

ART. IX.—*Three Elizabethan documents concerning
Milburn Fell.* By D. WELCH.

Read at Alnwick, September 6th, 1975.

LITTLE attention has been paid to the history of the more remote high-lying ground in Britain, partly from lack of incentive and partly from lack of source material. Documents survive which throw light on the usage and value in the later Middle Ages of Milburn Fell, a high-lying common which straddles the Westmorland Pennines. Besides their immediate direct contribution to local historical knowledge, the documents yield information of use in studies on the vegetation of the Moor House National Nature Reserve, which now occupies the area.

Milburn Fell, or Milburn Forest as it has sometimes been called, was about eight square miles in extent at this period, and ranged in altitude from 700 to 2,780 ft. Some low-lying ground has subsequently been enclosed. Milburn parish is elongated on an east-west axis, and the village, the farms, and all the enclosed ground, are situated in the Eden Valley at the western end. The fell rises steeply out of the valley to a central ridge, nowhere less in height than 2,450 ft., and then slopes more gently to 1,700 ft. in Teesdale to the east. On the western part of the fell there is much rough grassland, some bog and some better quality grassland associated with limestone outcrops. In contrast the eastern slopes are very largely wet, heathery bog. Trees are absent except for a few bushes on rock ledges by streams.

The documents.

In form two of the documents are indentures. The first of these is an award of 20 November 22 Elizabeth

[1579] settling a dispute about rights on the fell. The parties involved were Anne Clifford, Countess of Cumberland, with her son George, 3rd Earl of Cumberland, who possessed the Barony of Appleby of which Milburn was part, and Richard Sandford of Howgill Castle, who was Lord of the manor of Milburn. He had inherited the manors of Howgill and Milburn through his mother Grace, a Crackenthorpe, and had been granted "at ferm" the reversion of the manor of Milburn Grange by deed of 27 November 1563 to hold for sixty years after the death of Grace, paying 5s. yearly to his eldest brother Thomas.¹ In the words of the award "variaunce sute and controversie" was "dependinge" between the Countess for herself and her son, "plaintiffes and the said Richard Sandforde defendant in the quenes Maiesties Courte of Wardes and Liveries . . . concerning one moore fell or waste grounde called Mylburne fell . . . which cause was appointed to be harde . . . this present Michaelmas terme. The said parties by the mediation of the freindes of the said Richard Sandford . . . submytted theymselves to the order Arbitrament and awarde of . . . Fraunces Dacre, Stephen Thymylbye, Thomas Walmysley and John Myddleton . . . indifferentlie elected and chosen betwene the said parties".

The second indenture, of 21 January 31 Elizabeth [1588/89], is a grant by George, 3rd Earl of Cumberland, to Richard Sandford to enclose and improve part of Milburn Fell. At this time George was selling land to pay for rapidly accumulating debts caused by his extravagant living;² possibly Richard Sandford made some payment, but the document says only that the grant was made "for the speciall favour and goodwill which the earl beareth towards the said Richard",

¹ CW2 xxi 208.

² R. T. Spence, *The Cliffords, Earls of Cumberland, 1579-1646: a study of their fortunes based on their household and estate accounts* (1959). Unpublished Ph.D. thesis, University of London.

which is perhaps unexpected considering their recent disagreement. The rights of the two parties on the fell, set out in the 1579 award, are repeated in slightly different form.

The third document, entitled "Remembrances for Mylburnefell" is undated. As the entries extend in time from 1201 to 1567 it is not unreasonable to suppose that it was written to collect together evidence touching on the dispute of 1579. The last entry refers to Elizabeth now queen, but could not have been made before 1570.

All three documents are in fairly good condition, and copies of the award and grant exist.³ The original of the award is of parchment, and bears the signatures of the four arbitrators and of Anne, Countess of Cumberland, and George, her son, together with six red wax seals on parchment tags. The grant is also of parchment, but bears only the signature of George, Earl of Cumberland, together with a red wax seal on a tag. The remembrance is written on unsized laid paper measuring 16½ in. by 12 in., with chain lines $\frac{7}{8}$ in. apart and a central "Pot" watermark. The handwriting is close and in places small and difficult. It occupies both sides of a half-fold of the sheet.

The ownership, rights and administration of Milburn Fell.

The award of 1579 was an arbitration on the "interest and title of the ground and soyle of the said Mylburne fell And also for comen of pasture and turbarye to be taken in and uppon the same". The arbitrators found "having taken hearing and perfecte understanding of the titles rightes and claymes of both the said parties" and "uppon the sight of auncient Evidence and deposicons of witnesses" that "the Auncestors of the

³ All the documents including the remembrance formerly kept by the Steward of the Hothfield Manors are now deposited in the Record Office, Kendal, in the Hothfield papers (WD/Hoth).

said Erle of Cumberland have bene Lordes and owners of the grounde and soyle of all the sayd waste and grounde called Mylbourne fell, and have made Jointures thereof to some of their wives⁴ , and have demysed the same to one Crakenthorpe, Auncestor of the said Sandforde, and others at severall times for termes of divers yeres, and also have digged and gotten in the said fell leade ore and Iron and converted the same to their owne uses, and have taken aswell money for escape of Cattell uppon the said fell as other profittes ”. They further found that “henrye late Erle of Cumberland deceased father of the said Erle did assince the same to the said Countesse for terme of her lief for parcell of her Jointure the Revercon thereof nowe being in the said George, nowe Erle of Cumberlande ”. Richard Sandford “uppon the sight of the said Evidence & proof did confesse and acknowledge that the said Countesse and the said nowe Erle were owners of the ground and soyle of all the said fell”.

Therefore the arbitrators determined that the Countess of Cumberland and her son were owners of the soil and inheritance of Milburn Fell. They further determined that the Countess and her son could “inclose make and keape in severaltie to theyr owne onelye uses one parcell of the said waste and fell called Myddletonge, or shall or maie have use and occupie the same in severaltie with sheepe and Cattell as of auncient tyme haue bene used and accustomed”, and that Richard Sandford and his heirs “being owners of the said Manor of Mylburne, Howgill Castell, and Mylburne Graunge shall for hym and his heires and their tenantes and fermers have, use

⁴ As in 1429 when Elizabeth, wife of the deceased Lord John Clifford, was said to have, and to hold for the rest of her life, the villis of Meburn Regis, Appleby below the Barony, Langton, Sandfordwodde, Flakebrygge and Milburn-fell, which were parcell of the Castle and Manor of Appleby — see *Feudal Aids* 1284-1431 (London, 1908) v 197-198.

and take comon of pasture at all times in the yere in and uppon the said mylburne fell (the said parcell thereof called Myddletonge onelye excepted) for all his and their owne beastes and Cattell as heretofore hath bene used and of auncient time accustomed”.

Richard, his heirs and tenants also had the right to “take uppon the said fell sufficient comon of Turbarye and Peates and also Lynge, brakens and stones to be spent in aboute and uppon their tenementes houses hedges and diches”, and Richard and his heirs could “make and maintaine from time to tyme and at all times hereafter one or two little sheldes uppon the said fell for the watching and safe keeping from time to time of their Cattell which shall depasture in and uppon the said fell”. Finally the Countess and her son agreed not to “at any time inclose anie of the said fell except the said parcell of grounde called the Myddletonge, nor graunt at any time hereafter to anie forreners or straungers comon of pasture in or uppon the same fell, Exceptinge and reservynge to the said Countesse during her liffe and to the said Erle his heries and Assignes suche wayefes and straies escapes some and somes of money and paymentes for escapes and Agistementes and other profittes in and uppon the said fell as heretofore of auncient time have been accustomed”.

In the 1589 grant the Earl of Cumberland confirms the right of Richard to “Common of pasture for all the goodes and chattells” belonging to Richard, his heirs and tenants, and also “Common of turbarie and turff grasse”. He reserves to himself the use of Middle Tongue and “all attatchments and escapes of forren goodes and all mines of Lead coal or other mettall whatsoever in or uppon the saide forest and the moores and waistes therof together with free libertie to digge gett search smelt find washe take, lead and carrye awaye the same”. But it would seem that the arbitration

of 1579 did not altogether resolve the question of rights on the fell because there is a further agreement, of 11 September 1662,⁵ between Lady Anne Clifford, Countess Dowager of Pembroke, and Lady Sandford, who was a widow, about the "intercommon" and "the takinge in of fforraigne goods" upon Middle Tongue and other parts of the moor. It was agreed that neither party "shall take in any fforraigne goods without consent of both parties".

The remembrance throws light on the award of the arbitrators in 1579. It records the grant of Milburn Forest by King John to William Stuteville in 1201, which it says is noted in an old parchment book; documentary evidence elsewhere confirms the grant.⁶ The remembrance also records the subsequent grant from a Stuteville to Robert de Veteripont, this without date.⁷ It says the agistment and herbage and certain tenants are proved by an office taken after the death of Robert Clifford in 1314/15. In 1429/30 Milburn Fell was parcel of the castle and manor of Appleby, proved by an office at York after the death of John, Lord Clifford. The demise of Milburn Fell is first recorded in the remembrance in 1452/53, when it was held by military service and £4. Middle Tongue is first mentioned in 1432/33; there had been no revenue from this separate pasture because nobody had wanted to rent it, but the ewes of the Lord and Lady had pastured there recently.

The remembrance lists many payments to the account of the forester of Milburn Fell. The other documents show that these payments passed to the lords of the barony. Apart from collecting payments from users

⁵ This is also held in the Record Office, Kendal (WD/Hoth).

⁶ *Rotuli Chartarum* (London, 1837) 89b.

⁷ See C. T. Clay, *Early Yorkshire Charters Vol. IX Stuteville Fee* (1952), York. Arch. Soc. Record Series, Extra Series vii 112: the vill of Milburn passed to William Stuteville's brother Nicholas, who granted it to Robert de Veteripont.

of the fell the function of the forester is uncertain; according to Kimball⁸ the duties of foresters varied widely. The only other fact that can be gleaned from the document is that the office was appointive, since seven foresters of different surname are mentioned. It is possible that the office had remained in being since the alienation of the forest by King John, and that, though in private ownership, Milburn Fell or Forest had continued to be administered in much the same way as a Royal Forest. Other material⁹ shows that in 1357 the fell was still being used as a hunting forest: Roger de Clifford complained that several men had "hunted in his chace . . . at Milburnfel . . . and carried away deer".

The agricultural value of Milburn Fell.

The documents establish that the fell was used for grazing cattle and horses as well as sheep. Because the term "beast" is frequently used, it is not possible to say which was the most important grazing animal. The grazing rights are said in the award to be ancient, and in the remembrance agistment is first mentioned in 1314/15. Beginning in 1389/90 payments to the forester for agistment and escape of beasts, horses and draught animals (averia) are recorded. The yearly revenue obtained was about £1, but because much of this, if not all, came from sources outside the manor (6s. 8d. for the escape of the beasts of Blencarn, 7s. for the escape of Priorsdale, and in one year 2s. for the escape of Knock), it would seem that the true agricultural value of the fell was considerably greater; the commoners would make no monetary payment for grazing their animals there. The payments for agistment varied from 2s. 4d. to 6s. 8d., but only once is

⁸ E. G. Kimball, *Serjeanty tenure in medieval England* (New Haven, 1936), 110.

⁹ *Cal. Pat. Rolls*, 31 Edw. III, pt. 2, 615.

a payer named, and his origin is unknown. In later years there were also payments for the rent of the separate pasture on Middle Tongue, and as these are combined in the entries with the payments for agistment, possibly the latter were obtained only for grazing on that part of the fell, which in size would have been roughly one-fifth of the whole.

Further testimony to the value of the fell is given by the indentures, since the interested parties were induced not only to litigate but also to contemplate enclosure of ground ranging from 700 ft. to 1,000 ft. in height. No precise estimate of the area granted to Richard Sandford can be made, because its western boundary is not named, being set by ground already enclosed. Crowdundle Beck, Mud Gill and Knock Ore Gill were the other boundaries to the north, east and south respectively, so at maximum the area could have been about one square mile. But it is unlikely that all this ground was improved and enclosed, because a considerable amount of rough grazing remains within these bounds, and the indenture said Richard Sandford could improve and enclose so much of it as he wished. Similarly the 1579 award gave the Countess of Cumberland the right to enclose the separate pasture on Middle Tongue, but there are no signs that this ever occurred.

The term *escape* does not appear to have been used elsewhere in the present sense. Usually *escape* is a fine paid for a straying animal, and therefore varies in amount from year to year. But the payments of *escape* listed in the remembrance stayed at 6s. 8d. and 7s. over a period of a hundred years. It seems likely that the term is here employed for dues obtained for regular usage by outsiders, because *escape* was paid either by Blencarn, Priorsdale or Knock, or in the 1589 grant for foreign goods. When grazing animals are involved the usage must be a form of agistment.

Comment is also necessary on the location of Priors-

dale. No settlement or parish of this name occurs in Cumberland or Westmorland, considering all the forms (Prysdale, Prisdalle, Presdalle and Presdall) used in the remembrance. Two of these forms are included in a list of field-names for Milburn parish taken from boundary rolls of 1390 and 1562,¹⁰ whilst Prisdale is included in a list of manors paying cornage in 1634 to the Barony of Westmorland, quoted in Nicolson & Burn.¹¹ They add a footnote saying "There is no place of this name. So that either the name of the place hath since changed, or the name is mistaken in the record." The occurrence of the name in the boundary rolls, and the payment of escape by Blencarn, a Cumberland manor having fell contiguous to that of Milburn, point to Priorsdale being an area adjacent to, but lying outside, the manor of Milburn. Apart from Knock to the south, the only other ground adjacent to Milburn Fell is in Alston parish at the head of the valley of the South Tyne. As this ground was anciently in a separate manor called Priorsdale belonging to Hexham Abbey (spelt Presdale in 1280, 1292 and 1479),¹² it would seem almost certainly to be the place in question. It is interesting that the cornage paid for Priorsdale was 7s., which might suggest that the term could embrace escape, but more probably this payment was wrongly included in the 1634 list.

It has elsewhere been considered¹³ that little use was made of high-lying ground in this region for grazing until the close of the Middle Ages, due to the dangers from wolves and treacherous bogs. It is therefore noteworthy that agistment is recorded on the fell as early as 1314/15, and that sheep were pastured on Middle Tongue, which lies between 1,700 and 2,500 ft.,

¹⁰ A. H. Smith, *The Place-names of Westmorland* (Cambridge, 1967), 2, 124.

¹¹ N. & B. 1, 294.

¹² A. M. Armstrong, *et al.*, *The Place-names of Cumberland* (Cambridge, 1952), 1, 175.

¹³ E.g., by W. H. Pearsall, *Mountains and moorlands* (London, 1950).

before 1432/33, although the quality of the grazing here is reasonably good because of the presence of limestone outcrops. The use of Milburn Fell as grazing for the beasts of Priorsdale is especially significant, because the common march lies in wet boggy ground never falling below 1,750 ft. If this remote, inhospitable area was being utilised, there can have been few parts of the region ungrazed.

The mining on Milburn Fell.

Both the award and the grant confirm the right of the lords of the barony to extract lead ore and other minerals. Iron is specifically mentioned in the award, and coal in the grant. This latter document also refers to the smelting of lead; possibly smelting making use of coal had assumed greater importance in the intervening nine years, but it is not specifically stated that the coal was used to smelt the lead.

The remembrance provides evidence of a boom and subsequent slump in the extraction of iron from the fell in the fifteenth century. Iron is not mentioned in the entry for 1389/90, but in 1419/20 the forester received 26s. 8d. "de firma minere ferri super Milburnefell". In 1426/27 the rent was 40s., and 46s. was said to be the usual return. At this time the mine was leased to the prior of St Mary's monastery, Carlisle. In 1432/33 the account included a payment of 20d. for 40 loads of iron at $\frac{1}{2}$ d. each, but there is no mention of rent either in this or the next entry, that of 1442/43. In 1451/52 John Crakenthorpe paid the rent of the iron mine, but the amount is not given. However, in 1483/84 when John Crakenthorpe again paid the rent, its value had fallen to 3s. 4d., and the same rent was paid in 1498/99, 1499/1500 and 1500/01. This last entry states that the mine was on Middle Tongue.

Unfortunately the documents give no evidence on the value of the lead or coal mines, or on the quantities

extracted. In later times considerable amounts of lead and some silver were obtained on Milburn Fell.

Other usage of the fell.

The indentures of 1579 and 1589 speak only of the rights of Richard Sandford, his heirs and tenants, to take turf, peat, ling, bracken and stones for their own use. It is perhaps surprising that nothing is said about rights to hunt deer, take grouse and other game, and to fish, but it would be unwise to assume on this evidence that these rights did not exist. However, this is an indication that deer had declined in number by the sixteenth century in this area.

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APPENDIX.

FULL TRANSCRIPT OF THE REMEMBRANCE.

(Endorsement) Milbourne Fell. Note of writings begininge
8° Ed. 2^d & endinge 9° Eliz.

Remembrances for Mylburnefell.

pipa fo 3°
a principio

The agistement and harbage & certen tenantes of Mylborne fell are proved by an office taken before theschetor after the death of Robert Lord Clyfford in the viijth yere of Kinge Edwarde the second ut patet in pipa

Anno xiiij°
Rici 2
Bongate

In the accompte of Thomas Myller It appereth that xij^s was aunswered for the escape¹ of the bestes of Prysdale and blenkarne upon Mylburnefell

* Kinge John
in his 2 yere

Item one graunt made by Kinge John to William Stuttville of all the forest of Mylburne per metes and bondes dated the second yere of his Reigne

Item one note of that graunt in the olde parchment booke

in Veteri libro
fo 20

Item a graunt frome Stutevill to Roberte de Veritiponti without date on the olde Booke

7 H 5

In the accompt of John Tailor foster of Mylburnefell ys payed for the escape of the bestes of Blenkarne super Milburnefell vj^s viij^d And vij^s for prisdalle & ij^s iiij^d of the agistment there of horses and bestes

— myns of
mylburne fell
5 H 6

Et de xxvj^s viij^d de firma minere ferri super Milburnefell

in compoto willelmi hale forestarii de Mylburnefell

Et de vij^s de escapia de Presdalle habenda cum averijs suis super Mylburnefell

Et de vj^s viij^d de firma escapie averiorum de Blenkarne et solet aliq[uorum] reddere per Annum xx^s

Et de vj^s viij^d de agistamento equorum et averiorum super Mylburnefell Viz Averia Xpfen ch[ivale]^{r2} vj^s viij^d

— mynes of
mylburne fell

Et de xl^s de firma minere ferri super Mylburnefell sic dimisse priori monasterij beate Marie Carliolensis pro uno Anno finito &c et solet reddere per Annum xlvj^s *Memorandum quod Annus Sextus eiusdem Regis cond (crossed out) concordat ferecum Anno

6 H 6 *

Memorandum quod domina habuit oves suas pasturantes super Mylburnefell tempore estivali

8 H 6
milburnefell
parcell of
castell of ap

Item in the paper boke is a note of a copie of Anne office after the death of Lorde John Clyfforde wherby yt was founde that Mylburne fell was parcell of the Castell and manor of Appulbye. This was shewed at Yorke

xj H 6

In compoto Johannis Warri forestarij de Mylburnefell
De vij^s de escapio de presdall super Milburnefell. Et de v^s de agistamento equorum et averiorum super Milburnefell. hoc Anno compertum per scrutanium ult[er]i^a escapia de Knok ij^s Et de xx^d de precio xl onniagiorum vocatorum semes minere dicti ferri lucratur in minera predicta precia cuique seme obolus sic venditur Willelmo Unthank hoc Anno.

— + myns
super
Milburnefell

Et de nihil^{li} de aliquo proficuo seperalis pasture de Milburnefell vocate Myddletonge ubi dominus et domina nuper habuerunt oves suas pasturantes qu[od]³ dicti dominus et domina nullum multones neque oves ibidem habuerunt hoc Anno neque aliquis illam voluit rentare

31 H 6
in libro
+ paperico

Apparet quod Milburnefell tenetur de domino per servicium militare et per Redditum iiiij^{li}

Item in the same booke emonges the Alba Redd it doth appere that certein fre tenantes in mylburne & payed for there services iiiij^{li}

30 H 6

In an old booke of the Rentall yt appereth that John Crakenthorpe of howgyll was fermer of milburne and aunswered the Rentes of the same and Iron myndes

xxj H 6 in
compoto
Johannis
Lanktoni
forestarii de
Mylburnefell

Et de vij^s escapia de presdall. Et de vj^s viij^d de Blenkarne Et de x^s de firma seperalis pasture domini in milburnefell vocate Myddletonge ac agistamento averiorum quorumcumque ibidem existendo⁴ Et in scrutinio compoti per Annum sic dimissum Johannes Lankton hic compt[at]ur per seneschalum ad terminum septem Annorum incipientium in crastino Martini Anno xx^o dicti Regis

xxix H 6
concordat cum
Anno
precedente

4 E 4 shewe
this

In compoto Ricardi Burton forestarii de Mylburnefell
Et de escapia de Presdalle vij^s Et de Blenkarne vi^s viij^d Et de v^s pro firma seperalis pasture de Myddletonge & dicti montani tunc dimissi pro eodem Redditu

5 E 4
concordat
cum priori in
omnibus

Anno 1 R 3 *

It appereth in the accompte of Richard Burton foster of Mylburnefell that vij^s was payed for the eschap of Presdall upon milburnefell, and of vj^s viij^d for thescape of Blenkarne and of x^s for the ferme of the severall pasture of milburnefell

called myddletonge together with the ferme of the said Mountaune for those that had no comon ther granted to John Crakenthorpe And of iij^s iiij^d of the Iron myne granted to John Crakenthorpe

Annis H 7,
xiiij xv & xvj

In the accompte of John Jackson yt appereth that he accompted for the sayd thre yerres for the escape of Presdalle and blenkarne as in other yerres before and of x^s for the ferme of the severall pasture of Myddleton and of iij^s iiij^d for the Iron mynd there

20 H 8

In the accompt of William Hartley ut supra in a booke

15 H 8

Item one Auditores Rolle of parchment of Iron myndes

A^o primo & 2^o
Phi et Marie
1 Marie

Item a Recovery in an assisse of Mylburne

Item a note of the accompte of Robert Pullein for the charges of workemen upon mylburnefell

Item one Indenture in paper made by the late Earl of Cumberlande deceased to Christofer Baynbrige de Anno nono Regine nunc Elizabeth of the myndes of Knok and mylburnefell with an obligacon for the performaunce of the covenantes

References.

¹ The "c" in this word always follows a long "s", so is indistinguishable from a "t". The reading "escape" has been preferred because 1) it is certain in the 1589 document, 2) in the entry for 1 R 3 the word is spelt with an "h", and 3) "escape" is well known elsewhere and "estape" unknown.

² "Chr" is the standard contraction for "chivaler" or "chevalier" meaning a knight, in which case the surname of Christopher has been omitted; alternatively "Chr" could be extended to Christophorus, giving Christopher Christophorson, or it may even represent Crackenthorpe.

³ Alternatively "quare".

⁴ At this entry there is further writing between the lines showing how the x^s revenue was made up. Above "pasture" is written "vj^s viij^d", and above "agistamento" "iij^s iiij^d".

Many words in the transcript have been expanded to aid the reading; uncertain expansions are given in brackets. Where the author of the document has put any significant mark, perhaps to draw attention to a paragraph, this is indicated by an asterisk or dash, as appropriate.