtic elements were still present in the language⁷ and the resulting society was probably more the result of fusion than of conquest⁸. Norse colonisation in the region should not be underestimated, however, and the Hiberno-Norse settlers penetrated large areas of land between the Kent and the Derwent, as well as in the Cumbrian Mountains, where the prevalence of the word 'fell' still testifies to their influence.

There is no compelling reason to believe that the Norse settlers in Cumbria were effectively subject to either of the existing Norse monarchies in York or in Dublin. It appears, rather, that the collapse of Northumbrian control over Dumfries allowed the reunification of Cumbria with Strathclyde which, in all probability, once again extended its boundary as far south as the Eamont. If the West Saxon monarchy was exerting a form of hegemony over the other kingdoms in England at this time, this can only have existed in the most tenuous form over Cumbria and Strathclyde.

6 D P Kirby - The Making of Early England (1967), 76

7 Place names of Cumberland v3, xxiii; Duncan - Kingdom, 88-89

8 F M Stenton - Anglo-Saxon England, (Oxford 1971), 331

The accession of Aethelstan to the West Saxon throne presaged important changes in this situation, however. With a substantial power-base in Mercia, Aethelstan was able to occupy York and he went on to exert his nominal hegemony over Cumbria in a much more direct way than had been done previously. In 927 he forced Owen, King of Strathclyde, to perform a sort of 'homage en marche' together with Ealdred of Bernicia and Constantine II of Alba/Scotland in a ceremony near Penrith. The power of the West Saxon monarchy was graphically shown in 934 when an extensive campaign into Scotland was followed by the defeat of a coalition consisting of the Norse King of Dublin, Constantine II, and Owen of Strathclyde at Brunanburh in 937⁹. The heavy casualties suffered by the men of Strathclyde made it easier for the West Saxons to mount an attack on Cumbria¹⁰, and when they did, resistance was on the whole ineffective¹¹. In 945, Edmund, having first put down a revolt in Northumbria, mounted a campaign into Cumbria which he thereafter entrusted to Malcolm, King of Scots, to hold on the condition that he be his helper 'by land and sea'¹².

It has been suggested¹³ that Edmund's grant to Malcolm represented an expansion of Scottish influence south of the Solway but this argument has attracted little support. It seems more probable that English Cumbria was abandoned by Strathclyde at this time¹⁴.

9. ibid 332

10. ibid 343

11. Kirby - Making of Early England, 88; Duncan - Kingdom, 93

12. D Whitelock, D C Douglas and S I Tucker - The Anglo-Saxon Chronicle (1961), 72

13. Kirby - 'Strathclyde and Cumbria', Trans of C&W II, v62, (1962) 89

14. Duncan - Kingdom, 93

Scottish hegemony was, however, increasingly extended over Strathclyde which, it seems probable, formed a form of appanage for the eldest son of the King of Scots. These princes enjoyed no power over Cumbria and their importance was demonstrated further in 966 when Edgar invested Oswulf of Northumbria with an estate which stretched from the Tees to the Solway¹⁵. The gains made by Oswulf of Northumbria, west of the Pennines, were balanced and in part compensated for by the extension of the powers of Scots control over Lothian but this process, in turn, further reduced the importance of the Kingdom of Strathclyde. Indeed its independence was effectively ended, as was demonstrated by the fact that Malcolm II of Scots was able to nominate as king Malcolm, son of Dubh¹⁶. In this context it is very difficult to believe that the Strathclyde monarchy was in any way capable of exerting its influence permanently over Cumbria but it is certain that its armies did make occasional raids there¹⁷. These raids, however, did nothing to weaken the control of the Earls of Northumbria over English Cumbria.

The Danish attacks on Southern England in the last years of the tenth century provided the Scottish kings with an opportunity to attempt to extend their power over northern England more effectively. The kings of Scots were not, however, always equal to the opportunity. Firmly established on his throne in 1005, Malcolm II led his forces into Northumbria in the following year only to receive a crushing defeat at the hands of Uhtred of Bamburgh. So far from gaining by his expedition Malcolm, in fact, paid for his ambition with the loss of much of Lothian to Uhtred.

15 *ibid* 96, Stenton - Anglo-Saxon England, 362

16 Kirby - 'Strathclyde and Cumbria', Trans of C&W II. v62, (1962) 70

17 Duncan - Kingdom, 97

Malcolm had his revenge over Uhtred at the Battle of Carham in 1018, a revenge the more thorough since Earl Uhtred paid for his defeat with his life at Cnut's Court ¹⁸. According to Symeon of Durham, Malcolm was supported at Carham by Owen the Bald of Strathclyde and it is possible that Owen was, in fact, killed in the battle ¹⁹. The history of the kingdom of Strathclyde, after the death of Owen, is obscure but it seems probable that it remained subject to the dominance of the kings of Scots. It is certain, for instance, that in 1034 Duncan, the successor of Malcolm II, was styled as the King of Strathclyde.

Whether Strathclyde again extended into Cumbria at this time is a subject of some uncertainty. There is place-name evidence which suggests colonisation from Strathclyde but this is equivocal. Internal colonisation, as well as renewed settlement from north of the Solway, may have been the cause of Celtic element place-names which appeared at this time and there is no other evidence that the border of Strathclyde lay at Stainmoor for any significant length of time. The evidence of colonisation from Strathclyde does have one plausible explanation however, it seems probable that one of Malcolm II's grandsons, Maldred, obtained Cumbria, south of the Solway, on his marriage to a lady of the Northumbrian house, while Duncan remained in possession of Strathclyde.

18 A A M Duncan - 'The Battle of Carham 1018', Scottish Historical Review, v55, (1976) 27; B Meehan - 'The Siege of Durham, the Battle of Carham and the Cession of Lothian', *ibid*

19 T Arnold - Symeon Monachis Opera Omnia, (Rolls Series 1882-85) v2, 156. A O Anderson - Early Sources of Scottish History, (Edinburgh 1922), v1, 550

20 Duncan - Kingdom, 98

If this interpretation is correct then Symeon of Durham's enigmatic entry that 'Eadulf ..Brittones satis atrociter devastatit' may well refer to a campaign to enforce Eadulf's plans for the region, made sometime between 1039 AD and his death in 1041²¹.

A thesis which support renewed English, or at least Northumbrian, influence in Cumbria during this period is wholly consistent with much that is known about what is arguably the earliest text with which a local study of Cumbria had to deal: the 'Gospatric Writ'²². This document, however, raises as many questions as it answers and it has been well said that if any convincing motive could be suggested for its forgery the writ would be very poor evidence indeed for eleventh century Cumbria²³. In default of any such motive, however, the writ must be accepted for what it purports to be, a fourteenth century copy, albeit an imperfect one, of an eleventh century private writ granting exemption from geld²⁴. Leaving aside the potentially very serious difficulties surrounding the provenance of it, the Gospatric Writ fits well into what is known of the history of Cumbria in the mid eleventh century. The peace proclaimed by the writ runs in the name of Siward, Earl of Northumbria, from 1041 to 1055 and this suggests a degree of Northumbrian influence in the region which seems highly credible.

21 Symeon Monachis, v2, 199

22 The writ itself is preserved at Carlisle among the Louthers muniments but it has been printed frequently. F E Harmer Anglo-Saxon Writs (Manchester 1952) provides the best edition.

23 Place Names of Cumberland, v3, xxi

24 Harmer - Anglo-Saxon Writs, 421

In greater detail, it seems wholly reasonable, as has been suggested in the County History²⁵ that Siward, having defeated MacBeth in 1054, followed up his victory with a campaign aimed at asserting his authority in Cumbria.

The writ provides evidence that in at least two senses Cumbria stood somewhat apart from the rest of Northumbria and was imperfectly integrated into the loose organisation of the Earldom. Firstly it is clear that if at the time the writ was issued, Cumbria was no longer recognisably Celtic (that is British or Welsh) it had been so within living memory, for it referred to the lands that had been British. This is confirmed independently by Florence of Worcester who, describing Rufus' expedition to Carlisle in 1092, called the site of the king's castle 'Luguballia quae vocatur Britannicae Cairleu'²⁶. Secondly, Gospatric claimed exemption from the geld. As W E Kapelle²⁷ has suggested this exemption is only comprehensible if Cumbria was included in England at the time of its issue. It seems probable too that the exemption granted by the writ reflects the inability to collect taxes as much as it is likely to record the munificence of a lord to his follower.

Gospatric's Writ refers to the lands that were British and in practical terms it is probable that this was more accurate than to say that the region was either English or Scottish. It was a debatable land which both kingdoms aspired to control.

25 VCH, v2, 234

26 B Thorpe - Florent Wigorniensis Monachis Chronicon ex Chronicis (1849), 20

27 W E Kapelle - The Norman Conquest of the North, (1979), 43

At the root of this contest lay the important routes into English territory through the Tyne Gap and over Stainmoor and these increased the region's strategic value to both attacker and defender. The strategic importance of Cumbria can hardly have been lost on Malcolm II of Scots and it is hardly necessary to suggest that Malcolm felt aggrieved by Siward's conquest of Cumbria to explain why Malcolm was keen to gain control of the area and it is hard to see in what sense it could be called Malcolm's ancestral lands ²⁸.

Malcolm's tactics were unsubtle and indeed it has been suggested that the purpose of many of his expeditions was booty and prestige rather than organised conquest. Malcolm was, however, possessed of a certain unscrupulous cunning as he displayed in 1061 when he took advantage of Earl Tostig's absence and possibly also of his own breach of trust to mount a campaign into Northern England. By such tactics it seems probable that by 1069 he had succeeded in extending his frontier to the Duddon ²⁹. There is room to doubt how effective was Malcolm's control over Cumbria before the Norman Conquest. There is no reason to believe, for example, that Malcolm's 'ancestral right' to Cumbria was recognised by the local nobility. Symeon of Durham regarded Malcolm's possession as simply a triumph of violence over law ³⁰. Most probably Malcolm's conquest consisted chiefly of the exertion of a vague hegemony over local lords.

28 *ibid* 90

29 *Palgrave - Documents*, 70

30 *Symeon Monachis*, v2, 191

The supremacy of Malcolm over Cumbria probably owed as much to the self interest of the local lords as to Malcolm's military strength and James Wilson's suggestion that Gospatric tried to maintain a degree of local independence, or at least room for manoeuvre, by playing off Scotland against England, is on the whole a convincing one ³¹.

Malcolm had done little to increase his authority in Cumbria by the time of the Norman invasion of England and he made no good use of the disruption caused by the Conquest. Gospatric moreover showed himself just as willing to serve William as Malcolm and in 1067 he purchased the Earldom of Northumbria from William. He fell from grace however, the following year and was forced to seek refuge and possibly also allegiance in Scotland ³². The slaughter of Robert de Commines and his followers at Durham in 1069 and the appearance of a Danish fleet forced William to seek new allies in Northern England. Gospatric was again willing to align himself with the Conqueror, but was understandably concerned about his own safety and submitted to William only by proxy. Entrusted with the Earldom of Northumbria once again, he had immediately to face the hostility of his former ally, Malcolm, who tried to use the disruption caused in the North during 1069 and 1070 to consolidate his earlier tenuous hold over Cumbria. Advancing South through Cumbria, which according to the Carlisle Chronicler, he conquered in his own right, Malcolm turned east and wasted Cleveland ³³. As Professor Duncan has suggested, this campaign bears much of the appearance of a campaign planned to subdue a newly conquered province and it is significant that Malcolm was able to mount an attack into England over Stainmoor rather than down the east coast route.

31 VCH, v1, 300

32 Anglo-Saxon Chronicle, 149

33 Palgrave - Documents, 70

Gospatric's outrage at Malcolm's conquest of his former lordship was expressed by a series of destructive raids mounted from Northumberland into Cumberland³⁴. These raids, however, marked the extent of Gospatric's resistance to Malcolm and as the Scots retreated northwards through Northumberland the Earl was forced to take refuge in Edinburgh. His attempted counter-attacks, so far from limiting Malcolm's depredations in fact, merely enraged him, inciting him to commit atrocities against the population of Northumbria, though in the eyes of Symeon of Durham Malcolm needed little encouragement to begin an orgy of racial bloodletting.

Though William was said to have been much enraged by the destruction Malcolm caused in Northern England there was little danger of Malcolm being able to assert his lordship over the region permanently, particularly since the barbarities which were an integral part of his campaigns achieved nothing but to convince local men that the Scots king was a blood thirsty savage³⁵. Malcolm's marriage to Margaret may have borne the appearance of the beginning of a more subtle and potentially more successful policy and it was almost certainly as an expression of distaste for this marriage that William brought a strong force, with naval support, into eastern Scotland in 1072³⁶. Other aspects of this campaign have been interpreted in a variety of ways however. Most recently W E Kapelle has argued that William's position when Malcolm submitted to him at Abernethy in Perthshire was much weaker than it seemed³⁷.

34 Symeon Monachis, v1, 191

35 ibid 195

36 Duncan - Kingdom, 119

37 Kapelle - Norman Conquest, 126

Apparently unconscious of the strength of his position, Malcolm submitted to William and became 'his man'³⁸. Equally, there is no evidence that Malcolm dared to use the control of the heads of the valleys and dales, he is suggested to have held, to harry William as he withdrew and it may well be that Malcolm had no real taste for a confrontation with William's main force.

The testimony of the Anglo-Saxon chronicle that Malcolm became William's vassal can be accepted as reliable but the text provides no support for this belief expressed by some historians that Malcolm received Cumbria to hold of William in return for his homage. In fact the argument that Malcolm did receive Cumbria from William does not rest on good chronicle evidence but on a complicated attempt to demonstrate Scottish influence in Cumbria between 1072 and 1092. This rests essentially on two legs. The first of these is the identification of the Dolfin who was expelled by Rufus in 1092 as the son of Gospatric, sometime Earl of Northumbria³⁹. W E Kapelle has recently cast doubt on this identification but even if it is accepted there is no reason to believe that either Dolfin or his putative father, Gospatric, held Carlisle of Malcolm rather than of William.

The second part of the argument in favour of Scottish control or jurisdiction over Cumbria is more complicated and allusive. It depends to some extent on the favourable interpretation of Malcolm's position at Abernethy in 1072. If, as Kapelle has argued, Malcolm was in fact in a strong position at Abernethy then it is possible that he may have gained nominal control of Cumbria from William. Professor Duncan has drawn attention to the absence of any evidence to support this⁴⁰.

38 Anglo-Saxon Chronicle, 155

39 Kapelle - Norman Conquest, 151

40 Duncan - Kingdom, 120

There is indeed abundant, though admittedly circumstantial evidence to suggest that Malcolm in fact lost control of Cumbria in the years after 1072. The first of these pieces of evidence is the apparent absence of Cumbrians from Malcolm's army in 1079, though it ought perhaps to be noted that the presence of Cumbrians, or more probably Galwegians, in Malcolm's armies in 1061 and 1070 has escaped the notice of every writer on the subject before Kapelle, and seems to rest solely on the fact that Lindisfarne and other churches were sacked in 1070, unchivalrous acts wholly alien to the spirit of Malcolm's armies, which were, we must presume, exemplary bodies of devout and disciplined christians. A second objection to the argument that Malcolm exercised control over Cumbria in the period 1072 to 1092 is provided by the fact that not once during these years did Malcolm try to invade England over Stainmoor rather than through Northumberland, particularly since after repeated raids in the North East can have offered strictly limited stores of booty.

There is, however, a much more sophisticated argument which has been advanced in favour of Scottish Cumbria and it has been argued that Scottish influence persisted in the Eastern Highlands of Cumbria until as late as the mid eleventh or even twelfth century. This thesis has received new support in Kapelle's work but it rests originally on the work of James Wilson and G W S Barrow who both put forward the case for Scottish influence in Tynedale and Gilsland. The arguments, however, are not inter-related and they can be discussed seperately. The case that Tynedale was effectively Scottish in the twelfth century is based in part on the stipulation made by one Dolfin, son of Uhtred, a noble of uncertain ancestry, in becoming the liege man of the Prior of Durham that he did so saving his allégiance to the king of Scots and the king of England ⁴¹.

41. Feodarium Prioratus Dunelmensis, (Surtees Society, v58, 1871) 56

While it is possible that this Dolfin was descended from one Waltheof of Tynedale, this is not in any way proven, as Professor Barrow had made clear ⁴², and it is no more certain that the kings of Scots held any form of hereditary rights in Tynedale before 1157. The evidence relating to Gilsland is more abundant and complicated, but it is also convenient to consider it in two parts. The first piece of evidence which must be dealt with is the charter of Henry II dated 1158, granting to Hubert de Vaux all the lands which Gille, son of Boet, held on the day he died ⁴³. James Wilson asserted that de Vaux suffered difficulty in keeping possession of Gilsland on the grounds that his charter had repeatedly to be confirmed in 1165-66 and on Richard I's accession ⁴⁴. This argument, however, can not be accepted without question, though it has also been bolstered to some extent from the document known as the Inquisition of Earl David. This was an inquisition made at the behest of Earl David into the extent of the lands belonging to the see of Glasgow. The jurors returned that the Bishop of Glasgow held no jurisdiction over any land that is today in England. Attention, however, has been drawn to the fact that among the jurors was one Fille, son of Boet ⁴⁵. As A C Lawrie pointed out there is no certainty that Gille, son of Boet, was the erstwhile lord of Gilsland, though he may well have been. Even if it is certain it were he, there is no reason to believe that either he, or the other 'Cumbrenses' named in the inquest considered themselves to be exclusively Scottish.

42 G W S Barrow - Regesta Regum Scottorum, v1, (Edinburgh 1960), 111

43 VCH, v2

44 ibid, v1, 305, 306 and note

45 A C Lawrie - Early Scottish Charters, (Glasgow 1905), 50 and pp 209, 304

Even more significant surely is the fact that the allegedly Scottish lands of Gilsland and Bewcastle were outside of the diocese of Glasgow; it might be more natural to have expected ecclesiastical boundaries to follow secular ones rather than to contradict them. In any case the belief that Gille, son of Boet, and his family resisted the Norman incursion into their lands is based on very inadequate evidence as James Wilson made clear ⁴⁶, and is consistent with an interpretation which will be discussed presently.

In the absence of any convincing evidence for Scottish control of Cumbria after 1072, or just as implausibly after 1091, the region must be assumed to have been under the overall sovereignty of the *English* crown. However, the exercise of this power was almost wholly absent and the only real beneficiaries of the confusion were the native lords of Cumbria of whom Dolfin of Carlisle may only have been the most prominent. It seems, in fact probable, that from 1072 Cumbria was in effect independent of either kingdom. The region was not seen as in any way out of bounds to the Norman settlers, however. By 1086 land in the extreme south of the March, including Millom and Ulverston, had been surveyed and was probably under some form of rule by the Normans ⁴⁷. Such creeping annexation seems likely to have been resisted by the local nobles but any actions against them were conducted without the assistance of a royal campaign during the lifetime of William I.

Without lands across the Channel to absorb his energies, Rufus was in a position to take a much more active interest in the north than his father had done. In a campaign in 1092 he made decisive changes to the north-west.

46 VCH, v1, 306

47 Domesday Book (Record Commission), v1, 301

He drove out Dolfin from Carlisle and founded what must have been in effect a bastide which Florence of Worcester rather grandly described as a city built on a site that had stood empty for two hundred years. To support his military colony Rufus brought settlers 'with their wives and flocks' to the area. It seems likely that although initially these settlers were recruited from southern England many of them were of continental origin since place names in the district of Carlisle, dating from this time, reflect strong continental influences ⁴⁸.

There is no doubt that Rufus' campaign represented an important extension of English influence in Cumbria. The Anglo-Saxon chronicle, which is the prime source for the period, contains nothing to support the contention that the gain was made at the expense of the king of Scots. W E Kapelle has argued that Malcolm attacked England in 1093 in protest at Rufus' conquest of Cumbria, which in his interpretation was Malcolm's territory before 1092, but there are difficulties in this analysis. Firstly, as has been discussed already, there is no evidence to link Dolfin with Malcolm. Secondly in 1093 Malcolm was advancing down the east coast when he met his death at Alnwick, which makes it hard to believe that the aim of the campaign was the reconquest of Cumbria. Recently A A M Duncan, who formerly inclined to the opinion that Malcolm's motive was connected to Cumbria, has proposed an alternative motive for Malcolm's attack in 1093, namely the loss of an annual rent and a group of manors in the south of England and this seems on balance to be the more reliable explanation of Malcolm's invasion, if indeed Malcolm needed any special reason to mount one of those 'bloodthirsty shopping trips' to which he was addicted ⁴⁹.

48 Anglo-Saxon Chronicle, 169

49 Duncan - Kingdom, 120; Kapelle - Norman Conquest, 150-154

There is very little contemporary evidence for the establishment of the first recognisably Norman lordships in Cumbria. Without doubt Rufus established one of his men as a commander and marcher lord in Carlisle in 1092 but we are ignorant of his identity and of the terms of his commission. The area of his rule, however, was probably limited effectively to the region around Carlisle, a division which probably prefigured the Cumberland Ward of the later county of the same name. A later, and notably unreliable, local tradition maintained that when William I established Ranulf Meschines as Earl of Carlisle, Ranulf in turn granted the lordship of Allerdale to Waltheof in return for his allegiance⁵⁰. There are, it is clear, glaring inaccuracies in this tradition, and it is flatly contradicted by the evidence of the Testa de Nevill⁵¹. Despite this, it may very well be that Waltheof was granted possession of Allerdale, or very possibly confirmed in his tenure of it, by William Rufus and it is at any rate certain that Waltheof later held Allerdale⁵². If it were Rufus who recognised Waltheof's claim to Allerdale it is clear that his policy and his ability to carry out that policy in the region were strictly circumscribed.

Henry I continued his brother's policy in the North of England but he pursued that policy with greater thoroughness. It was undoubtedly Henry who installed Ranulf Meschines in the lordship of Cumberland, probably shortly after 1106 and certainly before the foundation of Wetheral Priory in 1112. Henry also granted Ranulf's brother

50 Bain II, 64

51 Book of Fees, (Public Record Office 1920), 3 vols, v1, 177

52 VCH, v2, 241 and note

William de Meschines the lordship of Copeland⁵³, though it is possible that Waltheof's existing possession simply received the confirmation of Henry and that his independence was curbed. Ranulf Meschines established further baronies in the north of the region. The peninsula to the east of Allerdale, between the Eden and the Wampool, was formed into the barony of Burgh-by Sands which was entrusted to Ranulf de Trivers. Another large barony was created in the Esk Valley and in part of Liddesdale, this was granted to Turgis Brundos⁵⁴. As discussed above there has been considerable debate as to whether Norman rule extended into the high ground in the east of Cumberland. The most recent account by W E Kapelle has asserted that it did not and has given full credence to the tale first related by Camden that William de Meschines, having been unable to keep control of Gilsland in the face of determined opposition from Gille, was compensated by a grant of Copeland. Though Wilson showed this belief to run at odds with the evidence of the Book of Fees it has been accepted by some later works most notably I J Sanders' English Baronies⁵⁵. It is on this authority that Kapelle has made out his case and Gille, son of Boet, has been alleged to have opposed a grant which may very well never have taken place. In fact the example of Waltheof suggests that Henry had no intention of dispossessing the former land holders unless they actively opposed him and it seems highly probably that Gille and his successors simply continued to hold their land under Norman rule.

Ranulf Meschines elevation to the Earldom of Chester, after the loss of the White Ship left a gap on the West March. Henry I filled this vacuum

53 ibid, v1, 305

54 Fees, v2, 177-178

55 I J Sanders -English Baronies (Oxford 1960), 127

himself and took Meschines' land into his own hands. Having inspected the castle of Carlisle personally in 1122, he provided for improvements to be made to the fortifications⁵⁶. He took a more important step to provide for the government of Cumbria in 1133 by the establishment of the bishopric of Carlisle. Though the bishopric was endowed with the two baronies of Dalston and Linstock, it remained one of the poorest dioceses in England and the bishops' incomes were probably less than £100 per annum⁵⁷.

If it is evident that while Henry I was in power, David I of Scots was willing to accept English control of Cumbria⁵⁸, there is little doubt that he was keen to expand his influence in Cumbria as soon as the opportunity should arise. Just as certainly David recognised that opportunity on the death of Henry I and by Christmas in 1135 he was in possession of Wark on Tweed, Newcastle, Alnwick, Norham and Carlisle⁵⁹. Though Stephen brought a substantial force to meet him at Durham early in the next year, David was to be the beneficiary of the meeting. The English king ceded to Henry, David's son, lands in Huntingdon and more importantly Carlisle, promising in addition to consider Henry's claim to the Earldom of Northumbria⁶⁰. It seems probable that Henry was able to exert his authority only over the North of Cumberland, the region Richard of Hexham described as Carlisle and that despite William FitzDuncan's claim to Copeland by inheritance from William de Meschines, William de Lancaster gained control over the

56 VCH, v2, 241 and note 2

57 F Barlow - The English Church 1066-1154 (1979), 117

58 Early Scottish Charters, 54

59 R Howlett - Chronicles of the Reigns of Stephen, Henry II and Richard I, 4 vols (Rolls Series 1884-1890), v3, 145

60 ibid 146

area ⁶¹. David's campaign of 1138 provided an opportunity to mount a counter-attack and in the early summer of that year William FitzDuncan led a force, including a large contingent of Galwegians through Copeland into Furness then on to Skipton in Craven which he also claimed, before defeating an English force at Clitheroe ⁶².

David's own campaign of 1138 was less successful than that of FitzDuncan and led to a heavy defeat at the Battle of the Standard though it is noteworthy that David was able to recruit men from Cumbria to his army and it was to Carlisle that the remnants of David's army retreated. Carlisle, moreover, remained the main base for David's attempts to dominate the North of England and in this David was largely successful. By 1139 he had gained control of Northumberland as far south as the Tees though without the castles of Bamburgh and Newcastle. David's adventures in southern England after Stephen's capture at Lincoln did little to advance his cause and in fact cost him the Honour of Huntingdon. Even in the North David proved to be unable to gain recognition for his possession of Northumberland and Cumberland though he did at length gain rights to the two Castles. Even held of the English crown, these were substantial gains and David's status as one of the dominant powers in Britain at this time was symbolised by Henry of Anjou's reception of knighthood from him in 1149 at Carlisle, at which time Henry promised to allow Henry of Scots to hold Northumberland on his planned accession to the English throne. David's tenure of Cumberland was further strengthened by Ranulf Meschines renunciation of his claim to the county by virtue of his grant from Henry I in return for Henry's

61 W Hulton - Furness Coucher Book (Chetham Society 1847-49), 24

62 Chronicles of the Reigns of Stephen, v3, 156

own cession of the Earldom of Lancaster ⁶³.

Scottish power in northern England arguably reached its greatest height in the last years of Stephen's reign when David was able to install William FitzDuncan forcibly in Skipton and in the following year to establish his grandson as Earl of Northumberland. This extensive power, however, depended on two things, the ability of David and the corresponding weakness of Stephen. Despite the support of Eustace FitzJohn at the Battle of the Standard Northumberland at any rate, displayed no positive enthusiasm for Scottish rule and its allegiance to the young Earl had to be assured by the taking of hostages.

The death of David I and the establishment of Henry II's rule in England presaged ill for the Scottish tenure of northern England. Henry was determined to restore direct English rule to the Solway - Tweed boundary and by 1157 he was in a strong enough position not only to insist on the return of Cumberland, Northumberland and Westmorland but to gain it without resistance ⁶⁴. In return for this resignation, Malcolm IV was granted the distant Earldom of Huntingdon while William de Warenne, erstwhile Earl of Northumberland, gained only a small estate in Tynedale. Henry II's charter to Hubert de Vaux has already been noticed briefly, and it seems likely that the family of Gille, son of Boet, having held their land throughout the reign of Stephen were among the relatively few who resisted Henry's reconquest and were in consequence dispossessed. It was in any case prudent for Henry to establish a subordinate in the border barony and this act

63 VCH, v1, 243

64 Chronicles of the Reigns of Stephen, v1, 105, 106

fitted in well with Henry's attempts to secure the border, notably the restoration of the castles of Wark and Norham. Henry's precautions were put to the test during the young King's rebellion when despite the alliance between young Henry and William the Lion they proved successful. After initial successes in 1174 William's conquests were limited by his failure to capture Carlisle which was well defended by Robert de Vaux and the war ended in humiliation for the Scots King. By the treaty of 1174 he was forced, not only to do homage to Henry, but also to his son and to surrender five strategic castles south of the Forth.⁶⁵ William's earlier claim to the northern counties of England was wholly over-ridden and he also lost his estates in Huntingdon and Tynedale.

On Richard I's accession he relaxed the yoke of servitude and dominion from the Scots king but William's liege homage was retained⁶⁶. The Scottish lands in Tynedale and Huntingdon were returned but Richard was not prepared to consider William's claim to the Earldom of Northumbria, a claim which also may have included Cumberland and allowed the Bishop of Durham to purchase the title⁶⁷. William's desire to gain control of the Northern counties was restated at Richard's re-coronation in 1194 without success but without apparently damaging relations between Richard and William⁶⁸. An elaborate scheme running in the face of the custom governing the Scots succession by which William's heir, Margaret, should marry Otto of Saxony with the couple gaining Cumberland, Westmorland and Northumberland as a dowry also came to nothing, partly as a result of

65 Stones, Relations, no 1

66 *ibid*, no 2

67 J C Holt - The Northerners, (Oxford 1961), 204

68 R L Poole - Domesday Book to Magna Carta, (Oxford 1961), 280

opposition in Scotland, on the birth of a male heir to William in 1198⁶⁹.

William may well have been disappointed by the succession of John and it might have been to his advantage if Arthur of Brittany had succeeded to the English Throne. He was probably still more distressed by John's refusal to consider his claim to possession of northern England. Despite William's initial caution it is clear that relations between himself and John were poor and that William recognised in John a greater determination to hold on to the northern counties than Richard had demonstrated. In the worsening climate of relations between John and William renewed claims for the northern counties fell on unsympathetic ears, though John was prepared to allow William to retain lands in Tynedale⁷⁰. This did not lead to any settlement of the larger issues at stake, however. Indeed relations deteriorated further and were only partially resolved by a meeting between the two kings at Norham in 1209. Undoubtedly a treaty was made between John and William at Norham but this document was lost and it is only possible to reconstruct it indirectly. It is certain though that the agreement was to John's advantage rather than Williams. William was forced to pay John £10,000 to have his goodwill as well as entrusting his daughters to John for marriage. If William had any hopes that he might gain the Northern counties by means of a hypothetical marriage for his heir, no mention of this was made in the treaty⁷¹.

69 *ibid* 281; Duncan - Kingdom, 240

70 T D Hardy - Rotuli Litteratum Clausarum 1204-1227 (Record Commission 1833), 43

71 Stones - Relations, xiv

A further provision of the settlement concerned the marriage of William's son Alexander and while the Scots King may have hoped that he was promised a royal marriage, in practice it was only undertaken that he should be married without disparagement ⁷². The details of the treaty however confirmed the effective sovereignty of John over much of Scotland and as in Henry II's reign English power was extended to curb a rebellion in Galloway. Scottish claims to English Cumbria were annulled.

If there was any conclusion to be drawn from William's attempts to regain the northern counties it was surely that the resources of the Scottish monarchy were, in any normal circumstances, inadequate even to attempt the task. Shortly after his succession, however, Alexander II was presented with an unprecedented opportunity as a result of John's dispute with his baronage. Alexander's plan of campaign was one that would have been familiar both to his ancestors and his successors. In mid October 1215 he took his whole army across the Tweed to Norham and laid siege to the castle. Despite Alexander's admirable persistence, he laid siege for forty days, the castle did not fall. Even so the campaign achieved considerably more than the Melrose chronicler allowed, at least in theory. Three days after the start of the commencement of the siege Alexander took the homage of the Northumbrian rebels and received in turn seisin of the northern counties from the hand of the rebel leader Eustace de Vesci ⁷³ and it is possible that the rebels in Cumberland made over Carlisle to Alexander.

72 Duncan, Kingdom, 251

73 Anderson - Early Sources of Scottish History, v1, 405
C Thompson and C Innes - Acts of the Parliaments of Scotland
(Record Commission 1814), 108

John was well informed of developments in the north and took rapid steps to curb them. In the last week of December 1215 he brought a powerful force of routiers into northern England forcing the rebels in Yorkshire to flee north where they joined forces with the Scots king, doing homage to him at Melrose on the 11th January. Alexander, however, was no more able to protect their lands than he was to protect his own. John's forces harried as far as Haddington then he marched south as fast as he had come. Probably during February Alexander's temporary gains in Cumberland were recaptured and entrusted to Robert de Vipont⁷⁴. Alexander reacted immediately but this time his chief target was Carlisle. The assault on the castle, however, was unsuccessful and the Scots army was unable to penetrate beyond the Eden, possibly as a result of the difficulties of crossing the winter-swollen river. A more effective campaign was launched by the Scots in the summer of 1216 and on the 8th August the city of Carlisle fell though the castle held out a few days longer. Alexander and his allies advanced into England despite the loss of Eustace de Vesci at Barnard Castle. By September, after an astonishing march, Alexander did homage to Louis of France at Dover for the lands in northern England, of which he had been enfeoffed by the rebels. John's final offensive into the midlands may have prompted Alexander to start a retreat, but perhaps even more surprisingly than the earlier advance, this too was conducted without major loss⁷⁵.

There can be no doubt that by the time of John's death Alexander had made considerable gains. He had gained cession of the three northern counties, even if he had still to establish effective control over them.

74 Rot Litt Claus, v1, 247

75 Anderson - Early Sources, v1 413

Nonetheless he was able to bring real influence to bear on Carlisle. During a vacancy in the see, Alexander had been able to bring his wishes to the attention of the cathedral chapter just as effectively as he might have done anywhere in Scotland itself⁷⁶. Despite this there were increasing signs that the climate was changing against Alexander and that the regency government viewed his ambitions in the north of England with no more favour than John had done. The re-issue of the Magna Carta ominously avoided any mention of the rights of the King of Scots and after the defeat of the rebels at Lincoln the reckoning was brought closer. In September 1217 an order was issued to the Archbishop of York, the Bishop of Durham and lay northern magnates instructing them to be ready to assist in the recovery of Carlisle if Alexander refused to surrender it to Robert de Vipont⁷⁷. In December 1217, the Archbishop of York came north to Berwick where he released Alexander from excommunication but on his return south he made a detour by Carlisle where he received seisin of the city of Alexander's mandate⁷⁸. Alexander himself left Berwick for Northampton where, though he was greeted with honour, he was still constrained to do homage to the young Henry III for the lands he held in Huntingdon and Tynedale while the question of Alexander's claims to other lands in the north of England were postponed for the term of Henry's minority⁷⁹. The legate Pandulph later produced a settlement of the disputes between the two kings but but this concentrated less on the question of the northern counties than on the former arrangements for marriage alliances. Alexander at last married Joanna while his sister Margaret was married to Hubert de Burgh.

76 CPR 1216-25, 111

77 ibid, 93

78 Anderson - Early Sources, v1, 425

79 Duncan - Kingdom, 525

The question of Alexander's claims to the three northern counties was overshadowed by internal affairs for several years in both kingdoms but it re-surfaced in 1235. Despite a papal injunction ordering him to accept the terms of the treaty of Falaise Alexander was determined to press for nothing less than the whole three counties as well as repayment of the £10,000 which John had obtained from his father⁸⁰. Henry clearly believed that Alexander was preparing to use force to gain his demands but there is no evidence to support this belief. After negotiations between the two kings and the magnates of the two realms at York a form of compromise was reached. In return for abandoning his claim to the three northern counties Alexander was to be granted two hundred pounds worth of land in Northumberland and Cumberland though the land chosen was to exclude any towns and castles. The land was to be held in demesne by Alexander by a nominal service of one goshawk while enjoying every liberty and immunity. In part this promise was made good, but though the list of privileges Alexander was to hold was an antiquaries delight, the treaty made clear that the land in question was to remain wholly subject to the English crown and, in practice, Alexander enjoyed rights which were only marginally more extensive than those enjoyed by his less exalted neighbours⁸¹. The treaty of 1237 left the choice of the manors open and the matter was only settled in 1242 when according to the judgement of the Bishop of Durham, Alexander was granted the manors of Langwathby, Salkeld, Scottby, Sowerby, Carleton and sixty librates of land in Penrith in Cumberland as well as the lordship of Tynedale in Northumberland⁸².

80 Stones - Relations, No 6

81 *ibid*, No 7

82 C Chart R 1226-1300, 268

It has been suggested that the belated settlement of Alexander's claims marked the opening of a new phase in Henry's relations with Scotland during which incentive replaced coercion. It seems hard to find any evidence to support this contention, however, and in 1260 Alexander III considered that Henry had failed to fulfill the obligation he had made to his father and he revived the Scottish claim to Northumberland⁸³. Moreover, the repeated delays in the provision of the land Alexander had been promised had led him to have little faith in Henry's word⁸⁴. For his part, Henry found little difficulty in finding grievances, real or imagined in Alexander's conduct.

It seems very likely that the expulsion of Walter Bisset from Scotland on suspicion of complicity in the death of Patrick of Atholl was an important step in creating a crisis of relations between Henry and Alexander. Bisset found a refuge at Henry's court and his attacks on Alexander found a ready audience. Despite this, it seems unlikely that the campaign which Alexander mounted in 1244 was in protest at Henry's harbouring of the dissident Bisset. Matthew Paris asserted that in 1244 that Alexander had claimed that he neither held nor sought to hold any part of his kingdom from the English king and it seems, as a result, that Alexander was seeking to remove any form of English supremacy from his kingdom⁸⁵. Such a bid for independence may have seemed especially threatening to Henry, beset as he was by a rebellion

83 H R Luard - Flores Historiarum, (Rolls Series 1890), 3 vols, v2, 459

84 CCR 1231-42, 142

85 H R Luard - Matthew Paris' Historia Anglorum, 7 vols, (Rolls Series 1872-73), v2, 489

in Wales. Even more ominous was the co-operation of Alexander's brother-in-law John de Courcy and the construction of castles on the Anglo-Scottish border. The construction of such castles would have been consistent with a decision to remove Henry's influence from Scotland and both Matthew Paris and Fordun suggest that the construction of castles was the cause of dispute between the two kings⁸⁶. Henry reacted to the construction of the castles as to a direct threat and an insult to his realm and gathered what all the chroniclers agree was a large force and marched north to exact what the Lanercost writer called the 'ancient submission' from Alexander⁸⁷. Alexander responded by raising as large a force as he could but in the event hostilities were avoided as a result of the mediation of the Archbishop of York and Richard of Cornwall. Alexander gave some vague promise of allegiance and probably to forestall a possible French allegiance Henry betrothed his daughter Margaret to the future Alexander III. Despite the exceeding youth of both bride and groom, the marriage was welcomed on both sides of the border and the goodwill generated by the marriage was evident during the minority of Alexander III. The good relations between the two kings were only, in part, matched on the border itself but these disputes were confined to the local level and may very well have benefitted from the fact that both kings declined to become directly involved⁸⁸.

On Alexander II's death in 1249 a long minority was inevitable and either through family sentiment or political expediency, Henry III and

86 *ibid*, 490, 496

87 W D Simpson - Hermitage Castle, 4. As Simpson made clear, there is no reason to doubt that Matthew Paris would have regarded Hermitage as being part of Lothian which was understood as the whole region *south of the Forth*.

88 Matthew Paris Hist Angl, v2, 489, 493, 494

his agents were bound to play a large part in that minority. Whatever the intricacies of Henry's policy in these years, and any clear policy is hard to discern either in Henry's dealings with Scotland or towards his northern nobles, there is no evidence that Henry had any intention of either annexing Scotland or of subjecting it to his direct rule. If the kings of England claimed a vague, perhaps simply ceremonial, suzerainty over the Kings of Scots, such claims did not define relations on the March. By around the year 1250 we might fairly conclude that Cumbria was effectively the English West March against Scotland, whether or not the Church of Carlisle could point to a time when the region had been part of Scotland⁸⁹. Cumbria however, marched with an area with which it shared many links, similarities and though the border may have been scrupulously defined at the accession of Alexander III of Scots or Edward I of England, it remained a political and legal boundary rather than a military one.

CHAPTER 1

RURAL ECONOMY AND SEIGNEURIAL INCOME

I

The economy of mediaeval Cumbria was directly dominated by agriculture and the nature of that agriculture was in turn dictated by the region's geography. Landscape, soil disposition and climate limit the range of crops which can be cultivated today but the options they imposed in the middle ages were still more restricted. Taken as a whole the region is an unpromising one but with a considerable degree of variation within it. The result was that two quite distinct types of agriculture were practised in the region, one on the high ground, the other in the lower areas ¹.

Cumbria is dominated by high ground, indeed it contains the highest points in England, while on the east it is bounded and, to a degree, isolated by the highest stretch of the Pennine Chain. The central highland zone of Cumbria, where the mountains form a central hub to the region contains the least promising ground for agriculture. Within this area less than 2% of the land is suitable for arable cultivation ². Westmorland lies almost wholly within the highland zone and it has been calculated that only 5% of the ground there can be used for arable cultivation.

While substantial areas of Cumberland are also mountainous it contains the two main arable areas in Cumbria. The first of these is formed by the Eden Valley and this joins with the second arable zone, the Carlisle Plain. The Carlisle Plain itself extends from Brampton in the east where a depression in the Pennines allows access to Northumberland through the Haltwhistle Gap and Tynedale to the west coast bounded by

1 A O Ogilvie - Great Britain: Essays in Regional Geography (Cambridge 1928), 339-356

2 E Miller - 'Farming in Northern England in the twelfth and thirteenth centuries', NH, v11 (1975), 3

the Irish Sea and the Solway Firth. The Carlisle Plain also forms a coastal flange on the west side of the Cumbrian Mountain dome providing an area of good soil, by local standards, around Cockermouth. As the coastal plain progresses southward it narrows and becomes increasingly less suitable for crop cultivation as much of the land lies above the 600 foot contour. Though the plain widens again further south, allowing increased cultivation, this area is still less favoured than in the north.

The red alluvial soil of the Carlisle Plain is, in itself, reasonably fertile but during the Middle Ages its productivity was low. Climate was in a large degree responsible for this. Rainfall on the west coast is inevitably high and the growing season is short, often allowing insufficient time for the crops to ripen before the onset of winter. In Skipton in Yorkshire, corn was said to be rotten on the stalk before it could be harvested and this was probably frequently the case in Cumbria too ³. At Cockermouth in 1266, for example, the barley grown from 21 bushels of seed had to be excluded from the reeve's account because it was still standing unharvested in the rigs in October ⁴.

Even within the Carlisle Plain, stock raising was an important element in local agriculture. In the highland areas of the region it was the mainstay of local farming. Despite this the highlands did not provide the best grazing available locally which was on the coastal plain. On the high ground pasture, despite the absence of arable cultivation, grazing was still in short supply.

3 *ibid* 2

4 SC 6/824/6, m2

Andrew Pringle, in the eighteenth century, calculated that around three-quarters of Westmorland consisted of waste ground ⁵. Much of the vegetation in the waste ground has little nutritional value for stock. Severe winter conditions, moreover, mean that stock must be brought on to lower lying pastures for long periods of time. Competition for grazing rights was as a result extremely intense and disputes common. In an amicable settlement of a dispute, which had originally been commenced by an action of novel disseisin before William de Saham and his fellows at Appleby in 1278, Robert de Crossby Garratt quitclaimed to Robert L'Engleys all his rights in the park of Swithinbank in return for grazing rights in the common pasture of Crossby Garratt ⁶. Such settlements were by no means uncommon in the northern counties and the form of the settlement belies the extent to which such disputes were contested and the ~~importance~~ importance of the gain made in this instance by Robert L'Engleys. In other cases the animosity which such contests engendered was less thoroughly concealed. In 1275, in the libery of Tynedale, the Archbishop of York quitclaimed "for the sake of peace" his rights to pasture in Stawardgate to William de Swinburne ⁷. If grazing land of any kind was scarce, land which could support stock throughout the year was rarer still and as a result more highly prized. Land-holders were prepared to go to extreme lengths to protect it, even leading to apparent defiance of royal writs. In one case, Adam de Carlton, having won an action before the justices in Eyre against John de Lancaster for the return of 2000 acres of pasture in Barton in Westmorland "which provided grazing for the whole year" was forced to summon Lancaster

5 A Pringle - A General View of the Agriculture of Westmorland
 (Edinburgh 1794), 6

6 CRO D Lons/L Deeds C.G2; see also T.2 a settlement between
 Henry de Threlkeld and Thomas de Derwentwater

7 NRO Swinburne MS 1/64

to the court of King's Bench to answer why he had not executed the award. In the event even this profited Adam nothing because John de Lancaster was able to prove that he had been serving in Scotland at the time of the award and as a result was allowed to go without day ⁸.

It is very easy to guess at the enormous importance of livestock farming in upland Cumbria but it is almost impossible to quantify that importance in exact terms. We have no direct evidence for the economy of large scale livestock farming as we have for the mixed range farming practised at Cockermouth. Nevertheless, two generalisations can be made. Firstly there was a wider range of livestock than is customary today. Sheep and cattle were reared on a very large scale. Pigs were perhaps as plentiful but were kept in smaller concentrations. Goats were also important. When William de Greystoke granted his follower Adam de Blencow lands in Newbiggin, Blencow and Penruddock, during the reign of Edward III, he explicitly included the right to have common pasture for Adam's cattle, goats and swine ⁹. In terms of absolute numbers there can be no reliable estimates of the sizes of flocks but they were clearly very large. In the mid thirteenth century, the forest of Langdale provided grazing for over 600 cattle ¹⁰. At Beetham in Westmorland in 1254 one manor provided accomodation for 80 cattle. Livestock farming in the lowland areas overlapped closely with that in the upland zone as a result of extensive transhumance, but it was probably much larger in scale and much more profitable. The sheep flocks belonging to the monks of Holm Cultram has been estimated to have numbered as many as 10,000 during the late thirteenth century ¹¹.

8 KB.27/165, m32d

9 CPR 1348-50, 248

10 H E Hallam - Rural England (Glasgow 1981), 195

11 Reg Holm Cultram, 367E, Miller 'Farming in the North', NH V11 (1976)

The estate accounts which survive for the Forz estates at Cockermouth allow us to see local agriculture in greater detail and though the numbers of livestock there may not have been as large as at Holm Cultram, livestock farming at Cockermouth was clearly well organised and important. The lord's livestock were managed by a specialist stockman. In one of the earliest accounts, for 1265-66, Adam the Stockman accounted for £9.14s.6d. from the profits of his activities but clearly he also had power to arrange grazing for his charges and to sell off what was not required. This had raised 7 shillings ¹². The accounts for 1268-69 provide further information. Arrears from the previous year totalled £1.19s.1d. In the usual fashion this sum was charged to the stockman's account as money received. The other receipts were provided by the sales of livestock and produce. The largest sum, £8.4s.1d came from the sale of wool from the 494 sheep in the flock. Milk and milk cattle were also sold, raising over £7. Other sales of livestock included a bull, 7 cows and 15 sheep which raised a total of £2.9s.8d. The sale of carcasses realised a further £1.1s.1d ¹³. The stockman's account for ten years later shows some changes. This account included not only sheep and cattle but also cart-horses and draught oxen. The reeve accounted for the sale of one cart-horse from a total of 33 but he was also required to record the colts born to his charges since the last account. In the year a total of three foals had been born, 1 male and 2 females. The cattle herd had also increased slightly in size to number 42, which included 1 bull. Five calves had been produced and these were the only cattle sold. Sheep were still the most important animal kept by the stockman and the number of animals in the main flock appears to have remained almost constant.

12 SC.6.824/6, m1d

13 SC.6.824/7, m4d

This, however, was not the total of sheep kept on the Countess' lands. The reeve of Birkby accounted for £5 raised from the sale of wool from the 219 sheep for which he alone was responsible and this suggests that the flock kept there was almost as large as that kept by the stockman. In the stockman's account breeding activities were very important. In a total of 506 animals, 211 were lambs born that year. Of these 135 were sold while the reeve had to account separately for the male and females in the remainder which were kept ¹⁴.

Evidence from the sale of wool at Holm Cultram, which was probably closely similar in quality, suggests that at this time most of the Cockermonth wool was of high quality ¹⁵, even though a group of merchants later complained to Edward III that the wool from the northern counties was of such poor quality that it was incapable of being sold for a worthwhile price ¹⁶.

Livestock farming played only a limited part in the overall economy of the Cockermonth estates. In 1268 the total paid to the receiver of the Cockermonth estates from the stockman was £18.13s.7d in the overall total of £121.0s.4d ¹⁷. While this was one of the largest individual contributions, second only to that paid by the borough of Cockermonth, it was only some 13% of the total income of the estates as a whole.

The limitations placed on local agriculture by soil conditions and weather placed severe restrictions on local arable farming. The range

14 SC.6.824/14, m3d

15 Reg. Holm Cultram, 367E

16 CPR 1340-43, 165

17 SC.6.824/7, m4d

of cultivation and of profitability was narrow. Oats was dominant among cereal crops almost to the extent of mono-culture¹⁸. Though rye, barley and wheat were grown in places the region as a whole provided the greatest possible contrast with the fertile bread grain lands of southern England. Today, it has been calculated, oats provides 60% of the grain grown in Cumbria, in the mediaeval period the proportion was much higher¹⁹. The barony of Liddell on the border with Scotland paid rent valued only in terms of oats. This rent was valued at 1 mark per 12 bushels²⁰. Exactly the same was true of those scattered areas of Westmorland where arable cultivation was possible as at Sizergh and Helsington²¹.

The account for the granary at Cockermouth in 1268-9 illustrates the general position well, though it is possible that Cockermouth was more than usually productive as a result of better than average soil and more efficient management. Four grain crops were grown and these were accounted for separately, while oatmeal formed a separate heading. The quantities were measured in skeps, windells and strikes, measures particularly associated with the north of England. A strike may be taken to approximate a bushel. A windell, three strikes and a skep equal to four windells or twelve bushels²². For convenience all quantities have been expressed in bushels. There was an enormous imbalance between spring sown and winter sown crops. This remained true even though 21 bushels of barley remained unharvested in the field at Michaelmas. Barley and rye were the least important crops.

18 Miller - 'Farming in the North', NH, v11 (1976), 8

19 Ogilvie - Essays in Regional Geography

20 Bain CDS, v2, no 208

21 Miller - 'Farming in North', NH, v11 (1976), 8

22 Oxford English Dictionary

Only 66 bushels of rye were grown and of this total 36 bushels had to be reserved for use as seed the following year. Barley suffered a particularly bad year as has already been noted. Wheat was the next largest crop. A total of 101 bushels were harvested and with the exception of two bushels which were allowed to the reeve of the castle, all of this was taken to the castle. None apparantly was used for seed²³.

The pre-dominance of oats was striking. The total quantity grown was 2,922 bushels, though this total did not include a further quantity of oat-meal. This quantity had been grown from 1,020 bushells of seed, suggesting a yield ratio of just under three-fold. Of the crop produced around 40%, or 1,152 bushels, were consumed on the estate itself to feed draught animals and estate workers. The remaining 1,772 bushels were delivered to the reeve of the castle and it was probably from this stock that the seed for the next year was drawn. The oatmeal was, in general, used to provide allowances to shepherds, ploughmen and other estate employees.

The accounts for the year, from Michaelmas 1289-90, display very little overall change on those from 1268-69. It would be unwise, however, to attempt to compare the two sets of accounts precisely because Birkby, one of the most productive arable vills, was accounted seperately from the rest of the grain production. Nonetheless, the accounts for 1289-90 support the picture of relative importance of the various grain crops provided by the earlier accounts. At Birkby the reeve accounted for 26 bushels of wheat, 15½ bushels of rye, 62 bushels of barley and 864 bushels of oats. Thus even on a highly specialised agricultural vill oats provided over 90% of the grain grown.

The account of the granary at Cockermouth is more comprehensive. As in the previous account it includes a quantity of oat-meal paid in by the reeve of Broughton, in this case 202 bushels. A total of 34 bushels of wheat was collected by the reeve. Of this 8 bushels were sown over two acres, three roods. The remaining 26 bushels were sold. 35 bushels of rye were collected and $11\frac{1}{2}$ bushels of this were sold, $\frac{1}{2}$ bushel was delivered to the reeve of the castle and the remainder was reserved for use as seed. Of the 74 bushels of barley delivered to the reeve of the castle 62 were sold and three acres were sown at the rate of three bushels to the acre. Oats were again much the largest crop, a total of 1,766 bushels being grown, not including the 202 bushels of meal collected, of which all but 7 bushels was paid in rations to estate staff. Even so the quantity of oats grown was ten times that of the other crops²⁴.

It is worth considering one more account, that for Bolton in Allerdale forfeited by Alexander of Moubray for his adherence to John de Balliol. The total income of the manor of Bolton was drawn from a variety of sources but grain crops were obviously important. Their sale accounted for £13.7s.1d from a total of £28.1s.0d. As rough comparison with the accounts of the Forz estates at Cockermouth will show this was a relatively high proportion²⁵. Only three types of cereal were grown, rye being absent. The most valuable aspect of the account for Bolton is that as well as recording the quantities of grain grown the money raised from the sale of produce is recorded. The quantities of corn produced and the money raised from their sale can be displayed in the following table. The quarters used in the original have been converted to bushels.

24 SC.6.824/14, m3

25 SC.6.824/2, m1

<u>Crop</u>	<u>Bushels</u>	<u>% of Yield</u>	<u>£sd</u>	<u>% of Total Cash</u>
Wheat	168	20	£7. 4s.2d	50.2
Barley	32	4	£1. 4s.4d	8.5
Oats	624	76	£5.18s.7d	43.3
<u>Total</u>	<u>824</u>		<u>£13. 7s.1d</u>	

Two points stand out clearly. Firstly oats were again the largest crop by a wide margin. Equally striking is the fact that the relatively small quantity of wheat grown provided clearly the largest section of the cash receipts.

The Bolton in Allerdale accounts provide a valuable insight into the criteria governing the management of cereal farming in the region and show the relative desirability of wheat over other cereal crops. Not all areas were capable of supporting wheat, however, and oats were the only crop grown throughout the region. Within that area, though, there were variations in yield. At Cockermouth, as we have seen, the yield was almost three-fold but more broadly based calculations have suggested that the overall ratio of return within Cumbria was in the region of 1.8 fold²⁶. This was easily the lowest average of return from a broadly based comparison reflecting the whole of England. At Bolton Priory in Yorkshire, for example, where growing conditions were broadly similar, over a spread of seven manors, the average yields of oats were 2.5 fold²⁷.

26 E Miller and J Hatcher - Mediaeval England; Rural Society and Economic Change, (1978), 216

27 I V Kershaw - Bolton Priory, the economy of a northern monastery 1286-1325, (Oxford 1973), 41

Throughout mediaeval England barley and oats were sown more densely than wheat ²⁸. At Cockermonth we have already seen an example of barley being sown at a ratio of four bushels to the acre. In 1289-90 rye and barley were sown at the increased rate of six bushels to the acre ²⁹. Oats too was generally sown at a higher density than in southern England resulting in a higher gross yield per acre. The compensation this provided for poor yields per bushell is easy to over-estimate, however. More grain was indeed produced, though at a cost in soil fertility and the net yield remained small in useful terms. Of the oats grown at Cockermonth castle in 1289-90 from a total of 528 bushels collected at the granary, 360 bushels were reserved for the following year's seed, almost 68%. Wheat and barley were more productive in terms of grain sown giving returns of 3.3 and five fold but these figures tell rather less than the whole story since these crops were grown only on a small proportion of the available acreage. They were, moreover, confined to the best available land ³⁰.

The region's basic food crop was oats. Wheat and barley may have been grown but they were useful, if unreliable, cash crops rather than staples. Oats was at least dependable even if its yield tended to be low and for this reason it was preferred by the region's small holders. The limited resources available to this group almost certainly resulted in still lower yields than were obtained on the large seigneurial farms such as Cockermonth and Birkby where seed could be exchanged between different manors as was practised by the reeves of Birkby and Cockermonth in 1289 ³¹. Manure was probably

28 Hatcher and Miller - Rural Society, 216

29 SC.6.824/14, m3

30 Hatcher and Miller - Rural Society, 216

31 SC.6.824/14, m3d

also more freely available on seigneurial fields. In coastal Cumberland sea-weed was available as an additional fertilizer and this may have raised yields in coastal districts. In 1289, for example, the Abbot of St. Mary's York granted William de Rottington permission to make a road 12 feet wide through the lands of the cell of St. Bees to take sea-weed "terram suam compostandem" ³².

If a shortage of fertiliser contributed to the low arable yields which prevailed locally the field system may also have had adverse effects. Cumberland clung tenaciously to a field system of celtic origin which survived then until relatively recent times. The system of cultivation corresponded almost exactly to the run-rig system which prevailed in lowland Scotland ³³. As late as the eighteenth century in the arable lands of the Eden Valley the land was divided into crooked dales twenty to fifty feet in width and up to a thousand feet in length, these being distributed between individual cultivators ³⁴. Unlike the Scottish system, however, there was no use of the in-field/out-field system. The available manure was spread evenly and probably thinly over the cultivated land. The result was a shared level of indifferent yields rather than the extremes produced by the system in use in Scotland ³⁵.

The diet of the local people, with the exception of the lords, was directly dependent on the limitations imposed by local agriculture. Oats, the most widely cultivated crop, was inevitably the most generally eaten. In this Cumbria conformed to a pattern common to the

32 CRO, D.Lons/L., Deeds, WH.5

33 H L Gray - English Field Systems, (1959), 240

34 *ibid* 227

35 *ibid* 413

rest of the northern England but unusual within mediaeval Europe as a whole. For the most part in Europe oats were grown as a fodder crop³⁶. At Cuxham in Oxfordshire the oats grown were mainly used as animal feed³⁷. At Cockermonth on the other hand, though oats were fed in large quantities to draught animals, they were also the staple food of the estate workers, as they were of the rest of the regional population.

As a food crop oats has disadvantages. Though oatmeal can be ground from the grain easily enough, it will not rise and thus it is impossible to bake a conventional loaf. As a result the local diet probably included large quantities of porridge or brose. Andrew Pringle reported that the bread of the ordinary people of Westmorland was made from a paste of oat-meal and water mixed into a disc about 20 inches in diameter. This was then baked on a girgle or griddle over a fire. According to Pringle, the resulting oatcake called clap-bread formed the staple diet of the inhabitants of the region. A striking feature of Pringle's account of the diet of the eighteenth century Cumbrian is how closely it corresponds with Jean le Bel's account of the oatcakes which the Scottish troopers cooked and ate while they were on campaign in 1328³⁹. Clearly diet was a factor which gave the mediaeval Cumbrian more in common with his Scots neighbours to the north than with his compatriots to the south.

36 N J G Pounds - An Economic History of Mediaeval Europe (1974), 191

37 P D A Harvey - A Mediaeval Oxfordshire Village, Cuxham 1240-1400 (Oxford 1963), 47

38 Pringle - General Account, 39

39 J Viard and E Depres - Chronique de Jean le Bel (Paris 1904), 51-52

II

Lordship on the West March was, as it was in Domesday England and in Scotland, much more than the possession of large scale agricultural estates. Lordship was distinguished by the possession of a wide range of rights and powers and these can be considered as economic powers, financial resources available to the lords of the West March and held exclusively by them by virtue of their position. As in Scotland these rights included the right to control the exploitation of the woods within their lands, though with the exception of royal forests, the control of fisheries within their estates, tolls for passage through their land, the right to enforce compulsory milling at seigneurial mills and the profits from the seignorial court⁴⁰. None of these powers was unique to the March of Scotland, they were to be found in varying degrees and combinations throughout England, but they combined in Cumbria to create a pattern of lordship which was distinctive to the region.

An important factor which conditioned the regional style of lordship was the basic poverty of the West March as a whole. The limited range of agriculture which could be practised meant that agricultural profits tended to be low. Moreover, since even indirect forms of income, such as the profits of justice, drew ultimately from the wealth created by local agriculture the cash available from these sources was, in absolute terms and on a national scale, limited. In simple monetary terms, the lordships of the West March compared poorly with large estates in southern England. The lordship of Liddell one of the largest estates in Cumberland, was valued at £295.16s.2d⁴¹. The average income from the Cocker-mouth estates in the last quarter of the thirteenth century might

40 R Nicholson - Scotland the Later Middle Ages (Edinburgh 1978), 7

41 Bain, CDS, v2, no 208

be estimated at between £120 and £200 but whilst Cocker-mouth is the best documented lordship it is not always a reliable guide to the profitability of lordship in the region, even within coastal Cumberland as a result of the contribution made to the estate revenues by the borough of Cocker-mouth⁴². There were, without doubt, profits to be made from the lordships of Cumbria, but they must be considered in perspective. For example, the lordship of Denbigh in the March of Wales has been valued at over £1,000 a year during the early fourteenth century⁴³. To take an example from nearer to the West March, the Earl of Lancasters estates in Pickering were worth almost £600⁴⁴. The honours of the West March did not produce such large sums in gross receipts, it is probable that they did not even produce such a high ratio of profit over expenditure. One important consequence of this fact must be considered therefore before proceeding further. The magnates of the West March fell into two categories. The first were those magnates who held estates spread throughout England including the West March. Isabella de Forz provided a typical example of this group, for though Cocker-mouth was a major holding in the area, Isabella de Forz played no noticeable role there. Much the same was true of the lords of the Wake family. The other holders of major local estates with only a few exceptions, the Cliffords and the Multons of Egremont, were men of the second rank of baronial status, unless they held extensive estates elsewhere as the FitzWilliams of Greystoke did. During the thirteenth century, for example, the Lucies of Aspatria whose lands were restricted

42 see below

43 G A Holmes - The Estates of the Higher Nobility in Fourteenth Century England (Cambridge 1957), 97

44 D Oschinsky - 'Notes on the Lancaster Estates in the Thirteenth and Fourteenth Centuries'. Transactions of the Historic Society of Lancashire and Cheshire (1968), v50

to Cumberland and Northumberland were of very little national importance. The result of this situation was that, at least before the reign of Edward II, the lords of the West March formed no clear and coherent group as the Welsh Marchers did on occasions and the region did not stand as a power base for opposition to the crown. Those lords who held widespread estates often tended to pay a greater attention to their estates elsewhere than to those in Cumbria and this mitigated against the emergence of a distinctive regional group. This, however, was in no way the same as neglect, either of the profitability of their estates or of their judicial powers. These were exercised, often with great rigour by seigneurial officials and bailiffs, though there are clear examples of lords who found it difficult to exercise effective control over their bailiffs. This, however, was not reflected in the powers exercised by the bailiffs in their lords' names or the contributions they forced their lords' men to make to his finances.

The lords' incomes were derived from a variety of sources but as E.A. Kosminsky was among the first to recognise, seigneurial monopolies played an extremely important part in them⁴⁵. On the West March one of these, suit of mill, was enforced with particular rigour. It was among the most common causes of court cases and as a concomitant aspect of tenure it was levied from free and unfree tenants alike. It also formed an important part of the revenues derived from seigneurially controlled boroughs. Multure was frequently exacted in the form of produce, a portion of the corn ground and it added very significantly to seigneurial incomes. On Baldwin Wake's lands at Liddell for example there were five water mills which raised a total of £50 for Wake, and this was pure profit to the lord since the free tenants who owed suit

45 E A Kosminsky - Studies in the Agrarian History of England in the Thirteenth Century (Oxford 1956), 187

to the mills were also obliged to provide for their upkeep⁴⁶. At Liddell, in fact, the profits of the mills were more valuable than the rents paid for the farm of the demesne. A similar pattern emerges from the accounts from the manor of Ulvedale in 1330. Rents totalled £14. 4s. 10d, but the sale of oatmeal collected from the right of multure accounted for a further £9 6s. 0d, almost 40% of the total income of the manor. In the following year the total declined to £22 7s. 10d but the profit of the mills remained important at £6 15s. 0d or around 30%⁴⁷. In the account of the reeve of Crosby, late in the reign of Henry III, the income derived from the farm of the mill was, at £4, not only the largest item in the total owed by the reeve but was over half the total raised from the vill⁴⁸. Broughton, perhaps, bears out Kosminsky's emphasis on the importance of seigneurial monopolies still better. The mill produced for the lord a total of 360 bushels of oatmeal, a quantity which was 12.5% more than the produce rent paid by the demesne then at farm⁴⁹. In the borough of Cockermouth in 1289 - 90, the farm of the seigneurial fulling and flour mills provided £19, again the largest of the seigneurial rights which were exploited⁵⁰. Though few precise figures are available, this pattern probably obtained throughout the whole of the area. The importance of the right of multure was not confined solely to the large liberties of the region, it was used by, and deeply important to smaller land-holders as well. Thus the free tenants and military tenants of the great liberties might be able to demand suit of mill from both their

46 Bain, CDS, v2, no 208

47 E.372/179 Cumberland

48 SC.6.824/6, m2

49 SC.6.824/14, m4

50 *ibid*, m2

agricultural tenants and from other members of the gentry who held of them as Richard de Vernon claimed in the case of Richard le Brun at Rockcliffe ⁵¹.

Multure was probably the most important of the seigneurial monopolies but it was by no means the only one. At Liddel, the bake-house was also a seigneurial monopoly, though one which raised a paltry profit of only 2s, as did the bakehouse at Kirkoswald ⁵². Such low profits were probably a result of the scarcity of hard grains which meant that most grain was cooked and consumed at home in the form of oatcakes. Just as the lord controlled his men's bread he also controlled their beer. If he did not possess monopolistic brew-houses, as Eustace de Balliol did at Kirkoswald, the assize of Beer was a basic judicial right enjoyed by the lords of the region and this gave them control over the consumption of ale within their lordships. In practice many lords did not take fines for breaches of the assize but used their jurisdiction to charge for licences to brew. Generally, however, the sums realised were small and certainly they were much smaller than the profits which were levied through the seigneurial mills. The jurors asked to testify to the value of the assize of Bread and Ale in William de Mulcaster's lands in Copeland reported that the right was worth no more than 1s 6d in a year ⁵³.

The powers of the lords of the West March extended over the control of local fishing and the frequent references to deaths by drowning in the Eyre Rolls suggest that this was an important local activity. Control of the fisheries provided another example of seigneurial monopoly though

51 CP.40/180, m63d

52 Bain II, no 208; Bain I, no 2556

53 POW, 125

often the fishery was let at farm. In the forest of Derwentfells such fisheries were worth almost £1 from a total of £13 which the forest paid towards the total of the Cockermouth estates⁵⁴. In Anthony Lucy's account for Penrith in 1329-30 a fishery let at farm realised £8 and this sum may well have been reduced by the repeated Scots raids during Edward II's reign⁵⁵. Seigneurial control of fishing was not confined to sub-letting of fisheries, however. The lords of Copeland, the Lucies and the Multons of Egremont claimed and were allowed the right to take fines for the use of nets of a mesh of less than four inches⁵⁶. Fines could also be imposed, as was done at Cockermouth, on those caught fishing out of season⁵⁷. Another seigneurial monopoly was the exploitation of the minerals which were to be found in the hard rocks of Cumbria. Again these profits were controlled by the holders of the great franchises. In both the baronies of Egremont and Cockermouth small sums were raised from the farm of mining operations. In Derwentfells £2 was raised from the farm of a leadmine while at Egremont in 1322 mines either of coal, or more probably iron, raised half a mark⁵⁸.

The West March was predominantly a rural region and with the important exception of Appleby the boroughs in the area were all directly dependent on rural estates. Of the remaining towns, most were extremely small indeed, Egremont has been described as less a borough than an inflated vill and the burgesses were the only ones in England who owed

54 SC.6.824/6, m2

55 E.372/179, Cumberland

56 PQW 113; Lucy Cartulary, 52, Typescript at CRO

57 SC.6.824/14, m3d

58 *ibid*, SC.6.824/19

agricultural services to their lord⁵⁹. The boroughs were not farmed out en bloc but remained closely supervised by seigneurial officials so that there was only a difference of scale between a small vill and a borough like Cockermouth or Egremont even though, on occasions, these returned members to parliament⁶⁰.

With the exception of one account for Egremont, conclusions on the importance of boroughs in aristocratic incomes can be based only on evidence from the Cockermouth estates and as a result may be misleading. The information available from Cockermouth suggests, however, that the profits of the borough were an extremely important part of total revenues from the honour. The borough, in fact, provided the largest item in the accounts. In 1265-66 the borough paid a total of £24 from an overall total (arrears deducted) of £121 0s. 1d⁶¹. The next year the contribution from the borough was larger, both in absolute and in relative terms, at over £40 in a total account of £148 10s. 10d. In 1289-90 Simon, son of Richard the Reeve, accounted for an even larger sum and again this displays the strength of the control exercised on behalf of the Forz estates over the borough. The total from the borough was £87 16s. 1d but even when the sum of £39 4s. 1d in arrears are deducted, the large figure of £48 12s. 5d was realised. Of this £19 came from the farm of the seigneurial mills, £2 5s. 9d from the profits of the borough court, a fishery paid £6 13s. 4d and the tolls of the borough paid £7 6s. 8d. Only £11 2s. 1d was paid in simple rent, though this also included 4s. paid in kind in the form of wax⁶².

59 M W Beresford - The New Towns of the Middle Ages (1967), 415

60 Parl Writs, v1, 1i, 1iv

61 SC.6.824/6, m1

62 SC.6.824/14, m2

The sole surviving account for Egremont discloses a substantially different pattern from that at Cockermouth but it is highly possible that an account from before the outbreak of war would have been more similar. Farm of seigneurial mills was again important, and from Easter to Michaelmas 1324, £7 13s 9d was raised from this source. Mulcts and fines at Ravenglass and Egremont realised a further £3 11s 11d⁶³. Much of this sum was probably the profit of tolls levied on produce sold in the market and fairs in Egremont and Ravenglass. The Lucy Cartulary records the level of tolls collected in Copeland. The holder of each staff paid 4d to the lord but tolls were also levied on goods brought for sale, half from the seller and half from the buyer. The toll on a shod horse was 4d, an unshod horse was charged at 2d. 2d was also levied on each pair of pigs or sheep while the buyer and seller of a bar of iron had each to pay ½d⁶⁴. The lord's bailiffs controlled the collection of tolls closely. Each vendor coming to market was required to deposit a pledge equal to the value of the tolls owed if the whole of his stock was sold, and was allowed to claim the return of his pledges for any stock left unsold. Tolls were also levied for passage through Egremont and other lordships even though the goods were not intended for sale there.

The most forcible expression of the lords of the West March's feudal power was to be found in their judicial powers. There was a wide range of seigneurial courts on the Scottish border and there was a hierarchical relationship existing between them but the courts were not, in a general sense, inter-dependent. There were different courts serving different purposes and for different suitors. At the lowest level, as

63 SC.6.824/19

64 Lucy Cartulary Typescript, 49

every free man held his court for his tenants, so there was a court for every manor. This provided the lowest level of judicial lordship on a great honour and it was a relatively humble institution. Arguably it was less concerned with the administration of justice than with estate management. The manor court was held by the reeve of the manor who had to account for its issues to the higher estate officials. The account presented by the reeve of Papcastle for 1266-67 will show the type of business transacted in the manor court. There were four entries, one of these was an entry fine valued at 13s 4d. One shilling was collected on the marriage of one of the tenants. Three small fines accounted for the remainder of the profit of the court, two for pasture offences and one for an unspecified trespass⁶⁵. If we leave aside the entry fine, the money raised from the Papcastle court was very small, both in absolute terms and as a proportion of the total raised from the manor, which was around £5. A similar court held at Bolton in Allerdale was little more profitable raising only 14s 4d from a total for the manor of over £28⁶⁶.

Similar in jurisdiction to the manor courts were the courts held by the forester of Derwentfells and in the bailiwicks of Allerdale and Copeland. The bailiwick courts were held by seigneurial officials, a grade more important than the reeves of agricultural vills, but though they also played a judicial role, like the manor courts, they were more useful as foci for the running of the estate. The bailiwick officials were responsible for collecting rents and cornage dues and they were also charged with controlling succession to tenancies. The offences which were heard in the bailiwick courts were closely similar to those over which the manor courts had jurisdiction. In the forest of

65 SC.6.824/6, m1d

66 SC.6.824/2, m1d

Derwentfells the profits raised from the forester's court were remarkably large, a fact which reflects both the importance of the forest in local life and the power of the lord within the bounds of his forest. Tenants in the forest belonging to Isabella de Forz included other important figures and like less prominent tenants these could be amerced. Among the list of petty amercements levied on two local ecclesiastics for similar offences. The Abbot of Fountains was fined £12, while the Abbot of Furness was fined £6 13s 4d⁶⁷. These were unusually large sums, however, and none of the other accounts for Derwentfells forest studied show such high profits. In the years from 1265 - 67 the profit of the court of the forest was £4 6s 0d though it is worth noting that this sum was still greater than the issues from rent and produce.

Alongside the petty civil and administrative jurisdictions exercised by the estate officials, there was also a criminal jurisdiction. It seems probable that estate officials acted as serjeants of the peace within the great baronies. This duty probably consisted principally of taking pledges for appearance in seigneurial courts. Other duties may have included taking possession, in the lord's name, of the chattels forfeited by those executed by the judgement of the liberty court. In 1278, for example, the serjeant of Copeland accounted for the chattels of Robert Stainton, a thief who had been beheaded. These were valued at £1 17s 8d⁶⁸. Though the serjeant of Copeland was responsible for collecting and siezing Stainton's chattels, the serjeants and bailiffs exercised high justice only in the form of summary execution where guilt could not be denied. The only seigneurial

67 SC.6.824/6, m2

68 SC.6.824/10, m2

court which enjoyed powers of high justice were the courts held at the chief manors of the great local liberties at Egremont and Cockermouth. These courts exercised a wide range of criminal jurisdiction⁶⁹ and their powers were a clear illustration of seigneurial power. Despite this they made less of a contribution to aristocratic finances than their exalted powers might suggest. It was true on the West March, as it was elsewhere, that high justice was a matter of "grand mots; petit profits"⁷⁰. In 1289-90 on the Cockermouth estates the chattels of felons amounted to less than £2 in a total income of almost £200⁷¹. The chattels of felons in fact appeared less as the source of a regular substantial part of the lord's income but rather as an occasional small windfall. The same was true in other courts holding power over life and limb. At Egremont in 1322 the profits of the court were worth £1 13s. 4d. in a half year, a sum which was less than a quarter of the money raised from the mill of Egremont⁷². The court of Penrith, which also heard cases of high justice, occasionally with scant regard for procedure, was more profitable but only marginally so, and the profits of justice accounted for less than a tenth of the total income derived from the manor⁷³.

The courts held by the holders of the greatest liberties over criminal cases were matched by virtually co-incident but separate honorial courts.

69 see below, Chapter 2

70 B Guenée - Tribunaux et Gens de Justice dans la Baillage de Senlis à la Fin du moyen âge (Paris 1963), 266, quoted in J R Sweeney - 'High Justice in Fifteenth Century Normandy; The Prosecution of Sandrin Bourel', Journal of Mediaeval History, v10 (1984), 306

71 SC.6.824/14, m2

72 SC.6.824/19

73 E.379/179, Cumberland

These were the highest level of courts operated by liberty-holders on the West March. They were essentially civil courts deciding matters of land tenure and succession and adjudicating between free tenants. Their activities, however, were very tightly circumscribed by the royal monopoly of justice and in practice the honorial courts seem to have been competent to implement succession by heirs rather than to decide between rival claimants which was the exclusive preserve of the royal courts. Even so the power to demand attendance from free tenants and to amerce them for defaults was highly profitable despite the restrictions placed on the operation of seigneurial courts by Magna Carta and Henry III ⁷⁴. For example, in 1267-68 £6 10s. 0d. was raised from fines imposed on the free tenants of the honour of Cockermouth ⁷⁵. Much larger sums were envisaged by some lords and ladies. In 1289, Idonea de Leyburn distrained John de Greystoke for a relief of £100 for succession to the lands of Dufton, Brampton, Yanwath and Bolton in Westmorland. Though it is not clear whether Greystoke had eventually to pay the relief demanded, a substantial relief has undoubtedly to be paid and such sums provided a useful, if variable addition to the incomes of the largest land holders in the region ⁷⁶.

The enormous gulf which separated the pennies and shillings raised from the manor court of Papcastle and the sum of £100 which Idonea de Leyburn hoped to gain from John de Greystoke shows the variation which was possible in the profitability of different forms of lordship. At the lowest level, on individual manors, a level which was probably closely

74 see J R Maddicott 'Magna Carta and the English Local Community 1225-59', Past and Present, v102, (1984)

75 SC.6.824/6, m2

76 Hist and Antiq I, 16

comparable with the situation enjoyed by the members of the local gentry who held only one or two manors, the profits were very small and played only a small part in seigneurial income. At the opposite end of the spectrum, as at Cockermouth, the profits of justice were much more important. Again the best means available for quantifying this importance are accounts from Cockermouth. Fragmentary accounts do exist for Egremont and Appleby, but these are too incomplete and too much affected by the result of the devastation existing in the region at the end of Edward II's reign to be relied upon. The earliest Cockermouth estate accounts, for 1267-68 and 1268-69 distinguish clearly between income from the profits of justice and from other sources and for this reason these accounts provide the most accessible method of investigating the importance of judicial income. The figures for these years have been displayed in the following table ⁷⁷.

30 Nov. 1265 - 29 Sep. 1266	29 Sep. 1266 - 15 Aug. 1267
Total Income (all sources less arrears)	
£113 12s 10d	£121 18s 6d
Rents (Borough and Rural)	
Rural £71 9s 11d	£ 50 18s 7d
Borough £20 10s 2d	£ 38 4s 0d
Total £92 0s 1d	£ 89 2s 7d
Profits of Justice	
Rural £16 12s 8d	£ 27 14s 0d
Borough £ 5 0s 1d	£ 5 1s 11d
Total £21 12s 9d	£ 32 15s 11d

Income from Borough of Cockermouth

Rents	£20 10s 2d	£ 38 4s 0d
Profits of Justice	£ 5 0s 1d	£ 5 1s 11d
Total	£25 10s 3d	£ 43 5s 11d

Income from agricultural manors and forests of Derwentfells &c.

Rents &c	£71 9s 11d	£ 50 18s 7d
Profits of Justice	£16 12s 8d	£ 27 14s 0d
Total	£88 2s 7d	£ 78 12s 7d
Total Income from Estates	<u>£113 12s 10d</u>	<u>£121 18s 6d</u>

These accounts reinforce the importance of the relative poverty of the lordships of the West March. Total income in both the periods of account considered was low and the income derived from the sources other than the borough was lower still. The portion of the total profit of the honour of Cockermouth derived from the borough was in fact remarkably high at from around a quarter to almost a third. By comparison in an account for a group of manors held by the Clare family in Dorset the profits from two boroughs accounted for less than a ninth of the total ⁷⁸. To take another point of comparison from the March of Wales, in the lordship of Denbigh, the borough of the same name was responsible for less than 3% of the total income ⁷⁹.

The income derived from the seigneurial control of justice was also important but it was subject to considerable fluctuations. In the two years studied, for example, it varied between a fifth and a third of the total value of the estates' rural income. In Denbigh, the ratio was much lower, perhaps surprisingly, at only some eighth part of the

78 Holmes - Estates of Higher Nobility, 145

79 *ibid* 97

rural income, though in cash terms the sum was much higher. Comparisons with lordships in other regions in England again bring out the limited profits available from estates on the West March. They also suggest that the proportion of those profits derived from the perquisites of courts was, to a degree, unusual. As we have seen, the cash realised from the collection of felon's chattels was limited, but the fact that the courts of Egremont and Cockermouth were almost equivalent to the hundred courts in southern England made them courts of first instance for the local population, bringing in numerous petty cases and in consequence a variety of small amercements and perhaps just as important, the right to take fines for defaults. Bearing this in mind it is worth comparing the profits of Cockermouth with the profits from an honour where similar powers were exercised. On the English estates of the Abby of Bec, the bailiwick of Ogbourne was enfranchised with powers which made it closely comparable with Cockermouth, *infangthef* exemption from the shire and hundred courts, the view of frankpledge and the assizes of Bread and Ale. The total profits of justice at Ogbourne amounted to some 32% of the total income from the bailiwick⁸⁰. This figure compares very closely with that from Cockermouth. On the Clare manors in Doreset the inclusion of three and a half hundred courts which the family held in the account raises the total profits of justice to almost exactly the relative importance they enjoyed at Ogbourne and Cockermouth⁸¹.

The comparisons which can be drawn between the profits of justice at Ogbourne and at Cockermouth illustrates both the fact that possession of powers of justice conferred important revenue raising powers and the

80 M Morgan - The English Lands of the Abbey of Bec (Oxford 1946), 63

81 Holmes - Estates of Higher Nobility, 145

fact that in relative, though not in absolute, terms there was a clear relationship between the level of judicial powers that were exercised and the income which could be derived from them. Thus while the 25-30% of the total income derived from the profits of justice at Cockermouth was in keeping with what seems to have been the national pattern, the example of Cockermouth is important because, unlike Ogbourne, it was one of a range of similar lordships not a specially privileged area with few local parallels. The West March depended on private jurisdiction for local law enforcement and as a result private jurisdictions enjoyed both wide judicial franchises, and perhaps more importantly, wide areas of land in which to operate. There is good reason to believe that this was more important than the nature of the powers exercised.

The evidence suggests that it was lordship, the power of one man, woman or their agents over other men, that created the profitability of the estates of the Western Border. The most dramatic examples of this power were to be found in the lord's powers of life and limb but this was an extreme, and possibly unusual example. The exercise of the seigneurial power of the gallows was rare and of limited profitability, the power associated with control of the private forest as at Derwentfells was much more common and as a result, profits from it were more regular and important. Even more prosaic but yet more profitable was the exercise of the seigneurial monopoly of milling. This power lacked the drama and the apparent status of the private powers over life and limb but in simple cash terms it was more important. At Penrith in 1330 the profits of justice were only a third of the income that was drawn from the mills let at farm⁸². Though definitive figures for the whole of the March are impossible to estimate, this ratio could probably be extended to

cover the whole region without undue distortion. In short, therefore, if lordship is described as the extent of one man's power over another, the greatest display of seigneurial power was the private gallows. If, however, we try to see the lordships of the West March as simply sources of profit, there is no doubt that the seigneurial monopoly of the mill was of greater value than any other power.

III

The relative poverty of the great estates of the West March had an important effect upon the way in which they were administered during the thirteenth century. As has already been noted many lords held land spread throughout the whole of England and divided their time amongst them by means of an elaborate peregrination. Different estates were visited for different periods of time according to their importance and according to purely personal preferences. For many local lords their estates on the West March occupied a low place in their interests and priorities. There is, for example, no evidence that Isabella de Forz ever bothered to visit her estates in Cockermouth. The lords of Liddell, the Wake family, seem to have displayed only a little more interest in their northern lordship. In the late thirteenth century the site of the castle at Liddell contained only a few wooden buildings and these were much in need of repair. Equally telling was the fact that the park there contained no deer⁸³. In addition, unless the Wake was prepared to make do with oat bread, wheat flour would have had to be bought in or brought from another estate, none was grown on the estate.

The limited interest taken by Isabella de Forz in the Cockermouth estates was reflected in the way in which the estates were managed. The lady Forz may not have cared to make the long trip to Cumberland, but the estates were expected to pull their weight. Individual estate officials were made individually to account for the money in their charge. In 1270, for example, the account from the livestock farming was carefully divided into separate accounts for the two workers in charge, precise sums were credited to each man and steps were taken to ensure payment. The aim was the collection of the largest possible surplus which was then transported to another of the Countess's manors, usually

83 Bain, CDS, v2, no 208

Burstwick. Cockermonth was simply run as an out-station required to contribute to the overall income of Isabella but its contribution was transformed to the most easily transported form, cash. The same criteria applied while the estate was run by keepers appointed by the crown, since the keepers were required to account at the Exchequer for whatever sum the estate was then valued at. Regrettably no accounts have been found for the period after Cockermonth was granted to a local magnate, Anthony Lucy.

Within the overall priority of maximum income, different styles of management were tried at different times. In the early years of Edward I's reign at Souerby there was no direct farming. The demesne was leased out for £3 6s 8d. There was also a variety of other tenants, some in free socage, others in bondage. Land was held at various rents, commonly 4d per acre. The local land market was enjoying some degree of prosperity, however, as was witnessed by the fact that it had been possible to impose an increment of 36 shillings on the farm charged for two mills ⁸⁴. The practice of renting out land continued when the manors of Penrith and the other manors formerly of Alexander III were taken into the king's hands in 1296. New assarts were also still being made at nearby Souerby and the policy of renting out land remained fully in force. In the dependent manors of Scotby and Carlton, the land at farm included both the demesne and the chief messuages.

The most detailed evidence available for changes in the management of local estates is, again, to be derived from the Cockermonth accounts. This evidence tends to complicate the picture which can be drawn from the accounts for the Penrith manors which seemed to suggest a relatively

84 J Stevenson - Documents Illustrative of the History of Scotland, (Edinburgh 1870), no 21

buoyant local economy, and there is some reason to believe that the attempts made by Isabella de Forz' bailiffs to increase the income from Cockermouth began to meet with diminishing success.

At the commencement of the surviving accounts from Cockermouth at the end of the Baron's Wars, the estate was run firmly on the basis of land let out to farm. At Birkby in 1265-66 not only were pasture and meadows let out to rent, but arable land was also. Nor was this intended as a temporary move for the plough horses from the manor were sold. This policy, however, was not especially remunerative for the manor's income was less than £1. At Papcastle in the following year, a similar pattern could be found. Most of the land there was let out for comparatively low rents. The account shows further signs of the limited profitability of the manor under this regime for it was heavily burdened with arrears, which amounted to almost a quarter of the sum with which the reeve's account was credited. The same trend can be observed in the account of the bailiff of Allerdale for 1266-67

where the accumulated arrears outweighed the actual income for the year. At Crosby, though the account was not burdened with so large amounts of arrears from previous years, the reeve had still been unable to collect £2 worth of rents which amounted to almost a quarter of the money he owed. Only in the case of forest bailiwicks of Inglewood, only a small part of which was in fact controlled by the Forz family, and the more important bailiwick of Derwentfells were large incomes foreseen and, more importantly, were they actually collected⁸⁵.

The situation ten years later shows some degree of change though the apparent improvement in the overall position of the estates is not wholly borne out by close scrutiny. The total receipts charged to the account of the receiver of the Cockermouth manors are much increased to a figure of £321 15s 0d but this total was swollen by large sums of arrears charged to the receipt side of the account in the usual fashion for this time. The account is in fact headed by a sum of £99 6s 1d owed in arrears and other quantities owed in arrears are concealed elsewhere. The reeve of the borough of Cockermouth, for example, owed over £40. The bailiff of Allerdale again owed more in arrears than he did for any other reason. At Broughton the reeve managed to pay off only 2 shillings of the arrears he owed. Only in the forest of Derwentfells was it possible to balance the books and the forester was able to pay off almost all the arrears with which his account was charged ⁸⁶.

The accumulation of substantial sums of arrears in the estate accounts for Cockermouth seems to suggest that the estate's profitability was less than might have been wished and it is clear that far from enjoying the benefits of any notional boom in farming the estate was trying to impose tighter management. High in the list of steps taken to bolster the financial position of the estate was a relentless pursuit of old debts. The account of Thomas de Weston, a trusted estate official, whom Denholm-Young suggested was a reliable and moderate official "growing old in the service of his mistress" ⁸⁷ displays a ruthless effort to improve the estates finances quite at odds with this cosy image. Former reeves, foresters and serjeants were forced to account

86 SC.6.824/14

87 N Denholm-Young - Seigniorial Administration in England (Oxford 1937), 36

for debts incurred during their periods of office. These old debts were all added to the charge of Weston's account, inflating its notional total by over £100. In practice, though, very little of this money was collected⁸⁸.

The attempts made to collect old debts were only one part, though a major one, of wider ranging steps to increase income from Cockermouth. Some steps were more constructive. Some small expansion was under way. The small income of £1 15s. 0d from a vaccary established at Gatescarth was one of a series of new headings in the account. Other new payments were made from Husthwaite and Satterthwaite but it is not completely clear if these were new areas under cultivation or whether these manors had previously been run from other farms and were now split off to allow more precise supervision. At Birkby, other steps were taken to increase income. Sales of grain and wool were increased. Wheat, barley, rye and oats worth £5 13s 0d was sold and other sales including that of wool worth £8 10s 0d brought the total profit from this source to £18 5s 4d, a significant increase on the income from produce generated in 1266-67. Even with this addition, however, and some moves to bring manors under direct cultivation, difficulties remained. At Birkby, the total income from the manore, from the sales of produce and from land still let out to rent was £46 13s 4d while the reeve was required to pay a total of £48 4s 10d in expenses and to the receiver of the Cockermouth manors, income falling short of expenditure by £1 13s 4d which the reeve had to make up⁸⁹.

The evidence of the Cockermouth estate account is not unequivocal and

88 SC.6.824/14

89 *ibid*, m2

since the accounts were designed to display responsibility rather than profit or loss, per se, calculations based on these considerations are slightly artificial and, in a sense, do less than justice to the comprehensive nature of the surviving accounts. However, there is a telling consistency to the accumulating series of arrears and the failure of the officials to collect them. It is very hard not to conclude that the profitability of the Cockermonth estates was declining and that the late thirteenth century was not an 'indian summer' of profitability which other estates enjoyed. There is some evidence to suggest that a similar trend was in operation on other local estates. On such example is provided by the lordship of Liddell. As has already been noted the castle and outbuildings on the chief messuage there were decayed and much in need of repair. Just as significant was the neglect of a fulling mill, which was valued at only 4 shillings and needed its wheel replaced. Mills, however, were one of the most profitable of seigneurial resources. A bakery also stood in disrepair⁹⁰. The same pattern can be found in the Barony of Kendale at the extreme south of the March. In 1283 the inquisition held into the holdings of William de Lindsey found that the manor of Windermere cost more to keep up than it produced for its lord. The manor of Brachlaw which had formerly been worth 3s 4d was now in the hands of the lord, probably since no-one wished to rent it. A fishery in the Kent was also without a farmer, though it had formerly produced 5 shillings⁹¹. Again this is limited or equivocal evidence but it seems more consistent with a stagnant or even contracting economy rather than an expanding one.

90 Bain CDS, v2, no 208

91 CIPM II, no 447

If the fortunes of the agriculture on the West March, at the end of the thirteenth century, are open to varying interpretations there has been agreement that during the following years they suffered almost catastrophic decline. The standard account of the destruction caused by the Scots raids has been that of Mrs Jean Scammell in an important article in the English Historical Review in 1958⁹². This assessment concentrated heavily on the English East March and provides little comment on the Western Border. The East March suffered severely but unevenly. Northumberland suffered most. The Archbishop of York's manor of Hexham was almost completely destroyed⁹³. In Durham the devastation was less severe, protection money was paid regularly and its organisation was facilitated by the coherence of the community within the Durham franchise. The West March was less well organised than the Palatinate and though protection money was paid by some districts, Cumbria also suffered extensive plundering.

Though there is insufficient evidence to delineate precisely the extent of the destruction caused by the Scots, there is no doubt that the effects were comprehensive and severe. The tenants suffered most; the lords of the region were free to retreat to their estates in safer parts of England and many of them did so. They were also free to arrange their estates to their best advantage and most seem to have realised the need to abandon any direct involvement with agriculture. Lands and utilities were leased out at farm and the risks as a result were borne not by the lord but by the farmer. At Egremont in 1322 the Multon lands were all rented out. Even so the value of the lordship had declined from a figure probably around £100 per annum to only

92 J Scammell - 'Robert I and the North of England'; EHR, V73, (1958)

93 ibid 93

£47 in a period of over a year ⁹⁴. Other lords suffered still more striking losses. Though we have no direct evidence for the value of the Cliffords lands in peace time there is no room to doubt that the sum of just over £40 which was realised from Appleby and its dependent manors, was only a fraction of what the estate had formerly been worth ⁹⁵. The vill of Rokeby, for example, had completely disappeared. Cockermouth was similarly devastated. By 1312 the value of the estate had fallen dramatically and from August 1309 to June 1312 only £97 18s 1d had been realised from the honour ⁹⁶. In the following years the situation grew still worse, many of the tenants of the manors abandoned the area and cultivation was ended on large areas of the estate ⁹⁷. In the Eden Valley at Penrith, an area of waste pasture which had formerly been rented out for £10 10s 0d, was valueless and without tenants in 1330 ⁹⁸. At Souerby, 278 acres of land could only be let out without profit though it had formerly been worth 5d per acre and mills and other buildings had also been destroyed.

While it is easy to find examples of damage to individual manors and estates from accounts, there are limits to the conclusions that can be drawn from such evidence. Overall conclusions on the destruction caused are much more difficult and it is not, in general, possible to assess the extent to which the values of local estates were effected. Penrith and its dependent manors provide one example of the difficulties of drawing comparisons between the administration of estates in peace and

94 SC.6.824/19; Just 1/132, m28

95 E.199/46/3

96 E.199/7/3

97 SC.6.824/18

98 E.372/179 Cumberland

and war time. For example, though accounts exist for 1286 and for 1330 it is not possible simply to compare the two totals and attribute the discrepancy to the damage caused by the Scots. The accounts for Penrith and the liberty of Tynedale in 1286 and 1287 show a difference of almost £200 on two similar accounts probably because many customary rents were payable only every second or third year. Such wide discrepancies render comparisons based on the Penrith manors of limited value⁹⁹. The use of inquisitions post mortem provides another tool to attempt to assess the dislocation caused by the Anglo-Scots war. Again evidence for material destruction comes easily to hand. Even within local towns there was substantial destruction, nine burgages in Kendal belonging to Ingelram de Gynes had declined in value from £2 to only 6 shillings¹⁰⁰. Even before the worst period of raids, which Mrs Scammell has suggested, began in 1311 there was widespread devastation. In 1310 the manor of Cargou in Westmorland was reduced to a waste¹⁰¹. Eight years earlier at Levington, while the March still enjoyed the protection of Edward I's protection, the manor had been so thoroughly burned as to be valueless¹⁰², though Levington, like other manors very close to the actual border, probably suffered particularly early and especially severely. On a general basis, perhaps the most comprehensive estimates are those prepared by C.M.L. Bouch for the ecclesiastical foundations of the region based on valuations for religious taxation¹⁰³. Bouch calculated the values of the lands belonging to a total of thirteen institutions in the two church districts in Cumbria; the diocese of Carlisle and

99 Palgrave - Documents, no 21

100 CIPM, VI, no 503

101 *ibid*, V, no 218

102 Bain II, no 1402

103 CML Bouch - Prelates and People of the Late Counties (Kendal 1948), 69

and the Archdeaconry of Richmond. All of these had suffered severe losses. The estates of the Bishopric declined in value from 1291 to 1318 from £126 7s. 7d to only £20. The Priory estates also were reduced in value from over £90 to again only £20. The estates of the canons of Lanercost and the nunnery of Armathwaite suffered even more, being described as wholly waste in 1318. The lands belonging to Holm Cultram fell in value from £206 5s. 10d to £40 while Wetherall's lands were reduced in value from over £50 to only £4.

It is almost as hard to assess the speed and completeness of the recovery of local agriculture as it is to estimate the precise extent of the original damage. A rental belonging to the Priory of Wetherall, first brought to attention by Professor Barrow, to some extent stands as a contrast to the very extensive damage caused in the rest of Cumbria. The rental is included, perhaps accidentally for it is unique, in the manuscript copy of the Register of Wetherall Priory and it details rents due from the Priory's lands in Gilsland¹⁰⁴. The rental details the sums owed in 1327. The rents owed were in arrears and in fact most of the tenants owed rents for from ten to twelve years previously. The document also contains a power of attorney granted by the Prior of Wetherall to Hugh of Broad Gill (Gill Latorem) to collect the rents owed and detailed in the schedule. Hugh was given full power to collect the moneys owed by distraint and distress and evidently his efforts were successful. He was able to collect not only all the money rents owed but also another rent which was paid in the form of a pound of wax annually. Still another rent, twelve years in arrears, was owed in the form of a pound of cumin, this too Hugh collected in full. This success has prompted Professor Barrow to

104 Carlisle Dean and Chapter MS at CRO, Register of Wetherall Priory, schedule bound at end.

observe that such was the simplicity of the local economy, even after only a few years of peace recovery could begin ¹⁰⁵. The Wetherall rental is slender evidence for this belief, however. While it is true that all the rents owed were, indeed, collected the entire sum involved was only £6 4s 4d while the total rent due annually was just £2 8s 6d. This was a tiny sum compared with the losses incurred in the rest of the March, indeed if Bouch's valuation of the Wetherall estates is correct it was only around a twelfth of the Priory's annual income. The rental and the record of the successful collection of the sums due pose other questions. If the money was available why did the Prior have to wait so long for it? Apparently it had taken three years of peace for the Prior to take any steps to recover his debts. This was perhaps less a sign of how quickly recovery had proceeded than of how heavily estate administration had been disrupted. A further and much more difficult question to answer concerns Hugh of Broad Gill, what means did he use to collect the Prior's money? Was Hugh a mediaeval 'minder'?

Like the damage caused by the war itself the speed with which the West March recovered from the impact of the war is extremely hard to quantify. There is, however, no reason to believe that given a long enough period of peace Cumbria could not have made a complete recovery. This was exactly what the region was denied, however. Active campaigning recommenced the year that the Prior succeeded in obtaining the rents his Gilsland tenants owed. The border remained an active area of campaigning for almost the rest of the middle ages and the chances of sustained recovery were as a result, slight. Destruction was not a solitary experience which could be repaired once and for all but a regular and predictable hazard and it was this which led to the dramatic

105 Barrow - Bruce, 342 and note

losses which can be found in the valuations placed on estates in the region over a long period of time. Liddell, for example, had fallen in value from marginally less than £300 in 1282 to only around £70 in 1349 ¹⁰⁶. To return to Mrs Scammell's argument, in one sense this was no more than an inconvenience for the Wake family, they held other manors in the rest of England and even in peace time they had devoted little attention to Liddell. For those further down the social scale, those whose holdings did not extend beyond the March, the consequences were much more serious. Sometime early in the reign of Edward II a local soldier, Richard de Denton, petitioned to be granted the forestership of Inglewood since his lands had been wholly wasted by the Scots and he had not other means of supporting himself ¹⁰⁷. In fact Denton was to enjoy a long and successful military career which allowed him to enlarge the family estates in a way that might not have been possible in peace time ¹⁰⁸. Others were less fortunate. Whether or not the economy of the West March was reaching the limits of its possible expansion at the end of the thirteenth century, there can be no doubt that the material destruction, depopulation and campaigning were so severe, and more importantly so sustained that the outbreak of war on Edward I's attempt to conquer Scotland marked a decisive break in the organisation of seigneurial administration on the West March. It is to be regretted, however, that the scanty survival of primary sources for agrarian history of this period makes it impossible to do more than sketch the way they managed their lordships in the most vague terms.

106 Bain CDS, v2, no 208; Bain CDS, v3, no 1542

107 NP no 98

108 A selection of the family deeds of the Denton family are preserved at Carlisle among the Lonsdale muniments but as a result of the way they were arranged earlier in their career it is no longer possible to recreate the collection entirely, though the box marked Denton contains the larger part of them.

CHAPTER II

THE LORDSHIPS OF THE WEST MARCH

I

The history of the West March is indivisibly linked with the history of the great border lordships of Cumbria and of the families who held them. It could not have been otherwise since the creation of the lordships of Cumbria¹ often ante-dated the establishment of the machinery of royal government in the region and the two grew to their final form, not in isolation, but by symbiosis. The resulting structure was one of great complexity where public and private rights were closely interwoven, though the mixture varied from one lordship to another. Saving the important difference that Cumbria was an integral part of England, there were close similarities between the lordships of the West March and those in the March of Wales and in Norman Ireland. Like Wales and Ireland, Cumbria was a region where Norman military lordships were superimposed on a background which was predominantly Celtic. Simply because Cumbria was subject more directly to the supremacy of the English Crown, the situation there may have been more complex than in Ireland or in Wales. The lordships of the West March were not created in one stroke on a tabula rasa but they evolved relatively gradually and were remodelled and revised over a long period. The resulting hybrid was a region which was geographically distinct and which was governed by its own institutions which linked English feudalism and traditions of Celtic self government and these, in turn, were conditioned by royal policy and family ambition.

The oldest lordships in Cumberland were created during the reign of Henry I. Though the establishment of Ranulf Meschines in the lordship of Carlisle represented the continuation of the policy pursued by William Rufus, it is only from the reign of Henry I that it is possible to write the tenurial history of the region in any meaningful way.

1 For reasons that will be discussed further below, but briefly since there were few baronies in Cumbria in the strict sense, the term lordship has been preferred, even at the risk of repetition.

Both Henry and Ranulf Meschines played an active part in the feudal settlement of the area but the earliest grants are recorded as having been made by Meschines. Ranulf's plan appears to have been largely defensive and the three lordships he created were intended to guard the northern approaches to Carlisle. Turgis Brundos was installed in a large lordship stretching in a long strip from the Solway estuary up the Esk into the high ground in the east, to protect the approaches from Scotland by land. Just as importantly, for it should be remembered that the most used route from Scotland was that across the Solway fords, Robert de Trivers was established in the peninsular of Burgh-by-Sands controlling the access to those fords. A third barony, Levington, filled the central gap in this protective screen.

While there is no evidence that Henry I took Ranulf Meschines' lands in Cumbria into his own hands as the price of Ranulf's accession to the Earldom of Chester ², there is no doubt that Henry did take the lordship of Carlisle into his own hands, probably as early as 1122. This was an important period in the development of the feudal geography of the region. If Ranulf had intended that the lordships of Burgh-by-Sands and Liddell and Levington were to be dependent on his holding of Carlisle, Henry overturned this plan and converted the baronies into simple tenure in chief. Henry followed the same pattern in creating the barony of Greystoke, a large holding in the fells west of the River Eden, for Forne, son of Sigulf, and this tenure descended into one family without partition for over three hundred years.

The Book of Fees also ascribes the creation of the two great lordships

2 H A Cronne, 'Ranulf de Gernons, Earl of Chester 1129-53', Transactions of the Royal Historical Society, Series 4, v20 (1937) 105

of the Cumberland coast to Henry I³ though, as suggested earlier, it is possible that these 'creations' in fact simply ratified a situation arranged by Ranulf Meschines. Whether or not this was true, by the end of Henry I's reign, two large discrete lordships had been created, one Allerdale, held by Waltheof, son of Gospatric, stretching from the Wampool to the Derwent, while the other, Copeland, reaching from the Derwent to the Duddon in the south was held by William de Meschines, Ranulf's younger brother. As Professor Barrow has pointed out the clear geographic boundaries of these districts and their co-incidence with local ecclesiastical boundaries strongly suggests that these lordships were based on earlier divisions and it is possible to reconcile this hypothesis with the evidence provided by the writ of Gospatric⁴. Even if the early feudal settlement of the region was not based on pre-existing divisions, the early pattern of settlement was clear and simple but this rugged and pleasing simplicity did not long endure. Indeed some of the large and recognisably geographic lordships had begun to break up even before others had been 'brought into the feudal fold'. As a result it is necessary to try to untangle the early history of the lordships from such evidence as survives and from the complexities created by the frequent intermarriages among the families of the Norman settlers.

The early history of the lordships of the West March is often told with the aid of a series of inter-related pedigrees which originated in a series of cases arising from attempts by the heirs of Aveline de Forz

3 Book of Fees, v2, 177, 178

4 Barrow, 'Pattern of Lordship and Feudal Settlement', Journal Mediaeval History, v1 (1976) 24; VCH v1, 241 and note

to gain recognition for their claim to inherit⁵. The use made of these documents has varied as has the prevailing opinion of their provenance and value. The problem was solved by James Wilson in the county history who recognised them not as the 'monkish legends' they were formally held to be but as lawyers briefs compiled by the claimants for use in the cases over the honours of Cockermouth and Skipton. Whether lawyers ought to be regarded as more reliable witnesses than monks in general, the Descent of Multon and Lucy is not to be regarded as trustworthy evidence on the early tenurial history of Cumberland, though it can on occasion shed light on points of detail.

The basis of the descent of the lordships of the Cumberland coast is the descent of the lordship of Copeland, itself probably the greatest of the judicial immunities in the area. On the death of the earliest known lord of Copeland, William Meschines, his son Ranulf succeeded to his lands, but Ranulf died without male heir. Copeland as a result passed to William's daughter and heir, Alice, whose mother was Cecily de Rumelly the daughter of Robert, Lord of Skipton. At some time before 1138 Alice married William FitzDuncan, the nephew of David I of Scots. Early in Stephen's reign David gained control of Cumberland and it is clear that shortly after William and Alice were in control of Copeland and this tenure is well regarded by grants they made to the Priory of St. Bees⁶. The Descent records that William FitzDuncan also held

5 There are several forms of the document. It appears in the Reg St Bees, no 498, in Bain, CDS v2 no 64, which is reprinted in Reg St Bees as Appendix no 8. Other texts are to be found in the Register of Wetherall Priory, ed. J E Prescott (1897), Placitorum Abbreviato (Record Commission 1811), 323. The descent was discussed in Parliament where other copies appeared. J Strachey, Rotuli Parliamentorum and others (1965), 170, 191 303, 347. Another copy is in the Lucy Cartulary. The best treatment of the document and of the descent of the family is CT Clay's Early Yorkshire Charters v7, (Yorkshire Record Society Extra Series 1947)

6 Reg St Bees, nos 12, 13, 14, 15, 16

Allerdale though it is known from other evidence that Waltheof was succeeded in Allerdale by his son Alan ⁷ and it seems more likely that a claim was transmitted to William's offspring through him though he never held the lordship in person, and William and Alice's son, William of Egremont, is known to have succeeded to Allerdale as well as to Copeland ⁸. William of Egremont died lacking an heir of his body, however, and his lands were divided among his sisters, Cecily, Mabel and Alice as co-heirs.

Cecily succeeded to Skipton in Craven and married William le Gros, Earl of Aumale, though she clearly maintained her claim to Allerdale and Copeland. Mabel was married to Reginald de Lucy, and it was she who was reported to hold Egremont and Copeland in 1212 ⁹. The youngest of the sisters was given in marriage to Gilbert Pipard, according to the Descent, taking with her Aspatria, Allerdale and Cocker-mouth ¹⁰. While this would be insufficient evidence taken alone, the Pipe Rolls corroborate this version. In the seventh year of Richard I the Five Villis of Copeland belonging to Robert de Curteney, Alice's second husband, paid three marks that their verdict be heard favourably ¹¹ and it seems highly probably that it was at this time that the five townships of Dene, Brigham, Clifton, Eglisfield and Crakesothen, which lie south of the Derwent and therefore originally in Copeland, were joined to the castle of Cocker-mouth of which they formed a highly enfranchised banlieu. Alice and her husbands also held Caldbeck and Aspatria which were later

7 Bain CDS, v2, no 64; Reg St Bees, no 14

8 *ibid*, no 27

9 Book of Fees, v2, 178

10 Bain II, no 64

11 Pipe Roll 7 Richard I, Pipe Roll Society, v64 (1929), 216

to descend to the Lucy family. In 1206 Alice and Robert de Curteney paid £200 for seisin of Caldbeck¹². Some time before March 1215, however, Alice died leaving no heir of either of her husbands and her estates fell to be partitioned. Alice's heirs were the descendants of her sisters Cecily and Mabel though it appears that a dispute had developed over the distribution of William of Egremont's lands even before Alice's death. In 1200 Richard de Lucy, the son of Mabel, gave 300 marks for possession of lands in Copeland and for a reasonable partition of the lands which he claimed against Robert de Curteney and Baldwin de Bethune, Earl of Aumale. Significantly, the margin heading for this entry is not Cumberland but Copeland¹³. It is probable that Richard de Lucy, Reginald's son, was in possession of a lordship consisting of Copeland with the exception of the Five Villis of Cockermonth based on Egremont. Richard de Lucy died without a male heir and his heirs were his two daughters by his wife Ada de Morvill who was in her turn a co-heir to the barony of Burgh-by-Sands.

Three such eligible brides were valuable commodities in the later years of John's reign and in 1213 Thomas de Multon of Fleet in Lincoln paid 1000 marks for custody of the ladies of Egremont¹⁴ to whom he married his two sons by a previous marriage, Lambert and Alan. Shortly afterwards Thomas completed his family's acquisitions in Cumberland by marrying Ada de Morvill, the mother of his son's wives himself. There were thus two partitions which stood to be made in the early years of Henry III. Firstly a settlement was required between the claims of the ladies of Egremont and William de Forz who had succeeded to the claims of his

12 T D Hardy, Rotuli de Oblatis et Finibus, (Record Commission 1835) 352

13 *ibid*, 45

14 *ibid*, 482

mother and his grandmother Cecily de Rumelly. A separate partition was also required between the ladies of Egremont and their husbands. It was these settlements which created the lordships of Cockermouth, Aspatria and Egremont as they were constituted in the thirteenth century.

It seems hard to escape the conclusions that William de Forz received rather more than justice in the partition that was made between himself and the heiresses of Egremont. In 1215 he was ordered to be given seisin of Cockermouth, part of Aspatria and Caldbeck as well as Rudston in Northampton in Nottinghamshire¹⁵. Even when a further partition was made between Forz and the ladies of Egremont, he came well out of the deal. Cockermouth remained to him by right of seniority, being the caput honoris. Forz also gained a moiety of Aspatria and the mills of Crossby and Birkby¹⁶. Even this partition displeased the Earl and it is clear that he attempted to delay proceedings especially over the contentious matter of the division of the forest. Finally, a partition was made whereby Forz retained Derwentfells while the ladies of Egremont were given the rest of the Braithwaite fells.

The partition between the ladies of Egremont, in part, reflected older territorial divisions. By right of ainesse, Mabel retained Copeland, with the exception of the Liberty of the Five Vills outside the borough of Cockermouth, centred on Egremont. The younger sister Alice and her husband Alan sued against Mabel in 1230 and the record of this suit provides good evidence on the lands adjudged to them. Alice and Alan were to hold Aspatria with the exclusion of the lands previously granted to William de Forz. They also received Braithwaite Fells and

15 Ratuli Litterarum Clausarum, vl, 191

16 Bain I, no 889

another upland area in Caldbeck as well as Buttermere and Loweswater with a moiety of Broughton and other lands in Allerdale¹⁷. Both families however continued to cast envious eyes on the honour of Cockermouth and after the death of Aveline de Forz in 1274 both families tried to press their claims in a long and celebrated series of cases.

The descent of the lordships of Copeland and Allerdale has been treated at some length and the complexity of the descent demands it. The descent of these two lordships involves the history of no less than four of the major families of the region. Cockermouth, the liberty of the Five Vills, part of Aspatria and part of the forest between the Cocker and the Derwent continued in the possession of the Forz family until 1292 when they reverted, or were caused to revert, to the crown. Copeland, with the exception of the Five Vills descended in the family of Lambert de Multon and Mabel de Lucy, this branch of the family being generally referred to as the Multons of Egremont or occasionally as the Multons of Ireland since they also held extensive estates there¹⁸. Aspatria, Caldbeck and Braithwaite formed the patrimony of the descendants of Alan de Multon and Alice de Lucy who continued the surname of de Lucy. The father of both Alan and Lambert de Multon, Thomas de Multon of Fleet, having provided for the sons of his first marriage provided perhaps better still for his son by this marriage to Ada de Morvill, Thomas who married, before 1240, Maud sole heiress of the de Vaux barony of Gilsland¹⁹. Thomas I of Fleet's son, of the same name, began the family of the de Multons of Gilsland, though through

17 *ibid*, no 1106

18 R Frame, The English Lordship in Ireland (Oxford 1982), 54

19 CCR 1237-42, 188

his mother, Ada, he also inherited half the lordship of Burgh-by-Sands, thus establishing for his family a very strong position on the border²⁰. The rest of Burgh-by-Sands also devolved to the lords of Gilsland during the lifetime of Thomas II de Multon. William Briewerre purchased the marriage of Joan, the co-heir of Ada de Morvill, for his nephew Richard de Gernon in 1202 but no male heir resulted from the marriage and on Joan's death in 1247 the barony was further divided between her own co-heirs Ada and Helwise²¹. Ada died without male heir in 1271 and her sister Helewise, who married Eustace de Balliol, a younger brother of John de Balliol, Lord of Barnard Castle, in the following year. Her heir for the moiety of Burgh-by-Sands which she held on her death was Thomas III de Multon of Gilsland, a prospect which seems to have been much to her family's distaste, probably because Thomas II de Multon was a leading member of the baronial party during the disturbance of the Realm while Eustace de Balliol was a prominent leader of the royalist party²². The last representative of the Multons of Gilsland, Thomas V, died in 1313 leaving a daughter Margaret whose marriage during the reign of Edward II raised Ranulph de Dacre to the front rank of local society.

The Multons of Gilsland, the Multons of Egremont, the Lucies of Aspatria and the Forz of Cockermouth were among the leading families of the West March but neither were they the only magnate families in the region nor was the region divided solely into large lordships. The particular complexity of their inter-related family histories which resulted in the creation of the lordships of Cumberland coast necessitates extended discussion but other cases, such as the barony of

20 see Multon's obituary from Matthew Paris, Historia Anglorum v2, 439

21 Rotuli de Oblatis, 184

22 CIPM, v1, nos 752, 811

Greystoke or the lordship of Liddell . . . were not subject to division during the period under study. In other cases, such as the barony of Levington, the problem was excessive sub-division, making it impossible to trace the descent in detail without excessive discussion of the family history of increasingly less important families. The holders of the portions of the barony of Levington merged into a wider group of smaller tenants in chief who formed an important local stratum in the area, particularly in the north of Cumberland, the area originally included in the lordship of Carlisle taken into royal custody by Henry I. The holders of these tenures can be broadly categorised as forming the local gentry and they were economically very similar to the mesne tenants of the greater liberties, though the degree of integration between these two groups varied. The final element in the tenurial map of Cumberland was land which was retained in the hands of the crown. There were important royal manors in Cumberland, particularly around Penrith. After 1242 a number of these manors were formed into the liberty of the kings of Scots, for a time the most highly privileged immunity in the region, but after John de Balliol's fall from Edward I's grace the manors were again taken into crown possession.

So far this study has dealt exclusively with Cumberland. Westmorland however was accounted as part of the March of Scotland just as much as its northern neighbour and there were understandably close links between the two counties ²³. Westmorland, or Westmarieland, first appeared as a fiscal area in 1176, though it was initially a sub-division of Yorkshire ²⁴. The county was essentially an agglomeration of two great baronies, Kendale and Appleby, the latter being originally more closely attached to Carlisle. Appleby continued to look more towards Cumberland

23 Bain LOS vi no 1103

24 VCH, vl, 311

while the barony of Kendale had perhaps closer links with north Lancashire.

The barony of Kendale was originally granted to Ivo de Tailleboys but it passed into the control of the lords of Workington who styled themselves as the de Lancasters ²⁵. By 1184 the family became extinct in the male line and the heiress Helewise was granted to Gilbert Fitz-Reinfrey who was to rise high in the confidence of John ²⁶. Despite his part in the rebellion against John, Gilbert was able to pass on his lands intact to his son William who revived the name of de Lancaster. On his death in 1246 the barony was partitioned between his sisters Alice and Helewise and their husbands Walter de Lindsey and Peter de Brus ²⁷. Half the barony comprising half the town of Kirkby in Kendale (present day Kendal) with a manor based on the shores of Lake Windermere remaining in the possession of Walter de Lindsey and his family, falling eventually to his grand-daughter Christiana and her husband Ingelram de Gynes. The other moiety, the Kent valley, fell to be divided among the heirs of Peter de Brus and was increasingly partitioned among co-heirs resulting in a proliferation of small and probably neglected holdings.

The main body of the county of Westmorland was formed in the early thirteenth century for one of John's closest lietenants Robert de Vipont. The gradual way in which Vipont was allowed only little by little to gain control of Westmorland should not blind us to the fact that, particularly after John's death, Robert was able to establish himself as the master of the greatest of the

25 Sanders, English Baronies, 56

26 Holt, Northerners, 225

27 CIPM, vl, no 114

lordships of the West March ²⁸. The terms of John's grant to Robert de Vipont raised him and his heirs a degree above the ranks of the other lords of the region for it conveyed rights which were held more generally by the crown than by a tenant in chief. Though the lordship was held nominally as four knight's fees, Vipont gained control of almost an entire county. He was granted the whole bailiwick of the county of Westmorland and the services and fealty of all the tenants of the crown there with the exception of those who held by knight service, in effect only the lords of Kendale were exempted. Even the lords of Greystokes' lands of Dufton in Westmorland were held of the lords of Appleby ²⁹. Technically, the lordship of Westmorland was not elevated into a liberty, like Cocker mouth for example, but the hereditary shrievalty was in a real way more useful. It could even be argued, and the lords of Appleby certainly believed, that Vipont and his heirs enjoyed a jurisdiction which extended over the lands of the lords of Kendale and the rights of the hereditary sheriffs of Westmorland in Kendale provided a dispute which smouldered on from the reign of Henry III to that of Henry VIII. Jurisdictionally and territorially the lordship of Appleby was the most important of the lordships of the West March and its holders enjoyed a position of pre-eminence in Cumbria which was a central feature in the history of the region. It was no accident that the later holders of Appleby, the Cliffords, were to be the dominant local power in the West March for much of the later middle ages, and this rise will be discussed in detail, for the present it suffices to note that their power and influence were built on the foundations laid by Robert de Vipont or if

28 T D Hardy, Rotuli Litterarum Patentium, (Record Commission 1835), 25, 27, Bodleian Library-MS Dodsworth 70, #25. A confirmation is printed in CPR 1396-99, 267. See also Historical Manuscripts Commission-MS Wells, v2, 549. Holt, Northerners, 226 provides comment.

29 Hist and Antiq, v1, 17

the lordships of the West March are considered as merely tenurial blocks, Appleby was the most important.

II

So far, the lordships of the West March have been discussed simply as areas on a territorial map. In one sense one might view them just as counters in an elaborate tenurial game, generally passed down within one family, but sometimes lost to another, or if necessary partitionable into neat fractions among co-parceners. When we go beyond this level of discussion, however, we are immediately aware that the lordships of the West March were part of a frontier society and a society which possessed recognisable and, on occasion, unusual local customs. Both these facts, together with the history of the region were instrumental in creating the distinctive rights and powers of the lordships of the West March as they existed in the thirteenth and fourteenth centuries.

The first point which must be made is a very simple one but one whose importance necessitates its being stated precisely. The West March was explicitly and completely part and parcel of England in the way that much of the March of Wales was not. The lords of the region, in consequence owed service to the English crown for the lands which they held directly of the crown. The terms on which they were held, if we exclude ecclesiastical possessions such as the Bishops of Carlisle's liberty of Dalston which were held in frankalmoign, may be divided into two categories. In one group were the lordships which were created by Henry I or Ranulf I Meschines and which continued to be held in the thirteenth century on the same terms as they were created. A second group was held on quite different terms, and although this group comprised only four lordships, Gilsland, Appleby, Kendale and Copeland, though the case of Copeland is in some respects rather different, these were among the most important holdings in the region. Unlike the other lordships in Cumbria, these four, or perhaps more precisely three, were held by knight service.

It is perhaps easiest to deal with the knight service tenures first. It is clear that these impositions of knight service on the lordships of the West March was limited to those lordships which came into the control of the crown from the reign of Henry II onwards and this represented a significant modification of the existing system of service owed in the area. The creation of the lordship of Appleby has already been discussed but it is evident that John's policy with regard to military service was a continuation of that of Henry II. In 1200 John converted Gilbert FitzReinfrey's lands in Kendale from cornage tenure to tenure as one knight's fee³⁰ and in this John was following the precedent set by Henry II. When Henry II regained control of Cumberland from the king of Scots, he installed Hubert de Vaux in Gilsland as lord of Gilsland crediting the fee with two knight's fees in preference to the existing cornage tenure customary in the area.

The introduction of knight service into Cumbria provides, on close study, another clear example the separation of the region's development from that of the rest of England. Though considerable and learned effort has been devoted to the task of tracing the origins and modifications of knight service in England from the Norman Conquest onwards³¹, it must freely be admitted that much of this is simply irrelevant to the history of the West March. From 1066 to the accession of Henry II, knight service was of no importance in Cumbria and there is no profit to be gained from trying to apply discussions of the inter-relation between hides and knight's fees to the region. The knight's fee which was created in Cumberland were not in their inception intended as military tenures in the way which has been generally imagined, that is, one cavalryman from

30 Maitland - 'Northumbrian Tenures', 92

31 A recent discussion is provided by S Harvey 'The Knight and the Knight's Fee in England', Past and Present, v49 (1970) and see the literature cited there.

a given area of land. They can only make sense as fiscal rather than military units. In the first place they can have had nothing to do with the defence of the Border, this was an obligation which did not need to be elevated into a form of tenure separate from the existing style of land-holding. Secondly it seems in a high degree unlikely that the tenures by knight service in Cumbria were created in order to provide military manpower for the Angevins' continental wars. The clue to their purpose is provided, however, by the dating of the creation of the first of the lordships of the West March to be erected into tenure by knight service, Gilsland. This, as we have seen, was granted to Hubert de Vaux as two knight's fees in 1158. This was precisely a year after Henry II had recognised the unsuitability of the existing system of knight's fees to raise a force for war, even in Wales, Henry having provided that every two knights should provide a third³². The knight's fees in Cumberland and later in Westmorland were intended to provide not the extension of a truly 'feudal' military system into Cumbria but to broaden the basis of taxation for the crown in a region newly restored to its authority. Indeed since the usual method of taxation during the Angevin era was Scutage, it was only by the creation of, wholly nominal, knight's fees that the region could be effectively and regularly taxed. The suggestion that the knight's fee tenures were introduced into Cumberland and Westmorland as units for the levying of taxation, rather than as military fees in the strictest sense seems, at first sight, to run contrary to a suggestion made by Rachel Reid in her important essay Barony and Thanage³³. In fact Rachel Reid's conclusion was completely the reverse; the lordships of the West March, she asserted, did not pay feudal aids. This conclusion, however, was based on misleading evidence, the Feudal Aid taken for the marriage of Blanche

32 *ibid*, 35

33 R Reid - 'Barony and Thanage', EHR, v35 (1920), 183

the daughter of Henry IV in 1407 ³⁴. This is of high interest for the fifteenth century but its value for the history of the region before then is minimal. Much better evidence is provided by the Pipe Rolls of the reign of Henry III, a source which Miss Reid did not use. In 1245-46, for example, an aid was levied for the marriage of Henry III's eldest daughter and the sums paid from Cumberland were exactly what we should expect. Thomas de Multon of Gilsland accounted for forty shillings for his two knight's fees while Multon of Egremont accounted for twenty shillings for the one fee in Copeland ³⁵. What then of the claim that the lordships of Cumberland did not pay feudal aids? It is not, in truth, wholly false but the facts are complicated. It is true that the feudal side granted on the marriage of Blanche of Lancaster no feudal aid was paid from Gilsland then held by Thomas de Dacre or from Cockermouth then held by Ralph Nevill of Westmorland. In the case of Gilsland it was asserted that the liberty was exempt from feudal aids. As we have seen, however, this claim was not borne out by the practice of the reign of Henry III. The puzzle thus created can be solved, however, if we consider the case of Egremont which was also held by the Earl of Westmorland after the temporary eclipse of the Percies. The lordship of Egremont had been divided into three on the death of John de Multon and by the time Henry, first Earl of Northumberland, two of these parts belonged to the Lucies. By inheritance from Maud de Lucy, Henry Percy's second wife, the Percies gained control of these lands while one third of Egremont descended to John de Harrington. Since up until the reign of Edward I, Egremont had been assessed at one knight's fee we should have expected Harrington to have accounted for 6s 8d and Nevill to have paid the remaining

34 Feudal Aids, (Public Record Office 1920), vl, 244

35 F H M Parker - The Pipe Rolls of Cumberland and Westmorland 1226-1260, (Kendal 1905) 115

13s 4d owed for Egremont. This, however, did not happen. Harrington paid his portion but Nevill's lands were alleged, like Gilsland, to be exempt from feudal aids. Since both Harrington and Nevill held parts of Egremont from the same partition, this was clearly absurd, for tenurially there was no difference between the two. The truth seems to be that the powerful Nevills and Dacres were able, in effect, to refuse to pay the feudal aids though this refusal was cloaked in spurious claims to exemption. Significantly, however, the much less powerful Harrington was not sufficiently influential - the temptation is to use the word overmighty - to escape payment as Dacre, Nevill and later Henry Percy were able to do ³⁶. For the present purpose though it is sufficient to note that whatever exemptions the later magnates of the Anglo-Scottish border were able to appropriate, the origin of the knight's fees of the West March were, as the aid of 1240 showed, financial rather than military. So far from being exempt from feudal aids, as Rachel Reid believed, they were rather created as units for the payment of feudal taxation.

There is no doubt that the services owed by the rest of the tenants-in-chief of the West March, and by the mesne tenants too, were different in kind from those owed by comparable tenants in Domesday England. As we have seen, knight service did exist on the West March but it was in general an exception. The lords of the region did owe the crown two forms of service in its place and these may, for convenience only, be referred to as border service. There was firstly a clear military duty. This was in one sense the counterpart of the general forinsec service but on the March of Scotland it took a very

definite and comprehensible form³⁷. The jurors in the inquisition post mortem of Joan de Morvill set out precisely what the military obligation expected of the barony of Burgh-by-Sands was, if the king should pass into Scotland by way of Cumberland, going in the vanguard of the army and returning in the rearguard³⁸. The Book of Fees shows that this was exactly the service owed by the tenants of the March, both the great and the less great. John de Reigny, for example, held Newton Reigny by the service of providing a squire equipped with a hauberk to go in the van and rearguard of the king's army³⁹.

Though, as Maitland demonstrated, this form of tenure persisted through the middle ages, its precise legal implications were rarely worked out in detail. In one case Odard de Wigton who held by the usual service of 'outward' it was ruled that this was a form of grand serjeanty⁴⁰ and this term might be applied generally to other holdings in the region. The military implications were worked out with more attention, however. In 1224 Richard de Levington, having been summoned to attend the siege of Bedford, against Fawkes de Breaute, failed to attend. The sheriff of Cumberland was forbidden to distrain him to attend, however, because he held not by knight service but by cornage. Even Maitland, who commented on this case, failed to bring out the essential point. It was not that Richard was not a military tenant but rather that he was bound to do service against the Scots and nowhere else, but even this was not explicitly mounted service. There were close similarities

37 F W Maitland - 'Northumbrian Tenures' in Collected Papers , (Cambridge 1911), v2, 99, 97

38 CIPM, v1, no 106

39 Book of Fees, v2, 198

40 F W Maitland - Bracton's Notebook, (Cambridge 1881), no 1270

between this situation and that on the March of Wales. Indeed the two areas enjoyed closer links between one another than with the rest of England. The Welsh Marchers commonly claimed that they held their land only by the service of defending it and by doing so defending the realm itself ⁴¹. This type of service was clearly understood on the West March, though it is fair to say that this type of obligation is less visible than the van and rearguard service, no doubt because the responsibility to defend one's land was self evident to the mediaeval noble. It is clear too that the crown continued to regard the borderers as bound to serve as the first line of defence against the Scots ⁴².

Like the lords of the Welsh March the lords of the West March owed little service to the feudal levy. In contrast to Northumberland where many baronies owed both cornage and one knight's fee ⁴³, cornage on the West March was incompatible with knight's service. It was as an alternative that military service was credited to Kendale not as an addition. The only exception to this rule was Copeland, which was considered as one knight's fee, though it has been plausibly suggested that this referred only to the lordship of Millom, an important mesne tenure, held of Egremont for one knight's service ⁴⁴. The rolls of service for the campaigns in Wales bear this out though the evidence must be treated with caution. At first sight the testimony of the

41 R R Davies - Lordship and Society in the March of Wales, (Oxford 1981), 251

42 RS, v1, 77

43 Book of Fees, v2, 199 and following

44 Reid - 'Barony and Thanage'; EHR, v35, (1920), 183

muster rolls seems to run in direct contradiction to this thesis. Service is recorded, not only from the baronies held by knight's fees, Appleby and Gilsland, but also from lordships held by cornage. Thus Thomas de Lucy and Ralph FitzWilliam recognised service, apparently for lands in Cumberland ⁴⁵ but this is, in a sense, an illusion. The proffers of service seem to have been recorded not under the county from which they were due but under the county with which the lord was most closely associated. For example, though Thomas de Lucy made fine for one knight's fee in Cumberland in 1282, it can be shown that this was owed for Lucy's lands in Northumberland and half the barony of Langley which with Allerwash, Fourstanes and Wardoun were assessed in Lucy's inquisition post mortem as one knight's fee ⁴⁶. The same principle will explain the four and a quarter knight's service proffered by Ralph FitzWilliam for his uncle John de Greystoke's lands. Again the heading is Cumberland but for the four fees owed two are clearly recognisable as having been owed for the moiety of the barony of Morpeth which Greystoke held of the inheritance of Margaret de Morlay while the remaining two and a quarter were owed from Greystoke's lands in Yorkshire. No service was proffered for Greystoke itself ⁴⁷.

It is worth setting this discussion in context. The argument set out above attempts to show only that the lords of the English North-West frontier, except those who held explicitly by knight's service, such as Clifford and Leyburn, did not owe service anywhere but in Scotland as an inescapable part of tenure, the sole exception to this rule being

45 Parl Writs, v1, 204, 209

46 CIPM, v3, 218

47 Book of Fees, v2, 201; Parl Writs, v1, 230. Greystoke also accounted for four and a quarter fees in Northumberland, clearly a duplicate entry.

Copeland. In 1300 Thomas de Multon of Egremont made fine for two serjeants, presumably owed for the seigneurie of Millum, rather than for Egremont itself, for which Multon owed the usual military service associated with cornage tenure ⁴⁸. This is not to suggest, of course, that the lords of the West March took no part in campaigns outwith the region, any more than, for example, those magnates who held on the March of Wales, though they refused to do military service for their lands elsewhere, were unwilling to go to war against the Scots. A parallel principle held good for the lords of the West March. As we have seen they were willing, or rather obliged, to do service for their lands elsewhere in England as they were not for their lands in Cumbria, but it did not follow that the lords of the West March were unwilling to put their resources at the disposal of the king, on occasion, beyond the limits of their strict obligation. Though Matilda de Multon of Gilsland fined in lieu of the service of two knight's fees owed for Gilsland, her son Thomas de Multon also took part in the campaign against the Welsh ⁴⁹. There were, however, yet others who though they owed no duty to serve against the Welsh were still summoned to go against them as John de Hudlestone of Millom and William de Derwentwater, a mesne tenant of the honour of Cockermouth, were, probably because both were reckoned as experienced soldiers, though it should be noted that it appears to have been much easier to be included on the lists of those liable to be summoned than to be removed from them once included. Roger de Leyburn was repeatedly summoned after his death. However, neither Hudlestone nor Derwentwater appear to have gone on campaign nor do they appear to have been penalised in any way for not so doing.

48 Palgrave - Documents, 222

49 Parl Writs, vl, 239; CPR 1281-92, 35

The general obligation of the borderers to do service against the Scots has already been discussed and as a result it was natural that successive English kings should look to the marchers first when dealing forcibly with the Scots. Henry III felt entitled in 1258 to demand that the marchers of Cumberland, Westmorland and a number of named liberties serve under Edmund of Lancaster in a planned expedition in support of Alexander III ⁵⁰. Edward I behaved in a similar way. In 1291 he summoned for the opening of the sessions of the Great Cause at Norham a display of force calculated to impress, if not actually intimidate, the Scots. For much of this force Edward looked to the North of England ⁵¹. Significantly, Edward was able to summon, not only most of the active lords of the region, but also three ladies on business connected with Scotland. There were, however, limits to the service which could be demanded from the borderers. In 1297 Robert de Clifford and Henry Percy were to declare that the unpaid service done by the men of Cumberland and Westmorland on a foray against the Scots should not stand as a precedent, an agreement that Edward I later ratified ⁵².

The borderers staked their case in 1297 on their distinctive form of tenure and it is clear that they were unwilling to allow the accelerating war effort to erode their special status. As has been discussed, only four of the lordships of the West March were held by knight service. As a result, though, like the Welsh March, the Western Border contributed very little to the feudal levy but a clear distinction can be drawn between the two areas in respect of the other incidents of feudal tenure. On the Welsh March these were very

50 Bain CDS, v2, no 2103

51 Parl Writs I, 256

52 Bain CDS, v2, no 899; CPR 1292-1301, 305

incompletely enforced. In Cumbria, however, though most of the lordships were held by cornage the crown was able to insist on its rights much more effectively. Before discussing these points in detail, however, it would be valuable to clarify the issue of cornage. Fortunately the work of a series of scholars has made this a simple matter and it need not be expanded unduly. Essentially, as William Rees has shown, cornage, noutgeld or horngeld was a cattle payment of celtic origin though by the end of the twelfth century it had come to be fixed as a money render. Cornage was directly comparable with the Scottish cain or the Welsh commorth and in Cumbria was often levied bi-annually or tri-ennially⁵³. Ultimately all the cornage paid by the West March was owed to the crown and this was another important difference between the Anglo-Scottish and the March of Wales. In Wales the lords alone collected the commorth payments, in Cumbria as in the case of Liddell Strength the lord might only act as the collector of a revenue which was ultimately owed to the crown. Even in the one case where the cornage payments were collected for the exclusive use of the lord, in the barony of Appleby, this right was held not under royal suffrance but by specific royal grant of the service of all the tenants who did not hold by military service.

The importance of cornage tenure declined during the middle ages. In the twelfth century, with the exception of Egremont, tenure by cornage and by knight service seem to have been regarded as incompatible, and there were some advantages to holding by cornage in view of what has already been said concerning taxation but the clarity of the distinction between the two faded in time and claims by the borderers for

53 W Rees - 'The survival of Ancient Celtic Custom in England';
 J R R Tolkien - Angles and Britons, (Cardiff 1963);
 G W S Barrow - 'Northern English Society in the Twelfth and Thirteenth Centuries'; NH, v4 (1969), 15

exemption from the incidents of feudal tenure by virtue of tenure by cornage met with stiff resistance. In 1223 William de Forz, Earl of Aumale claimed that as the estates of Richard de Lucy were held by cornage no wardship was owed to the crown from them. The Earl's claim convinced Rachel Reid but it left the justices unimpressed and it was not allowed ⁵⁴. In any event, the Earl probably did his case no good by admitting a claim put forward by Thomas de Multon on behalf of the crown, that the marriage of the heirs belonged to the crown. Another case underlines this point and interestingly it concerns the lordship of Wigton, which was accounted as a grand serjeanty. According to an inquisition taken by the sheriff of Cumberland, Odard de Wigton held Melmerby with Stainton, Blakehale and Warwick in chief and paid cornage for them. He also held Wigton of the Earl of Aumale paying cornage for it. On Odard's death his lands were taken into wardship, there being no sign that prerogative wardship was not enforced until the majority of his heir, Walter de Wigton. Melmerby, indeed, was held in wardship even after the coming of age of Walter but the case is valuable in that it establishes that wardship was owed by cornage tenants whether they held in chief or mediately ⁵⁵. That the Earl's claim was directly contradictory to that made by his father in 1223 need not be remarked, indeed the Earl showed himself a greater respecter of the law than the crown. By the reign of Edward I the official attitude to the obligations of cornage tenure was absolutely clear. In 1275 the Barons of the Exchequer were able to inform the king that all who held in chief in Cumberland and Westmorland owed wardship and marriage to the crown ⁵⁶.

54 Bain I, no 864, Reid - 'Barony and Thanage', EHR, v35 (1920) 183

55 Bain I, no 2129

56 Calendarium Genealogicum Henry III and Edward I (Public Record Office 1865), v2, no 43

Since the cornage payments were fixed sums, their financial importance declined with inflation and as a result the relative importance of the military aspect of border tenure increased ⁵⁷, even though the military obligation was a limited one. When Richard II granted the Clifford lands in Westmorland to Ralph Nevill, Earl of Westmorland, his charter provided a valuable gloss on John's original grant to Robert I de Vipont. Noting that John had granted Vipont 'the services of all those who held by homage, fealty and a certain fixed rent called cornage', the charter went on to record that this form of tenure 'gave and always has given wardship, marriage and relief and was in effect military service' ⁵⁸. If Richard's charter protests too much about the past it is still valuable evidence about how cornage tenures were regarded at the end of the fourteenth century.

As we have seen the grand serjeanty of the de Wigton family was recognised as owing wardship and marriage. It owed relief also and in accordance with Magna Carta, this was assessed at £5 ⁵⁹. The payment of a relief was also demanded on succession to the greater lordships of the region. In Cumberland the larger lordships were generally assessed as baronies or as fractions of baronies and as such the reliefs were levied on a scale appropriate to that rank. Few of the lordships of the region, however, were directly co-incident with whole baronies as they were assessed at the Exchequer. Greystoke was one and paid the relief of £100 ⁶⁰. Other cases were less simple. Egremont and Aspatria were reckoned as consisting of half the barony

57 W Rees - 'Survival of Celtic Custom', 158

58 CPR 1396-99, 361

59 E.392/125 Cumberland

60 Pipe Rolls of Cumberland and Westmorland, 178

of Copeland and a quarter of Allerdale and were thus assessed at £75⁶¹. On succession to Gilsland, Thomas I de Multon of Gilsland was charged the sum of £40, a figure which seems to relate neither to a barony nor to the two knight's fees with which Gilsland was credited⁶². Other estates were burdened with reliefs which are not readily explicable and the distinction between baronies and other estates enjoying extensive judicial powers was blurred on the West March, and it is for this reason that the great estates of the region can be more helpfully described as lordships than as baronies.

It is worth summarising the feudal obligations owed by the lordships of the West March, leaving aside technical arguments over the size of reliefs and the distinction between land held by knight service or by cornage. They owed homage, fealty and as has been discussed already wardship, marriage and relief. The only distinction was in the type of military service owed, whether knight service or simply by service against the Scots. With this stipulation the borderers owed exactly the same dues as the feudal tenants of Domesday England. This, indeed, was only natural as the whole of the March of Scotland, not just the West March, was an internal margin of England, not an external feudal glacis like the March of Wales, but part and parcel of the realm. This fact, as important as it was simple, profoundly affected the legal status of the lordships of the West March. It was the vital factor which differentiated the legal status of the lordships of Cumbria from those of Wales, which in other respects they closely resembled⁶³. The lords of the West March stood as the heirs not of the independent princes of

61 E.372/127, E372/137, Cumberland

62 Pipe Rolls of Cumberland and Westmorland, 178

63 Barrow - 'Pattern of Lordship and Feudal Settlement'; Journal of Mediaeval History, vl, (1970)

Cumbria such as Owen the Bald but of lords like Dolphin, whereas the lords of Wales claimed to have inherited the rights and powers of the Princes of Wales. As a result, the lords of the West March owed, they did not command, the rights of primer seisin and prerogative wardship as the lords of the March of Wales and Bishops of Durham did ⁶⁴.

The lords of the West March held wide judicial rights, but they were bound to enforce the common law of England and they were not permitted to declare and amend the law as the lords of Wales claimed the right to do ⁶⁵. To this end royal justice scrutinised the workings of the seigniorial courts of the region, at least until the discontinuation of the eyre system. Equally, the inferior legal status of the courts of the West March compared either with Durham or the March of Wales is demonstrated by the fact that the peace which was enforced by the lords of the West March ran in the king's name not in their own, again in contrast to Wales or Durham where the lords or the bishops claimed the right to enforce their own peace ⁶⁶. As a result the lords of the West March were answerable to the crown for false judgements made in their courts and for appeals against errors of judgement were reserved to the royal courts. Finally, and the point is almost self-evident, the lords of Cumbria were wholly within the jurisdiction of the royal courts and they and their men could be summoned, albeit in accordance with their privileges, to answer in the king's court or to vouch to warranty without exception. The March of Scotland was, as noted above, a parcel of the realm elevated into a series of immunities, but these were immunities not exemptions from the law of the realm. They were inseparable from the law of England and indeed they were created and governed by that law ⁶⁷.

64 Davies - Lordship and Society in March of Wales, 151, 152

65 *idem*

66 Just. 1/132, m28

67 Compare the situation on the Welsh March. Davies - Lordship and Society, esp. 221

III

Family Histories and genealogies as we have seen may influence the development of landed estates, for example, by forcing their partition, but they may in another respect be distanced from the consideration of the estates themselves. The analogy of lordships as counters in a family game of territorial expansion has been used already, and in this sense it is possible to regard an estate in the West March as equivalent to a barony in say Kent or Lincolnshire. As soon as we move beyond this level of discussion, however, we are brought into direct contact with the differences between the lordships of the West March and those in the rest of England, both in their practical role and even in their physical geography. The estates of the West March were part of a larger pattern, it is true, but that pattern united them more with Wales, Scottish Galloway and Anglo-Norman Ireland than with Domesday England. Clear and important similarities existed between these areas, not only in regard to cornage payments and a distinctively celtic system of law enforcement but also in the extensive financial and judicial rights which their lords enjoyed. These rights, indeed, represented a blend of public and private rights which were mixed together in an almost indissoluble fusion. Secondly, the lordships of the West March were in a real way territorial. While the lords of the West March were not the exclusive landlords of all the land within the bounds of their seigneuries, for example, within the barony of Burgh-by-Sands there were some manors which were 'yet no part of the barony, nor holden of it', the lordships did possess a territorial identity and integrity rare in Domesday England⁶⁸. Particularly in coastal Cumberland, geographical boundaries to lordships coupled with extensive seigneurial franchises meant that the lords of the region exercised effective power and jurisdiction over distinct and recognisable areas of land.

68 Hist and Antiq II, 216

The lords of the West March frequently enjoyed rights over their men, a group which was often much broader than their tenants, and their rights often went far beyond the powers associated with land-lords or rentiers. Within the greatest of the border lordships the lords or their agents exercised powers to command, to compel even those who were not their tenants as well as the right to do justice on them and even the power to execute them ⁶⁹. These widespread judicial rights were among the most important features of lordship in the March and the seigneurial gallows stood as ready reminders of the fact ⁷⁰. Unlike those of the lords of the March of Wales, the judicial rights of the lordships of the West March were held, in strict legal theory, by delegation from the crown and in varying degrees and extents but such niceties of legal doctrine would have been lost on the men of the march who must have felt the exercise of their lord's power on an everyday basis. It would be an error to dissect the interplay of the crown and the lordships of the West March at any one period and then to apply the pattern disclosed indiscriminately over the whole of the middle ages; the lordships and their powers evolved gradually and changed over a long period. In particular, though it is most easy to study the workings of the border lordships in the reign of Edward I, for it is that the evidence from the courts of the Justices in Eyre and the central courts of King's Bench and Common Pleas is most abundant, it is clear that this era was no more settled than those it followed or those it preceded and the March stood on the verge of decisive change as a result of Edward's attempts to dominate Scotland. One can even go further and say that, legally, the reign of Edward I was a period less

69 R Boutruche,- Seigneurie et Feodalite, (Paris 1970), v2, 83

70 An example can best be provided from Annandale where conditions were closely similar. A certain grange was described as being 'on the way to the gallows'. Bain, CDS, v1, no 1861



of new developments than of clarification and definition. The truly decisive changes were made considerably earlier.

The Anglo-Norman kings, perhaps with the exception of Stephen, took a more direct interest in the North of England in general and in the West March in particular than did their successors, although this interest was, in general, subordinated to their dealings with Scotland. Of all the Anglo-Normans Henry I enforced perhaps the most important development. Henry conditioned the feudal development of the region, checking the growth of the most far reaching type of Marcher immunity as it had developed on the March of Wales. The conquest of the West March was led by the crown or its clearly nominated agents and the fiefs there were granted out on precisely delineated boundaries, whether or not these lines represented existing boundaries. The lords of the new march were not left, as were their peers in Wales, free to help themselves to as much land as they could take and hold effectively ⁷¹.

The crown was the direct feudal superior of the lordships of the West March and the contrast between this situation and that on the Welsh March can be explained by recognisably different timescales of settlement in the two areas. The Normans had penetrated deeply into Wales by the time of the Domesday survey in 1086 but in Cumbria the conquests had barely begun by that time ⁷². The lordships of the West March, created perhaps as much as fifty years after those in Wales, were brought into being by a monarchy which was more powerful, and probably also more watchful. As a result the lords of Cumbria were to be more closely answerable to the crown. More importantly, Henry I also took

71 J G Edwards - 'The Normans and the Welsh March'; Proceedings of the British Academy, v42 (1956), 167

72 ibid, 157

a direct stake in the region, retaining a large part of Ranulf Meschines' lordship of Carlisle in his own hand, firmly establishing royal control of the vital strategic castle of Carlisle. Royal power on the West March was to be more than theoretical, it had a castle and a sheriff to enforce it. There were, however, limits to the powers of the early royal officers on the border. Henry's sheriffs of Carlisle exercised their office within only a part of the later county of Cumberland and the great lordships, especially Copeland, were clearly outside his jurisdiction. The royal sheriffs accounted, indeed, not for Cumberland as a whole but for a rather smaller bailiwick, the district of Carlisle rather than the later county.

Henry I had made important progress toward the integration of the West March into England by the time of his death. Legally he had put the matter beyond doubt, but much remained to be done. On Henry's death, however, the process was to be reversed rather than continued. David I of Scots gained control of Cumbria and for the rest of Stephen's reign the region was recognisably Scottish. The disruption this process caused, on a practical level, might easily be exaggerated. David I did not enforce a tenurial revolution, for example, William FitzDuncan succeeded to the lordship of Copeland by reason of his marriage to Alice de Rumelly rather than by right of conquest⁷³. Henry II followed a closely similar pattern when he restored Cumbria to English supremacy. Again there was little disruption and few forfeitures. There was only one exception to this policy, Gilsland. Robert de Vaux was granted Gilsland in 1158, presumably after the forfeiture of the successors of Gille, son of Boet, whose close Scottish connections probably disposed

73 Early Yorkshire Charters, v7, 11; Reg St Bees, no 16

them to oppose the re-integration of Cumberland into England⁷⁴. The ease with which Henry II achieved the conquest of Cumberland in 1157 belied how much remained to be done. It was not enough to simply restore the situation as it had existed under Henry I, governmental power had to be increased in line with the advances that had been made in the rest of England, and this had to be achieved in an area which was to all extents newly conquered⁷⁵. The task was further complicated by the rebellion of the Young King in 1176, which was the occasion of a renewed Scots invasion of Cumberland but in truth the government of the West March had been almost completed before then. In 1174, for the first time, the district was designated, not as the county of Carlisle but as Cumberland⁷⁶. More significantly perhaps, the county included the great liberty of Copeland, for the first time, though its lords continued to guard their immunity jealously.

There are close and important parallels to be drawn between the lordships of the West March and the lordships of Norman Ireland and there are good reasons why this should be so. The establishment of the Irish lordships were the products of almost exactly the same period as those of Cumbria⁷⁷. The links between these two areas were, in fact, closer than those between the Marches of Scotland and of Wales, for whereas in Wales the Marcher immunities had developed with little resistance from the crown, in Cumbria and Ireland the lordships were the product of the inter-action between Norman settlers and well established Celtic

74 Facsimile in VCH, vl, 320

75 W L Warren - Henry II (1973), 54. See also Carte 1 in J Boussard "Le Gouvernement de Henri II Plantagenet" (Paris 1956)

76 Public Record Office Lists and Indices, v9, (List of Sheriffs) under Cumberland and Westmorland

77 A J Otway-Ruthven - A History of Mediaeval Ireland (1968)
 CSP pp 81, 102, 103

lordships, but this fusion took place under the influence of a monarchy which had an increasingly well developed perception of its superiority, if imperfect means to impose that supremacy in practice. The result was that the tenurial and judicial supremacy of the crown was, in theory, absolute. In practice, however, the power of the crown was spread unevenly and irregularly and the region was governed on the most practical level by a mixture of royal shire administration and baronial self government. Moreover, there was no one absolute pattern for this synthesis, but a whole series graded from Copeland, which was perhaps the greatest of the border liberties, to less privileged lordships at the other end of the scale.

The degree and antiquity of the liberties of the West March was striking. As in the other areas of Norman-Celtic lordships many of the powers exercised by the lords of the Scottish Border were, whatever their precise legal standing, essentially those which had been exercised by independent pre-conquest lords but it is easier to recognise this fact than to trace the history of these powers during the eleventh and twelfth centuries. We have no direct evidence, for example, on the rights which Ranulf Meschines held as lord of Carlisle. Indirect evidence, however, does allow us to pursue the enquiry. Around 1124, David I of Scots granted to Robert de Bruce a large castellerie in Annandale and searching for a pattern on which to grant Bruce judicial rights in his fief, looked, very naturally, across the border to England. Annandale was to play a closely similar role to that played by Meschines' lordship of Carlisle and the two lordships were matched in terms of background and population. Bruce was therefore granted 'illis consuetudinibus quas Ranulf Meschines habuit in terra sua de Carduill et in terra sua de Cumbraland illo die in quo unquam meliores et

liberiores habuit' ⁷⁸. It might be expected that these powers were extensive. A confirmation of Bruce's son's rights tends to argue against this however. William the Lion explicitly reserved to himself the royal pleas of premeditated assault, rape, arson and robbery. Bruce was, however, allowed a degree of self government, namely that the offices of royal bailiffs should be performed by one of his own men though this man was to be chosen by the crown ⁷⁹. An inquisition held in 1304 makes the situation still more clear, the sheriff of Dumfries might not enter the liberty of Annandale as Annandale had its own coroner, but he was to be chosen at the king's pleasure ⁸⁰. Leaving aside the question of the right to a private coroner, it is worth comparing these rights with those held in Cumbria. Now, as we have noted, there is no direct evidence for the terms on which Ranulf Meschines held Carlisle but it seems improbable that William Meschines and Waltheof held rights in Copeland and Allerdale which were greater than those held by Ranulf. Evidence from the thirteenth century suggests that by that time their successors did hold powers which were in excess of those held by Ranulf Meschines, on the testimony of Annandale. All the lords of Cockermouth, Egremont and Aspatria prescribed to have, and were allowed, pleas of the crown without exception. To take just one of the pleas of which Bruce was denied cognisance, rape. Appeals for crimes of rape were heard in the liberty court of Egremont ⁸¹. Therefore, though Bruce's rights in Annandale were on a pattern which was closely similar to that of the lordships of Cumberland, his rights were less extensive than those of the lords of the greatest Cumbrian liberties, they were more comparable

78 Lawrie - Early Scottish Charters, no 48

79 ibid, 308; Bain, CDS, v1, no 105

80 Bain, CDS, v2, no 1588

81 PQW, 112-114

with the rights held in the liberties of eastern Cumberland, Gilsland, Greystoke and Liddel Strength. Bruce had *infangthef*, for example, signified by his seigneurial gallows just as did the lords of Gilsland⁸². Both lords, like the lord of Greystoke, claimed the right to have the king's precepts carried out by one of their own officers and that royal officers might not enter their lands except by their permission, though it is questionable if this permission could be refused. Again though it is evident that the powers of the Cumbrian lords were more extreme for the bailiffs were not to be chosen by the crown as Bruce's coroners were to be but by the lords themselves⁸³.

The rights which the lords of the liberties of Copeland and Allerdale were markedly superior to those enjoyed in eastern Cumberland and these, in their turn, were more highly enfranchised than were the lords of Annandale. Since Bruce's rights in Annandale were originally modelled on those of Ranulf Meschines, this provides a potential difficulty but two possible explanations suggest themselves for the discrepancy. The first is that the rights enjoyed by the lords of Copeland were identical with those held by the lords of Annandale and that the Scottish kings were able to suppress the full regality of the powers which Meschines and Bruce at one time held. This hypothesis seems unconvincing, however, William the Lion's confirmation explicitly refers to the rights held by the first Bruce. Moreover, it would have been surprising to have found the Scottish crown restricting baronial powers in an area in which the kings spent remarkably little time⁸⁴. The

82 *ibid*, 126, Bain CDS, vl, no 1691, VCH, vl, 320

83 PQW, 112-114

84 Barrow - 'Pattern of Lordship and Feudal Settlement'; Journal of Mediaeval History, vl (1957), 128

second possibility is that the charter granted to Robert de Bruce reflects the true extent of the powers held by Ranulf Meschines and that these powers were simply preserved, not restricted, by William the Lion. If this theory is correct then it follows that either the lords of coastal Cumberland were granted greater immunities than was Ranulf Meschines, which seems unlikely, or they were able to expand the degree of judicial and administrative immunity which they were originally granted until it attained the extent disclosed by the Quo Waranto enquiries.

The history of the West March, and especially that of Copeland, is consistent with this suggestion. As we have seen the lordship of Copeland was established well before the later county of Cumberland. Moreover, Copeland continued to preserve its own status as a county in its own right. In 1182 Cecily de Rumelly was styled as the Countess of Copeland and the title seems to have been in general use throughout her lifetime ⁸⁵. As late as 1213, when Thomas de Multon made a proffer of 1000 marks for the custody of the daughters of Richard de Lucy the margin heading was Copeland not Cumberland and other examples are common ⁸⁶. Even in 1258 Copeland was regarded as separate from the county of Cumberland ⁸⁷. This persistence also took more practical forms. In 1176 it was described as an area separate from Cumberland for the purposes of the eyre and it is clear that the immunity of the region meant that the sheriff could exercise only very limited power over the lordship ⁸⁸.

85 Pipe Roll 31 Henry II, (Pipe Roll Society, v34, 1913) 184, 186 Early Yorkshire Charters, v7, 20

86 Rotuli de Oblatis, 482

87 Bain, CDS, v1, no 2103

88 W Stubbs - Gesta Henrici Secundi Benedicti Abbas, (Rolls Series 1867) v1, 108

The first illustration of the success of the lords of Copeland in resisting the increase in royal power in the region is provided by the development of royal forest. Much of the county of Cumberland was afforested by Henry II. The forest of Inglewood formed an area bounded approximately by straight lines connecting Crofton, Broughton, Edenhall and Warwick on Eden⁸⁹. The creation of royal forest was a dominant feature of Henry II's policy and it is clear that he was not satisfied by the extent of Inglewood and wished to afforest still more land. A local tradition prevalent in the thirteenth and fourteenth centuries held that Alan, son of Waltheof, granted Henry II Allerdale forest and this testifies to two important points. Firstly, that rights over the forest were regarded as an important aspect of lordship in Cumberland⁹⁰. Secondly it may well record Henry II's aggressive policy of territorial expansion. Since William of Egremont, who succeeded to Allerdale probably did so some time after 1162, it is possible that Alan, son of Waltheof, was in possession of Allerdale in the earliest years of Henry II's reign and did grant the king the forest of Allerdale as the inquest taken during the reign of Edward I records⁹¹. The most probable time at which such a grant took place is the years 1157-58 when Henry II was active in the north, re-establishing his authority in Cumbria. It may even have been that the cession of the forest of Allerdale was the price Alan paid for remaining in possession of his lands after Henry II's reconquest. Whether or not this speculation is correct there is no doubt that the royal forest was extended into Allerdale or that this was a demonstration of formidable royal power. If Henry was able to extend

89 Pipe Roll 24 Henry II, (Pipe Roll Society, v27, 1915), 26

90 F H M Parker - 'Inglewood Forest Part 3'; Trans of C&W II, v5 (1905), 40, 41

91 Bain, CDS, v2, no 64; Reg St Bees, no 498; Parker - 'Inglewood Forest Part 2' - Trans of C&W II, v6, (1906), 160

the royal forest into Allerdale, however, he was not able to do so in Copeland. The area between the Derwent and the Duddon was never part of the royal forest⁹². As W.H. Liddell has aptly observed, the timing of the creation of the forest of Inglewood explains why the forest of Copeland was not integrated into it, for at the time when the forests were created in Inglewood and Allerdale, Copeland was virtually outside the royal shire government⁹³. The local view that lordship in the region comprehended the control of local forests has already been mentioned, and this belief was borne out in practice both before and after the creation of the forest of Inglewood. Thus even the lords of Millom, sub-tenants of the honour of Egremont, could like their superior lords grant land while reserving to themselves the right of venison 'secundem consuetudinem patriae' .

If Henry II was unable, or it is possible unwilling, to enforce the creation of a royal forest in Copeland, the government of Richard I was no more able to impose increases in the power of the shire government at the expense of the great liberties of the region. The institution of the office of coroner, or keeper of the pleas of the crown, provides an illustration of this. The keeping of records of cases which were likely to result in pleas of crown was not new in 1194 but this activity was placed on a regular basis and charged to a specialist group of local officials⁹⁴. Three knights and a clerk were to be chosen for this purpose in each county and it seems probable that they were expected to have jurisdiction both within and without liberties⁹⁵. This was

92 W H Liddell - 'The Private Forests of South West Cumberland'; Trans of C&W II, v66 (1966), 107

93 Reg St Bees, no 2, Illus Docs, no 22

94 R F Hunnisett - The Mediaeval Coroner, (Cambridge 1961), 1, 2

95 W Stubbs - Select Charters and other Illustrations of English Constitutional History, ed and revised H W C Davies (Oxford 1921) 254, cap 20

certainly the view taken by the Edwardian writer Fleta⁹⁶. Such a jurisdiction did not exist in Cumbria. As we have seen, the lords of the liberties of Greystoke and Gilsland claimed the right to have the coroner's duties carried out by their own bailiffs and the lords of Copeland and Allerdale claimed the right to have their own coroners from time out of mind. This 'remarkable fact' to which Maitland drew attention illustrates the fact that for many administrative purposes the great liberties of Cumberland, particularly those of coastal Cumberland, were self governing and they were exempt from the jurisdiction of the royal shire⁹⁷. They developed parallel institutions, they were bound by law to do so, but they developed them separately from the shire. Their exemption from the shire was codified by the Quo Warranto enquiries and probably even before, in the form of the franchise of 'return of writs' but this was only a recognition, perhaps even a diminution of the rights which existed previously⁹⁸. Even this rationalisation, however, disclosed the fact that in a large stretch of territory running from the Wampool to the Duddon, with the exception of a few islands of territory such as Torpenhow, while the king's writ did run, it was enforced only by private bailiffs. The sheriff and his staff might only enter in the event of default by the lord or his agents. The right to returns of writs was not unique to the West March, it was widely held throughout England but generally it was confined to relatively small areas. In Cumberland whole baronies, such as Cockermouth and Egremont were covered by the franchise or by closely related immunities. One example will suffice to show the practical effects of this situation. In a case involving John de Hudlestone, lord of Millom, over

96 HEL, v1, 583

97 PQW, 112-114

98 M T Clanchy - 'The Franchise of Return of Writs', Trans of the Royal Historical Society, Series 5, v17 (1967). 71, 78, 79.

land in the lordship, writs had to be sent first to the lord of Egremont, though Hudlestone was an important baron in his own right. As Chief Justice Hengham recognised, these rights were virtually annexed to the great estates of Cumberland and the extensive and elaborate partitions made amongst the lordships of coastal Cumberland neither hindered their development or their effectiveness.⁹⁹

The distinguishing feature of the lordships of the West March was the nature and extent of their powers over their men, a group much wider than simply their tenants, since they had, in effect certainly, inherited powers which were those of princes rather than those of subjects. In practical terms the lords of Copeland exercised powers which were identical with those exercised by the crown in the rest of Cumberland. The serjeants of the peace, for example, were appointed and controlled by the lords of Egremont and Cockermouth in exactly the same way as they were by the crown in the rest of the county¹⁰⁰. Another important feature of marcher lordship was the close intermingling of private and public rights and nowhere was this so clearly visible as in the lordship of Appleby. This lordship was both a vast landed estate comprising much of the present county of Westmorland, including the strategic castles of Appleby, Brough under Stainmore and Brougham and in effect a very comprehensive judicial liberty. The hereditary shrievalty of the county of Westmorland was the oldest established such office in England and it represented an important recognition by John of the difficulties of governing the March of Scotland¹⁰¹. The lordship was created in

99 P Brand - 'Quo Waranto Law in the Reign of Edward I'; Irish Jurist, New Series, v14 (1979), 152, 163, 170; CP.40/143, m139 Hudlestone was summoned for military service in Wales in 1277 and regularly on other occasions. Parl Writs, v1, 193

100 Lucy Cartulary, no 237; CPR 1225-32, 456

101 W A Morris - The Mediaeval Sheriff in England, (Manchester 1927)
179.

1203 and the reluctance with which John relinquished control to Robert de Vipont reflect both the king's distrust of one of his lieutenants and, more importantly, a desire to circumscribe the rights that were being granted away¹⁰². Though Vipont and his heirs were expressly denied control of pleas of the crown, there can be no denying the fact that the creation of the hereditary shrievalty was a clear reversal of consistent royal policy during the twelfth century. Professor Hilton writing of the Beauchamps' power as hereditary sheriffs of Warwickshire has described the situation precisely, 'from the local point of view there was as overpowering a combination of feudal landed power and control of public authority as could be found in an old established franchise'¹⁰³. This power, moreover, was not limited to the lands which were not held directly of the lordship of Appleby but it included a police power within the lands held of the barony of Kendale as well¹⁰⁴. The role of the serjeants of the peace will be discussed elsewhere, but there can be no doubt that as in Copeland the serjeants of the peace there were more effectively seigneurial officials than public ones. Moreover, though nominally a royal official, the hereditary sheriff of Westmorland was more effectively exempt from royal control than were even his most priveleged neighbours in Cumberland. The hereditary sheriff or his deputies were responsible for the execution of all royal writs, summonses or other business. Little, however, could be done in the event of default, in contrast to the case of franchises of return of writs where an order could be issued for the sheriff to carry out a royal writ using the clause non omittas propter libertatem. In cases of default by the hereditary sheriff, it was possible to address writs

102 Rot Literarum Patentium, 27

103 R H Hilton - A Mediaeval Society, (Cambridge 1981), 233

104 CCR 1281-92, 109

to the coroners of the county, but since at least one of these, like any under-sheriff was almost certain to have been a tenant and, almost as certainly, a retainer of the Viponts or the Cliffords this procedure was usually ineffective¹⁰⁵. The unique legal and tenurial powers enjoyed by the lords of Appleby mean that it makes sense to regard Appleby as simply the greatest of the border liberties even though its lords did not enjoy the extensive franchises common in Cumberland. They were, however, the holders of royal rights of law enforcement, though by recent delegation rather than by ancient tenure.

There was also much of the appearance in the powers of the lords of Cumberland of restricted regality, they were not only, in one sense, the crown's hereditary agents, they deployed many of the rights of the crown as their own. That the lords of Allerdale and Copeland held the pleas of the crown was, of course, the most obvious example of this. Other examples are easily found, the right to the royal right of sea-wreck was enjoyed by local lords from antiquity and the significance of the right was hardly negated by the fact that in practice the most useful aspect of it was the taking of seaweed for use as fertiliser¹⁰⁶. The monks of Holm Cultram evidently regarded this as an established local custom and were only deprived of it on a legal technicality, namely that their charter did not mention sea-wreck explicitly¹⁰⁷. Roger de Hengham stated an important principle, however, by stating that wreck was a royal right, though with more judicious pleading the monks of Holm Cultram might well have held on it as the lords of Copeland did. The same was true of the 'very royal' plea of vee de naam which

105 Hunnisett - Mediaeval Coroner, 135. There were two coroners in Westmorland, one for Appleby and one for Kendale.

106 Just. 1/132, m32d; HEL, v2, 573

107 PQW, 130; Reg Holm Cultram, nos 263, 263A, 264

was also held by the lords of Copeland and Allerdale¹⁰⁸. The lords of Copeland possessed a large count of regalities in their court, but the exercise of these regalities was restricted judicially and practically by royal justice.

The first example of these restrictions is provided by the process of outlawry. Despite the gradual devaluation of the power of outlawry, this remained a decisive and specifically royal power. It was a signal mark of the powers enjoyed by the lords of Copeland and Allerdale that they were entitled to employ a form of this process. Indeed they were empowered to use the whole process, with one very significant restriction, that the final sentence of outlawry might only be promulgated in the county court. An example will make the process more clear. Thomas de Cleator was appealed in the court of the liberty of Egremont on a charge of breach of the peace by one Robert of ---¹⁰⁹. It was testified before the Justices in Eyre by the roll of the coroner of Egremont that Robert had pressed his suit to the eighth court of the liberty, which was held every three weeks, so that his suit was before the court of a total of twenty four weeks. Therefore the suitors of the court came to the next county court, 'as it was not permitted to them to use the process of outlawry' and asked that Thomas be solemnly promulgated as an outlaw and this was done. The custom, or better right, was well established by the reign of Edward I. It was known to the writer of Bracton's Note Book, for example, who recorded that in the liberty of Copeland that

'if anyone commits an offence for which he may be outlawed
by the law of the land, he may be exacted at all the courts

108 PQW, 112-14

109 Just. 1/132, m28; Just. 1/131, m1. On both MSS the appellants 'surname' is illegible.

which the lord of that liberty holds to the term of five county courts then the record of that court may be presented in the county and by the testimony of the court he will be outlawed at only one exaction.

"ad unicum interrogacionem utlagabatur" 110.

No mention of this custom is made in The Laws and Customs of England but it is clear that it was in line with the rules for the promulgation of outlawry explained there, namely that the appellee should be exacted for a total of five county courts and only at the last promulgated as an outlaw¹¹¹. The power of the liberty court of Egremont, which was enjoyed by the lords of Cockermouth, did not detract from the power of the county court which was the only legal place for the process of outlawry to be utilised, but unquestionably the liberty courts exercised part of the power which in other shires belonged, without qualification, to the county court. In the Notebook the case involving Copeland is marked for referral for further discussion with the king but clearly the custom survived unchecked and was recognised as being lawful. Attempts to circumvent the jurisdiction of the county court completely were not tolerated however. On one occasion when the court of Egremont proceeded directly to outlawry of a man appealed of murder the liberty was taken into the king's hand and Multon was forced to make fine of £10 for its return¹¹².

This case illustrates two important principles involving the liberty courts of the West March. The first is one that has been discussed

110 Bracton's Notebook, no 1154

111 Bracton - On the Laws and Customs of England, ed. S E Thorne (Cambridge Massachussets 1968), 352-4

112 Just. 1/135, mm19, 32d

previously, the existence of regalian powers in the powers of local lords, of which control of part of the process of outlawry is one example. The second point is closely linked, it is the subordination of liberty courts to the system of royal justice. In a limited way this subordination was exercised by the county court, but in the matter of outlawry this supervision seems to have been limited to a formal process, there is no evidence that the circumstances of the appeal or its subsequent conduct were examined beyond the testimony of the coroner's roll. The most effective form of royal supervision over the private courts of the West March was provided by the Justices in Eyre and their visitations served, not only to enforce the judicial supremacy of the crown, but also to scrutinize the proceedings of them, compelling strict observance both of the law of the land but also of the limits of each court's powers. In one sense it is fortunate it was so, for our knowledge of the workings of the local courts of the region depends very largely on the information provided by the Eyre rolls¹¹³.

The superior jurisdiction of the Eyre over the courts of the region was demonstrated in two ways. The first of these was supervisory in the most strict sense. The jurors were instructed to report to the justices not only the activities and excesses of the royal officers of the region but also those of seigneurial bailiffs. The actions of local courts and this included the actions of liberty courts, were scrutinized and any errors of proceeding or blatantly illegal actions were punished, though local customs of established legality were respected¹¹⁴. Secondly, and more importantly, the hearings of the

113 There were three eyres in the period studied, 1246, 1278-79 and 1292-3. Only one part of the records from 1246 survives, Just. 1/130A. For full details see D Crook - Records of the General Eyre, (Public Record Office Handbooks, v20, 1982), 108

114 See below

eyre superseded and suppressed the operations of the courts of the region. The proclamation of the eyre stopped all actions in the inferior courts and the cognisance of all cases before them passed to the king's superior court¹¹⁵. Only the most priveleged liberty courts in England, for example that of the Cinque Ports, might sit while an eyre was in session and there is no evidence to suggest that any of the liberty courts of Cumbria were exempt from the general rule¹¹⁶.

Criminal cases from throughout the county came before the eyre and were decided as were civil cases though the liberty courts had, in any case, no cognisance of these. In a further demonstration of the supremacy of the royal courts, the chattels of felons executed or outlawed by the judgement of the Justices in Eyre were forfeited to the crown rather than to the felon's own lord. This custom was well established before the reign of Edward I and it is clear that its enforcement by Vauxs' and Cressinghams' eyres represented the prevailing custom rather than an attack on seigneurial privelege. Though many local lords claimed the right to the privelege of the chattels of any of their men who were executed, they did so in cases only where the felon was condemned in their own court. In the partitioned barony of Kirklevington they were only claimed in cases where the felon was executed under the jurisdiction of infangthef¹¹⁷.

Other rights were respected if claimed. In 1292 the Bishop of Carlisle was allowed the privelege of executing Simon, the son of Simon de Orreton, for arson and for causing the death of his father. The Bishop's seneschal, Robert de Warwick, came into court equipped with

115 W S Holdsworth - A History of English Law, v1 (1922), 266

116 W C Bolland - The Eyre of Kent, (Selden Society, v24, 1909) xxxiii, xxxiv, lix, lx

117 PQW, 120

the . . . charter reciting the Bishop's right to execute their men if taken within the bishop's liberty as the unfortunate Simon had been ¹¹⁸. Henry III's charter allowed the Bishop the forfeiture of Simon's chattels, but on this occasion this was small compensation for the great destruction the blaze which Simon had started caused in the city ¹¹⁹.

If the Justices in Eyre exercised a jurisdiction which ranged over liberty boundaries and jurisdictions, the exercise of this competence was, nevertheless, dictated by the great liberties. Again this operated on two levels. The first of these was provided by an ill-matched assortment of three special jurisdictions, the liberty of the Abbot of Byland at Warcop in Westmorland, the liberty of the mine at Alston and the King of Scots liberties of Tynedale and Cumberland. Two of these, that of the Abbot of Byland and that of the lead miners at Alston were entitled to a special sitting of the eyre in those places. These were in a sense inferior sittings of the eyre however. At Byland the justices themselves sat to hear civil pleas involving the liberty but these sessions were held before a reduced complement of the justices ¹²⁰. The liberty of the mines at Alston also had its own session but this did not even merit a sitting of the royal justices themselves. Two experienced local men were deputed to go to Alston to hold hearings in accordance with the articles of the eyre ¹²¹. In 1278 the justices were Hugh Milton of Hoff, a cadet of the family of the Multons of Gilsland, and Robert de Warwick whose later vigilance as the

118 Just. 1/137, m30; C. Chart. R 1226-1300, 136-7

119 Lanercost, 145

120 Crook - Records of General Eyre, 146

121 Bain, CDS, v2, no 147

seneschal of the Bishop of Carlisle has already been mentioned ¹²².

The liberty of the Kings of Scots was the largest, most judicially privileged, but also the most short-lived of the special liberties of the region. The liberty existed from 1242 until the death of Alexander III of Scots and consisted of the lordship of Tynedale in the extreme west of Northumberland and the manors of Carlton, Langwathby, Salkeld, Scotby, Souerby and land in Penrith ¹²³. This great but rather empty lordship had been granted to Alexander II as the price of the renunciation of his claims to the northern counties of England and within that area the king of Scots was promised every right and privilege ¹²⁴.

Though there were some similarities between the lordship of Tynedale and the palatinates of Durham and Chester and even with the lordships of the March of Wales, the parallels were limited. Though Henry III granted Alexander such rights as 'leyrwite' and 'flymenfryth' as well as more orthodox rights over murder, forestall and theft, the practical details of the arrangements of this jurisdiction were spelled out with great rigour. Pleas of the crown within the liberty were to be attached by the coroner of Cumberland, not a seigneurial official as was the case, for example, in Cockermouth. Moreover, though the kings of Scots were entitled to appoint their own justices to hear and determine pleas of the crown, these sessions were part of the general eyre and had to be conducted according to the articles of the eyre drawn up for the rest of England, which were delivered to the bailiff of the liberty who

122 *idem*

123 see M F Moore - The Lands of the Scottish Kings in England, New Jersey 1973 *pp 3 - 21.*

124 Stones - Relations, 21

passed them on to the justices appointed by the kings of Scots ¹²⁵. This, however, should not be allowed to exaggerate the judicial independence of the liberty of the kings of Scots. It was not an area where the king's writ did not run except for a short period when Bishop Bek succeeded in annexing Tynedale to the liberty of the Bishopric of Durham. During the kings of Scot's tenure of the liberty it was expressly stated to be covered by the franchise of return of writs as was Cockermouth or Egremont ¹²⁶. As a result the activities of the bailiffs of the liberty were subject to review by the justices in eyre. In 1278 as a result of the trespasses of the bailiffs there, the liberty was ordered to be taken into the king's hands. It appeared that the bailiffs, including one of the Swinton family, had abused their power by distraining for debt any whom they chose, whether or not it was justified ¹²⁶. This was the supervisory and corrective function of the eyre that we are familiar with, but other evidence suggests that in other respects too the exemptions enjoyed by the kings of Scots were less extensive than might be supposed. The foresters of Inglewood frequently entered the lordship and took lodging even though by charter they were forbidden to do so ¹²⁷. The persistent transgressions of the royal foresters, especially under the stewardship of Roger de Lancaster, also bring out an important fact about the liberty of the kings of Scots. The liberty was, in fact, poorly established, unlike the great liberties of the coast it had only a short history and perhaps more importantly its boundaries were not based on recognisable geographic lines as theirs were. Again unlike the older established lordships of Copeland and Allerdale the right enjoyed by the kings of Scots were precisely set out in Henry's charter

125 Calendar of Chancery Warrants (Public Record Office 1927), 34

126 Stones - Relations, 21; Bain, CDS, v2, no 1339

127 Bain, CDS, v2, 37; [C] M Fraser - A History of Anthony Bek (Oxford 1971) pp 89-90

and even though these were extensive there was no escaping the fact that Alexander II lost from the precise definition of his rights by the Bractonian lawyers of Henry's court in comparison with the powers which his near neighbours might enjoy by tenure from time out of mind.

The other lordships of the West March were subject to the jurisdiction of the justices in eyre in a more direct way than was the king of Scots' lordship but even so their existence still dictated the way in which the justices carried out their work. Ordinarily presentments for the pleas of the crown were made by juries representing hundreds, wapentakes or boroughs. The administrative divisions of the county which this system assumed were absent from Cumberland. At the time of the eyres in Cumberland even the wards which corresponded to the divisions of other counties were not wholly developed, indeed the eyre seems to have played an important part in their development. As a result though presentments were made by the bailiwicks of Leath and Eskdale and by the Cumberland and Allerdale bailiwicks, the main work of presenting the pleas of the crown was carried out by juries representing liberties. The divisions which presented crown pleas were seigneurial rather than governmental. Thus as well as jurors representing Carlisle there were also juries representing the boroughs of Cockermouth and Egremont. More significantly the rural population of south-west Cumberland was represented by jurors from the liberty of Copeland outside the burgh, the lordship of Egremont, and the liberty of Cockermouth, the highly enfranchised banlieu of the Five Vills outside the borough¹²⁹. The importance of juries drawn from liberty boundaries was not confined to coastal Cumberland however. Though a presentment was made from Leath and

128 Parker - 'Inglewood Forest Part 2'; Trans of C&W II, v6 (1906) 159

129 Just. 1/132, mm28, 30d, 31

and Eskdale, a separate return was made by jurors from the vill of Kirkoswald which was one of the chief holdings of the Multons of Gilsland where they, like their cousins in Egremont, carried out law enforcement in the first instance ¹³⁰.

In Westmorland the proceedings of the eyre depended just as much on the boundaries of the lordships there, or at least mirrored them and again it makes sense to regard the hereditary shrievalty of Westmorland as the greatest of the lordships of the West March. The proceedings of the eyre in Westmorland matched the judicial powers of the lords of Appleby. No distinction was made between the lordships of Appleby and Kendale over which the sheriff's staff exercised jurisdiction, but the burgh of Appleby which fought a persistent battle with the Clifford and Leyburn lords of Westmorland during the reign of Edward I was represented by a separate jury ¹³¹.

In short, therefore, the evidence suggests that though the eyre system was conceived as operating through the orthodox county organisation which existed in Domesday England even before the Norman Conquest, where that organisation was imperfectly developed, as it was in Cumbria, it had to operate through such local structures as did exist. In Cumbria it is clear that the essential structure was the lordship though the powers of the county and of the lordship were by no means always distinct.

130 Just. 1/137, m27

131 Just. 1/982

Local government and law enforcement on the West March was governed and conditioned by the existence of the great lordships of the region. The lordships often provided the means of government and, as physical areas, also provided the geographical basis of government. They were more than simply administrative divisions of the county, as perhaps they later became; they were in the final analysis areas in which power and authority was exercised by an individual. It was the right to, and the possession of this power and authority which characterised the mediaeval lord. Moreover, though, as has been suggested, the nature and extent of this power was subject to the superior judicial lordship of the crown, lordship was a practical, almost tangible feature of everyday life on the West March and it is the practical exercise of lordship which we should try to understand.

The powers of lords over their men were all-pervading and multifarious and they were borne by both free and unfree men though in differing ways and degrees. The lord's power of command was expressed in a variety of forms. It was inherent in the homage owed by free military tenants. It was even more obviously expressed in the duty of free tenants to do suit to their lord's court, failure to attend which could be punished by fines. Just as pervasive was the duty of suit of mill. Suit at their lord's mills was demanded, and enforced, not only of unfree tenants but of free tenants as well. As has been argued in Chapter I this was an important and profitable aspect of lordship and it was zealously defended. Other examples of the subordination of one man to another are numerous. Among the tenants of the lordship of Egremont in 1339 to take just one instance, William Centenar, Robert de Flaundres, John Clerkman and his son were all bound to mow a rood of good meadow for their lord¹³².

The powers of the lords of the West March went far beyond simple agricultural services however. Indeed, agricultural rights were probably less important in Cumbria than they were elsewhere in England where land was more intensively cultivated. The March of Scotland, like that of Wales, was predominantly a pastoral region and in such regions the power of lord over man was of greater moment and value than power over land¹³³. This, however, should not be confused with territorial lordship, the exercise of the powers of constraint and command over men within recognisable boundaries. This the lords of Cumbria exercised in large degree and they backed it up with extensive powers of law enforcement.

Territorial lordship requires definition. In Cumbria it was based less on the control of areas of cultivated land than control of the men within given boundaries. The enforcement of compulsory milling at the seigneurial mill is a convenient example. The tenants of Holm Cultram were bound to do suit at the mill of Burgh 'to the twenty first vessel', that is to grind their corn, or at least the first part of it, probably the first twenty one sheeps, at their lord's mill. This was a personal obligation rather than a tenurial one, owed by the tenants themselves not from the land they held¹³⁴. It was also an active obligation, expressly stated not to be commutable for a money payment. Territorial lordship also included the right to control access to the lordship and passage through it. There is good evidence to suggest that this right was commonly exercised by lords on the West March, and indeed throughout the former kingdom of Strathclyde. In the Bruce lordship of Annandale, travellers passing through were obliged to travel only by the straight marked road and by the charter of William the Lion the lords of Annandale were

133 Davies - Lordship and Society in the March of Wales, 131

134 Reg Holm Cultram, no 25 (i).

explicitly allowed to take tolls from them as they passed through.¹³⁵ The same powers were enjoyed in Cumberland, but they were not confined to the holders of the great liberties. Alexander de Bassenthwaite felt empowered to grant to the monks of Holm Cultram passage through his land, but also to stipulate that the monk's vehicles were to pass only by the accustomed road¹³⁶. Other land-holders took tolls for passage through their land but in this matter it is clear local practice and legal theory parted company. In 1278, for example, it was presented that Matilda de Vaux, Lady of Brampton, took tolls without having any known power to do so¹³⁷. Baldwin Wake's bailiffs went even further. They not only denied the king's bailiffs access to the manor to levy tolls from the market at Liddell but also refused to allow merchants to pass through his lands, towards Scotland, unless they paid tolls¹³⁸. Thomas de Multon of Egremont was guilty of a similar offence. His men took tolls from men passing through the lordship of Egremont, as indeed they were entitled to do, but on at least one occasion they exceeded their authority. Tolls were taken from the men of Carlisle who claimed to be quit of tolls throughout England¹³⁹. The burgesses of Appleby claimed a similar privilege but in practice they were forced to pay. Appleby was led at this time by an ambitious and litigious clan of wool merchants, the Goldingtons, who wasted no time in suing Multon. Confronted with the evidence of a royal charter Multon recognised the limitations of his position. He quitclaimed the right to take tolls

135 Bain, CDS, v1, no 29; Lawrie - Early Scottish Charters, 308

136 Reg Holm Cultram, no 267r

137 Just. 1/132, m27d

138 *ibid*

139 Just. 1/132, m32d

from the men of Appleby, gaining one pound in compensation¹⁴⁰. That a royal charter defeated the powers of lordship need not be stated.

The rights, or at least practical powers, which lords exercised over travellers passing through their land were matched by similar powers over those living within it. The right to hold a market and a fair was one seigneurial privilege and it conferred on the lords additional rights within their lordship. These were again expressed in financial terms. At Ravenglass and Egremont, Multon of Egremont held the right to take tolls from those bringing goods to market. These were enforced even before the market commenced. Traders bringing goods into the vill had to give pledges for tolls on all their stock with the lord's bailiffs and they were allowed to regain their pledges on stock unsold at the end of the day¹⁴¹. Stallholders, in addition, had to pay the lord for the right to hold their stall. The arrangements for the proclamation of the fair at Ravenglass proclaimed the lord's power in a much more obvious way. When the lord's bailiff came to Ravenglass to proclaim the fair open, all the tenants of the forest of Copeland, a large though decreasing area within Egremont, were bound to come to Ravenglass to meet him¹⁴². The forest tenants were also obliged to provide fodder for the horses of the serjeants of the liberty who accompanied the chief official. The power over men, to compel them to appear at a given time and place had other more practical manifestations. The lords of Egremont practised the right to take prises, compulsory purchases taken from the markets at Egremont and Ravenglass and paid

140 Just. 1/130B, m16; T Duffus Hardy - Rotuli Chartarum in Turri Londoniensi Asservati (Record Commission 1837), 47; C Chart R, vl, 157; ibid, v2, 331

141 Lucy Cartulary, 49-50

142 Hist and Antiq, vl, 21

for, if at all, at artificially low rates.¹⁴³ Royal employment of this practice, though on a wider scale, provoked widespread resentment and there is no reason to believe that private prises were any more popular.

The lord's power to regulate commercial life within his liberty merged almost imperceptibly with his control of law enforcement. The closest links were probably at the lowest levels. The enforcement of the Assizes of Bread and Ale, though in the view of contemporary lawyers essentially a right of justice¹⁴⁴, was very closely connected with the control exercised over markets and fairs. The right to have control over the Assizes of Bread and Ale was held virtually without exception by the lords of Cumbria and indeed in the Quo Waranto enquiries it was established as an appurtenance rather than a franchise in the strictest sense, which would have required a specific royal grant in each case where the right was not allowed by prescription¹⁴⁵. Established custom in the Northern Counties stressed the fiscal nature of this right. In Westmorland in 1281 Edward I and his council had expressly to condemn the practice of allowing breweresses to brew against the statute for a whole year for one payment¹⁴⁶, but it is likely that

this prohibition may not have been effective. In Cumberland at about the same time, local lords were recognised to have the right to take fines from persistent offenders rather than imposing corporal punishment as was the rule in the rest of England, excepting Northumberland¹⁴⁷. The sums owed by the ale-wives of Liddell, commonly around

143 CCR 1336-39, 476-7

144 Brand - 'Quo Waranto Law'; Irish Jurist, NS, v14 (1979), 148, 169

145 D W Sutherland - Quo Warranto Proceedings in the Reign of Edward I (Oxford 1963), 4

146 CCR 1279-88, 108; A S C Ross - 'The Assize of Bread'; Economic History Review, Series 2, v9 (1956), 335

147 Sutherland - Quo Waranto, 109 note

7 shillings, were probably like the money taken by the lords of Westmorland, a sort of levy which replaced individual fines¹⁴⁸. The assizes of Bread and Ale and the fact that they were established as private rights rather than royally controlled franchises was at odds with the doctrine set out by Ralph Hengham C.J. that the assizes were part of the royal powers of justice which it was the king's duty to uphold¹⁴⁹. In practice, they might be regarded as sources of private profit, albeit of limited value.

Even in an area where the possession of franchises was widespread, rights of high justice were more narrowly held than lesser rights, but the number of lords who held the right to justice of blood on the West March was broader than might be the case in lowland England. The lords who held these powers and this group included those lords who exercised the jurisdiction of infangthef, were holders of power over their men which was of a wholly different degree to those exercised by lords whose powers were confined, let us say, to the assizes of Bread and Ale.

Judicial lordship took many forms on the West March but at its most basic level it included the right to imprison and the power of arrest. In Cumberland the rights to try and execute felons were also widely held, most often in the form of the jurisdiction of infangthef. In Westmorland though the sheriff and the serjeants of the peace made arrests and summonses, often illegally, throughout the whole of the county and suspects were imprisoned in the castle of Appleby. The right to hold trials on those arrested was reserved to courts of gaol delivery appointed by the crown. Despite this restriction, the powers

148 Bain, CDS, v2, no 208

149 Brand - 'Quo Warranto Law', 148, 169

of the serjeants of the peace in Westmorland were extensive. They regularly claimed the right to demand free lodging from the tenants of Kendale. They also were empowered to attach any suspect to appear at the next county court. In other cases the practice known as 'surdit de serjaunt' allowed the bailiffs to imprison men solely by their own allegation. As suggested previously, though in Westmorland the serjeants were nominally royal agents, in practice they were agents of their lord before those of the king ¹⁵⁰.

In Cumberland, as in Westmorland, the enforcement of law and order was carried out through the serjeants of the peace and in large parts of the county the serjeants were appointed by the masters of the great liberties so that law enforcement was again predominantly seigneurial. The extent of the powers exercised by the serjeants of the peace or by lord's bailiffs varied, but as might be expected, the greatest demonstrations of seigneurial power were visible in the lordships of Copeland and Allerdale. Indeed the organisation of the lordship of Egremont, in particular, was very closely parallel to that of the county. Subject to the limitations discussed earlier, the power of the lords of Egremont over law enforcement within their liberty was almost complete. Arrests were made by seigneurial officials and they were entitled to hold in the gaol of Egremont castle those who had been arrested within the liberty ¹⁵¹. The castle was not a particularly secure gaol but it was the centre of law enforcement for the liberty of Egremont. From there the lord or his bailiff despatched men to make arrests and it was to the castle that the burgesses of Egremont were obliged to come in answer to their lord's summons. ¹⁵².

150 Just. 1/982, m23, 23d

151 Just. 1/132, m28; CCR 1336-39, 476

152 See for example Just. 1/132, m28; CRO D.Lons/L/Deeds W.H.4

The powers of the lord of Egremont were not restricted to those who held land directly of them. Thus in a case which came before the eyre of 1278 Thomas de Multon was summoned to answer the charge brought by Michael the son of Emma, that Thomas had sent his bailiff, Robert de Sari, to the house, which Michael held of the Prior of St Bees, to arrest him and afterwards had kept him imprisoned at Egremont, the court fully accepted Multon's defence that he had had this done because Michael was guilty of an assault, the victim of which was not expected to live. Indeed, the court went further and judged that by allowing Michael bail, Multon had acted contrary to the law for he ought to have been kept in gaol at the castle until it was clear whether his victim would die ¹⁵³. Anyone passing through Egremont, however, came under the jurisdiction of its lord. A thief who had strayed into Copeland from Cockermouth, for instance, was executed without any objection being raised ¹⁵⁴.

It need hardly be stated that the extensive power of the lords or their bailiffs gave them immense local influence. The lord or his bailiff's good-will could be a powerful form of protection, especially when the facts of a case might be in doubt. The exact facts of the case brought by John, son of John de Hales and Ughtred de Fulmar, against Simon de Stutevill, bailiff of the liberty of Egremont, Hugh de Moriceby and William de Thwaites are still in doubt, but the case nevertheless provides a unique example of the practical workings of lordship in Cumberland. Ughtred and John complained that Simon de Stutevill and William de Thwaites, the constable of the peace in Egremont, had sent Thomas, son of Adam, to arrest them and thereafter had them detained in

153 Just.1/132, m32

154 *ibid*, m28d

the prison of Egremont castle. In reply Simon stated that John and Ughtred had attacked Thomas and it was they who had brought him to the castle where they presented him to Stutevill as a malefactor. Here the two stories converge. According to Simon he recognised Thomas, son of Adam, and more significantly recognised him as one of his lord Thomas de Multon's men with the result that he decided to free him. That settled the matter Thomas, son of Adam, gave a pledge that he would prosecute John and Ughtred in the court of Egremont and was allowed to go quit. John and Ughtred, however, were committed to gaol until the gaol was to be delivered ¹⁵⁵.

The degree of power demonstrated in this case was almost bound to provoke resentment. It may well have been as a result of such opposition that Thomas de Multon made an agreement with his men 'toching' in the Elizabethan phrase 'their subjection and government' ¹⁵⁶ printed by James Wilson in his edition of the Register of St. Bees. This agreement may well have resulted from the case just discussed since the first name in the list of the 'communitas patriae' is John de Hales. De Multon agreed that not only should the number of those entitled to make arrests be restricted to six sworn serjeants, one horse and one foot serjeant between the Ellen and the Derwent and two horse and two foot serjeants between the Ellen and the Duddon. In each area the serjeants were also to have a groom, 'garcio', who was not to be sworn into office and as a result was to make no summonses or attachments ¹⁵⁷. This agreement, which had close similarities with similar restrictions on the powers of the serjeants of the peace, which will be discussed

155 KB.27/104, m5d; KB.27/106, mm2d, 3d are closely related cases

156 Reg St Bees, Illust Docs, no 30b

157 Lucy Cartulary, 50

more fully in Chapter 4, was aimed at precisely the problem raised by Hales and Fulmar's case against Simon de Stutevill, the power of lords to appoint their men to make arrests even when their men were not holders of any sworn office.

The powers of the lords of eastern Cumberland paralleled the powers of the lords of Egremont to a degree, though as has already been suggested, their powers were less extensive. Most of them claimed the right to restrict the influence of the king's officers within the borders of their liberty, however, at least to some extent. John de Greystoke claimed that royal bailiffs might only enter Greystoke to make attachments for pleas of the crown, and only then with his permission ¹⁵⁸. In the lands of Matilda de Multon and John Wake the procedure was for the bailiff to bring the writ or summons to the chief manor of the lordship to ask the bailiff's permission to execute it. The bailiff of the liberty would then accompany the royal official while the required summons or attachment was made ¹⁵⁹. This was obviously a time consuming procedure and it might be expected that it was not intended to be an effective means for enforcing the criminal law. Most arrests for felony were the work of seigneurial bailiffs. In Kirkoswald and the other lordships of eastern Cumberland, arrests in the first instance were made by the lord's bailiffs, only later did the crown become involved.

The method of procedure was direct and arbitrary and once again it is clear that the powers of the local lords exceeded, in practice, what the letter of the law allowed them. The jurors of Kirkoswald in 1292

158 PQW, 116

159 Just. 1/135, m7

reported that the lord's bailiffs regularly made arrests solely on suspicion rather than on the basis of any indictment ¹⁶⁰. Thomas de Multon of Gilsland's powers went still further. Anyone who was held to be suspect might be imprisoned in Kirkoswald until the next court held in the vill. If any suit was brought against the suspect there they were taken by the lord's men to the king's gaol and held there, probably until the gaol was delivered ¹⁶¹. If no suit was offered him, the powers of the lord were even more striking. The suspect might be held until the next court when the procedure was repeated. At the third court, if unchallenged, the suspect might at last go free.

The custom in Kirkoswald has close links with a system of arrest and remand found in Westmorland during the same period and it provides another example of the powers of local lords over all those passing through their lands. These powers were restricted within eastern Cumberland by the limited circumstances in which the lords could do full justice over their men. With the exceptions of Egremont and Cockermouth, seigneurial courts might try felons only in cases where the jurisdiction of infangthef was appropriate. The Quo Warranto enquiries disclosed this right to be very widely held in Cumberland and even in Dufton in Westmorland which was held of the Clifford lordship of Appleby ¹⁶². Infangthef, in strict doctrine, conferred the right to try cases of theft where the suspect was found in possession of the stolen goods ¹⁶³. This was, in practice, a much more important and extensively used right than it appears to the modern eye. In lieu of more elaborate means of detection, the finding

160 ibid

161 Just. 1/137, m27d

162 PQW, 786

of stolen goods was the surest way of establishing guilt in cases involving either the theft of goods or of livestock¹⁶⁴. The right of infangthef may also have allowed its possessor to obtain jurisdiction over cases of theft. This was probably the process by which John de Greystoke's court at Dufton, presided over by his steward, judged a plea of theft which did not pertain to it.¹⁶⁵

Though the jurisdiction of infangthef may, on occasion, have allowed the liberty serjeants of the peace to execute felons whose guilt was manifest or admitted¹⁶⁶, the right of infangthef, if carried out in full, significantly enhanced the power of a lord's court. For example,

one Hugh de Bulwe, having been arrested by the bailiff of Robert de Bruce's lordship of Glassonby, was brought before the court of Glassonby. In his defence Hugh stated that he had not stolen the ox which he had in his keeping when he had been arrested but that he had bought it from one William le Lung. William was present in court and denied the charge made by Hugh and offered to prove his case by combat. It proved to be a successful defence, William won and Hugh, in consequence, was hanged. The justices were suspicious of these proceedings, suspecting either illegality or an unwarranted accretion of power. Bruce's attorney Adam de Crokedaik claimed the right to hold such trials from antiquity and the suitors of the court were brought to testify that the duel had been waged according to their judgement and that the judicial duel was lawful in a court-baron holding the right of

164 R B Pugh - 'Reflections of a Mediaeval Criminologist', Proceedings of the British Academy, v59, (1973), 88

165 Hist and Antiq, vl, 16; PQW, 786, Just.1/982, m30

166 W Page - Northumberland Assize Rolls, (Surtees Society, v88, 1890)
70

infangthef. The judges, however, were only satisfied when a substantial local jury, drawn from Leath, Eskdale, Cumberland bailiwick and Allerdale and including major local landholders such as John de Hudlestone, lord of Millom, and Hugh de Multon of Hoff confirmed the correctness of proceedings in Bruce's court ¹⁶⁷.

The local men who bore out Bruce's use of the right of infangthef were, in one sense, doing rather more than giving a verdict on just one case. They were also making a statement about local custom and law enforcement. If we consider the case of John de Hudlestone, as lord of Millom, he was himself a user of the right of infangthef between the rivers of the Duddon and the Esk, within the lordship of Egremont, he could hardly record a verdict which diminished the right of infangthef without, by the same decision, weakening his own position ¹⁶⁸.

Despite the wide variations in the powers exercised by the lords of the West March, the right of infangthef was one of the most important elements of judicial lordship. Its importance as the prime judicial right of the lords of the region and the fact that it was held by so many of the local landholders, means that it should, on the whole, be given a more important place in the history of the lordship in Cumbria than the most extreme examples of seigneurial power typified by the lordship of Egremont, though much depends on the chances which govern the survival of manuscript material. The right of infangthef typified in one respect the more extreme powers of the lords of the West March over their men, the rights of arrest, trial and execution. There was, however, another level of rights enjoyed by local magnates and these

167 Just. 1/135, m6d

168 PQW, 123

rights were especially important in a fiscal sense. These were the profitable and important rights of control over the Assizes of Bread and Ale and the widespread right to take tolls for passage through their land. Even more important was the slightly mundane power to compel their men to mill corn only at the seigneurial mill and to charge them heavily for the service.

The economic rights and powers of justice which were exercised by the lords of the West March were rarely, if ever, unique to the region but the nature of lordship there did contrast markedly with lowland England ¹⁶⁹. The chief source of this contrast lay in the generality with which rights of high justice were held. Even lords who were not tenants-in-chief, such as the de Wigtons of Wigton or the Hudlestons, lords of Millom, might exercise high justice in the form of infangthef. Such rights were an essential part of lordship on the West March just as the seigneurial monopolies played a vital role in the income of local magnate families. Moreover, judicial lordship was an essential part of local law enforcement, lordship and law enforcement were indeed very often co-incident, justice being carried out by seigneurial officials with just the same degree of severity or laxity which they brought to their other tasks of estate management. The disruption of the traditional forms of lordship and estate administration during the wars with Scotland could only have, therefore, the most serious consequences.

CHAPTER 3

LOCAL COMMUNITIES AND MAGNATE LEADERSHIP

The establishment of a broadly accepted consensus on the main themes of English mediaeval political history has led workers to turn their attentions to other, hitherto neglected, areas. Two of the most important of these have been the analysis of the way in which aristocratic influence was brought to bear by means of the retinues that were organised among regional gentry and an attempt to reconstruct the arena in which the aristocratic affinity functioned. Efforts have also been made to trace the development of these 'county communities' in the middle ages.

The historical county community has its roots deep in the Anglo-Saxon counties of lowland England but even more importantly the county community has developed as an orthodoxy of regional history as compelling as any of the revisions or counter-revisions of Bishop Stubbs judgements. It is worth examining the evidence for the county communities, both for its own merits and to assess its relevance to the West March. The first is in the twentieth century regional study. It is in the nature of historical writing to seek to impose, or discover, some overall significance to the chosen period of study. A convenient answer to this need has recently been found in an institution which seems originally to have been brought to light during the elaborate discussions which surround the English Civil War.

'In every English shire there was a group of native families at the heart of local society...but in much of the north, the west and the south of England, the obligarchy of indigenous families was very powerful and it was impossible to rule the shires without its support' ¹.

1 I Roots - 'The County Community', (in E W. Ives ed.); The English Revolution, (1968), 51 and see discussion throughout.

The idea has fallen on receptive soil and mediaevalists have shown themselves more than willing to subscribe to this doctrine, whose very intangibility means that it can be super-imposed with little violence to the sources. M.J. Bennett, for example, has written that 'Cheshire gentlemen were well accustomed to acting together in a variety of capacities and their informal activities confirm the existence of a close, if completely informal, network of relations which embraced the entire county'². There was, however, a significant difference between groups of gentry supporting one another's land transactions and coherent political communities, though the one has often, unjustifiably been assumed to have been merely an extension of the first³. Notwithstanding the unsatisfactory evidence for the existence of the county communities, they have been increasingly developed and have been allotted as important a role in the political history of the thirteenth century as in that of the seventeenth. For Dr J.R. Maddicott the shire communities, which he has found even in Westmorland, were at the forefront of the opposition to Henry III's style of government. The shire communities were not, in this interpretation, simply arenas for action or discussion. They were, it is suggested, dynamic bodies which not only formed opinion but initiated action independently. 'The assertiveness of local opinion was not merely a reaction to pressure from above. It possessed an internal dynamic of its own, derived largely from the strength of the local community and from the leadership provided by a powerful knightly class'⁴.

2 M J Bennett - Community, Class and Careerism, (Cambridge 1983), 24

3 See the review by R H Hilton in Social History, v9 (1984), especially 233

4 Maddicott - 'Magna Carta and the Local Community'; Past and Present, v102 (1984), 63

Though Dr Maddicott has suggested that the hypothesis of the county community holds good for even the extreme north of England, there are severe difficulties in applying the idea to the West March ⁵. There are a variety of reasons why this should be so. Firstly the role and importance of the counties of Cumberland and Westmorland differed from that of shires in other regions of England. Secondly the vital factor shaping local alignments and attitudes was not self-confident county communities but the dominant influences of local magnates. Finally, though local retinues and affinities were organised in ways that were very closely similar to those in other areas the gentry of the West March were not the prosperous and substantial knights who formed the county communities in areas such as Gloucestershire but men who were much more dependent on the goodwill of their lords ⁶.

It is in Westmorland that Dr Maddicott has found one of the earliest examples of a county community prepared to act collectively to assert its rights, but in fact it is hard to see the county of Westmorland in this light. It was in many ways profoundly different from the shires of southern England which may indeed have possessed a degree of intrinsic cohesion. Westmorland was not a natural county as perhaps Kent or Norfolk were, it was simply a region formed by amalgamating two great and significantly divergent lordships, produced not in the dim Anglo-Saxon past but as late as the reign of Henry II ⁷. As a result of the remodelling of the county by King John, not only were the local gentry insulated by the power of the lords of Appleby but a very significant cause for disunity was injected into this rough

5 *ibid*, 65

6 N Saul - Knights and Esquires, (Oxford 1981) 83, 86, 168.

7 See above - 'Introduction'

hewn administrative division and there was very little community of feeling between the men of the lordships of Appleby and Kendale. This was evident at the institution which in other counties served as the focus of local solidarity, the county court. The county court of Westmorland was the source and expression of local rivalry and discord. Early in Henry III's reign the men of Kendale were compelled and distrained to do suit at the county court of Westmorland against their will and against that of their lord, William de Lancaster⁸. This conflict continued throughout the middle ages and it underlay relations between Kendale and the rest of Westmorland. In the early years of the reign of Edward I there were repeated complaints at the way in which the agents of the lords of Appleby encroached on the liberties of the lordship of Kendale in efforts to impose a more direct form of lordship there⁹. The dispute resurfaced during the reign of Edward III as the Cliffords sought to again compel the men of Kendale to do suit at the county court, a suit which the men of Kendale resented and resisted¹⁰. This was indeed what we should have expected, for as Maitland wrote, suit of court, whether at vill or county was 'no right but a burden'¹¹. Even in the reign of Henry VIII it remained true that the shire court of Westmorland was the site of political struggle more than of unity and it was recognised as a severe defeat for Henry de Clifford when he was unable to compel suit at the county court on the men of Kendale¹².

8 C Curia Regis R, vl1, 547-9

9 See below, Chapter 5

10 C.260/64/32

11 HEL, vl, 537

12 M James - 'The First Earl of Cumberland and the Decline of Northern Feudalism'; NH, vl (1969), 48

Two further cases will demonstrate the degree of disunity which existed in the county of Westmorland. The first is the complaint of the 'knights and worthy men' of Westmorland at the failure of local lords to grant to their own men the concessions regarding forests that had been granted to the realm as a whole ¹³. The genuinely significant point about this complaint was that it was not the work of a county community nor even of the men of one county. It was the work of a geographical region, South Westmorland, North Lancashire and Furness. The complaints moreover were not directed at royal government. They were directed against the dominant lords of the region who, it was claimed, had not allowed land to be disafforested in the way envisaged for the crown by the Charter of the Forest of 1225 ¹⁴. It was an equally clear illustration of the fundamental divergence within the county that on the outbreak of hostilities between the king and Simon de Montfort in 1258 Westmorland divided politically along the boundaries of the two lordships of Kendale and Appleby. Robert II de Vipont threw his energies wholeheartedly into the cause of the Provisions of Oxford while the lords of Kendale, with the obvious exception of Robert de Ros, proved themselves to be among the most staunch of Henry III's supporters. Though a detailed study of the surviving charters from Westmorland would be a protracted task, broadly they seem to confirm the overall pattern that has been suggested. For example, a grant of land in Crossby Garrett made by Henry de Suleby to William L'Engleys was witnessed by Robert de Askeby, then sheriff of Westmorland and others, Jordan de Querton, John de Morvill, William de Sandford, Wido de Smardale and Walter de Harclay, men who were geographically drawn from a very limited area, much less wide than the county as a whole,

13 Maddicott - 'Magna Carta and Local Community', 64

14 CPR 1216-25, 575-6

but who were all even more significantly minor satellites of Appleby ¹⁵.

Cumberland displayed even fewer signs of a 'county community' than did Westmorland and this was wholly understandable. Still more than Westmorland Cumberland was: an agglomeration of great lordships grafted onto the stem of the 'power' of Carlisle which had been held by Ranulf Meschines. Suit to the county court was owed only sparingly. The lords of the great lordships were generally exempt from the county and their tenants owed suit, not to the county but to the courts of the liberties. Even those who ought to have attended at the county did not do so unless they were compelled. Hugh de Cressingham and his fellows, for example, heard that William de Ireby had withdrawn the suit he owed to the county and his heirs in Glassanby, Robert de Bruce and his wife Christiana had continued to evade their obligations ¹⁶. The county court was not in fact the central meeting place for the whole county but only for a narrow segment of it. Deeds which we can reasonably expect to record transactions initiated in the county court are witnessed by men of purely local standing, not by men drawn from throughout the county. A quitclaim made by the rector of Denton to Bishop John de Halton was, for example, witnessed by men drawn only from the immediate environs of Carlisle such as Nicholas and Richard de Whitfield whose careers were very closely linked with the bishopric ¹⁷.

The great lordships displayed strong centrifugal tendencies and indeed functioned more as local communities in their own right than as part

15 CRO D.Lons/L/Deeds, CG.1

16 PQW, 124

17 CRO D.Lons/Denton, D.3

of the greater community based on the county. The most distinct of these communities was based on the lordship of Copeland and afterwards on the liberty of Egremont. Legally this area was almost self-governing and it is clear that the centres of local life were the castle of Egremont and the monastery of St. Bees. The pattern was set early on. When William de Meschines founded the monastery as a cell of St. Marys York he called the local community to witness his benefaction. The witnesses were a narrow group confined almost exclusively to the tenants of his lordship¹⁸. The same pattern was visible during the whole of the history of the cell. During the latter half of the thirteenth century a gift to the priory of land by Agnes de Cornay was witnessed by a group of eight witnesses, seven of whom were recognisably linked with Copeland. They included not only Robert de Harrington, who may well have been buried at St. Bees, William de Boyvill, William de Thwaites and the toponymic William de Waberthwaite¹⁹. An even more important illustration of the local community at work in Egremont was an agreement made between the lord of Egremont, Thomas de Multon, and the men of the lordship who sealed the agreement 'for themselves and for the community of the country, patriae'. The parties to the agreement, John de Hales, Gilbert de Curwen, lord of Workington, Ralph de Lamplugh and Thomas de Cleator were men of such obvious links with West Cumberland that it is impossible to believe that they meant by the term 'patriae' Cumberland, not the old county of Copeland²⁰.

The disunity which existed in the counties of Cumberland and Westmorland was particularly evident in times of crisis. The collapse of the

18 Reg St Bees, iii

19 *ibid*, no 443, see also KB.27/104, m3, for John de Hales

20 Lucy Cartulary, 50

defence of the border under Edward II placed the initiative firmly on local institutions. As Mrs Scammell has pointed out, the Bishopric of Durham was among the first to pay protection money to the Scots. The Bishopric, the best documented of the local communities of the north of England, appears to have possessed a high degree of internal organisation and its distinct local identity facilitated the raising of money and its payment to the Scots.²¹ Northumberland lacked such clear organisation and as a result suffered heavily. On the West March there was considerable resort to attempts to pay the Scots off and the divisions by which money was raised are instructive. In 1312 the Lanercost Chronicler reported that ransom was paid to the Scots by Cumberland, Westmorland and Copeland²². The Chronicle of St. Mary's York provides more detail. It recorded that protection money was paid from Northumberland but also from Gilsland, Allerdale, Cumberland and Copeland²³. The Chronicle, probably in this section written at St Bees clearly reflects local thinking, that the effective local divisions were those of the great lordships and that 'Cumberland' in fact was not the whole of the county but only the area in the north of the present county, formerly the Cumberland ward. This pattern was not confined to the extreme north. When the Scots began to raid deeply into Yorkshire they were paid off in the same way as the borderers tried to do. Moreover, in North Yorkshire the effective institutions were the local communities of Beverley, Knaresborough and the 'county' of Richmond²⁴.

21 Scammell - 'Robert I and the North of England'; EHR, v73 (1958)

22 Lanercost, 230

23 H E Craster - Chronicle of St Mary's York, (Surtees Society, v148, 1934), xi, 54

24 Lanercost, 248, 235, 228, 233

If the raising of money to pay off the Scots allows us to see the local communities in action, it also shows that the lords played a vital role in this process. When the Scots raided into Furness in 1322 it was the local lord, the Abbot of Furness who was responsible for meeting the Scots commanders to pay ransom so that the region should escape from being plundered or burnt. Further north the role of the lords was even greater. The St. Mary's Abbey chronicle stressed that it was because there was no lord in the castle of Egremont that James Douglas was able to raid into Egremont and plunder the church of St. Bees ²⁵. Lacking a leader, the men who opposed Douglas were killed. In short it is clear that in times of crisis the local communities of the region were not autonomous bodies of independent local gentry but rather networks of clientage round the great lordships, communities which depended on their lords both to organise resistance and even to lead them in surrender.

Having defined the environment in which the gentry of the West March operated it is worthwhile to try to examine the gentry themselves in greater detail. The gentry of Cumberland and Westmorland were, in general, less wealthy and substantial than their approximate peers further south. One result of this relative poverty was that there were fewer belted knights than in counties in lowland England and it is possible that those who were there were less prosperous men too. Poverty was not the only reason for this. Cornage tenure which was characteristic to Westmorland was held during the thirteenth century to be incompatible with knighthood ²⁶. Though the importance of cornage tenure diminished during the middle ages, and it had lost its special status almost completely by the sixteenth century, it served

25 Chronicle of St. Mary's York, 54

26 CPR 1247-58, 508

to narrow, and to narrow substantially, the gap between the military tenants and the freeholders of the region ²⁷. According to figures which can be extracted from the Clifford feodary, compiled during the career of Roger III de Clifford, of 20 tenants by cornage whose holdings can be constructed, 7 of them held land worth less than £10 in value. As a result these cornage tenants were very close economically to the more prosperous of the tenants at will. From an analysis of the remainder of those of the Clifford's tenants whose lands can be examined, a clear pattern emerges. The remaining 13 members of the gentry can be divided into four categories according to the value that the feodary placed on their lands when held in wardship. Half of this group enjoyed incomes of less than £40 annually. In detail, two, Thomas de Musgrave and Richard de Warcop had an income of between £30 and £40 while two, Alan de Cabergh and Robert L'Engleys had £20 to £30 and two, John Mauchel and John Boyvill held less than £20 worth of land. There were, however, several relatively prosperous members of the Cliffords tenantry, seven of whom held land worth more than £40 in value. This group include Michael de Harclay, Robert de Askeby, Thomas de Helbeck and Ranulph I de Dacre and it is clearly significant that this group included men like Helbeck who were the lords of Appleby's closest agents ²⁸. The figures which can be extracted from the feodary for this time are limited and they do not include the whole of the Clifford lands, though they are likely to have detailed the most important and wealthy of the local gentry. Those who held over £40 worth of land seem likely to have been the exception rather than the rule. The broad mass of the gentry of Cumbria seems likely to have had more limited resources. Around 1240, for example, Richard FitzAldred of Louthier provided his

27 James-'Decline of Northern Feudalism', NH, v1 (1969), 57 and note

28 Feodary 304 - 328

daughter Maud with a marriage portion that comprised only three acres of land in Louthur and one toft of land, sixty feet by forty feet in size ²⁹. This was not unprecedented in the north of England, but it would surely have surprised the established gentry of the plains of England. Though the top level of the Clifford's tenants would also have looked askance at an alliance with a family of such limited means the numbers of those at the top level of the local gentry were small and since they were heavily dependent on the favour of local lords for their advancement they tended to lack the political independence and assertiveness that it has been suggested was one of the hallmarks of the gentry community. This was particularly true in Westmorland where the lords of Appleby were the immediate superior lords restricting contact with the crown, one of the formative factors it has been suggested in the development of the county communities. As a result of this situation the gentry of Cumbria were recognisable as having followed the leadership of their lords rather than acting independently. During the rebellion of John's reign, for example, it is noticeable that armed opposition to the king was confined almost exclusively to those men who did not hold of Robert de Vipont ³⁰. The same was true of the men of Kendale whose political alignment followed that of Gilbert FitzReinfrey exactly. It remained true during the reign of Henry III. The baronial party on the West March was led by local magnates who supported de Montfort not by a coalition of disaffected but prosperous and self-confident gentry. Nowhere was this more clear than in the lordship of Appleby where, while Robert II de Vipont was active in the support of de Montfort, the gentry of his lordship supported him in the plundering of Inglewood forest and the election

29 CRO D.Lond/D/Louthur, LO.5

30 Holt - Northerners ,48

of commissioners to enforce de Montfort's revolution. When Vipont died, however, deprived of a leader the men of Westmorland made peace and rapidly re-aligned themselves behind new lords.

In times of crisis the West March looked to its lords for leadership, just as those lords could look to their men for support. The extent of that support in times of need, however, depended on their degree of local influence. In this, all lords were very far from equal and the amount of support which could be mustered depended on the size and organisation of a lord's affinity. The affinity was, in fact, a vital part in the exercise of effective lordship for it was through the affinity that vital agents were found to fill key roles in estate administration and judicial lordship, such as the bailiffs of Egremont. Broadly the lords of Cumberland and Westmorland can be divided into three categories of increasing local influence, with the Cliffords alone in the most powerful category. In the least powerful group were those lords who, for various reasons, took little part in the running of their border estates and can, as a result, be expected to have had little influence there. Often these lords were absentees for greater or lesser periods of the year. Among the most prominent members of this group was Isabella de Forz. As lady of Cockermouth she held one of the most important estates in the region and in the liberty of the Five Vills outside the burgh, it included one of the greatest exemptions from royal jurisdiction in Cumberland. The castle itself was also potentially an important fortification on the border though there is little evidence that it was in a good state of repair. Despite these assets Isabella displayed very little interest in Cockermouth and it is most improbable that she ever made the trip to Cockermouth to see it for herself³¹. One result of this policy or preference

31 N Denholm-Young - 'The Yorkshire Estates of Isabella de Forz' Yorkshire Archeological Journal, v31 (1932-34), 413

was that Isabella's control over even the more important members of her affinity, her estate managers, was ineffective. Even trusted bailiffs, such as Thomas de Weston, illegally took money from brew-wives to allow them to brew contrary to the statute though Isabella remained wholly in ignorance of this³². A second result was that Isabella's influence with the rest of the local gentry was negligible. The Wake lords of Liddell appear to have been in a similar situation. The decay of the chief buildings of Liddell testified to the limits of the interest they displayed in the border and they exercised little more control over their men. Baldwin Wake's bailiff, Richard de Stratford, was found by the eyre justices to have appropriated two stray horses without permission and it was only a personal intervention by Wake which prevented the liberty from being seized in to the hands of the crown³³. Absentee lordship did not have to be ineffective, however. The affinity, when well organised, served to protect its lords interests even in his absence. Thus, when scrutiny of the proceedings of the court, held in the name of Robert III de Bruce, revealed what the justices in eyre suspected were serious irregularities, arrangements were set in train through Bruce's retinue to defend his rights. The court had originally been held by Ralph de Bolton, one of Bruce's clerks, but for the important business of the hearing before the eyre the case was taken over by an experienced local man, Adam de Crokedaik, who had served Bruce as a bailiff earlier in his career. Crokedaik's defence was an effective one and Bruce's rights were preserved without any involvement by him at all³⁴. This was not, however, an isolated example. Crokedaik served Bruce over a period of some years and the partnership

32 Just. 1/137, m5. Denholm-Young took a more favourable view of Weston. Seigneurial Administration, 87

33 Just. 1/135, m3d, Just 1/132, m33

34 Just. 1/135, m6d

was beneficial for both parties. After Bruce's death his widow rewarded him with a grant of the manor of Glassanby³⁵.

The Lucies and the Multons of Egremont, members of the second group of local magnates, possessed better developed local connections than their co-parcener Isabella de Forz though of the two the Multons were the more influential. In part this may have been a result of feelings of local identity and community which still attached to the old county of Copeland but there were probably two other important reasons. Firstly the Multons were important lords, not only in Cumberland but also in Lincolnshire and in Ireland and as a result they could offer more extensive and effective patronage than either the dowager Isabella de Forz or the Lucy family whose holdings were largely confined to Cumberland and Northumberland. The Multon family, however, so far as the limitations of the evidence that survive allow us to conclude, seem to have simply pursued a more active policy in the West March than the Lucies, perhaps because given their unchallenged control of the liberty of Egremont was more profitable than control of Aspatria. The Multons possessed a well organised local retinue which it is possible to trace in detail. One branch of this retinue was formed by liveried estate officials, men such as Peter de Mottington or Simon de Stutevill who served the family as bailiffs of Egremont³⁶. Intermeshed with this group was a wider body of local gentry of very similar status whose activities centred round the castle of Egremont and who performed minor offices for the lords. From this broader group the inner circle of the lord's retinue was recruited, but the retinue of a magnate whose lands were widely dispersed reflected this fact. A list of Multon's followers

35 Bain, CDS, v2, nos 709, 712

36 Just. 1/137, m1

who were granted protections before crossing to Ireland with him in 1305 illustrates this point well. Including Thomas de Multon himself the party numbered 16 in all. Of the fifteen retainers listed only two, Richard de Hudlestone and John de Lamplugh both tenants of the honour of Egremont can be linked with Cumberland. A further five including John of Lincoln, William of Spalding and William Laxman of Fleet can be linked easily with Multon's important estates in Lincolnshire. The remaining eight are harder to place, though they seem to have had no discernable links with Cumberland³⁷. Despite this it is clear that the family did recruit some of its most trusted men from Egremont. John de Cleator served as attorney for Multon while his lord was in England in 1302³⁸. John de Tailleor of Egremont performed the same office in 1313³⁹.

Like other lords Thomas de Multon of Egremont seems to have based his military retinue round a core of reliable family retainers. In the small contingent Multon led in pursuit of Bruce in 1307 were three men who had close links with Egremont. John de Lamplugh had been in Multon's retinue in Ireland in 1305 and he brought one esquire, Simon Fraunceis. Among the others were Thomas de Copeland and John de Tailleor. Only one of the force, Ralph Mareschal, cannot be linked definitely with Egremont and it is possible that the proximity of the war made the Cumberland men more eager to serve than their fellows further south. Thomas de Lucy's retinue is less well documented, but it seems likely that it was considerably smaller than Multon of Egremont's. Lucy enrolled protection for only his most immediate and important followers who, in fact, numbered only two, his brother Anthony and his steward Thomas de Ireby⁴¹. Ireby was probably one of the more prosperous

37. CPR 1301-1307, 337

38. ibid, 9

39. CPR 1312-1317, 26

40. Bain CDS no 1923

41. C.67/16

of the local gentry of Allerdale and in 1292 he had been listed as among those who held a whole knight's fee but who had not yet been dubbed as a knight ⁴². The Ireby family seems to have looked to local magnates for advancement. Thomas' father, Alan de Ireby, had served as Constable of Cockermouth castle and later as bailiff of the estates of Alice de Lucy ⁴³. The reversion of Cockermouth to the crown after the death of Isabella de Forz left the Ireby family, to a degree, without obvious leadership but the defect was apparently remedied by entering the service of the Lucy family. It is significant, however, that the Lucy family at this time drew its supporters and retainers from only a very localised area. The same pattern appears to have been in force in the east of the county. In 1298 John Wake's retinue in Scotland included only one man who can be satisfactorily linked with Cumberland, Robert de Tilliol, who held Solpert of the lordship of Liddell ⁴⁴. The work of K.B. McFarlane did much to rehabilitate the nobility of mediaeval England and to stress the respectability of the creation and maintenance of retinues of gentry. Considerable stress was laid on the law abiding and practical use to which an aristocratic affinity could be put but it is possible that this process has been carried too far. Particularly in the north of England the aristocratic affinity could be used to threaten and coerce opponents and use illegal means to pursue territorial plans ⁴⁵. This was a development which has been considered to have reached its peak in the later fourteenth century but it is clear that even before then lords in the region maintained links with groups of less respectable men than those who were used to swell their worship at court and they were prepared to

42 Just. 1/137, m5d

43 SC.6.824/10, mld, Just. 1/132, m33

44 Bain, CDS v2, no 1050

45 K B McFarlane - The Nobility of Later Mediaeval England (Oxford 1971) esp 106.

use these contacts in a very forceful way. On other occasions lords were prepared to stoop to illegality themselves in order to pursue their ends.

The lords of Redesdale of the Umfravill family were among the most regular exponents of forceful, violent and illegal action to impose their domination on the local community. In 1346 for example, Gilbert d' Umfravill was able to impose on a group of local gentry a bond by which they bound themselves to deliver William de Swinburne the Younger at either of Umfraville's castles of Harbottle or Prudhoe within a specified time or face a severe financial penalty⁴⁶. Gilbert's grandfather, also Gilbert, had been equally forceful in his assertion of local power. According to an appeal made by William de Douglas, during the aftermath of the Barons War, Umfravill had attempted by deception to gain control of his lands. When this ploy was discovered and William had been restored to his lands, Gilbert sent a force of outlaws from his liberty of Redesdale, under one John de Hirlaw, to Faundon where they assaulted William and his family and servants before carrying William himself off to Harbottle where he was imprisoned⁴⁷. William had enlarged on his sufferings for the court's benefit and his case was defeated on a technicality but it seems very probable that Umfravill had in fact arranged for the assault and abduction. Umfravill maintained close contacts with convicted felons, probably so that they were available to carry out this type of task for him. A few years afterwards it was found that he had reset John, son of William, a known robber in his liberty of Redesdale and to another notorious robber, Walter Denyas and his gang he had actually granted letters of conduct and protection⁴⁸.

46 NRO Swinburne MSS, 1/ 64

47 Northumberland Pleas from the Curia Regis and Assize Rolls (Newcastle 1922), no 776

48 Bain, CDS, v2, no 147 (45)

If these complaints were true it was hardly surprising if the jurors wished to avoid earning the Earl's emnity by recording a verdict against him. Other Northern lords used similarly direct tactics. That man of God, Anthony Bek, was one of those who was most active in this. Faced with opposition from the monks of Durham, Bek called up a force of men from his lands in Tynedale to add the threat of physical force to the other methods he was using in the dispute. The force appears to have been easily mobilised and organised around the foresters of Bek's lands in Weardale and Tynedale ⁴⁹. Bek obviously became convinced of the efficacy of this approach and he tried it again towards the end of his life during a dispute with the Earl of Warwick over the control of Barnard Castle. The force was again mustered around the foresters of the Bishop's highland estates and was led by one Hugh de Wales, a man who later became notorious as the leader of a band of schavaldurs and robbers who terrorised Northumberland in the early fourteenth century ⁵⁰.

It seems probable that Bek's force was recruited through a procedure very closely related to the affinity. The leaders of his force were the officials from his estates in the region but there may also have been indentures of retinue with some men as William de Swinburne had with Thomas de Rede of Redesdale, though details are absent ⁵¹. The significant thing is that such forces were recruited by means of institutions common to the whole of the north, and indeed the whole of England.

It seems clear that lords in the West March were also ready to use similar means to those used by Bek and Umfravill and the recruitment

49 Fraser - Bek, 143 and note

50 C M Fraser - Records of Anthony Bek (Surtees Society, v152, 1947) 209-13

51 NRO, Swinburne, 1/110

of suitable supporters represented no difficulty. One factor which made the recruitment of gangs of low-born retainers more easy was the small economic gap which existed between local gentry and freeholders. For example, John de Whale who was described as having the rank of only a serving man in 1264 when he was in Robert II de Vipont's retinue when they broke into Inglewood forest was almost certainly the same John de Whale who was a minor member of the local gentry community. John de Whale appears as a witness to a deed between Christiana de Lancaster and Roger de Lancaster and he served on a jury called to determine the Abbot of Shap's claim to Bretherdale in 1292⁵². Like more substantial members of the local community, John de Whale looked directly to the lords of Appleby for leadership and like their lords the gentry of the West March displayed a distinctly ambivalent attitude to the law. Robert de Vipont's men, for example, were the pool from which local jurors had to be drawn but most had taken an active part in the plundering of Inglewood forest. Others were implicated in more serious crimes. Geoffrey de Melkathorp, who served as Sheriff of Westmorland and constable of Appleby Castle, was accused in 1285 of being one of a group who had come armed to the house of Eustace le Trewick and carried off forcibly goods to the value of £20⁵³. Another subsheriff, Gilbert de Brunnolsheved, was known as a notorious associate of thieves and outlaws⁵⁴. Robert de Clifford continued to find a place in his retinue for Robert de Vipont of Alston, a man with a long record of illegality behind him. This record included causing a man to be imprisoned in Wark Castle until he paid to be released for claiming to be a subject

52 F H M Parker - 'Inglewood Forest, Part 3', Trans of C&W II, v9 (1909) 4; FW Ragg - 'De Lancaster', ibid, v10 (1910), 453; Ragg - 'Charters to Byland Abbey', ibid, v9, 256

53 C.Inq.Misc., v1, no 1207; KB.27/88, m15d, 16; Just. 1/988, m1

54 Just. 1/986, m10 and see below Chapter 5

of the King of England ⁵⁵.

There seems little reason to doubt that levels of organised violence among lords on the Anglo-Scottish border increased as the state of war on the border became endemic but it is very hard to find any clear change in the types of violence or in the way gangs were recruited and controlled. Often the disputes in which violence was involved remained constant over long periods of time. One long running dispute existed between the lords of Kendale and Appleby over the jurisdiction of the sheriff within Kendale. Another even more bitter dispute existed over the precise line of the division between the counties of Yorkshire and Westmorland. This was a matter which had a more direct effect on the lords whose lands adjoined the border than on royal officials since it was their lands which were most affected. The dispute appears to have first appeared as a source of dispute in 1285 when Thomas de Normanville and Guichard de Charron were appointed to make an inquisition before knights from Yorkshire and Westmorland and, if necessary, Lancashire as well into the true meets and bounds of the two counties ⁵⁶. The dispute appears to have slumbered for a while but it re-appeared as a major source of hostility in the early reign of Edward III. Robert II de Clifford took up the matter in no uncertain manner. According to a petition presented in parliament by Henry FitzHugh, both parties tried legal means first. FitzHugh recovered 3000 acres of pasture in Mikelton in Teesdale from Clifford by an assize of novel disseisin but Clifford retaliated by launching a counter assize claiming that the land was in fact his and belonged to the manor of Brough under Stainmoor and was thus in Westmorland ⁵⁷.

55 Bain, CDS, v2, no 147

56 CPR 1281-92, 200

57 Rotuli Parliamentorum, v2, 81

An assize was eventually ordered to be taken but FitzHugh continued to face a variety of opposition from Clifford and his men. One of Clifford's moves was to object to the inclusion of Peter de Richmond in the panel of jurors on the grounds that he received robes and fees from FitzHugh⁵⁸. Clifford also continued to try violence in addition to this legal challenge, however. Even before the matter had been taken up in Parliament, Clifford had tried force as well. He was alleged to have supported a group of armed men, including Robert de Leyburn of Musgrave, Thomas de Musgrave, Thomas Pinder of Helbeck, Henry Warcop, John the Forester of Musgrave and Gilbert Thomas servant of Musgrave who had come to Mikelton and assaulted FitzHugh's servants⁵⁹. Later Clifford took a hand in person and when some of FitzHugh's men imparked some cattle which they claimed had strayed onto his lands Clifford led a force including again Thomas de Musgrave, Robert de Leyburn of Musgrave and others in a raid to rescue the Westmorland men's cattle⁶⁰. After FitzHugh had been successful in court, Clifford tried the most direct threat of all. He came with a large force of knights and other armed men and so threatened the sheriff of York who had come to give FitzHugh seizin of the disputed land that the sheriff was unable to carry out his office for fear of being killed⁶¹. The affair was clearly threatening to get out of hand and Edward's government fell back on a perambulation to be made by local magnates whose judgement would command respect in the region. In 1338 Ralph de Neville, John Kirkby of Carlisle and Anthony de Lucy were ordered to make the view of the boundary though there is no evidence that a final solution was ever

58 CPR 1334-38, 318

59 CPR 1330-34, 583

60 CPR 1334-38, 216.

61 C.Inq.Misc., v2, no 1469.

reached. FitzHugh was to have his revenge on Clifford for the attacks and threats his men had suffered, however. When commissioners were appointed to examine the conduct of the sheriffs in neighbouring counties, Henry FitzHugh and Peter de Richmond were appointed to examine the conduct of the Sheriff of Westmorland. Not surprisingly the conduct of Clifford's nominee, Thomas de Musgrave, was found unsatisfactory and he was ordered to be removed⁶². Clifford, however, does not seem to have heeded the order.

Though Clifford had clearly escalated the dispute by bringing armed knights from his retinue, there were clear parallels in the force which Clifford had used earlier on and that which Bishop Bek was in the habit of using against his opponents but there were also closer local parallels and reasons which compelled the government to take a tolerant view. In 1346 a dispute erupted between the garrison of Carlisle and the local citizenry during which several of the townsmen were killed and the community of the city in consequence brought a complaint against the garrison⁶³. The government, however, was in a weak position to insist on strong action. While the Bishop had been charged to maintain a large force for the defence of the city it had failed to deliver the necessary finance. Such failings forced the government to rely on the goodwill and co-operation of local magnates and on this occasion had to be ensured by granting pardons to Kirkby's men⁶⁴. The pattern was one which recurred constantly and the local magnates, such as Lucy and Dacre, learned to make use of it. The government came increasingly to depend on aristocratic retinues to defend the border but this was not

62 CPR 1340-43, 112; CCR 1339-41, 660; List of Sheriffs, 150

63 CPR 1345-48, 83

64 CPR 1349-56, 50

in any way a new development, the West March had always been governed through the great lords, who in turn used their retinues to ensure effective local administration and lordship. The affinity was also a tool in the struggle for local dominance and this aim was often considered of higher importance than strict obedience to the law. This was moreover not a development which occurred only after the outbreak of war, even before the war local lords continued to maintain close contacts with those on the wrong side of the law. As a result the study of local crime and the means by which local affinities were used to establish regional influence are virtually inseparable.

CHAPTER IV

LAW ENFORCEMENT AND LOCAL CRIME

The maintenance of acceptable levels of law enforcement was one of the most basic duties of the mediaeval king. It was also one of his most intractable problems. If the crown was expected to provide peace and security for all to go about their lawful business unmolested, this had still to be achieved without the imposition of measures which savoured of novelty, of foreign provenance or of undue severity. In 1253 Henry III was forced to abandon a plan aimed at preventing robberies by forcing the inhabitants of the district in which the robbery was committed to assume financial responsibility for it, for precisely these reasons ¹. If such opposition made the provision of effective policing more difficult, the demand for better maintenance of law and order persisted and indeed grew louder. Moreover, many of the complainants were outraged victims and active criminals by turns, and much recent research has been at pains to demonstrate that local crime was often the work of those who on other occasions were charged with the maintenance of the peace. ².

Peacekeeping has troubled historians almost as much as it did contemporaries. It is almost impossible to discern whether the perception of contemporaries that the problem was worsening was accurate. The preamble to the Statute of Winchester in 1285 stated that robberies and homicides were increasing from day to day and this opinion has been accepted by the most learned modern commentators ³. G.O. Sayles, for example, judged that under Edward I 'the rule of law had already passed its zenith' and that Edward I failed to impress

1 M T Clanchy - England and its Rulers (Glasgow 1983), 234 see also D C Cox - 'Peacekeeping without Frankpledge', Transaction of the Shropshire Archaeological Society, v60 (1965-76), 81

2 See for example Saul - Knights and Esquires, ^{17, 182} J A Tuck - 'Richard II and the Border Magnates', NH, v3 (1968), 31

3 Stubbs - Select Charters, 464

upon his people the need for respecting the law ⁴. There is room to question whether even in the era of the most highly regarded English jurists, Henry Bath, William Raleigh and Henry Bratton, it was safer to till one's fields or to go on a journey and whether the high standards of jurisprudence were matched by correspondingly high standards of crime suppression. There is surely a case to be argued that the appearance of rising levels of crime is at least in part the result of the survival of increased quantities of material and increasingly detailed information in surviving material. Work based on anecdotal evidence, including J.G. Bellamy's Crime and Public Order in the Later Middle Ages bear out this point in a variety of ways ⁵. Though the cases discussed are all pertinent to the subject under discussion their inclusion is not dictated by the legal or social importance, per se, but solely by the survival of documentation concerning them. As a result the book lays disproportionate weight on the fourteenth and especially on the fifteenth centuries. The limitations of anecdotal evidence and, in some cases, the development of electronic calculating machines have led to attempts to assess the crime problem in mediaeval England by other means. Notwithstanding the limitations of the evidence, statistical analysis has been brought to bear on a variety of legal records, most usually records of gaol delivery. The results have not always been of high value. Among other conclusions of comparable worth one study proved that knives and hatchets to be the preferred weapons for homicide and night to be the most usual time for the commission of crimes ⁶. Such grotesque calculations have not deterred

4 G O Sayles - Select Cases in the Court of Kings Bench under Edward II (Selden Society, v74, 1955), liii

5 J G Bellamy - Crime and Public Order in the Later Mediaeval England (Cambridge 1973) 37-88

6 B Hanawalt - Crime and Conflict in English Local Communities 1300-48 (Toronto 1979). See also the review by J R Maddicott in History, v65 (1980) 467

imitators, nor has the prudent observation made by R.B. Pugh that no accurate assessment of the level of mediaeval crime can be based on records of gaol delivery alone ⁷. Gaol delivery rolls reflect only the number of low born criminals and further only those who were apprehended. Appeals of felony were also heard before Common Pleas and King's Bench and by specially appointed commissions of oier and terminer. Moreover, it is highly likely that, as Pugh suggested, many professional criminals were able to evade capture, leaving those tried at courts of gaol delivery to consist of the novices and opportunist thieves. Attempts to assess guilt or innocence among those brought to trial pose still further difficulties. The jurors generally made little attempt to discover the truth about individual charges and delivered their verdict on the strength of the accuseds reputation alone. Nor can it even be argued that each accusation at least represented a crime that had been committed, whether or not the actual culprit was present. Malicious prosecutions were by no means unknown. Further, many prosecutions were brought against several defendants for crimes committed jointly. Finally since a large proportion of charges were brought as a result of appeals brought by approvers, confessed felons, who seem to have cast almost indiscriminate allegations of complicity in crime in an attempt to escape execution, the relationship between crimes committed and prosecutions was an indirect one. Opinion has differed about the value of the testimony of approvers. Many local jurors rejected it almost entirely, historians have often showed less discrimination ⁸. The result is that though statistical evidence may complement anecdotal material it does not replace it and neither can provide definitive judgements.

7 Pugh - 'Reflections of a Mediaeval Criminologist', Proceedings of British Academy, v59 (1973), 101

8 H R T Summerson - 'Crime and Society in Mediaeval Cumberland', Trans of C&W II, v83 (1983) 113

Though there were special difficulties concerning law enforcement in Cumbria the region was a part of the overall common law jurisdiction of the English crown and it shared all the difficulties of that system. Cumbria was, however, on the periphery of the common law organisation and perhaps for that reason it was less well served by the machinery of justice than other regions. William of York, one of Henry III's justices provided one example of prevailing attitudes when he wrote begging to be excused from going on eyre in Cumberland since the long journey and the local climate were injurious to his health ⁹. Other justices were prepared to suffer the various hazards Cumbria offered but of their deliberations we know little, full records survive for only two eyres, 1278 and 1292, while only a fragment survives from the visitation of 1246 ¹⁰. Other common law sources are correspondingly meagre. Few local men were enthusiastic enough to make the journey required to litigate in the court of Common Pleas or in the increasingly central Kings Bench, and many of the cases begun there ended without judgement for either party. Sometimes it is not possible to discover if the limited information we possess is the result of governmental inertia or of the destruction or loss of manuscripts. In 1307 a group of justices were commissioned to sit for sessions under articles of Trailbaston for the Northern Counties of England. Their sessions became so prolonged, however, that they never reached Northumberland, Cumberland or Westmorland ¹¹. A second group of justices was accordingly appointed but it has not yet proved possible to correlate the sittings of this group, Robert De Bures, John de L'Isle, Henry de Guildford and Hugh de Louther with any surviving roll and it may well be that no sittings were

9 C A F Meekings - 'Six Letters concerning the Eyres of 1226-28' EHR, v65 (1950), 497

10 Crook - General Eyre provides full details at 203.

11 A Harding - 'Early Trailbaston Proceedings from the Lincoln Roll of 1305' in Mediaeval Legal Records ed. R F Hunnisett and J B Post (1978), 146

ever held. Whatever the reason, the result is that there is no evidence from Cumbria for the widespread practice of conspiracy and maintenance which the trailbaston commissioners discovered to exist routinely in other parts of the North of England. If no such abuses were practised on the West March, the region was unique within England, but of the details and extent of such crimes we know nothing. A similar gap in the evidence is to be found in the Hundred Rolls collected by commissions of enquiry after Edward I's accession which contain nothing relating to Cumbria. Thus though gentle-born and aristocratic criminals must have existed on the West March, we know almost nothing of their activities and the evidence which survives largely concerns offenders of humble rank. This is doubly to be regretted since the relation between local gentry and local criminals is a question of first importance to all workers on Border History.

The evidence which survives suggests that the law was enforced in different ways on the West March and in lowland England. These differences started at the most basic level. In 1292 the jurors chosen from Westmorland confronted the justices with a declaration that 'no Englishry nor murdrum is presented in the county court, nor is there any tithing (decem) in the county, nor frankpledge nor mainpast'¹². Here the jurors made claim for a broad range of immunities, but since the claim was recorded in the rolls without adverse comment it seems that it was allowed. The immunities claimed fell into two parts. Firstly Westmorland claimed exemption from payment of the murdrum fine, originally an impost levied on districts in which a corpse was found which could not be proved to be English¹³. This had become simply a financial perquisite enjoyed by the crown in cases of unexplained

12 Just.1/986, m1; Just.1/988, m1

13 HEL, vl, 90

homicide and the eyre rolls testify indeed that it was not paid in Cumbria. The second claim made by the Westmorland jurors was of greater importance. The men of the county asserted their right to be exempt from the basic machinery of law enforcement which prevailed in Domesday England. The writer of 'Bracton' considered that every male over the age of twelve years should be part of the frankpledge system by membership of a tithing, a group sworn to uphold the peace and to restrain and present for trial any of their number who offended and to answer financially if they did not. Those not in a tithing might satisfy the requirements by membership of an equivalent institution such as a mainpast, the household of a lord who could ensure the appearance of an offender in court just as a tithing would do ¹⁴. Now it is very easy to understand the absence of these. The presentment of Englishry, though it had similarities with Danish laws, was a tool of Norman settlement and pacification during William I's reign. William was never truly master of the West March, nor did the custom take root later ¹⁵. The absence of the tithing must be explained by turning still further back. The tithing was, essentially, a product and an institution of the West Saxon monarchy and the influence which the kings of Wessex and their English successors exerted in Cumbria was still less than that of the Normans. It seems probable in fact that the tithing system was not established anywhere in the old kingdom of Northumbria ¹⁶. Indeed as a standard measure the tithing was absent from a remarkably large part of the crown's dominions. It was absent too from Wales and the Marches. In the early fourteenth century the community of the county of Shropshire claimed exemptions similar, though more extensive, than

14 *ibid*, v2, 569.

15 See Introduction

16 HEL, v1, 89

those claimed in Westmorland in 1292¹⁷. This provides evidence that the March of Wales had close similarities with the Scottish March and both had more in common with each other than with lowland England. The men of Shropshire disclaimed any obligation to pay the murdrum fine or to present Englishry and they also proffered that there were no tithings nor mainpasts in the county suggesting that even in areas of strong seigneurial powers a lord was under no obligation to render account for crimes committed by his followers unless he had knowledge of them. Only in one significant aspect did the claim made in Shropshire exceed that made in Westmorland. The men of Shropshire claimed to be immune from the accusations of approvers. This followed logically from the absence of the tithing and mainpast which formed a defence against such appeals. In Maitland's words 'decent people who were in frankpledge were not compelled to answer his (an approvers) accusations'. In Cumbria accusations by approvers were, in contrast, the main stock of courts of gaol delivery.

The gap in the system of law enforcement which resulted from the absence of the frankpledge organisation was filled by the serjeants of the peace. The serjeants of the peace were itinerant bailiffs, appointed by the crown through the sheriffs or, in areas where the enforcement of the law was a seigneurial monopoly such as Copeland, by the chief lord. The serjeants were found throughout England and they were identical with the Welsh cais. The same institution was also to be found in lowland Scotland¹⁹. Their powers were extensive, they included the duty to investigate those serious crimes reserved to the crown and to attach

17 Cox - 'Peacekeeping without Frankpledge', 81

18 *ibid* 86

19 R Stewart-Brown - The Serjeants of the Peace in Mediaeval England and Wales (Manchester 1936), 99, 46 and note. Barrow - 'Pattern of Lordship and Feudal Settlement'; Journal of Mediaeval History vl (1975) 129, 130

suspects. This power was not always restricted to those against whom the evidence was convincing. Though clause 38 of Magna Carta declared that no man should henceforth be put on trial on the unsupported allegation of a bailiff, this was precisely what the serjeants of the peace continued to do²⁰. In Westmorland the serjeants were claimed to have the right to arrest anyone whom they suspected of any crime and to hold him until the next county court even though this implied trial without indictment²¹. At that court even if no-one would proceed against him, he could be remanded on bail or held in custody until the second sitting of the county court, at the third the process was repeated and an inquisition was taken before the four vills nearest to the place where the crime was alleged to have been committed. The custom in Cumberland was closely similar. Suspects might be seized in Kirkoswald on suspicion alone and held until the first meeting of the liberty court, where they could be tried without indictment being first taken. If no-one would bring a suit against them they were taken to the royal prison at Carlisle where again they would be forced to appear in the county court in case anyone wished to proceed against them²².

In some cases the custom was still more arbitrary. The serjeants were empowered to carry out executions on felons whose guilt could be immediately established. This power was not, moreover, exercised solely by serjeants appointed directly by the crown, it was also operated by bailiffs in liberties whose lords held the power of infangtheof. In Northumberland, during the reign of Henry III, the jurors of Alnwick reported a case which they testified demonstrated

20 J C Holt - Magna Carta (Cambridge 1965), 226, 326, 327. This became cap. 28 of the 1225 re-issue.

21 Just.1/982, m23

22 Just.1/137, m27

local custom. A hermit by the name of Semanus de Botlesham was robbed by one Gilbert de Niddesdale who left him by the roadside believing him to be dead ²³. Gilbert fled but during his flight he was taken into custody on suspicion by the king's serjeant, Ralph de Belford, who took him to Alnwick. Unfortunately for Gilbert, Semanus recovered from the attack enough to arrive at Alnwick in time to accuse Gilbert of robbing him. This Gilbert confessed and the serjeant then forced the hermit to behead him much, probably, to the holy man's surprise and horror. Such dramatic justice was quite familiar on the West March too. In the eyre of 1278 the jurors of Leath and Eskdale recorded that Matilda, the daughter of Robert Lareol, had killed one Alan, son of Peter. She had been arrested and hanged immediately after the commission of this crime ²⁴. In cases of theft the procedure closely resembled that in Northumberland as an entry from Cressingham's roll will demonstrate. Robert de Hinderwood, Adam de Hoton and two others came to the market of Carlisle to sell two oxen and a horse ²⁵. These, they were suspected of having stolen, and they were arrested. Robert, however, escaped from custody and fled towards Scotland but before he could get there he was arrested and immediately beheaded according to the custom of the county (sicut moris est in patriae) presumably on the grounds that flight could be construed as an admission of guilt. Robert had good reason to have feared the justice he would have received at the hands of the court held by the major and bailiffs of the city for all his associates were found guilty and hanged. In general terms, the jurors of Carlisle went on to state that they were allowed to arrest anyone suspected of theft of livestock and to try them. If convicted

23 Three Early Assize Rolls for Northumberland, 70

24 Just.1/132, m25

25 Just.1/137, m26

the accused were hanged, if not they were released quit and they cited the case of Gilbert of Tynegate to lend substance to their claim. Gilbert had been arrested at the suit of Emma of Dalston, at Dalston within the liberty of the Bishop of Carlisle on suspicion of having stolen two oxen. Therefore he was handed over to Adam of Ulvesby, the Bishop's seneschal who caused him to be hanged and since he had been arrested at the suit of Emma the two oxen and the rest of his chattels were forfeited to her use. What is particularly interesting in this case is that the custom dated not from time out of mind but only from the time of Bishop Ralph de Ireton who had been appointed to the diocese in 1279.²⁶ Here we see local custom, which in this instance was declared to be in prejudice of the king's rights, developing as the Bishop tried innovatory and illegal measures in an effort to encourage more persistent prosecution of offenders. It is not wholly clear why this custom was ruled to be illegal but three possible reasons suggest themselves. Firstly it is certain that this was a form of trial without indictment and as such illegal. Secondly the appellant was given custody of the accused's chattels though there was no suggestion that they had been stolen from her. Perhaps the most likely possibility, however, is that in the cases where an appeal was abandoned. Edwardian practice required that the suit be not dropped but taken up at the king's suit.

The powers of the serjeants of the peace were central to exercise of this arbitrary style of justice. They were also active in less serious crimes. In the liberty of Tynedale the tradition of arbitrary justice administered by seigneurial bailiffs, though in this case the coroner, remained. An unknown thief was found guilty of the theft of four geese and by the judgement of the coroner one of his ears was cut off²⁷.

26 Lanercost, 102

27 C H Harsthorne - 'The Iter of Werk'; Proceedings of the Society of Antiquaries of Newcastle on Tyne, v2 (1858), xliii

The powers of the serjeants of the peace were also expressed in more mundane ways. They were supported by the right to take puture, or compulsory hospitality, an impost which was also owed for the support of royal and seigneurial foresters. The fact that puture was widely owed did not affect the fact that it was bitterly resented by those who had to provide it. It was complained that in Westmorland the serjeants took money in lieu of lodgings to which they claimed they were entitled and that they took many more lodgings than they ought. Probably the practice was that the serjeants took lodging from one house in a vill but forced all the others to contribute as much in kind to avoid the burden²⁸. They also arrested men without reasonable cause and compelled men to make fine to be released, or so at least it was alleged. The serjeants, it should be clear, were not community policemen receiving the suspicions of local people and trying to act on them while gradually weeding out accusations brought by malice from those brought correctly. The serjeants of the peace were the sharp end of a harsh and often predatory style of lordship, disliked and feared by local people who were forced to provide them with accomodation and food without receiving payment. The farms of bailiwicks in Westmorland were reported to be set at over £10 and the result was that the serjeants were forced to make extortions to recoup their investment. Further, so far from being careful to weed out malicious prosecutions; according to the suitors of the county of Westmorland, the serjeants were in fact the instigators of many malicious accusations since their unsupported word was enough to bring a man to trial unless he was prepared to pay them a fine²⁹.

28 Just.1/982, m23

29 Summerson - 'Crime and Society'; Trans of C&W II, v83 (1983), 112 takes a more optimistic attitude.

The situation was not significantly different in Cumberland. In 1292 the jurors chosen from the vill of Kirkoswald reported that men were arrested there, not on indictment but only as a result of the suspicion of a bailiff ³⁰. By the reign of Edward II nothing had changed, arrests were still made without indictment on the unsupported allegation of a serjeant or a bailiff ³¹. The sheriffs of the county enjoyed no better repute and were certainly not regarded as impartial investigators of crime, the "lieges of Cumberland" could point to many grievances which they had suffered at the hands of the sheriffs ³²: Like others who fell under the supervision of the serjeants of the peace, the men of Cumberland were keen to see a reduction in the level of their policing operations and of their actual numbers. Agreements to bring this about were common, as were attempts to end the power of the serjeants to bring men to trial on their unsupported allegation. The men of Galloway, for example, petitioned Edward I to free them from the grievance of surdit de serjaunt ³³. In England the process had been going on longer, In Westmorland agreement was made before the justices in eyre limiting both the powers and the numbers of the serjeants, though this proved to require reinforcement by a special statute passed by the king's council ³⁴. In Cumberland the process was further advanced and had begun under Henry III who had conceded to the men of Cumberland that the county should be patrolled by only four horse serjeants, each of whom was to be supported by two foot serjeants ³⁵. This agreement

30 Just.1/137, m27

31 NP, no 62

32 ibid, no 63

33 Bain CDS, v3, no 1874. In general see W C Dickinson - 'Surdit de Serjaunt', Scottish Historical Review, v39 (1960)

34. CCR 1279 - 88 108, 109

35. CPR 1225-32 456

covered only the body of the county, however, not the great lordships and it was fifty years later that Thomas de Multon of Egremont made a similar concession to the men of his lordship³⁶. Even when such modifications of local institutions became common, local communities continued to be aggrieved by the imposition of surdit de serjaunt, immediate executions and summary arrests. This was more than just a difference of procedure. A contemporary Scottish petition constricted this style of law, essentially Celtic, with the English law of jury trial³⁷. It was this English mode of the justice which the men of Cumbria felt themselves to be denied. The importance of this difference may be further underlined by contrast with the operation of the law in lowland England. In Lincolnshire it was recorded in the reign of Edward II as the custom of the county, that no-one should be executed while under arrest for any reason or while in bonds, rather he should be taken in custody to the sheriff³⁸.

It is probably reasonable to see in the persistence of surdit de serjaunt in Cumberland rather more than simply local conservatism. The practice also reflects local priorities and problems. It underlines the importance of the great liberties in the way the Cumberland was policed. In the major lordships the detection and suppression of crime was the preserve of the lord of his bailiffs. In the liberties of Gilsland, Greystoke and Liddell, royal bailiffs were forbidden to enter without permission from the bailiff of the liberty. This was granted only for specific purposes, such as to make an attachment for a plea of the crown, but it was restricted for a number of practical reasons.

36 Lucy Cartulary, 50

37 J Stevenson - Liber Sancte Marie de Melros (Edinburgh 1837), no 316

38 Select Cases under Edward II, 89

Firstly in cases of theft, most of the lordships of even the second rank were areas in which the lord exercised the right of *infangthef*. Since the most common and effective means of detecting and proving guilt was to find the suspect in possession, this meant that most cases of theft fell under the jurisdiction of the lords in whose lands the offence was committed. Secondly though, as has been suggested, the royal bailiffs could enter the major lordships for specific reasons they might not travel through them as they went about their patrols. Even when the suspect was known the time consuming process which required to be followed allowed the suspect ample time to flee. If criminals were to be caught it had to be done speedily and so there was a certain practicality to local customs which involved arrest on suspicion, especially in an area where even the law abiding part of the population was highly mobile.

There were other attractions to encourage the use of the right of *infangthef* rather than the slower procedure of trial by indictment and jury. The customs recorded in the Lucy Cartulary record that anyone taken with the mainour, that is under the jurisdiction of *infangthef*, should be taken to the castle of Egremont and tried there. Those who were indicted, however, were to be taken to the royal gaol at Carlisle⁴⁰. The quo warranto enquiries showed why the difference was important. The heirs to the barony of Kirklevington were summoned to answer by what right they claimed to have the chattels of all felons from their lands who were condemned and executed, Richard de Levington made it clear, however, that this was not what was claimed but only the chattels of those felons who were executed under the jurisdiction of *infangthef*. In other cases the chattels were forfeit to the crown⁴¹. This appears

39 *see above Chapter 2.*

40 Lucy Cartulary, 50

41 PQW, 128

also to have held good for the lordships of Egremont, Cockermouth and Aspatria. If felons from these lordships were tried at courts of gaol delivery at Carlisle it appears that their lords lost their right to the chattels. It was thus in the interests of local lords to neglect the law requiring trials to be held only by indictment and to proceed summarily. The widespread right of *infantheaf* fulfilled this role very well since the finding of allegedly stolen goods established that there was a case to be answered, though it was possible for one accused under this law to establish their innocence at trial. In one case, heard at the court of Robert de Bruce at Glassanby, the accused sought to prove his innocence by combat. Hugh Bulwe having been arrested in possession of an ox which it was suspected he had stolen, claimed that he had, in fact, been sold *it* by one William le Lung, a declaration which may be considered as an appeal of felony brought against William. William, who was present in court, denied the allegation and offered to prove his innocence by combat and the duel was accordingly waged. Hugh lost and was immediately hanged ⁴². This combat was, in a degree, anachronistic since before the end of Henry III's reign an appeal of felony was generally held to be justiciable only by a jury trial ⁴³. Appeals by approvers did continue to end in combat but Hugh de Bulwe had made no confession of theft and there is no other evidence to suggest that this should be considered to have been an appeal by an approver. The procedure which had been used was thus unusual and the disapproval of the justices is evident. Though Hugh de Bulwe was not an approver, the justices may have felt that in hearing a case which ended in combat, Bruce's men had exceeded their authority, for the right to hear appeals of felony was a closely guarded one. Certainly it was only after a

42 Just.1/135, m6d; Just.1/137, m13d

43 M T Clanchy - 'Highway Robbery and Trial by Battle in the Hampshire Eyre of 1249' in Mediaeval Legal Records, 29

local jury of men of standing had declared the procedure to be lawful in a lordship holding in fee that Bruce was allowed to go without day.

The persistence of trial by combat to settle an appeal of felony raises two interesting questions. The first of these is simply why trial by battle should have remained available after it had virtually disappeared from the rest of England as well as from Scotland⁴⁴. One part of the explanation may have simple conservatism, that the gradual amelioration of the system of justice made slower progress on the West March than it did elsewhere. Another possible reason may have been connected with the persistence of trial as the only acceptable form of proof in the *Leges Marchiarum*. Though this code affected, specifically, the border alone the procedure it used may have helped to condition local attitudes. If this were so then a further difficulty requires resolution, this was the nature of the combat which was waged between Hugh de Bulwe and William le Lung. Sufficient evidence has been assembled, including the famous picture from the Hampshire eyre roll, to indicate that a consistent pattern governed the organisation of trials arising out of appeals by approvers. The weapons were hammers or axes, recalling small picks more than anything else, while the shields used were large and rectangular. No body armour was used⁴⁵. Such equipment was expensive. In the Hampshire eyre of 1249 the cost of equipping one of the combats was £1 7s. 3d. There is room to doubt if such elaborate preparations were made in the private court of a small border liberty, particularly if the court could call to mind another precedent, and since the case

44 See in general G Neilson - Trial by Combat (Glasgow 1890)
D M Walker - 'Evidence' in Introduction to Scottish Legal History
(Stair Society, v20, 1958), 303

45 Clanchy - 'Trial by Battle', 29

did not involve the appeal of an approver. In the March laws, anyone appealed of theft by a person from the opposite realm was forced to fight a duel with spears and swords at the march of the two realms ⁴⁶. In 1280 it was recorded that the party in the duel from England was allowed a shield if he desired one. This may well have proved to be a more readily available precedent than practice in such distant areas as Hampshire ⁴⁷.

The most difficult problem facing any worker on the borders is the development of that distinctive brand of institutionalised lawlessness which can be described as 'Reiver Society'. There are even severe difficulties in describing what this term precisely means. Even an extensive monograph devoted to 'Reiver Society' such as that produced by Dr Sheila Dietrich, though providing some valuable discussion of the problem, provides no succinct definition of the term ⁴⁸. Initial work on the problem in the mediaeval period has been undertaken by Dr Anthony Tuck but much remains to be done ⁴⁹. The materials which survive, however, are meagre and offer only the thinnest support for argument. First of all, a definition of border lawlessness is required. One aspect of the problem is the study of how the border affected the nature of local crime and law enforcement and this is in itself a substantial field of study. Another difficulty lies in the assessment of the overall level of crime in Cumbria. A high level of crime was

46 H R Luard - Annales Monastici (Annales de Burton), (Rolls Series 1864), v4, 256-7

47 Bain CDS, v2, no 183

48 S Dietrich - 'Liberties and Lawlessness; Reiver Society in Tudor Tynedale' (Cornell University Ph.D Thesis, Ann Arbor Michigan 1973)

49 J A Tuck - 'Northumbrian Society in the Fourteenth Century', NH v6 (1971), idem 'Richard II and the Border Magnates', ibid, v3 (1968)

one of the distinguishing characteristics of the later mediaeval border, with two crimes being particularly common, large scale thefts of livestock and murders carried out by way of feud or counterfeud among groupings of men united by ties of kinship, usually called by the later term of surname groups which existed among the lower levels of society⁵⁰. These surname groups form one of the most intractable problems in the study of the region, the difficulty growing more severe the further back in time they are sought. Though the surname groups were a common local institution, their importance has perhaps been overestimated and in some cases almost perversely romanticised⁵¹. In light of these difficulties it is worth examining the various problems in detail, particularly to attempt to discover if significant changes occurred as the result of the disturbance of Edward II's reign.

A useful starting point for an attempt to assess the level of crime in Cumberland is a detailed analysis of one of the surviving eyre rolls, though it is well to understand the limitations of the evidence it offers. The roll chosen, Just.1/137, originated in the eyre of 1292 and it is that of the chief justice, Hugh de Cressingham. It is in generally good condition, though a few membranes are slightly torn at the foot and a handful of entries are not visible to the naked eye. The roll is one of the fullest surviving from Cumberland and it is principally concerned with pleas of the crown. Though the contemporary rolls, Just.1/136 and Just.1/135, contain the quo warranto hearings heard in this eyre, some related material is contained on Just.1/137, Most of it, however, consists of pleas of the crown in the traditional sense. It also contains a delivery of the gaol of Carlisle by

50 ibid, 29

51 G M Fraser - The Steel Bonnets (1971) is perhaps the best of the popular accounts of the Tudor borders.

Cressingham and his fellows. The analysis has been undertaken as far as possible using the method used by Meekings, though difficulties exist in applying this technique to Cumberland, even though the base of the analysis is judicial process rather than guilt or innocence ⁵². One example of how local custom differed from that in the rest of England is provided by the practice of summary execution already discussed. Not all felons came to trial. In the case of Isabel de Morland who was arrested near Penrith on suspicion of theft, procedure was very summary. Having escaped from gaol, she was recaptured and immediately beheaded, even though it was admitted that she was not indicted nor even suspected of any crime ⁵³. This case should warn us not to place too great faith in the accuracy or reliability of local justice. The eyre roll also records the cases of felons who had already been tried before justices of gaol delivery, whose records have been lost. These cases have been excluded from consideration. One result of this is that a number of convictions have had to be passed over, with some consequent distortions. Other distortions have entered the calculation as a result of the pressure of time. Those cases which would have required ultra-violet light to read have had to be ignored, and cases of 'felons hanged' have also been left from calculation. In other cases, special circumstances in the case have meant that it must be discussed separately rather than fitted into an arbitrary category.

A total of 160 cases of homicide were recorded. In three of these the victim was unknown and in one case the presenting jury could not name anyone as a suspect. In one case a homicide which had been committed

52 C A F Meekings - Crown Pleas of the Wiltshire Eyre 1249 (Wiltshire Archaeological and Natural History Society Records Branch, v16).

53 Just.1/137, m14

in Westmorland was reported and in another the crime had taken place in Scotland. This case also involved an inquisition taken into the law governing the law and custom of the March and had started as an appeal of homicide ⁵⁴. Only 31 defendants were brought before the court to answer the charges brought against them. Most of these fared well at the hands of the court. Twenty three were found innocent, were found to have acted in self defence or were found to have been party to death by misadventure. Four were allowed to defend themselves by the proffer of a pardon. Five in all were convicted and three of these were clerks, only two were hanged. Probably at least one other was fortunate not to suffer in the same way, for having fled at the approach of the eyre justices, he later decided to return and after having done so was acquitted by the jury. A further group of suspects whose guilt was just as certain, abjured the realm after confessing their guilt and left, probably for Scotland or claimed sanctuary in the liberty of the Prior of Wetheral. Both practices had their risks. After Simon Grytram had killed one Hugh Lamoys he fled for sanctuary to Wetheral. A little later he seems to have left the priory precincts and was pursued by one of the king's serjeants. Fleeing him Simon fell into the Eden and drowned ⁵⁵. Like outlaws those who abjured the realm were not permitted to return, though some did. William Langrigg was one outlaw who returned home but after doing so he was arrested and given over to the custody of the villis of Bothel, Seton and Brettby from whose custody he escaped. He was, however, arrested and beheaded in Westmorland ⁵⁶. In all six suspects confessed their crime and abjured the realm. Nine sought sanctuary at Wetheral. The remaining

54 ibid, m12d

55 ibid, m9d. This case has been included under the headings of both homicide and misadventure.

56 ibid, m20

112 suspects were recorded as having fled after the commission of their crimes and were ordered to be exacted or waived in the case of the females. Ten appeals of homicide were also entered. In one of these cases both the appellant and the appellee died before the arrival of the justices. In three cases the appeals were not pursued and were taken up at the suit of the king. In none of these cases did the original appellant appear. There was a total of twelve defendants, of whom seven were present in court. None was found guilty, whether present or absent by appeal. By comparison a total of 211 people died as a result of misadventure. Most of these died by drowning but almost every other possible cause of fatality, livestock, mills, trees, was also represented. There were also two cases of suicide. In the Wiltshire eyre of 1249 for a different comparison, there were 53 cases of homicide⁵⁷. In a different March county, Shropshire, the total of presentments of murder was higher at 183 and there were also nine appeals of homicide. In Northumberland in 1279 from a total of 68 presentments four murderers had been hanged, one had abjured and 65 had fled and had been exacted or waived⁵⁸.

Presentments of theft in various forms were just as common. There were a total of 76 cases of burglary, the majority of these, 43 cases were the work of malefactors of whom nothing was known. In the remaining 33 cases, suspects were named but of these 28 fled and were exacted or waived and one died in prison. Of those who were present for trial only one was convicted and hanged. Larceny accounted for 48 presentments. Thirty of the suspects fled and were exacted or waived. Nine had admitted their offence and abjured the realm. One died in prison, eight

57 *ibid*, m12d

58 A Harding - Roll of the Shropshire Eyre (Selden Society, v96, 1981) xvi

were present in court to answer. Of these, four were found guilty and hanged, one made fine and three were declared not guilty. There were also four cases which required special treatment. One was the case of theft which was decided by combat at Glassanby. Another case concerned the city court of Carlisle, which had executed two men on suspicion of the theft of livestock. Another had been executed after fleeing from custody there ⁵⁹. A simpler case resulted from the hearing held for the liberty of Alston. One Adam Tod was pursued by Andrew de Thornton on the ground that he had stolen cattle in Tynedale ⁶⁰. Thornton and Robert Scot the bailiff of Tynedale arrested him and took him to Wark in Tynedale, where they arranged for him to be hanged. The last of the exceptional cases also concerned Alston. One Simon de Alston, having been indicted for theft, fled in terror and as a result forfeited his chattels. The jury, however, considered him to be innocent, though whether or not truthfully we cannot discover ⁶¹. There were also appeals concerning robbery, two of which also included allegations of wounding. One appeal of robbery, though not pressed by the original appellant was found to be proved when brought at the king's suit. Two appeals of robbery and wounding, also brought at the suit of the crown, were found to be proved. Both were found to be the work of clerics.. Two cases of robbery emerged from the presentments of the juries. One suspect fled and was exacted, the other was present and convicted. There were also seven cases involving rape. Under the terms of the statute of Westminster suits for this crime had to be pressed by the victim within 40 days after the offence, though if the victim failed to bring her suit the case was brought at the king's ¹. This happened in all the cases brought before the eyre. There was a total of 18 defendants

59 See above

60 Just.1/137, m28

61 *ibid*, m28d

including accomplices. Two died before the trial, nine were present to answer in the court and of these three were found guilty. The other six were acquitted as was one who was not present. One man was declared to be suspect in his absence and was ordered to be exacted. Other cases of violence against the person were common. Of 15 appeals for assault and breach of the peace against 18 defendants, 12 were found guilty, a much higher conviction rate than in other categories.

The resetting of offenders was also reflected in the eyre roll but again the entries for this offence show the difficulties of statistical analysis. Seven persons were accused of resetting. In one case, Simon de Hoton claimed that Adam of Dalston had committed a murder in London and had afterwards been sheltered by his father Thomas of Dalston. This accusation, however, had been brought by Simon partly out of hatred for Thomas and Adam and partly as a result of covetousness since Simon wished to gain possession of land held by Thomas, a fact that was common knowledge in the neighbourhood⁶². Both men were accordingly held to have been falsely indicted. In another case the defendant appealed to the record of his acquittal by an earlier court of gaol delivery only to disclose a tale of judicial neglect and malpractice by members of the local jury and the equally awkward fact that the jury had been picked by one of his kinsmen. Two further defendants were present and being found guilty made fine. Three others were acquitted. The region, in general, and Alston in particular was found to be the resort from criminals from a wide area including Kendale, Yorkshire and Scotland and it is also clear that attempts to enforce the law were seriously hampered by corruption among local officials.

The figure which can be extracted from the eyre roll are, in one way, remarkably comprehensive. All crimes known to have taken place were recorded and as a result the total level of crime they record may well be close to the truth. The information about what actually happened in each case, however, is often submerged in a web of confusion. For example, it was presented that one William de Wethermellock, Elias de Orreton and Adam Cowherd had killed one Robert Harebraye. This crime resulted in the trial of two separate groups of defendants. William and Elias fled immediately after the commission of the crime but later returned, were tried and acquitted. Ralph de Peskin and his wife Alice were also tried and acquitted on the testimony of the jury. Meanwhile Adam Cowherd who had remained in hiding was declared to be suspect and was exacted.⁶³ In short, if murder was a common crime, which it appears to have been by comparison with Wiltshire, the arrest and successful prosecution of suspects was grossly inefficient.

The eyre rolls were more concerned with crime than with criminals. Exactly the reverse is true of another group of records, the rolls of gaol delivery. These were sessions held to empty local gaols of the accumulation of suspected felons which they contained. Trial was again by local jury but the jurors were often less concerned about the facts of one incident than with the reputation of the suspect. Two documents from the reign of Edward I have been considered, the gaol delivery section of Cressingham's roll and Just.3/10, A and B, a series of gaol deliveries made in the last years of the king's reign. As in the eyre roll proper the cases provide a mixed bag of information and as a whole they reflect poorly on the standards of local law enforcement.

63 ibid, ml

In the gaol delivery section of Just.1/137 there was one case of arson, that of the unfortunate Simon de Orreton who in trying to kill his father burned much of the city as well and was, in consequence, hanged though because he had been captured in the liberty of the Bishop of Carlisle by the Bishop's bailiff rather than the kings' ⁶⁴. The rest of the cases were less sensational. Three charges of resetting were brought. One of those accused of resetting offenders, Thomas Blake, had been arrested solely on suspicion, no indictment having been taken and he was acquitted. Of the other two defendants one was acquitted, one was found guilty and hanged. Theft was much more common and these cases have been separated according to whether it was specified that livestock had been stolen. Of cases which were recorded simply as theft from a total of 45 suspects tried 16 were found guilty, 15 as a result of the verdict of a jury, while one man confessed. Seven of these were hanged, eight were found to have stolen goods which were worth less than one shilling in value, often corn, while one of those found guilty was a pregnant woman who was sentenced to hang and given a stay of execution on account of her condition ⁶⁵. In cases specifically stated to concern the theft of livestock 12 people were brought to trial. Three were found guilty and hanged. Seven were acquitted by the jury, one was allowed to go free on the record of an earlier trial. The remaining suspect was ordered to be detained until a jury could be brought from Furness where he had also been indicted. Burglary was more common and there were 20 suspects placed on trial. Five were found guilty and three of these were hanged. One had stolen goods less than one shilling in value and one was a clerk. Three more were released on the record of an earlier court and one was remanded until he could be

64 *ibid*, m30

65 *ibid*, m30d

brought before a jury from Lancashire. All the remainder were acquitted including three who were reported to have been indicted solely as a result of malice.

No appeals by approvers were heard by the justices who delivered Carlisle gaol in 1292 but this deficiency is amply made good by Just. 3/10B. The various courts whose proceedings are enrolled there, heard a total of 53 cases of theft. Thirty seven of these were the result of appeals by approvers. One approver, Hugh Rymother, a notorious thief, but also a cleric, made a total of 16 appeals of theft, one of resetting and 17 of robbery. None of these appeals was borne out by the verdict of the jury. Another approver, Adam Tod, was less ambitious, making only six appeals of theft and one of resetting. The jury rejected all of Adam's allegations and he was accordingly hanged ⁶⁶. Of the remainder of those accused of theft, one was a clerk who confessing his crimes went on to accuse five other men. All were acquitted, however. Four of the remainder were found guilty and hanged but all the rest including those arrested on the appeal of approvers and one man who had been arrested on suspicion alone were acquitted. One other case did not get as far as trial, the thief having been executed immediately after apprehension. Twenty two suspects were tried on the charge of robbery, two of these had been arrested, one taken on suspicion and 19 had been appealed by an approver, in the case of 17 the approver was Hugh Rymother. One of those arrested had confessed his crime and brought an appeal against a group of four whom he claimed as former accomplices. He then withdrew his appeal, however, and was hanged. Those whom he had appealed were all acquitted. The remainder of the defendants were acquitted, one among them was a clerk.

66 ibid, mm5, 5d, 6, 6d

There were seven case of murder, four of those accused were found guilty including a violent group of three clerics who were also found to have committed a variety of thefts and robberies. The other convicted homicide was hanged. The remainder of those who were accused were acquitted. Finally there were four cases involving the resetting of offenders. One of the accused had been arrested solely on suspicion and was acquitted. Two were appealed by approvers and they too were acquitted. Only one person, Matilda the Breweress, was convicted and hanged for resetting.

Corruption was a persistent feature of local law enforcement. One feature of this was the bringing of malicious accusations. The reverse of this situation were cases in which those charged to suppress crime actually assisted criminals or took advantage of their acts. This type of case was equally common and offenders occurred in every branch of the system. Having been sent to Ayketon to arrest Thomas, son of Cecil of Ayketon, who had been indicted for a series of thefts, Richard Scot and Adam de Earys bailiff and sub bailiff of Cumberland Ward, were made an offer by Thomas. In return for two shillings they should allow Thomas to abjure the realm instead of bringing him to trial. Richard was tempted and he allowed Thomas to go free. He was unlucky however, his misdeed was discovered and he was fined half a mark. Even so he did not forfeit the confidence of his master, Michael de Harclay, then the sheriff who stood surety for the payment of his fine⁶⁷.

In other cases bailiffs were prepared to falsify an inquisition. According to the jury presentment, one John Raynot murdered John Malot on the king's road outside Cockermouth. The coroner John de Terriby

67 *ibid*, m6

who was obliged by his office to hold an inquest into the death did not do so in person but allowed his clerk, Nicholas de Hilde, to do it. The inquisition, however, was held by men of ill fame and placed the blame on one William, son of John. It turned out that both Terriby and his clerk had been bribed by Raynot to procure this false indictment⁶⁸. Seignorial bailiffs were, on occasion, no more honest. Richard FitzBride had been indicted for theft and fled to the liberty of Egremont. There, after paying the bailiff Peter de Mottington fl, was allowed to stay free from pursuit by the shire officials and by Peter himself⁶⁹.

A more complicated case of neglect and corruption came to light when Richard le Bere was brought to trial for robbery and resetting. Richard chose to base his defence on the record of an earlier acquittal by a court of gaol delivery held by Walter de Mulcaster, who had since died, Richard de Laton, Thomas de Derwentwater and William de Boyvill and he called for them to warrant his acquittal. The three surviving members of the commission came before the court and proceedings continued. William de Boyvill then made an admission, he could not in fact say whether Richard had been acquitted or not as he had been in London when the gaol was delivered. This, in turn, forced the others to admit that jointly with Mulcaster they had delivered the gaol in Boyvill's absence even though this was in contravention of the terms of their commission. As a result they were committed to gaol until it was discovered whether those who, including Richard le Bere, had been released quit, had been acquitted lawfully or at the procurement of the justices. When the jury, which had acquitted le Bere, was examined in

68 ibid, m7d

69 ibid, m32d

greater detail further irregularities were discovered. It was found that two of the jurors were members of his wife's family while the rest were tenants of Isabella de Forz and since Richard was the forester of the Cocker mouth estate it was considered that he was well placed to influence them in his favour ⁷⁰. In the end, however, it was considered that Richard had been acquitted by as substantial and independent a jury as was available and the case was dropped. Similar cases were not unknown, William Bulle who had been indicted for murder was acquitted after he had arranged for men, sympathetic to his case, to be elected to the jury ⁷¹.

It is possible in broad terms to assess the overall level of crime in Cumberland during the last years of the fourteenth century. The eyre rolls record all the detected crimes committed in the county since the last iter of the justices, there may have been a proportion which escaped detection but this probably small, since concealment was a punishable offence. Bearing in mind the fact that Cumberland was less densely populated than counties in lowland England where agriculture was more profitable and productive, the overall level of crime seems to have been high. The comparison between the figures for murder in Wiltshire in 1249 and Cumberland in 1292 is a crude one, but within its limits it is a suggestive one. There is also a telling coincidence of high levels of violent crime in Shropshire and Cumberland ⁷². 1292 was the last eyre to visit Cumberland and this fact profoundly altered the nature of the records that survive. Later figures on crime can only be extracted from records of gaol delivery, that is on suspected felons unlucky enough to be caught or to be

70 *ibid*, m32

71 *ibid*, m22

72 see above

appealed by an approver. Given the high level of acquittals by local jurors, it is impossible to discern from these records the actual level of crimes committed. Often the rolls do not specify one particular crime but simply a type or types of crime. Secondly since prosecutions often depended on appeals by approvers there can never be absolute certainty that crimes had in fact been committed. The case of Hugh Rymother illustrates the difficulty well. It is impossible to discover whether the group which Hugh appealed was a well organised gang of criminals responsible for a series of crimes, with the member who was accused of resetting responsible for running a safe house and disposing of stolen property, as some of the later surname gangs were organised or whether Hugh was simply providing a series of names to keep his captors busy. The former well may be considered more satisfactory but there can be no conclusion unless we are prepared to substitute the verdict the jury returned for our own. The fact that an enormous discrepancy exists between cases brought and convictions underlies any quantitative work on crime in the later middle ages and the numbers of those acquitted in the period 1335- 1457 has been calculated at 93%⁷³, but there is no certainty that all of these suspects would have been convicted were it not for the leniency of juries.

Despite the limitations of the evidence which is available, there is some value to a comparison of the figures for crime before and after the outbreak of the Anglo-Scots war, particularly in the levels of homicide. This comparison does not seem wholly consistent with the common belief that the late mediaeval border witnessed drastically increased levels of crime. In the years 1335-1457 there were 27 cases

73 Summerson - 'Crime and Society'; Trans of C&W II, v82 (1982), 118

murder brought to trial. Even if we accept the three-fold multiplier that Dr Summerson has followed Barbara Hanawalt in using, this does not provide evidence of a dramatic and worsening level of violent crime which is suggested to be one of the characteristics of the late mediaeval border. Here in a word we find one of the possible approaches to the discussion of reiver society blocked.

Another line of approach, the type of lawlessness associated with gangs operating across the border and using the border to assist them in evading justice, suggests that there was very significant continuity between the years before and after the reign of Edward II. Disputes involving the theft of livestock across the border were governed from time out of mind by the terms of the Leges Marchiarum, a body of custom and practice well established in local usage ⁷⁴. George Neilson believed that the Leges reflected the law of the twelfth century, basing this belief on the persistence and dominance of trial by combat in the code but G.W.S. Barrow has suggested an earlier origin still. In part this thesis is based on the identification of 'Camisford', which was the appropriate place for the waging of the judicial duel for cases involving the eastern march, with Norham. The second support of this argument is the prominent place accorded to the priest of the church of Stow in Wedale which seems consistent with the popularity the church enjoyed during the tenth and eleventh centuries compared with the relative obscurity it suffered later ⁷⁵. The laws as they were confirmed in 1249 are concerned with a number of possible crimes, the theft of bondmen from their lord, theft of livestock and murder if committed by a man of one realm against a victim from the other. The laws are explicit about the part played by battle as the mode of proof.

74 G Neilson - 'The March Laws' (Stair Society Miscellany, vl, 1969)

75 G W S Barrow - 'The Anglo-Scottish Border NH, vl (1969), 39-40

All men living in Britain with the exceptions of the king's of England and Scotland could be called to do battle, though the bishops of Saint Andrews and Durham, like the kings, were allowed to have champions⁷⁶. Duel was to settle questions of proof. The March Laws displayed an unusual attachment to the duel. In 1216 Innocent III wrote to the Archbishop of York condemning an abuse which he had heard of on the border whereby bishops, abbots and other clerics were obliged to fight a duel for offences which would be justiciable by duel if committed by laymen⁷⁷. In 1237 the Papal Legate was presented with a complaint that clerics were not only forced to fight duels by the March Laws but if they or their champion were to be defeated they were beheaded. This it was claimed had happened to the Prior of Lidde in recent times⁷⁸.

The persistence of trial by combat and the fact that the laws continued to allow for the payment of wergild rendered the Leges Marchiarum something of an anachronism in the reign of Edward I. There is some evidence that Edward and his government took steps to curtail the influence of the March Laws. An inquisition, which was calendared by Bain seems to show the first steps in this process⁷⁹. It was recorded that if any robber from Scotland should go to Brunscaith on the English side of the Solway and confessed his crime, then confess it again before

77 C R Cheney and M G Cheney - The Letters of Pope Innocent III concerning England and Wales (Oxford 1967), no 1064

78 Annales Monastici, v4, 256, 257. No satisfactory identification of Lidde has yet been found. Luard suggested Lechlade but this is not supported by C T Martin - The Record Interpreter (1911) nor is Lidde suggested as a possible variant of Lechlade in the relevant volume by the English Place Name Society.

79 Bain, CDS, v2, no 183. This was not calendared in the Public Record Office edition of Inquisitions Miscellaneous as a result of its condition.

the sheriff of Cumberland, he might have sanctuary. If however, he was pursued within forty days he might be summoned to do battle at the Solway. The defendant was in fact compelled to do battle or to pay damages in the case of theft or 'manbote' (wergild) in the case of homicide. These damages could be set by the aggrieved party at any level. In 1280 one Henry Scot, who had bought a mare at Carlisle fair, was challenged by Henry de Winchelse who claimed that the mare in fact belonged to him and according to the law of the March summoned Henry Scot to do battle at the Solway to prove his innocence. Scot was clearly unwilling to undergo the judicial duel and he appears to have tried to obtain a trial by jury. At this point, central government took an interest in the case and the king, in the formal phrase 'wishing to do justice in the matter', ordered the case to be adjourned until his imminent arrival in Cumberland when a local jury was to be summoned to report on the law and custom governing the March. The inquisition was duly held when the king arrived in Carlisle on 7th September 1280 and so far as the text allows interpretation it appears to have confirmed the laws as they had previously operated. There is also a suggestion that Edward directed that the case should be heard by an English court if Henry Winchelse should sue there, though the text does not allow certainty. The matter would remain wholly obscure were it not for a case heard before Cressingham and his fellows in 1292, the record of which was printed by Stevenson⁸⁰. The case began with an appeal of homicide brought by Isabella of Dalrusken against William Wakeman for the death of Robert the Miller, Isabella's husband. Isabella failed to press her suit and the case was accordingly brought by the crown. William Wakeman came and defended himself, asserting that

80 Just.1/137, m12d; Stevenson - Documents Illustrative of History of Scotland, 357

Robert the Miller had been killed in the last Scottish war⁸¹, and he further questioned whether he ought to answer in court for an offence which was alleged to have taken place in Scotland. A jury of the county of Cumberland was duly brought to testify on the law and custom of the March. These findings again closely recalled the findings of the inquisition of 1280 but the jurors went on to add that the king had repudiated these customs about the ninth year of his reign. There is no documentary evidence for this suppression to be found⁸² but it seems highly possible that since Edward displayed an interest in the case he may have ordered that the custom be discontinued, simply orally. If this were so, the jurors were guilty of a slight inaccuracy since Edward was in Carlisle in September 1280, whereas the ninth year of his reign did not begin until November of that year⁸³.

Edward I's apparent suppression of the Leges Marchiarum probably had a legal rather than a diplomatic purpose, since the Leges, with their stress on duel and the even more anachronistic persistence of blood prices, were out of tune with an era of legal reform. The end of the March Laws was of very limited importance however, and it did nothing to curb a much greater threat to law enforcement which was provided by the Scottish border. The Scottish boundary provided a sanctuary from pursuit both for Scottish criminals who had come to England to rob and plunder and to English criminals who wanted to avoid pursuit for a time. This was one of the problems characteristic of the late mediaeval border,

81 It is not clear which war this referred to.

82 The Close and Patent Rolls have been searched as have class lists for Chancery Miscellanea in the Public Record Office Searchroom.

83 Itinerary Edward I, List and Index Society, vl03, l03;
C R Cheney - Handbook of Dates for Students of English History
(1978), 20

but it is clear that it was already a significant problem before the outbreak of the Anglo-Scottish war. As early as 1264, it was alleged, a group of men including Adam de Swalthwaite, Jordan Robryk, Michael le Muir, Richard son of Hugh, William de Galway, Roger de Galway and others came to Selcroft and Birkby taking advantage of the disturbance caused by the Baron's war and drove off 60 oxen. They returned shortly afterwards and drove off a further quantity of livestock ⁸⁴. The inclusion of Roger and William de Galway suggests strongly that this group, of malfactors originated north of the border, though there is no direct support for Bain's description of the group as 'border outlaws'. Raids by groups of Scots remained a problem after the end of the Montfortian rebellion. In 1265-6 the accounts for the Cocker-mouth estates include a payment made to William Becock and others who had gone to Scotland in pursuit of a group of malfactors who had raided Derwentfells forest ⁸⁵. Early in Edward I's reign, the sheriff of Cumberland, Richard de Creppings, wrote to Walter Merton then Chancellor lamenting the number of robberies and murders which were committed in the county. Creppings blamed these crimes on Scots coming into the county but he also complained that the local people obstructed him by refusing to attend inquisitions without a special writ authorising them ⁸⁶. As the eyre roll showed the Cumbrians were capable of sustaining a high rate of crime without assistance and it may simply have been convenient to place the blame on the Scots.

84 KB.26/177, m10; Bain CDS, vl, no 2392. There can be no certainty, of course, that William de Galway and the others were normally resident in Scotland. In 1278 it was presented that one William de Galway killed Alan of Broughton. He fled and was exacted. Just.1/131, m10

85 SC.6/824/m1

86 F J Tanqueray - Receuil de Lettres Anglo-Francaises (Paris 1916) no 9

It is very possible on the other hand that a proportion of the crimes committed by malfactores ignoti were the work of groups of Scots criminals. On occasion it is easier to find Scots criminals at work in Cumberland. In 1292 it was presented that the house of Hugh Blakestavegill was burgled by John and Alan de Holgil of Annandale, who had fled immediately afterwards, presumably back across the border⁸⁷. In another case, Alexander de Capelle was arrested for killing William, son of Patrick, and taken into custody by the vill of Penrith. In custody Alexander asked to be taken to his house to talk with his wife. When he got there, however, he managed to get his hands on a bow and arrow and with these he succeeded in making his escape while at least one of his captors hid beneath a cart and then he fled to Annandale⁸⁸. There Alexander and his accomplice Robert de Hakethorp stayed until the heat of pursuit was over and then they returned home. Some years earlier John del Wode, a Scottish criminal, was rescued from the gaol at Laysingby by a group of unknown Scots after he had been placed there for killing a man⁸⁹.

The presence of a significant amount of what can be called 'cross border crime' provides one example of continuity between the border in the thirteenth century and in the later middle ages. Cross border crime was only one element of reiver society, however. The operation of criminal gangs and surname groups was just as prevalent within England. Though the development of the surname groups was incomplete during the thirteenth century, there is reason to consider that it was the way in which they operated which was of greater importance. A Scottish

87 Just.1/137, m16d

88 *ibid*, m10; Just.1/135, m6d

89 Just.1/132, m33d

definition of the problem posed by the border stated that its cause was 'clannis of wikkit men coupled together be occasion of their neir dwelling togedder or be surnamis'⁹⁰. There were certainly criminal gangs operating in Cumberland before the war, as there were indeed in the rest of England. If Hugh Rymother was telling the truth he was a member of such a gang. Another small gang consisted of John de Thorkill, Thomas de Dene and William le Brett who were responsible for a series of crimes including robbery, burglary and murder, notwithstanding the fact that all were clerics in minor orders⁹¹. Other ganags appear to have been organised on the basis of 'neir dwelling together'. After Robert Bates of Brandreth was arrested for the murder of William le Panur of Brandreth, he was condemned and given over for execution. As he was being taken to the gallows, however, he was rescued by a group of armed men including Peter de Langbargh, Peter de Brandreth and Bertin de Ughtreset who allowed him to escape to the sanctuary of Greyfriars church⁹².

The surname groups are a recorded feature of the borders in the fifteenth and sixteenth centuries, but even then with the more voluminous and detailed information which those centuries generated their internal organisation is deeply obscure⁹³. Attempts to trace their existence earlier than the fifteenth century are almost precluded by the limits of the evidence and if their existence can only be shown by reference to the types of material which survive from the Tudor period, they

90 Acts of the Parliaments of Scotland, v3, 218

91 Just.3/10, m5

92 Just.1/137, m6; Just.1/135, m13d. Bertin de Ughtreset was later pardoned on the grounds that he had taken part in the rescue during a fit of temporary madness. CPR 1292-1301, 61

93 Dietrich Thesis, 39.

must inevitably fail. Even those types of record which are common to both periods, notably judicial records, shed little light on the problem of the surname groups. This seems to raise a very real possibility that the emergence of the surname groups is less a change in the nature of local society than a change and increase in the evidence available for study. Some aspects of local society can be shown, however, to have served the same purposes as the surname groups, and if the attributes of those groups were wholly absent before the war, it is significant that the characteristics of later society developed with astonishing speed after the start of the war.

The surname groups played a variety of roles. Firstly, they provided collective security against other local families, and less positively, provided a focus of organisation for raids on local farmers or on other groups with whom the surname was at feud. Secondly, they fulfilled a judicial role, arranging for the payment of fines and for pledges of good behaviour which served as one of the means used to try to impose discipline on the local brigands. As we have already seen, juries on the border were regularly influenced by packing them with the accused's kinsmen and this was probably another of the ways in which the surname groups protected their members. Finally they provided identity and protection by means of the blood feud which they maintained and perpetuated. It has even been suggested that the existence of these organisations was one factor depressing the level of homicides in the English border in the later middle ages ⁹⁴.

The first of these roles was an essential one in every region of mediaeval England and it would be imprudent to see in the regular

94 Summerson - 'Crime and Society'; Trans of C&W II, v82 (1982), 118

appearance as pledges and mainpernors of family members and neighbours in Cumbria as a demonstration of kin solidarity which was significantly different in kind from that which could be found in the rest of England. There is, however, clear evidence for the rapid emergence of the type of judicial pledge that was used on the Tudor borders to control the surname groups. According to the petition delivered by John de Laysingby, Adam son of Thomas of Liddesdale and Adam his son had entered into a written bond to keep the king's peace forced on them by John de Wigton, this agreement being guaranteed by twelve pledges⁹⁵. Despite this agreement John complained that Adam and his son had attacked, beaten and abducted him, taking him to Liddesdale until he paid 54 marks to be released. This type of crime was characteristic of the later surname groups but it also had some precedents in the earlier period. For example, Dionisia de Bechefeud complained that she had been abducted by and carried off to Jedburgh forest until she was rescued. In the Cumberland eyre of 1292 Richard de Soules was brought before the court charged with abducting Richard le Taylor and carrying him off the Scotland⁹⁶.

Comparison of crimes committed is, at best, inconclusive and as a result it is worth considering the other evidence for the origins of the surname groups. These are generally held to have developed earliest in Tynedale after the failure of effective lordship there caused by the repeated devastation of the area by the Scots⁹⁷. As Dr. Tuck has made clear, however, the evidence for this is unsatisfactory. It has been suggested that while lordship might gain at the expense of kinship ties, the converse has been suggested on the strength of this,

95 Bain, CDS v3, no 66

96 Bain, CDS v2, no 148 (42); Just.1/137, m30d

97 Tuck - 'Northumbrian Society'; NH, v6 (1971), 27

that kinship ties may have grown stronger as the power of lordship weakened. As Jennifer M. Wormald has recently shown, however, there is on the evidence from Scotland no reason to accept that strong lordship and influential ties of kinship were mutually incompatible⁹⁸. It may well have been that in Cumbria ties of kinship were not so much unimportant as unrecorded. There is also room to doubt whether there was so great a contrast of strong and weak lordship as has been suggested. As we have seen in the lordships of Liddell and Egremont much of the immediate exercise of lordship, of local organisation and leadership, was exercised by the lord's chief agents, members of the local gentry, rather than by the lord himself. It seems likely that the same pattern held good for Tynedale since Alexander II and his son were just as much absentee lords as were later holders of the lordship and as were the lords of Liddell, Gilsland and Egremont. In fact, it could be argued that the commission of the lordship of Tynedale to a series of short term keepers would have been likely to strengthen rather than weaken the power of lordship operating in Tynedale by enhancing the position of the local gentry. The fact that some of these gentry became deeply involved in local crime neither weakened their influence, it was likely to strengthen it, nor did it necessarily represent a new development. Some local members of the gentry, the Viponts of Alston being one example, were deeply involved in crime. Gilbert d'Umfravill, one of the most notorious of the border lords, also maintained close links with local criminals and used them to further his own ends⁹⁹. Other lords were no more law-abiding.

98. *J. M. Wormald 'Bloodfeud Kinship and Government in Early Scotland'*
P&P v 87 (1980) esp 63-65.;
 Tuck - 'Northumbrian Society', *NH* v6 (1971), 27; This is the
 root of most published comments on the surname groups in the
 later middle ages, for example, Summerson - 'Crime and Society', 118

99 See above Chapter 3

One important aspect of the late mediaeval surname groups has not yet been discussed, the blood-feuds carried on by them. It is generally considered in Maitland's words that the blood feud 'disappeared with marvellous suddenness'¹⁰⁰. Maitland's judgement must be understood in context. It was based only on legal evidence and it referred only to the disappearance of the wergild from English law codes. The end of the wergild did not diminish the importance of kinship ties, nor could it. Mediaeval society depended on an intimate perception of family ties and levels of kinship, without these the elaborate laws governing marriage according to canon law could not have been applied. As we have seen, even juridically the idea of wergild did not disappear from the border until the reign of Edward I. Socially, the idea of family feuds continued to be important in England even after this time. In 1321, for example, it made good sense for the writer of the Vita Edwardi Secundi to explain the Despenser's hostility to Roger de Mortimer on the grounds that a feud existed between the two families which had begun when an earlier Mortimer had been responsible for the death of Despenser's grandfather at Evesham¹⁰¹. This was an attitude of which the sixteenth century border reivers would have approved and understood. Other cases can be easily found, but perhaps the most important was the extensive feud which was carried on in Lancashire between the families of the Hollands and the Banasters in the reign of Edward II, but which may very well have dated back many years before then¹⁰². Evidence from the border itself is less easily available. Two cases, however, deserve special mention. The first is a tale told by Thomas Grey of Heton, himself a well placed authority on border affairs. Grey relates

100 HEL, v2, 458

101 Vita, 109

102 G H Tupling - South Lancashire in the reign of Edward II (Chetham Society Series 3, vl, 1949), xliii

how there was a disturbance in Edward Balliol's campaigns in Scotland because the borderers killed an esquire who was in the army because someone of that surname (surnoun) had been responsible for the death of Edward II ¹⁰³. There is no suggestion that it was thought that the man in question has been personally guilty and the tale is only explicable if we accept that the borderers were already accustomed to think in terms of gaining revenge for the offences committed by one member of a family or clan on another. The second example is clearer and it is another example of how rapidly the institutions characteristic of the Tudor borders developed. In 1337-38 Joanna de Clifford and Edward de Fleteham petitioned Edward III to request the Pope to grant them a dispensation to allow them to marry though they were related in the prohibited degrees. They wished to marry, they wrote to put an end to the many homicides and evils which had been committed as a result of the enmity which existed between the two families ¹⁰⁴. It seems hard to accept that such enmities developed only after the reign of Edward II or that the blood feud was re-introduced into the border after a period of virtual abeyance. It seems more probable that society developed its distinctive form on the border as a result of evolution from earlier patterns, though that modification must have been deeply influenced by the establishment of a state endemic of warfare on the border. It is clear, moreover, that if the late mediaeval border suffered from a crime problem, this was not in any way a new development. Even before the outbreak of war that on the West March, if the law was enforced it was generally at the will of seigneurial bailiffs and frequently corruptly, often arbitrarily and

103 J Stevenson - Scalacronica of Sir Thomas Grey (Edinburgh 1836) 165

104 Bain, CDS, v3, no 1257. This document refers to the Clifford family of Northumberland, not the more important Westmorland family.

even by the standards of the day, ineffectively. In short the West March was always a dangerous area where the law was enforced only sparingly and incompletely, it did not become so only after the outbreak of the Anglo-Scots war.

CHAPTER V

THE RISE OF CLIFFORD DOMINANCE

From the reign of Henry III to that of Henry VIII, and even beyond, the history of the West March was inseparable from the fortunes of the Clifford family. The Cliffords stood as the longest established and arguably the most powerful of the triad of magnate families which dominated Cumbria in the late mediaeval period. The dominance the Cliffords could exert from the twin bases of Appleby and Skipton was the product of long growth, both of landed estates and of political power. The history of this growth provides an enlightening study in local leadership and on another, though equally important, level it can be seen as the family history of one of the most important baronial families in England.

The Cliffords' power in Westmorland was built on the foundations laid by John and by Robert I Vipont. John's creation of the hereditary shrievalty of Westmorland was, at the time, without precedent and in addition Vipont received the service, fealty, homage and cornage rents of the whole of the county of Westmorland, the barony of Kendale alone excepted ¹. During the minority of Henry III Vipont served the regency government in a variety of roles, as a military commander against the Scots and, to Lady Stenton's surprise, as a justice in eyre in Yorkshire ². As Lady Stenton observed, Robert was 'a man of action rather than of the law' and in the later years of his life he devoted his power to expanding his lordship in Westmorland. He acquired Brampton from Walter de Morvill who was also forced to relinquish the advowson of Kirby Thore and those of the chapels of Souerby and Meaburn ³. Nicholas de Stutevill was also forced to

1 See above Chapter 1

2 D M Stenton - Rolls of the Justices in Eyre for Yorkshire (Selden Society, v56, 1937), xxi, xxiii

3 Hist and Antiq, v1, 269, 270

contribute to Vipont's growing estate. Stutevill made over to Vipont over £5 worth of land in return for only nominal services. He had also to make over land in Morland to the new regional power. Adam Tailleboys had the same experience, as Vipont succeeded in wresting control of Langrigg from him ⁴. The steady march of the expansion of the family power in Westmorland was halted by the death of Robert I in 1228.

Robert de Vipont was succeeded by his son John but there is little evidence to suggest that John had been able to significantly expand the family's position by the time of his premature death in 1240. On John's death the family was faced with a long minority. In 1242-43 Henry III sold the custody of the Vipont estates in Westmorland, Nottingham and Northampton to Walter, Bishop of Carlisle, at an annual payment of £400 ⁵. Walter seems to have found little difficulty in raising the required income and he paid the full farm demanded in the first year. The following year the Bishop paid a further £296 19s. 0d. for the corn and livestock from Vipont's lands, probably a sign that the estates were being wasted for a quick profit. The Vipont lands continued at farm after the death of Bishop Mauclerk and the farm was taken over by the Prior of Carlisle ⁶. The result of this type of administration was that the inheritance to which Robert II de Vipont succeeded was one that had suffered long wastage and in 1253 a commission was appointed to enquire into the damage that had been committed while the lands were in the Prior's care ⁷.

4 M S Dodsworth - Bodleian Library, 70, ff19, 25v, 26v

5 Pipe Rolls of Cumberland and Westmorland, 103, 109, 110

6 ibid, 149

7 CPR 1247-58, 504

The exploitation and neglect were not confined to the family estate. The castle of Brough and the chief castle of the lordship, Appleby, suffered just as severely. The knight's chamber at Appleby which had needed repair in John's reign fell down completely while in the Priors care and not even the timber could be saved ⁸.

As great a problem for Robert II Vipont on his majority as the restoration of the family properties and castles was to restore the local influence which had waned during his minority. In the early part of his career, Robert II seems to have given this matter a high priority. In 1256 he obtained exemption for seven of 'his men', Thomas de Hastings, William de Cundal, Alexander Manchel, William Warcop, Matthew de Rosgill, William de Goldington and William de Chantenev from taking up knighthood on testimony that they held by cornage ⁹. The following year Thomas de Segrave of the county of Westmorland was granted exemption from serving on assizes in consideration of his service in Wales at the instance of his lord, Robert de Vipont ¹⁰.

Vipont's attempts to increase his influence in Westmorland by obtaining privileges for his followers or for those he saw as potential supporters were overshadowed by the increasing crisis which developed from Henry III's Sicilian scheme. Having suffered badly from Henry's government during his minority, Robert II Vipont was a natural recruit to the body of northern 'malcontents' who joined the reform party ¹¹. Vipont's discontent brought in its train that of the whole of the local community,

8 M Holmes - Appleby Castle (Oxford 1953), 173

9 CPR 1247-58, 504

10 ibid 578

11 F M Powicke - The Thirteenth Century (Oxford 1953), 173

which followed the leadership of its ancestral lord. When commissioners were appointed in August 1258 to enforce the Provisions of Oxford, three out of four appointed in Westmorland can be shown to have had direct links with Robert de Vipont. Robert de Askeby was a cornage tenant of the lordship of Appleby in 1283 as, almost certainly was John de Morvill¹². Though Robert de Stirkland held land in the barony of Kendale, his family also held Stirkland on the eastern shore of Ulswater, close to the Vipont holdings, and such proximity probably strengthened his links with Vipont¹³. The fourth, Patrick son of Thomas, is harder to identify but he was probably the lord of Preston, Holme and Hutton in South Westmorland and he may have had closer links with the royalist barons of Kendale since his name did not appear in the lists of rebels in Westmorland in 1265¹⁴. Even when the opposition to Henry III achieved nothing more useful than poaching deer from Inglewood forest, Robert de Vipont led the way and his leadership was easily accepted by the local gentry. According to the Forest Eyre, which William de Vescy held in 1285, while returning from Carlisle around Christmas 1264, Robert de Vipont and his men had broken into the forest and taken 'deer without number'¹⁵. Vipont's entourage on this occasion, if indeed it was only one occasion, included John de Morvill, Thomas de Helbeck, Michael Harclay, Thomas de Musgrave, a former under-sheriff of Westmorland, Nicholas de Musgrave, William de Warcop, Henry de Stevely and Thomas de Hastings.

12 CPR 1247-58, 522

13 Feodary 304 - 328

14 Hist and Antiq, v1, 203, 211, 271

15 Parker - 'Inglewood Forest Part 4'; Trans of C&W II, v9 (1909), 4. The others were Robert de Rypers, Gilbert Engayne, John de Ormesheved, John de Whale - serving man and Robert de Bacon. Compare with Feodary. 304 - 328

Such local influence had other advantages, especially when linked to the hereditary shrivalty of the county. Indeed, it almost institutionalised the abuse of the judicial system. In 1263 Vipont was summoned to answer John de Balliol, Alexander of Buchan and others who claimed, and continued to claim, half the lordship of Appleby by inheritance. Vipont may have had good reasons to try to delay the suit since the time was hardly a good one to join legal battle with Henry III's chief northern lieutenants and he essoined himself on the grounds of malo lecti. Four local knights were accordingly sent to view his condition. The group included Robert de Stirkland and Matthew de Rosgill, surprisingly since he had been excused from taking up knight-hood¹⁶. The Westmorland mens' failure to perform this task further obstructed the case and four knights from Yorkshire were ordered to make the view. The fact that Vipont was well enough to hunt the following Christmas may well suggest that Vipont's illness was a diplomatic one¹⁷. By 7 June 1264, however, Vipont was dead without heir male¹⁸.

De Montfort's party was in the ascendant at the time of Robert de Vipont's death and the barons appointed John FitzJohn, a prominent supporter of de Montfort, to have custody of his land. FitzJohn was unable to build up the degree of local support Vipont had enjoyed. Local loyalties lay more securely with the Vipont family than with the Provisions of Oxford. In any case, despite the capture of Carlisle Castle by John d'Eyvill, probably between Christmas 1264 and Easter 1265¹⁹, the power of the baronial party was on the wane in Cumbria

16 Bain, CDS, v1, no 2335

17 See above

18 CPR 1258-66, 322

19 Parker - 'Inglewood Forest Part 3'; Trans of C&W II, v7 (1907) 8, 9

during 1265. According to the Flores Historiarum the north was dominated by the king of Scots and John de Balliol²⁰ and by June 1265 at any rate, Eustace de Balliol had succeeded in regaining control of Carlisle Castle²¹. In this climate and deprived of leadership by the death of Vipont, the gentry of Westmorland gave up the cause of the rebellion. A large group of them came back into Henry's peace after being offered the chance to do so by Peter de Brus, John and Eustace de Balliol and others on 29 June²². Those who abandoned the rebellion included a number of Vipont's former men, William de Warcop, John de Morvill, Matthew de Rosgill as well as others who had taken part in the raiding of deer from Inglewood who included Michael Harclay, Thomas de Helbeck and Henry de Stavely. This marked the end of serious opposition to the royalist forces in Westmorland but the area was still regarded with a degree of suspicion by the government and in October 1265 Roger de Leyburn and Roger de Clifford were appointed to pacify the counties of Cumberland and Westmorland²³. The process did not proceed quickly and as late as the summer of 1267 Leyburn was still entrusted with power to allow back to the king's peace former rebels²⁴.

Westmorland provided Henry's government with more than a simple military problem, however. It also offered an opportunity to reward

20 Flores Historiarum, v2, 488

21 CPR 1258-66, 399

22 CCR 1264-68, 131-2. The full list was Gilbert de Culwen, Thomas de Musgrave, Thomas de Helbeck, Henry de Stavely, Robert de Yanwath, Thomas de Hastings, Matthew de Rosgill, William de Dacre, Ranulph de Dacre, Michael de Harclay, William de Warcop, Richard de Berwis, William de Cundal, Thomas de Newbigging, Robert de Moussard, Hugh de Souerby, Robert de Fraunceys, Wido de Smardale, Henry de Tyrel, Odo de Senhale, Thomas Buies, Gervase de Langton, John de Burton, Lionel de Querton, Gilbert de Kirklevington, Peter Abbot of Shap, Walter de Ravenby, Thomas de Derwentwater and Walter Tyle

23 CPR 1258-66, 300

24 CPR 1266-72, 96

loyal supporters. Moreover, since Robert de Vipont's lands had come into the custody of the crown by reason of the wardship of his daughters rather than by reason of forfeiture the rewards could be distributed without dispossessing former rebels. Vipont's heirs were his daughters Isabella and Idonea, and there being no heir male these ladies were valuable matches. Four days after Evesham, as a result, on the 8 August Henry granted the custody and marriage of Isabella to Roger Clifford, while Idonea was granted to the custody of Roger de Leyburn on the same terms²⁵. Clifford, at least, was more than happy with the arrangement. In a petition to the king he asked that whereas he had formerly asked for a grant of lands worth £400 he was now content with what he had received and wished for no precise survey to be taken whether or not he had obtained more or less than that sum in value²⁶. Both Leyburn and Clifford took swift steps to make their position more secure. In February 1266 they obtained pardons for the ladies of Westmorland for any trespasses committed by their father and within a month of this both the ladies had been married to the respective sons of Clifford and Leyburn, both of whom were also named Roger²⁸. The details of the partition between the two estates were settled at what must have been an imposing ceremony held at York, witnessed by the Archbishop, the Bishop of Worcester Godfrey Giffard and the Master of the Hospital in England among many other notables²⁹. By this division, Roger de Clifford, by virtue of Isabella's seniority, gained Appleby and Brougham while Leyburn was allocated Brough, Kirby Stephen and

25 CPR 1258-66, p435
Hist and Antiq, v1, 270. Nicholson and Burn erred, however, in suggesting that Vipont was killed at Evesham.

26 C.55/3, m3

27 CPR 1258-66, 435

28 ibid 532; CPR 1266-72, 48, 34

29 CPR 1266-72, 290, 291

Mallerstang. Other lands were to be partitioned as equally as possible, as were Vipont's goods, though here the heirs were fortunate in already having had any debts to the crown discounted ³⁰.

The elder Clifford and Leyburn faced the problem of transforming their nominal control of much of Westmorland into effective local influence and they attacked this matter even before they had arranged the marriage of their sons. The key to the problem lay in relations with the local gentry. A first step was taken in September 1265 when Clifford and Leyburn obtained a protection for a group of local gentry who had abandoned the Montfortian cause earlier in the year ³¹. This, however, was in some ways only a formal assertion of lordship and some of Vipont's former supporters refused to co-operate. In March 1267 a mandate was issued to the tenants of Idonea de Vipont ordering them to be intendant on Roger de Leyburn ³².

Clifford and Leyburn set about increasing their authority in Westmorland in precisely the same way which Robert Vipont had done ten years earlier. In 1268, for example, Leyburn procured for William Warcop an exemption from being put on assizes, juries, recognitions or from being made sheriff against his will ³³. Roger Clifford obtained a pardon for Robert de Stirkland for the death of Alan Mussel ³⁴. Others may have needed less encouragement to align themselves with Clifford and Leyburn. In 1269 Robert de Askeby replaced Thomas de Musgrave as collector of the twentieth to be raised in Westmorland since Musgrave was already

30 CPR 1258-66, 532

31 ibid 452

32 CPR 1266-72, 532

33 ibid 258

34 ibid 372

serving as Leyburn's steward³⁵.

In June 1269 Roger de Clifford junior rendered his homage and was given livery of the lands to which he was entitled by reason of his marriage to Isabella de Vipont³⁶. Clifford was to enjoy only a relatively brief career in Westmorland before his death on campaign in Wales, but it is clear that his dealing with Westmorland were marked by a determination to assert and increase his rights there. Such aggressive lordship, inevitably provoked hostility, but despite this Roger III's lifetime marked a vital stage in the development of Clifford's dominance in the region.

There is no reason to believe that the installation of Roger de Clifford senior as military governor of Westmorland was conceived as anything more than a temporary measure by Henry III's government after the defeat of de Montfort, or that it was in any way related to hypothetical plans for expansion into Scotland. Relations between Henry III and Alexander III were close and the Scottish king had given Henry valuable material aid during the conflict with the barons and there can have been no reason to anticipate hostilities in the future³⁷. Further, when Clifford was granted custody of Vipont's former lands in 1265 there was no clue of the war which would break out under Edward I. The idea that Roger Clifford junior was in the vanguard of a move by the English nobility to a new frontier of opportunities is no more convincing. Clifford built up his estate just as any other lord would have done in a new holding, particularly early in his career. Certainly, some of

35 *ibid* 399

36 CCR 1268-72, 59

37 *Stones - Relations*, no 7

the powers Clifford enjoyed derived from Appleby's position as a marcher lordship but their exercise was directed towards local dominance rather than imagined opportunities across the border.

If there is no evidence that Clifford expected that Westmorland would develop into a new March of Wales, it would be unreasonable to expect that Clifford's experiences in Wales did not affect the nature of his lordship in Westmorland. Roger Clifford senior clearly had faith in his son's abilities as in 1270 he arranged for his son to act as his attorney while he went on crusade³⁸. It seems likely in light of this that Clifford senior may also have involved him in the running of his estates in Wales. Some of this experience had direct parallels in Westmorland for there were several features common to both, the March of Wales and the Scottish Border. Important aspects of Clifford junior's policy in Westmorland were explicable in terms of his Welsh background.

A tangible illustration of this policy was the reconstruction of the castle of Brougham, strategically located at the northern end of Clifford's lands where it also guarded the road from York to Carlisle at the crossing of the Eamont. Brougham had suffered even more severely from the Prior of Carlisle's neglect during Robert Vipont's minority than had Appleby. No mention of the castle was made in the partition made in 1269, suggesting that the building had fallen into total disrepair. Roger remedied this³⁹. A strong curtain wall was built adjoining the twelfth century keep which was renovated. Towers

38 CPR 1266-72, 443

39 J F Curwen - 'Brough Castle'; Trans of C&W II, v22 (1922)
148.149

were placed at each corner of the curtain with the strongest of these guarding the gate. Above the gate a later member of the family recorded Roger's improvements with the simple inscription 'Thys made Roger'. Brougham's strategic potential has already been noted, but the construction of this fortress was probably built more with the intention of impressing Clifford's new found dominance on the local gentry than for purely strategic reasons. As such it must have been effective. The West March was not heavily fortified during the thirteenth century and those castles which did exist were generally in a poor state of repair. Even if a direct military use was envisaged it is probable that Clifford's experience in the Baron's War disposed him to envisage civil war as the occasion for this rather than a threat from the Scots.

If the renovation of Appleby and the reconstruction of Brougham Castle were intended to impress the Westmorland gentry with the power and importance of their new lord, Clifford also took steps to find out the extent of the tenant's obligation to him and to enforce those obligations. It is probable that Roger Clifford was responsible for the compilation of the first of the series of feodaries detailing the cornage payments as well as the value when in wardship of the tenements held of the lordship of Appleby, though the list may have been based on an earlier version compiled by the Viponts'⁴⁰. The purpose of the feodary was largely financial, to allow close exploitation of the feudal incidents to which the Cliffords were entitled in case of minorities. It also served to reinforce the dependence of the local

40 Feodary. On dating see F.W Ragg - 'Appendix to Feoffees of the Cliffords'; Trans of C&W II, v21 (1921) 337.

gentry on the Cliffords. In a degree this was unnecessary since the possession of the hereditary shrievalty gave the family control of the machinery of government in the region and for this reason the Clifford castle of Appleby remained the focus of local life, as in a smaller way the Leyburn castle of Kirby Stephen was for the gentry of that area. After Roger de Leyburn's death without male heir in 1284, however, the focus of local life became more firmly centred on Appleby.

One important difference existed between the situation on the Welsh March and that which Clifford and Leyburn faced in Westmorland. In the March of Wales, boroughs remained closely controlled by local lords as Cocker mouth was controlled by the Forz estate. At Cocker mouth the borough revenues made an important contribution to the overall revenues of the estate. Appleby, however, claimed to be a purely royal borough owing no form of service to the lords of the castle, it was moreover led by the Goldingtons, a family who dominated the local wool trade, prepared to stand on its rights. The profitability of the control of Cocker mouth which Isabella de Forz enjoyed, suggests that control of Appleby would have been just as lucrative and Clifford and Leyburn were prepared to make every effort to gain control. The result was a bitter and protracted dispute. Clifford and Leyburn made the first move in a formal way by demanding that the burgesses should do them homage as their tenants by cornage did, claiming jurisdiction over the borough on the strength of John's charter to Robert I Vipont. They back up this claim by distraint. The burgesses, however, were not intimidated and they brought a writ in King's Bench against the joint sheriffs at fee claiming that they owed no service to them since

they held no land outside the borough and that they held the borough solely of the king⁴¹. In the next term of the court's session, the matter was again taken up and it appeared to have grown in importance. It was recorded that whereas the king had heard complaints from the burgesses of Appleby that they had been distrained to do new and unjustified service to Robert Clifford, Roger de Leyburn and their wives, Isabella and Idonea. As a result Clifford and his co-defendants were summoned to answer these allegations⁴². Clifford, Leyburn and their wives were represented in court by an attorney and through him they freely acknowledged that they had distrained the burgesses to do them the services which they believed themselves to be entitled, namely of all the services from the tenants of the county of Westmorland except of those who held by knight service. These, they said, had been granted to Robert Vipont, and they were his true heirs. The burgesses countered this claim with the assertion that neither they, nor their ancestors, had ever done the services claimed and that they were in no way intendant on the lords of the castle. They also stated that they had done fealty to the lords of the castle as a result of duress alone and that this should not then be allowed to stand as a precedent. Having countered the claims made by Clifford and Leyburn, the burgesses then went on to the offensive, alleging further misdeeds by Clifford and the others. In particular they alleged that after they had attended the county court in September 1274 to petition the king, Clifford's men

41 KB.27/17, m20d

42 KB.27/18, m20

had siezed some of the burgesses, John of Carlisle and Peter Wodeson and others and imprisoned them until they paid £8 for their release. Clifford had followed this by sending his men to prevent the burgesses from harvesting their crops and by impounding the burgesses in the castle. The burgesses also claimed that Clifford had regularly sent armed men to disrupt the meeting of the market in Appleby so that it was impossible to sell goods there without bodily danger. Finally, they asserted in a testimony to Clifford's control of the countryside, that he had made it impossible for them to get any firewood from the surrounding area. Clifford and Leyburn were content to leave the truth of most of these allegations to a jury, but on the question of the arrest of Wodeson they told a story very different from that offered by the burgesses. They claimed that they had, in fact, been lawfully arrested for an assault on one of the lord's men, the assault had been so severe, they claimed, that at one point the man had not been expected to live. This matter too they referred to a local enquiry headed by Robert de Scarborough, John de Neville and John de Reygate. As Clifford was sheriff at fee of Westmorland, the enquiry was to be taken from a jury consisting of knights from Cumberland and Northumberland ⁴³.

The case continued at Easter 1276 when the report of the inquisition taken by Neville and the others was brought before the court ⁴⁴. The jurors reported on oath that John had granted to Robert Vipont the

43 KB.27/18, m20

44 KB.27/21, m32

whole of the bailliwick of Westmorland as it had come into the king's hands on the forfeiture of Hugh de Morvill except for those lands which were held by knight service. This appeared to support Clifford and Leyburn but the jury moved away from this position. They then said that the fealty and homage which the sheriffs at fee claimed had never been performed in the past and that the burgesses had previously performed fealty to the sheriffs only through two bailiffs who accounted to the sheriff for the farm of the borough. This fealty, however, was performed to the sheriffs only as he was the king's representative not through any lordship which the lords of the castle claimed over the borough. They also reported that the fealty which the burgesses had recently performed to the lords had been exacted by distraint as had any other service which had been done to the ladies and their husbands. The judgement of the court was accordingly that Clifford, Leyburn and their wives held no lordship over the borough of Appleby and the burgesses were intendent on the king alone as any other of the king's burgesses were. Clifford, Leyburn and their wives were placed in mercy and the burgesses offered their farm directly at the Exchequer as a token of their status. Unabashed, Clifford and Leyburn entered a revised claim to the sum of 20 marks which Appleby paid at farm, still on the basis of John's charter to Robert Vipont. They were given a day to present their claim at the Exchequer and until then the money was to be placed under the seal of the borough. The plea appears to have been unsuccessful and the borough farm continued to be paid to the crown directly.

The burgesses' victory in this case in no way marked the end of the dispute however. The rural magnates were eager for revenge. Their next attempt to bring an action against the burgesses came before the justices in eyre at Appleby in 1278. Clifford and Leyburn brought a

case against Thomas de Goldington, William de Goldington, John de Cockermonth and a list of other defendants so extensive that it takes up eight lines of a very close hand, to answer why they refused to do suit of mill as, Clifford and Leyburn claimed, they ought to do and were accustomed to do ⁴⁵. This claim was in fact a variation of that which had been previously defeated in King's Bench. Since suit of mill was an obligation owed by tenants to their lord, and as such it offered an opportunity to re-open the possibility of subjecting the borough to their control. Perhaps even more important it offered the lords the chance to make very large profits from the corn to be ground at the seigneurial mills ⁴⁶. William de Goldington who appeared for the burgesses was well aware of the dangers offered by such an action and answered that he could not answer such a claim without reference to the king's rights. The case was, therefore, adjourned to a higher court and finally came before King's Bench in Easter term of 1281 when de Vaux and his fellows, who had originally heard the case, were ordered to bring the record of the matter before the court. The affair was reviewed and placed on a jury of the counties of Westmorland and Cumberland, an apparent victory for Clifford and Leyburn since they were well placed to influence both the composition and the verdict of the jurors ⁴⁷. Whether such methods were tried or not is uncertain but no verdict was brought and the case was adjourned first to the quindene of Hillary, then to Michaelmas and it had not yet come to a decision by the time of Roger de Leyburn's death in 1281 ⁴⁸. For Clifford, at least, the legal battle was only one aspect of a wider

45 Just.1/982, m20d.

46 For the profits made from this source at Cockermonth see Chapter 1

47 KB.27/62, m14

48 KB.27/64; m14d; KB.27/67, m10; KB.27/71, m4

struggle. An inquisition taken by John de Orreton at Carlisle in September 1280 shows the ability of Clifford to mobilise the countryside against his enemies ⁴⁹. Roger de Clifford, it was found, never commanded any person not to sell firewood to the burgesses of Appleby, but it was widely believed that this was his wish. The matter went further. Friends and neighbours, by reason of the ill-will which existed between Clifford and the burgesses, were unwilling to sell wood to the men of Appleby. Other pressures were less subtle. Geoffrey de Melkathorp who held Melkathorp of the Cliffords and who served as the constable of Appleby castle, chancing to meet the lord of Greystoke upbraided him for maintaining his master's enemies by selling them wood, though the jurors noted that this had been done without the knowledge of Clifford himself. Clifford's apparent ignorance of any illegal act, or of any even potentially improper action, was repeatedly stressed by the inquisition, even to the point of absurdity. One messenger who came to the Greystoke was explicitly stated not to have been sent there by Roger Clifford. Evidently even a hint from Clifford went a long way in Westmorland.

Clifford's early death in Wales in 1284, particularly after Leyburn's death the previous year, must have looked to the burgesses of Appleby like an opportunity to expand their influence. The feud between the borough and the rural families did not end. Clifford's widow, by local tradition, a forceful personality who presided in the county court in person was to prove just as determined an opponent for the Goldingtons as her husband, and possibly a more adept one ⁵⁰. In the short term, however, the Goldingtons took full advantage of the

49 C.Inq Misc, v1, no 1207

50 Hist and Antiq, v1, 273

opportunity created by Clifford's death. They excluded shrieval officials from the town on the pretext of the possession of the right of return of writs. Within Appleby they did very much as they pleased and doing business in the town became a hazardous matter for other merchants. The confusingly named York merchant, Peter de Appleby, was among the casualties. In Appleby to do business Peter found himself brought before the borough court without a writ to answer a vague charge of trespass brought against him by William de Goldington⁵¹. Peter complained of this treatment and the sheriff of Westmorland was ordered to summon the suitors of the borough court but this writ could not be executed because of the liberty which the borough held. The town's bailiffs were accordingly ordered to make the required distraint but they too did nothing. The sheriff of Westmorland was therefore ordered to over-ride the liberty of return of writs and to go in person to the town taking a sufficient posse from the county in case of need. The under-sheriff, Robert de Morevill, a tenant of Isabella de Clifford and her appointee, can have had little difficulty in raising the posse for a task which must have had much of the character of a sally against the enemy. Further details become available when this or a closely related case came before the court of King's Bench later in the year. Thomas and William de Goldington were attached to answer Peter de Appleby after it had been found by inquisition that the Goldingtons had unjustly seized goods belonging to Appleby and had refused to restore them when ordered to do so. The jury which reported on the case gave a clear illustration of the power of the Goldingtons within Appleby. After an agreement made at York between Peter de Appleby and William de Goldington, William de Appleby

probably Peter's son, was sent to Appleby to collect a consignment of wool. When William arrived at the town both he and the 120 wool fells which he had come for were seized while his servant was robbed of £2. It was, the jurors further recorded, impossible for any merchant other than the Goldingtons to do business in the town⁵². Thus established in the borough the Goldingtons made ready to take on Isabella de Clifford, perhaps hoping to take advantage of her widowhood.

The pretext for the dispute was provided by a disagreement involving the manor of Meaburn Maud and a long running dispute between the families of de Fraunceys and de Hastings. This dispute dated back into the career of John de Vipont who was alleged to have granted Meaburn Maud to Richard le Fraunceys⁵³. The Hastings family still harboured claims to the manor, however, and in 1288 Thomas de Hastings was accused of attempting to break into John le Fraunceys free warren at Meaburn. After this events became more confused resulting, according to the Fraunceys party, in a group of armed men being sent to Meaburn by Robert le Fraunceys where they killed Thomas de Hastings' brother, Nicholas de Hastings. A later jury found that only one member of this group, Robert de Appleby, was responsible for the death of Nicholas and that the crime had been the result of long standing hostility, but for the Hastings clan if this was ever known, it soon became irrelevant in a wider campaign against their local enemies. Among those enemies they numbered not only Robert de Appleby but also John le Fraunceys and William de Harclay, the son of the then sheriff of Westmorland, Michael de Harclay, who was also Robert le Frauncey's

52 KB.27/94, m18d

53 F W Ragg - 'Mauds Meaburn, le Fraunceys and de Hastings';
Trans of C&W II, v11 (1911) 325.

brother in law. The feud developed into a dispute between town and country and between the two families. After the fracas in which Nicholas de Hastings met his death, William de Harclay was alleged to have been sheltered by his father Michael while Robert le Fraunceys had been received by his brother, the vicar of Askeby. Faced with this sort of obstruction, the Hastings clan tried other means to gain their revenge. Alice de Hastings, Nicholas de Hastings' widow, brought an appeal for murder against the gang whom she claimed were responsible for Nicholas' death but failed to appear in court to press her suit ⁵⁴. Probably at this point, Alice sought support from her wide ranging family. Alices' own family was the de Threlkelds who had close links with the Goldingtons of Appleby. Nicholas de Hastings' two sisters, Amice and Christiana, were married to Thomas and William de Goldington while a nephew Henry de Threlkeld was a close associate of the Goldingtons ⁵⁵. Such connections provided a possible method of revenge and the leaders of the borough were more than willing to help if it offered a change to re-open the dispute with the rural magnates.

The first step the borough party took was to bring a new appeal of homicide in the borough court against Robert de Appleby, Robert le Fraunceys and other defendants whom Amice, Christiana and Isabel, the wife of William de Threlkeld, accused of Nicholas' death. Legally, the borough court could exercise no jurisdiction over an offence which had been committed outside the borough but, as Peter de Appleby of York had found, the Goldingtons found the borough court a useful tool in their own ends and they did not allow themselves to stick too precisely to legal procedures. Accordingly a group of armed men were sent to

54 *ibid*, 332

55 CP.40/143, m76. See also the Pedigree in Ragg - 'De Threlkeld' Trans of C&W II, v23 (1923) facing 204.

seize Robert le Fraunceys and Robert de Appleby and to bring them back to the borough where they were brought before the court⁵⁶. Isabella de Clifford did not miss the threat to her rights which this action constituted and rapidly obtained a writ to forbid the appeal from being heard in the borough court. The court was, nevertheless, held and the case heard though this proved in the long term to be a mistake. Isabella summoned them to appear in King's Bench in Easter 1287 and there were unable to deny that they had acted in defiance of the king's writ and also that they had acted illegally in entering Isabella's liberty to arrest Fraunceys and Robert de Appleby⁵⁷. The borough was taken directly into the king's hand and William de Goldington was placed in mercy though a day was granted for the burgesses to replevy their liberty.

The feud continued to develop and the burgesses continued to challenge Isabella's control of the countryside. One aspect of their challenge took the form of arresting malfactors outside the limits of the town and bringing them before the borough court rather than before the county court under whose jurisdiction they ought to have fallen. In 1288, for example, Isabella complained that William de Goldington and others had arrested Richard de Rypers and Walter Clerk while they were in the custody of Adam and William Forester in the barony of Appleby⁵⁸. Isabella's complaint was not that these two were innocent but that the borough's men had usurped her rights by trying to do justice on them, a loss which she optimistically claimed was worthy of compensation of £1,000. That permanent obstruction of justice on the West March, default of jurors prevented the case from reaching a decision but even

56 KB.27/102, m4d

57 KB.27/104, m11d

58 KB.27/106, m17; KB.27/114, m19

so the Goldingtons eventually fell foul of another tribunal⁵⁹. In 1292 the eyre found that the borough court of Appleby had made a habit of doing justice on those suspected of crimes committed outside the liberty and of executing men taken only on suspicion and the liberty was again placed in judgement⁶⁰. In the face of this tide of well directed litigation the burgesses seem to have retreated from their confrontation with Isabella de Clifford though the lords of the castle were still unable to gain control over the borough.

The assertive lordship which brought Roger Clifford into conflict with the burgesses of Appleby was a mark of Clifford's other dealings with Westmorland also. As hereditary sheriff, Clifford was responsible not only for the appointment of sub-sheriffs, who were responsible for much of the day to day running of the county, but was responsible for the serjeants of the peace who were the sharp end of law enforcement in the county. As has been suggested in Chapter 4 the powers of the serjeants of the peace were extensive and unpopular. Geographically their powers in Westmorland were another expression of Clifford's dominance in the county. The area in which Clifford's serjeants operated was not confined to the barony of Appleby but it also included the barony of Kendale. In addition the power to the county court extended into Kendale so that the shrievalty granted the lords of Appleby power over the lords of Kendale which they would not otherwise have enjoyed. Relations between the lords of Appleby and those of Kendale were, as a result, strained. In Henry III's reign William de Lancaster had complained that Robert de Vipont had arrested his men within the barony of Kendale on the pretext of the hue and cry and

59 KB.27/114, m17

60 Just.1/986, m8

that he had also forced William's men to do unaccustomed suit at the shire and wapentake courts, taking 20 oxen by way of distraint to compel this attendance ⁶¹. Robert countered by claiming that the county, which he held, had always been seised of the service of the men of Kendale, and no final decision appears. It is possible too that the men of Kendale succeeded in weakening the power of the lords of Appleby during Robert II de Vipont's minority but a clear focus of conflict remained.

Roger de Clifford was keen to stress at every turn the extent of Robert de Vipont's rights and to demand the performance of those services to which he claimed to be legitimately entitled by right of his wife. This policy had two principal parts. Firstly the rights of the Cliffords' agents over the population were exploited to the full. Secondly, the powers over the barony of Kendale were to be resurrected and exercised to their fullest extent. Both aspects of this policy were to provoke opposition. In 1275 the men of both Westmorland and Kendale complained that whereas the sheriff at fee had been accustomed to have two horse and two foot serjeants to assist him, a great many more were now employed and that Roger de Clifford was arrenting bailiwicks for £10 and more yearly ⁶². The activities of these bailiffs provoked particular hostility for two reasons. Firstly the practice of extorting lodgings or taking payment in lieu of such lodgings. The second complaint was that the sheriffs held assemblies which they called tourns at which they compelled attendance and took fines in case of defaults of attendance. At the tourns, the complainants further alleged innocent men were indicted.

61 C.Curia Regis R, v11, 547-9

62 CPR 1272-81, 121

A commission of enquiry led by Geoffrey de Neville was appointed to examine the complaints ⁶³ and the matter was examined at length by John de Vaux and his associates on eyre in 1278 ⁶⁴. There, after a restatement of the original terms of complaint, Roger de Burton, Gilbert de Whitby and Roger de Brunolsheved, who sued for themselves and for the county of Westmorland, stated that the serjeants of the peace ought not to take money in lieu of lodgings, nor place men on the county for life and limb unless they had been duly indicted, nor take money from those who failed to attend the sheriff's tourn as if they held the same powers as the king's justices in eyre. They further complained that while in John's time the tourn was held only once yearly, Roger de Clifford held it more frequently and not only amerced those vills which failed to attend but also scrutinised the verdicts offered by the vills and amerced all the vills if there was any discrepancy between the veredicta which they offered. Clifford answered these allegations firstly by disclaiming any right to more than the four serjeants of the peace which custom allowed him in the county. He was careful to stipulate that the serjeants of the peace were entitled to take one night's lodging if they entered the barony of Kendale to make an attachment, a claim which was consistent with contemporary custom in the lordship of Copeland ⁶⁵. Clifford countered the claim that his men made unjustified arrests by an appeal to precedent and local custom. He claimed that when the county was in the hands of John, the custom was that if any man was suspected of any ill-deed the serjeants were entitled to attach him to appear at the next county court ⁶⁶. At that court even if unchallenged he was

63 ibid, 181

64 Just.1/982, m23

65 Lucy Cartulary Typescript, 50

66 Just.1/982, m23

remanded to the next court, or he might essoin himself to the fourth court under pledge where an inquisition might be taken from the four vills nearest to the place where the crime was alleged to have taken place to see if there was any charge to be answered. The answer concerning the sheriff's tourn reflected the fact that Westmorland had a long standing crime problem. He stated that one tourn was held each year where four men from each vill of the twelve towns in the county came to make inquisitions into thieves and their reseters and that this practice had been in force for forty years, dating back to the time when the county was in the hands of the crown during the minority of John de Vipont⁶⁷. Finally, on the subject of the renting out of bailiwicks, Clifford stated that he was fully entitled to do this by virtue of his position as sheriff at fee.

With the agreement of both parties the matter was referred to a jury. The jurors reported that in the time of William de Stainton anyone taken on suspicion might be released on bail but since that time no one could be allowed bail unless they bribed the sheriff or one of his men, though they made an exception in the case of the current sheriff, Michael de Harclay, who was not guilty of this abuse. The jurors also reported that Gilbert de Kirketon had appointed coroners in the barony of Westmorland with the aim of combatting thieves at the instigation of the magnates of the county. Gilbert de Kirketon was succeeded as sheriff of the county by William de Stainton and it had been he who transformed the coroner's inquests into the tourn held by the sheriff at which attendance was unwarrantably enforced by fine. The sheriffs were also guilty of using this tourn to inquire into crimes which ought to have been heard by the justices in eyre.

67 *ibid*, m 23d

Finally the jurors confirmed that the sheriff at fee was entitled to rent out the serjeanties as he pleased but they also confirmed that the serjeants made heavy demands on the people of the county, extorting money as well as payments in the form of sheaves of corn and lambs ⁶⁸.

Even a hearing before the justices in eyre did not finally end Clifford's abuse of his power as hereditary sheriff. In part this resulted from the very fact that Clifford was the crown's principal agent in the county and if he chose to ignore royal mandates there was no easy way of forcing him to amend, as there was in the case of a franchise holder with return of writs. The only available channel to correct abuses or neglect by the sheriff was to send mandates to the coroners of the county. This, however, was not generally effective in light of the pressures the sheriff or his deputy could bring to bear on the coroners ⁶⁹.

Edward I was forced to find an unusual and direct solution to the problem and it involved taking a close interest in the affair. In August 1280 Edward was in Westmorland and while in the county he and his council passed a series of statutes to correct the abuses practised by Clifford and his men. The first of these statutes recited that the sheriff's tourn was held in the county more often than necessary and without royal warrant and that henceforth the king willed that the tourn should be held once yearly, at set places and only for the purpose of indicting criminals as was done in the rest of the realm ⁷⁰. The second statute limited the power of the serjeants of the peace to make attachments on suspicion. No loyal men were to be

68 Just.1/982, m23d

69 KB.27/132, m13

70 CCR 1279-88, 108, 109

aggrieved by attachment on suspicion and anyone who was arrested might be delivered to his neighbours under pledge until it was established whether there was enough evidence to indict him. It was also ordered that commissions of gaol delivery, at which the serjeants had formerly compelled attendance by fines, were only to be held in accordance with royal commissions and that no fines were to be taken for defaults in attendance, while any amercements levied were to be judged and assessed in the county court not solely by the judgement of the sheriff and his serjeants, The final statute dealt with a different subject and ordained that the brew-wives of the county were not to be allowed, contrary to the statute, to brew for a whole year for one payment and that henceforth they were to be punished for each offence as was done in the rest of the realm.

Though later ages were inclined to see in statutes something more than a written memorandum on a point of custom, it is clear that these statutes had a purely local importance and that they did not, in fact, make new law. They were aimed at enforcing the law as it existed, or at ending practices which were unlawful. They were, in no sense, a constitutional novelty creating a law which applied only to Westmorland. ~~nor~~ did they have the status which legislation such as the Statute of Winchester enjoyed. It was for this reason that the statutes concerning Westmorland did not find their way into any collection of Statutes and survive only on the Close roll. They were purely administrative orders. Moreover, they had only a limited period of currency. After her husband's death, Isabella de Clifford, protested to the king that as Magna Carta had authorised two tourns yearly since if men were to be tried only by indictment and such indictments could only be taken at the sheriff's tourn. As a result on 12 May 1290 it was ordered that two tourns should be held each year at the due and accustomed

places ⁷¹.

The fact that the shrievalty of the county of Westmorland was in effect a private possession, closely comparable to the advowson of a church, was a vital factor in the enforcement of the law in the county. One of the situations which this made possible, that the holder of the shrievalty would use his power improperly for his own purposes had already been discussed. There was, however, another possible difficulty that the shrievalty should fall to be partitioned among co-heirs and that those co-heirs should disagree about the administration of the office. This situation arose at the end of the ninth decade of the thirteenth century.

The chronological starting point of the affair is provided by an entry on the Lord Treasurers Memoranda roll for 1288-9 ⁷². It records the presentation as sub-sheriff by Isabella de Clifford of Gilbert de Brunolsheved. The presentation was made in due form, while Isabella presented Gilbert for the office, Idonea de Leyburn held the right to assent to the appointment. On this occasion Idonea was prepared to accept Gilbert and after a short delay he was sworn in as sheriff, promising faithfully to carry out the duties of the office. He did not keep his promise, however. In Cressingham's eyre in 1292 Gilbert was brought to trial on the charge that he had retained in his service Robert le Wise, a thief who had later been executed, knowing him to have been a thief. The jury, which Gilbert had hoped would exonerate

71 Morris - Mediaeval Sheriff in England to 1300, 203, note. Morris' reference was Chancery Miscellanes 133/7. This group of documents has since been broken up among a number of others and despite the assistance of Dr D. Crook I have been unable to trace the current reference.

72 E.368/62, m5d

him, did quite the reverse and recorded in fact that Gilbert regularly consorted with known thieves and other felons. Faced with execution Gilbert claimed benefit of clergy though his chattels were forfeited and his lands ordered to be wasted ⁷³. The account for these disclosed the profits Gilbert had gained from what must have been a sustained life of crime. The value of his chattels was assessed at £365 8s. 6d⁷⁴. The justices then asked that another sheriff be appointed to answer for the county. Thomas de Helbeck, an established local man, was chosen and took the oath in due form. This, however, displeased Idonea de Leyburn who later came into court and claimed that no sheriff might be appointed in the county unless she consented since she was jointly hereditary sheriff with Robert de Clifford, who was a minor, after the death of her sister. She did nonetheless consent to Thomas de Helbeck's being appointed on a temporary basis, saving her own rights, since Helbeck had already collected the chattels of felons for the purposes of the eyre ⁷⁵. Idonea's challenge placed her in contempt, however, and it appears to have been ruled that her right to assent was considered to be a purely formal one, though it seems probable that the fact that Robert de Clifford was in royal custody affected the decision. Thomas de Helbeck continued to serve as sheriff during the king's custody of Robert de Clifford's lands but in 1295 Robert managed to reach an amicable settlement of the dispute with his aunt. Clifford presented Ralph de Manneby as sub-sheriff, and according to the agreement reached between Isabella and Idonea asked Idonea to consent to the appointment. This Idonea duly granted in a letter written from Kimberworth in Yorkshire and Ranulph was installed ⁷⁶.

73 Just.1/986, m10

74 Just.1/986, m10d

75 *ibid*, m13

76 E.368/67, m7d

The career of Robert I de Clifford marked the final step in the establishment of the Clifford family in a dominant position in Westmorland and in the North of England as a whole. Clifford's majority coincided quite closely with the outbreak of hostilities between England and Scotland and the war provided Clifford with opportunities between England and Scotland and the war provided Clifford with opportunities to serve the crown and this service played an important part in the expansion of the Clifford estates. Even more important, however, were the steps Edward II was prepared to take to ensure Clifford's loyalty during his disputes with the baronage over Gaveston.

The outbreak of war and the disruption caused by the hostilities means that it is not possible to study the nature of Robert de Clifford's lordship in the detailed way which is possible for the careers of his father or perhaps as importantly his mother. There is no reason to doubt that Robert de Clifford's own policy was closely influenced by the outlines that had been laid by his family. Nor is there any room to question that Robert de Clifford was as active, vigorous and domineering a lord in Westmorland as he proved to be a successful soldier and courtier. It is reasonable to see Clifford's political alignments in terms of a calculated campaign aimed at the enlargement of the family estates. This resolution to expand the family lands is evident from one of the first of Clifford's recorded actions, which dates from the earliest years of his career. The affair showed Clifford was as determined a lord as Robert I Vipont had been and that a magnate's retainers were enlisted principally to further their lord's ends and any benefits they derived from the connection were, to a degree, incidental. Clifford made an agreement with Thomas de Helbeck concerning the manor of Souerby by Brough under Stainmore which was

held in dower by Agnes Skromyn. Under the agreement if Agnes died within a short time Thomas, of whom the land was held, would assign it to Clifford, if she did not oblige by her imminent death then Thomas would sue against her with the result that Agnes would assign her land to Clifford. Either way Clifford was to be the beneficiary and to make certain that Thomas de Helbeck held to the terms of the agreement an additional clause stipulated that if Clifford had not been enfeoffed with the land within a set date then Helbeck was forced to compensate him by a payment of £40 ⁷⁷.

Clifford made very few other gains of land during the reign of Edward I though in 1306 he was granted the forfeited lands in Hart, in the bishopric of Durham, after the capture and execution of Christopher de Seton ⁷⁸. He also gained three manors in Cumberland, Skelton, Ellonby and Lambynyby which had also been forfeited by Seton ⁷⁹. These, however, were relatively small gains compared with those which Clifford was able to make during the reign of Edward II. The first of Clifford's major acquisitions of territory in Westmorland was achieved by means of an exchange which he arranged with his aunt, Idonea de Leyburn, and her second husband, John de Cromwell. The exchange may have been facilitated by the better relations which seem to have prevailed between Clifford and his aunt than had existed between Idonea and her sister but practical reasons may also have played a part. Idonea de Leyburn had always played a less active part in Westmorland and it is possible that the worsening military situation also spurred Idonea and Cromwell to cut their links with the north. Clifford was just as

77 Bodleian Library, M S Dodsworth, 70, 9

78 Bain, CDS, v2, no 1776

79 *ibid*, no 1894

eager to arrange the exchange and in July 1308 royal permission was granted allowing Clifford to grant land in Wiltshire to Cromwell and Idonea in return for a grant of the Leyburn share of Westmorland consisting of Brough under Stainmore, Mallerstang, Kirby Stephen, Meaburn Maud and the half share in the hereditary shrievalty of Westmorland⁸⁰. As a further part of the deal, Clifford granted Idonea and her husband his rights in the manor of Stavely in Derbyshire which he had recently acquired from Walter Merton, probably purely as collateral for the lands in Westmorland⁸¹.

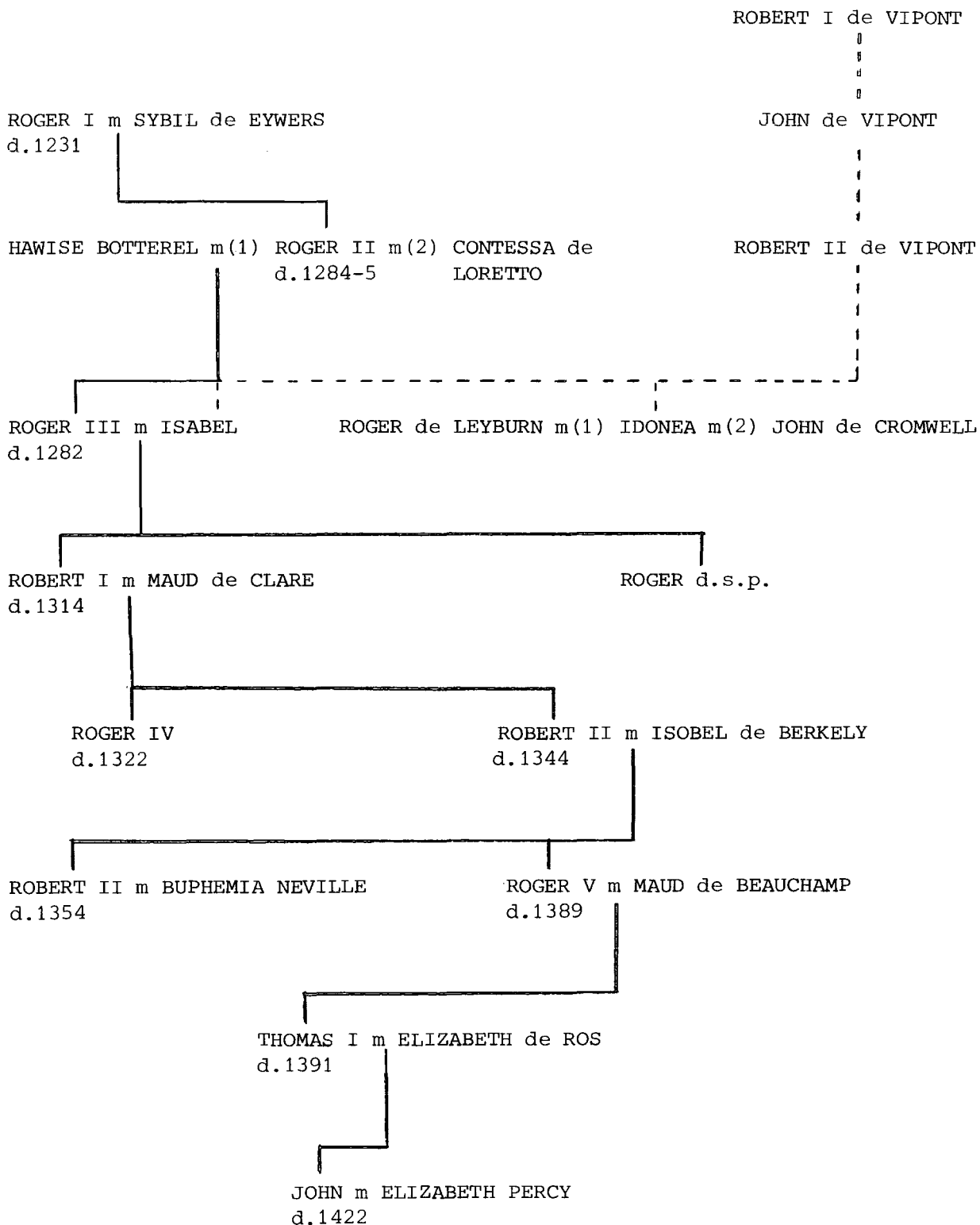
Clifford also gained control, gradually and in a number of stages, over the lordship of Skipton in Craven in North Yorkshire, though the details of this grant owed much to the wranglings over Peter Gaveston and cannot be easily explained without reference to the wider political context during the early years of Edward II's reign⁸². The final gain of Skipton was perhaps Clifford's last real success but it was one of the highest importance, providing a second large estate in the North of England. The result of Clifford's machinations was the establishment of the Cliffords as one of the most important and powerful families in the North of England and the twin bases of Appleby and Skipton provided the basis of the Clifford's power in the later middle ages. Equally the Clifford power in the later middle ages was based on the twin achievements of Roger de Clifford and that of his son Robert de Clifford, though in fact Robert de Clifford's part in the development of the West March during the reign of Edward II provides one of the most important studies in

80 CPR 1307-13, 134

81 *ibid*, 144

82 See below Chapter VII

the history of the region for as a soldier, Clifford was inevitably
in the forefront of the war as it developed on the West March.

SKETCH PEDIGREE OF THE CLIFFORD FAMILYBASED ON T. W. CLAY, Y.A.J., VOL XVIII (1967), p354

CHAPTER VI

PEACE AND WAR ON THE WEST MARCH

Edward I succeeded to a realm which was effectively pacified after the Baron's War and which enjoyed good relations with its neighbour to the North. By the end of his reign Edward's policy of conquest in Scotland had exposed the Northern counties not only to large scale material destruction but to a situation in which war and smaller scale raiding were endemic. Put perhaps more precisely, he had succeeded in destroying the native mechanisms on the West March which, if they did not suppress cross border reiving and other forms of crime, at least kept the situation within bounds. Edward unleashed war on the March without providing either warning or, more seriously, any adequate form of defence.

While there was a long history of the kings of Scots attempting to gain control of the Northern counties of England as Alexander II had done during the last years of John's reign, in 1237 Alexander II had renounced his claims to them and the habit of confrontation appeared to have been broken. Tangible evidence appeared to have been provided for this during the Disturbance of the Realm when Alexander III had repayed his father-in-law's assistance during his minority by supplying money and probably men to aid Henry's cause, assistance which played an major role in upholding the royalist cause in the North of England ¹. Henry's cause was also vastly assisted by the support of major Anglo-Scottish families, the Bruces, the Comyns and the Balliols. This co-operation provided a precedent for the good relations which existed between the local communities on the two sides of the border, relations which were made more close by the fact that other families lower down the social scale, such as the Culwens, also held land on both sides of the border.

1 Acts of Parliament of Scotland, v1, 108

Though good relations generally existed across the border, occasional incidents suggested that there were other possible states of affairs. Edward I's insistence that Alexander III should do him homage provide one such illustration, the Bishop of Durham's dispute with the Scots in the east another. These, however, can have had only little effect in Cumberland. Possibly a more serious cause for concern was the ease with which Scottish criminals could cross into Cumberland, commit their crimes and return to safety in Scotland as English criminals could find safety to the north ², but it is important to put this problem in perspective. The major local franchises also provided a degree of refuge for fugitives especially where, as at Cockermouth, seigneurial supervision was weak and officials could make a modest if illegal profit from the fact that pursuit across franchise boundaries was not possible ³. Though the fact that Scotland provided a possible refuge for robbers occasioned some concern, there is no evidence that Borderers considered that the extension of English rule into Scotland would solve the problem. In any case, local men could see clear advantages from the fact that England and Scotland were legally distinct. Thus in a plea between Robert de Mulcaster and Alan de Pennington concerning an exchange of lands in Ayrshire and Cumberland, Robert de Mulcaster could use the existence of two separate, if compatible, legal systems to obstruct his opponent ⁴.

The fact of Cumbria's proximity to Scotland and the tenurial inter-relationship existing between the two made it inevitable that the region should be involved in the crisis over the Scottish succession

2 Tanqueray - Receuil de Lettres Anglo Francaises, no 9

3 Just.1/137, m33

4 Bain CDS, v2, no 133 (29, 30).

which developed on the death of Alexander III. It was from the northern counties, for example, that Edward I summoned many of those requested to attend the opening of the great cause at Norham in 1291. The summons was, in one sense, an unusual one being more comprehensive than any which was based on the strict feudal service owed and it included several lords who did not owe the crown knight service. The inclusion of these men, notably John de Wigton and Gilbert de Culwen, may be an indication that the summons was based more on 'border service' than on 'feudal' quotas, though there is a clear similarity between the list summoned to Norham and those who had been summoned for the last campaign in Wales. It seems probable that Edward I was not expecting any form of military confrontation at Norham, however, for a number of ladies were also among those summoned. The ladies of Westmorland were both directed to attend as was the dowager Matilda de Multon of Gilsland. The inclusion of these ladies, though they represented three of the most important regional families, probably suggests that Edward's concern at Norham was to create an occasion of due ceremony and to bolster his legal pretensions by providing both an audience and a retinue of sufficient size to impress, if not overawe the Scots⁵.

The limited documentary evidence which survives and the fact that most of the castles of the West March were extensively redeveloped in the later middle ages makes it extremely hard to assess the state of the defences of the border at this time but there is little evidence to suggest a high state of preparedness. Liddell Castle has already been discussed and it was in a very poor state of repair. Other lords, notably Roger de Clifford, had given the construction of modern castles higher priority, regarding them as an essential adjunct of regional

5 Parl Writs, v1, 256; see also E L G Stones and G G Simpson - Edward I and the throne of Scotland (Oxford 1978), v1, 176

dominance rather than as a bulwark against a possible Scots attack, however. If any local castle might be expected to have been placed in a state of readiness against the possibility of war it was the chief royal castle of Carlisle. In 1255 the castle had been in a state of the utmost disrepair. The lead guttering of the towers was decayed and the joists and timberwork were also in a poor state. Other parts of the castle were in danger of total collapse ⁶. Eustace de Balliol, who served as castellan of Carlisle under Henry III, had been allowed £400 to spend on the repair of the castle but not all this sum had actually been used on the required repairs ⁷. A local jury later recorded that Balliol was not alone in this petty fraud; most of the sheriffs of Cumberland had been guilty of it. Beginning around 1285, however, Edward I made provision for the rebuilding of the castle. Rebuilding work was extensive and quantities of timber were taken from Inglewood for it but this was probably used more for the redevelopment of the castle's living quarters than for the fortification ⁸. In 1292 a fire started in a suburb of Carlisle by an arsonist destroyed much of the city and reached the castle where the timber bridge over the moat was burned and had to be replaced ⁹. At this time though, no money was spent on preparing the castle to resist a siege, suggesting that war in the area was considered unlikely.

If it is hard to see the years from the death of Alexander III to John de Balliol's revolt against Edward I as a period in which the March was prepared for war, this was, nevertheless, a time in which the crown expanded its influence in Cumbria. Two important estates were

6 Bain CDS, v1, no 2481

7 Just.1/132, m33

8 H M Colvin - The History of the King's Works (1963), v2, 597

9 ibid, 599

brought into the hands of the king in these years, and the administration of these estates was to be intimately involved with the organisation of the defence of the region and with local rivalries. One of these reversions, that of the king of Scots' regality of Tynedale with its dependent manors in Cumberland, was directly connected with the disputed succession to the Scots throne. Tynedale was taken into the hands of the king on the death of Alexander III, the lands were theoretically held until the heir to the kingdom could be determined but the lands were rapidly drawn into the reservoir of royal patronage. In November 1290 John de Balliol granted Bishop Bek of Durham two manors in Tynedale, if not in order that Bek should plead Balliol's cause with his royal master, at least in confident expectation of eventual success. Bek gained custody of the five Cumberland manors by a different route, when Edward I allowed him to have them in recompense for the expenses which he had incurred going to Norway¹⁰. Bek's biographer has convincingly suggested that Bek's acquisition of land in Tynedale and Cumberland were intended to be integrated into the palatine liberty of Durham and perhaps the beginnings of an almost autonomous principality guarding the Anglo-Scottish border. If this were so the bishop probably cast his eyes still further west to Cockermouth which had reverted to the crown, albeit under legally doubtful circumstances, on the death of Isabella de Forz in 1293¹¹. If Bek, whose star was then in the ascendant could have gained control of the honour of Cockermouth, it could have been easily accommodated into his growing collection of franchises and its possession would have

10 Fraser - Bek, 89-90

11 Early Yorkshire Charters, v7 23-27.
 A Beanlands - 'The Claim of John de Eston', Thoresby Society Miscellany, v24 (1914-18) 212-8.
 N Denholm-Young - 'Yorkshire Estates of Isabella de Forz', Yorkshire Archaeological Journal, v31 (1932-34) gives Henry III's policy to the estate.
 K B McFarlane - 'Did Edward I have a policy towards the earls?' in The Nobility of Later Mediaeval England (Oxford 1971). 256

given him land stretching from the North Sea to the Irish Sea ¹². As has been aptly remarked, such a large episcopal palatinate might well have provided an effective solution to the problem of the defence of the north, but if the idea was ever considered it came to nothing. Bek's fortunes waned and he lost control of his lands in Tynedale and the Cumberland manors during his dispute with Edward I and their administration was entrusted to the sheriffs of Cumberland as was the running of Cockermouth. The result was the creation of a large stock of patronage in the region available either to reward good service or to build up the position of the favoured, options with which both Edward I and his son experimented.

The deterioration of relations between Edward I and John I of Scotland, which was to have the most profound consequences in the long-term, seems to have caused little alarm during 1293 and 1294. When Edward I set about assembling a force to serve in Gascony he seems not to have expected that there would be any need to defend the West March and he summoned men from it. Service was asked of John de Lancaster of Kendale and of Idonea de Leyburn but the result was probably disappointing and the summons was extended to cover lands held in wardship including the lands of the Greystoke family, of the Wakes and of John and Adam de Hudlestone of Millom ¹³. Even so the summons was generally ineffective, partly since it would not have been realistic to have demanded strict feudal service in Gascony. The government also requested service from men of known military experience such as John de Wigton who had

12 Fraser - Bek. Though there is no direct evidence that Bek considered trying to gain control of Cockermouth he was probably well informed about Cumberland, particularly if he had served as an adviser to Edmund of Lancaster (53). He had also been presented to Brigham, near Cockermouth, by Isabella de Forz.(28)

13 Parl Writs, v1, 259

previously been summoned for the Welsh campaign of 1287¹⁴. Whether or not most of those asked to be present ever mustered is uncertain but it is significant that Edward I felt confident enough of the safety of the northern border to summon away some of its most experienced defenders.

Events moved rapidly to a crisis in 1295. The Welsh revolt which had created difficulties in the face of the proposed Gascon campaign was matched by a deterioration of the situation in Scotland. John Balliol had been summoned to serve at Portsmouth and his default was exacerbated in Edward's eyes when he made common cause with Philip of France¹⁵.

Edward greeted this alliance with a demand for the castles of Berwick, Jedburgh and Roxburgh and made ready to back this up with force summoning a large army to meet him at Newcastle on 1 March 1296¹⁶.

The preparations for the proposed campaign brought Cumberland into the fore-front of the plans for the first time. A large force of foot was scheduled to arrive at Whitehaven from Ireland and this group was probably also intended to collect siege engines constructed at Carlisle from timber taken from Inglewood¹⁷. The home front was not neglected, however, and orders were sent out for the seizure of the lands of rebels¹⁸. The close links between Cumbria and Scotland made it inevitable that there should be such forfeitures and among the lands seized were Bolton in Allerdale from Alexander de Moubray, Ulvesby forfeited by Alexander de Bonkil, Robert de Ros' manor of Cargou and part of the barony of Kirklevington which was forfeited by Walter de

14 ibid, 250

15 Barrow - Bruce, 250

16 Parl Writs, v1, 259

17 J F Curwen - The Castles and Fortified Towers of Cumberland and Westmorland (Kendal 1913) 48

18 Bain CDS, v2, no 73C

Corry¹⁸. These lands were added to the stock of land available to royal patronage. The defence of the border was also organised. The custody of Carlisle castle was separated from the shrievalty of the county and entrusted to Robert Bruce of Annandale while two captains and keepers of the peace, Robert le Brun and William de Carlisle, were appointed to organise the defence of the rest of the county¹⁹. Both the keepers were men of limited local standing, contrasted with the later wardens of the march, and this was probably a reflection of the relative importance which was attached to their task at this time.

The adequacy of these arrangements was soon put to the test. Led by the Earl of Buchan and the Earls of Menteith, Lennox, Athol, Mar and John Comyn a Scots force crossed the Solway fords and attacked north Cumberland. The Wake lordship of Liddell was hardest hit, Arthuret and Nicol Forest were plundered and burned. The Scots then advanced as far as Carlisle, wasting the barony of Kirklevington as they moved forward, including those parts formerly held by the scots Patrick Trump and Walter de Corry. The Scots' arrival at Carlisle was greeted with wild alarm, enhanced by fears of Scots sympathisers within the city wall. The limitations of the preparations there were revealed by the fact that the defenders were reduced to throwing stones at the attackers, a task in which they were assisted by the women of the city²⁰. The scots, however, were no more prepared than their adversaries, having no siege engines and they withdrew rapidly into Annandale after burning the outskirts of Carlisle. Despite the extensive damage the scots force caused in northern Cumberland, at Kirklevington the chief message was

19 Bain CDS, v2, no 716: Parl Writs, v1, 278

20 H Rothwell - The Chronicle of Walter of Guisborough (Royal Historical Society 1957), 273

completely destroyed and the campaign had achieved very little. Local opinion, however, was incensed and viewed Edward's own depredations in eastern Scotland as nothing more than just retribution on the Scots ²¹.

The defeat of the Scottish field army at Dunbar and Edward's subsequent progress through Scotland placed Cumbria, once again, in the background but the campaign provided important opportunities for local lords.

Robert de Clifford was evidently eager to make his mark. On April 2 1296 he was appointed to hold the March of Scotland with a force of 140 men at arms and 500 foot ²². It was an important experience of command for the young Clifford, barely out of his minority, but Edward himself left little to chance taking hostages to ensure the submission of the Scottish borders.

The revolt led by William Wallace, or at least associated with his leadership, brought the renewed prospect of war to the border. After their experiences in 1296 the leaders of the local communities took steps to organise regional defence more effectively. An established tradition of historical writing, probably originating in the work of Gaillard Lapsley first published in 1900 ²³, has suggested that the crown took the initiative in forging the local communities of the north of England into a form of devolved, semi-autonomous entity capable of organising its own defence under royal guidance. The truth appears to have been more gradual and more complicated but during the reign of Edward I when the March had still suffered relatively little, the border lords were capable of taking the initiative themselves without the need

21 Lanercost, 173, Bain CDS, v2, no 1402

22 Bain CDS, v2, no 734

23 G Lapsley - 'The Problem of the North' in Crown, Community and Parliament (Oxford 1950), 380 and following.

for the king to intervene. The evidence from 1297 suggests that the local lords were taking control of the war in the region. Though the important appointments of Robert Clifford as Captain of the March of Cumberland and John de Halton as castellan of Carlisle were made by the crown, both were important local figures and, noticeably, seem to have been free to arrange the detailed aspects of the defence at their own discretion ²⁴. Edward I was himself pre-occupied with the campaign in Flanders.

The English commanders on the West March showed themselves to be both competent and thorough. According to one report all the free tenants and knights of Westmorland assembled in Cumberland for the defence of the March ²⁵. On instructions from Walter Reynolds, Bishop Halton attended to the garrisoning of Carlisle castle, enlisting a force of crossbowmen. The cautious Halton even tried to ensure the loyalty of Robert Bruce the younger, the future Robert I, by forcing him to swear loyalty to Edward I, a pledge Bruce later repudiated ²⁶. Bruce's defection may have wholly vindicated Halton's doubts but Percy and Clifford moved rapidly on to the offensive. They organised a force for the pursuit of Bruce, Wishart and the Stewart, probably with a good degree of support from other local men. One local lord, Thomas de Multon of Egremont, received quittance of his debts to the crown in return for service in Scotland, but it is uncertain whether Multon was encouraged or coerced ²⁷. Some local men were clearly more reluctant

24 CPR 1292-1301, 315

25 M C Prestwich - Documents Relating to the Crisis of 1297 (Royal Historical Society 1981), no 47

26 Reg Halton, v1, 179

27 CCR 1296-1302, 69. See M C Prestwich - War, Politics and Finance under Edward I (1972), for examples of coercion. *at pp 236, 237*

to serve, and mindful of Edward's other attempts to extract unpaid service stipulated that though they would serve on this expedition provided that it was recognised that this would provide no precedent for the future, a condition the two commanders undertook to have ratified by the king ²⁸. This agreement, together with Clifford's local influence illustrated by the inclusion in Clifford's retinue of his tenants including Hugh de Louthur who held Louthur John of his lord, enabled Clifford and Percy to mobilise an effective force with a speed which took the Scots by surprise ²⁹. Advancing rapidly into Annandale, they caught the Scots commanders unprepared and this, with the strength of the English force, forced the Scots to surrender, Wishart and Stewart capitulating at Irvine. According to a later claim for expenses incurred in the campaign by Bishop Halton, Bruce also recognised that he was defeated and returned to his former allegiance at the bidding of the English leaders ³⁰. Having partially pacified the region, Clifford and Percy remained in South West Scotland engaged in mopping-up operations throughout August. Clifford, at any rate, seems to have expected that the campaign could last a good deal longer and he obtained further protections for his followers ³¹.

The gains made by Percy and Clifford in their campaign into Galloway in the summer of 1297 were more than wiped out by Earl Warenne's defeat at Stirling Bridge and Wallace's campaign into the North of England. Wallace's attack concentrated mainly on Northumberland but

28 Bain, CDS, v2, no 899

29 RS v1, 48; Feodary, 316

30 Barrow - Bruce, 118; Bain, CDS, v3, no 527

31 RS v1, 48

after turning through the Tyne Gap his forces attacked Cumberland, destroying part of Inglewood Forest and raiding as far into the county as Cockermouth before withdrawing by way of Hexham³². Local defence was again organised by Percy who was drawn back from Galloway and the forces under his command were paid from money in the possession of the Bishop of Carlisle from locally collected taxes³³. The Scots made no attempt to lay seige to Carlisle but they had still proved the vulnerability of the West March. The fact of this vulnerability was little affected by the success of a counter raid into Annandale organised by Robert de Clifford, though the chevauchee no doubt enhanced Cliffords already growing prestige³⁴. A larger expedition organised after Edward of Caernavon's reconciliation with the dissident magnates in the spring of 1298, though supported by levies of foot from the North of England, achieved little more. The Scots retreated and taken anything which could have supported the army with them³⁵.

Freed from the need to fight on two fronts, in the summer of 1298 Edward mounted a major offensive against Wallace and the Scots. In this the West March was bound to play a large part and it was well represented in the force which mustered at Roxburgh in June. Thomas de Multon of Egremont and John Wake of Liddell served under Anthony Bek as did William de Dacre, but the largest of the contingents drawn from the West March was that led by Robert de Clifford³⁶. In part

32 Guisborough, 304, 305

33 Bain, CDS, v2, no 508

34 Guisborough, 307, 308

35 ibid 314, 315

36 H Gough - Scotland in 1298 (Falkirk 1888), 17

this represented the force Clifford had kept in being during the previous winter in the defence of Carlisle. Included in it were Clifford's neighbour and relative by marriage John de Cromwell, Idonea de Leyburn's second husband, and Hugh de Multon of Hoff. Hugh de Multon was a member of a cadet branch of the de Multons of Gilsland and held Hoff in Westmorland of Clifford³⁷. Other members of the gentry of Westmorland made up a substantial part of the remainder of the force including Robert L'Engleys, John de Teesdale and William de Harclay, an elder brother of the future Earl of Carlisle, who may originally have been recruited by Cromwell. Others were from Cumberland such as William de Boyvill and Robert de Whitrigg while Nicholas de Vipont was a representative of the Vipont lords of Alston, distant relatives of Idonea and Isabella de Vipont. Clifford's Inquisition Post Mortem disclosed that he had granted fees of 20 marks yearly to Thomas and John de Mounteney from the manor of Brough under Stainmore and though this grant cannot have been made before 1308, it is clear that the connection went back much further as did Clifford's relationship with Thomas de Helbeck to whom he had granted reasonable sustenance for himself, one esquire and three grooms. All three served under Clifford in 1298³⁸ and they were his most frequent companions in later expeditions. After the fall of Lochmaben to Edward, the castle was entrusted to Clifford and the garrison which he supplied was, again, based very closely on the force he had commanded in the active part of the campaign. In the early summer of

37 ³¹⁰
Feodary; [^] PQW, 790

38 Scotland in 1298, 17; CIPM, v5, no 533. There were two Thomas de Helbecks, father and son, whose careers were contemporary with that of Robert I de Clifford. Since both held only of Clifford, not in chief, no Inquisitions were taken into their holdings and thus it is not possible to distinguish satisfactorily between them.

1299 Clifford's force numbered among others John de Castre, Thomas de Helbeck, Hugh de Multon, Hugh de Louthur as well as John de Cromwell³⁹.

The capture of Lochmaben did relatively little to secure the West March and during 1299 the area continued to see active campaigning. The situation remained fluid, for while the front line remained north of the Solway in Annandale and Galloway, Cumbria came to be more and more closely involved in the campaign. The failure of the campaign planned to start in summer of 1299, placed much of the initiative with local commanders. For the abortive campaign planned by the king, infantry was summoned from the Northern counties on a block basis, 1000 from Westmorland and 2000 from Cumberland but such mass levies were likely to prove ineffective in a county such as Cumberland where so many lords claimed the right to exclude royal bailiffs from their land. When matters were arranged locally it is significant that the approach was different. For a smaller offensive planned by local commanders in July 1299 a more effective method of raising forces was tried. The force consisted of the retinues of experienced local men such as John de Lancaster of Kendale and John de Hudlestone of Millom. Infantry for the foray was also raised through local connections and institutions. Two hundred infantry were recruited from the lordship of Egremont under Hudlestone, who himself was one of the chief mesne tenants of the lordship and who had understandably close links with the Multons of Egremont⁴⁰. Well organised this raid may have been but the contribution it made to the position of the English forces in Galloway was probably minimal and the need for a major offensive continued to increase.

39 C.67/13

40 Bain, CDS, v2, nos 1136, 1081

The war continued to play a growing part in local life and there was a significant increase on the involvement two years earlier. While the borderers had been prepared to serve without pay in 1297, it was at least intended that they should be paid, though the organisation of this was not always perfect. In the same way Carlisle castle began to be developed as a major local arsenal, supplied from the port at Skinburness. In 1299 Halton was granted a writ of allocate for money he had spent on providing 6000 crossbow quarrels that he had supplied to the garrison of Lochmaben ⁴¹. Another result of the deteriorating military situation in South West Scotland was that the front-line crept closer to Cumberland. The supply line from Carlisle to Lochmaben came increasingly under threat and on at least one occasion the Scots managed to intercept a supply train as it crossed the Solway fords, almost within sight of Carlisle castle ⁴². A force of cavalry had to be used to escort supplies. Even when stores were ferried from Skinburness to Annan by boat, there were risks, particularly that the Scots would mount a raid while the stores lay unprotected after debarkation. Such guerilla tactics provided more of a threat to the English garrisons in Galloway than direct assaults. In August 1299 Clifford's men managed to beat off a frontal attack on Lochmaben by Robert Bruce who was enjoying another of his habitual surges of patriotism, Clifford perhaps being warned of Bruces approach by scouts posted to track the Scots' movements ⁴³. The payment of wages also

41 Reg Halton, v1, 179

42 Bain, CDS, v2, nos 1115, 1116

43 ibid, no 1084. In July 1299 Clifford requested that Richard le Bret, an Irish hobelar, whom he employed to spy on the Scots, should be paid in case he should desert for lack of wages. A Richard le Bret appeared as a centenar of Cumberland foot in 1300, (Lib Quot, 208) and 1304 (E.101.11/15, m18)

provided continuing problems in spite of the elaborate arrangements for their distribution. At one stage Clifford feared that unless wages were paid to his men, widespread desertions would occur ⁴⁴.

During the winter of 1299-1300, Edward I was able to turn his undiverted attention to his Scottish problem. The first priority was the relief of Stirling and preparations were set in hand to raise a force for this purpose. Robert de Tilliol and Hugh de Multon were appointed to raise infantry from Cumberland and Westmorland ⁴⁵. The commissions of array were only partially successful. Multon managed to raise 625 of the 1000 men expected from Westmorland, arranged under seven centenars by 16 December 1299. Tilliol was able to raise a much smaller force of 446 foot from Cumberland. Neither force, however, made any real contribution to the war effort. By 22 December the Westmorland contingent had dwindled to only 265 men while the Cumberland force had almost wholly disappeared, only 65 men were left under the command of its constable, Thomas le Fraunceys, and the whole force was disbanded having achieved nothing. Orders were given for the deserters to be punished but the campaign was effectively over ⁴⁵.

Preparations for a large scale offensive began almost as soon as the recriminations from the last campaign were over. These preparations faced a degree of resistance. Early in 1300 Walter de Bedwin reported to the king that the people of Cumberland and Westmorland refused to co-operate with the appointed captain of the March, John de St. John ⁴⁶. Edward's response to this complaint suggested that more than simple

44 Bain, CDS, v2, no 1089

45 CCR 1296-1302, 323, 379; Lib Quot, 208, 241-243

46 Bain, CDS, v2, no 1133

obedience may have been required. The king directed that fines were to be imposed on those who refused to obey St. John's instructions whether these were for the defence of the March or, significantly, for attacks on the enemy⁴⁷. One credible explanation of the need for such an instruction would be provided by attempts by St. John to demand unpaid service from the borderers probably on the pretext of the service they professed to owe to serve at their own expense from the Solway to the Rere Cross on Stainmoor. In 1297 the borderers had stated that though they were prepared to serve with pay, this was not to stand as a precedent. A petition which James Wilson believed to be closely related, printed by Joseph Bain under a tentative date of 1315-20, partly expands on this theme⁴⁸. Stating that any service outside the traditional bounds of Cumbria should be done for the payment of wages, the document tends to fit more closely with this period than with the more desperate situation of Edward II's reign⁴⁹. Though the evidence for concerted resistance to Edward's attempts to levy undue service from Cumbria is limited, it is clear that the claims made by the Cumbrians had significant parallels with the resistance organised in other areas, notably the Palatine Bishopric of Durham. Despite this, there is no reason to believe that there was any form of co-ordination between opposition in Durham and in Cumbria, and resistance to Edward's impositions in support of the war effort was on a restricted scale even within the region. There were two principal reasons for this. Firstly, in spite of the increasing involvement of the West March in the war, demands of supplies from the region remained limited. Purveyance, which lay at the heart of the opposition in the rest of England was levied

47 *ibid*, no 1134

48 *ibid*, no 899

49 *ibid*, no 716 and see VCH, v2, 253 and note. Internal evidence is consistent with this interpretation.

only on a small scale, possibly since the counties of Cumberland and Westmorland grew such small quantities of wheat which formed a large part of the supplies needed for an Edwardian Army. A second reason may well have been more important still. Many of the leaders of the local communities of the March were active supporters of the war. Both John de Hudlestone and still more importantly Robert de Clifford served as commissioners to attempt to raise cavalry service from the holders of £40 worth of land ⁵⁰.

If the degree of active opposition to the preparations for the war was limited, there was still only little enthusiasm for the war outside the relatively narrow if influential group, who were actively involved in the war. Cumbria remained of limited value as a recruiting area. As in other regions the attempt to obtain service from the 40 librate holders led to little increase in the number of those enlisting. Some new men were recruited among whom was the interesting example of Gilbert de Brunolsheved, the disgraced sub-sheriff of Westmorland, who served under Matthew de Redman in the Earl of Lincoln's contingent ⁵¹. Robert de Clifford also led an important force. Among those in Clifford's contingent in 1300 were, for example, Thomas de Helbeck and William de Rosgill ⁵². Other members of the force included Hugh de Louther, John de Cromwell and Thomas de Mounteney who was described as Clifford's esquire ⁵³. Not all of Clifford's force can be linked with his holdings in Westmorland, Henry Trumpator, Stephen de Burghersh and Roger de Edenham provide three examples but it is clear that the most regular members of Clifford's military retinue were his feed men and the

50 Parl Writs, v1, 330, Hudlestone was a commissioner in Lancashire.

51 C.67/14. On Gilbert's earlier career see above Chapter 5

52 C.67/14

53 Lib Quot, 137, 132, 197. C.67/14

tenants of the barony of Westmorland ⁵⁴. In May 1301 when Clifford obtained protections for the core of the force which had wintered with him, his force included Hugh de Louthur, Robert L'Engleys, Thomas de Helbeck, William Beching and the Cumberland soldier John de Wigton ⁵⁵. Both L'Engleys and Helbeck also served under Clifford in the following year ⁵⁶.

Clifford's influence may have assisted Hugh de Multon to raise infantry from Westmorland for the summer campaign of 1300 too. As had been the case in the campaign started in the previous winter, Westmorland produced a significantly higher proportion of the foot required of it than did Cumberland. Of the 1000 men expected from Westmorland, Hugh de Louthur found it possible to enlist almost three-quarters, 742 in all. In Cumberland where the commissioners of array, John de Wigton and Robert de Tilliol, were just as well connected locally and possessed just as much relevant experience but they managed to raise only less than half the force of 2000 infantry demanded from the county, 922 foot who were organised into nine companies commanded by a centenar ⁵⁷.

Neither body of troops proved to be reliable, however. During July almost half of the foot from Cumberland who were mustered deserted and by 25 August only 318 men from this force remained having been re-organised into five companies ⁵⁸. The inclusion of centenars named William of Egremont, John of Waberthwaite and Nicholas of Laysingby suggests that the force had originally been recruited from throughout the county, but the co-operation of the magnates of the region must have been vital, especially in the priveleged liberties of the south-

54 Lib Quot, 137

55 C.67/14

56 C.67/15

57 Lib Quot, 241

58 ibid, 255

west of the county. Since Multon of Egremont was on campaign in 1300, it is probable that this was not a problem⁵⁹. The difficulty remained that of organising and disciplining the levies and this continued to trouble the commanders of the Westmorland men too. By the end of August only 31 of them remained in service.

The desertion of most of the infantry levied for the campaign launched in the summer of 1300 present Edward with a serious problem which could not be solved simply by calls for the exemplary punishment of deserters⁶⁰. Though Caerlaverock had been captured, little else had been achieved. A novel solution was attempted to remedy the problem caused by the shortage of infantry. On 21 September letters were directed from the king to the Bishop of Carlisle and the gentry of Cumberland and Westmorland. Among the recipients were Hugh de Louthier, Thomas de Lucy, Michael de Harclay, John de Halteclo and numerous others. Though none of these letters seems to have survived, their contents were probably concerned with the military situation and they may have contained requests for troops, together with assurances that any service done would be paid for by the king. The requests were apparently well received and a force of infantry was mustered. The first point to make is that the force mustered was relatively small, just over 500 foot, were raised from the whole of Cumberland and Westmorland. More important and interesting, however, was the way in which this force was recruited. Most of the troops raised were recruited from 'the men' of local landholders and were often led by men described as their esquires. John de Castre, for example, led 30 of 'his own men', Alexander de Bassenthwaite led a force of 77 men.

59 ibid, 256; C.67/14

60 J E Morris - The Welsh Wars of Edward I (Oxford 1901), 302

Thirty of these men were his own while 40 came from Thomas de Lucy's men and the remaining seven were from Thomas de Ireby's men. Alan de Brigham brought 30 of his Lord Thomas de Derwentwater's men, John de Halteclo brought 10 men from amongst those of his own master Michael de Harclay. The larger liberties contributed more men. In mid October Alan le Fraunceis brought 92 from the lordship of Greystoke and Nicholas de Waberthwaite and Nicholas de Windscale brought a force from Egremont⁶¹.

The successful recruitment of foot during the late summer of 1300 is consistent with much else that is known about local conditions. Firstly it is clear that, as in 1297, bodies of foot could be successfully recruited from large local liberties such as Greystoke and Egremont. Perhaps more surprising is the fact that the lordship exercised by individual members of the gentry was a powerful force, it was quite clear, for example, which of the Westmorland men were Michael de Harclay's followers and which owed their allegiance to the Leyburn brothers. Likewise Thomas de Ireby's seven men were distinct from the larger group formed from the men of his own lord Thomas de Lucy. It is also tempting to see in these bodies of infantry some degree of similarity to the force of men Bishop Anthony Bek raised from Tynedale and Weardale during his disputes with the Prior and Convent of Durham and later with Guy, Earl of Warwick and it certainly had parallels with the ability of larger-scale lords to raise forces from the men of their lordships. Even accepting this, however, we should not over estimate either the importance of these forces or their coherence. The total forces raised were limited and as with troops raised in the usual way the size of this force declined, probably because of desertion.

61 Lib Quot, 260-63

Secondly it seems possible that much of this force served more as labourers than as combat infantry. One group from Westmorland was engaged in repairing the moat at Lochmaben and their performance in this unexciting task earned each man a special bonus on the instructions of Edward himself ⁶².

The conclusion of a truce in October 1300 provided only a brief respite in hostilities. Edward I did not intend to let even the limited gains made in the preceding campaign slip away during the closed season for campaigning. Clifford, who had been granted custody of Caerlaverock, in part as a reward for his leading part in the castle's capture ⁶³ was ordered to take command of a group of other castles adjacent to the English West March. Garrisons were kept in Caerlaverock, Dalswinton, Tibbers and Dumfries and these garrisons probably drew heavily on the men from Cumberland and Westmorland who had already taken part in the war. John de Castre, for example, who had served under Clifford in 1298 was among the garrison of Dumfries ⁶⁴.

The truce on the West March was placed under the supervision of John de St. John who was provided with a force of 100 men at arms and 300 foot. Other steps were taken to improve the defences of the region too. On 10 November Edward granted the lands of John de Wake in Liddell, which were in the king's hands after Wake's death to Simon de Lindsey together with the adjacent Scottish castle of Hermitage. Lindsey was charged no farm on these lands on the condition that he spend at least £20 on the repair of the castle and manor buildings at

62 ibid, 262

63 T Wright - The Roll of Caerlaverock (1864), 34, Bodleian Library
M S Dodsworth, 70, 64

64 C. 67/14

Liddell and that he should remain there to assist in the defence of the county⁶⁵. The fact that Liddell which had once been worth at least £300 should be granted out for such limited return demonstrates both Edward's attempts to provide cheaply for local defence but more importantly the extent of the damage which the war had caused even as early as 1300. The period also saw a growing realisation that the war was likely to prove extremely protracted and lands forfeited by rebels were unlikely to have to be restored to their former holders on the conclusion of peace or conquest and they began to be used as rewards for those who had contributed to the war effort. William de Mulcaster was allowed to farm Bolton in Allerdale at the rate of £40 yearly, though this may have left him little margin for profit⁶⁶. John de St. John was rewarded on a larger scale, with the custody of two of the former properties of the Forz family, Skipton and Cocker⁶⁷. Cocker⁶⁷ was valued at £110 yearly but having been burned by the Scots in 1297 it was probably worth much less than that in practice⁶⁸. St. John was later alleged to have wasted the estate but such treatment was the almost inevitable fate of a large estate when granted out on a short term basis to holders who had no interest in its long term welfare⁶⁹.

It is difficult to assess the degree of mobilisation for war which existed in Cumbria in the earliest years of the fourteenth century. On one hand the local gentry continued to be willing to serve in the war in south west Scotland, but with the exception of raids such as

65 Bain, CDS, V2, no 1173

66 CPR 1292-1301, 199

67 CPR 1292-1301, 160

68 SC.6.824/2

69 CPR 1292-1301, 537

that led by Wallace in 1298 the region did not yet see active campaigning. Moreover, only a limited section of the local gentry served in Scotland. Those who served were generally either fee'd retainers of local magnates or were younger men. One result was that the administration of the county was disrupted very little because few potential officials were involved in the war, though this did happen on occasions as when Robert de Joneby, who had been chosen as one of the coroners for the body of the county of Cumberland, was found to be serving under Prince Edward ⁷⁰ generally. However, the administrative tasks of the county devolved on men whose military careers were behind them such as Michael de Harclay. It is significant for example, that when Michael de Harclay was reported to be too ill to serve as a collector of the thirtieth, granted the king in 1306 a list of the most suitable replacements appended to the letter named four of the most substantial men of Westmorland as Thomas de Bethum, John de Helton, Henry de Warcop and Robert de Wessington. None of these men had appeared in any of Clifford's military contingents ⁷¹. In this, if in little else, the West March seems to have conformed to patterns which have been discerned in other regions of England ⁷².

The summer campaigns of both 1300 and the elaborate double pronged attack planned for 1301 achieved very little towards either the subjection of Scotland or the protection of Northern England from Scots raids. The Western Borders continued to be an area of active campaigning until the fall of Stirling but local enthusiasm for the war seems to have lapsed. While a narrow group of enthusiastic

70 Calendar of Chancery Warrants, vl, 217; C.67/15

71 SC.1/28/159, A, B

72 Saul - Knights and Esquires 56

professional soldiers exemplified by Clifford continued to serve in Scotland, many of the local gentry were ready to return to their estates. There, however, they were still regarded as the first line of defence in the case of an attack. In June 1303 when a force of Scots led by Wallace threatened Cumberland from Annandale and Galloway, instructions were given for the defence of the West March to be organised by Thomas de Multon and John de Hudlestone⁷³. In the same way John de Botetourt could raise a powerful force including contingents led by Clifford, Hudlestone and including experience knights such as Hugh de Multon, John de Wigton and Richard le Brun for a foray into Galloway in the following winter. Though it would be a mistake to see the local gentry as permanently in arms, there is no doubt that a substantial and often practiced force could be raised on the border in a relatively short time. Both cavalry and foot were raised from Cumberland, Westmorland and Lancashire albeit for a relatively short mobilisation⁷⁴.

The sporadic raids mounted, or at least threatened, by Wallace and the other Scottish leaders linked the first phase of resistance to Edward I's attempts to conquer the Scots with the hostilities inaugurated by Robert Bruce's renewed rebellion. A similar continuity can be observed in the other effects of war on Cumberland and Westmorland. The prevailing trend was upwards and Cumbria was expected to play an increasing role in supplying Edward's army of occupation. In January 1304 the sheriff of Cumberland was instructed to provide fifty wagons and 120 sheep to be delivered to Roxburgh⁷⁵. An equally pressing need was for

73 Bain, CDS, v2, no 1374

74 *ibid*, no 1435

75 *ibid*, no 1439

timber, particularly since Edward was forced by fiscal restrictions to fortify his conquests with wooden rather than stone castles. Much of the timber needed was taken from the forests of Inglewood and Allerdale and the rights of local land-holders were infringed in some cases. In 1305 Thomas de Lucy petitioned that almost all the timber from that part of the forest which he held in common with the escheated honour of Cockermouth had been felled to provide wood for the peels which the king had had built at Dumfries and at Holm Cultram ⁷⁶. There is no reason to believe that Lucy suffered particularly because he had taken little part in the war effort against the Scots. John de St. John, a former commander of Edward's forces, had earlier made an almost exactly similar complaint. It was simply that the need for timber had outstripped the limits of supply.

Perhaps the most significant development in the organisation of the war effort on the West March lay in the way in which the raising of forces of infantry was organised. In 1303 for the first time, shire boundaries were not used as the sole basis of the raising of troops by commissioners of array. The contingent expected from Cumbria remained extremely optimistic at 2300 but a new recognition of local boundaries emerged. Walter de Stirkland and Robert L'Engleys were commissioned to raise 1000 men from Westmorland and Kendale, the two significantly being distinguished. Richard le Brun was to raise 1000 from Cumberland with the exception of Copeland which was to supply 300 men under John de Hudlestone ⁷⁷. There were clear precedents for troops being raised in this way, notably the 200 foot raised by Hudlestone in 1297. The foot demanded, however, did not materialise in the required numbers but the

76 NP, 124-129

77 Parl Writs, vl, 330

performance of the Cumbrian foot was better than on some occasions and there were still almost 100 of them serving when a pay roll was compiled at Clackmannan in June 1304⁷⁸. Improved discipline within the levies themselves may also have played an important part in this improved performance possibly as a result of the existence of a recognisable cadre of experienced centenars such as Thomas le Fraunceys and Richard le Bret, both of whom had served in 1300 and probably also before⁷⁹.

The policy of attempting to recruit foot on the basis of local jurisdictional units was resumed in 1307 when renewed efforts were made to raise an army to suppress Bruce's rebellion. Four commissioners were appointed to raise 140 foot from the Multon lands of Eskdale and Gilsland, a further four including Nicholas de Herleston, a former centenar, were to raise another 140 from Leath Ward and from Alston Moor. Forty men were to be chosen from the liberty of Penrith, 60 from Cockermouth and the liberties of the Bishop and the Prior of Carlisle were required to contribute 20 each. The lordship of Egremont was required to send 160, the commissioner being the lord Thomas de Multon himself⁸⁰. In spite of the careful allocations of these quotas the results may have been disappointing and two days later a renewed commission was issued to Hugh de Louthur to punish deserters⁸¹. In March a revised commission was issued for a total of 900 foot from Cumberland, 300 from Westmorland and 300 from Tynedale⁸². This time fewer commissioners were appointed but they were generally of greater

78 E.101.11/15, m30

79 *ibid*; Lib Quot, 266, 261

80 CPR 1301-1307, 498

81 *ibid*, 500

82 *ibid*, 508, 509

status. The four commissioners for Gilsland were replaced by one John de Castre, lord of part of Gilsland in right of his wife Matilda de Multon. Other commissioners included long-serving local soldiers such as Richard le Brun. Cockermouth and Egremont were placed under the administration of Richard de Cleator, a retainer of Thomas de Multon. It is hard to assess the effectiveness of this commission and even to discover how many of the troops summoned actually mustered. Though accounts survive for wages paid to infantry and cavalry by James Dalilegh at Carlisle for actions against Bruce in 1307, most notably one account printed by Joseph Bain⁸³, it is impossible to trace the Cumbrian men. The Tynedale contingent mustered at the same time as they were summoned showed itself to be an outstandingly reliable unit, saving always the possibility that its pay returns were fraudulent. The 300 Tynedale archers summoned served from 10 April for 24 days without suffering any losses either from desertion or from enemy action. Once again it is pertinent to recall the force of Tynedale archers which Bek had recruited to carry on his feud with the Prior and Convent. If the men who served under Moubray did not include any of the members of Bek's force, it is clear nonetheless that the crown was drawing on the same source of military manpower as had the bishop.

The foray into Glen Trool on which the Tynedale men served accomplished very little even though it was supported by a strong force of cavalry including a sizeable contingent from Cumbria led by Clifford and John de Hudlestone. Like the raids organised in the region since 1297 it had limited value strategically but it did demonstrate the ability of the Cumbrian lords to put their followers in the field. The war effort in the West in a large part depended on this ability. On this occasion

83 Bain, CDS, v2, no 1923

the borderers made a larger contribution than they had at any time previously, partly perhaps because there was, by this time, no doubt that the crown would pay war wages where required and partly perhaps because local opinion was genuinely outraged by the murder of John Comyn and Bruce's renewed rebellion. Robert de Clifford led a large retinue predictably based on his fee'd retainers and other experienced soldiers from the region. Thomas and John de Mounteney both served as did the brothers Robert and Nicholas de Leyburn, who had previously served under Henry de Lacy. Others in Clifford's contingent included Walter de Stirkland, John de Wigton, Robert L'Engleys and John de Castre⁸⁴. Multon of Egremont's force was also based on his liveried retainers and there was an understandable cohesion in this group recruited from the gentry of south-west Cumberland. The force was not confined to veterans, however. Among the new recruits to Edward I's force was a small contingent from the Lucy family. Another new campaigner was Thomas de Multon of Gilsland who served under Henry de Percy. William de Dacre served under the Earl of Lancaster⁸⁵.

Despite the defeat Bruce inflicted on the English force at Glen Trool, the prospects for English success in the war seemed good in 1307. The magnates and gentry of the West March served in 1307 in unprecedented numbers and among their numbers was an experienced leavening of knights such as John de Wigton and Richard le Brun. Perhaps even more important in an age which valued individual prowess and leadership above all else, in Robert Clifford, Edward II enjoyed the support of the West March of a magnate of proven military ability and powers of leadership and with

84 C.67/16

85 *ibid*

whom he was personally on close terms⁸⁶. Organisationally too, the war effort was well into its stride and the policy of recruiting foot along the boundaries of local liberties was an experiment which might well have repaid perseverance. The history of the West March during the reign of Edward II, however, is the history of how this store of advantages was dissipated uselessly and it saw a developing absence of royal and local leadership become a full scale crisis brought about by a rebellion against Edward's rule.

86 Clifford had previously served Edward as an emissary to his father during a disagreement. H Johnstone - Edward of Caernarvon (Manchester 1946), 101

CHAPTER VII

LOCAL LEADERSHIP AND NATIONAL POLITICS

THE WEST MARCH IN THE YEARS 1307 - 1315

Robert de Clifford was predictably among those who accompanied Edward I on his last campaign against the Scots in 1307. Clifford also knew the young king well, though he was ten years his junior. He had campaigned with him in 1301 and had also served as a go-between during one of the disputes that had taken place between the Prince and the King ¹. This, the active role Clifford had taken in Edward I's campaigns and the old king's high regard for Clifford, probably ensured him a prominent place among those who did homage to the new Edward II on 20 July 1307. Clifford served under Edward II in his first campaign against the Scots shortly afterwards ². The former good relations which had prevailed between Clifford and the king continued and Clifford seems to have enjoyed close contact with the king as the English forces progressed into Scotland. At Sanquhar on 18 August, Edward confirmed him in the office of Justice of the Forest North of Trent, an office Edward I had granted to him ³. Two days later he was appointed to hold custody of the important royal castle of Nottingham ⁴.

The campaign itself, which resembled in many ways those of 1300 and 1301, was, on balance, inconclusive. On the positive side many Scots did attend at Dumfries to affirm their loyalty to Edward II, but on the debit side it failed to achieve its principal aim of bringing Bruce into captivity ⁵. While it is true that the campaign achieved relatively little its failure has probably been exaggerated and there must be some doubt as to whether the retreat after the campaign was

1 N Denholm-Young - History and Heraldry (Oxford 1965), 116

2 Lanercost, 209; Bain, CDS, v2, no 1961

3 CFR 1307-19, 2

4 ibid

5 Lanercost, 209

really as unpopular as has been suggested ⁶. It is possible, though by no means certain, that Pembroke was irritated by John de Brittany's reinstatement as Warden of Scotland, but if an opposition group developed at this time, Clifford like other landholders in Scotland such as Pembroke and Bohun who held by the gift of Edward I, did not join it ⁷. The day after Edward returned to England, Clifford was appointed as Marshal ⁸. In view of the impending coronation and the attending ceremonies this appointment can only be interpreted as a sign of the king's complete confidence in him. It seems improbable too that Clifford would have taken up the office had he entertained serious opposition to Gaveston's presence in the royal household at this time. Other evidence confirms this. In November 1307 at Langley Clifford was among those who witnessed a surrender of land to the king and among the other witnesses were Gaveston, Roger de Mortimer, Payn Tibtot and William Inge ⁹. Though there is no certainty that all the witnesses were physically present when the surrender was made, it is improbable that they should have agreed to vouch for the transaction in the company of Gaveston if his presence was wholly objectionable to them.

Clifford's acquiescence in Gaveston's presence at court and more notably to his elevation to the Earldom of Cornwall stands at odds with the account given by the Brut that at Edward I's deathbed Clifford, Pembroke, Lincoln and Warwick pledged that they would not allow Gaveston to return to England ¹⁰. Two possible reasons can account for this

6 Maddicott - Lancaster, 72

7 Barrow - Bruce, 220; Bain, CDS, v2, no 12

8 CPR 1307-13, 6

9 CPR 1307-13, 46

10 F W D Brie - The Brut (Early English Text Society 1904-6), v1, 202

discrepancy. The first is simply that the three earls and Clifford gave their pledge to Edward I and reneged on it after his death. Had this been so, it might have been expected that some reference to this perjury would have been recorded in one of the contemporary chronicles, such as the Vita. The Vita, however, records that it was the Earl of Lincoln who advised the king that he was within his rights to grant the earldom of Cornwall to Gaveston, since the grant was made in Scotland while Clifford was on campaign and it is probable that he too witnessed the grant. No suggestion appears that either man had acted dishonourably, though honour was a matter which the author considered at length elsewhere ¹¹. As a result of this there seems to be a high probability that the melodramatic scene in which the magnates clustered around Edward's deathbed to hear his last injunctions was an invention by the writer of The Brut, probably intended to justify Gaveston's later murder by Thomas of Lancaster by demonstrating that only Lancaster had been true to the spirit of opposition to Gaveston ¹².

Though Edward enjoyed the support of Lincoln and Clifford even after the recall of Gaveston, this rapidly waned. Since both magnates had taken part in the inconclusive campaign of the late summer of 1307 they could not reasonably have blamed the king alone for its failure, even though the military situation in Scotland had deteriorated substantially in the last months of 1307, something of which Clifford must have been specially conscious. It seems likely that the cause of the breach was Gaveston. Clifford broke with the court between the end of November 1307 and the end of January 1308 ¹³. On 31 January 1308 Clifford was

11 Vita, 3; Rymer - Foedera (Record Commission 1814), v3, 2. Lists only witnesses of comital rank.

12 See also J R Bray - 'Concepts of Sainthood in Fourteenth Century England'; Bulletin of the John Rylands University Library, v14 (1984) 152-5

13 History and Heraldry, 128; Maddicott - Lancaster, 117

among Anthony Bek, Warenne, Pembroke, Hereford and others who issued letters patent from Boulogne affirming their loyalty to the king and their determination to preserve the honour of the crown¹⁴. The Boulogne agreement represented the first organised opposition to Gaveston, though it was opposition of a most restrained and loyal kind. As a warning to Edward II, however, it proved to be ineffective. Any efforts Clifford made to limit Gaveston's role at the coronation were equally insubstantial since he was allowed to carry the crown at the ceremony¹⁵. As a peer of the realm it is hard to see on what ground Gaveston could have been excluded from the ceremony, but it is clear that Gaveston's behaviour and bearing provoked widespread hostility¹⁶.

Clifford fell from favour with the king during March 1308 and was replaced as Marshal by the Lancastrian retainer Nicholas de Segrave while custody of Nottingham castle was also withdrawn from him¹⁷. It is probable that these actions were intended by the king to punish Clifford for his part in the Boulogne Indenture but Clifford was by no means alone in opposing Edward's continuing support of Piers Gaveston. Almost the whole of the baronage ranged itself against the favourite. For Clifford the experience was, as it was for the Earl of Lincoln, a novel one after many years of loyal service to Edward I. After Gaveston's banishment Clifford was ready to be reconciled with the king and he was certainly among the first of those whom the king was described as trying to win over to his cause with gifts, promises and blandishments¹⁸.

14 Phillips - Aymer, Appendix 4

15 CCR 1307-12, 53

16 Lanercost, 210

17 CPR 1307-13, 52; Maddicott - Lancaster, 117

18 ibid, 80

Gilbert de Clare, whose standing as Gaveston's brother-in-law, restrained him from active opposition to him and seems to have served as an intermediary between the king and Clifford.¹⁹ It was at the Earl of Gloucester's instance, for example, that a licence was granted to the household knight, John de Cromwell, to enfeoff Clifford with the Leyburn moiety of Westmorland in return for the grant of lands Clifford held in Derbyshire and Wiltshire²⁰. Clare was particularly well placed to mediate with Clifford since Clifford had married his sister Maud. It was probably a further sign of reconciliation between Clifford and the king when Clifford was appointed as captain of the men at arms in Scotland in August 1308²¹.

Clifford was probably the best commander available to Edward II for this post at this time, but even so he achieved very little there. In part this was not his fault. The provision of supplies for the English garrisons provided one major difficulty. A more serious problem still was the continuing dispute over the future of Gaveston which placed an effective paralysis on any sustained resistance to the Scots' gains. Internal politics continued to enjoy a higher priority than the conduct of the war and this was probably the incentive behind a truce which was agreed with the Scots in the early part of 1309²². Local opinion held that the Scots were guilty of numerous breaches of the truce and were using its provisions for their own ends but the English desire for the truce constrained them to pass over such violations. As the English commander at the time, Clifford was directly associated with the decision to make a truce and the fact appears to be that he, like the other

19 Vita, 6

20 CPR 1307-13, 134, 144

21 ibid, 92

22 Lanercost, 214

magnates, gave a higher value to attacking Gaveston than to the prosecution of the war. This may have been partly because Gaveston showed signs of emerging as a rival for Clifford's territorial schemes in the north of England. In June 1308 Gaveston had been granted custody of Cocker mouth along with the rest of the former holdings of the Forz family²³. The lands were granted ostensibly for the use of Gaveston's family and were more than counterbalanced by Clifford's own gains in Westmorland but with Gaveston's return from exile imminently expected Clifford may well have seen in him a formidable potential rival for the leadership of the local gentry.

Whatever the reason, it is clear that Clifford moved into opposition to the king shortly afterwards. In March 1309 he was among those who attended a tournament held at Dunstable at which it seems almost certain that plans were laid for the Parliament held in the following month²⁴. The Dunstable tournament was the first occasion on which it is possible to see Robert de Clifford's retinue mustered for political rather than military purposes and a surprising feature of those who attended in Clifford's train is how few of them had any clear links with Westmorland. Equally Clifford's retinue was by no means coincident with his war retinue. Most surprising of all is that the Mounteney brothers, Thomas de Helbeck and John de Penrith, all known life retainers of Clifford were absent from his force at Dunstable. In all Clifford's contingent at Dunstable seems likely to have numbered ten men²⁵. Thomas de Sheffield and William de Bayeux served in Clifford's force in Scotland in 1311, and may as a result be presumed

23 C.Chart.R, v2, 111

24 Maddicott - Lancaster, 95-102

25 Collectanea Topographica et Genealogica, v4 (1837), 65; J E Morris - 'Military Levies from Cumberland and Westmorland in the reigns of Edward I and Edward II'; Trans of C&W II, v3 (1903), 312

to have a long term connection with him²⁶. John de Castre is easier to associate with Clifford with whom he had served in 1306. Only one man of Clifford's retinue can be even tentatively linked with Clifford's lands in Westmorland, Andrew de Harclay. It is not wholly beyond doubt, though probable, that Harclay was a member of Clifford's retinue. His name appears as the forty-sixth on the list of those who attended the tournament while Clifford appears one place below, preceding the rest of his followers as appears to have been customary²⁷. On this basis the place which Harclay's name occupies would suggest that he was a member of the Earl of Warwick's retinue, but no evidence exists which would support such a link between Harclay and Beauchamp, and it appears on balance more probable that an error placed him before Clifford rather than after him. Though Harclay had served in 1304 in the garrison of Stirling under John de Cromwell, then lord of Brough and Mallerstang in right of his wife, it is highly significant to find him apparently in the retinue of Clifford at a meeting opposing the king, for previously he might have been presumed to adhere to John de Cromwell's staunchly royalist alignment. There were, however, probably good reasons why Harclay should have aligned himself with Clifford at this time. In the previous year Cromwell had exchanged his share of Westmorland, in which the Harclay lands were situated, with Clifford so that Harclay now held of Clifford²⁸. Clifford appears to have embarked on the same type of assertive measures to build up local influence in his new acquisitions as his father had done in the rest of Westmorland. For example, he rapidly developed the fortifications of Brough Castle and he may well have placed pressure on the Harclay clan and other local gentry to accept

26 Morris - 'Military Levies', 312

27 C.67/16

28 See above

his leadership²⁹.

The opposition to Gaveston voiced during the Parliament of Stamford was successful only in part. It was agreed that Gaveston should be allowed to return from exile but should be allowed only a life interest in the Earldom of Cornwall and should relinquish his tenure of the Forz inheritance³⁰. In return for these concessions a twentieth and fifteenth was allowed to the king and the concessions made were codified in the Statute of Stamford. The autumn and winter of 1309 witnessed a continuing deterioration of relations between Edward and the dissident magnates who fell increasingly under the leadership of Thomas of Lancaster³¹. The situation in the north deteriorated just as recognisably. The truce which had been agreed earlier in the year was due to expire at the beginning of November but no effective policy was formulated to deal with this contingency and the most that was attempted was to order landholders in the north to return to their lands to defend the region against any Scots attack³². Clifford and Hereford were sent north to take command in the west while Henry de Beaumont was given charge in the east at Berwick. Neither command made any effective contribution to the war effort and negotiations were opened for a renewed truce which after a conference with the king Clifford caused to be extended to last until the following spring³³.

Clifford's willingness to serve Edward in the north was, in part, probably motivated by the increasing danger to his own estates which Bruce's rebellion presented but it had a political significance as well.

29 W D Simpson - Brough Castle (H.M.S.O. 1982), 3

30 J H Ramsay - The Genesis of Lancaster (Oxford 1913), vl, 23; CCR 1307-13, 225

31 Maddicott - Lancaster, 109-110

32 RS, vl, 77

33 Vita, 7; Lanercost, 214; Guisborough, 384

It marked the fact that Clifford had again distanced himself from the hard line opposition group led by Lincoln and the Earl of Lancaster. During late 1309 and early 1310 Edward seems again to have deliberately cultivated Clifford. A number of reasons can be suggested why he should have done this. The first was Clifford's importance in the West March and in any plans to defend the north of England as a whole. Secondly Clifford's previous record may well have marked him out as a potential supporter. He also had close connections with the court through his marriage to Maud de Clare while his aunt, Idonea de Leyburn, was the wife of John de Cromwell, himself among Edward's closer associates. The first signs that Edward was trying to win Clifford over can be found in a number of small acts of patronage in the autumn of 1309. On 24 October Clifford was granted power to alienate land held in chief to John de Penrith³⁴. In the following February Clifford was granted a messuage of land near St. Botolph's church in London which had formerly been held by John de Brittany³⁵. He was also granted a sum of money from the issue of customs shortly afterwards³⁶.

In March 1310 Clifford stood poised to take possession of a much larger and more important grant, life tenure of the honour of Skipton, with hereditary rights in half of the lordship, by a grant attested under the Privy Seal³⁷. The following day, 17 March, Clifford was among those who sealed letters patent ratifying the election of the Lords Ordainer who were to have power until Michaelmas 1311 but it is clear that this did not signify a breach with the court. Clifford has often been regarded as one of the most royalist of the Lords Ordainer who

34 CPR 1307-13, 195

35 *ibid*, 224

36 *ibid*, 211

37 *ibid*, 220

were elected in March 1310 but there is some doubt as to whether Clifford was, in fact, an ordainer at this time³⁸. His name is absent from the list of Ordainers contained in the Canon of Bridlington's account of the period and that printed in Palgrave's Parliamentary Writs but it is contained in the list found in the Muniments of London and the Annales Londoniensis. In the Bridlington account and the list in Parliamentary Writs Clifford's place is taken by Robert FitzRoger of Clavering³⁹. This discrepancy can be explained by the fact that the list of Ordainers contained in the Annales describes those who actually served rather than those who were originally appointed as the first two lists do. It seems probable in fact that Clifford was not among those selected originally as an Ordainer but that he replaced Robert FitzRoger after the latter died during April 1310⁴⁰. Clifford's replacement of FitzRoger was a useful bonus to the king since, despite earlier disputes, Clifford was much more likely to prove sympathetic to Edward than was FitzRoger who had taken part in Bigod and Bohun's opposition to Edward I in 1297⁴¹. The value Edward placed on Clifford's support was demonstrated by a grant to him converting his tenure of Skipton to full hereditary tenure, which Clifford obtained in return for a parcel of land in Monmouth⁴².

Clifford's association with the court was further demonstrated by his participation in the offensive mounted against the Scots in the summer

38 J C Davies - The Baronial Opposition to Edward II (Cambridge 1918), 361

39 Bridlington, 37; Parl Writs, v2, 26, 27; Munimenta Gildhallae Londoniensis ed. H T Riley (Rolls Series 1860), v2, 203; Chronicles of the Reigns of Edward I and Edward II, ed. W Stubbs (Rolls Series 1883), v1, 172

40 CIPM, v4, no 219

41 M C Prestwich - The Three Edwards (1980), 84

42 CPR 1307-13, 273

of 13Lo. The campaign was boycotted by the 'radical' element among the Earls leaving only Warenne and Gloucester as representatives of the higher nobility and this may have further enhanced Clifford's importance. He appears to have served as a senior commander and eight bannerets were placed under his command. They included a number of important northern lords, Thomas de Multon of Egremont, Thomas de Multon of Gilsland and Henry FitzHugh, another important local magnate who was a tenant of Cliffords on the honour of Skipton ⁴³. The other members of the force were drawn heavily from the March of Scotland and from Clifford's retinue. Two, William de Ry and William de Bayeux, had accompanied Clifford to the Dunstable tournament, as had one of the bannerets, John de Castre. In contrast with Dunstable, Clifford's known life retainers were strongly in evidence. Both Thomas and John de Mounteney served, as did John de Penrith and Richard de Musgrave who was described as Clifford's 'yeoman' ⁴⁴. There were other local men, for example, Walter de Stirkland and John L'Engleys but men from north Cumberland also served, including the stalwart John de Wigton and Richard de Kirkbridge whose experience dated back to Caerlaverock and beyond ⁴⁵. Two of Henry de Lacy's retainers also served under Clifford, the brothers Robert and Nicholas de Leyburn. It is uncertain whether this represented any form of political re-alignment by the Leyburn brothers. Both were professional soldiers and since Lincoln was appointed as Governor of the Realm they may have simply enlisted with Clifford in order to take part in the campaign rather than as a sign of discontent with Lincoln's leadership. A similar difficulty exists in the case of Andrew de Harclay who, according to J. E. Morris, served under John de

43 Maddicott - Lancaster, 113; RS, vl, 104; CPR 1307-13, 279

44 Cal.Chancery Warrants, vl, 351

45 Roll of Caerlaverock, 31

Cromwell on this campaign ⁴⁶. Harclay served under Cromwell in the past and it is significant that like Clifford he had moved away from his earlier opposition to the king, though it seems probable that like the Leyburns Harclay was a professional soldier who was prepared to enlist under any commander for the term of a campaign. In the following winter he and John de Harclay served in Scotland under John de Segrave ⁴⁷.

If it is hard to discern clearly the political alignment of a relatively unimportant northern knight at this time, the same is not true of a very substantial part of the English baronage which remained deeply suspicious of Edward II. It was this hostility which led Edward II to establish his headquarters in Berwick ⁴⁸. The choice of Berwick was a reflection of Edward's pre-occupation during this period. Firstly it was the natural base for operations against the Scots, a concern which exercised Edward more than has been generally recognised. Secondly the city provided a possible refuge for Gaveston. Edward's concern for Gaveston, it need hardly be noted, provoked nothing but the greatest hostility on the part of the English baronage and this dis-satisfaction materially influenced the conduct of the war against the Scots. It is clear, however, that Edward saw in the northern magnates a possible source of support, both for the conduct of the war and, conceivably also on Gaveston's behalf and this may have added to the attractiveness of Berwick. The northerners were certainly more willing, for easily comprehensible reasons, than many of their peers to serve against the Scots. Robert de Clifford took the lead and kept his retinue on the March throughout the winter of 1311. In April 1311 he again took charge of Scotland, south of the Forth ⁴⁹.

46 Morris - 'Military Levies', 313 and note. I have been unable to find the reference Morris cited from Parl Writs.

47 Bain, CDS, v3, nos 170, 175

48 Lanercost, 215

49 Cal Chancery Warrants, v1, 314; RS, v1, 97

Deprived of support from other quarters it was to the northern lords that Edward turned for support for the projected offensive of the summer of 1311. Northern magnates including Ralph FitzWilliam of Greystoke, Henry FitzHugh, John de Castre, Clifford, Robert de Nevill and Multon of Egremont were asked to bring as large a force as they could raise to serve against the Scots at the king's wages⁵⁰. Clifford at least raised a substantial force centered round his retainers, Thomas de Helbeck, John de Penrith, Richard de Musgrave, Thomas de Sheffield and featuring a number of other men from Clifford's holdings in Westmorland⁵¹.

There is some evidence that Edward attempted to establish Gaveston as a major landholder in the north of England during this period. Gaveston held Cockermouth briefly from 1308 to 1309 but was forced to relinquish it. Edward tried again in 1310-1311. The first grant was a relatively small one, the town and manor of Penrith which was granted to Gaveston in December 1310⁵². In May 1311 a larger grant of the lordship of Tynedale followed. Closely adjacent to Penrith, Tynedale had been worth at least £300 in time of peace and perhaps just as significantly was the recruiting ground for an easily and rapidly mobilised private army of archers⁵³. Other grants to Gaveston in the early months of 1312 included custody of the lands belonging to John Wake. He was also appointed as Justice of the Forest, north of Trent, and assigned a sum of money payable from the Berwick customs⁵⁴. The result was that by that by the spring of 1312 the favourite had become a substantial land-

50 RS, v1, 104-106

51 Morris - 'Military Levies', 314

52 CPR 1307-19, 76

53 C.Chart.R., v2, 181

54 CPR 1307-13, 450; Maddicott - Lancaster, 122

holder in the north of England, though it is also accurate to record that Edward's grants were often dictated by little more than the availability of suitable lands and offices. It may have made good sense, however, for Edward to build up Gaveston's holdings in the north since as the campaign of 1311 illustrated, this was an area from which he could more confidently expect support than from south of the Trent.

Edward's hopes for support from the northern nobility were not wholly well placed however, and his support dwindled rapidly during 1311. One of the earliest to withdraw his backing was Thomas de Multon, lord of Egremont. Multon had taken part in the campaigns of 1310 and 1311 but like the Earl of Lancaster he resisted Edward's later attempt to raise one foot soldier from each vill⁵⁵. Multon's opposition to Edward's policy may well have been a result of new links with Lancaster which developed after Lancaster's succession to the lands formerly held by Henry Lacy of Lincoln, since as well as Egremont, Multon held important estates in the east Midlands where Lacy's lands and influence passed to Lancaster. Multon may also have had other links with Lincoln and he had served in his division at Caerlaverock⁵⁶. Adam de Hudlestone, one of Multon's most important tenants in Egremont, held lands in Lancashire of Lincoln and he is known to have entered Lancaster's allegiance at this time⁵⁷. Edward suffered two more important desertions. The first was Henry Percy who seems to have begun to distance himself from the court after the first issue of the Ordinances in 1310. Clifford also seems to have moved away from Edward's party, though more gradually.

Clifford was still in a degree of favour with Edward in the late spring

55 RS, vl, 99

56 Maddicott - Lancaster, 10; Roll of Caerlaverock, 34

57 Maddicott - Lancaster, 54-5, 61

of 1311. In May the sheriffs of Westmorland and Yorkshire were ordered permit him to take a reasonable aid from his men on the marriage of his eldest daughter Idonea to the younger Henry Percy⁵⁸. He also appears likely to have been among those who moved south with the court and a substantial part of his retinue probably accompanied him. For example, an agreement made in London in September was witness by Clifford and Thomas de Mounteney. This clearly weakened the defences of the West March⁵⁹. The day before Edward reached London Bruce seized his chance and his men mounted a raid across the Solway burning Gilsland and much of Tynedale⁶⁰. Shortly afterwards a renewed raid through Redesdale and Tynedale caused greater material damage and much greater loss of life. Though Warden of the Marches had been appointed earlier in the year, deprived of the backing and leadership of the regional magnates, especially perhaps that of Clifford, they were able to accomplish very little for the defence of the March, a fact of which the Scots commanders were well aware and which they had taken into account in their planning. The captains appointed on the English side, in fact, simply destroyed any goods that they could find to prevent them being of use to the Scots⁶¹.

If Clifford was informed of developments in the north, nevertheless, he continued to give precedence to internal politics. There are signs, however, that he did re-align himself. It is possible that the problems of the border counties played some part in this process though it is difficult to see by what criterion Edward had behaved less responsibly than Clifford and the rest of the Northern nobles. It could at least be argued that the border had enjoyed a period of relative security

58 CCR 1307-13, 386

59 ibid, 436

60 Lanercost, 216

61 ibid

while Edward had been established at Berwick for only after he had moved south had the Scots raids been renewed. On the whole it seems more plausible to suggest that Clifford's re-alignment was the result of growing links between himself and the leaders of the opposition party though it is also possible, considering Clifford's later determination to capture Gaveston, that some bitter quarrel emerged between Clifford and the favourite. Whether or not this was the case, the leaders of the opposition played on Clifford's interests to allow him to support them without jeopardising his own interests. Initially, the grant of the estate of Skipton in Craven was exempted from the policy of resumption which was ordained to cover the other grants made by Edward, but even when this order was superseded Cliffords interests were protected. When Skipton was ordered to be taken into the king's hands the order was quietly ignored and then the lordship was regranted to Clifford with such speed that it is doubtful if he at any time actually relinquished it ⁶². His territorial ambitions secured, Clifford was free to break with the court completely. It is clear that he had done so by December 1311, for when Edward and his closest advisers left London for Windsor, Clifford stayed behind. In London he seems to have played an increasing role in the attempts of the Ordainers to operate their administration in competition with Edward's own. On December 19, for example, Clifford was, together with Bishop Gifford of Worcester, the initiator of a grant of 1000 marks to Robert de Holland, Lancaster's trusted retainer in recompense for the loss he had suffered when the Office of Justice of Chester had been granted to Payn Tibetot ⁶³.

Clifford was probably also closely involved in the disputed and confusing

62 Davies - Baronial Opposition, 382: CPR 1307-13, 395, 408; CCR 1307-13, 386

63 CPR 1307-13, 411

issue of the custody of Carlisle castle which began in autumn 1311 and continued to be a problem until spring 1312. During this time the castle was entrusted to a series of different custodians, at least nominally, and this episode has been described as demonstrating the weakness of Edward II in operating the system of patronage at this time ⁶⁴. The dating and location of the various grants makes it possible to expand on this interpretation, however. Carlisle castle had been entrusted to John de Castre, who had become a household knight in December 1309 ⁶⁵. Despite the fact that de Castre had been admitted to the royal household, by the autumn of 1311 it is clear that he was no longer in the confidence of Edward, probably because of his earlier links with Clifford. On 12 October Edward and his court left London for Windsor, on 15 October an order was issued from Windsor, clearly by Edward and his circle, appointing Andrew de Harclay as custodian of Carlisle castle ⁶⁶. Harclay was not, however, able to gain custody of the castle. It seems to have remained in the possession of de Castre and to make certain of this an order was issued, tested at London, therefore by the Ordainers including Clifford, instructing Harclay to deliver the castle to de Castre ⁶⁷. The following month Edward II made a new attempt to instal Harclay in Carlisle though the order that was issued is misleading and was probably intended to be so. The order recited that the castle of Carlisle had been entrusted to Harclay at Michaelmas last but the king in ignorance of a former commitment had committed the same to John de Castre and wished the order of council to

64 M C Prestwich - 'English Castles in the Reign of Edward II', Journal of Mediaeval History, v8 (1982), 161

65 CFR 1307-19, 60, British Library, M S Cotton Nero, C.8, f91

66 Maddicott - Lancaster, 117; CFR 1307-19, 78

67 CPR 1307-13, 450

be observed ⁶⁸. The reference to an order made by the council may have been intended to imply that this new grant to Harclay had been made with the assent of the Ordainers when in fact the instruction had originated solely with Edward's entourage. This becomes clear beyond doubt when the last of Edward's attempts to install Harclay in Carlisle is considered. On April 1 Edward again granted Carlisle to Harclay's custody after first assigning it to John de Weston and then to Piers Gaveston. The order, issued from York, rehearsed that the castle had in ignorance been granted to John de Castre and also recorded that the date when the castle had been granted to Harclay 'by order of the council' namely October 15 1311, the date on which Harclay had first been given custody of it at Windsor ⁶⁹. It becomes reasonable to believe, as a result, that the 'ignorance' professed by the royal mandates was in fact an attempt to disguise the fact that there were, in effect, two rival governments attempting to control military appointments on the West March. The court's anxiety to see Harclay established in custody of Carlisle sheds some light on his political alignments during the early part of his career. It is clear from the persistence with which Edward and his advisers tried to establish him in Carlisle that by the spring of 1312 he was a trusted agent of the court rather than being a Lancastrian supporter as Tout suggested ⁷⁰. This deepens the mystery of why he had attended the Dunstable tournament, probably in Clifford's retinue but there is little reason to doubt his allegiance from the winter of 1311 onwards. In the spring of 1312 he succeeded in gaining control of Carlisle from de Castre and his favourable standing was further illustrated by other grants in his favour.

68 *ibid*

69 CFR 1307-19, 128, 129; CPR 1307-13, 450

70 Reg Halton, v1, xxxvi

In April 1312 Harclay was granted the farm of the forest of Mallerstang which had been taken into the king's hands after being acquired without royal licence though it was held in chief, a grant which probably enhanced Harclay's position at the expense of Clifford⁷¹. In July 1312 John de Harclay also benefitted. He was granted the forestership of Inglewood which had been forfeited by Thomas de Multon of Gilsland for an alleged trespass⁷².

If Andrew and John de Harclay emerged as reliable royalist supporters during 1311 and 1312 they did so in the face of local opinion which followed Clifford and which was broadly turning against Edward, and more severely against Gaveston. Edward's intentions were viewed with the deepest suspicion in the north and it was even rumoured that he proposed to enlist the aid of Bruce and the Ordainers were forced to despatch Clifford and Percy to the north to cut Edward off from this potential source of support⁷³. Clifford had probably changed his alignment more radically than any of the other leaders of the opposition to Edward II and though he remained as one of the 'moderate' wing of the opposition it is clear that he was now irreconcilably hostile to Gaveston. He was among those who pursued Gaveston together with the Earl of Lancaster and they almost succeeded in capturing him at Newcastle. It is clear from the pardons later issued to Clifford's supporters that he was able to call upon the support of much of the local gentry for this purpose. Clifford's men certainly included Hugh de Louthier, Robert de Askeby, John L'Engleys, Richard de Musgrave,

71 List of Sheriffs: CFR 1307-19, 130; Contrast Morris 'Military Levies', Trans of C&W II, v3 (1903), 316

72 CPR 1307-13, 482

73 Vita, 22; Chronicles of Edward I and Edward II, v2, 204 (Annales Londoniensis)

Thomas de Sheffield, Thomas and John de Mounteney, John de Penrith, John de Rosgill and Nicholas de Vipont, all of whom are knownⁿ to have served with Clifford previously⁷⁴. Other Cumbrian men, such as Michael and John de Harrington and John and Adam de Hudlestone and William and Ranulph de Dacre may have been enlisted into the opposition to Gaveston through the influence of Thomas of Lancaster⁷⁵. Still others, notably the Leyburn brothers, Nicholas and Robert, and James de Torthorald, a Scot, are harder to place but all were recognisable as having long experience in campaigns against the Scots and they may very likely have had some degree of connection with Clifford.

The fact that the force Robert de Clifford had deployed in the pursuit of Gaveston was essentially the same force on which the defence of the borders depended, was not missed by Bruce. As Clifford and his men progressed warily south after Gaveston's death, Bruce again used his excellent intelligence work to mount renewed threats to the English borders with the result that he was able to collect large sums of protection money⁷⁶. Again Bruce's timing was superb and was effectively used since, while the English magnates tried to reach a settlement of the Gaveston affair with Edward II, Bruce raided the northernⁿ counties again. Once more he met with little opposition. If Clifford had acted irresponsibly in deserting the border to play his part in the disputes with the king, Harclay, the appointed defender of Carlisle did nothing more valuable. In fact he is known to have been with the court at Stamford, Lincolnshire, on the 24 July when, in the company of John de Cromwell and other curialists, he witnessed an agreement⁷⁷. Both

74 CPR 1313-17, 21-26

75 Maddicott - Lancaster, passim

76 Lanercost, 220

77 CCR 1307-13, 540

Andrew and his brother John remained high in the king's trust, however. Shortly before John de Harclay had been appointed to collect money for the king's use from Inglewood forest⁷⁸. Like Clifford, it is clear that Harclay was absent from the March for much of the summer of 1312. Clifford remained deeply involved in the negotiations for a reconciliation between the earls and the king, acting as a representative of the dissident magnates⁷⁹. In default of effective leadership from Clifford, John de Halton emerged as the leading figure on the West March during this period and it was probably under his influence that the communities of the West March fell back on the strategy of paying protection money to the Scots. Cumberland as a whole, however, found difficulty in raising the sums the Scots demanded and had to give hostages for their future payment. Copeland, which probably raised its ransom separately from the rest of the county paid them 160 marks on this occasion⁷⁹.

Andrew de Harclay returned to the north late in 1312 and took charge of the defence of Carlisle. In spite of the truce which was due to remain in force until midsummer 1313 the castle remained strongly garrisoned with a total of 33 men at arms, 12 hobelars and 18 archers⁸⁰. In the expectation of further assaults timber was ordered to be taken to repair the defences of the castle from Inglewood⁸¹. In an attempt to provide leadership for the region Bishop de Halton was excused attendance at the Parliament planned for the spring of 1313, though Halton's previous achievements in defending the March left much to be desired⁸². The March still lacked the services of Clifford who continued to devote his energies to negotiating between Lancaster and the king and he spent

78 *ibid*, 464

79 *Lanercost*, 220; *Chronicle of St Mary's York*, 53

80 E.101.14/15, m4

81 *CCR 1307-13*, 541

82 *Reg Halton*, v2, 74-76

the winter of 1312-13 in the south of England. Partly as a result of this and partly as a result of Edward II's own neglect of the north, marked by his attendance at the knighting of three of Philip IV's sons which took him to France from May to July 1313 and further demonstrated by his advice to the borderers to simply defend themselves as best they could, the years 1313-14 witnessed the development of a very real crisis on the West March, a crisis which was exacerbated by a growing realisation that the government was almost wholly indifferent to their plight⁸³.

There were two principal reasons for the development of the critical situation which afflicted the West March in 1313 and the years which followed. The first was the effective collapse of English military power in Scotland which left Bruce free to turn his attentions to south of the border. The second was the almost complete failure of the working relationship which generally existed between the crown and the nobility of the north and which effectively prevented the English borderers from defending themselves. A third cause of weakness developed hard on the heels of these two problems. Bruce's attacks happened to co-incide with a period of natural wastage among the ranks of the lords of the West March, a process which continued during the second decade of the century and which was exacerbated by the defeat inflicted on the English army at Bannockburn. In the extreme north of the county the Wake lands of Liddell were subject to a minority from 1300 to 1317. Another important local family, the Multons of Gilsland became extinct in the male line in 1313. Though neither the Wakes nor the Multons of Gilsland played a dominant role in the region the effect of their minorities was cumulative, particularly when added to the fact that the lordship of Cockermouth remained in the hands of royal custodians appointed either simply as

83 Ramsay - Genesis of Lancaster, v1, 50, 51; Rymer - Foedera, v2 217

military commanders or in recompense for debts owed to them for war wages.

During 1314 the disruption on the West March continued to deepen. This was despite the most important English initiative of the whole of Edward II's reign, the attempt to relieve Stirling. The signs for the campaign which was to lead to the defeat of Bannockburn were not wholly propitious, the Earls of Warwick and Lancaster refused to send more than the strict quotas in the servitium debitum⁸⁴. Still more serious was the persistence of the extreme factional hostility which had occasioned the earl's reluctance to serve. Despite the absence of the Earls of Warwick and Lancaster, however, Edward was able to put in the field an extremely powerful force centered round a potentially formidable court coalition led by the Earl of Gloucester, Pembroke, Hereford, Hugh Despenser and Robert de Clifford⁸⁵. In the case of Clifford the forced reconciliation of the autumn of 1313 seems to have presaged a genuine reconciliation too. The explanation for this renewed royalist alignment was perhaps provided by the death of Gaveston for since 1307 Clifford had been distinguished by his loyalty to the crown and had been forced into opposition only by his apparent hatred for Gaveston's overweening predominance. Gaveston's death removed this impediment and allowed Clifford to return to his preferred loyalties. He may also have felt impelled to return to a path of co-operation with the king in order to advance the war effort since the Scots attacks of 1312 and 1313 were threatening to bring the war into the heart of his own lands in Westmorland.

84 Vita, 50; Lanercost, 225. M C Prestwich - 'Cavalry Service in the Fourteenth Century' in War and Government in the Middle Ages, ed J C Holt and J Gillingham (Oxford 1984), 148 note

85 Vita, 50

Clifford was less successful in raising troops from the West March in 1314 than he had been in previous years. This may have reflected a growing awareness of the Scots threat to Cumbria, demonstrated by their raid into the region in April 1314, necessitating greater preparedness on the home front. It may also have reflected growing disquiet over the fact that Clifford's neglect of the West March had been an important contributory factor to the success with which the Scots had organised their raids into Cumbria. Fewer of Clifford's contingent originated on the West March than previously. Only two, Richard de Hudlestone and William de Pennington, were recognisably from Cumberland and it may have been significant that both held land in the south-west of the county which had suffered least from the Scot's raids. Others in Clifford's retinue were recruited from Westmorland including Robert and Nicholas de Leyburn and Matthew de Redman. Thomas de Mounteney, one of Clifford's life retainers, also served⁸⁶.

There is no necessity to attempt another account of the campaign which led to Bannockburn. Clifford played a major, though on the whole inglorious, part in the battle itself before being killed on the second day of the conflict. Chivalrously, Bruce caused Clifford's body to be returned to England but such niceties did not disguise the fact that his death was a severe blow to the defences of northern England, nor the enormous advantages Bruce was able to take from the defeat he had inflicted on the English army⁸⁷. Clifford may have been as guilty of neglecting the defence of the West March as his sovereign had been but he had still been the most effective and powerful leader of the local community of the Western border and his death broadened and deepened the difficulties which afflicted the West March.

86 Morris - 'Military Levies'; Trans of C&W II, v3 (1903), 316

87 Lanercost, 226

CHAPTER VIII

THAT VALIANT AND FAMOUS KNIGHT ANDREW DE HARCLAY

The disturbed conditions which prevailed on the West March during the reign of Edward II provided unprecedented opportunities for political and territorial advancement. Members of families of the second rank of local importance were able to break through into the ranks of the magnate class. Ranulph de Dacre provided the most successful example of this phenomenon, but Dacre's achievement was, at least in the short term, overshadowed by that of Andrew de Harclay, the first Earl of Carlisle. Within a year Harclay enjoyed both a meteoric rise to the top level of the nobility and an equally abrupt disgrace and fall. In consequence his career has exercised a powerful attraction for historians working on the history of Cumberland and Westmorland. He has generally enjoyed a favourable reputation. J. E. Morris expressed the prevailing opinion in 1903 when he described Harclay as 'doing his work manfully in the blackest years of English history'¹. The tale of an earl, chosen from the squirearchy, rising by merit and martial virtue and of his unjustified execution at the hands of an ungrateful king is an attractive one which may have originated in large part in the work of Joseph Bain and it has found a large school of devotees². Some manifestations of this trend have been truly grotesque. One writer, Cornelius Nicholson, even refused to accept that Harclay had had dealings of any sort with the Scots, an error which may be explained by ignorance of the existence of much documentary evidence³. Later opinion has been less extravagantly inclined to believe the very best of Harclay, but the traditional interpretation, summarised by John Mason in 1929, has found its way into modern work on the north of England under Edward II. The synthesis of local

1 Morris - 'Military Levies'; Trans of C&W II, v3 (1903), discuss Harclays career. 315, - 326.

2 Bain, CDS, v3, xxxi

3 C Nicholson - Sir Andrew de Harclay, A Personal Episode in English History (Kendal, undated)

tradition with original research has not always been a fortunate one ⁴.
A reconsideration of Harclay's career is therefore long overdue.

A part of Andrew de Harclay's historical prestige has depended on the belief that his rise was not only spectacularly rapid but also correspondingly large in social terms. Michael de Harclay, it has been noted, for example, was not even a tenant in chief ⁵. The whole story, predictably, is more complex but some details are worthy of discussion. The first origins of the de Harclay family are obscure. During Edward III's reign Andrew de Harclay's nephew Henry petitioned the king and claimed that his family had served the king's predecessor since the conquest. It seems most probable that the family were not originally of continental birth and were like the Greystoke family of native stock ⁶. Some support for this can be found in John's reign when Walter de Harclay was among 17 tenants in drengage who made fine with the king to avoid being forced to serve with the king across the Channel ⁷. The precise legal status of drengage tenure at this time need detain us only very little here. The dreng was essentially a free, ministerial tenant, though one of lowly status ⁸. By 1282 the family tenancy, Hartley, had been converted to cornage tenure but this modification was overshadowed by a much more major transformation worked on the tenurial structure of Westmorland by John when he granted to Robert I de Vipont the whole service of the county except for those who held knight's service ⁹. The effect of this

4 J Mason - 'Sir Andrew Harclay, Earl of Carlisle'; Trans of C&W II, v29 (1929) is heavily derivative of Bain and Morris. It has nevertheless been accepted as the standard work on Harclay's career.

5 Fryde - Tyranny, 123

6 Bain, CDS, v3, no 941

7 Rotuli de Oblatis, 127

8 Barrow - 'Northern English Society'; NH, v4 (1969), 10, 11

9 Bodliean Library, M S Dodsworth, 70, f⁹

was to reduce the status of those cornage and drengage tenants, who had formerly been tenants in chief, to the status of mesne tenants ¹⁰. Writers who had taken cognisance of this fundamental development in the tenurial history of Westmorland would find no cause for surprise in the fact that Michael de Harclay was not a tenant in chief.

It appears probable that Walter de Harclay was succeeded by the William de Harclay who witnessed a grant of lands in Crosby Garrett during the reign of Henry III ¹¹. The founder of the family's fortunes seems, however, to have been Michael de Harclay who raised his family above the ranks of the toponymic gentry of the region, though it is possible that the family's fortune was set on a sound path even at the start of his career. Matthew Paris records the suit brought by a baron of the region against Bishop Silvester of Carlisle and a substantial local tradition, born out by evidence from plea rolls, suggests that the suitor in this important case was Michael de Harclay ¹².

During the Disturbance of the Realm Michael de Harclay was closely associated with Robert II de Vipont, but he seems to have played a wholly dependent role in local politics and after Vipont's death he rapidly re-aligned himself with the royalist forces. His links with the new powers in Westmorland during the early years of Edward I's reign were illustrated by his appointment as sub-sheriff in 1275 and he appears to have demonstrated both administrative ability and an unusual degree of probity in his office ¹³. In 1278 it was recorded that though the sheriffs of Westmorland had made a habit of demanding bribes to allow

10 Feodary, 265

11 CRO D.Lons/L/Deeds, C.G.1

12 Matthew Paris Chronica Majora, v5, 210; Hist and Antiq, v2, 257
Bouch - Prelates and People of the Lake Counties, 55

13 List of Sheriffs, 150.

suspects to have bail, Michael de Harclay was not guilty of this offence ¹⁴. His administrative ability continued to be used to the end of his career in the later years of Edward I's reign. In 1285 he was appointed as sheriff of Cumberland and if his record as sheriff of Cumberland was less impressive than it had been in Westmorland, the reason was probably that since he was the incumbent sheriff at the time of the 1292 eyre, documentation on his misdeeds was more abundant. He was among those, in all truth a very comprehensive list, who were guilty of taking payments to remit fines due to the crown, but on other occasions he was firm and correct, as when he seized a group of Scots to compel payment of a debt owed to the Exchequer ¹⁵. His standing as an expert in the conduct of the shrievalty was demonstrated when in 1300 he was among those appointed to hold an inquiry into William de Mulcaster's conduct as sheriff of the county ¹⁶. He also assisted Robert de Clifford in the administration of the royal forests, north of the Trent, but his most frequent official employment in the last years of his career was as a tax collector. He was appointed to collect the 40 shilling scutage of 1302, a commission which seems to have followed hard on the heels of instructions to collect the fifteenth of the previous year ¹⁷. He remained a favoured local agent in the region until his final illness and was chosen to levy the thirtieth of 1306, only being excused this duty on the grounds of ill health when a group of neighbours reported that his health had declined to the extent that he was unable to mount his horse without being ill for months afterwards ¹⁸.

14 Just.1/982, m23d

15 CPR 1282-92, 186; Just.1/137, mm15d, 26

16 CPR 1292-1301, 554

17 CPR 1301-07, 77

18 SC.1.28/159

Michael de Harclay married sometime before 1278, Ricarda the daughter of Gilbert le Fraunceis by whom he had several children including at least three sons, William, Andrew and John and a daughter Sarah who married Robert de Leyburn of Skelsmergh in Kendale ¹⁹. William, who was probably the eldest of the sons was killed sometime before 1301, by one John de Kirkoswald, about whom nothing else is known, leaving Andrew as the eldest. It is clear, however, that at the time of William's death the family was enjoying enough prosperity to grant four messuages, four bovates, four acres of meadow and 30 shillings of rent to the Abbey of St. Mary's Carlisle for masses to be said for the soul of the deceased ²⁰. The impression of financial solidity was borne out by the Clifford feodary which rated the Harclay lands as worth more than £50 annually when in wardship ²¹.

The division made between the estates of Isabella and Idonea de Vipont placed the Hartley family lands of Hartley and Mallerstang in the position which fell to Idonea and her husband and Roger de Leyburn. Despite his duties in Cumberland, Michael de Harclay was actively involved in affairs in Westmorland, where he was closely, though not always harmoniously, associated with Idonea de Leyburn. On one occasion, for example, he brought a writ jointly with Idonea for possession of a group of lands in Sandford ²². On another occasion he was forced to relinquish 3000 acres of pasture to her as a result of a court case. It is clear that the Harclay family remained essentially dependent on the lords of the region ²³. It was not therefore surprising that when

19 CFR 1272-1309, 97

20 CPR 1292-1301, 366, 572

21 Feodary, 304

22 M S Dodsworth, 70, 49; Just.1/989, m3d

23 Just.1/991, m7d

Andrew de Harclay first appeared serving against the Scots it was in the train of John de Cromwell at Stirling in 1304²⁴.

We know much less than we should wish about Andrew de Harclay's career before 1311 but the probability appears to be that he served as a professional soldier in the years after 1304 and gained an introduction to the court, probably through John de Cromwell. Though he briefly experimented with opposition to the crown in 1309 and attended the Dunstable Tournament, Harclay appears to have risen in the confidence of the court and after Dunstable there is no evidence to link him with Robert de Clifford. Harclay does not seem to have served under Clifford in Scotland even though Clifford recruited extensively from Westmorland and from 1308 Harclay held his lands directly of him²⁵.

There were some similarities between the career of Andrew de Harclay and that of his father but it would be misleading to over-state the importance of the comparison. Michael de Harclay served as sheriff of Cumberland for a significant part of his career as did his son, but the office changed significantly between the two tenures. For most of Michael's career the shrievalty of Cumberland was no different from the tenure of that office in any other English county. During the period in which Andrew served the administrative aspect of the office was belittled by the sheriff's prime role as a military commander, the sheriffs of Cumberland also functioned as Custodians of the March and on occasions also exercised powers comparable with those used by local magnates serving as captain of the March, notably by Robert de Clifford.

24 C.67/15; Cal. Chancery Warrants, vl, 217

25 Compare Fryde - Tyranny, 157. It is not in any way clear if this is intended to refer to Robert I de Clifford who died in 1314 or his son Roger IV who died in 1322. There is no evidence linking Harclay with Roger de Clifford.

Briefly, Michael's career was more that of an administrator than of a soldier, while Andrew was a soldier rather than an administrator. It was, moreover, to Michael's work as an administrator that the family owed much of its prosperity and its right to take part in the administration of the county was well established. In this context, it is worth examining Natalie Fryde's suggestion that in the northern counties of England the shrievalties and other administrative offices were repeatedly filled by knights and barons of higher rank than was usual in the rest of England, which would indeed be a puzzling phenomenon were the office 'unimportant and unprofitable' as Dr Fryde suggests. The office appears to have been held mainly by local knights of no particular distinction including Alexander de Bassenthwaite who held mediately of the honour of Cockermouth. Another sheriff was William de Mulcaster who was found to hold lands that were worth only £10 10s 6d, though this valuation, in fairness, dates from 1319²⁶. Nor is there any evidence to support the contention that barons held the office with any more frequency in Cumberland and the rest of the north than elsewhere in England. Robert III de Bruce served in Cumberland for a time, though with conspicuous neglect, but this is poor evidence for the rest of Dr. Fryde's argument²⁷. In any case this contention rests on two mistaken suggestions. Firstly the three baronial families, whom she describes as monopolising the offices of the northern counties, the Nevilles, the Percies and the Lucies, though of the first importance later in the century were of less importance in Edward II's reign. The Percies and the Nevilles we may dispose of quickly. The Percies were not, in a word, a major presence on the border before 1310 when Henry Percy acquired Alnwick and even after that acquisition they did not immediately emerge

26 Hist and Antiq, v2, 93; CIPM, v6, no 164

27 Just.1/137, m1; Fryde - Tyranny, 123

as a major force ²⁸. The Nevilles too were only of secondary importance until the reign of Edward II and their importance did not extend beyond the Bishopric of Durham before that time ²⁹. It is worth discussing the case of the Lucies of Aspatria in greater detail. Anthony Lucy emerged as a major presence in Cumberland after 1323 but though the family were co-heirs to the baronies of Copeland and Allerdale they were the most junior of the heirs and probably also the least well provided for. Moreover, they seem to have had relatively little local influence. When Thomas de Lucy went to war in 1306 the only known members of his following were his brother Anthony and the family steward Thomas de Ireby ³⁰. No member of the senior branch of the Lucy family served as sheriff of Cumberland before the reign of Edward II. John de Lucy served in 1303 but he was a representative of a cadet line. ³¹ Though Anthony de Lucy served as keeper of the March in 1313, this office was regularly held by knights such as John de Wigton, whose economic level compared very closely with that of the Harclay family as well as by major local magnates such as Thomas V de Multon of Gilsland who served with Lucy in 1313 ³². In passing, it is also worth noting the contradiction in Dr. Fryde's argument which appears to state that the established families resented Harclay's sudden success and entry to the county elite even though his early career was similar to that of his father ³³.

Harclay was appointed by the court party to the custody of Carlisle castle in late 1311 and he succeeded in gaining possession of the castle

28 J M W Bean - 'The Percies Acquisition of Alnwick', Archeologia Aeliana, Series 4, v32 (1954) 317-319

29 T F Tout - Chapter in the Administrative History of Mediaeval England, (Manchester 1928), v4, 81

30 C.67/16

31 List of Sheriffs (CUMBERLAND)

32 CPR 1307-13, 597

33 Fryde - Tyranny, 123

in the spring of 1312 but it is clear that this was simply a subordinate step in the protracted struggle waged between the court and the ordainers for control of appointment to crown offices ³⁴. In March 1313 Harclay was re-appointed as castellan of Carlisle and importantly for his future career he continued to hold this post into early 1314 ³⁵. In the spring of 1314, probably as a prelude to the planned campaign against the Scots, arrangements were made for the defence of the West March. A key problem which the government had to face was a series of minorities within the leading families of the region to whom in normal times the West March was accustomed to look for leadership. In an attempt to fill this lack the government passed over Harclay and appointed John de Halton to take overall command of the defences of Carlisle and Harclay was appointed as his subordinate ³⁶.

The arrangements for the defence of the region were soon put to the test. On the 16 April 1314, ten days after Halton was appointed as superior custodian of the city, a force of Scots led by Edward Bruce established themselves at the Bishop's manor of Rose near Carlisle to levy distress for a sum of money the borderers had pledged to pay them the previous summer for a truce which lasted until September 1314 ³⁷. Though Carlisle remained immune from the Scots attacks the attack wholly disrupted the defence of the West March. Halton's uninspired leadership achieved almost nothing, though he tried unsuccessfully to obtain exemption for two of his own manors Rose and Linstock by promising to obtain the release of David de Lindsey's brothers held captive in England,

34 See above, Chapter 7

35 CFR 1307-19, 164

36 CPR 1313-17, 103

37 Lanercost, 224

a promise he proved unable to fulfill³⁸. Many of the people of the county fled with their goods or contracted to pay ransoms with the Scots as best they could³⁹.

The crisis which had been created by natural wastage deepened as a result of the battle of Bannockburn. In the aftermath of the battle, in fact, probably as soon as news of the English defeat reached Carlisle, Bishop Halton fled from Carlisle pausing only long enough at Kirby Stephen to appoint Adam de Appleby as his vicar general⁴⁰. He spent the next two years on his estates in Lincolnshire⁴¹. Many followed his example. It was in these circumstances that Harclay first emerged as a major figure on the March. According to a later inquisition, Harclay drew the remaining men of the region to him for the defence of the March. Probably he had already exercised effective control over the forces in the region before Halton's departure but this account suggests that those outside the garrison began to look to Harclay for leadership at this time⁴².

It would be easy to exaggerate the importance of Harclay's role in Cumberland on the strength of that inquisition. His influence was probably confined to the countryside immediately around Carlisle. In the late summer of 1314 Copeland, the lordship of Egremont, acting separately from the rest of the county, made an agreement with the Scots for protection at a price, which was at odds with the policy of

38 Reg Halton, v2, 96, 97; Bain, CDS, v3, no 402

39 E.143/8/4, no 10

40 Reg Halton, v2, 99, 100

41 M J Kennedy - 'John de Halton'; Trans of C&W II, v73 (1973), 107

42 E.143/8/4, no 10

resistance which Harclay seems to have been trying to organise⁴³. Even within the garrisons of the two most important castles in the region, Carlisle and Cockermouth, it is clear that traces of local organisations and local loyalists still remained. Thomas de Richmond's garrison at Cockermouth contained several members of the Allerdale gentry such as Thomas de Ireby, William de Clifton, Hugh de Moriceby and William de Derwentwater who held of the honour of Cockermouth⁴⁴. The Carlisle garrison was drawn from markedly different sources and included not only Andrew de Harclay but also his brother John and his cousin Patrick de Culwen. With one or two exceptions such as the Copeland knights, John de Lamplugh and Richard de Denton, the rest of the garrison was drawn from the county round Carlisle, notably Simon de Dalston and Robert de Grindsdale, or were professional soldiers from Westmorland like Roger de Lancaster⁴⁵.

Probably, in common with other local commanders, Harclay made efforts to provide himself with advance warning of impending Scots attacks. In July 1314 he wrote to the king warning that the Scots were expected to attack through the West March, probably with a view to capturing Carlisle, though he also tried to whip up additional alarm by suggesting that the Scots would try to capture the king himself if they did not attack Carlisle⁴⁶. His information proved to be poor. The Scots, in fact, had already attacked down the east coast plundering Northumberland and passing through Durham, raided as far south as Richmond. Then they crossed the Pennines through Swaledale before returning north through Kirkoswald having first plundered the Clifford lands in Westmorland, wholly immune from the attentions from the small garrison in Appleby

43 Lanercost, 229

44 E.101/14/15, m2

45 ibid

46 Bain, CDS, v3, no 369

and undeterred by a raid mounted against them by Harclay and his men who intercepted them at Stanemoor early in July ⁴⁷.

Harclay has been extravagantly praised for his efforts in defending Carlisle during this period but the truth appears to be that they were almost wholly ineffective ⁴⁸. The Scots continued to come and go almost at will and the only practical way of stopping their depredations remained the payment of ransom. Harclay did mount some brief raids against the Scots in November but the good these did was negligible though they tend to disprove the belief that if the Scots could have been engaged they could have been defeated for the English forces suffered heavy casualties. The Scots continued to press their advantage and raised Northumberland late in 1314 and during the early months of 1315 ⁴⁹. According to the Lanercost Chronicler, they effectively conquered north and south Tynedale, where the men did homage to Bruce and then joined in the attack on their neighbours in Gilsland ⁵⁰.

In simple terms it appears that Tynedale was brought under Scottish rule and there is documentary evidence to support this conclusion, though Bruce is not generally believed to have attempted to annex English territory before 1329. The first of these pieces of evidence was originally printed in the nineteenth century and was afterwards printed by V. H. Galbraith from the Historia Aurea of John of Tynemouth. Briefly it is a little noticed chronicle which records the grant of Falstone in Tynedale to Philip de Moubray by Robert I of Scots ⁵¹.

47 Lanercost, 229

48 Morris - 'Military Levies'; Trans of C&W II, v3 (1903) ~~317~~ Mason - 'Andrew Harclay', Trans of C&W II, v29 (1929) 108.

49 E.101/14/15, mm4d, 9

50 Lanercost, 229

51 G W S Barrow - 'A Note on Falstone', Archaeologia Aeliana, Series 5, v2 (1974), 164

This in turn is confirmed by two other pieces of proof which demonstrate that not only was the English government aware that Tyndale had been occupied, but even that it accepted the fact. In 1315 the people of Tynedale petitioned the king that whereas they had made fine with William de Soules, to whom they said Bruce had granted Wark in Tynedale, so that he would not exercise his rights of lordship over them, they had in fact no choice but to accept him as their lord and they asked to be allowed to enter Cumberland and Westmorland ⁵². Apparently aware of this situation in December 1315 the government commissioned Anthony de Lucy to attack them and he was granted any plunder he might take from the Scots as well as the issues of any of the king's lands which had been occupied by the Scots which he could collect ⁵³.

The actual loss of English territory to the Scots was the most dramatic illustration of the crisis which affected the government of the north of England after Bannockburn. This partial collapse, the isolation of the region, the local orientation of the local communities of the area and, perhaps above all, the urgency of the war effort meant that Cumbria was less fully integrated into the political development of the realm than were other districts. As a result it would not be accurate to portray the conflict between the king and the Earl of Lancaster as the driving force behind political alignments and appointments in the region, though did have an influence on the region. Thomas of Lancaster was not without contacts in the region through his retainers Adam de Hudlestone, John and Michael de Harrington and William de Dacre ⁵⁴. Royalist influence, however, was strong enough to counter-balance the

52 J Hodgson - A History of Northumberland, Part 2, v3 (Newcastle 1840), 21

53 RS, v1, 152

54 Maddicott - Lancaster, 50-55

Lancastrian party particularly in the north of the March. The royalist sympathies which had existed in the north of England in 1310 had not wholly evaporated by 1314, though death had certainly thinned their ranks. Local support was mustered through the royal household. One important local figure was John de Castre. The Harclay family were also more closely associated with the crown than with any other potential focus of loyalty. John de Harclay is known to have become a king's yeoman by 1316. The crown also maintained close links with the Lucy family and in 1315 and the three following years, Thomas de Lucy, the son and eventual heir of Anthony de Lucy, was paid five marks as a simple knight of the royal household⁵⁵. It would be inaccurate to visualise a coherent royalist affinity in the region, however, and there were many individual feuds and rivalries within the broader royalist party.

The defeat of the royal army at Bannockburn was a decisive blow to Edward II's government and it inaugurated an administration dominated by the Earls of Warwick and Lancaster. The chief problem facing the new administration was the defence of the north and this brought the government firmly into contact with the problems of the West March. The position of the Ordainers was strengthened by their former links with Robert de Clifford. While Clifford had been closely associated with the court in 1311, among the favours he had received from Edward was the concession that his executors should have the administration of his estates after his death. Clifford's executors were Bartholomew de Badlesmere, the Earl of Warwick, and Henry Percy and in the highly charged climate this concession gave the executors a role which had obvious political connotations⁵⁶. The administration of Clifford's lands allowed Warwick and Badlesmere to expand their influence

55 CFR 1307-19, 298. British Library, M S Cotton Nero, C8, ff223, 224

56 CPR 1307-13, 320

in the north of England, though as holder of Barnard Castle, Warwick was already well established there. A vital part in this process was forming effective links with local gentry and there is some evidence that they were able to pursue this objective successfully. Robert de Leyburn, who had served under Clifford and earlier under the Earl of Lincoln, served as the attorney for Warwick and Badlesmere to receive seisin of Clifford's lands ⁵⁷. Later Badlesmere formally retained one of Clifford's former men, John de Penrith, in his own service ⁵⁸.

During the years after Bannockburn, however, the Ordainers were not restricted to the exercise of powers which devolved to them by virtue of their position as Clifford's executors. Much of the ordinary exercise of government patronage was in their control and they were able to use it to advance and reward their supporters. In March 1315 Thomas of Lancaster's retainer, William de Dacre, was appointed to the Stewardship of the Forest of Inglewood, for example ⁵⁹. The power of the Ordainers to impose their will on the West March was not unrestricted, however. Though they felt the need to institute a wholesale purge of the shrievalties Cumberland provided one of only two exemptions to this process ⁶⁰. There were probably several reasons for this. One was the immediacy of the threat to the West March, but the example of the dispute between Harclay and de Castre in 1312 demonstrated that castellans of Carlisle could be changed more easily in theory than they could actually be forced to give up custody of the castle. The Ordaining government may well have entertained real doubts as to whether they had

57 CFR 1307-19, 212

58 Phillips - Aymer, 255

59 CPR 1307-19, 225

60 T F Tout - The Place of the Reign of Edward II in the English History (Manchester 1936), 101 and note

the necessary local muscle to displace Harclay if he proved obdurate. They sought to place control over the region by another means, that of appointing Ralph FitzWilliam as custodian of Carlisle and keeper of the March ⁶¹. FitzWilliam, Lord of Greystoke, was a former ally of Warwick and Lancaster in the attack on Gaveston and he was, in many ways, a suitable choice ⁶². He had long experience of northern affairs and the necessary local power base but he was still to face severe difficulties.

Fitz William's major problem was to exert his authority over Harclay. Harclay was by this time well established in Carlisle and he made Greystoke's task a difficult one. The evidence for the dispute between FitzWilliam and Harclay consists chiefly on a series of complaints against Andrew and John de Harclay contained in a document which was printed by Joseph Bain ⁶³. It has long been accepted that though Bain did invaluable work in collecting and editing documents in the Public Record Office, pressure of time on occasions prevented him from devoting enough attention to the dating of some documents, forcing him to rely on nothing more than informed guesswork. So it was in the case of this document which Bain attributed to 1319. In fact, it relates to the summer of 1315 and was probably drawn up not more than a few months later. There are several reasons to suggest that 1315 was, in fact, the date to which this document refers. The first clue is provided by the repeated references to the obstructions placed by Andrew and John de Harclay in the face of Ralph de Greystoke as he attempted to set about his duties. It is self evident that this cannot, in fact, refer to 1319 since FitzWilliam died before then, certainly before February 1317

61 RS, v1, 140, 141

62 CPR 1313-17, 22

63 Bain, CDS, v3, no 675

in fact ⁶⁴. More positive evidence is provided by the fact that Greystoke served as custodian of Carlisle only from March 23 1315 to July in the same year, when he was replaced by Harclay ⁶⁵. Other evidence confirms this dating. The first charge brought against John de Harclay alleged that he had removed victuals from the store after the death of Gilbert de Bromley. Bromley died in the winter of 1315 and again this would suggest that the alleged events took place in the spring of that year. This was also the period in which Richard de Kirkbride served as keeper of the peace, an office which he is described as exercising in the complaints. Finally, the document describes how, when Ralph FitzWilliam arranged forays against the enemy with the advice of the best people of the county such as Richard de Kirkbride and Anthony de Lucy, John Harclay took steps to thwart these efforts. Since Lucy was captured after Bannockburn and cannot have returned to Cumberland before the spring of 1315 this must be reckoned as the starting date for the complaints' probable origin ⁶⁶.

If it is possible to establish the period of the origin of the complaints brought against Andrew and John de Harclay with high degree of certainty, it is much harder to assess the accuracy of the complaints since the charges were brought in a blatantly partisan way. The first of the eight allegations complained that after the death of Gilbert de Bromley John de Harclay, having been denied victuals to which he claimed that he was entitled, broke into Carlisle Priory where the supplies were being stored and helped himself to a quantity of the best wine held there which he later gave away to Thomas le Clerk of Moffat, one of Bruce's

64 CIPM, v6, no 50.

65 RS, vl, 141, 142, 147; CFR 1307-19, 270

66 Lanercost, 229

closest adherents it was alleged⁶⁷. Leaving aside the charge of trafficking with the enemy, which is a recurrent theme in the document, there may well have been grounds for suspicion over the fate of the victuals stored at Carlisle. After Bromley's death an enquiry was ordered to be held to discover what had happened to them. This enquiry was held by Andrew de Harclay and Robert de Welle, however, so that it was unlikely, to say the least, to have condemned John de Harclay's part in the matter⁶⁸.

This was later regarded as unsatisfactory and a further enquiry was ordered shortly after John de Castre replace Harclay as sheriff⁶⁹. De Castre evidently thought that the misappropriation which had taken place was the work of the Harclay family and he seized a quantity of victuals from the house of Henry de Harclay, Andrew's nephew, under the pretext of his office⁷⁰. There remains room to doubt, however, whether de Castre's inquisition was any more accurate than that held by Harclay.

The second, fifth, sixth and seventh charges against the Harclay brothers may be considered together. They all allege that Andrew and, more especially, John de Harclay maintained close contacts, not only with convicted criminals but also with the Scots. It was alleged that one Adam Greenhead, who had been captured in Tynedale and brought to Carlisle on the order of Andrew de Harclay had been released from the castle, then in the keeping of Ralph FitzWilliam, and taken to the Solway by John de Harclay who had ransomed Adam and one, John Notehode, to the Scots for 200 and 12 marks respectively. Both, it was claimed,

67 Bain, CDS, v3, no 675

68 CPR 1313-17, 326

69 RS, v1, 154

70 Bain, CDS, v3, no 674

later joined a band of schavaldors and committed robberies in England to pay their ransoms. John de Harclay was also accused of releasing the picturesquely named Black Adekin from gaol and allowing him to go free in Nichol Forest. In the sixth complaint it was alleged that John de Harclay had warranted as a good liegeman John Mareschal, who had later joined the Scots after he and John de Prendergast had surrendered the peel of Liddel to them. The seventh charge alleged that two of the Harclay's men, after being discovered trading with the Scots by Greystoke's followers, simply joined up with them. On all these charges it is impossible to reach any decisive verdict, though it seems probable that extensive trafficking with the Scots and with local bands of renegades or schavaldors did take place. It is wholly uncertain how far either of the Harclay brothers was involved in this, however. One albeit insubstantial clue to the truth of the allegations brought against Andrew de Harclay may lie in the fact that after John de Castre was appointed as sheriff of Cumberland in 1316 Richard de Kirkbride was among those who refused to deliver custody of the castle to him, probably from some degree of loyalty of Harclay. It seems hard to understand why Kirkbride should have opposed Harclay's replacement if he believed that Harclay had been responsible for the release of suspected criminals. It also seems puzzling why he should have done this if John and Andrew de Harclay had obstructed his attempts to raise forces for attacks on the Scots as the third and fourth charges brought against them alleged, but there may well be a degree of truth in the fourth charge brought against John de Harclay that by false indictments he had forced the best and richest people of Liddell and Gilsland to the adherence of the Scots. Extortion of money by means of false indictments was common in Cumberland in peacetime and the war provided outstanding opportunities for unscrupulous officials. Other castellans of castles

in the Marches were also guilty of similar extortions ⁷¹. The truth of the allegation that John de Harclay's exactions had forced the people of Gilsland and Liddell to the Scots is also partially borne out by other evidence, that the English lost control of Tynedale at about this time and many of the people of Gilsland may also have changed their allegiance ⁷².

The series of contradictions and partial inconsistencies in the charges against Andrew and John de Harclay make any final assessment of the reliability of these charges as a whole impossible and as a result the value of the document for the history of Carlisle remains questionable. The document has considerable value, however, for the history of the disputes over the custody of Carlisle which were conducted both locally and at court. At the most basic level the complaints prove nothing more than the unremarkable fact that Harclay was not without his enemies at this stage of his career and that these enemies were prepared to use 'smear' tactics in their campaign against him. It seems very probable that these complaints, or some very closely related to them, were the false rumours which Harclay's friends claimed were being circulated at court in an attempt to discredit him after his capture by the Scots ⁷³. The question of the originators of these complaints is not possible to discover but there are two likely suspects. The first is Ralph Fitz-William, the displaced warden of the March, who may well be the most likely choice since he was the alleged victim of six of eight of Harclay's supposed crimes. Since Greystoke was replaced by Harclay early in July he may have sought to pin the blame for his apparent failure on Harclay. The other possible originator of the charges against Harclay was John de

71 Bain, CDS, v3, no 463 for other examples

72 see below

73 Bain, CDS, v3, no 515

Castre, the household knight, as later events proved was deeply hostile to Harclay perhaps not only since both were rivals for the command of Carlisle.

As the writer of the list of complaints made against Harclay may well have known, Ralph FitzWilliam's tenure of the wardenship of Carlisle proved to be short and early in July 1315 Harclay was re-appointed as custodian of Carlisle and sheriff of Cumberland ⁷⁴. If he had set out to subvert Greystoke's authority, his campaign had been successful. Almost immediately, however, he faced a renewed threat from the Scots. The Scots made a determined attempt to take the city of Carlisle and this provided perhaps Harclay's greatest military challenge. The seige has generally been believed to have begun on 22 July 1315 and the detailed narrative offered by the Lanercost Chronicler which provides this date, has much to commend it ⁷⁵. Two other sources can be used to add to the information available for the seige of Carlisle and these suggest that the attack mounted on the city was longer than has been generally accepted. The Chronicle of St. Mary's Abbey York, which contains important material collected at St. Bees, suggests that the Scots first arrived on 20 July, two days before the Lanercost account, but according to a petition later presented by the citizens of Carlisle, detailing their sufferings, the seige began on 14 July and continued until 3 August ⁷⁶. The apparent inconsistencies in the three possible dates for the seige seem best to be reconciled by the suggestion that the first Scots force arrived near Carlisle in the middle of July and the way having been prepared the main Scots force, together with such seige engines as they possessed, probably arrived on 20 July while the

74 RS, vl, 147

75 Lanercost, 230, see for example Maddicott - Lancaster, 169

76 Chronicle of St. Mary's York; Bain, CDS, v3, no 621

Scots king himself, who was reported to have taken the capture of the city so much to his heart that he had taken a vow not to eat meat before he had captured it, arrived on 22 July ⁷⁷. Bruce also took more practical steps to extend his control over English territory. According to a later petition presented by Richard de Kirkbride, while Bruce was at Carlisle, he not only knighted Walter de Corry, one of the co-parceners of the barony of Levington, but also granted him the lands belonging to the other co-heirs, one of whom was Kirkbride, both in Scotland and in England ⁷⁸.

Harclay was placed in command of the defences of Carlisle shortly before the attack began and he appears to have had some warning of it. On hearing of the Scots approach he resorted to scorched earth tactics and burned the buildings of the city which stood outside the city wall, including a tannery and mills belonging to the Prior of Carlisle. He also arranged for a ditch to be dug round the outside of the walls. The city gates were blocked up, leaving only a small postern and houses within the city were knocked down to provide additional material to work on the walls themselves including a tower, which was built to stand above an engine the Scots later attempted to bring up against the wall ⁷⁹. The seige itself is described in detail in the Lanercost Chronicle and it is clear it was fiercely contested on both sides. The Scots attempted to fill in the castle moat with fascines and they tried all of the city's gates in turn looking for a weakness. Another tactic was a diversionary assault to create an opportunity for a main attack on another part of the wall ⁸⁰. The Scots also raided the surrounding countryside. On July

77 Lanercost, 230

78 Bain, CDS, v3, no 528

79 ibid, nos 524, 621

80 Lanercost, 231

24th a group of Scots led by James Douglas left Carlisle and attacked Copeland under cover of darkness. Meeting with no resistance they burned Cleator Moor and Stainburn and also robbed and despoiled the church of St. Bees⁸¹. Douglas returned from this raid to lead an attempt to scale the city walls using rope ladders and grappling hooks. As a result of the determination with which the defenders stuck to their task even this tactic proved unsuccessful and the Scots retreated soon afterwards probably to avoid a large English force led by the Earl of Pembroke which was advancing north to relieve the city⁸². The English forces, no doubt elated by having set the Scots to flight, began to pursue them as they retreated northwards. In this they met with only partial success. A group of the Carlisle garrison led by Harclay made two valuable captures, John de Moray and Robert de Bardolf but on the whole the expedition was ill-judged⁸³. The retreating Scots led Valence's men into a trap later, turning to attack them and inflicting severe losses⁸⁴.

The successful defence of Carlisle was an important victory for the English side. Had the city fallen it would have been as great a loss as that of Berwick in 1318. There can have been few illusions, however, at how narrowly the loss of the city had been averted. Equally the chances that the Scots would make another attempt were high and they were unlikely to repeat such mistakes as allowing the siege engine to become bogged down in mud if they did. The state of the March remained, in short, desperate and the borderers looked anxiously to the king for

81 Chronicle of St. Mary's York, 68

82 Vita, 62

83 Lanercost, 23; Guisborough, 397

84 Guisborough, 397. Compare the interpretations offered by Barrow - Bruce, 338; Maddicott - Lancaster, 170-171; Phillips - Aymer, 89; Fryde - Tyranny, 121

assistance. It seems almost certain that it was from this period that one of the best known documents from the border in the reign of Edward II dates. The petition was printed by both Stevenson and Bain and though Stevenson's text is to be preferred, Bain's has been more generally used⁸⁵. Stevenson printed the text in a form close to the original, in Norman-French, complete with marks for abbreviation and left the date no more narrowly defined than the reign of Edward II. Bain, however, was more ambitious, though he still left the date as provisional. He suggested that the petition might date from 1322, which fitted in well with the belief he expressed that the treaty Harclay made with the Scots in 1323 was in the best interests of the local population⁸⁶. Bain's tentative dating was accepted as definitive by Mason, whose work followed Bain closely, though not closely enough to take notice of Bain's note of caution⁸⁷. It is almost impossible to believe, in fact, that the petition does date from 1322. The Marchers related their sufferings in graphic terms and concluded with two requests, firstly that the commission of Andrew de Harclay, who was described as 'gardeyn de la Marche de Kardoill' be changed since his present commission was inadequate for him to provide for the defence of the city. The second request was that the king should come to the rescue of the border in person with a large force. The endorsement of the petition by the council makes it clear that Harclay was warden, not of the whole of the March, but only of the city of Carlisle, the post he held in 1315 rather than the more extensive powers he held in 1322. A second fact supports this. Had the petition dated from 1322 it could be reasonably expected that it would refer to Harclay as Earl of Carlisle,

85 Lanercost, Illustrative Documents, no 50; Bain, CDS, v3, no 799

86 Bain, CDS, v3, xxxi

87 Mason - 'Andrew Harclay'; Trans of C&W II, v29 (1929), 111, 112

since the first Scots raid into Cumberland took place in June of that year while Harclay was ennobled in March. Before then there had been two years of truce on the Border⁸⁸. Though there may have been no certain rule, the conventions were generally respected. Even the threatening summons ordering Harclay to court after news broke of his treaty with the Scots was careful to use his title⁸⁹. An additional problem if the document had really originated in 1322 would be to explain the Marcher's reference to the eight years of suffering which the Marchers had endured in the king's service. It is hard to find any significant anniversary that the petition should refer to in 1322, but the term fits in very comprehensibly with the other evidence which links it with 1315, for Edward II's eighth regnal year ended shortly before the Scots began the seige of Carlisle⁹⁰. Left with 'nothing but their naked bodies' the borderers eagerly looked for succour to the king. Their entreaties drew only a very uninspired response. The council simply ordered that Harclay be directed to harass the Scots in any way he could⁹¹.

If we accept that the petition in question originated in 1315 a partial mystery in Harclay's career become more clear. Harclay was re-appointed as custodian of Carlisle in September 1315 with a commission to last until midsummer 1316⁹². In November 1315 he was still in high favour and was granted an assignment of any available wardships to the value of 1000 marks as a reward for his part in the capture of Bardolf and Moray⁹³.

88 Lanercost, 240

89 CCR 1318-23, 692. Harclay was created as Earl of Carlisle on 25 March 1323. CPR 1321-24, 93, see for example CCR 1318-23, 555 also Bain, CDS, v3, 773, 780, 802.

90 Cheney - Handbook of Dates, 20

91 Lanercost, Illustration Documents, 50

92 RS, vl, 149

93 Bain, CDS, v3, no 456

Shortly afterwards the confidence of the court in his abilities seems to have declined. In December a sharply worded missive accusing him of negligence in the defence of Carlisle was issued and it seems highly likely that this was the result of the complaints from the Marchers about their situation and the council's suggestion that Harclay be enjoined to greater efforts⁹⁴. Other complaints against him may also have been circulating at court. Malicious rumours were alleged to be being put around at court against him shortly afterward, but so far from being ignored as Mason suggested, it is clear that together with the complaints from the borderers that they were not being sufficiently protected, these were enough to undermine the court's confidence in Harclay and the decision was taken to relieve him of the command of Carlisle⁹⁵.

The choice for Harclay's replacement in Carlisle fell on John de Castre, a household knight who was in many ways the understandable choice, since he had considerable experience against the Scots and as commander of Carlisle. On 22 January 1316 a mandate was issued from Clipston appointing de Castre as custos of Carlisle and ordering Harclay to deliver it to him⁹⁶. De Castre found considerable difficulty in taking possession of the castle, however. On 3 February a further order had to be issued to instruct the garrison of Carlisle, including Richard de Kirkbride, Robert de Leyburn, John de Harclay and Patrick de Culwen threatening them with forfeiture if they did not obey the order to deliver Carlisle castle to de Castre⁹⁷. It seems probable that the absence of Harclay himself from the list of the garrison of Carlisle was

94 RS, vl, 149

95 Bain, CDS, v3, no 456

96 RS, vl, 152

97 *idem*

a result of his having been captured by the Scots shortly before.

According to Barbour's Bruce, Harclay was captured in Eskdale by John de Soules, lord of Eskdale, who defeated Harclay's large force with a much smaller one of only 50 men ⁹⁸. Though Barbour may have adjusted his tale to cast a more favourable light on de Soules, there is a slight confirmation that Harclay's capture reflected rather less than creditably on him, probably because he allowed himself to be caught in an ambush, since after his capture his valet John de Beauchamp was charged with giving a full account of how he came to be captured ⁹⁹.

De Castre seems to have set a high priority on weakening Harclay's influence and Harclay's absence made this process much less difficult. The eclipse of Harclay was by no means the only, or even the most important, political development on the West March during these years. Without doubt the most important event of the period, after the seige of Carlisle was the death in August 1315 of the Earl of Warwick ¹⁰⁰. The author of the Vita, who thought Warwick to have the ability to lead the whole country believed this to be a disaster, but it had a special bearing on the north of England ¹⁰¹. The vacuum which was created by the death of the Earl of Warwick was immediately filled by the Earl of Lancaster who was appointed as the commander of the forces in the north early in August ¹⁰². Much more dramatic events followed and it is clear that these were part of a sustained attempt to establish Lancastrian dominance on the West March, made possible by the death of Warwick. The principal sufferers from Warwick's death were the Clifford

98 W Skeat - Barbour's Bruce (Early English Text Society 1874), Book 16, lines 508-520

99 Bain, CDS, v3, no 514

100 The precise date of Warwick's death is discussed by Phillips - Aymer, 92 and note

101 Vita, 62, 63

102 Phillips - Aymer, 92

family. Warwick had been the most powerful of Clifford's executors and it is clear that during his lifetime the family's interests were well protected. A request by the monks of Holm Cultram for the advowson of the church of Brough under Stanemoor was refused, for example, to protect the rights of Clifford's heir¹⁰³. In the autumn of 1315 this situation changed abruptly and the vulnerability of the Clifford's position became immediately obvious. The most dramatic illustration of this new-found vulnerability was the abduction of Maud de Clifford, Robert's widow, by Jack the Irishman, the castellan of Warwick's former castle of Barnard Castle, where she remained until a rescue was organised by Pembroke, Henry FitzHugh and Bartholomew de Badlesmere¹⁰⁴.

Another serious blow to the Clifford's fortunes took place a little after this, in fact, was to have the most long lasting consequences. The territorial gains made by Robert I de Clifford during the early years of Edward II's reign have already been discussed but it is clear that he planned to provide for his younger son Robert II as thoroughly as he had provided for his elder son, Roger IV. The tool chosen was marriage and Robert's bride was to be Margaret de Multon, the daughter and sole heir of Thomas V de Multon of Gilsland. According to the Lanercost Chronicle, the marriage took place at Hoff in Westmorland, a very suitable location since it was a Clifford fee held by a cadet line of the Multons, probably in 1307¹⁰⁵. The date of the marriage can be determined by the ages of the respective parties. The Lanercost account seems to be best interpreted as suggesting that when the marriage was contracted Margaret de Multon was seven years of age. The best available information on Margaret's date of birth is from a plea for proof of age

103 Bain, CDS, v3, no 529

104 Bridlington, 48, 49

105 Lanercost, 223; Feodary, 283

entered by Margaret's eventual husband, Ranulph de Dacre, which suggests that she was born on 20 July 1300¹⁰⁶. Robert de Clifford was unquestionably of tender years at the time of the marriage since he lay in his bed during the betrothal. Despite the extreme youth of the parties and a pre-existing arrangement between de Multon and William de Dacre, the match was a very good one for the Cliffords since it would provide the cadet line with a very large estate on the boarder leading to almost total Clifford dominance in the region. Neither party attempted to make good their claim before 1315, however, and Margaret de Multon seems to have joined the household of the Countess of Warwick¹⁰⁷. Late in 1315 or in January 1316, but certainly before February 1316, Ranulph de Dacre seized the opportunity offered by the eclipse of power of the Cliffords and the death of the Earl of Warwick, abducted Margaret from Warwick castle and married her with all possible speed. Just as quickly he took steps to gain possession of her inheritance and sued out a writ for proof of age¹⁰⁸. Ranulph's father, William de Dacre, was a retainer of the Earl of Lancaster and there seems to be a high probability that Lancaster connived at, or approved, the abduction of Margaret from Warwick¹⁰⁹. Ranulph's marriage to Margaret de Multon established him as potentially one of the leading magnates on the West March but he was not able to gain possession of Gilsland, Burgh by Sands and the other Multon lands immediately. Indeed for a spell Dacre remained in disgrace for the offence of abducting a minor in the king's custody. By June 1316 the Dacre family had managed to gain some degree of control over them. They were placed in the charge of Adam de Skelton. William de Dacre

106 Complete Peerage, v4, 2 This date seems preferable to that suggested in CIPM, v8, no 308

107 Davies - Baronial Opposition, App Doc, no 102

108 Complete Peerage, v4, 2

109 Davies - Baronial Opposition, App Doc, no 102

mainprised for Skelton to answer for the revenues of the estate if they should turn out to belong to the crown suggesting that Skelton had close links with the Dacres ¹¹⁰. Ranulph de Dacre's large gains of land by marriage to Margaret de Multon were matched by the rising importance of William de Dacre in the region, a rise which may have owed much to Lancaster's sponsorship.

Lancaster's influence in the West March seems to have reached something of a peak in the summer of 1316. In August a commission was issued for the levying of all the available men between 16 and 60 and this reflected Lancaster's influence very clearly ¹¹¹. Two of those appointed in Cumberland and Westmorland, William de Dacre and John de Harrington were known Lancastrian retainers while the third, Anthony de Lucy had no known links with any of the leading magnates at this time. There were limits to Lancaster's power, however, and a commission to allow rebel Scots back into the king's peace showed them ¹¹². Two of the four appointed were Adam de Swinburn, who also seems likely to have had links with Lancaster, while the others were Lucy and the known royalist John de Castre ¹¹³. De Castre had been appointed to hold Carlisle early in 1316 and though this co-incided with Lancasters greatest period of influence the appointment had been made in Lancaster's absence and probably against his wishes ¹¹⁴.

The dispute between Lancaster and the court over appointments was not the only struggle on the West March at this time. An intense and potentially very damaging feud was also being waged between two

110 CFR 1307-9, 283

111 RS, vl, 160

112 ibid, 162

113 Maddicott - Lancaster, 206

114 S.A.MS 121, f110; Maddicott - Lancaster, 180, 181

rival broadly 'royalist' factions, centred round John de Castre and Andrew de Harclay. After Harclay's capture early in 1316, de Castre's party was temporarily in the ascendant. Probably very shortly after de Castre took command of Carlisle he hit out against Harclay's party and replaced John de Harclay as sub-sheriff by his own man John de Kirkoswald. He then mounted a raid on goods belonging to Henry de Harclay, claiming that they had been stolen from the garrison stores ¹¹⁵. Harclay's reputation at this time can be gauged from the size of the ransom the Scots demanded for his release which was finally set at 2000 marks. This sum was so large that Harclay could not raise it without assistance ¹¹⁶. A group, styling themselves as Harclay's friends, though lacking any more definite identification, petitioned the king on his behalf and to good effect. In July 1316 400 of the 1000 marks obtained from the ransoms of Moray and Bardolf were assigned towards Harclay's ransom and soon afterwards a further sum of 1600 marks in cash and in the form of prisoners was allowed for it and John de Harclay left for Scotland to arrange his brother's release in August 1316. It seems unlikely that Andrew Harclay returned to England before August 1317 and John de Castre used Harclay's absence to expand his own position ¹¹⁷. Harclay's friends accused him of trying to prolong Harclay's absence by obstructing arrangements for the payment of his ransom ¹¹⁸.

De Castre was established in command of Carlisle from the summer of 1316 but it is not certain whether any clear command structure existed between the custodian and the garrison in the city of Carlisle and those in the

115 Bain, CDS, v3, no 674

116 *ibid*, 514

117 *ibid*, 515, 516, 697

118 *ibid*, 515

outlying strongholds. The garrison of Carlisle castle consisted of a mixed force of 25 men at arms, excluding de Castre himself, a force of hobelars, 6 crossbowmen and 40 foot archers¹¹⁹. This basic force could be supplemented in the event of an attack by the Scots. In July and early August, Richard d'Umfraville and Richard de Denton joined the garrison though independent of de Castre's retinue with their followers because of an expected raid. The city had its own garrison commanded by Richard de Kirkbride with a force of 6 knights and 57 esquires. De Kirkbride was among those who had tried to deny de Castre access to the castle earlier in the year and may thus tentatively be assigned to the ranks of Harclay's supporters¹²⁰. Another member of this group was Robert de Leyburn, Harclay's brother in law. Whatever Leyburn's alignments within the disputes going on in the region he was in other respects typical of the hard-nosed group of military entrepreneurs on whom much of the defence of the borders fell at this time. Leyburn held Cockermonth under a fixed contract with 11 men at arms and 20 hobelars taking for his own wages only a knights fee of 2 shillings per day¹²¹. The castles of Brougham and Appleby were held on a different basis. They were held by Bartholomew de Badlesmere during the minority of Roger IV de Clifford. Of 42 men who were in the garrison of these castles only part, 30 men were paid by the crown. The rest were paid by Badlesmere¹²². A similar situation existed at Brough under Stanemoor which was held by Robert de Welle who had married Maud de Clifford in December 1315. According to the agreement de Welle had made with the king, of the 15 men at arms and 20 hobelars in the garrison, the crown was to pay for only 10 men at arms and 10 hobelars. Castles wholly in private hands such as Egremont were presumably garrisoned entirely at

119 S.A. MS 120, f88

120 RS, vl, 175

121 S.A. MS 120, f86

122 *idem*

their lord's expense but these garrisons were probably under-staffed.

Andrew de Harclay's return to a position of influence after his captivity in Scotland was a gradual one. Though it is clear that he had not wholly forfeited the confidence of the court, he found many of the chief positions in the defence of the March blocked. The custodianship of the March and the captaincy of Carlisle were filled. As a result his first commission after his return was merely a licence to accept Scots back into king's peace¹²³. This was probably a sign that Harclay organised and led an independent force of horse against the Scots at his own expense, living on whatever they could capture. Harclay was not forgotten by the government, however, and in September 1317 he was assigned the farm of Carlisle, the cornage of Cumberland, the issues of Inglewood and the lands of Thomas V de Multon of Gilsland, John de Wigton and Thomas de Derwentwater.¹²⁴ This assignment was against a debt of £1951 which Harclay was owed for wages from the time when he was in charge of Carlisle. Harclay's advancement was blocked by the continuing fortune of the Dacre family, however. In October 1317 Ranulph de Dacre was ordered to be given seisin of the lands belonging to Margaret de Multon on proof of her majority being accepted¹²⁵. Harclay was thus deprived of Gilsland and the other Multon lands. More seriously, in November 1317 William de Dacre was appointed to hold the March of Carlisle in conjunction with Harclay's antagonist John de Castre¹²⁶. The arrangement of this dual commission was a complicated one but this does not seem to have made it any less effective than any other attempt to organise local defence. De Castre commanded the

123 RS, vl, 175

124 CPR 1317-21, 30

125 ibid, 39

126 CFR 1307-19, 344

garrison of Carlisle with 25 men at arms, 10 hobelars, 40 foot archers and 6 crossbowmen while Dacre and Anthony Lucy with a force of hobelars and men at arms took responsibility for the peel towers of Scaleby, Dunmalloght and Staward in Tynedale. Cockermouth remained in the custody of Robert de Leyburn who was admitted to the royal household early in 1318¹²⁷.

The main thrust of Scottish activity during 1318 was directed down the East March where they achieved notable success in gaining control of Wark on Tweed, Harbottle, Mitford and most importantly Berwick¹²⁸. Such partial respite as the West March gained was largely spent in a renewed dispute for dominance in the region, a struggle which was complicated by a co-incident break-down of relations between the king and Lancaster. At the heart of the dispute was the custody of Carlisle castle. Under the patronage of Badlesmere, Harclay again aspired to regain his former post. In June 1318, at Badlesmere's instance, he was re-appointed to custody of the March, replacing de Castre¹²⁹. The earlier situation was now reversed, however, and de Castre refused to surrender the castle to Harclay¹³⁰. Again a potentially damaging local dispute developed and in July Harclay was ordered not to try to interfere with the custody of the castle or to try to gain custody of it, notwithstanding the recent commission he had been issued. De Castre was ordered to depute one of his men to hold the castle in his name and both men were summoned to the king so that the matter could be settled. The form of settlement was a compromise neither man being re-appointed

127 S.A. MS 121, ff42, 168

128 Lanercost, 235

129 CFR 1307-19, 363

130 CCR 1318-1324, 1; Compare Mason - 'Andrew Harclay' who concluded that "Harclay's devotion to the king's service exceeded his commission". at 110

and the beneficiary was Anthony de Lucy who took charge on 4 August 1318, his rise being highlighted by promotion to banneret ¹³¹. Lucy's appointment was one of a series of complicated and important but obscure re-alignments that took place on the West March during this period, which were probably connected, at least to some degree with the contemporary settlement between Edward II and Lancaster. Lucy may have been a compromise acceptable to both parties since, though he had served with known Lancastrians such as William de Dacre, who died around this time, he had never been directly associated with the earl.

Much more important than Lucy's appointment was the return of Clifford dominance in Westmorland. On 29 July 1318 it was ordered that Roger IV de Clifford should have possession of his lands even though he was still under age ¹³². The reason behind this decision may have been partly financial, since it relieved the crown of the obligation to find any part of the wages of the castle of Brougham, Appleby and Skipton, but it had important political results too. The Clifford lands had provided a power base on the March for Bartholomew de Badlesmere and the restoration of them to Roger IV ended his power there. Since Badlesmere seems to have been Harclay's patron during 1317 and 1318, this may have been a blow to him in turn. Harclay's political links at this time are another mystery. On 1 November along with a large number of known Lancastrians, he was granted a pardon for all the trespasses he had committed up to 7 August 1318 ¹³³. This pardon raises several problems. The most serious of these is the fact that there is no other evidence linking Harclay with Lancaster since he

131 S.A. MS 121, f42

132 *ibid*, f39; CFR 1307-19, 370, 371

133 CPR 1317-21, 228-229

had attended the Dunstable tournament. A second, though much less important discrepancy is provided by the fact that the pardons are enrolled to Andrew and John, the sons of Michael de Harclay. It is not easy to understand why, ten years after Michael de Harclay's death, this style should be revived when it had not been in general use before or afterwards ¹³⁴. A third and more serious difficulty is provided by the absence of any other signs that Harclay had displeased the court. He was granted a renewed commission to receive rebel Scots back into peace on August 7, the operative date for pardons granted to Lancastrian followers ¹³⁵. Three possible explanations seem plausible for Harclay's being granted a pardon in 1318, though none of them seems unassailable. Firstly it cannot be accepted beyond reasonable doubt that the Andrew de Harclay pardoned was the future Earl of Carlisle. Secondly it is possible that Harclay's name found its way on to the lists of those to be pardoned from earlier lists of those who had links with Lancaster or another of his adherents, perhaps dating back to 1309. This would explain the reference to Harclay's father which might make more sense in the context of the earlier years of Edward's reign. Finally, and in light of the later events, this explanation seems the most satisfactory, the pardon may be connected more with Harclay's attempts to gain control of Carlisle castle earlier in the summer than with any part he had played in support of Lancaster even though it had become, in some way, with the larger mass of pardons granted to Lancaster's supporters.

Anthony de Lucy's period as commander of the West March during the Autumn and Winter of 1318 and early 1319 co-incide with one of the

134 See for example CCR 1313-18, 127

135 RS, v1, 170

spells of paralysis endemic to Edward II's war effort. Though there was probably no justifiable reason to associate Lucy with this inaction, when a renewed accord between Edward and the Earl of Lancaster led to a more vigorous military policy, Lucy was passed over and Harclay was re-appointed¹³⁶. Harclay was re-appointed as custodian of Cumberland and Westmorland in April 1319. He was also granted control of the castle and manors of Cockermouth to provide him with additional resources for his operations¹³⁷. This was a direct blow to Anthony Lucy who had succeeded in gaining a grant of custody of the lordship in December 1318¹³⁸. Cockermouth was a matter of very particular interest to Lucy, since the lordship was not merely contiguous with his own holding of Aspatria, but the two were judicially inter-dependent¹³⁹. The Lucy family had attempted to gain control of Cockermouth over a long period of time on the strength of their claim as heirs of Aveline de Forz, usually in conjunction with their cousins the Multons of Egremont. Their most recent attempt had been in 1315 but this, like their earlier efforts, had been denied¹⁴⁰. Having succeeded in gaining temporary control of it, Lucy had now to see the lordship snatched away for Harclay's benefit.

Though Lucy had done little wrong during his tenure of command, it seems probable that Harclay was preferred to him for command during the spring of 1319 to facilitate the planned offensive against the Scots. Harclay's selection was probably made in light of his proven ability to get men into the field. In this respect he justified the appointment and was

136 *ibid*, 181

137 CFR 1307-19, 395, 396

138 *ibid*, 386

139 PQW, 112, 113

140 Placitorum Abbreviato, 323

able to lead a very powerful force on campaign. At the core of Harclay's force was the garrison of Carlisle castle consisting of 25 men at arms, 8 crossbowmen and 40 foot archers who were organised into two platoons each of twenty men under the command of a vintemar¹⁴¹. This force left Carlisle on 20 August and crossed to Newcastle where it met up with forces coming from further south. It was joined shortly afterwards by Harclay with a larger force consisting of over 1000 men. This force consisted of 3 knights and 13 esquires, two of whom were later promoted to knights, 361 hobelars and 980 foot raised from Cumberland and Westmorland, again divided into platoons commanded by vintemars¹⁴². This main group was supplemented by a number of smaller forces led by local magnates of which the largest was that led by Anthony de Lucy consisting of 73 hobelars which served from 1 September until the 9th. The household knight Hugh de Louther served with 7 knights, 25 hobelars and 20 foot from 28 August to 28 September, as did John de Stirkland who served with his two colleagues. Stirkland served with such distinction that he was dubbed as a knight on 14 September¹⁴³. Westmorland was represented by two groups, one led by Robert de Welle and another force led by Roger de Clifford. Clifford's force was small consisting of only two knights and eight esquires and it is significant that this was the largest force Clifford was able to raise, evidence of how far his minority had weakened his family's hold on Westmorland¹⁴⁴.

From the English point of view there were several positive features to the Berwick campaign. Perhaps the most important of these was the short

141 E.101.378/4, m13

142 *ibid*, mm 20, 37; E.101.15/27

143 E.101/378/4, m20; British Library Additional, MS 17362, f35

144 E.101.378/4, m31

lived identity of purpose between the king and the Earl of Lancaster. Secondly the size of the force as recorded by surviving payrolls testified to the fact the English military potential was still very formidable. The overwhelming negative factor in the calculations remained the tactical ineptitude and imprudence of Edward and his advisers. Though their decision to attack Berwick was a wholly reasonable one, the city was the key to any projected advance into Scotland, the organisation of the army for the siege flew in the face of caution ¹⁴⁵. Except for a few miles east of Berwick the whole border lay open to Scots incursions. Even the vital garrison in Carlisle had been run down to add a few men for the attack on Berwick. The Scots were left with the option of a major attack in the west or a flanking manoeuvre to cut off the English retreat. This proved to be the tactic which the Scots employed and by 3 September a Scots force had crossed the border without difficulty and was engaged in raiding Yorkshire. Shortly afterwards Randolph and Douglas inflicted a severe defeat on a force hastily assembled by William de Melton for local defence. Even before this, however, the army at Berwick had begun to break up. Anthony Lucy and his men left the army on 9 September and most of Harclay's men the day after, leaving Harclay with a force consisting of only 38 hobelars and 32 foot ¹⁴⁶. Harclay himself seems to have stayed with the king until the army disintegrated amid bitter recriminations between the Lancastrian faction

145 Vita, 94, 95. ~~Dr~~ Maddicott (Lancaster, 246) has argued that Edward decided to attack Berwick only at the last minute, largely on the grounds that a siege engine and ditchers were ordered to be sent from Holderness on 9 September (Bain, CDS, v3, no 663). While it is true that extra siege machinery was ordered the army already had a 'sow' which was used on 13 September (Lanercost, 239). It seems likely that this could have been brought from Holderness as a result of the order of the ninth of the month. News of the battle of Myton reached the king two days later and if we assume that the king's letter travelled at this speed it would still have required extraordinary expedition to bring the siege machinery north for use before the siege was abandoned.

146 E.101/378/4, mm 35, 35d

and the Despensers. Cowardice by one party or the other proved a more popular explanation of failure than the bad planning which had allowed the Scots to march unopposed through the north of England¹⁴⁷. Harclay seems to have marched south with the king after the collapse of the siege and he was with the king at York on 25 October to collect his pay¹⁴⁸. This accords very badly with Harclay's reputation as a stalwart defender of the March, for while he was there the Scots raided the March as they withdrew after the victory at Myton. They returned again towards the end of October plundering as far south as Brough under Stanemoor, before going back to Scotland with large quantities of cattle. They also burned the grain stored in granges after the harvest with the result that famine and disease were added to the other troubles of the region¹⁴⁹.

It was clear from the collapse of the offensive of 1319 that no military solution to Edward's problem with the Scots was possible. In addition, Edward's obligations to the king of France necessitated him making a trip to France to do homage for Guienne and Ponthieu. Accordingly negotiations for a truce were set in train and Bishop Halton, Pembroke, Hugh Despenser Junior and Badlesmere negotiated a truce with the Scots to run from 1 January 1320 for two years¹⁵⁰. Shortly afterwards Harclay and Anthony de Lucy were appointed as wardens to monitor the truce in Cumberland and Westmorland. Harclay's attitude to the truce was clearly equivocal, however. On 28 January a bond was made in which Robert D'Umfraville, Henry de Beaumont, John de Clavering, John de Moubray and Harclay acknowledged a debt payable

147 Vita, 98

148 E.101.378/4, m20

149 Lanercost, 240

150 ibid; Ramsay - Genesis of Lancaster, v1, 109

to Valence, Despenser and Badlesmere ¹⁵¹. This bond was almost certainly intended to ensure that Harclay and the others observed the terms of the much needed truce ¹⁵². It also provides useful evidence on Harclay's alignment at this time. Notwithstanding his total failure to defend the West March during the previous autumn it is clear that he was closely associated with a group who were committed to the continuation of the war at all costs. Two of them, Beaumont and Umfraville, were to play a leading part in the campaigns organised by the 'Disinherited' during Edward III's reign ¹⁵³.

As important as the alignment that Harclay's association with Beaumont and the others implied, were the personal contacts which he was evidently enjoying at this time. Beaumont was a close confidant of Edward II and it is clear that Harclay too was rising in Edward's entourage even if he was not yet a member of the king's innermost circle. On June 18 orders were issued for Harclay and Lucy to continue as conservators of the truce with the Scots but though Harclay was probably intended as the senior of the two it was planned that Lucy should undertake most of the work. The king had other plans for Harclay ¹⁵⁴. Two days later protections were issued for him and two of his closest followers, Patrick de Culwen and Richard de Halton, to accompany the king to France ¹⁵⁵. Whether Harclay had been included in the group going to France as an adviser on the Scottish problem or as a device to ensure that he did not try to mount any action on his own initiative, it is clear that he had emerged as a dominant force on the

151 CCR 1318-21, 220

152 Phillips - Aymer, 188

153 R Nicholson - Edward III and the Scots (Oxford 1965) *details Beaumont's career at length.*

154 CPR 1318-21, 455

155 *ibid*, 461

West March by this time. Of three commissioners appointed to conserve the peace in July 1320, one was Robert de Leyburn and another was Alexander de Bassenthwaite who was a retainer of Harclay and had presented his account at the Exchequer for Harclay's service as sheriff in the eighth year of the king's reign ¹⁵⁶. Harclay's dominance was demonstrated in other ways too. Andrew and his brother used their local power to extend their landed holdings. John de Skelton, for example, was forced to make over his share in a mill at Blencarne and the service owed to him by Adam Steadman to John de Harclay ¹⁵⁷. They also used their growing estate to reward their followers. Walter de Stirkland, for example, was granted lands in Hakethorp to be held of John de Harclay ¹⁵⁸.

Harclay returned to the West March by 13 November 1320 when protections were issued to him and his followers ¹⁵⁹. Harclay and his men were probably engaged in pacifying groups of rebels who had gone over to the Scots side, for even though the truce was still in force he was granted a power to receive Scots back into the king's allegiance ¹⁶⁰. It is very possible that the armed force Harclay was empowered to keep assisted his territorial schemes. There is evidence that some people found it prudent to pay for Harclay's favour. This was probably the explanation behind bonds for £60 which Hugh de Louthier and Robert de Welle entered with Andrew Harclay ¹⁶¹. During the following months Harclay was able to extend his influence still further. In May 1321

156 *idem*; E.372/164, Cumberland

157 CRO D/Lons/L/Deeds, P 37

158 CRO D/Lons/L/Deeds, L O 98

159 CPR 1318-21, 523

160 *ibid*, 528

161 CCR 1318-23, 338

Richard de Hudlestone appeared as a member of Harclay's retinue. In the following summer he was joined by Michael and John de Harrington¹⁶². These were significant recruits for two reasons. First, though none of these men had abandoned their earlier links with the Earl of Lancaster, it is clear that Harclay was beginning to draw support from among the Earl's supporters. This would be of major importance later. Secondly the recruitment of men from south-west Cumberland was evidence of growing territorial influence now extending into Copeland and a clue that Harclay's power was emerging as a threat to that of Hudlestone and Harrington's territorial lord, Thomas de Multon of Egremont. Harclay's contacts in Copeland were a threat to Anthony de Lucy too. Harclay had already ousted him from Cockermouth, now his nascent power in south-west Cumberland began to cast a shadow over Lucy's holdings in Aspatria¹⁶³. Lucy did receive some compensation for the losses he had suffered with an assignment of the royal manors of Penrith and Soureby to hold until he had been repaid a sum of wages that was owed to him, but this was very slight consolation for Harclay's dangerous gains in Lucy's home territory and of Cokermouth above all¹⁶⁴.

Harclay's power on the West March was growing during 1321 but he was not yet completely dominant and some northerners were still prepared to back the Earl of Lancaster against the Despensers. Even if their loyalty to the Earl was beginning to come under reconsideration, Lancaster's feed men, Richard de Hudlestone and the Harringtons, supported him as did two more important men from the West March, Thomas de Multon of Egremont and Ralph de Greystoke. They were joined by a

162 CPR 1318-21, 583; CPR 1321-24, 130, .

163 CPR 1321-24, 200

164 CPR 1317-21, 409. It would be inaccurate, however, to describe Lucy as 'Lord of Penrith' as Dr Fryde chooses to do. Tyranny

new recruit to the magnate ranks, Ranulph de Dacre, now holder of Gilsland and Burgh by Sands in right of his wife. Another very important recruit to Lancaster's party was Roger IV de Clifford whose hostility to the Despensers was assured since he held them to have disinherited his mother ¹⁶⁶. Though Roger de Clifford spent much of his career in Wales and his influence in Westmorland was certainly less than his fathers had been, his adherence to Lancaster had important effects in Westmorland. His leadership was still enough to bring the support of a number of Westmorland men with it including John de Stirkland, Robert de Bampton, Robert and William L'Engleys, Hugh de Louthier, John de Orreton and Roger de Brunolsheved ¹⁶⁷. Anthony de Lucy was also pardoned at Clifford's instance. It seems probable that the vital factor determining Lucy's support for Lancaster was his opposition to Harclay, since he could only benefit from any re-organisation of the border which might weaken Harclay's role.

The early summer of 1321 marked the high point of support for the Earl of Lancaster on the West March. Even though his meeting at Sherburn was attended by the Bishops of Durham and of Carlisle his backing was slipping away. Louis de Beaumont in any case can hardly have been regarded as a political supporter of Lancasters'. Illness may have removed another of Lancaster's supporters since Multon of Egremont died in the following February. Others such as Ralph de Greystoke and Ranulph de Dacre simply deserted the Earl's cause. Greystoke did not attend the Sherburn meeting but even though Dacre did, he was prudent enough not to follow Lancaster into armed opposition.

166 Vita, 109

167 CPR 1321-24, 20

The hostilities between the king's party and that of Lancaster ran without interruption into the winter of 1321 and in November Harclay was ordered to raise forces against the contrariants. Civil war, however, was only one of the problems facing the West March. On the first day of 1322 the truce of two years that had been negotiated with the Scots in 1319 expired ¹⁶⁸. Within a week of the end of the truce, Moray, Douglas and the Stewart has crossed the border to attack Northumberland and Durham. Cumbria was clearly in line for renewed attacks as well and Harclay, who had surveyed the defects in the castles of Cockermouth and Carlisle the previous years, can have been under no illusions about his ability to repel any attack ¹⁶⁹. Accordingly he left hurriedly for the south to consult the king whom he met at Gloucester early in February 1322. Though the account which is presented by the Vita is certainly stylised, the content can be accepted as accurate ¹⁷⁰. Harclay reported the desperate situation on the March and requested that the king should turn his efforts to the defeat of the Scots notwithstanding the danger from Lancaster and his supporters. Edward, on the other hand, placed an absolute priority on the defeat of the Contrariants and in order to free his hands to deal with the problem he was prepared to relegate the war to second place. He granted Harclay a commission to re-open negotiations with the Scots for a final peace ¹⁷¹. That was all that the king was prepared to do to alleviate the problem of the border but the trip was not without real advantages for Harclay himself. In February news of the Marchers final rebellion broke at court and Harclay was commissioned to take Roger de Clifford's lands into the king's hands ¹⁷². The next day

168 Vita, 120; Lanercost, 240

169 CPR 1317-21, 608

170 Vita, 120

171 CPR 1321-24, 71

172 CFR 1319-27, 71

Harclay made another important gain at the expense of Anthony de Lucy when the liberty of Tynedale was removed from Lucy and given to Harclay, probably because Lucy remained under suspicion of harbouring Lancastrian sympathies ¹⁷³.

Equipped with these valuable instructions Harclay hurried north to raise the forces of Cumberland and Westmorland against Lancaster. Lancaster had already forfeited much of his support from the northerners by refusing to attack the Scots, after giving only what the Lanercost Chronicler thought were just feigned excuses ¹⁷⁴. Deserted by his northern men and even by men he trusted as much as Robert de Holland, Lancaster briefly laid siege to Tickhill before joining the rebel Marchers at Burton on Trent. Having already let the time for a successful military confrontation with the king's forces slip by, Lancaster and his allies were left only one option, an inglorious retreat. Rejecting the splendid fortifications of Pontefract they retreated north in disarray and in poor spirits. Lancaster himself wished to make a stand at Pontefract and had to be physically threatened by Roger de Clifford before he would consent to move further north ¹⁷⁵. Lancaster claimed that were the rebels to have retreated north it would be thought that they were making for Scotland. It seems, in fact, that this was nothing less than the truth. Dunstanburgh could have provided no effective refuge for the rebels and both Lancaster and Roger de Clifford were deeply implicated in a treasonous correspondence with the Scots ¹⁷⁶. The rebels reached neither Dunstanburgh nor Scotland, however. At Boroughbridge they were

173 *ibid*, 94

174 Lanercost, 242

175 Brie - The Brut, 217

176 Bain, CDS, v3, no 746

intercepted by Andrew de Harclay who had taken command of the crossings of the River Ure, over which the rebels had to find their way if they were to go any further ¹⁷⁷. The battle, or more precisely skirmish, which resulted when Lancaster and Hereford attempted to cross the Ure in the face of Harclay's opposition has been written into the canon of English and even Scottish historiography as a major set piece comparable with Bannockburn or the battles of the Hundred Years War. This tradition seems to have originated with an article written by T. F. Tout in which Harclay was described as the originator of the English tactic of employing men at arms to fight defensively on foot ¹⁷⁸. Tout went on to suggest, on no clear evidence, that Harclay's pikemen were interspersed among the archers and that this was the origin of the tactics that were to prove successful for Edward III against the French. Tout's version of the battle was based on the account contained in the Lanercost Chronicle to the exclusion of all other sources but this has not limited its appeal. It was developed by J. E. Morris who was always ready to regard Harclay in the most favourable light, and it has many distinguished adherents to this day. Dr J. R. Maddicott, for example, has written that Boroughbridge 'was more important for military history than political', while Professor Barrow has described Harclay's tactics as 'a deliberate and masterly imitation of Bruces' at Bannockburn' ¹⁷⁹.

Though the account in Lanercost is a valuable one, it is neither the only one available nor is it necessarily the most accurate. It is, however, probably the most dramatic and that which lends itself best

177 Vita, 123

178 T F Tout - 'The Tactics of Boroughbridge and Morlaix'; EHR, v19 (1904)

179 Maddicott - Lanercost, 193; Barrow - Bruce, 344;

the pattern Tout and Morris were too ready to impose. There are four other chronicles which has light to shed on the battle of Boroughbridge and of these the Vita is by far the most informative ¹⁸⁰, but there are also important other details in the Gesta of the Canon of Bridlington and the Meaux Chronicle ¹⁸¹. In addition to these accounts there is the narrative contained in The Brut ¹⁸². This, however, seems to have been excessively stylised and its accuracy is seriously brought into doubt by its partisan bias.

The most convincing narrative which can be constructed from the various sources is that the rebel earls arrived at Boroughbridge late in the day on 16 March. They were already settling into their lodgings when they became aware that Harclay and his men had already occupied the two crossings of the River Ure to the north of the village. The river could be crossed by means either of a narrow wooden bridge or a ford and Harclay had taken control of both ¹⁸³. The Contrariants split their forces into two parts. One party of cavalry led by the Earl of Lancaster attempted to force the ford while Herefore and Clifford endeavoured to force a way across the bridge. Both Lanercost and the Vita agree that they were forced to dismount since the bridge was not sufficiently substantial to take a war horse. According to the Lanercost account, Harclay had stationed his men at arms and pikemen in the Scottish fashion at the ends of the bridge and of the ford. This savoured of Bruce's practice but the friar who wrote the chronicle went on to undermine his comparison by noting that Harclay ordered his archers to fire on the earls as they approached. Though the Scots were reported to have many archers in their force at

180 Vita, 123

181 Bridlington, 76 and following. Melsa, 342 and following

182 The Brut, 217

183 Vita, 123

Carlisle in 1315, there is no evidence that the Scots made extensive use of archers at Bannockburn and their use at Boroughbridge may have been exaggerated ¹⁸⁴. Harclay's force at Boroughbridge was probably very similar in composition to that he led to Berwick in 1319 and that force had contained relatively few archers. Hereford and Roger de Clifford, a man physically well fitted for the role of the warrior, possessing enormous resources of strength, led the way to their objective, the narrow wooden bridge and they reached it before the Earl of Lancaster had arrived at the ford. Hereford and Clifford were probably first on to the bridge but they were closely followed by Hereford's standard bearers Ralph de Applinsdene, William de Sule and Roger de Berefield. Because of the narrowness of the bridge it was possible for only one or at most two men to cross it at a time and Hereford may well have been the first to mount the bridge. On the bridge the rebel noblemen were confronted by a gauntlet of pikes thrust at them from every side. The Meaux Chronicle confirms a story found in The Brut that one of Harclay's men even hid unchivalrously underneath the bridge and from this vantage point skewered the Earl as he fought above. Geoffrey le Baker later incorporated the Earl's ignominious death into his narrative but unaccountably added the detail that the Earl's assailant was a Welshman. It seems more likely that any Welshmen at Boroughbridge were serving in the Earl's force than that they were under Harclay ¹⁸⁵. Despite the loss of their leader the rebels on the bridge seem to have made a determined attempt to force a crossing and fierce fighting resulted. The narrowness of the bridge stopped the Contrariants from bringing their re-inforcements to bear. Shortly they were forced to retreat with most of those who had attempted

184 Lanercost, 243, 229

185 E M Thomson - Chronicon Galfridi le Baker (Oxford 1889), 14; Fryde - Tyranny, 17, curiously chose to accept this without question.

to force the crossing including Roger de Clifford, seriously wounded.

Lancaster's force of cavalry reached the ford a little later and their morale, the Vita and the Bridlington accounts are agreed, had been adversely affected by the failure of the Earl of Hereford and by his death. The result was that, in marked contrast to the traditional account of Boroughbridge which seems to require a full scale cavalry charge, the Earl of Lancaster's attempt to cross the Ure was a very half-hearted affair. The Lanercost Chronicle states that the Earl's men were unable to enter the river because of the density of the arrows loosed at them, but the Vita suggests that a mere shower of arrows was enough to make the Earl turn back and accept defeat. The affair had indeed been quickly settled.

There is agreement that a truce was negotiated between Harclay and the Earl of Lancaster to last until the following day but there is a degree of divergence about the details of how this truce was negotiated. It is worth considering this truce in detail too, for it forms an integral part of Harclay's reputation. The Vita simply records that a truce was arranged between Harclay and Lancaster and after that both men returned to their lodging to await daybreak. Neither the accounts in the Meaux Chronicle nor the Canon of Bridlington adds anything of significance to the account in the Vita, but the Lanercost version of the battle suggests that the truce was, in fact, arranged through messengers sent from one to the other. The Brut's description is at odds with these accounts and it is couched in terms of high drama. It suggests that Lancaster and Harclay met face to face and that first of all Lancaster tried to win Harclay over to his side with the promise of large grants of land. Finally when Harclay stressed his loyalty to the king, Lancaster replied with a prescience surely born of hindsight

that within a year Harclay would suffer the same fate as Lancaster. 'And so' continues The Brut 'went the false traitor Harclay, for it was through the noble Earl Thomas of Lancaster that he was first made a knight'. There is no independent evidence that this was, in fact, true. The story is repeated in the Eulogium Historiarum but this is a repetition of the Brut's account rather than corroboration of it since it is largely based on The Brut¹⁸⁶. In the absence of any proof that Harclay was knighted by Lancaster, though it is not on its own merits impossible, the story seems hard to accept. The Brut seems to have been written with a greater regard for literary and dramatic merit than for absolute accuracy and the tale of Harclay's knighting by the Earl of Lancaster is wholly consistent with the Brut's eulogistic, even hagiographic, account of Lancaster's career. The Brut sets out to portray Lancaster as a saint and his betrayal by a man he had apparently trusted adds a distinctly biblical overtone to the Earl's defeat and death¹⁸⁷. A second point is worth making too. Even were it true that Harclay had been knighted by the Earl of Lancaster, it in no way follows from this that Harclay was ever one of the Earl's retainers. While a lord might knight one of his own followers, knighthood and indentures of retinue were not interchangeable and aspiring knights were generally dubbed by any available dignitary¹⁸⁸.

Whatever hope Lancaster had of support arriving for his side during

186 F S Haydon - Eulogium Historiarum (Rolls Series 1863), v3, 196

187 Bray - 'Concepts of Sainthood in Fourteenth Century England' Bulletin of the John Ryland's University Library, New Series, v4 (1984) 56.

188 If Harclay was knighted by Lancaster, though there is no corroborative evidence that he was, it may have taken place at the Dunstable tournament. Fryde - Tyranny accepts that Harclay was one of Lancaster's retainers on the strength of the Brut's statement that he was knighted by the earl, 56.

the night proved to be groundless, though Harclay cautiously stationed men at both crossings in case Lancaster should try a night attack. In fact, Lancaster gained nothing by seeking a postponement and during the night many of his force disappeared. Hereford's men drifted away after their lord's death and Roger de Clifford's men did the same. Many of Lancaster's own men also deserted him, leaving only Lancaster and the severely wounded Clifford and Moubray to await capture. During the night Harclay was joined by an additional body of men brought from York under the Sheriff of Yorkshire, Simon Ward, and supported by this force Harclay moved in Boroughbridge probably at first light, taking Lancaster unprepared ¹⁸⁹. Arresting Lancaster and the remnants of his force, Harclay took them in custody to York and thence to Pontefract where a hastily convened court passed sentence of death on them after very summary proceedings. Lancaster's less noteworthy followers were left prey to be attacked and robbed by local people and members of Harclay's force ¹⁹⁰.

There is no doubt that on a national scale the defeat and executions of the Contrariants was of the first importance. On the West March, however, the Boroughbridge campaign was less decisive. Events in the north continued to be dominated by Bruce and on another level by the continuing rise of Harclay himself. Edward rewarded Harclay for his services by elevating him to the title of Earl of Carlisle and with a promise to grant him 1000 marks worth of land ¹⁹¹. Half of this was to be in Cumberland and Westmorland and half was to be in the March of Wales. Harclay was paid in very doubtful coin. At the end of April 1322 he was granted Brougham, Mallerstang, Meburn Regis, Kirby Stephen,

189 Brut, 217

190 C.Inq.Misc, v2, no 527

191 CPR 1321-24, 93

Langton and Whinfell, all of which had been forfeited by Roger de Clifford. These lands were placed at the optimistic valuation of £200¹⁹². In the following June, he was granted Wark in Tynedale to hold by the service of one goshawk. This was valued at £120 but this was even more hopeful. In 1315 the Scots had effectively occupied Tynedale and Bruce had parcelled some parts of it out among his followers. Even if the Scots no longer held Tynedale it had been so thoroughly plundered as to be virtually valueless¹⁹³. There is no record of any grant in fulfillment of the promise of 500 marks worth of land in the March of Wales.

Despite the forfeiture of Roger de Clifford, Harclay gained control of only a part, though a substantial one of Clifford's former lands. He was not granted the manor and castle of Appleby and Edward II reversed John's policy by retaining in the hands of the crown, not only the shrievalty of the county of Westmorland but also the service due to the lords of Appleby by the cornage tenants of Westmorland. Harclay also faced growing competition for influence in Westmorland. Maud de Clifford's husband, Robert de Welle, was a rising star and there is evidence to suggest that both the Younger Despenser and Robert de Baldock began to take a growing interest in Cumbria. During the summer of 1322 Harclay seems to have become involved in a potentially dangerous competition with de Welle and Despenser as he tried to build up his following in Westmorland. In July 1322 a pardon was issued to William L'Engleys, one of Roger de Clifford's former adherents, at the instance of Robert de Welle¹⁹⁴. Four days later John de Stirkland was pardoned at the behest of Despenser and de Welle¹⁹⁵. In October

192 C.Chart.R 1300-26, 442

193 ibid, 445

194 CPR 1321-24, 193

195 ibid, 201

they also obtained a pardon for Robert de Watervill, though Watervill had no known connection with Westmorland¹⁹⁶. Both de Welle and Despenser had clear designs on other of Clifford's lands. Despenser gained control of Clifford's lands in Wales after Boroughbridge and in September de Welle was granted a parcel of land in London which had formerly been held by Clifford¹⁹⁷. Even Robert de Baldock took part in the general free-for-all. In June he was granted the king's rights in those knight's fees which Roger de Clifford had held in common with John de Cromwell¹⁹⁸. In danger of being outbid by these dangerous rivals for support, in September 1322 Harclay obtained a pardon for Hugh de Louthier, another of Clifford's former men, though events were to prove that Louthier owed Harclay little loyalty¹⁹⁹.

If the entry of the Younger Despenser into the West March, in whatever degree offered a new potential rival for Harclay that neither inhibited him from trying to expand his influence nor from pursuing old rivalries. One of the chief targets of this policy was Anthony de Lucy. As soon as the rebellion had broken out Harclay took the opportunity to seize de Lucy's lands and chattels, claiming that he was a supporter of the rebels. When, however, Lucy was able to demonstrate that he had not joined in the rebellion, Harclay was forced to restore Aspatria and Penrith to him²⁰⁰. This did not end Harclay's campaign against Lucy, however, and Harclay continued to make moves against him in court even though he retained him in the force that he led against the Scots.

196 C.Chart.R 1300-26, 442, 443

197 CPR 1321-24, 206

198 *ibid*, 193

199 *ibid*, 201

200 CCR 1318-23, 434

Harclay's career as Earl of Carlisle was dominated by the twin themes of military operations against the Scots and his own attempts at territorial aggrandisement. Indeed, the expansion of Harclay's landed estate depended on success against the Scots. The position of any man who depended on Edward II.'s military successes was a precarious one but in the spring of 1322 there were some signs for hope. Edward was apparently sympathetic to calls for a renewed offensive against the Scots, a remedy in which the borderers had persistent, if misplaced faith. The king remained in the north after the defeat of the Earl of Lancaster and preparations were made for the campaign. Harclay was bound to play a leading role both in the planned attack on Scotland and in any preparations to resist Scots counter-attacks. In March he had been appointed as keeper of the counties of Yorkshire, Lancaster, Cumberland, Westmorland, Northumberland and the Bishopric of Durham for their defence. The Scots and the foot recruited from these counties for the campaign into Scotland were placed under his command²⁰¹:

The campaign as a whole was badly organised, and since Harclay was one of the chief commanders this can only reflect to his discredit. In spite of Harclay's reputation as a leader and organiser of hobelars, massive levies of foot were envisaged as an integral part of the campaign, many of those serving being from Wales. The initial muster of the army was planned for 13 June but Edward and his advisors let the best months of the season slip by and it was almost the end of August when the army finally mustered at Newcastle. In the interim the initiative was left with the Scots and with Harclay who was charged with the defence of the English Marches. In early June Harclay was serving on the borders with a strong force which reflected his increasing power in the north of England as a whole. As well as established

retainers such as William le Blount, Patrick de Curwen and John de Harclay the force included a number of former Clifford retainers such as Robert de Askeby and former followers of the Earl of Lancaster, Richard de Hudlestone and John de Harrington. Ralph de Neville from Durham also served under him as well as a strong force from Cumberland including Ranulph de Dacre, Richard de Denton, Richard le Brun, Peter de Tilliol and Anthony de Lucy. Since Lucy's name appeared immediately after that of Harclay it seems probable that he was one of the earl's chief lieutenants ²⁰². Harclay's efforts to defend the border seem to have been wholly ineffective. Apparently taking note of the preparations in the east the Scots attacked down the west coast. Entering Cumberland on 19 June the Scots burned the Bishop of Carlisle's manor of Rose then proceeded into Allerdale, a direct blow to both Harclay and Lucy's lands there, before advancing south into Copeland burning Holm Cultram as they went. From Copeland the Scots proceeded into Furness where they first took protection money from the Abbot and then, possibly unsatisfied, burnt parts of Furness. This done they crossed the Kent, putting Lancaster to flames and advancing as far south as Preston. They then returned north through the Eden Valley plundering as they went. Reaching Carlisle, the Scots set up camp with complete immunity and spent several days plundering the surrounding district before returning for home at the end of July ²⁰³. Neither Harclay nor anyone else had done anything to interrupt their progress.

Harclay joined the king in preparation for the planned offensive late in August at Newcastle. Harclay's contingent was an important one in the campaign and like the force that he had brought to Berwick in 1319

202 CPR 1321-24, 130

203 Lanercost, 246

it included a large number of light cavalry. The hobelars in Harclay's force were divided into two groups, originally there were 354 who were paid at 6d per day and 1081 who received 4d daily, almost three quarters of the total hobelars in the whole army. He also brought 2069 foot from the counties of Cumberland and Westmorland, who were under the command of two of his followers, Robert de Bampton and Richard de Denton ²⁰⁴. Like the Berwick campaign three years earlier, the mobilisation was impressive but the English army was totally outmanoeuvred. Bruce retreated north of the Firth of Forth destroying anything which might have been of use to the invaders. Faced with supplying a large army in a devastated wilderness the English supply arrangements collapsed with the result that famine and disease inflicted heavier casualties than did the Scots ²⁰⁵. The campaign was, in fact, a thorough fiasco and was probably the least successful of Edward's reign.

Harclay's contribution to the campaign is harder to assess than that of his sovereign and commander. It is not certain, for example, how far Harclay was responsible for devising what passed for strategy on the campaign. However, it is clear that Harclay was not able to make any significant contribution to the campaign. If Harclay's hobelars were intended to bring the Scots to battle they failed in this, or if they were meant to act as scouts this added very little to the success of the campaign. Nor, it is clear, did they function as foragers. Finally it is evident that discipline in Harclay's force was little better than in the rest of the army. It suffered severely from desertion, or possibly from the famine that afflicted the whole army. In all Harclay's force included 113 men at arms when it first mustered

204 British Library, M S Stowe, 553, f82v; CPR 1321-24, 125

205 Lanercost, 247

on the 21 August as well as 384 hobelars paid at 6d daily and 1081 at 4d per day. By the 29 August the force had been reduced from over 2000 to only 629. Plainly this was not a force of battle hardened veterans forged into a coherent force by years of fighting though it is probable that it was formed round a well organised cadre ²⁰⁶. On 30 August, at the end of the campaign, Harclay reduced his force to what was probably its usual level, 18 men at arms, 97 hobelars and 48 foot and Harclay remained on patrol on the Marches while the king improvidently disbanded the rest of his forces. Harclay's force from the evidence of the protections he swore out for his leading followers, was drawn mainly from the West March and included Ranulph de Dacre, Michael de Harrington, Patrick de Culwen, Richard de Hudlestone and Anthony de Lucy ²⁰⁷. It seems likely that Harclay led his force westwards to protect their own estates. Their efforts to defend the March were once again unsuccessful, however. At Michaelmas, Bruce crossed the Solway and set up camp at Beaumont near Carlisle. The Scots scouts, in contrast to the English a few months earlier, ranged widely over the north of England keeping the Scots king well informed about Edward's movements. Believing Edward to be in Blackmoor in Cleveland, Bruce's men left Carlisle and crossed the Pennines in a forced march ²⁰⁸. Realising the danger he was in Edward rapidly summoned assistance from Harclay who raised a force from Cumberland and Westmorland and set off in pursuit of the Scots. The progress of Harclay and his men bore many similarities to that of the Scots. Harclay seems generally to have allowed his men to live off the countryside even when they were in England and this occasion was no

206 British Library, M S Stowe, 553, f82v

207 Lanercost, 247

208 idem. Contrast Fryde - Tyranny, 131

different. Henry FitzHugh later complained that Hugh de Louthur and others in Harclay's retinue had caused over £300 worth of damage to his estates as they marched to Yorkshire to join the king ²⁰⁹. Though Harclay received the king's summons he did not arrive in time to prevent the debacle at Byland though he may have hoped to cut off the Scots if they tried to cross the Ure at Boroughbridge, the site of his earlier victory ²¹⁰. Edward's close escape from capture at Byland needs no further exposition but it is clear that the king was dissatisfied with Harclay's conduct. Edward was a firm believer that his misfortunes were the fault of others and on this occasion he considered that he had been betrayed by Harclay. Edward passed through Bridlington on his way south after his escape and the chronicle may well record something of Edward's views on the failure of the campaign. If this is true, the king accused Harclay of remaining plundering around Boroughbridge while the battle of Byland was in progress expecting, or at least doing nothing to prevent Edward's capture ²¹⁰. According to the Lanercost Chronicle, however, which was less influenced by Edward's irrational recriminations, Harclay rejoined the king at York, but realising that Edward had no force mustered and intended to abandon the campaign, disbanded his forces and returned home ²¹¹.

Harclay's fall followed so swiftly on the Byland debacle that the Lanercost Chronicler believed that it was Edward's conduct on that occasion that convinced Harclay to seek peace with the Scots ²¹².

209 SC.1.49/80

210 Bridlington, 82

211 Lanercost, 82

212 idem

The Bridlington writer in part supports this and shows that by the autumn of 1322 Harclay had used up much of the goodwill which his victory at Boroughbridge had earned him from Edward II. It is clear, however, that there was a recognisable hiatus between Byland and Harclay's downfall. During this period Harclay continued ruthless and desperate attempts to exert his superiority on the West March. In November he forced John Wake to enroll a recognisance to him in Chancery for a sum of over £400, though other details of the agreement are lost ²¹³. Harclay's desperate determination to expand his estate even triumphed over family loyalty. John de Harclay died late in November 1322 and immediately the harsh side of Harclay's leadership was revealed. John de Harclay held the peel of Highhead and a good spread of other lands in Cumberland but as soon as he was dead Andrew evicted John's widow, Ermiarde, from the tower and took John's lands of Gatescales and Whithale into his own possession ²¹⁴. Highhead had, it is true, a military significance, but the ruthless pursuit of land which led Harclay to disinherit his nephew suggests that he was a man to whom loyalty had to be extorted by threat and duress rather than being granted spontaneously.

Harclay behaved in an equally harsh way towards Anthony de Lucy. Lucy was not only the most obvious target for his hostility, since he was in competition with Harclay for control of Cockermouth, he was also among the best connected of Harclay's followers. Dangerously for Harclay, Lucy's connections were not with baronial families in the north of England but with the other gentry families who were represented in Harclay's retinue and even more important with the court. He was,

213 CCR 1318-23, 685

214 C.Inq.Misc, v2, nos 1072, 890

as a result, a rather more formidable rival than he may have seemed. Lucy, in fact, seems to have his own powerful affinity within Harclay's larger retinue. One key member of this circle was Peter de Tilliol who was probably Lucy's father in law ²¹⁵. Tilliol served as sheriff of Cumberland during Harclay's period of dominance, according to a hitherto unpublicised deed preserved in the Carlisle Record Office, evidence of Harclay's trust in him, but this loyalty to Harclay may well have been subordinate to his support for Lucy ²¹⁶. Lucy had other important connections. His son, Thomas de Lucy, had at one time been a household knight, as had another relative by marriage Hugh de Louther ²¹⁷. It is worth examining de Louther's connection with Lucy. Sometime before 1316 Hugh de Louther had married Margaret, the daughter of John de Lucy ²¹⁸. Natalie Fryde has suggested that there was a degree of hostility between Louther and the Lucy family and has drawn attention to a plea of disseisin, brought by John de Louther's widow Christiana, against Louther and his wife Margaret and has suggested that their hostility may have resulted in part from this ²¹⁹. In fact, however, Louther's wife was a member of the Lucy family and it appears certain that the plea was part of the settlement of disagreement about the endowment of the couple. The damages which were settled in the case suggest that the marriage had taken place around 1314. It may well be significant that Louther did not defend the case and Louther and his wife had been living at Wythop near the Lucy holdings since at least

215 Hist and Antiq, v2, 458

216 CRO.D/Lons. Denton, D3. The witnesses to this deed were Andrew de Harclay, Earl of Carlisle, Peter de Tilliol, sheriff of Cumberland and others.

217 British Library Additional, MS 17362, f35; Cotton Nero C, f223

218 CRO D.Lons/L/Deeds, L O 58, 62a. I see no reason to doubt the dating offered by the calendar in the search room at Carlisle. See below also.

219 Just.1/142, m2; Fryde - Tyranny, 157

1318²²⁰. A further indication of the close relations between Lucy and Hugh de Louthur is provided by a letter written by Lucy in support of Hugh de Louthur's petition against the outlawry which Henry FitzHugh had sought to bring against him after the destruction of his estates by Louthur as Harclay's force marched towards Byland²²¹. Others in Lucy's sub-retinue included Hugh de Moriceby whose family lands in Brackenthwaite were very close to the Lucy holdings and Richard de Denton. It was to Moriceby, Denton and Hugh de Louthur that Lucy turned for support when he was commissioned to arrest Harclay after his dealings with the Scots became known²²².

During the summer of 1322, though Lucy was a high ranking and well connected member of his retinue, Harclay began to move against him and increasingly to threaten his position. In July while Lucy was serving under Harclay, the earl brought an action for trespass against him in King's Bench²²³. He continued the action in the following term of the court's sessions and an order was issued for distraint to be made on Lucy's lands even though the sheriff had already obstructed the case by failing to serve the writ on Lucy. The sheriff was, it would appear

220 See F W Ragg - 'Early Louthur and de Louthur'; Trans of C&W II v16 (1916), 189.

221 SC.1.49/81. Dr Fryde suggests that the pardon which Harclay obtained for Hugh de Louthur was for either his trespass against Henry FitzHugh or his disseisin against John de Lucy. It is quite clear, however, that the pardon was for Louthur's earlier support of Roger de Clifford and so far as I can decipher the document, which is in very poor condition, it appears that Lucy wrote in support of Louthur, not to condemn him. In any case if Dr Fryde wishes us to believe that Louthur was among Lucy's enemies, she would have to explain why Lucy chose him to take part in the capture of Harclay, when, we may presume Lucy chose men he could trust.

222 Lanercost, 250

223 KB.27/249, m54d

from evidence already discussed, Peter de Tilliol. Harclay also tried to settle other old scores at this time and he began actions for trespass, in the king's name, against other enemies. John de Castre was one of these but Harclay also started an action against John de Cromwell ²²⁴. As with Hugh Despenser, these were potentially dangerous enemies. For Lucy, however, Harclay's moves were particularly threatening, for on the death of Thomas de Multon of Egremont, Egremont had been granted in custody to Robert de Leyburn ²²⁵. Lucy thus found himself threatened in the courts and with territorial outflanking by one of Harclay's close supporters. Given the vengeful nature Harclay demonstrated by reopening disputes several years in the past, the omens were not good.

The mechanics of Harclay's downfall were very simple and the facts of Harclay's dealings with the Scots have not generally been called into doubt. On this simple basis, however, there had been laid down a deep sediment of speculation, justification and romance which has left the matter open to varying degrees of doubt and obscurity. In light of this it is probably wisest to set out the facts which are common to all the various interpretations of Harclay's fall. On 3 January 1323 Harclay met with Bruce at Lochmaben and agreed a form of peace with the Scots king ²²⁶. The treaty of peace, which was agreed at Lochmaben, survives in a variety of texts and these will be discussed in greater detail below. Five days later, news of Harclay's action reached the court and Edward II ordered that no truce should be made without his direct commission. Harclay was summoned to court to explain his

224 KB.27/250, m13d

225 CFR 1319-27, 91, 132

226 Lanercost, 248

behaviour²²⁷. On 13 January William Airmin was ordered to search the royal files to find if Harclay had any commission to make a truce²²⁸. Other steps were put in hand too. Anthony de Lucy was ordered to arrest Harclay by any means that he could. On 28 February news came to the king that this had been done. Three days later Harclay was executed, suffering every rigour of a traitor's death²²⁹.

Discussion of Harclay's fall centres round three closely related problems. The first problem is to establish, insofar as the extant material allows, the terms of the agreement which Harclay concluded with Bruce. The second problem follows very closely from the first, it is to decide whether Harclay was indeed guilty of treason by virtue of his dealings with the Scots and why, if they were not, Harclay suffered the fate that he did, was there in fact a conspiracy against Harclay? Thirdly Harclay's motives in treating with Bruce must be considered.

It is perhaps easiest to start by considering the last of these questions. Local tradition takes the highest possible view of Harclay's conduct. 'It has always been an article of faith that Harclay endeavoured to save, not to sell his country'²³⁰. The Lanercost Chronicle attributes two motives to Harclay and neither is incompatible with the local tradition, suggesting that Harclay believed that Edward was in danger of losing his own realm as a result of the failure of the war effort and secondly that the local community would benefit from a period of peace, with an end to the incessant crime and

227 Bain, CDS, v2, no 800

228 *ibid*, no 801

229 *ibid*, no 805; Lanercost, 251

230 Bouch - Prelates and People of the Lake Counties, 71

plundering that hostilities engendered ²³¹. Joseph Bain concluded not only that Harclay acted for the best interests of the country but went on to suggest that his fall was the result of enmity of the envious ²³². This suggestion has been an influential one and it plays a central role in the growth of the 'conspiracy' explanation of Harclay's fall. The allegedly 'flat and factual narrative' of Adam Murimuth that Harclay's motive in dealing with the Scots was a romantic desire to marry Robert de Bruce's daughter ²³³. Another chronicler, not Lanercost, as Dr. Fryde mistakenly states, but John de Trokelowe suggests that Harclay's rebellion owed much to his hatred of the Despensers. Despite the possibility that Hugh Despenser was increasing his interest in Harclay's areas of influence, this explanation is unsatisfactory ²³⁴. There is no other direct evidence that Harclay had any animosity towards the Despensers and it is not obvious how peace should have weakened their position. This seems, in fact, to be a later gloss on Harclay's career born of the almost universal hatred in which the Despensers came to be held and it was accepted by the majority of later writers such as Thomas Walsingham and John de Capgreve ²³⁵. Despite the difficulties with Trokelowe's account, it does bring out a very important fact which the Lanercost Chronicler chose to ignore, that Harclay's fall was preceded, not merely by unauthorised diplomacy but by a violent attempt to impose his will on the north of England. Though it appears in none of the chronicles another explanation is also worth considering.

231 Lanercost, 248

232 Bain, CDS, v3, xxx

233 E M Thompson - Chronicae Adae Murimuth et Robert de Auebury (Rolls Series 1889), 39; Contrast Fryde - Tyranny, 11

234 H T Riley - Chronica Johannes de Trokelowe (Rolls Series 1866) v3, 127; Fryde - Tyranny, 157 and note at 261

235 P J Lucas - John Capgreve's Abbreviation of Chronicles (Early English Text Society 1883), 147, 148, xxi

Though it appears in none of the chronicles another explanation is also worth considering. Harclay's reward from Edward II for the victory at Boroughbridge took the form of promises of grants of land in Cumbria and the March of Wales. The latter did not materialise and the land in Cumbria, especially Tynedale, were virtually valueless while the war continued. Harclay did not need to look to others to see the desirability of peace. As the largest landholder in the region he would have gained most from a period of peace and this may well have been an important consideration in the decision to reach an agreement with Bruce, despite the public spirited rationalisation which Harclay offered from the scaffold and which the Lanercost writer found convincing. In the last analysis, however, Harclay's motives will remain a mystery though the desire for peace in the north, for whatever reason, seems to make better sense than Trokelowe's suggestion of emnity between Harclay and the Despencers.

The difficulty of trying to identify Harclay's motives in making peace with Bruce is matched by the textual difficulties provided by the treaty drawn up by Bruce and Harclay, problems which Professor Stones considers may well be insoluble ²³⁶. Bruce's treaty with Harclay is extant in five versions. One of these printed first by Bain and printed in an improved version by Professor Stones, survives in the Public Record Office and it contains the text of the treaty which Edward II sent from Stow Park to the Barons of the Exchequer for their consideration ²³⁷. This will be referred to as text E. A much longer version of the treaty was printed from the register of the see of Bergen and this is text P. Three other important versions of the

236 Stones - Relations, 154

237 Bain, CDS, v3, no 803; Stones - Relations, no 39

text occur in the chronicles of Lanercost, L, Bridlington, B, and a chronicle printed by Joseph Stevenson from MS Harley 635, text H, ²³⁸.

On perhaps the most important point, that England and Scotland should each be entirely independent, subject to their own laws and kings, all the texts are agreed. All, moreover, recognise Bruce's unquestioned right to the realm of Scotland. Other parts of the agreement appear consistently in the different texts. On the settlement of peace, Bruce was to pay to Edward II 40,000 marks (E,P,B,H) though L. makes this sum 80,000 marks. These arrangements, like the plan to grant the marriage of the heir of the king of Scots were, to a degree, unexceptionable to the English side and as has often been noted they match very closely with the form of peace agreed at Northampton in 1328.

The texts are most divided on what is probably the most contentious part of the treaty, the arrangements for its administration and for, the word is not too strong, its enforcement. Here texts E. and especially P. are vital and it is here that Harclay's treason becomes most evident. First of all, as L, E. and P. all make clear, Harclay's negotiations with Bruce were not simply negotiations for a peace which he had been commissioned to do in February 1322, or even draft proposals for a form of peace, they were a detailed, fully worked out treaty, intended to be binding. Harclay had accroached the royal power as fully as Gaveston or the Despensers had done, for he had endeavoured to agree a treaty binding on the king and realm of England even though, as the

238 Proceedings of the Society of Antiquaries of Scotland, v3 (1857-60), 458-461

Lanercost Chronicler recognised, he exceeded his powers by doing this and the treaty could not be regarded as valid without the agreement of the king. Here was, at least, one count of treason of which even a favourably inclined observer recognised Harclay to be guilty. Texts P. and E. bring out another, and if possible, more serious count. Six magnates from each realm were to be chosen to 'negotiate, ordain and settle all that required to be done for the benefit of both realms' and their decision was to be binding. This jury of twelve auditors had clear links with earlier practices for the settlement of border disputes but P. makes it clear that the powers of the twelve jurors went beyond mere mediation and investigation. The twelve magnates were to assist in settling disputes between Harclay and Bruce but they were also to have another function. With the earl and Bruce, they were to proceed in arms against anyone who opposed the settlement or resisted the implementation of the peace, treating them as enemies of both kingdoms. This included the king of England by clear implication. Not since clause 61 of Magna Carta had a treaty endeavoured to legalise the levying of private war by a subject against the king. Harclay, in fact, presented Edward with two choices, either he could accept Harclay's treaty or he had to face an invasion of England by Bruce in which Harclay and the six English auditors would support the Scots. Harclay's complicity was, moreover, to be complete. He was to be an ally rather than a by-stander and he was to be repaid by Bruce's promise to spare his estates, a strange echo of the charges brought against Thomas of Lancaster. This was, in short, a treaty no king could ever accept and Harclay returned from Scotland irrevocably committed to treason²³⁹.

239 Contrast Fryde - Tyranny, 156 "Harclay was to be charged with treason though there was no certainty that the accusation was justified".

The Lanercost Chronicle states that the negotiations between Bruce and Harclay were long and difficult, but it is very hard to imagine that Bruce, who must have been very much in the stronger position, could really have expected that the treaty would be successful. Obtaining support for it would be almost impossible but that was not Bruce's problem. In order to try to muster support for the treaty, Harclay returned to England with a document which was probably closest to version E. with the most controversial feature of P. excised but still fully operational in Bruce's and Harclay's minds. Even so, since Harclay had committed the kingdom to a final peace this was still 'treasonable'. It is hard in retrospect to believe that Harclay could have had any reasonable hope that he could have gained support for his agreement with Bruce and there may be much in Thomas Grey's suggestion that pride blinded Harclay to what could actually be done ²⁴⁰.

The nature of Harclay's dealings with Bruce was rapidly known to Edward II and on his return Harclay faced a desperate struggle to gather support for the inevitable reckoning. His first act was probably to hold a meeting of clergy and laity in Carlisle. Here Harclay's coercive power was strong and though many disliked the agreement he was able to compel many to agree to it ²⁴¹. Harclay needed support from a much wider constituency, however, if he was to survive. It seems likely that to this end he distributed copies of the agreement, suitably amended, to notables and religious houses in the north of England. This may be the origin of text B. preserved in Gesta written at Bridlington, which shows significant similarities

240 The Scalacronica of Sir Thomas Grey, ed E Maxwell (Glasgow 1907), 67

241 Lanercost, 249

with the version found in Lanercost. Harclay certainly did write to the mayor and community of Newcastle but the limits of his power were evident for he could not threaten but only beg them to accept his treaty ²⁴². Others were amenable to coercion and he was able to force the sheriffs of Yorkshire, Northumberland and the Bishopric of Durham to accept his treaty ²⁴³. He also tried to raise support from Lancashire. He sent Robert de Leyburn and Roger de Brunnolsheved to try and induce the men of Amounderness and Leylandshire to support him, claiming that the treaty had been made for the king's honour ²⁴⁴. In this Leyburn and Brunnolsheved were partially successful and at least two men, Nicholas de Clifton and Nicholas de Moreis, did pledge themselves as required. In Furness, John de Harrington was more successful. He had been given the same instructions as the others and he managed to force Edmund de Neville, Baldwin de Gynes and many others to swear, though they did so against their will. Even Leyburn may have been half-hearted in his support for the jurors in the case later testified that he had taken Harclay's part only because he had married the earl's sister. Despite this Harclay's rebellion threatened to spark off a major revolt. Lancashire was a particularly dangerous area where the defeat of the Earl of Lancaster had created a reservoir of discontent against Edward II. If Harclay could have attracted a sizeable proportion of the leaderless local gentry there the revolt might have got rapidly out of hand. Edward recognised the danger and as early as 19 January he sent William Latimer to York with a force of men at arms in case Harclay should try to take over the city ²⁴⁵.

242 Bridlington, 83

243 Stevenson - Illustrations of Scottish History, 9

244 Tupling - South Lancashire in the Reign of Edward II, 15 and following

245 Stones - Relations, 155

In the event, Harclay's plans came to nothing. He lost control even of his own retinue. The king wrote to Anthony de Lucy whom Thomas Grey described as the chief of Harclay's council, promising him rewards if he should take Harclay prisoner. In spite of his position, Lucy had little reason to be loyal to Harclay and he did not hesitate. With Denton, Moriceby and Hugh de Louthier they entered Carlisle castle, probably on 25 February, when Lucy's account for custody of the castle begins, and arrested the earl. The rebellion was over²⁴⁶. Some of Harclay's closest associates, his cousin Michael de Harclay and William le Blount, a Scottish knight in the earl's retinue, fled to find refuge north of the border²⁴⁷. The rest of Harclay's former men seem to have readily abandoned the rebellion and joined Lucy. The list of Harclay's remaining supporters was extensive but it contained few men of substance and these immediately fell prey to plundering by the royalists.

Having been arrested, Harclay was granted a travesty of a trial, the judges having been equipped with the sentence to be passed even before the trial began²⁴⁸. The trial was, in fact, little more than a glorification of Edward's revenge. After summary procedure the details and procedure of which are too simple and well known to need further repetition, Harclay was sentenced to be degraded, hanged, disembowelled, beheaded and quartered. By the 14 March the late rebel's head had been brought to London to the accompaniment of the of the blowing of horns²⁴⁹. The fortunes of the Harclay family which

246 Lanercost, 250; British Library, M S Stowe, 553, f62v

247 Lanercost, 250; Stevenson - Illustrations of Scottish History, 9

248 J G Bellamy - The Law of Treason in England in the Later Middle Ages. (Cambridge 1970), 52

249 Flores Historiarum, v3, 212

had been carefully nurtured over several generations were placed in ruins and they never recovered. Equally in disarray was what passed for Edward's policy towards the north of England. Harclay's fall had created an unstable situation which offered major opportunities for ambitious men such as Lucy and Ranulph de Dacre, opportunities they were not slow to appreciate.

CHAPTER IX

RE-ADJUSTMENT AND REVENGE

Andrew de Harclay's indenture with the Scots and his subsequent attempts to compel its acceptance by the local communities of the north were in direct contempt of Edward II's authority. In practical terms, however, they represented no real threat to the king's rule. Harclay's energies, after he returned from Scotland, were impressive but they were largely ineffective and his pretensions were put down without the need for a military campaign. The desertion of his retainers was enough to ensure Harclay's downfall. It would, moreover, be inaccurate to suggest that it was Harclay's downfall which forced the English government to abandon hopes of a military victory, or even of effective defence against the Scots¹. Edward seems to have accepted his inability to deal with the problem after Byland and Harclay had been commissioned to open negotiations with the Scots for a final peace in February 1322, his crime was not to treat with the Scots, but to conclude a peace treaty with them without authorisation and to enter into an agreement against the king. The search for an accommodation with Bruce remained a high priority even if it was not an objective which was always pursued honestly or wholeheartedly and its importance grew as Edward's other difficulties deepened².

The chief beneficiaries of Harclay's downfall were those who brought it about, Lucy, Louthur and to a lesser extent Denton and Moriceby. Lucy's rewards were by far the greatest. On 10 March 1323 he was granted temporary custody of Harclay's lands³. Shortly afterwards he received the grant of Cockermouth to hold in permanent hereditary fee as one knight's fee⁴. This was a concession of first importance.

1 Contrast Fryde - Tyranny, 156-58

2 Barrow - Bruce, 358 and following details Edward's various chicaneries.

3 CFR 1319-27, 199

4 C.Chart.R. 1300-1326, 453

Lucy's predecessors had nursed a claim to Cockermouth since 1275 and its control had been an important part of the feud with Harclay. By gaining control of Cockermouth by Harclay's death, however, Lucy had also made a significant gain over the Multons of Egremont whose claim to the honour had been pressed jointly with that of the Lucies. This claim was now permanently blocked, though neither family abandoned their claim to other lands formerly held by the Forz family, Skipton and Rudeston in Nottinghamshire. In July 1323 Lucy made a further gain which heightened his influence in Cumberland still more. He was granted custody of the lands belonging to John de Multon of Egremont till he came of full age ⁵. This was a gain of essentially limited duration since Multon was due to reach his majority in the following year, but it had a striking importance territorially ⁶. Lucy now held, albeit for a limited period, the whole of the lordships of Copeland and Allerdale, a state of affairs which had no precedent since the death of William of Egremont in the twelfth century. He was also supreme commander of the royal forces in Cumbria and though his command did not include Northumberland as Harclay's had done it was complete within Cumberland. Lucy had the garrison in Egremont directly under his own command. He also had control of the forfeited Harclay strongholds of Mallerstang, Highhead and the peel of Staward in Tynedale ⁷. The cost of supporting this extensive military establishment was considerable but it fell solely on the crown. The government was, as a result, anxious to reduce the forces in the region at the earliest opportunity. On 30 May 1323, soon after the Truce of Bishopthorpe had been agreed, the garrisons of the West March were run down. Four knights, 57 men at arms, 43

5 CFR 1319-27, 212

6 SC.6.824/19

7 British Library, M S Stowe, 553, f62v

foot and 63 hobelars were paid off leaving only a holding force of 25 knights and men at arms, 49 foot and 8 hobelars. No money was spent on repairs to local fortifications many of which remained in an almost ruinous condition.

Anthony de Lucy was the most important figure in Cumbria in the last years of Edward II's reign but it is clear that the government had learned its lesson. Despite his wide ranging military commission Lucy was treated with much greater caution than Harclay had been, though this may have been as much the result of parsimony as of prudence. The large stock of lands in Westmorland which Harclay's, and earlier Roger de Clifford's, fall had brought into the hands of the crown was not allowed to fall to Lucy and even as his power in Cumberland grew the lands in his possession in Westmorland were stripped away from him. Most of Harclay's and Clifford's former lands were placed in the administration of short term keepers. The Harclay family lands of Mallerstang were removed from Lucy's custody on 8 July and entrusted to Thomas de Synerthwaite⁸. Appleby and the greater part of the Clifford lands were taken from Lucy and placed in the custody of Patrick de Curwen who was to answer for their revenues at the Exchequer⁹. This was, at the least, an imprudent move. Curwen had been one of Harclay's closest followers and was almost certainly a relative, and his appointment indicated the weakness of the regime's understanding of Cumbria, for if Edward had built up a real network of local agents, as has been suggested by Dr. Nigel Saul, Curwen would surely never have been appointed¹⁰. As it was, when his

8 CFR 1319-27, 221

9 ibid, 224; Stowe, 553, f62v

10 N Saul - 'Despensers and the Fall of Edward II'; EHR, v99 (1984), 28

links with Harclay were discovered the government demonstrated its nervousness by ordering his removal and replacement by a man of unquestioned loyalty¹¹. There was some justification for alarm. The government had few committed supporters in the region and Edward did little to build up a body of supporters. Instead of creating a well-endowed court party on the West March he pointlessly kept a large stock of land in his own hands to fill the royal coffers. Hugh de Louthier, for example, was rewarded for his services in the capture of Harclay with only a life interest in the manor of Hartley¹².

The absence of any attempt to build up a body of his own supporters on the West March constrained Edward to recognise the power and influence of the magnates who had been able to establish themselves during the earlier years of his reign. This recognition and dependence, in turn, strengthened their position. In the absence of any representative of the Cliffords or the Multons of Egremont the dominance of Anthony de Lucy and of Ranulph de Dacre was almost unchallengeable. It was through them that the court had to work in the ordinary course of events. Below Lucy and Dacre was a slightly broader group of middling rank who were essentially the leading followers of the dominant magnates. Those summoned to the great council held at Bishopthorpe in 1324, for example, included Lucy and Dacre almost as of right, but the region was thinly represented if they were ignored. From Westmorland only Hugh de Louthier attended. Two Cumberland men were summoned, John de Harrington and Richard de Hudleston. Both were adept political survivors having been followers first of the Earl of Lancaster, then Harclay but they could in no sense

11 Bain, CDS, v3, no 825

12 ibid, no 869

be regarded as reliable men for the court's purposes ¹³.

Even though Edward's policy was responsible for a large part of the problem on the border he was capable of taking some steps to alleviate it. On the death of Bishop Halton he over-ruled the wishes of the convent who wished to appoint William de Airmin and chose to insert John de Ros into the see ¹⁴. A southerner, Ros was to justify Edward's choice by being one of the three clerics who opposed Edward's disposition. Within Cumberland he may well have been less effective.

Edward's dealings with the West March during the last years of his reign are obscure but neglect was their most visible characteristic. This had a serious effect locally. One writer complained that Edward had been responsible for the loss of part of the English March to the Scots ¹⁵. Even in times of peace it was complained that attacks by schavaldurs wasted lands in the region, and the dividing line between attacks by schavaldurs operating locally and attacks by groups of renegade Scots acting without official sanction was exceedingly narrow ¹⁶. In fact it appears clear that even in times of truce or peace Cumbrians could not consider themselves safe from attack. The security of the district was further weakened by the decision to run down local garrisons which could have been used to put down groups of robbers. Moreover, local castles stood in need of much repair if war were to be renewed. Neither the crown nor local communities showed any urgency to repair them. The citizens of Carlisle were pardoned a part of the farm of the city on condition that they spent the money on the repair of a section of the city walls but they had done nothing by

13 Davies - Baronial Opposition, 292, 293; App. Doc., no. 94

14 Lanercost, 253; Vita, 141

15 Lanercost, 259

16 Bain, CDS, v3, no 892

March 1326¹⁷. Around the same time a group of Scots attempted to capture Carlisle castle under cover of darkness¹⁸. In this climate of insecurity, Edward continued to harbour his suspicions about the defenders of the March and accused them of allowing Scots to enter England¹⁹. Local opinion had no higher opinion of the king and was alarmed by the re-appearance of the persistent rumour that Edward would cede a large part of the northern counties to Bruce in return for support against the enemy of the day, in this case Isabella and her supporters²⁰.

The events leading to the deposition of Edward II are sufficiently familiar to need no further discussion, but less clarity surrounds the role played by the West March in Edward's fall. One of the leading figures in the opposition was Thomas Wake, Lord of Liddell, who with Henry de Percy brought a large force to join Isabella at Gloucester. It is uncertain how much, if any, of this force had been recruited from Cumberland. While it is true that the north of England was the ideal place to recruit a force of armed men, Wake had only limited influence on the border, the lordship of Liddell had been so thoroughly wasted time and again that it can have provided little of a power base. It is not certain either if the force Wake led was drawn from the border rather than from the north of England in general. To Adam Murimuth, who seems to have had little interest in the north, Henry of Lancaster was as much a northerner as Percy or Wake, an imprecision perpetuated by writers to this day.

17 CCR 1324-27, 456

18 *ibid*, 466

19 *ibid*, 457

20 Lanercost, 256

Dr. Saul has suggested that the purge of administrative officials in early 1327 was an attempt to remove former supporters of the Despenser from positions of importance in which they had been placed, particularly in the command of strategic castles ²¹. It is possible to find evidence to support this thesis in Cumbria. In Cumberland the sheriff was replaced, as was Henry de Threlkeld the castellan of Appleby. To base an account of local politics simply on the removal of local officials would lead to gross distortions, however. While it is possible that Richard le Brun, Lord of Bowness on the Solway, was sympathetic to the old regime, his immediate loyalties were probably more to the Bishop of Carlisle than to either of the Despensers. His successor, Peter de Tilliol, had close links with Lucy and was at least nominally a tenant of Thomas Wake ²². It is also in the case of Westmorland that Dr. Saul's thesis departs furthest from the realities of the contemporary situation on the border. The vital political event in the political re-arrangement of Westmorland in 1327 was not the removal of Henry de Threlkeld from custody of Appleby but the restoration of a member of the Clifford family to their estate, in this case Robert II, brother and heir of Roger IV ²³.

The restoration of Robert de Clifford to his family's dominant position in Westmorland was a much more important event than the removal of Henry de Threlkeld, a minor tenant of the Greystokes. It was also

21 Saul - 'Despensers', 1, 28

22 Hist and Antiq, vl, 213. Le Brun was less obscure than Dr. Saul suggests. His father had also served Edward I regularly.

23 E.199/43/3; CFR 1327-37, 5. Dr. Saul notes that Appleby castle was generally granted jointly with the shrievalty of Westmorland. Both, of course, were hereditary possessions of the Cliffords except from 1322 to 1327.

wholly consistent with the rest of the new government's policy towards the border. The Issue roll for 1327 records a sustained policy aimed at winning, or at buying, the support of the border magnates. On 17 February Henry de Percy made an indenture for the custody of the whole of the Scottish March under which he was allowed his wages, restoration of horses and the remainder of 1000 marks after these had been deducted ²⁴. Anthony Lucy was cultivated almost as thoroughly. Lucy agreed to keep the city and castle of Carlisle at his own risk until the following Pentecost for the sum of £500. In contrast with other occasions, he was paid promptly ²⁵. Anthony de Lucy's importance to the new regime and his local dominance was demonstrated in other ways. In March 1327, keepers of the peace were appointed for the first time to combat the lawlessness which was perceived as one of the most serious contemporary problems. In the borders, lawlessness was certainly a severe problem and it required almost military measures to suppress it. For this reason Lucy was given charge of the commission which included power to enter liberties. Significantly his deputy was Richard de Denton ²⁶.

During the early years of Edward II's reign Bruce had used the dissension between the king and the magnates to brilliant effect, timing his raids to take the best advantage of internal disputes. Bruce had trained his followers well for on exactly the day on which Edward III was crowned the Scots attempted to seize Norham castle ²⁷. Professor Barrow has suggested that this attack was intended to do nothing more than remind the new English regime that a truce existed between the

24 E.403/225, 17 February

25 E.403/225, 9 and 18 February

26 B H Putnam - Proceedings before the Justices of the Peace (1935), 1

27 Barrow - Bruce, 356

two realms but this interpretation seems unduly idealistic. It seems on balance more probable that this attack, together with the earlier attempt to take Carlisle which was said to have the support of some of the Scottish magnates, was part of a sustained plan to re-open hostilities. Certainly Carlisle and Norham were the most important obstacles to renewed attacks by the Scots and even possible annexation. As before, Scottish intelligence work was precisely accurate, for the leading defenders of the March, Percy and Lucy, were at court when the Scots attacked.

The new regime was more than willing to reopen the war with the Scots and the attack on Norham provided it with justification. A military victory over the Scots would greatly have enhanced the government's prestige and underlined the contrast with Edward's misrule. Both sides, in short, were set on war in the summer of 1327. There was little evidence of significant advances in tactics on the English side. Once again superior numbers were to be used to crush the enemy, recruits having been increased by preferential rates of pay offered to John of Hainault and his followers. As under Edward II's leadership, however, the English force was still engaged in its labourious preparations when the Scots began to move.

In contrast with the disastrous campaign of 1322 the garrison of Carlisle was exempted from preparations for the attack on the Scots and placed under the command of Anthony de Lucy²⁸. Though this was a sensible precaution the rest of the plan campaign was an extremely odd one. The Scots had probably entered England through Kielder and Redesdale in the first half of June and stung by the speed of the Scots

attack, plans were made for the main army to advance from York on 1 July. Two days later news reached the English commanders that the Scots planned to mount another attempt to take Carlisle by siege ²⁹. This proved to be misleading, the Scots made no attempt on the city, though one was still expected and instead they raided further south, keeping to the west of the Pennines. Early in June a group was reported to be in Appleby ³⁰. Incomprehensibly in light of the belief that the Scots were about to attack Carlisle, the royal army advanced slowly from York, via Northallerton, to Durham, which Edward reached on 15 July ³¹. The army's scouts must have been either ineffective or absent for the Scots passed very close to the English force but their presence was only brought to the attention of the English by the smoke from burning villages ³².

It is worth considering the organisation of the English army in 1327 for it had direct implications on the conduct of the campaign. Following J. E. Morris' argument, Professor Nicholson has suggested that 'thanks to the work of Sir Andrew de Harclay' a large contingent of the English force consisted of hobelars equipped to match the Scots mounted infantry and capable of fighting the same kind of war ³³. As the preceding chapter has attempted to show there is no reason to believe that Harclay was alone responsible for the introduction of hobelars into the English forces. They were to be found serving under Edward I as early as 1297 and their origin seems originally to have been

29 CCR 1327-30, 27, 28 . Rymer - Foedera, 296

30 Bain, CDS, v3, no 920; Ramsay - Genesis of Lancaster. vl identifies the writer as the Earl of Kent. 190.

31 Ramsay - Genesis of Lancaster, vl, 190

32 Chronique de Jean le Bel, 48, 49

33 R Nicholson - Edward III and the Scots (Oxford 1965), 27 and see the literature cited there.

in Ireland. Moreover, there is little reason to believe that the hobelars who were in the English army at this time made any contribution of value to English success. As in the campaign of 1322 they failed either as scouts, for the army was singularly badly informed about the locations of the Scots, or as a rapid corps able to close with the Scots and force them to give battle. Indeed in one respect its failure was even more ignominious, after a series of futile forced marches across the north of England, the Scots raiders escaped and Edward's force failed to cross the border. As in 1322 supply arrangements broke down leaving the English troops to plunder the peasants of their own country while such rations as were available were sold at profiteering rates ³⁴. Defeated, the English field army withdrew to York while the Scots were able to devote themselves to the task of laying siege to the castles of Norham, Warkworth and Alnwick. There was particular alarm in England as a result of the belief that Bruce intended to return to his earlier policy of granting out English territory to his followers, but the success of such a policy depended on the capture of the northern castles, especially Norham and though the Scots completely dominated Northumberland they failed to capture the castles. They were also able to return to their previous practice of demanding protection money and left defenceless after the retreat of the royal army, the Bishopric of Durham, Cumberland, Richmondshire, Cleveland and Westmorland paid tribute ³⁵.

In the face of a sustained Scots siege of Norham and the fact that they were completely powerless to prevent the Scots levying blackmail

34 Lanercost, 259; See Nicholson - Edward III and Scots, Chapter III; Melsa, v3, 357

35 Scalacronica, 155; RS, v1, 221

from northern England, Isabella and Mortimer were left only with the option of re-opening negotiations for peace. Bruce was very willing to entertain the idea and he remained in the stronger position. As a result he was able to take the initiative in composing the treaty which bore important similarities with Harclay's treaty and contained much to the benefit of the Scots. Edward III was compelled to quitclaim all rights to homage or superiority over Scotland, but in other respects the treaty was not ungenerous to the English³⁶. Even so the agreement with the Scots was widely held to be a betrayal and a source of shame. One group of English nobles, including Thomas Wake of Liddell, who seems to have devoted more energy to affairs on the border than had many of his predecessors, considered themselves to be particularly aggrieved by the terms of the settlement for it made no provision for those who held lands in Scotland but who had sided with England to have their estates restored to them³⁷.

Despite the palliatives offered to the English side by Bruce in the treaty of Northampton/Edinburgh, the agreement was a major foreign policy defeat for England. It was clearly understood as such by the young Edward III, as well as by many of those like Henry of Lancaster who had risen against Edward II. The leaders of the 'disinherited' were willing to put their grievances to the test but after attempting to raise a force at Rothbury in Northumberland, Wake and Beaumont were forced to flee the country³⁸. The 'disinherited' may have looked to the border nobility for support but if so they were to be largely

36 Stones - Relations, no 41. On the relationship between the settlements of 1322 and 1328 see Barrow - Bruce, 362

37 Nicholson - Edward III and Scots, 57

38 Scalacronica, 156

disappointed. Though Anthony de Lucy was held in uncertain regard by Isabella and Mortimer they were under no illusion that they could run the north west without him and accordingly made assiduous efforts to cultivate his co-operation. In March 1328 he was granted custody of Penrith, Souerby, Ulvedale and the revenues of the demesnes of Carlisle castle until he was repaid debts owed to him for war wages ³⁹. Even as conditions deteriorated, Lucy's interests were protected. In the autumn of 1329 he was granted permission to alienate 100 marks worth of land to his son Thomas at any time he chose ⁴⁰. Even such substantial concessions to Lucy could not wholly put Isabella and Mortimer's minds at rest. They continued to regard the border as a possible source of insurrection, even after the confiscation of Wake's estates. Aware of the limits of their power they were forced to continue to appoint established local magnates to positions of power. In July 1330 they appointed Ranulph de Dacre to hold Lancashire against possible rebellion while Henry de Percy was commissioned to hold Cumberland, Westmorland and Northumberland ⁴¹. Anthony de Lucy was not mentioned in this arrangement but there was no other sign that his stock had fallen with the regime and in the light of Percy's earlier services to the regime it was wholly unsurprising that he should be given control of the whole March.

Edward III's relations with his nobility have been the subject of considerable, if uneven, study. In particular, attention has been focussed on Edward's creation of six new earls in 1337 both because

39 CCR 1327-30, 245

40 *ibid*, 455

41 *ibid*, 563

historians have given exaggerated emphasis to titular rank and, more practically, as a sign that 'a new start was being made', a new aristocracy being created without the alienation of the old ⁴².

Though it is not practical to reconsider the whole subject here it is clear that Edward's policy towards the magnates of the West March was at variance with the complete new start that was made in the rest of the realm. Edward III's policy in the years soon after his assumption of personal rule bore a marked resemblance to that followed by Isabella and Mortimer. Like them, Edward was forced to work through the existing nobility of the West March rather than try to recreate or remodel it. In this Edward was assisted by an almost visible political caution displayed by the most influential men of the area. Robert II de Clifford, having gained the restitution of his family estates in 1327 seems to have been willing to play little part in the treacherous politics of the minority. His attentions were doubtless fully taken up in the restoration of his family's position in Westmorland and it was probably for this reason that he chose to serve as sheriff in Westmorland in 1327 rather than have the office performed by a deputy ⁴³.

Anthony de Lucy's career is even more interesting than that of Robert II de Clifford. Though Lucy remains in many ways an enigmatic figure it is clear that he possessed both a high degree of caution and an ability to align himself with the winning party. In addition he was capable of rapid and decisive action when the occasion required, as he had shown in 1323. Lucy, who was an experienced man of around fifty in 1330, displayed a brilliant talent for political survival ⁴⁴.

42 Prestwich - Three Edwards, 215

43 List of Sheriffs, 150

44 CIPM, v5, no 146. Lucy was 25 'and more' on his brother's death in 1309

Despite briefly having links with the Contrariants, he had served under Harclay but had shown the good sense to avoid Harclay's rebellion. From 1323 to 1327 Lucy had been a vital figure in the defence of the March but he had survived the fall of Edward II without difficulty but on their fall he had rapidly taken office under Isabella and Mortimer. With their power gone, Lucy remained entrenched in Cumberland and emerged as a man who could be relied upon as a 'troubleshooter'.

The high confidence which Edward III placed in Anthony de Lucy was demonstrated soon after Edward assumed power. It was to Lucy that Edward turned for a strong man to curb the growing unrest in the English lordship of Ireland, news of which presented Edward with the first major problem of his personal rule⁴⁵. As Dr. Frame has aptly pointed out Lucy's appointment to the Justiciarship 'ought to have carried a warning to the more alert of the Anglo-Irish' and on arrival in Ireland he did not hesitate to take drastic steps to impose discipline in the lordship. Lucy's career in Ireland needs no further discussion here, though it clearly marked another stage in his advance but one aspect is worth discussing for the light it sheds on his growing dominance in Cumberland. Before setting out for Ireland Lucy took our protections for his followers. His retinue was a powerful one and it included two of the men who had taken part in the arrest of Harclay, Hugh de Louthier and Hugh de Moriceby. The rest of his force was just as clearly drawn from the West March. Peter de Tilliol was a former sheriff of Cumberland, John de Derwentwater, Adam de Bassenthwaite had obvious links with Cumberland while others, such as Matthew de Redmayne and Thomas de Stirkland were drawn from Westmorland.

45 Frame - English Lordship in Ireland, 196, 197

Another group, Robert de Lamplugh, John de Pennington and Robert de Rottington were drawn from the minor gentry of south-west Cumberland⁴⁶. As Dr. Frame has commented, this was a powerful and coherent force and it contrasted very dramatically with the paltry retinue Thomas de Lucy had led against the Scots in 1306⁴⁷.

Preparations were afoot in the summer of 1332 for a larger expedition to Ireland to follow on from the advances Lucy had been able to make. Two of the lords of the West March were summoned to be ready to cross to Ireland with the king and on 26 July Multon was ordered to raise 160 archers for the expedition⁴⁸. It appeared very briefly as though Ireland was to provide martial employment for Multon, Clifford and the other lords of the West March, as Scotland had done for their fathers, but the possibility of growing involvement there was cut short by the outbreak of renewed hostilities between England and Scotland. Lucy was hurriedly recalled from Ireland and the lords who had been preparing to cross to Ireland awaited developments nearer home⁴⁹. The root of the disturbance was Edward de Balliol who, having been recalled from exile in France, had left for Scotland at the head of an expedition comprising military adventurers and claimants to forfeited Scottish estates. With the tacit support of Edward III the expedition had enjoyed striking early successes, defeating a Scots force at Dupplin Moor and holding a coronation ceremony for Edward Balliol at Scone. Thereafter the campaign had run into difficulties. Balliol had been defeated at Annan and forced to flee back to England.

46 CCR 1330-33, 105

47 Frame - English Lordship in Ireland, 201

48 CCR 1330-34, 487, 586

49 H R Lumby - Chronicon Henrici de Knighton (Rolls Series 1889), v1, 465, 466; Melsa, v2, 367

Late in 1333 Balliol was in Cumbria drumming up support for his cause. He found a sympathetic audience in Carlisle where the idea of inflicting revenge on the Scots was a popular one. Local magnates were just as willing to support his schemes. Both Ranulph de Dacre and Robert de Clifford entertained the fugitive king and in return for hospitality and promises of support they received grants of land in Scotland . The Scots were hardly less bellicose than the English. In March 1334 Archibald Douglas crossed the border to attack Gilsland. His force spent four days wasting Gilsland with a thoroughness which suggests that Dacre was singled out for attack by the Scots for some particular reason. This may have been connected with Dacre's part in the abduction of Roger de Kirkpatrick, for opposing Edward de Balliol ⁵⁰. Anthony de Lucy assumed charge of the preparations for counter-attacks. Leading a force of 800 men twenty miles into Scotland before inflicting a defeat on William Douglas ⁵¹. In the east, English successes continued when Edward III's force inflicted a devastating defeat on the Scots at Halidon Hill, compelling the Scots to surrender Berwick.

The campaigns of 1333 and 1334 mark a dividing point in the history of the West March, less because they were successful but in that the border magnates showed themselves willing to serve and to serve regularly against the Scots. Robert II de Clifford fought at Halidon where his efforts were rewarded by a gift of victuals from Edward III while in the West, Lucy and Dacre were prepared to remain on guard ⁵². The following year all three were to be found campaigning on the West

50 Bain, CDS, v3, nos 1067, 1072, 1089; RS, v1, 296

51 Melsa, v2, 369

52 Nicholson - Edward III and Scots, 179

March, prudently left as a separate force in the West rather than having been subsumed into the main army. Just as significantly the magnates of the West March showed that they were prepared to undertake routine commissions of justice, such as that issued to Thomas Wake, Anthony de Lucy and Peter de Tilliol to put down robbers and evil-doers in Cumberland and Westmorland in 1340⁵³. The willingness of local magnates to take on such unspectacular duties was a sign of the increased role played by local magnates in the routine life of the region. This was a very significant transformation from the predominance of absentee lordship in Edward I's reign.

The battle of Halidon Hill provided a dividing line in the military sense but 1334 was almost as important in family and dynastic terms. 1334 prefigured the division of the most privileged and extensive liberties of the region, Egremont, on the death of the last representative in the male line of the Multons of Egremont, John de Multon. Multon had played an active part in the Berwick campaign, in which he was charged with blockading the city to prevent a Scots break out⁵⁴. His career might well have matched that of Robert II de Clifford or Thomas de Lucy as an active and assertive local figure had not death intervened.

John de Multon's death left the lordship of Egremont without male heir and the heirs to it were his three sisters. The castle itself fell to John's eldest sister, Joan, the wife of Robert FitzWalter, together with a third of the arable and the profits of the court. A second share descended to Elizabeth de Bermingham but this descended not in

53 Bain, CDS, v3, no 1334

54 Bridlington, 114

the de Bermingham family since Elizabeth bore Walter de Bermingham no issue, but in the possession of Elizabeth's son by a previous marriage, Robert de Harrington. A final third fell to Margaret de Multon who had married Thomas de Lucy in 1329 and this came increasingly to be integrated into the rest of the Lucy family's holdings in western Cumberland, eventually falling to the Percy family on the extinction of the Lucies in the male line when a marriage settlement added the Lucies' dominance in the west to that which they already enjoyed in the east. The dominance of the Percy family in the west was only challenged by the power of the Clifford family based on its holdings of Appleby and Skipton. Much of the Clifford family's prestige and influence was dissipated in a series of wardships and minorities in the late years of Edward III's reign and the early years of Richard II. It was partially restored by Thomas de Clifford but on his death in 1391 a further eclipse occurred when Richard used the minority to install Ralph II de Neville in the Clifford lands. Richard added insult to injury by granting him the title of Earl of Westmorland. A brief upsurge in the Clifford's fortunes was ended by the death of John de Clifford at the siege of Meaux in 1422 and despite the recovery which the family fortunes made during periods of Lancastrian dominance during the Wars of the Roses the Cliffords never succeeded in challenging the dominance of the north of England enjoyed by the Nevilles or the Percies. The extinction of the Percies and the eclipse of the Cliffords by the prospering Nevilles of Raby, left the West March to the dominance of two families from east of the Pennines and in a degree ended the isolation of the West March as a discrete and self-contained political community. Henceforth it was more fully integrated into a political arena formed by the north of England as a whole. Within that greater arena, however, the important institutions and conditions remained those created and modified during the reigns of Edward I and Edward II.

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M S Dodsworth, 70

Cumbria Record Office, Carlisle Castle, Carlisle

Halton Collection

Lonsdale Collection

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Register of Wetherall Priory (Carlisle Dean and Chapter MS)

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Swinburne Collection

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C.260	E.199	Just. 1	
	E.352	Just. 3	
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