

ART. VII.—*The private forests of S.W. Cumberland.* By
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THE Royal Forests are a subject about which much has been written and their importance is well known: much less well studied have been the private forests or free chaces. These were areas of land over which local magnates held the right of hunting and where, although they lay outside the control of the Forest Law, restrictions were placed on all but the holder of the forest franchise. For all practical purposes there was little difference between life in a royal forest and life in a private. Except that his offences might be punishable by the Common Law and not by any forest court of the lord the man living within the bounds of a private forest would feel no difference.

No one might hunt in a free chace without the permission of the holder of the franchise, and not only the deer but the wolf, the boar, the hare, the fox and other small animals were reserved. This, however, was not the most important aspect of the forest, either royal or private. Those forest regulations which touched the economic life of the community had greater effect on men's lives. Men might not assart, i.e. take new land into cultivation, or make a purpresture, i.e. erect a new building, without contravening the forest rules. Hedging, ditching, draining and the cutting down of trees were forbidden: wood for burning or for building might be taken only under the eye of a forester, the committing of waste was a terrible offence, the protection of the deer and the preservation of their sustenance was all-important. These forest regulations acted as a damper on agricultural improvement and in the 12th and 13th centuries, a period of expanding population, were felt to be particularly repressive. Large areas of the country

were within the forest, and Inglewood is sufficiently well known to need little mention here.¹ It lay to the north of the River Derwent and south of that river lay those private forests, the best known being Copeland Forest, which are the subject of this paper.

Copeland Forest has long enjoyed an undeserved prominence in the history of the forest system. Mr F. H. M. Parker, in the first of his important series of articles on Inglewood, placed Copeland along with Inglewood and Allerdale as a royal forest. He suggested that the three forests had once formed a royal Forest of Cumberland, and, while admitting that the evidence was slight, formed the opinion that Copeland and Allerdale were "treated as bailiwicks within (Inglewood)".² He was led to this conclusion by an Elizabethan list of "68 royal forests"³ which named Copeland as one, and by his knowledge that inquisitions on Inglewood were made by 12 verderers and 36 regards,⁴ in both cases three times the usual number for a forest. Mr Parker's knowledge of Copeland Forest was not precise as his only geographical reference "Copeland Forest, separate from the rest above Calder Bridge" shows. He was ignorant, too, of the fact that Inglewood, like the forest of High Peak, was divided into wards, each ward sending 4 verderers and 12 regards to the judicial eyres. Allerdale was a ward of Inglewood and it later took the name Westward, the other two being Gatesgill Ward and Penrith Ward.⁵ Copeland Forest was never part of the royal forest system.

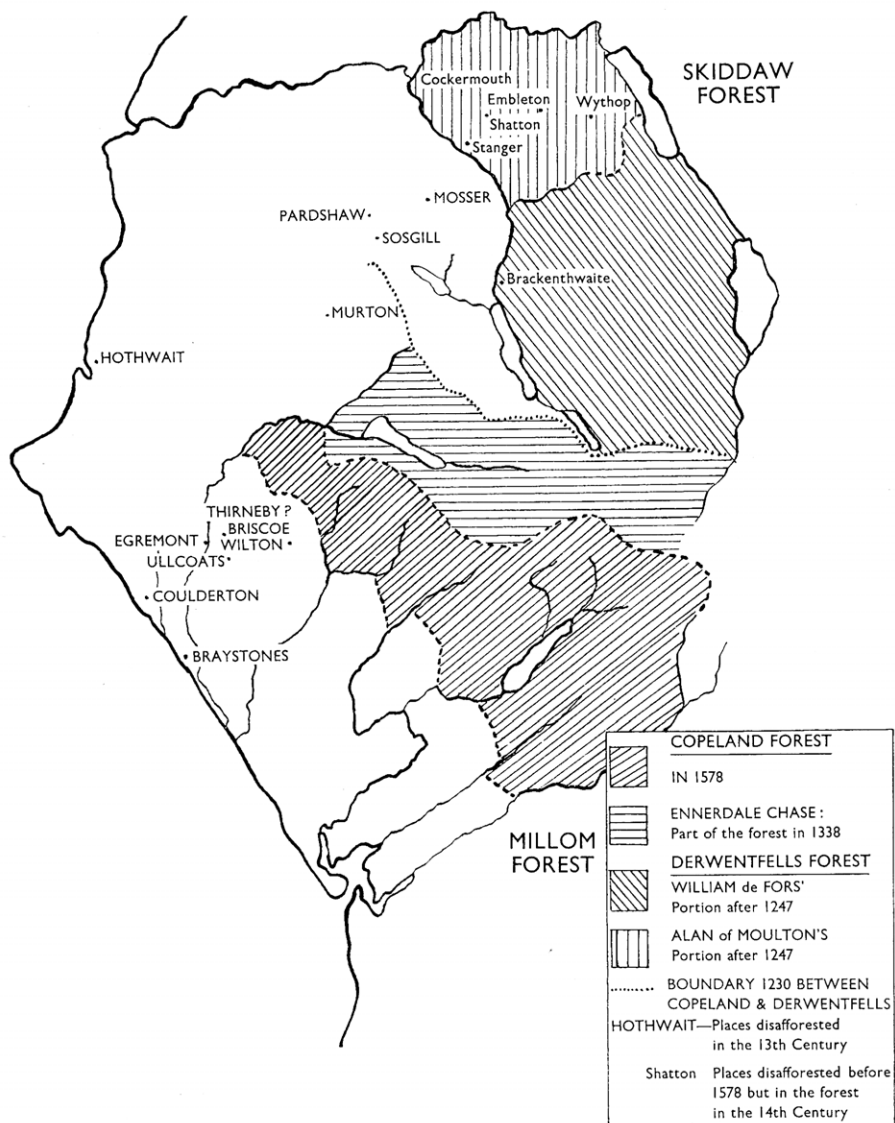
¹ See the articles by F. H. M. Parker in CW2 v-xii.

² CW2 v 38.

³ Really 69. The forest is also shown on Speed's map of Cumberland, 1610.

⁴ For example, P.R.O., Forest Proceedings, Exchequer Treasury of Receipt, 5, m37.

⁵ *The Place-Names of Cumberland* (E.P.N.S. xx, 1950) i 38, names the wards as Nether Ward (Gatesgill Ward), Over Ward, Penrith Ward and Westward — four in all. It seems that as Nether Ward and Gatesgill Ward were the same so were Penrith Ward and Over Ward. In 1292, during John de Vesey's forest eyre of Inglewood, three divisions were mentioned — Allerdale, Gatesgill and Penrith — in the statement of amercements for failing to cut dogs' claws, P.R.O., Forest Proceedings, Exchequer Treasury of Receipt, 6. Four wards fails to fit the equation $a \times 12 = 36$ regards or $a \times 4 = 12$ verderers.



The private forests of S.W. Cumberland.

The evidence that Copeland Forest was never a royal forest, even in the 12th century, is negative but convincing. Its existence as a private forest in the 12th century is well authenticated: no royal document claims it as a royal forest and there is no judicial eyre in which it is mentioned. Further, as Mr Parker pointed out,⁶ Gilbert Pipard, when accounting for the annual rent of the Warden of the Forest, left Copeland Forest out of his calculations.⁷ The manner and timing of the imposition of Norman control over Cumberland may partly explain why Copeland Forest was not royal. The northern border had been won by the crown and a number of great subjects and the north-west was divided among them.⁸ Copeland barony was given to William de Meschin and it remained more or less independent until 1178, when it was accounted for in a subsection of the Cumberland sheriff's exchequer account.⁹ The royal forest system reached its greatest extent in the reign of Henry II, and since there was nothing to stop Henry II taking Copeland Forest into his forest system at the same time as he brought the barony under the control of his sheriff it must be assumed that the expansion of the royal forest in Cumberland¹⁰ had ended before 1178, or that there was some special reason for leaving the lords of Copeland to enjoy the free chace they already called their "forest".¹¹ Copeland Forest's fame was fortuitous, dependant on the use of the title still in 1578,¹² for as the map shows it was merely one among a number of free chaces which

⁶ CW2 v 39.

⁷ Gilbert Pipard accounted 7 marks for Inglewood Forest and 3 marks for Allerdale Forest: this 10 marks annual rent for the forest of Cumberland is the same sum as Robert de Trivers rendered to Ranulph Meschin in return for the custody of the forest, *Book of Fees* i 198.

⁸ See J. C. Holt, *The Northerners*, 213 ff.; *The Place-Names of Cumberland* iii xxxiv f.; F. M. Stenton in *Royal Commission on Historical Monuments, Westmorland*.

⁹ Pipe Roll 24 Henry II, 126. It was reckoned as a separate area in the rota of itinerant justices in 1176, *Benedict Abbas*, ed. Stubbs, i 108.

¹⁰ See Parker's map in CW2 v 34.

¹¹ See below, p. 110.

¹² See below, p. 114. *Place-Names of Cumberland* i 37 gives a number of examples of the use of the name.

stretched from the Derwent to the Esk and included most of the mountainous land of S.W. Cumberland. In addition to Copeland Forest there was the forest of Derwentfells, which may have been different from the forest "Between Coker and Derwent" and a forest of Ennerdale.¹³

The earliest suggestion of a free chase in the south-west of Cumberland occurs in a grant from William son of Ranulph to St Bees Priory which included the tithe of his venison: the reservation of deer to the lord which this implies suggests a forest.¹⁴ This is made more certain by the next grant, again by William de Meschin, of *decimam porcorum et carnis venacionis mee per totam Caupalandiam et decimam pannagii mei et decimam vaccariarum mearum per totam Cauplandiam. Et si quis ex mea permissione vel donacione infra Forestum meum pecuniam suam habebit ex ea sicut ex mea monachi habebunt decimacionem . . .*¹⁵ William son of Ranulph's

¹³ In addition to the forests mentioned in this paper the forest of Skiddaw is mentioned in the Percy Survey of 1578: the bounds were "Beginning at a place called Brundhorse and from thence towards the east to a certain place called Brundhorsetakes and from thence to the Bounder Stone in a place called Whay Moss and from thence north eastwards towards and by the middle of the said Whay moss to a certain rivulet called Near Grainbeck and from thence descending by the said Grainbeck to Caldewbeck and from thence ascending by a certain rivulet called Burgillbeck to a certain place called Redscar and from thence westward ascending to Calvey Pike and from thence northwards along the summit to the top of the mountain above Deedbeck head and from thence on the height of the mountain called Little Calvey head towards the north west to the waterfall called Whitewaterdash and from thence westward ascending to Birket edge and from thence to Todgill head and from thence to Skiddaw Man and from thence south east to Jenkin Hill and thence to the height of Lonskell Fell and from thence to Brundhorse aforesaid." These bounds can be followed fairly easily on a 2½-inch map: the forest may have been a remnant of the forest of Caldbeck mentioned in the division of 1247. see below, pp. 120 f. The Percy Survey is among the muniments at Cockermouth Castle. It is written in one large volume and records the findings of the commission about the value of all the Percy lands in Cumberland and names all the tenants by freehold and tenants at will together with the land they held, as well as the customs of the area. I must thank Lord Egremont for permission to use his archives, and in particular the Survey and the Lucy Chartulary. A forest "Inter Caltre et Greta" is named in the Chronicon Cumbrie as part of the fief of Oderd son of Liolfe, *Register of the Priory of St Bees*, ed. J. Wilson (CW Record Series, iii), 492 (hereafter *St B.*).

¹⁴ *St B.*, 29, the Rev. J. Wilson dates this charter 1120-35.

¹⁵ *Ibid.*, 30 f.

grant to St Bees¹⁶ makes it certain that hunting was retained by the lord of Copeland for he grants "all the woods within the bounds from Coneyside to the stream which runs between Preston and Hensingham and descends to Whitehaven and there falls into the sea", but he reserves to himself *cervo et cerva, apro et ancipitre*, the common form reservation of a forest franchise. Alice de Rumelly further granted the tithe of venison "of those who hunt by licence in the forest". William de Meschin's grant makes it probable that this free chace covered the whole of the barony of Copeland. A grant of William son of Henry son of Arthur, lord of Millom to Benedict son of Ketell made about 1220 makes it certain that until the early 13th century the custom of the area allowed the local magnate to reserve hunting and pannage throughout his lordship, for the grant is made *Salvo preterea mihi et heredibus meis cervo et cerva et apro et sue silvestri et pannagio porcorum hominum suorum qui infra has divisas manserint, secundum consuetudinem patrie*.¹⁷

That the lords of Copeland did reserve a far greater area of land for their free chace (if not the whole of the barony) than was reserved in later days is shown by a number of their charters. William son of Ranulph's grant of Hothwait¹⁸ places the Whitehaven area within the forest by reserving deer and hawks. Richard de Lucy granted to Reginald son of Adam and his heirs the "common right of Braithestaines" and "that they may freely assart and build within their right divisions, saving to me and my heirs hart and hind, wild boar and sow and hawk when any shall be there".¹⁹ This is obviously a licence to break up the waste and it puts

¹⁶ *Ibid.*, 38 f.

¹⁷ *Ibid.*, 541. This grant indicates the existence of a forest of Millom but I know of no other evidence for its existence.

¹⁸ See above, p. 110.

¹⁹ The charter is printed in translation by Dr W. Farrer in CW2 ii 331-332.

Braystones in the forest at least during the time of Richard de Lucy, 1200-13. Richard's charters to the burgesses of Egremont also show that the forest extended beyond the Ehen. Amongst his gifts he made them free of pannage from *crokerbec usque ad rivulum de Culdercun*.²⁰ "Crokerbec" I cannot identify but Richard's second charter to the burgesses of Egremont makes it clear it was a stream which ran into the Ehen from Long Barrow.²¹ The stream of Coulderton is more easily identifiable. A great deal of the first charter is concerned with the forest regulations and it shows that the area beyond the stream of Coulderton was still in the forest for the burgesses were to be amerced for escape²² beyond the stream of Coulderton. Moreover the woods of "Thirneby", which were probably outside the later bounds of Copeland Forest, were protected in the same charter of Richard de Lucy.

As the population of the area increased and the demand for land became greater the area of the forest decreased. Land which had once been forest land reserved for the lord's hunting was first opened to cultivation then deserted by the deer. The forest area became more and more the mountain fastnesses. Cultivation of land led to disafforestation as the deer retreated before men breaking up the waste. When exactly the lords of Copeland reduced the area in their forest is difficult to say, and even more difficult to answer is the problem of when the later bounds were fixed. Richard de Lucy's grant of Braystones shows the break up of the waste in progress, even though the hunting rights are reserved: his grant of Briscoe and Ullcoats to the burgesses of Egremont about 1205 shows the process even further developed. In 1203 Richard de Lucy entered a plea against Adam son of John concerning

²⁰ The charter is printed in facsimile in CWI i 282 ff.

²¹ "Between Ehen and Ulndalebeck and between Crokerebeck and the Wilton Road," CWI i 285 f.

²² An offence committed when animals strayed into the forest.

service due from a free tenement in Briscoe.²³ Among other matters, Richard claimed that Adam ought to feed his five foresters when they came to him and to find witness to offences against the forest: Adam claimed that he ought to be Richard's forester and put himself on grand assize. In 1204 the tenement was restored to Richard de Lucy and quitclaimed in perpetuity, and Adam put in mercy for the sum of 1 mark.²⁴ Briscoe was obviously in the forest and Adam had the duties of any ordinary tenant of forest land. Yet soon after Richard granted Briscoe and Ullcoats to the burgesses of Egremont by a charter²⁵ which not only does not mention the forest duties but allows the burgesses to "fold and hedge and enclose with ditches". In this way the area between Egremont, Wilton and Wath Brow was disafforested. Before 1578 many other areas were disafforested and no trace of their disafforestation is left. If, as seems likely, the forest of Copeland had once extended over an area bounded by the Derwent, the Esk and the sea, there is enough evidence that the coastal strip south of the Ehen was disafforested during the 13th century. In 1282 Thomas son of Lambert of Moulton made an agreement with the Abbot of Calder, "toching the forest of Coupland",²⁶ and granted to the abbot reasonable estovers in the forest of Copeland from "Oxlesgate towards the east up to the river Esk and from Auesthaitbrig (Forge Bridge in Austhwaite) towards the north to the proper divisions between the said forest of Coupland and of Darwent Felles", which suggests that, as in 1578, the Mere beck was the most southerly point of Copeland Forest. This description of Copeland Forest is an accurate précis of the Elizabethan bounds

²³ *Curia Regis Rolls*, ii 273-274. I owe this reference and the next to the kindness of Prof. J. C. Holt: the plea is printed in a less extended form in *Abbrevatio Placitorum*, 42, and is reprinted from there in *St B.*, 546-547.

²⁴ *Curia Regis Rolls*, iii 206-207.

²⁵ *CW* i 285.

²⁶ *St B.*, 551-552.

of the forest, and it seems fair to assume that the main attack on this forest and the important acts of disafforestation had occurred before 1282.

The bounds of Copeland Forest, as they probably existed at the end of the 13th century, can be drawn from evidence in the Percy Survey of 1578 and from the division of the barony of Egremont between the three sisters of John of Multon in 1338. In this agreement the bounds of three free chaces were recited and together these approximate very closely to part of the boundary recited in 1578. The boundary sworn to by the jury during the survey of Percy lands must be the starting point for any discussion of the bounds since, although its exact interpretation is elucidated by the bounds of 1338, it alone is a complete boundary.²⁷ The survey was made by order of the earl of Northumberland by a specially appointed commission on 13 May 1578 "as well by the sight and search of auncient wordes and presidents of the same as also by the presentiment of two severall homagers or Jury thear videlicet One of the inhabitaunts and tennants in the Middlewarde and an other of the inhabitaunts and tennants in Eskdalewarde . . .", which reported:

The Bounder of the Forestes of Cowpland of the two wardes of the same called Midlewarde and Eskdalewarde being the proper inheritaunce of the said Earle viz. Eskdalewarde with his members of the propertie of the Lord Lucie, the Midlewarde and his members of the propertie of the Lord Fitzwaters, the limitte and Boundes of both which are as followeth viz. Beginninge at the Water of Ehen whereas are the limitte and boundes betwixte Kenyside and Cleter and soe ascendinge the right course of the said water nighe the churche of Ehenerdale and then turninge into the Southe by the midst of the church and churchyarde aforesaid by certaine meeres and divisions betwixt EhenErdale and Kiniside, that is to saie as the said divisions & Bounds extende themselves between the tenement in the tenure of Edmund Thourson called Longmoreheade and the landes of

²⁷ The boundary is reported under "Kinniside" in *Percy Survey*, fos. 116-117.

Ehenerdale into Rowland Bekk, and soe ascendinge the said Beke, unto a Dyke caryinge towards the West to a way called Oxlagait & soe ascendinge Southwarde by the said waie and the heade of the said waie, and then turninge into the west [marginal note east] about grovethwate Closse & the mosse, and then turninge into the sowth weste by the hillsyde called Blake lee by a path unto Blake lee Raies: And by the same path towarde the Easte unto Kinhowecarr, and then liniallie unto White Eskbekk to a place called Buckhoole, and then ascendinge the said Bekk to Blackpote, and then descending to the heade of Silver Cowe (or Cove) and then towarde the North by the topp of the hill unto the Cowter Cragg. & then by the topp of the hill even as the rayn Water dooth discende unto Leescote of Bowlderdale, and by the topp of the hill by forster bed, blackcombe, Kildrellhowe unto the topp off kingefell, and then toward the Easte unto the Topp of the hill called Mickell gavell, and then betwixt Wasdaleheade and Borodale by the Stime (or Sty) head unto the topp of another hill called the Wastall great ende, then to a place called Esk howse, where the water of Eske springeth out, And soe towardes the Sowth and descendinge the water of Eske betwixte Eskdale boundring (?) keld and betwixte Eskdale and the lands of Richard Irton and Thomas Stanlay in Millam unto a place where a syke called Merebeke dooth fall into Eske aforesaid, & ascendinge the said sike betwixte Eskdale and Moulcastre by the middest of a Mosse called Forrest mosse, unto a waie called the Streete at Langgarthgreene unto Kayehowe and as they are divided soe extende themselves unto water of Nyte (or Myte) and then from the west parte of the said water by a ditch to a place where another syke called Merebeck Gill falleth into the said River of Myte, and soe ascendinge the said sike to a place called Houlegillhead, and so descending the said houlegillheade unto a place called little houlegill by a syke called Cargath syke, and then by an olde decaied wall to the water of Irte, and so descending the said water to a place where Kiddebeck falleth into Irte, And soe ascendinge the said rindle the right course betwixt forsteane and the lande of Gosfoorth unto Radeford, and then to a stone called Greystone, and then from a syke called Fridwith syke descending into Stokedale bekk, and soe descendinge the said rindle to Sergauntes foord and soe to the foote of Blentonge and then ascendinge the rindle called Scudderskough dikk nooke, and then from thence betwixt the Forrest and the landes of Calder unto Wormedale bekk & then extendinge betwixt the forrest and the landes of Calder unto the meares and boundes betwixt the landes of Calder Hall and Wilton, and as they are

divided, extending betwixt the forrest & a pasture of William, Egremonte and Cleter to the water of Ehen where the said Bounder first begaune.²⁸

These bounds solve some problems but leave others, not the least of which is the position of the line dividing Eskdaleward from Middleward as, since Percy held both in 1578, no attempt was made to differentiate the two chaces. The name Middleward presumes a third ward somewhere to the north-east of these two. Happily, answers to both these problems were given in 1338 when John of Multon's lands were divided between his three sisters: then the free chace of "Kynesheved and Netherwacedal" went to Johanna, widow of Robert Fitzwalter, and this became Middleward chace of 1578: "Eskdaleward with Wastedaleheved" chace went to Margaret and Thomas de Lucy, and the free chace of "Eynerdale" became the property of Elizabeth and Walter de Bermyngham.²⁹ The bounds of the free chace of Ehenhead and Netherwasdale ran "from the foot of Overboutherdale bek to le Nose del Cambe and Youbergh, above those to le Durre of Youbergh, and in a line to le Blakebek descending by this to Mosedalebek, ascending that to le Blakecombek, ascending that to Foresterbedd and then to le Scote in Bouthdale always

²⁸ This boundary is fairly simple to follow on the 1-inch map though a little care is needed and some places are impossible to identify. The following notes may help. Longmorehead is now a farm, Longmoorhead, shown on the 6-inch map: Oxlagaite, which is so important in this boundary and in the division of the Moulton lands in 1338, is the road running down from Blakeley Moss into Ennerdale: grovethwate Closse is Green-thwaite Close: Kinhowekarr is Kinneyhow Carr: White Eskbekk is the head of the R. Calder: Leescote of Bowlderdale is Scoat Fell: the line "Forster bed, blackcombe Kildrellhowe unto the topp of kingefell" contains one unidentified place — Kildrellhowe: blackcombe must be Blackcombeck and is so named in the 1338 bounds, otherwise we must assume that blackcombe should come before forster bed in the bounds: because the 1338 boundaries of the free chaces of Ennerdale and Eskdaleward include Windy Crag I have assumed that this was the line taken between blackcombeck and kingefell (Kirkfell): Mickell gavell is Great Gable: Moor Beck is Mere Beck on the 6-inch map and Forest moss is shown too: Langgarthgreene is Longrigg green: Houlegill head I have guessed at: parish boundaries have helped where the bounds are rather doubtful, particularly in that part of the bounds after Worm Gill. I must thank Dr F. J. Cockersole for his help in tracing this boundary.

²⁹ *Cal. Close Rolls* 1337-9, 468 ff.

by the top; then to le Heye of Gouthcrag to the head of Silfoucon, in a line to le Blakepottes, and so descending to le Whitesford following the side to le Lycheyate near le Oxelesgate".³⁰ The free chace of "Eskdaleward with Wastedaleheved" ran "from the foot of Overboutherdalebek, over that to le Nose del Cambe of Youbergh by le Cambe to le Durre of Youbergh and in a line to le Blakebek, descending thereby to Moscedalebek ascending by it to le Blakecombek ascending opposite 2 great black stones upon le Wyndeyaterig and in a transverse line to le Geldramshowe, in a transverse line to Rughcrag ascending in a line to le Wrengilheved on le Egge of Kirkefell to the head of Ilgill and to the head of Beksnevell by le Egge to le Heye del Mykelgavel".³¹ These two bounds show that the division between Eskdaleward and Middleward was Overbeck, Wastwater and the Irt. There is nothing in these bounds to indicate where the southwestern boundary of the chaces lay, but in view of the statement in Thomas son of Lambert of Multon's agreement with the abbot of Calder that Mere Beck was the most southerly point of Copeland Forest in 1282, it seems safe to assume that in 1338 the free chaces did not extend to the sea. To the north of these two free chaces lay the third, Ennerdale, whose bounds ran from Great Gable by the same line as Eskdaleward chace to Blackcomb Beck and then by the bounds of Ehenhead and Netherwasdale chace to the "litheyate" and contained all the

³⁰ *Ibid.*, 477. Overboutherdale bek is Overbeck: le Nose del Cambe and Youbergh is the southern projection of Yewbarrow, *Place-Names of Cumberland*, 441: le Durre is now Dore Head: Blakecombek is evidently a projection of Mossdalebeck, *Place-Names of Cumberland*, 22, gives Netherbeck, but this is obviously wrong in this context: le Heye of Gouthcrag is Haycock with Gowder Crag on its edge: Silfoucon is Silver Cove: I have assumed the Lycheyate to be not only next Oxlesgate but to run into it and down to Ennerdale Bridge: the printed version runs "following the side to le Lycheyate", but a 16th-century copy of this indenture kept in Cockermouth castle uses the word "semitam", and since there is a perfectly good path from Blakeley Moss to Black Potts this has been used in the boundary.

³¹ *Cal. Close Rolls 1337-9*, 487: le Wyndeyatrige is Windy Gap, suggesting that the boundary went to the top of Pillar: I am unable to identify "Le Geldramshowe, Roughcrag, le Wrengilheved or Beksnevel".

tenements in Ennerdale as well as the lake.³² The northern boundary of this free chace can be determined if it is assumed that these three free chaces together formed the forest of Copeland: the northern boundary of Ennerdale chace must have been the boundary of Copeland Forest. Thomas son of Lambert of Multon's agreement with the abbot of Calder refers to two forests — Copeland and Derwent Fells — sharing a common boundary. A boundary which fits the purpose exactly was that decided on in 1230 when Lambert of Multon and Amabel his wife made an agreement with Alan of Moulton and Alice his wife about the division of Richard de Lucy's heritage.³³ The boundary of the woods "pertaining to Loweswater" ran "as the march extends between Saurescoles (Sosgill) and Landplou and Morcorkin, ascending by the "rivulus" called Becsnarry (Snary Beck), and from the head of the said "rivulus" ascending as the marches extend between the enclosed forest and the pasture of Landplou, as far as the "rivulus" called Crossdalebek, and from the head of the said rivulet by a straight extension as far as the lake of Blutterne (Floutern Tarn³⁴) and thence straight to the path of Styalein;³⁵ and ascending by the said path as far as the watershed (condosium) of the mountain called Hardecnut and Le Dod de Gillefinchor; and so by the said watershed of the hill to the foresaid Dod, as the waters descend. And out of (ex) said Dod as far as the other high Dod of Gillefinchor and out of that Dod by the "condosium" of the hill, as the waters divide the "condosium" as far as Serganteshou and from Serganteshou eastwards as far as the marches of the monks of Furnays . . .". Alan and Alice were to have the common rights all four claimed in the forests "between Coker and Derewente", and in

³² *Ibid.*, 495.

³³ *Cal. Documents relating to Scotland*, ed. J. Bain, i 202 ff.

³⁴ Bain suggests Blea Tarn but this is obviously a mistaken guess.

³⁵ For Styalein, Hardecnut and Le Dod de Gillefinchor see *Place-Names of Cumberland*, 411-412.

the forests of "Skithoc" and "Alredale". This boundary was certainly more than the limit of the wood of Loweswater, it was the dividing line between two great forests, for the agreement ends with the statement that "If a deer is roused on the lands of Lambert and Amabel their huntsmen and hounds shall have the right to follow and take it in the land of Alan and Alice without hindrance; and vice versa."

Like Copeland Forest, that of Derwent Fells was reduced in area throughout the middle ages. The development of this forest is more difficult to determine in that the titles "Derwent Fells", "Between Coker and Derwent" and "Forest of Cockermouth" seem to have been used indiscriminately to mean the original area of the forest and either of the parts into which it was later divided.³⁶ The earliest reference to this forest occurs in a grant made about 1170 by Alan son of Waldeve to Waldeve son of Dolfin.³⁷ Brackenthwaite was given to Waldeve but the venison reserved to the grantor: Waldeve was made quit of pannage but his men had to pay, and he and his men were made free to use all the forest except Borrowdale (presumably for pasturing their animals) and had to find testimony for the foresters. Both Brackenthwaite and Borrowdale lie between the Cocker and the Derwent, but as the bounds of the woods of Loweswater show, there were areas in the forest outside these natural limits. This extension beyond the natural bounds is made more certain by a grant of Richard de Lucy to Adam of Moserthe in 1202-3.³⁸

³⁶ See below, pp. 120 f. In 1323 Antony de Lucy was granted rights of free warren in his demesne lands in the liberty of Cockermouth . . . Caldbeck and Loweswater, *Lucy Chartulary*, m. 1, no. 5. Within warrens, holders of the rights preserved the hunting of the hare, the fox and the rabbit and other small animals: the deer were not reserved. The free chase was thus no longer in existence, but in 1351 Thomas de Lucy was still said to hold the free chase "between Coker and Darwent", see below, p. 125. The Lucy Chartulary is a 16th-century copy of a collection of charters relating to the Honour of Cockermouth and the barony of Egremont: it is among the archives of Cockermouth castle (hereafter *L.C.*).

³⁷ *St B.*, 536-537.

³⁸ The charter is preserved among the archives at Cockermouth. A translation is printed in CW2 51 by the Rev. W. W. Farrer. A copy of it is enrolled on the Lucy Chartulary and this, I think, is the early copy printed by the Rev. J. Wilson in *St B.*, 544-546.

Richard gave Mosser and his charter sets out the limits of the grant and makes it clear that the whole area was in the forest: not only were Adam and his men forbidden to cultivate, build houses or take wood between "Rayswaytbec (Graythwaitebeck?) and Capeltrebeck (Crabtree beck)" while enjoying common on it, but Richard also claimed escape from anyone whose animals entered the area. Within the whole area he reserved *cervo et cerva, apri, leia, et aerio ancipitris*. Mosser was obviously in the forest. There is some doubt about Murton near Lamplugh. The boundary of Loweswater woods in 1230 clearly places Lamplugh outside the forest — "as the marches extend between the enclosed forest and the pasture of Landplou" — but in 1203 Richard de Lucy entered a plea against Adam de Lamplo³⁹ about a tenement in Murton. Adam de Lamplo claimed that he held this land neither by cornage nor by sergeanty of the forest. The result of this plea is unrecorded, as far as I know, but the dispute about the tenement in Murton indicates the possibility of it lying in the forest. It also suggests that the process of forest creation and contraction of the forest was so nearly connected in time that enough doubt was left about the bounds of the forest for problems of tenure to arise.

In 1247 a dispute between William de Fors, earl of Albemarle and Alan of Multon and Alice his wife, about waste which Alan and Alice had made in the forests of "Alredale, Cockermue and Caldbeck", was settled in the king's court at Bedford, and in the process the forest of Cockermouth or Derwent Fells was divided into two parts. The boundary which the earl and Alan and Alice agreed to as the division between the future sections of these three huge forests led from "the mill of the prior of Carlisle in Lorton ascending by the Wychebeck (Whit Beck) up to Gradelebek and from thence to the top of Lauerdsate (Lord's Seat) thence to Bordesk and from

³⁹ *Curia Regis Rolls*, ii 273-274. *St B.*, 547.

Bordeske on to Grag (Hagg Beck?) in the east to Bethwythop (Bekwythop) thence into Bestoneswater (Bassenthwaite) and from Skydehowe where Skilebek (Skillbeck) falls into Bestoneswater and by Skolebek ascending to Crescharch (Gable Gill?) and thus from Crescharche to the summit of Skydehowe and thence to Estmergreyne (East Grain) thus descending into Caldewe".⁴⁰ All those forests to the south-west remained in the hands of the earl and his heirs, and those to the north-west went to Alan and Alice and Alice's heirs. The only evidence that the area of the old forest to the south-west, which went to the earl, remained free chace and was still organized as a free chace in the 14th century is a lease of Sir Anthony de Lucy to Sir Hugh de Moriceby of "all my island which is called Sleningholme in Crombockwater" together with the dead wood lying on the ground by view of forester.⁴¹ More information exists about the free chace between Cocker and Derwent, for which the old name of the forest or free chace of Derwent Fells continued in use, and most of the information about the organization of these forests in the 14th century comes from this one. Embleton, Shatton and Stanger were still part of the free chace of Derwentfells in the 14th century, yet by 1578 the only remnant of both parts of this once huge forest lay around Buttermere, the forest of Gatesgarth.⁴²

By 1578 the progressive disafforestation of areas from

⁴⁰ *Lucy Chartulary*, m. 9d, no. 119.

⁴¹ *Ibid.*, m. 4, no. 47.

⁴² The bounds given by a jury in 1578, *Percy Survey*, fo. 173, are particularly difficult to follow. The forest "Did begin at the Wheet rase and so ascendinge unto the Black Common Edge as the Rayne Water devideth itself uppon the said common And so from Black Common Edge unto Lowsciefee and from Lowsciefee unto the end of the olde Dike as the rayne water devideth. And so from the long old Dike unto the height of Robertside unto the head of the Hemesick Beck as the rayne water devideth itself And from the head of Hemsick discinge to Donning cove beck And from Dunning Cove beck unto the gate of Hennesse aforsaid (*sic*) And from the said gate to the uttermost corner of Grennesse close And from the head of Grennose Close unto the first named Wheat Rase." Hennesse is Hassness — 1 in., I think Robertside may be Robinson: the rest of this boundary I find impossible to trace.

these two huge forests had reduced the forests of south-west Cumberland to a much smaller total area held in three separate parcels. Copeland Forest had shrunk to two free chaces, still large but puny in relation to its past size: Derwentfells had become a small forest of Gatesgarth, comprising the common lands of Buttermere and Newlands: the free chace of Ennerdale had become known as the forest of Ennerdale.⁴³ To confuse matters a little, Copeland Forest seems to have taken the name of Ennerdale Forest and it is under this title that so much has been written about it. Nicolson and Burn mention it as "a forest and was anciently stocked with red deer",⁴⁴ and Parson and White's *Directory* refers to "The Park, now called the Side, was formerly well stocked with red deer, but they were annihilated about 60 years ago". And so ended its days as a deer forest, but in 1675 it was so famous that Sandford could become almost lyrical about it, "the mountains and Forest of Innerdale, wher ther is Reed dear, and as great Harrts and Staggs as in any part of England: if you can gett us a warrant from y^{or} brother of Earle Northumberlande for a Brace of Staggs. The Bow bearer is a brave gentlemen: I have been at his house in the Lower end of Enderdale: a seat for any gentleman: his name is Mr Kelleway and we will hunt that deer gallantly; and eat it more bravely for y^{or} sake."⁴⁵ Long after its demise as a deer forest Copeland Forest was remembered, for until 1931 the owner of Swinside farm was paid a "Forester's Fee" by the lord of Kinnyside Manor.⁴⁶

The destruction of these great deer "forests" was

⁴³ In Cockermouth castle muniments (Box 91) there is a "True and Perfect Rentall of the Manner and Ferest of Ennerdalle" together with a survey of the Tenant-right holdings made on 3 April 1568: the names of the tenements at rent show this area to be similar to the free chace of Ennerdale.

⁴⁴ N. & B., 36.

⁴⁵ Edmund Sandford, *A cursory relation of all the Antiquities and Families in Cumberland, circa 1675*. CW Tract Series, no. 4.

⁴⁶ A receipt for the redemption of the fee is kept in the muniments at Cockermouth.

continuous and inevitable. An increasing population promoted an increasing demand for arable land and pasture for cattle and this in turn would lead to a decreasing amount of land left waste for the deer. The effect of taking land into cultivation would not be immediate, but through time the pressures on the holder of a forest franchise would lead to disafforestation: until that time men could not chase the deer from their crops, but an increasing income from cultivated land could overcome the joys of the chase and the lords of Copeland and Cockermouth were not backward in promoting agricultural improvement. The earliest grants of rights destructive of the forest were made as in William de Meschin's grant to St Bees Priory "Of liberties in woods, and waters, sweet and salt",⁴⁷ and in Alice de Rumelly's charter "Of lands, tithes, woods, liberties and dignities in Coupland",⁴⁸ in the knowledge that the woods would be cut down for use at the salt pans. The hunting rights were protected however. Again in Richard de Lucy's charter to Reginald son of Adam, the hunting is reserved though Reginald may break up the waste with assarts and buildings. A little later Briscoe was given to the burgesses of Egremont without any restriction, and lost as a deer preserve. The rights accorded to Calder Abbey illustrate how far the destruction of the forest had gone by the middle of the 13th century. Others enjoyed the right to use all the forest⁴⁹ but only Calder could "cut down and prostrate the branches of trees throughout all the woods of (Copeland) Forest, for the feeding of animals in winter to the first of May".⁵⁰ The existence of such a grant shows, although it might be exceptional, how far the lords of Copeland had moved from the protection of their deer. The deer's main winter sustenance were the trees of the forest, the rights of Calder Abbey inevitably led to a

⁴⁷ *St B.*, 36.

⁴⁸ *Ibid.*, 40-41.

⁴⁹ *Ibid.*, 568, no. lxxv.

⁵⁰ *Ibid.*, 552.

smaller food supply for the deer. The process of practical disafforestation, ultimately accepted by newly-drawn and smaller bounds, continued throughout the 13th and 14th centuries, and as often as not the lords of Egremont and Cockermouth were the instigators of the improvements. It would be mistaken to think in terms of reactionary lords upholding their private forest rights in the face of continuous demands for more land for improvement from their tenants. Throughout the 13th century the royal forest was reduced in size: a continual struggle was kept up to limit the area over which the king enjoyed forest rights, but in south-west Cumberland, at least, the private forests were equally reduced. Alan of Multon and Alice his wife were aware of their ancient forest rights and determined to maintain them when, in 1256, they made a final concord with Thomas of Bastenwhate which allowed them venison, pannage, the eyries of hawks and the attachment of vert and venison in the wood of Bassenthwaite,⁵¹ but ten years earlier they had been engaged in the improvement of the waste in the forest of Caldbeck and had agreed to make no more assarts in the waste without the agreement of William son of Patrick and his heirs.⁵² The original cause of this dispute was the building of two houses by one Roger and by Thomas the carpenter on the waste at "Hotunscot". Not only did Alan agree that no more houses should be built there without the permission of William and his heirs but he paid William 40s. into the bargain, presumably for allowing the two houses to remain: William for his part agreed that Alan might improve, without seeking William's permission, in any other part of Caldbeck "both with assarts and parks and the making of enclosures". Similarly, in 1290, contention arose between Thomas de Lucy and John of Moserue about an improvement which Thomas had made at

⁵¹ *L.C.*, m. 9d, no. 120.

⁵² *Ibid.*, m. 5d, no. 82.

"Moreschalsthwait",⁵³ and in 1351 the subject of improvement was still a matter for agreement between lord and tenant when Adam del Hames conceded *Domino Thoma de Lucy et heredibus suis vel suis assignatis quod possint se appropriare in vasto et in libera chacea dicti Thome inter Coker et Darwent, ubicunque melius viderint expedire sine contradictione vel impedimento mei vel heredum meorum.*⁵⁴

The common rights which the tenants enjoyed in the forest (outside the fence month if these forests were organized like the royal forests) explain why tenants held back improvements which the lord was attempting to make in the waste. Common rights to pasture on the waste were an important part of the medieval economy and could not lightly be given up, as the agreement made between the abbot of Calder and Thomas son of Lambert of Multon makes clear.⁵⁵ It is equally obvious that fear of the loss of common rights caused a dispute between Thomas de Lucy and John of Moserue in 1290. Thomas had made an improvement at "Moreschalsthwait" where John claimed to have common of pasture for himself and his men of Mosser. They finally agreed that Thomas should keep the improvement, but John and his men were to common on it after the corn and hay had been carried. In addition, and probably in return for his compliance in the improvement, John and his heirs were allowed to take "haybot" with their men of Mockerkyn and Loweswater from that piece of land included in his wood. The "haybot" was to be taken by view of forester, but it was a quid pro quo which further reduced the area where the deer held sway. Adam del Hames made his agreement to improvement in 1351, "saving to me and my heirs sufficient pasture with free ingress and egress". He also

⁵³ *Ibid.*, m. 4d, no. 62.

⁵⁴ *Ibid.*, m. 4d, no. 63.

⁵⁵ Above, pp. 113, 123.

agreed that Thomas de Lucy might improve a certain place called Braythaw without any concern for Adam's right to entry and exit for pasture, but Adam and his heirs were to enjoy common pasture at that place when the corn and hay had been carried.

This concern of the holders of the free chaces with agricultural improvements did not preclude a careful attention to their forest rights. Even after they had begun to improve land, they continued to appreciate their forest franchise and enforce their rights. Alan of Multon and Alice his wife went to the king's court, as has been shown, to prove their right to venison, pannage and the attachment of vert and venison in Bassenthwaite. In 1269 the men of Cockermouth conceded to Alice, then a widow and calling herself Alice de Lucy, that they and their heirs from henceforth would not take estovers of vert in her woods of Derwentfells without view and livery of forester. Anyone who did so would instantly pay a fine of 12d. and do so as often as he was taken.⁵⁶ For her part Alice forgave them their past transgressions.

Interest in improvements, enclosures and the creation of parks was not a prerogative of the baronage: there was no dilatoriness in encouraging tenants to enclose land and collecting rent for the improvement. Thomas de Lucy confirmed to Sir Thomas of Ireby 85 acres of land and meadow lying outside Thomas of Ireby's coverts at Embleton, Shatton and Stanger in the waste and free chace of Derwentfells, but the charter makes it clear that these acres had already been improved by Thomas of Ireby.⁵⁷ In return for a rent of 4d. per acre per annum for this land, Sir Thomas and his "free men and tenants dwelling in the same improvements" received common of pasture, housebote, haybote and the right to green wood for building and dead wood for burning in the waste and free chace everywhere in Derwentfells, except

⁵⁶ *L.C.*, m. 4d, no. 61.

⁵⁷ *Ibid.*, m. 4, no. 46.

in the new improvements made by Thomas de Lucy in the time of enclosure. It must have been about the same time, about 1285 according to the Rev. J. Wilson, that Thomas de Lucy granted to Sir Thomas of Ireby the liberty of enclosing a park around the manor of Embleton.⁵⁸ The idea of creating parks as places of refuge for the deer was not new and was the obvious way to preserve the deer in the face of advancing improvements. In 1246 William son of Patrick had agreed that Alan of Multon had the right to create parks or other enclosures anywhere in Caldbeck outside "Hotunscot". Thomas of Ireby was granted the park so long as it was not enclosed with a deer leap; in return Thomas de Lucy and his heirs had the right to take two deer yearly in the park, or were to receive 4s. if there were no deer when they came to hunt.

The creation of deer parks where the destruction the deer caused could be limited, and the killing of the deer for meat would be easier, brought about the end of the free chace. Its function as a deer preserve was out of date in an age of agricultural improvement. There is a possibility that the term free chace changed its meaning about the end of the 13th century. In 1332 a commission of oyer and terminer was set up on a complaint of Henry de Percy that "John de Putteseye, Richard Moises, Robert son of Richard, William of Otteleye, John le Foresterisman and others entered his free chace at Spofford, co. Yorks., broke his park there and carried away deer from the park and hares and rabbits from the chace".⁵⁹ If this division of function applied commonly throughout the country then the free chaces of south-west Cumberland although still called free chaces must have been areas where the lord had rights of free warren, and this would throw some light on the grant of free warren which Edward II made to Antony

⁵⁸ *St B.*, 568 f.

⁵⁹ *Cal. of Pat. Rolls*, 6 Edward III, p. 283.

de Lucy in 1323.⁶⁰ The deer would be preserved in parks and the fox, the hare and the rabbit would be hunted throughout the area of the old free chase. The lords of Cockermouth and Egremont would still preserve the deer hunting to themselves and to those they licensed to hunt the deer, but the area over which the deer would roam would be more circumscribed and in the chaces the game would be less noble.

The area reserved for the deer became smaller and smaller, and in 1578 it was presented that in Netherwasdale "Henrie Patricson gent. holdeth there a cottage and 36 acres of pasture improved of the lord's wast called blen tounge rented at 10s. And also a little close or improvement adioyninge to the East ende thereof containing 3 roods, rent 4d. . . .".⁶¹ Both of these places were still inside the area of Copeland Forest. The deer were kept in a park at Wasdalehead, described as "a frith or fence of good grounde and full of underwoode preserved for the lordes deare which said frith conteyneth in length one myle and in bredth three quarters of a myle or thereabouts. The said Frith or fence is inclosed part with a stone wall and part with a great standinge water or ponde. The circuite of which said Frith conteyneth in all 1017 roodes viz. the wall cont. 340 roods and the water along the said Frith conteyneth 677 roods".⁶² Despite this continued preservation the existence of the park was threatened for the jury reported that "The Newe frith aforementioned walled about and nowe used as a fence for deare is worth to be lett by estimate £8".⁶³ At Cockermouth the park did not last so long: in 1578 there is no mention of deer and the jury looked at it as a source of great profit to the lord. The park was enclosed, but more important to the Commission was its woodland, which they proceeded to number and

⁶⁰ See n. 36.

⁶¹ *Percy Survey*, fo. 123.

⁶² *Ibid.*, fo. 117, it is said to be "the Newe frith".

⁶³ *Ibid.*, fo. 138.

estimate, and to report that "There is within the wood grounde within the Compasse of the parke aforesaide a great number of small oke trees worth now presentlie to be sould at one with another 6d. the tree as followeth . . . 22,674 at 6d. the tree".⁶⁴ A far cry from the preservation of undergrowth for the protection and sustenance of deer.

The forests and free chaces, once the strongly preserved hunting-lands of the lords of Copeland and Cockermouth, became the huge common lands enjoyed by the tenants. Sometimes they could common where they wished without any limitation of area — "The saide tenauntes and inhabitauntes of Mokerkin have common of pasture with the Graveshippes of Lowsewater as well in the Forest as without, without any interrupcion."⁶⁵ Sometimes the common is claimed as peculiar to certain tenants — "The Tenauntes of Wasdalehead hold a great parcell of the Lord's wast called Forrest male being as they alledge a common onelie proper to themselves, and renteth per annum 17s."⁶⁶ The best example of the relation between the forest and the common rights of men of the area occurs in the recital of the perambulation of the forest of Gatesgarth where "a homage was charged by the said Steward to doe the perambulacion and to subscribe the boundes and meares of the forrest of Gateskarth. And the common of pasture of Newlands and Buttermire", and after its recital the jury reported

That it shall and may be lafull to anye farmer of the said Forreste at any time after to take the drifte of the said Forreste fyve tymes in the yeare. And if it pertane (?) any beast or cattell of any straungers or forrenir within the said forrest to be found, for the first time the said Cattell to be delivered to the Owners. And yf they shall be founde the seconde tyme then the said Farmers to take for everye beaste a penyie, And if

⁶⁴ *Ibid.*, fo. 148 f.

⁶⁵ *Ibid.*, fo. 169d.

⁶⁶ *Ibid.*, fo. 137.

they shalbe found the thirde tyme to be punished as aforesaide. And if ther shall happen to be found the 4th time Then it is ordered by the saide Stewarde and Jury that it shall and may be lafull to and for the said farmers or dryver for every sheepe there founde to take a penny. And for every beaste or other cattell 10d.⁶⁷

These punishments are all that remained of the lord's once important right to payment for escape: possibly altered in the process of change from forest right of the lord to common right of the tenants they stand as evidence of how completely the forests of S.W. Cumberland had been destroyed by the end of the 16th century.

⁶⁷ *Ibid.*, fo. 173-173d.