

ART. X. – *Crime and Society in Medieval Cumberland.*¹
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(Read at Carlisle, 16 January 1981)

IT is not easy for us to imagine an age in which the day-to-day life of nearly the whole of society went almost entirely unrecorded. The mind's image of medieval Cumberland may call up pictures of farmers with flocks and herds, of shopkeepers in Penrith and Carlisle behind their stalls, but the image can usually only be given concrete form either through archaeological research or through records of the occasions on which such people had to pay taxes, when they got involved with the law or when a saint worked a miracle on their behalf – all occasions on which the tenor of their lives ceased to be ordinary. It may be profitable, therefore, to examine the records of something extraordinary, namely crime, not just for their own sake but also in the hope of using them to shed light upon the normal, to discover what can be learnt about society from those who break its laws. The crimes most often recorded, homicide and theft, were always abnormal events – they were sins as well as crimes, breaches of the divine law, on which the whole of medieval society was seen as being based, as well as of the king's peace. It is true that the king, as God's representative, could pardon breaches of God's law, but however extenuating the circumstances, a pardon was always needed. Crime was regarded as an affront both to God and the king, and it was the law-abiding man who supplied a model of normality for the rest of society.

The most important sources for criminal activity are the records of general eyres and gaol deliveries. The eyre was a periodic visitation by royal justices, usually at intervals of between five and ten years, at which details of all the serious crimes committed in a county since the previous eyre were presented by juries to the justices, and those responsible for them, where known, were named and, if possible, arrested and tried. Suspected criminals who fled would be outlawed, reduced to the status of hunted animals against whom any man's hand could be raised, if they did not surrender themselves. A gaol delivery was a clearance of a gaol by royal justices, at which its inmates would usually be tried and discharged, either to the gallows or to freedom.

For the purposes of this article all the eyre and gaol delivery rolls relating to Cumberland in the Public Record Office have been read, and statistics prepared from a sample of nineteen gaol deliveries between 1335 and 1457.* These statistics immediately pose the vital problem of the reliability of the sources. To these nineteen gaol deliveries came a total of 522 suspects, of whom only 36 – just under 7% – were convicted, and four of these claimed benefit of clergy and escaped hanging. A very low conviction rate was commonplace in late medieval England,² but it does raise the question of whether, when the great majority of suspects was acquitted, one can be sure that the crimes with which they were charged ever took place. Why did jurors acquit nearly all suspects? A degree of corruption must be allowed for. William Langland, in *Piers the Plowman*, said that

* See Appendix, below.

falsehood sat upon a juryman's back,³ and to bear him out are Cumberland cases like that of the suspected killer's relative who, at the 1292 eyre, packed the jury, for whose election he was partly responsible, with the suspect's neighbours,⁴ or of the juror in a civil action in 1366 found to have tried to deface the seal on a charter shown in evidence by squeezing and warming it in his hand.⁵ But the fifteenth century legal writer Sir John Fortescue, when he defended the English jury system on the grounds that it was better for twenty guilty to escape than for a single innocent man to be condemned,⁶ probably came closest to the heart of the matter. Such an argument implies strongly that, in an age when certainty on such matters was inevitably very hard to come by, jurors tended only to convict when completely certain of a suspect's guilt. In all likelihood the only criminals sure of conviction were those who confessed their crimes, killers caught literally red-handed and thieves captured with stolen goods.

But the reluctance of jurors to convict does not, in these circumstances, mean that the alleged crimes never took place: there are good grounds for believing that they did. The system of law enforcement developed in medieval Cumberland aimed at ensuring a systematic flow of information from the law-abiding to officials, leading to arrests. In the thirteenth century and earlier, law enforcement was in the hands of the sheriff and, under him, of itinerant serjeants, who were maintained by the compulsory hospitality of those they protected.⁷ No doubt people passed on their suspicions to the serjeants when they met them, and the serjeants would try to make arrests. In cases of homicide, there would be a coroner's inquest, attended by all the adult males of the four nearest communities. And it is likely that communities were required to make presentment to the County Court, meeting in Carlisle every four weeks,⁸ of all violence and crime occurring since the last session of the court. In 1231 it was ordered that Cumberland should in future maintain only four serjeants,⁹ and this number may have proved insufficient, leading by the end of the thirteenth century to the introduction of a novelty in Cumberland, though familiar elsewhere, the sheriff's tourn.¹⁰ Twice a year the sheriff would go round the shire, and in each of the four wards jurors would make formal presentment to him of crimes committed in it, and name those they suspected. In April 1342 the sheriff's movements can be followed. He began on the 10th, with Eskdale ward, at Stanwix. The following day he was in Carlisle, hearing about Cumberland ward. Next day he was at Torpenhow, for Allerdale ward. And by the 15th he was at Penrith, for Leath ward.¹¹ The Allerdale tourn might also be held at Ireby or Wigton, the Eskdale tourn possibly at Brampton.¹² Finally, from the fourteenth century onwards, there were the quarter sessions held before first keepers, then justices, of the peace, at which presentments and accusations were also made.¹³

So a system of multiple presentment was developed, which not only ensured that officials came to know all about the county's crime, but also provided ample opportunity for checking these presentments against each other, and weeding out those based on malice and imagination. At the very least it seems reasonable to assume that by the time a case came up for trial, the sheriff and his staff who prepared the proceedings were confident as to the reality of the alleged offence, even if the guilt of the suspect charged with it could not be proved. It was seldom possible to be so confident about another source of accusations, the approver. He was the medieval equivalent of Queen's evidence, a man who in return for a confession of his crimes and detailed accusations of his colleagues, was promised his life if he could secure enough convictions, either through

trial by battle or through juries' verdicts.¹⁴ If he failed, he was hanged, as most approvers were, though Cumberland provided a rare exception – some time before 1278 Simon the chaplain's son had accused seven men and convicted enough of them to be spared the gallows, though he had to abjure the realm, that is, leave the country, promising never to return.¹⁵ Approvers' accusations provide some of the most detailed, and lurid, information about medieval criminal life. Their advantage for the historian, that they give an insight into the lives of people unknown to the peasants, townsmen and knights who made presentments to local courts, was precisely their disadvantage when those they named as their accomplices came for trial – jurors, often ignorant of the crimes involved and suspicious of self-confessed criminals, almost invariably acquitted the accused. But approvers' charges can sometimes be confirmed from other sources: it was in their own interest to tell the truth, as the only way to stay alive, and since there is nothing intrinsically unacceptable about the evidence they provided in Cumberland, it has been used here.

There were no crimes in Cumberland which were not crimes anywhere else in England. But Cumberland did face particular problems in enforcing the law posed by the presence, either inside or just outside her borders, of several areas, known as liberties, in which the functions of royal government were partly or wholly taken over by private individuals. Inside the county there were the liberties of Alston, Copeland and Cockermouth. Criminals could be extracted from these, but it took time and needed the cooperation of the liberties' own officials. There was the ecclesiastical liberty of Wetheral priory, which had the right to offer permanent sanctuary to fugitive criminals taking refuge there, after they had taken an oath to behave well and not leave the bounds of the sanctuary. Armthwaite nunnery may have had similar privileges.¹⁶ Across the eastern boundaries lay the County Palatine of Durham and in Northumberland the liberties of Hexham, Tynedale and Redesdale, whose role in giving shelter to criminals more than once gave cause for complaint by their neighbours¹⁷ – so many took refuge in Durham that special arrangements had to be made in 1342 for getting them out again.¹⁸ There is no doubt that Cumbrian felons found these liberties useful. In 1345, for instance, an approver accused men of stealing livestock on two separate occasions and of driving the first lot to Hexham and the second to Tynedale.¹⁹ On other occasions Cumbrian thieves raided into the liberties, no doubt trusting that their officials would find it as hard to operate outside them as royal officials did to penetrate them. If so, they risked disappointment. In 1292 it was found that Robert Tod, who had stolen an ox in Tynedale and made his way to Alston, had nevertheless been pursued over the county boundary by the Tynedale coroner and bailiff, arrested, carried back to Wark and hanged there.²⁰ Out in the Irish Sea there was the Isle of Man, whose inhabitants sometimes committed crimes in Cumberland, often at the expense of other Manxmen.²¹ And above all, immediately beyond the county's northern border, there was the kingdom of Scotland.

Scotland was an ever-present refuge for the fugitive criminal, because the border was no dividing line. More united northern England and southern Scotland than divided them, not least a common economy and a shared inaccessibility to their respective centres of government.²² Early in Edward I's reign the sheriff of Cumberland was complaining of the way unknown Scots were raiding in the shire and returning safely home, safely because the people of Cumberland refused to attend inquests into their crimes unless the sheriff showed a special writ authorizing the inquests.²³ A more unusual attraction of the

border is illustrated by a case reported in 1272. One Roger le Lung had fled to Scotland, where he admitted to homicide committed in England and, in accordance with the march laws, was admitted to the king of Scotland's peace. Investigation in England, however, found that Roger had never killed anyone, and it transpired that he was a bondman escaping from his lord, who had sought the Scottish king's peace in the hope of thereby staying out of his lord's clutches. To make matters worse, he had taken all his possessions with him. The king of England gave Roger licence to return freely home, but one may doubt whether he accepted the offer.²⁴ The closeness of the links between Cumberland and Scotland before the Scottish wars of independence is brought out by the discovery at the 1292 eyre that a man had been hanged in the Carlisle city court for theft committed in Scotland,²⁵ as though for judicial purposes the border had simply ceased to exist, while some years earlier an Englishman was beheaded in Scotland, and an English criminal, imprisoned at Lazonby, was rescued from prison by friends from Scotland, who carried him off with them over the border.²⁶

Neither co-operation between English and Scottish criminals, nor the use of the border for criminal purposes – both exemplified by the last case – was stopped by the state of well-nigh permanent hostility that existed between the two countries after 1296, even though the Scots were now seen as the king's enemies and cooperation with them was treason, which meant a painful and prolonged death for anyone convicted of it. In spite of strenuous efforts, the inhabitants of the borders could not be kept back behind their respective frontiers – one reason being that it was not always clear where those frontiers were. Ownership of the so-called Debateable Land was not decided until 1552,²⁷ and for much of the fourteenth and fifteenth centuries the English kept a foothold in parts of Scotland. Thus in 1346 the English government was considerably annoyed by a raid from Cumberland which carried off goods said to be worth £1000 from Blamyre in Scotland, annoyed because the victims were then subjects of the king of England.²⁸ A case from a Carlisle gaol delivery in 1359 nicely illustrates the sort of problem that could result from a fluctuating border line. One John of Hayton was charged that, though an English subject, he had in 1358 “treacherously adhered to the Scots and king's enemies” and stolen fifty-two head of cattle at Stapleton. John's defence was that in the first place he was not English but a Scot, and in any case he had a letter from Sir Thomas de Lucy, warden of the Carlisle march, taking the men of Liddesdale, among whom John presumably counted himself, under his protection, and this letter John showed in court. Perhaps John realized his position was unusual – a man claiming to be a Scot but showing an *English* warrant giving him protection in his own country – because he then claimed benefit of clergy as well. The jurors, however, said that John was English. The justices, understandably uncertain about what to do, sent him back to prison, and his ultimate fate is unknown.²⁹ But when a suspect genuinely was Scottish, the court took due account of the fact. In 1389 a woman was charged with having lit a beacon to forewarn the men of Galloway of an imminent English attack. The jurors found her guilty, but added that she was born and brought up in Galloway, and had never ceased to be a Scottish subject, even though she had been living in England for forty years. She was returned to prison while the justices made up their minds about the case, but in the end they accepted that she owed no allegiance to the king of England, and ordered her release.³⁰

Between 1335 and 1396 forty one people were charged either with co-operating with

Scottish criminals or with implication in crimes which involved crossing the border – taking stolen goods across or carrying kidnapped Englishmen to Scotland and holding them to ransom there. Occasionally the two went together. In 1345 an approver accused four men of helping him steal twenty-two oxen worth ten marks in Denton and drive them to Liddesdale in Scotland, where they were handed over as the ransom for the brother of one of the accused – one crime apparently leading directly to another.³¹ Ten marks was presumably the ransom demanded here, but it could be more. In 1356 John Baron was alleged to have helped Scots capture two men in Cumberland who were taken to the Hermitage in Liddesdale and there ransomed for £20,³² a considerable sum when labourers on the bishop of Winchester's estates were being paid just over 5d. a day.³³ The role Englishmen played in such operations varied. Sometimes they only gave food and shelter, on others they seem to have acted as guides. Personal knowledge of a victim's circumstances certainly lay behind a case recorded in 1354, when one Adam le Chapman was convicted of having come with a band of Scots to Brownrigg on the night of 4 November 1353, seized Adam de Berwys and carried him off to be ransomed. Adam le Chapman, it was found, was a Scot who had come to English allegiance and taken service under Adam de Berwys before, either out of malice or because his master's wealth outweighed his own sense of loyalty, organizing his kidnapping. By capturing his master in the company of the king's enemies, Adam le Chapman had accomplished the unusual feat of committing high and petty treason simultaneously, and was drawn and hanged – a traitor's death.³⁴

Scots who raided into England might well need such guides, for they often covered considerable distances. In 1365 a sheriff's clerk was charged with taking a bribe to release from prison a Scottish thief who had stolen a horse and clothes in Penrith, and in 1379 an Englishman was accused of helping Scots steal a horse at Kirkoswald.³⁵ But it was an Englishman who was said to have travelled furthest in the cause of crime, when he kidnapped a man at Bassenthwaite and took him to Caerlaverock in Dumfriesshire,³⁶ perhaps carrying him over by water. It should not be supposed, however, that cross-border raiding was a one-way affair. The raid on Galloway mentioned above as forewarned by beacon proves the contrary, and a complaint to Edward III by William Douglas in 1357 shows that English forays into Scotland could be both profitable and organized with a skill that surely reflects a good deal of practice. Sir Robert de Tillioll, he claimed, had in time of truce led a force into Eskdale which had captured over a thousand head of cattle and other animals to the value of £20; the Scottish victims of this raid had set off in pursuit of de Tillioll's men, only to be themselves ambushed by a back-up force of Englishmen under Sir Thomas de Lucy.³⁷ This was a device much used by border reivers two centuries later,³⁸ and all these cases demonstrate how the border was exploited for criminal purposes by both English and Scots, and how the unity of the border region was extended to embrace common techniques of crime.

Of course the impact of the Scots on Cumberland entailed far more than the occasional raid and ransom. Not only did it make men more inclined to live by pillage and robbery – why raise livestock or grow crops if the Scots were going to come and steal or destroy them? – it also helped determine the entire economy of the county. This was based on pastoral rather than arable farming. It is clear that Cumberland was an area for raising flocks and herds rather than growing crops in the thirteenth century and earlier.³⁹ The climate was unfavourable to the growing of wheat, the land either too mountainous, too

waterlogged or too acid. The crop most grown was oats, generally regarded as an inferior product.⁴⁰ The endless ravages of the Scots accentuated the trend towards the rearing of sheep and cattle rather than crops – at least the sheep and cattle could be taken out of harm's way, but crops would have to be left to be burnt or trampled down. Endless the ravages certainly were, as the most perfunctory survey shows. In 1349 eighty acres in North Easton were described as “worth nothing yearly, because they lie waste, by the destruction and burning by the Scots, the king's enemies, and for lack of tenants.”⁴¹ In 1362 holdings at Brampton were said to have been “unoccupied for many years by reason of the destruction done by the Scots.”⁴² In 1380 the barony of Liddel was said to be worth nothing “because it is totally laid waste, with all its members, towns, hamlets and parcels, by the Scots”.⁴³ In 1390 it was found that Scottish raids had penetrated far enough south to destroy much of the manors of Appleby, Brough and Langton in Westmorland.⁴⁴ In 1410 the commons of Lancashire, Cheshire and Cumberland were petitioning for defence against the Scots, French and Welsh, who were attacking their coasts by sea.⁴⁵ Five years later Cumberland was pardoned her contribution to a tax because of the impoverishment caused by Scottish raids.⁴⁶ Several times in the 1440s and 1450s no assizes or gaol deliveries could be held in the county because of the danger from the Scots.⁴⁷ Agriculture could never have prospered in such circumstances.

The pastoral economy which resulted in Cumberland from the nature of the countryside and the sinister attentions of the Scots dictated both the nature and timing of much of the crime in the county. First, the nature of the crime. At the nineteen gaol deliveries examined, there were 174 charges involving theft of cattle, 45 involving theft of sheep and 72 involving theft of horses. On 33 occasions grain was said to have been stolen or granges broken into, there were 38 alleged burglaries and 68 accusations of other thefts – pilfering from shops, robberies of the person, and the like. This imbalance between thefts of livestock and other crimes against property reflects, of course, the nature of the county's wealth – the bulk of it consisted of livestock, and so that was what was stolen. This same factor lies behind the distribution in time of these thefts. Taking the largest category, thefts of cattle, as exemplar for the rest, in three out of the 172 cases no date is mentioned. Of the others, eight were committed in January, five in February, six in March, three in April, six in May, eleven in June, ten in July, eighteen in August, twenty-one in September, nineteen in October, fifty-two in November and twelve in December. What these figures show is that thefts of livestock, and particularly of sheep and cattle, are much easier at some times of the year than at others. In the spring cattle and sheep are taken from their lowland pastures up to the hills, and there they stay, the cattle until the end of July or beginning of August, the sheep a little longer. Obviously livestock was stolen from summer shielings, but the worst period in the year for cattle and sheep stealing began when they were brought down from the hills and put out to graze on the newly cut hayfields. By this time the winter oats would have been harvested, so the horses, whether those of the thieves or those to be stolen, would be well fed, while the cattle would be in good condition and if need be could be driven a long way. The nights would be becoming longer, and for those intent on making off with other people's beasts conditions were ideal. They remained good until about February, when both horses and cattle would be growing weak for lack of fodder, but were at their best in October and November.⁴⁸ This is exactly what the figures show – eighteen thefts of cattle in August, twenty-one in September, nineteen in October, and the big jump to

fifty-two in November, before falling back to twelve in December, and a gradual decline in the early months of the year.

It is easier to show when than where these thefts were committed, the records are often imprecise as to the locality of crime. But in some cases, at least, it can be shown that livestock was stolen from places to which it had been moved in accordance with the requirements of a transhumance economy. It is not surprising to find, for instance, that it was in July 1331 that two oxen were stolen on the heights of Grisedale,⁴⁹ or that in June 1364 four oxen were stolen at Renwick, at the head of the Raven beck⁵⁰ – at midsummer such beasts would inevitably be found in such places. Nor is it strange that twenty head of cattle should have been stolen from Lazonby in the Eden valley in October 1397,⁵¹ and thirty sheep from Scaleby, on the level land north east of Carlisle, in September 1428⁵² – by autumn sheep and cattle would have been brought down from the hills. Although the status of suspected criminals only began to be recorded in the fifteenth century, it may be that here too the nature of the Cumbrian economy manifested itself. At the 1433 gaol delivery, of the thirty-eight suspects thirty were described as yeomen, two as husbandmen, three as labourers and one as a butcher. One was a woman and one was unspecified. It is tempting to see in these figures, with their huge preponderance of yeomen over those of lower status, a reflection of the inevitable need for horses in the theft of livestock – rounding up large numbers of sheep and cattle would be immeasurably more difficult without horses, yet labourers may have been unable to afford them. The same consideration may lie behind the very low number of women suspects, only thirteen out of 522. Rustling sheep and cattle on horseback was pre-eminently a male concern.

It is clear that the crimes of theft committed in medieval Cumberland reflected both that shire's geographical position, notably its closeness to Scotland, and its economy, itself a product of Cumberland's physical composition and locality. Can the criminals who committed these crimes be in any way distinguished from felons elsewhere in medieval England? It should be said at once that medieval England was a violent place, declared by one fourteenth century preacher to be notorious throughout Europe for her high crime rate and lack of justice.⁵³ When life was hard for all and harsh for many, it would hardly be surprising if people who had to be constantly stoical in the face of pain should have had few qualms about inflicting it, or if men and women in danger of death from starvation should steal from others to keep themselves alive. A single entry from the roll of the 1292 eyre well conveys the grimmer side of life in Cumberland in the Middle Ages: "From Adam son of Eva, found dead of cold on Hutton Roof moor, nothing etc. . . . from Robert son of Quenild, dead by the Ayra beck, nothing . . . from Margery of Watermillock, found dead of cold on Watermillock moor, nothing . . . from Henry son of Agnes de Hoton, drowned in the river Petteril, nothing as misadventure . . . from Alice, wife of John the smith of Blencarn, found dead of cold at Hartside Height, nothing . . ." ⁵⁴ – a lot of misery in a few sentences. The beggar reported in 1292 to have stolen an overcoat⁵⁵ had good reason to fear a similar fate.

Cumberland was a poor county at the best of times, much of its land barren or of poor quality. Endemic border warfare impoverished the shire still further by reducing its trade – in 1341 the citizens of Carlisle complained that they were reduced to earning their living by agriculture.⁵⁶ This may account for the rarity of discernible references to robbery of merchants: commerce may have fallen largely into the hands of men like

Thomas Chapman, allegedly robbed of a pack of merchandize at Carleton in 1396.⁵⁷ Yet trade did not decline entirely to the level of barter. There were regular dealings between England and Scotland in the 1390s and after, involving mainly livestock and leather goods, cloth and clothing,⁵⁸ while some of the recorded proceeds of crime are not likely to have been produced in Cumberland – the pair of ivory gaming boards stolen in Carlisle⁵⁹ perhaps, or the silk veils, knives and saffron (the last giving a rare insight into the more ambitious side of medieval Cumbrian cookery) stolen at Penrith.⁶⁰ A humbler but perhaps more useful sort of commerce is suggested by the hanging in August 1438 of a man convicted of stealing 2,000 herrings and twenty stock-fish on the previous 1 March – Lent that year having begun on 26 February, his victim was clearly ensuring that fishmongers kept up proper supplies for its duration.⁶¹

Of the thirty-six people convicted at the nineteen gaol deliveries, twenty-two were said to have had no chattels. In some cases their goods may have been concealed by friends or neighbours, while the requirement that prisoners be maintained from their own property may have reduced some once prosperous men to destitution by the time they came to stand trial,⁶² but some convicted felons probably were really paupers. A direct connection between poverty and crime is more easily assumed than proved. The group of six women convicted of “tiny thefts not exceeding a total of 6d” in 1292 but escaping the gallows because the value of the goods stolen was so low,⁶³ can plausibly be represented as victims of poverty stealing to stay alive, but can the same be said of those who stole whole flocks of sheep and herds of cattle? On this issue two points need consideration. Theft became a capital offence when the value of the goods stolen exceeded 12d,⁶⁴ but it is hard to imagine men or women on the verge of starvation, and preparing to steal for that reason, carefully confining their attentions to goods valued at less than a shilling and ignoring everything else – they would have taken whatever they could lay hands on. An element of desperation may thus have lain behind both the size and violence of some robberies. But once a crime had been committed, even if the poverty that may have inspired it proved only temporary or seasonal, the fact of its having been committed always thereafter stood between its perpetrator and a safe return to the ranks of the law-abiding – it was quite common for people to be charged with crimes committed ten or even fifteen years earlier.⁶⁵ No doubt many took to a life of crime because they found it congenial, but the fact that once a man was a felon he was always a felon must have contributed substantially towards creating a class of people living by crime because they could live no other way.

A striking feature of the Cumberland figures is the low number of recorded homicides – only twenty-seven. It is possible that conditions in the county were such as to produce a low homicide rate. The undoubted fact of lower population than in most shires must be taken into consideration. It is also possible that medieval Cumbrians came less into each other’s way, that they quarrelled with and killed one another less because they were so much freer of the communally undertaken tasks of agriculture, like ploughing and harvesting, which caused so much friction in the south.⁶⁶ Finally it may be that the homicide rate was kept down by fear of retaliation, not just against a killer but against his family as well, for in the later Middle Ages the border shires of England and Scotland became a land of feud. In the absence of effective royal power, men formed themselves, for mutual self-protection, into kinship groups united by a common surname,⁶⁷ willing to take on all comers, including other kinship groups, in defence of their own interests.

In the sixteenth century the Scottish Burns killed seventeen of the Northumbrian Collingwoods in revenge for one of their own name, killed when stealing cattle, and the total may have been as high as thirty-five.⁶⁸ The existence of these kinship groups, which led to large numbers of men bearing identical names, was ultimately responsible for the strange and often unflattering soubriquets subsequently given to so many border reivers. Although this was a development that came to its full flower in the sixteenth century, its antecedents can be seen in the recorded names of earlier suspects, both in nicknames like those given to Little William Robynson, Little Richard Elwald and William Elwald the one-eyed,⁶⁹ and in the addition of patronymics to surnames to assist identification – John Thomson Gefson, John Wilkynson Graisson, John Dobson Watson,⁷⁰ and the like. Those who had no kinship group to join might put themselves under the protection of one of the great marcher lords, like the Nevilles and the Percies, and again fear of a magnate's wrath may have deterred attacks on his dependents.

Yet these considerations do not seem to explain adequately the small number of recorded killings and since in other counties only about 36% of the homicides recorded at coroners' inquests came to trial at gaol deliveries,⁷¹ it is more likely that the records are incomplete than that medieval Cumbrians were averse to violence and bloodshed. The more so because the available evidence records on occasion a fearsome level of violence. An entry from the 1292 eyre shows what might happen – "Roger Ra and Roger son of Henry Scot by night burgled the house of Adam son of Matilda. They killed Adam, his wife Matilda, his son Adam and his daughters Helen and Agnes, stole all the goods they found there, burnt the house and fled at once".⁷² They were not caught; all that could be done was order their outlawry. On two occasions burglars were said to have tortured their victims, both women, by forcing them to sit on red hot trivets.⁷³ One of them died. This was excessive by any standards, but violence was common and often used, by members of the same family at each other's expense as well as by hardened criminals at the expense of the law-abiding. Infanticide was not unknown – at the eyre of 1278/79 a father was said to have strangled a child with his wife's connivance.⁷⁴ At the eyre of 1292 a woman who had since remarried was found to have arranged her first husband's murder,⁷⁵ and, a pathetic entry which tells its own story, "John Pelyth killed a woman whose name they do not know because she sought him as her husband".⁷⁶ People's tempers were so imperfectly under control that anything could start a fatal quarrel. An inquest in 1332 heard how William de Levenholm, who had found Thomas the cobbler's goats in his corn and impounded them, had been so ferociously attacked by Thomas that he had to kill him in self defence.⁷⁷ Actions of rape were rarely brought after 1285, when the second statute of Westminster declared it a felony and so punishable by hanging – juries refused to convict and so women ceased to prosecute⁷⁸ – and so there is no way of telling whether sexual assaults were common, but it is surely revealing that an inquest in 1293 into the killing of William son of Patrick told how William and his wife had been coming from Penrith to Lazonby in a state of high intoxication, and the alleged killer "heard the woman cry out and ran up, supposing it to be a case of rape", and struck William a fatal blow with a shovel.⁷⁹ A society in which any woman who cries out can instantly be supposed to be being raped has every appearance of being one in which female virtue was fairly frequently endangered.

To suggest that the harshness and uncertainty of life in medieval Cumberland may have played a part in producing these acts of violence, perhaps by making criminals

indifferent to the suffering they caused their victims and careless of the possible consequences of their deeds for themselves, is not to deny the moral responsibility of their perpetrators, or to argue that there was anything predetermined about their actions except the physical and cultural background against which they were committed. This, however, was bound to affect the nature and circumstances of those actions, and similar considerations may apply to some acts of theft, which could be equally brutal. The theft of 7½d from a leper, already a social outcast, at Papcastle;⁸⁰ the pillaging of the ruins of Carlisle immediately after the fire of 1292, by men who drove off with two cartloads of spoil;⁸¹ the robbery of the grange which one John Worshippe had hired in the summer of 1346, the year of a major Scottish attack, for the safeguarding of his sheep;⁸² the theft, when there was a fire in Botchergate in Carlisle in 1342, of the goods a householder was trying to save by throwing them out of the window⁸³ – these were sordid crimes, and those responsible showed a disregard for the misfortunes of others hardly less callous than that manifested in some of the more outrageous acts of violence.

When considerations like the possibility of arrest and punishment could not prevent such deeds, when both the family and the kinship group were compromised as agencies for restraining the criminally inclined by their own tendencies to promote or protect crime, one may wonder how effective moral and religious restraints were likely to be. In fact the cleric is a notable absentee in the records of crime in Cumberland – only nine of the 522 suspects at the nineteen gaol deliveries pleaded clergy, and only four of them were convicted. Prevailing conditions in the county were not such as to attract the footloose cleric, more concerned to make an easy living than particular as to how he made it, who features so prominently in the records of southern crime. The point is important because the parish priest could play a significant role in the prevention of crime: he was expected to play the peacemaker among his parishioners,⁸⁴ he could excommunicate criminals⁸⁵ or use the confessional to compel a thief to restore stolen goods,⁸⁶ he could preach against crime.⁸⁷ Whether Cumbrian priests did all or any of this is unknown, but at least the fact that they were rarely involved in crime themselves should have made it easier for them to do so. Thefts from churches were certainly very rarely mentioned – although the silver shoes were stolen from an image of the Holy Trinity at 'Crisekyrke'⁸⁸ – but this may have been because the Scots had already made a clean sweep. No doubt there were priests who earned the respect of their flocks, but some could not protect themselves, let alone others, against crime – the parson of Denton was murdered in his own church immediately after celebrating divine service, probably in 1383⁸⁹ – while others behaved in a way which must have undermined their own and others' efforts to keep the peace. In 1374 members of Carlisle Priory chapter, themselves in the habit of wearing lay dress and wandering round the city at night, were said to have proposed for Prior a man previously excommunicated for laying violent hands on a fellow canon and notorious for adultery with a citizen's wife.⁹⁰ The group containing a cleric and three friars which some time between 1279 and 1292 rescued a convicted killer on the way to the Carlisle gallows and allowed him to escape to Greyfriars' church,⁹¹ whatever their motives, can have done nothing to uphold respect for the processes of the law or the king's peace.

Such behaviour may have been irresponsible but it was nevertheless typical of the lawlessness of medieval Cumberland, where the conditions that bred cruelty and hard-heartedness seem also to have produced among criminals a sort of truculent independence

which made them as willing to find victims among the rich and powerful as among the poor and defenceless. King Henry VI was robbed (not in person) of twelve silver spoons and a horse at Greystoke in February 1430,⁹² and throughout the Middle Ages the king's deer in Inglewood forest were a tempting target for all sorts of people, whether for sport or food. The poaching of deer by moonlight reported at the 1285 forest eyre⁹³ sounds romantic, and the man who killed a hind in October 1268 for consumption at his own wedding feast probably posed little serious threat to the fabric of society,⁹⁴ but poachers could be dangerous men, as the famous ballad of Adam Bell, with its description of the slaughter of the foresters in Carlisle market-place, makes abundantly clear.⁹⁵ Several of the poachers mentioned in 1285 were said to have been later executed as criminals.⁹⁶ Other great men beside the king suffered at criminals' hands. Sixty stone of lead were stolen in two stages from Ralph Neville, earl of Westmorland, at Egremont castle in 1409 and 1410, and the same victim lost eleven of his sheep in August 1418.⁹⁷ More than one abbot of Holmcultram was similarly unfortunate; in 1379 a man was pardoned the theft of a hundred marks in gold and silver from the abbot, while in 1442 another abbot lost a psalter, six silver spoons, a gilt chalice, two silver vessels, a bowl with a silver cover, a silver salt and other jewels and utensils worth forty marks.⁹⁸ Rich men were robbed, officials might be intimidated. In 1384 it was found that the sheriff of Cumberland dared not arrest a gang of suspected robbers for fear of death at their hands,⁹⁹ while in 1351 the Warden of the March had actually been assaulted and imprisoned at Triermain.¹⁰⁰ The morals of the men responsible for such outrages may have been unspeakable, but the names some of them bore suggest that at least they did not lack individuality, ranging as they did from the cheerful – Nicholas Miriwistell¹⁰¹ – and flamboyant – Richard Redmantel¹⁰² – *via* the bizarre – Robert Brokenhevedknav and Robert Bliscidblod¹⁰³ – to the overtly sinister – Maurice Strangthef, Stephen Upwythstreng, William Cuttepurs.¹⁰⁴

Such men may have moved on the fringes of society, sheltering behind aliases and with haunts of their own – Thieveside Hill was surely one of these¹⁰⁵ – but nevertheless they and their deeds were unmistakably products of that society. Crime, like life, adapts itself to existing conditions. Circumstances may have driven some people into a life of crime, others may have opted for one out of deliberate choice. But in either case it was inevitable that the closeness of the Scottish border, as a refuge or as an asset, would be exploited. The pastoral economy made livestock more easily available at some times than others, so it was mostly stolen when it was most accessible. War with the Scots made men already easily moved to violence still more practised in it, the destruction the Scots wrought must have made some Cumbrians more inclined to live by pillage than by peaceful means. Callous and brutal killings and robberies were committed against a background of life that was warlike, insecure and poor – qualities always liable to impinge on every element in society, productive as well as destructive. The closeness of the links between the worst and even the best creations of medieval Cumbrian society is perfectly illustrated by the cathedral in Carlisle, whose structure shows to this day the rebuilding necessitated by the fire of 1292 – a fire started not by accident but by arson.¹⁰⁶ There, as so often, the socially normal and abnormal are found side by side, the one reflecting the other.

Appendix

List of gaol deliveries supplying statistics:

25 September 1335 JUST/3/128 mm3-4d	19 August 1395 JUST/3/183 mm 8-8d
17 September 1342 JUST/3/135 m 17	15 August 1398 JUST/3/184 mm 16-17d
6 March 1347 JUST/3/135 m 2d	12 August 1401 JUST/3/191 mm 53-54d
18 March 1356 JUST/3/141A mm 43d-44d	31 July 1411 JUST/3/191 mm 61d-62d
16 August 1365 JUST/3/145 mm 56-57	14 August 1422 JUST/3/199 mm 29, 29d, 30d
7 August 1366 JUST/3/154 m 1	20 August 1431 JUST/3/208 mm 40-40d
10 August 1375 JUST/3/165A m 4	18 August 1433 JUST/3/208 mm 42-42d
8 August 1376 JUST/3/165A mm 4d, 3,2	7 August 1444 JUST/3/211 m 42d
14 August 1384 JUST/3/169 mm 43d-44	12 August 1457 JUST/3/213 mm 16-16d
21 August 1393 JUST/3/176 mm 30d-31	

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- ¹ Unless otherwise stated, the unpublished documents cited are to be found in the Public Record Office, Chancery Lane, London.
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- ³ Pugh, *art. cit.*, 15
- ⁴ JUST/1/137 m 22d
- ⁵ JUST/1/1475 m 11
- ⁶ J. Bellamy, *Crime and Public Order in England in the Later Middle Ages*, (London, 1973) 156.
- ⁷ R. Stewart Brown, *The Serjeants of the Peace in Medieval England and Wales*, (Manchester 1936)
- ⁸ JUST/3/11/10 m 6
- ⁹ C.P.R. 1225-1232, 456.
- ¹⁰ JUST/1/137 m 15d.
- ¹¹ JUST/3/215 m 134.
- ¹² JUST/3/132 mm 4d, 5; JUST/3/215/1 m 172d.
- ¹³ e.g. JUST/3/191 mm 53d, 57d.
- ¹⁴ F. C. Hamil, "The King's Approver", in *Speculum* 11 (1936), 238-254.
- ¹⁵ JUST/1/131 m 2.
- ¹⁶ J. C. Cox, *Sanctuaries and Sanctuary Seekers in Medieval England*, (London 1911), 174-181.
- ¹⁷ *Rot. Parl.*, vol. iv, 22, 143; C.P.R. 1343-45, 67, 88.
- ¹⁸ C.C.R., 1341-43, 364.
- ¹⁹ JUST/3/135 m 8.
- ²⁰ JUST/1/137 m 28d
- ²¹ JUST/1/135 mm 19d, 22d
- ²² See J. A. Tuck, "Richard II and the Border Magnates", in *Northern History*, vol. iii, 1968, 27-52; T. I. Rae, *The Administration of the Scottish Frontier, 1513-1603*, (Edinburgh 1966).
- ²³ SC1/7 no. 84.
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- ²⁵ JUST/1/137 m 26.
- ²⁶ JUST/1/131 mm 8, 15
- ²⁷ G. M. Fraser, *The Steel Bonnets*, (London 1971), 276-9.
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- ²⁹ JUST/3/143 m 1d.
- ³⁰ JUST/3/176 m 28.
- ³¹ JUST/3/135 m 8.
- ³² JUST/3/141A m 52.
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- ⁴² Cal.Inq.P.M., vol. xi, no. 317.
- ⁴³ Cal. Inq.P.M., vol. xv, no. 443.
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- ⁴⁵ *Rot. Parl.*, vol. iii, 639.
- ⁴⁶ J. Bain (ed.), *Calendar of Documents relating to Scotland* vol. iv, no. 871.
- ⁴⁷ JUST/3/211 m 44; JUST/3/11/20 m 2d; JUST/1/1456 m 14.
- ⁴⁸ D. L. W. Tough, *The Last Years of a Frontier*, (Oxford 1928), 48; Fraser, *op. cit.* 93.
- ⁴⁹ JUST/3/128 m 3d.
- ⁵⁰ JUST/3/145 m 56d.
- ⁵¹ JUST/3/191 m 53d
- ⁵² JUST/3/208 m 40.
- ⁵³ G. R. Owst, *Literature and Pulpit in Medieval England*, (Oxford 1966), 340.
- ⁵⁴ JUST/1/137 m 17 (the omissions relate to the finders of the corpses).
- ⁵⁵ JUST/1/137 m 1d.
- ⁵⁶ E179/90/9.
- ⁵⁷ JUST/3/184 m 16d
- ⁵⁸ E122/39/7-10.
- ⁵⁹ JUST/3/169 m 39d.
- ⁶⁰ JUST/3/184 m 16d.
- ⁶¹ JUST/3/208 m 46.
- ⁶² C.C.R. 1231-4, 587-8.
- ⁶³ JUST/1/137 m 31.
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- ⁶⁵ e.g. JUST/3/176 m 27d (15 years); JUST/3/141A m 44 and JUST/3/184 m 17d (14 years).
- ⁶⁶ B. A. Hanawalt, *Crime and Conflict in English Communities, 1300-1348*, (Harvard 1979) 168-177.
- ⁶⁷ Tuck, *art. cit.*
- ⁶⁸ Fraser, *op. cit.*, 105 and note.
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- ⁷⁰ JUST/3/191 mm 56d, 59, 61.
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- ⁷² JUST/1/137 m 12.
- ⁷³ JUST/3/132 m 5; JUST/3/135 m 13.
- ⁷⁴ JUST/1/131 m 7d.
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⁹⁷ JUST/3/191 mm 61d, 62; JUST/3/199 m 27.
⁹⁸ JUST/3/169 m 39d; JUST/3/211 m 42d.
⁹⁹ C.P.R. 1381-1385, 494.
¹⁰⁰ C.P.R. 1350-1354, 202.
¹⁰¹ JUST/3/132 m 6.
¹⁰² JUST/1/137 m 29.
¹⁰³ JUST/3/135 mm 2d, 10.
¹⁰⁴ JUST/3/135 m 8d; JUST/1/131 m 3d; JUST/1/135 m 22d.
¹⁰⁵ The theft of cows there in 1358 is recorded JUST/3/145 m 57.
¹⁰⁶ JUST/1/137 m 30.