

ART. V.—*The Appointment of Ports in Cumberland, Westmorland and Lancashire-North-of-the-Sands.* By RUPERT C. JARVIS, F.S.A., F.R.Hist.S.

A PORT in the technical sense differs from a Creek, in that it is not only “ a place for the arriving and unloading of ships and vessels ” but has also privileges and franchises conferred by the Crown whose right herein is deep-rooted in the middle ages. “ Port ” came also increasingly to mean a delimited length of coastline. This length of coast came under the administrative superintendence of a particular haven which came in time to be known as the “ head port,”<sup>1</sup> the lesser ports which owed a certain dependence to it being termed “ member ports.”

After the Reformation several important havens in our district passed from monastic to Crown hands and the steady growth of trade together with the long Tudor fear of invasion from Ireland inspired not a little government interest in the organisation of the ports and havens of north western England. The present paper aims at sketching the principal phases in the Appointment of Ports in our Society’s district from the time of the Reformation.

So far as concerns the North-Western havens and creeks Chester was early designated, at least for administrative purposes, the principal head-port, with a

<sup>1</sup> The “ head port ” was at the time of its appointment the most important of the area from some point of view—not necessarily commercially—but as time went on, the uneven growth of ports inevitably led to important and interesting anomalies. For some discussion of the problems created by the uneven growth of Chester and Liverpool see my paper read to the Historic Society of Lancashire and Cheshire, 26 Oct., 1946, and to be published in their *Transactions*.

superiority over the coast from Barmouth to the Border, and remained so even as late as 1562. By virtue of an act of the first of Elizabeth (1558),<sup>2</sup> as re-enacted by Charles II (1662),<sup>3</sup> the process by which a place on the coast was, for legal and fiscal purposes, accorded the status of a port, was by commission out of the Exchequer. Certainly allied matters had been subject to that court at least since the *Statutum de Scaccario* (1266)<sup>4</sup>. One might conclude that so far as the medieval period was concerned, the status of a port for fiscal purposes was determined not by any formal instrument of appointment, but rather by the status of the officers sent down by the crown to manage the crown revenues in the port. If the crown appointed by patent an officer to a particular port, competent to perform all the duties with regard to home and overseas trade, that port became by that fact, a port of full status. The three principal officers of a port were the Customer or Collector, the Comptroller, and the Searcher. The Customer's ancient office was to receive the customs duties on behalf of the crown; the Comptroller's duty was to keep a "counter-roll," that is, to be a check upon all the transactions of the Customer; the ancient duties of the Searcher were to search and examine all ships inwards and outwards, and all goods imported and exported. The act of 1558, already referred to laid it down that for the future all arrivals and departures to and from parts beyond the seas should take place only at such "ports, creeks havens and roads . . . where a Customer Comptroller and Searcher or the Servants of them have by the Space of Ten Years last past been accustomably resident."<sup>5</sup>

It is difficult to tell at which ports exactly crown customs officials had by 1558 been "accustomably

<sup>2</sup> 1 Eliz. cap. 11.

<sup>3</sup> 13 and 14 Car. II, cap. 11.

<sup>4</sup> 51 Hen. III, stat. 5.

<sup>5</sup> 1 Eliz. cap. 11, sec. ii.

resident" for "the space of Ten Years last past," or indeed which ports had been appointed or continued under the act. The wording of the act of 1662 makes it plain that notwithstanding the clear terms of the act of 1566, some ports at which the officers had been "accustomably resident" had not in fact been defined by commissioners as laid down. From a commission of 1577 however we learn that three commissioners were authorized to make inquiries with regard to all ports creeks and landing places in the County of Cumberland—but not necessarily in connection with the appointment of ports. Eight places along the coast were however then certified under the commission as being creeks, but if the earlier definitions be closely applied, no place qualifies to be designated a port, either head-port or member. Only one place "enjoyed a licence to load or unload," and that was Ravenglass. Of the eight creeks certified, Bowstead Hill, Skinburness, Ellenfoot and Powsfoot had no vessels nor mariners, and no one "authorized to load or unload." Workington,<sup>6</sup> Parton and Whitehaven had no licence to load or unload, but had some vessels that traded in the season to and from Liverpool and Chester with herring and salt or cattle. Ravenglass also traded in herring and salt, but enjoyed a licence to load and unload "at the fair at St. James' tide." There was in addition to the above some trade in iron, refuse wines, and wines from Scotland.<sup>7</sup> It should be noted that even Ravenglass, with its "licence to load and unload," did not make good any title in the subsequent exchequer commission to have a "legal quay" "assigned and appointed" within the creek. Another contemporary list, dated 1579, entitled *The Names of all the ports creeks & landing places in*

<sup>6</sup> As to negotiations for a piece of ground at Workington on which to erect a wharf (for the exportation of ore) see *Cal. S.P. (Dom.) Eliz.* 1547-80, p. 315 (1568).

<sup>7</sup> *Cal. S.P. (Dom.) Eliz. (Add. 1566-79)* 7-8 and 554.

*England and Wales*<sup>8</sup> also shows eight places in Cumberland. These eight, Millom, Ravenglass, Calday, St. Bees, Whitehaven, Workington, Skinburness, and "the Water of Solway," are not in agreement with the places named in the previous list, but coincide, in the case of Cumberland, with an earlier list prepared for the Privy Council.<sup>9</sup> There is still preserved in the Public Record Office a list, undated but ascribed to 1580, showing *The names of all the ports with their creeks and members where officers [? of customs] are resident.*<sup>10</sup> Although (conjecturally) dated 1580, the list shows no appointed port north of Lancaster, (a member-port of the head-port of Chester). From this one might be led to conclude that no haven in Cumberland had as yet been designated a head-port or member-port within the meaning of the act of the 1st of Elizabeth.

Yet notwithstanding that no Cumberland haven was returned as a port in the list of 1580, it is clear that under the procedure of the act of 1558 Carlisle had in fact been laid out and appointed a port in 1564/5, when it may be taken that Carlisle took from Chester the coast of Cumberland, that is to say, the coastline north of the Duddon,<sup>11</sup> but as to the short piece of Westmorland coast, see below.

There were later commissions during the first half of the seventeenth century, dealing in one manner or another with the havens of Cumberland and Westmorland, for example, with the measure of coals, the wine prise, and the value of the customs and their farm.<sup>12</sup> But the outstanding feature of the century was the rise of

<sup>8</sup> *Acts Privy Council*, n.s. 7 (1558-70) 258.

<sup>9</sup> S.P. Dom. Eliz. vol. 146 f. 26.

<sup>10</sup> S.P. Dom. Eliz. (vol. 135 f. 3.

<sup>11</sup> Exchr. Q.R.: Comm. 571, & Mem. Roll 7 Eliz. Hil. 349. It is much to be regretted that of the documents under the former reference, consisting of three pieces, one is somewhat torn, another is torn and partly lost, and the third is largely illegible.

<sup>12</sup> Exchr. K.R.: Comm. 3678, 14 Jas. 1; Depn. (1649) Trin. 3; Depn. 1 Jas. II Easter 16 and 17; and Depns. Jas. 1 Mich. 34; 21 Jas. I Hil. 35; and 22 Jas. I Easter 6.

Whitehaven from, say, 1650 to 1750, and the part it took in the development of the coal and the Plantation trade.

### THE RISE OF WHITEHAVEN.

It is clear that in the matter of the rise of Whitehaven as a port,<sup>13</sup> after about 1650 when the pits commenced to be worked, the Lowthers took some considerable share. Sir John Lowther in the time of Charles II could state with a measure of pride that not only had his ancestors erected the pier at Whitehaven at their own charge, but had, "besides encouragements to the inhabitants, got a patent for a market and a fair to be kept there, by means whereof the town is become a considerable port."<sup>14</sup> It would seem however that with the passage of years the trade of the port increased, but the port did not improve in like measure.<sup>15</sup> The assertion of the merchants, ship-owners and masters of Whitehaven and Workington was that the harbour at Whitehaven not only did not keep pace with the improving coal trade, but was neglected even, to such an extent that their vessels were

<sup>13</sup> The Port Books (see *Report of Roy. Comm. on Public Records vol. i (pt. ii) (1912) 45-51*) in respect of the headport of Carlisle (and hence of the member port of Whitehaven), do not commence until 1611 (E 190/1448/1). There is however a gap between 1635 and 1687 (E 190/1448/5-6).

<sup>14</sup> *Cal Treas. Bks. vol. V Pt. ii* (4 Mar. 1667-8) 924.

<sup>15</sup> In the *Victoria County History*, R. W. Moore (quoting as his authority, somewhat vaguely I think, a "broad sheet preserved at Lincoln's Inn") gives a version of the affair of Whitehaven *versus* Parton Pier, rather different from that given below. He says that "Whilst Sir John Lowther, in 1680, was improving Whitehaven harbour, Mr. Fletcher conceived the idea of doing likewise at Parton. He attempted to build a pier and harbour there, near the low water mark, upon the land that had been granted to Sir John Lowther by Charles II, whereupon Sir John exhibited a bill in the Court of Exchequer against Mr. Fletcher and there

"setting forth the ill consequences of such an attempt to the Revenue, to trade, to the Rights of Sir John Lowther, and of persons who have settled in Whitehaven, and to the interests and benefit of the county in general, and after the defendants' answers, upon a full hearing of the matter, the Court prohibited the said Mr. Fletcher by a perpetual Injunction" (*vide V.C.H. Cumberland II*, 360). The version stated below is not quite so favourable to the Lowther interest, but is better documented.

“much damaged and disabled in ye said Harbour by reason of ye Insufficient peere there.” Coals from Moresby, shipped from Parton, just to the north of Whitehaven, were in keen competition in the Dublin market with coals shipped from Whitehaven. Certainly it was not to the Lowther interest that Parton should be developed as a harbour, but it was the complaint of the merchants, shipowners and masters that Whitehaven was not being developed either, in anything like conformity with the increase of the traffic.<sup>16</sup> In view therefore of the continuing increase in the shipping engaged in the coal trade, “both beyond the seas and in England,” and the not altogether satisfactory conditions at Whitehaven, the Workington and Whitehaven merchants, shipowners and masters appear to have decided to improve the haven at Parton by the erection of a pier, the rival pier being in effect in opposition to Sir John Lowther’s at Whitehaven. The site decided upon was described as a certain piece of the foreshore, between the high and low water marks, extending

from east to west 200 yards or thereabouts, the bounder thereof southwards being Brantsy Beck adjoining to lands of the said Sir John Lowther, and the bounder north being Moresby Beck, alias the Pow, alias Moresby Pow, adjoining to a parcel of land there called Lowca.<sup>17</sup>

The promoters of the project asserted with regard to the proposed new pier at Parton

yt the greatest parte of the Coales belonging to the Country lies most convenient for the said Harbour called Parton aforesaid. . .

that

were there a good peare Built, there would be as safe and good a Harbour as any about these Coastes:

<sup>16</sup> Exchr: K.R.: Depositions; 31 Car. II, Mich. 38.

<sup>17</sup> *Cal. Treas. Bks. VII* (1681-85) ii, p. 1262-3.

and the erecting of a peere there would very much conduce to the increase of shipping seamen and trade, also much his maties Customes: and that the Tradesmen both beyond the sea and here in England doth very much desire that a peere may be erected and built at Parton aforesaid.<sup>18</sup>

But Sir John Lowther on the other hand saw in this proposal to erect another pier in the neighbouring parish of Parton, not a project to further the coal trade of Cumberland, but rather a conspiracy on the part of certain merchants and others to avoid the payment of fees normally payable to him in respect of loading or berthing at his pier at Whitehaven.

Two courses seemed open to Sir John: one, to secure for himself from the crown a lease of the foreshore at Moresby on which it was proposed to erect the rival pier and having secured the lease, to refuse consent to continue the works; or, two, to secure in the name of parties sympathetic to his cause, a commission to appoint Whitehaven a port under the provisions of the acts of 1558 and 1662, in terms favourable to his own interests. To elaborate the latter point, his interests in Whitehaven, as distinct from those of William Fletcher and his friends at Moresby, would be satisfied if a new commission should appoint Whitehaven to be a member-port of the head-port of Carlisle, provided it "set down and settled the extents bounds and limits" of Whitehaven to include the coastline at Moresby, provided at the same time the commission made no provision "to assign and appoint" at Moresby any "place, key or wharf for landing or discharging, lading or unlading." For the closing words of the commission would "debar all [places other than the named] places within the port of Whitehaven from the privilege right and benefit of a place key or wharf" at which, in the ordinary course of events, overseas trade

<sup>18</sup> Exchr: K.R.: Depositions, 31 Car II, Mich. 38.

could be transacted. Thus every vessel in the foreign trade would of necessity have to come to Whitehaven to lade or unlade, and hence to pay to the Lowthers the fees leviable in respect of the use of the pier there.

The first move therefore was for Sir John Lowther to petition the king to grant to him the Moresby lands between the high and low water mark. This he did, requesting them "under a rent adequate to their value." He requested furthermore, in relation to the second point referred to above, the grant to him, as a consideration for maintaining a pier at Whitehaven, "a privilege of a port there with its privileges"—that is to say, "to grant a franchise of a port." The king was "graciously disposed to grant the petitioner's request," but the Lords of the Treasury referred the matter to the Commissioners of Customs for their examination, "together with his pretensions formerly referred." William Fletcher of Moresby, on behalf of the opposite parties, naturally counter-petitioned.<sup>19</sup> The Surveyor-General of Crown Lands reported that the land in question was

a shelving shore, Nothing but Rocks and sand, of little or no value as it can be computed at present,<sup>20</sup> and the Attorney General advised that the land was the right of the Crown to grant. The outcome of it all was that the whole of the 150 acres ("or thereabouts, lying between the high and low water marks of the sea near Whitehaven, with the rocks thereupon being") was granted to Sir John Lowther from the crown ("as from the Manor of East Greenwich") by fealty and the rent of £1 *per annum*.<sup>21</sup>

But although in securing the lease of the Parton foreshore, Sir John Lowther had won the first round, the

<sup>19</sup> *Cal. Treas. Bks. V* (1676-9) ii, 924, 999 and 1065 (4 Mar., 17 May and 23 July, 1678).

<sup>20</sup> *Ibid. ii* (13 Mar. 1678-9) 1262-3.

<sup>21</sup> *Ibid.*,

port had not yet been appointed. Depositions by commission were arranged to be taken on the particular issue at Whitehaven on the 1st October, 1679, and at Cockermouth on the 15th January, 1680. It was testified by one master and owner after another

that the Peere at Whitehaven is not sufficient for ye containing of the shipping trading there, nor safe for the harbouring thereof.

One master went even farther, and said it

was not sufficient for containing halfe ye ships & vessels belonging there.

Various masters and owners stated that one could see vessels with "masts broken and otherwise disabled by reason of the insufficient peere there"; that Sir John Lowthèr had suffered "the pere at Whitehaven to be for many years last past insufficient for the soucring [succouring?] of ships resorting to the said Harbour, and that by reason thereof great loss and damage had been sustained," and finally, that even if the pier at Whitehaven were now repaired and reconditioned, and in addition the further berth at Parton were developed, "there would be Coales sufficient to furnish all such Ships as should trade to either Whitehaven or Parton."<sup>22</sup>

After this Inquiry a Treasury Warrant passed to the King's Remembrancer in 1681 for a commission to pass the seal of the Exchequer Court to set out the ports of Carlisle and Whitehaven, to determine their extents bounds and limits, and to assign and appoint the places at which it should be legal to lade and unlade overseas traffic.<sup>23</sup> The persons named as commissioners were Sir Christopher Musgrave, Patent Collector of Carlisle; William Kirkby, Riding Surveyor for the Coast of Lancashire; William Christian, Patent Customer at

<sup>22</sup> Exchr: K.R.: Depositions, 31 Car. II, Mich. 28, and 31 and 32 Car. II, Hil. 26.

<sup>23</sup> *Cal. Treas. Bks. VII* (1681-85) i, (25 August, 1681) 255.

Carlisle (who was however himself performing additionally the duties of Collector at Whitehaven);<sup>24</sup> Matthew Miller, Comptroller at Carlisle; Thomas Addison, Searcher at Carlisle; Thomas Tickell, Surveyor at Whitehaven; and certain merchants to represent local and commercial interests. The commissions returned into the Exchequer are printed *in extenso* below.<sup>25</sup> It will be noted with regard to Whitehaven, that it is now duly appointed a member-port under the head-port of Carlisle. It had in the phraseology of Chief Baron Hale, now received its "civil signature"—it was "a haven and somewhat more." Whitehaven was in fact a port. Furthermore, three places had now been "assigned and appointed" to be legal quays within the now "extents bounds and limits" of the port of Whitehaven, namely, one at Whitehaven itself, one at Workington, and one at Milnthorpe (of which last, more anon.). But Parton Pier was not so appointed, and the last paragraph but one of the commission, as "returned" into the Court of Exchequer to "remain upon record" there, would operate to forbid any transactions there by way of overseas trade, save by special "sufferance" of the local customs.

One or two points of interest arise out of these particular commissions of 1681. Firstly, there were only two ports in England at this time whose "extents bounds and limits" were "set down and settled" in such terms as to embrace the hinterland of the ports concerned. That is to say, all the ports of England consisted exclusively of coastline, with the exception of course of Berwick and Carlisle, whose limits ran inland along the East Marches

<sup>24</sup> It was reported in 1687 that he had not "so constantly attended that service as that place requires, being a place of growing trade, but under him chiefly managed by deputies." A "Deputed Collector" was now "absolutely necessary to be established there." (*Cal. Treas. Bks.* VIII (1685-9), iii, p. 1671).

<sup>25</sup> Appendices I and II.

and West Marches respectively. The commission returned into the Exchequer was drawn in such terms in order to give effect to the Act of Frauds (1662):

All Goods, Wares & Merchandize, that shall be brought out of . . . the Kingdom of Scotland by Land . . . shall pass and be carried through some of the Towns and Passages hereafter named, that is to say, by and through Berwick or Carlisle, and then and there pay the Custom and Subsidy granted & due to the King's Majesty . . . and if any Goods, Wares and Merchandize prohibited or uncustomed, coming out of Scotland into England . . . shall pass by or beyond the Towns, Ports and Places afore-named without due Entry & Payment of the Customs, all such Goods, Wares and Merchandize, or the value thereof, shall be forfeited & lost.<sup>26</sup>

Secondly, it will be observed that the southernmost limit of the port of Carlisle, and the northernmost limit of the port of Whitehaven, met at the River Ellen. But at this point, by a curious anomaly, the port of Whitehaven extended out to sea "to ten fathoms of water," whereas that of Carlisle extended only as far as "eight fathoms of water seawards."<sup>27</sup> This might easily become a quite important matter, as all ports in England had been held to be *infra corpus comitatus*. Thus the Court of Admiralty could not hold jurisdiction of anything done in them.<sup>28</sup> It was therefore most essential to know in any case to what precise limit any particular port extended. Furthermore in certain smuggling offences, the case might very well turn upon whether or not the vessel "hovering" was in fact within or beyond the "set down and settled extents bounds and limits" of the port. That instances of such doubt did in fact arise in the case of Whitehaven

<sup>26</sup> 12 and 13 Car. II, *cap.* 11, *sec.* 13.

<sup>27</sup> A similar situation arose on Whitehaven's southern limit, where Whitehaven went ten fathoms out to sea, and the port of Lancaster twelve.

<sup>28</sup> Holland's Case, Earl of Exeter, 30 Hen. VI.

is testified by a number of entries in the Whitehaven Letter Books.<sup>29</sup>

### THE PORT OF MILNTHORPE.

The third noteworthy point is a curious one. The Carlisle commission declares that the " extents bounds and limits " of the port embrace " Westmorland to the seashore near Arnshead in Westmorland aforesaid, bounding on the County of Lancashire." The creek in this part of the coast is of course Milnthorpe. But Milnthorpe finds no mention in the text of the Carlisle commission. The Whitehaven commission on the other hand appoints the port of Whitehaven to extend only from the River Duddon in the south to the Ellen in the north. But although this particular commission does not appoint any part of Westmorland to be within the " extents bounds and limits " of the port of Whitehaven, it nevertheless goes on to " assign and appoint " one of the Whitehaven legal quays to be a landing place in Milnthorpe. The point is more than an academic one.

<sup>29</sup> E.g. in 1744 the Collector and Comptroller of Whitehaven wrote to the Board of Customs regarding the vessel *Mary*, seized for smuggling: " But it will be very difficult, if not impossible, to procure proof . . . that she was or had been within the limits of the port when seized. Mr. Robinson [Captain of the Revenue Cruiser *Sincerity*] says he met with her about a league west from our Lighthouse, but omitted to take the Depth of Water he was in. We are told by some Masters it is Twelve fathoms at that Distance from Land, and if so 'tis two fathom without and beyond the limits of this port: she was not hovering, but making the best of her way to Parton to load coals, where to be sure she intended to run her Goods." (Whitehaven Letter Books: (1744-8) 29 Aug., 1744, p. 15). On the 5th September also the Revenue Cruiser *Sincerity* brought in " a small Brigantine belonging to Port Patrick call'd *The Two Brothers*," but the Captain was " fearful he might fail in his proof . . . as being in some doubt whether the Depth of Water was within the limits of any port." (*Ibid.* 7th Sept., 1745), 60. These difficulties were solved when in later commissions the practice of " setting down and settling " the seaward " extents, bounds and limits " in terms of depths, was superseded by the practice of delimiting ports in the terms " to a distance of three miles from the low water mark of the coast." The whole matter is comprehensively dealt with by W. E. Masterson in *Jurisdiction in Marginal Seas* (New York), 1929, or more briefly in *National Jurisdiction in Marginal Seas, Transactions of the Grotius Society*, vol. 13 (1927).

for although Milnthorpe is not mentioned in any of the Elizabethan lists noted above, it had by this time developed some trade, both foreign and coastwise.<sup>30</sup> Our late President, in a paper on "The Port of Milnthorpe,"<sup>31</sup> expressed regret that the local historians and antiquaries had been guilty of such neglect of the old "port"—"Westmorland's sole point of contact with the sea." Few records have survived, he said, and the fragmentary materials for the construction of its history had to be gathered from what he called "widely divergent and not always unimpeachable sources." For his own part he wrote, he said, not so much in the hope of presenting hitherto unpublished facts, but rather with a view to eliciting further information upon a subject which should be of deep interest to all students of local history.<sup>32</sup> I need not apologise therefore for entering into some detail in the dispute which here ensued between the creek of Milnthorpe, and the three ports of Lancaster, Whitehaven and Carlisle, each one of which had reasonable grounds for claiming that Milnthorpe fell within its own "extents bounds and limits." But unlike our late President, if I find my sources somewhat divergent, I can claim they are unimpeachable.

In the year 1680, the port of Lancaster had been appointed to extend

from the Foot of the River Broadfleet Easterly, to twelve Fathoms of Water Seawards from the Harbour of Peele, and so to twelve Fathoms of Water Seawards along the Island of Walney to the Foot of the River Duddon Easterly.<sup>33</sup>

Delimited in these terms, the "extents bounds and limits" of the port of Lancaster, cutting across from the

<sup>30</sup> See Exchr: K.R. Deposition (1649) Trin. 3 and Deposition I, Jas. I, Easter 16 and 17, for example as to the trade in wine.

<sup>31</sup> W. T. McIntyre, "The Port of Milnthorpe," these *Transactions*, n.s. xxxvi, 34-60.

<sup>32</sup> *Ibid.*, 35.

<sup>33</sup> Exchr. Comn: 32 Car. II: Michaelmas Term (1680).

south of Lancaster, around the seaward side of Walney Island to the Duddon, clearly embrace the whole of Morecambe Bay, and hence the short coast of the County of Westmorland. It is remarkable that this fact should have escaped the attention of William Kirkby, the Riding Surveyor for the Coast of Lancaster, one of the officers named on the commission, indeed the officer upon whom the commissioners, in the case of Whitehaven and Carlisle, would in all probability rely for legal and other advice on the technicalities of the appointment of ports. It had been this William Kirkby who had been named by the newly appointed Board of Commissioners to undertake in 1673 a survey of the North-Western ports, a survey which had taken no less than 85 days to complete.<sup>34</sup>

It is perfectly clear that with the passage of years the officials at Lancaster realized the ambiguous position of Milnthorpe. In their view it fell definitely within the limits of the appointed port of Lancaster, although not mentioned by name. Carlisle also considered there could be no doubt in the matter: the coast of Westmorland was specifically laid to Carlisle. Whitehaven appeared just as confident: in only one place was Milnthorpe named as a legal quay, and that was in Whitehaven's Exchequer Commission<sup>35</sup> Lancaster was anxious to remove doubts, and when a new Exchequer Commission was drawn in 1723 it seemed to offer the required opportunity. The

<sup>34</sup> *Cal. Treas. Bks. IV* (1672-75), 370. Kirkby's salary had recently been advanced from £80 per annum to £150 (*Ibid.*, 97). For further surveys see Customs Board's Minutes ("Commissioners") 12 Sept., 1698 and 8 Aug., 1699, and *Cal. Treas. Bks.* (1699-1700) 2, and *ibid.* (1720-8), 303.

<sup>35</sup> It is noteworthy that throughout the period the contemporary standard books of reference set out the port of Carlisle as follows:—

Port	Member	Creeks
Carlisle	{ ..... Whitehaven	{ West Marches, containing the Coast of Cumberland bordering upon Scotland. { Workington { Ravenglass { Milnthorpe

(*Index Vectigalium* (1671) p. 50; *Book of Rates* (1671) p. 264; and *Vectigalium Systema* (1714), p. 281).

Board of Customs reminded the officials at Lancaster that in answering this commission they should in fact "consider how far it may be necessary" to amend the terms of their "extents bounds and limits," (with particular reference for example, to the Pile of Fowdray), "so that the whole Coast may be laid out."<sup>36</sup> In their letter of the 23rd September, 1723, Lancaster proposed laying Milnthorpe specifically to Lancaster, but the Board of Commissioners replied that they

were surprized to observe you propose that Milnthorpe, which is a Creek of Carlisle, may be made a part of your Port, being very irregular and cannot be done, and therefore do hereby reprimand you for the same.<sup>37</sup>

A few days later they wrote down to Lancaster that

We have reconsidered that matter with our Solicitr, and have herewith sent you the draught of such return as he judges necessary to be made to the said Commission for setting out the Limits of your Port, and We direct that you make a return Accordingly, unless you have any particular objection thereto, which you are to report to us.<sup>38</sup>

The result of all this was that the Commission returned into the Exchequer in respect of the Port of Lancaster in 1723 was in the following terms, that is to say, notwithstanding the Board's reprimand, Milnthorpe was included in the "extents bounds and limits" of Lancaster, although its legal quay was apparently in Whitehaven, and the creek itself in the limits of Carlisle.

Lancaster was laid down to extend from the River Broadfleet along the coast to the north of Lancaster itself, by Bolton-le-Sands

and from thence North to Warton, and from thence West to Silverdale Point, and from thence to New

<sup>36</sup> Lancaster Letter Book: 17 August, 1723.

<sup>37</sup> *Ibid.*, 10 October, 1723.

<sup>38</sup> *Ibid.*, 15 October, 1723.

Barns, and from thence cross over the river Kent Westward to Grange and from thence to the Southernmost point of Cartmell and from thence Northward to Cark Beck, and from thence. . .<sup>39</sup>

It may be asked whether all this is no more than a mere academic point, a nicety for legalists to dispute about. But the exact terms in which these Exchequer Commissions were drawn, the exact limits appointed to these ports, was a matter which came to have a very practical effect on Milnthorpe, with repercussions on Whitehaven and Kendal. For example, it would depend upon the exact laid-down limits of a port as to whether certain movements of goods were, for official purposes, classified as coastwise traffic or not. To cite an instance, it seems that it was the practice to carry iron ore across the sands from Conishead, near Ulverston to the iron works at Deighton. The local customs officers intercepted these goods, on the grounds that such carriage was equivalent to removal coastwise, and hence Customs coast despatches were legally required. If the goods were thus "passed through the Customs" the necessary documents would have to be prepared—and fees paid to the local officials in respect of "passing" those documents. A petition of William Rawlinson "and others concern'd in the Iron Works at Deighton" complained that it was "to their great hindrance and charge to take out Despatches for carrying their Iron Ore cross the sands from Conishead Bank to the sd works." Although there was of course no duty involved, it is clear that the local officers were not so much moved by zeal as a desire to collect their fees from the additional transactions.<sup>40</sup> It is not surprising

<sup>39</sup> Exchr: K.R.: Comn. 6914 (18 Oct., 1723). (See also Mem. Roll to Geo. 1 Mich. 120 and Trin. 55). Even here the wording is not absolutely free from doubt. "Across the river Kent Westward to Grange" might be held to follow (more or less) the County boundary, and hence to leave Westmorland outside the limits of the port of Lancaster. But as a subsequent ruling shows, the limits as laid down above were held to include the creek of Milnthorpe.

<sup>40</sup> As to the effect of coast coquets on officers' emoluments see *Cal. Treas. Bks. and Pp. I*, 441 (19 August, 1730).

that the Commissioners ruled, in response to the petition, that all the movement took place within "the limits of the port," and hence "ye said Oar is never carried to open Sea." Hence there is no obliging them to take out coast despatches.<sup>41</sup>

With regard to Milnthorpe, a somewhat similar situation arose there. It appears that towards the end of the first third of the 18th century the woollen and tanning industries of Kendal had turned from local peat to sea coals, and it was found convenient to ship these coals from Whitehaven to Milnthorpe.<sup>42</sup> But the Customs officers covering the Kent had insisted that as the goods were being carried from beyond the "extents bounds and limits" of the port, their shipment constituted coastwise traffic, and therefore coast despatches were in this case required. As there was no one competent to transact this type of business nearer than Lancaster or the Pile of Fowdray, the masters of the craft from which the coal was unshipped would have to travel either to Lancaster or the Pile in every instance. They would furthermore be liable, not only to fees, as in the case of the Conishead-Deighton iron ore, but also to the duty on coal carried coastwise. A duty of 3s. 3d. per ton, or 4s. 10½d. per chalder was chargeable on all coals "brought by water from port to port in Great Britain."<sup>43</sup>

The merchants concerned petitioned the Lords of the Treasury, their petition being in the following terms:—

<sup>41</sup> Lancaster Letter Book: 10 March, 1715/6.

<sup>42</sup> As to the difficulty of procuring coal, and a proposal for "a little piece of ground for a wharf," see *Cal. S.P. (Dom.) Eliz.*, 1547-80, p. 319 (1568).

<sup>43</sup> 9 and 10 *Gul. III* (1698) *cap.* 13 *secc.* 4 and 5. A chalder was statutorily defined as "six and thirty bushels Winchester measure" (*sec.* 3), but as to the difficulty in interpreting contemporary accounts expressed in chalder, see T. S. Willan *The English Coasting Trade, 1600-1750* (1938), Appendix 3 (*Note on the interpretation of Measurements of Coal*) pp. 208-9.

To the Rt. Honble the Lords Commrs of his Majestys  
Treasury

The Memorial of Several Gentn whose Names are  
hereto Subscribed.

Sheweth

That the Town of Kendal has been a place of great Trade by the Manufacture of several sorts of wollen Stuffs and by the Tanning of Leather which has brought in a Considerable Revenue to ye<sup>e</sup> Govern-ment, That this Town was formerly supply'd w<sup>th</sup> Turff or fuel from the Mosses near adjoining but those being now wrought out they are oblided to fetch there Turf from so great a Distance that the expence of Firing is become the Ruin of the poorer sort and has accasion'd almost the entire Loss of their Trade.

That the River Kent is Navigable for small Boats to milnthrop a Town ab<sup>t</sup> six miles distant from Kendal but Ye<sup>e</sup> Navigation of the River wou'd be much improved & ye Town of Kendal might be supply'd w<sup>th</sup> Coals from W'haven if the Duty laid upon Water born Coals were taken of.

That the Revenue cannot suffer by the taking of this Duty, for while it subsists there will be no Coals or very small quantities brought to Milnthrop. The expence of carrying the Coals from Milnthrop to Kendal along Roads most improper for Carriages added to the prime cost ffreight & duty upon Water born Coals will always make them so dear at Kendal that the Inhabitants must be forced to burn Turf rather than Coals at such an excessive Price.

That ye<sup>e</sup> Revenue will gain by the increase of the Excise & Duty upon Leather both w<sup>ch</sup> branches will be much improved by taking of the water born duty laid upon Coals but so long as that subsists ye will be found to diminish daily.

L

Wherefore Your Memorialists Pray Your Lordships will be pleased to consent that it may be enacted by Parliament that the Coals brought from W'Haven to Milnthrop shall be exempt from paying the Water born Duty.

Gilfrid Lawson.

A. Lowther.

Tho. Lowther.

Ja. Lowther.

Dan. Willson.<sup>44</sup>

The Lords Commissioners of the Treasury, having received this memorial, referred it to the Commissioners of Customs who were duly directed to consider the same and report to their Lordships "the true state of the matter therein contained with their oppinion what is fit to be done therein."<sup>45</sup> In a further letter of the 20th March the Board directed the Collector of Lancaster to send them "an account of all Coals landed at Milnthorpe for two years past."<sup>46</sup> To which the Collector replied that "ye particular quantitys landed at Milnthrop cannot be distinguished by reason the Meters<sup>47</sup> returns do not mention at what place the Coals were landed, and that ye Ships which landed Coals at Milnthorpe discharged Part at other Places." In view of the imperfection of the local records the Board called for "an Account for Ten Years Past of all Coals landed at Milnthrop or any other Places between your Port and Ye Limits of the Port of Whitehaven." The Collector of Lancaster was also "to Examine ye Coal Meters and officers who have discharged the Coals if they have kept any Memorandum or notes of

<sup>44</sup> *Lancaster Letter Book*, 20 March, 1728[9].

<sup>45</sup> *Lancaster Letter Book*, 13 March, 1728/9.

<sup>46</sup> *Ibid.*, 27 March, 1728/9. The act of 1698 required "one or more Book or Books" to be kept at "every Port or Place" where these coastwise duties were paid.

<sup>47</sup> Coal Meters were officials who measured the coals for the official account.

what quantities have been discharged at each place, and from yt and your Observations you are to make the best estimate you are able of what part has been landed at each place."<sup>48</sup>

Having received the various reports, and accounts, the Board of Customs replied to the Treasury's reference. They stated that there had been shipped at Whitehaven, "entered" at the port of Lancaster, and discharged at the creek of Milnthorpe "*within that port*," in the five years past, upwards of 308 chaldrons of coal for which duty had been paid as having been "brought by water from port to port." The quantities had increased of late years. There had in addition been upwards of a thousand chaldrons discharged at other nearby creeks, namely Grange, Penny Bridge and Rampside, and if coals landed at Milnthorpe be exempted from the coastwise duty the other creeks might be expected to demand the same.<sup>49</sup> It seems that finally the decision taken was that Milnthorpe had been laid down as within "the extents bounds and limits" of both Lancaster and Carlisle. But since it had been laid down as within Lancaster in the 32nd of Charles II it was not available to be laid down as within Carlisle (or its member, Whitehaven) in the following year, save by the formal revocation of the earlier Lancaster Exchequer Commission. As the Lancaster commission had not in fact been annulled in that particular it must be held that Milnthorpe and the coast of Westmorland is mentioned in the later Exchequer Commissions of both Carlisle and Whitehaven only in error. If this is the case, and since Milnthorpe is mentioned as a legal quay only in the Whitehaven commission, it might be argued that Milnthorpe is not even a legal quay. Milnthorpe would thus become reduced in status to an "unapproved place," and this

<sup>48</sup> *Lancaster Letter Book*, 27 March, 1728/9.

<sup>49</sup> *Cal. Treas. Bks. and Pp.*, 1729-30 (9 May, 1729), 66.

would subject any transactions there to a higher scale of fees. The merchants and traders of Milnthorpe felt very aggrieved by this reversal, and as might be expected, the matter of fees became a source of dispute.

The Patent Customer at the head-port of Chester was at this time a John Manley, and in his capacity of Patent-Customer, he undertook a tour of inspection of the port of Lancaster, a member of Chester. As an outcome of this inspection he addressed a report to the Board of Customs in London dated 2nd July, 1730, and touched, among other things, upon this matter of the transactions at Milnthorpe. As a result of his report, the Board of Commissioners addressed themselves to Lancaster in the following terms:—

There being some dispute whether Milnthorpe, which lys in Westmorland at the head of Lancaster Water, is within the Port of Lancaster or Carlisle, and finding that by a Commission out of the Court of Exchequer Milnthorpe is within the Description of the Port of Lancaster, a Member of the Port of Chester set out in the 32° Car 2° which is Prior to the Commission for setting out the Port of Carlisle, and it having been a Constant Practice for all Vessels clearing Coastwise both Inwards and Outwards belonging to Milnthorpe to take out their Despatches at Lancaster which is about eleven miles from Milnthrop, You are to take Care that the Practice be continued unless the Traders who reside nearer Pile of Fowdry within the limits of your Port shall desire to take out their Coast Despatches at that Place which in that Case You may for their Accommodation permit to be done.<sup>50</sup>

In the following year however a communication was addressed to the Board in London claiming to speak on

<sup>50</sup> *Lancaster Letter Book*, 31 July, 1730.

behalf of "all us Sailors at Milnthrop." It read as follows:—

March 20th 1730[1]

Sir,

Having this Opportunity make bold to write to you begging your Assistance in this Confus'd Case between [your] Officers & all us Sailors at Milnthrop, we claiming a Landing Place Settled in the 33<sup>d</sup> of Cha: 2<sup>d</sup> from the Hatters House to the Marsh opposite to the Bowling green, to Load and Discharge without paying any fees to the Officer. (I mean Stephen Postlethwaite)<sup>51</sup> We think it is very hard to pay 2s. p. day when many days the goods we discharge is not worth the fees, they made me pay Two Shillings for one craite of Pots which cost but 5s: We mostly have goods for Penrith, Appelby Kirby, & Places adjacent which Can not meet all in one Day to take them. This is what I request of you to speak to Mr Manley Esq. at the Custom house London or to any of the Honourable Commrs that you are best acquainted with and their or your Answer shall end the Dispute hereafter, and we will give them no more trouble. let them but Say whether we must have the Priviledge of the Place, as we have in any Port, Member or Creek in Great Britain, and what we must pay when we Load or Discharge out of the Landing place, It ly's in Your Royalty where there was four Vessels Unloaded last Spring, John Towers Vessel was overset and laid wrong side up but with good assistance of the Country we got her up Sr this is all only subscribing my self

Your humble Servt.

Tho<sup>s</sup> Clarke.<sup>52</sup>

<sup>51</sup> Stephen Postlethwaite was a Tidesman (Lancaster Oaths of Office Book, 25 April, 1727) at a salary of £5 per annum. (As to relation between salary and fees, see note below).

<sup>52</sup> *Ibid.*, 17 April, 1731.

It is clear then from this that the matter of the coals from Whitehaven had raised the question as to whether the removal was from one port to another, that is to say, from the port of Whitehaven to a creek within the limits of Lancaster. Having obtained a ruling that Milnthorpe was in fact within the limits of Lancaster, it was argued that the Carlisle and Whitehaven Commissions were invalid in so far as they touched upon Milnthorpe. This would leave Milnthorpe with no assigned and appointed place as a legal quay, which in its turn would render all merchandise unloaded at Milnthorpe liable to a higher scale of fees, much, so it appears, to the confusion of the men who had been engaged in the general traffic for some years past.

The complaint was forwarded from London to Lancaster on the 17th April, 1731 with instructions to investigate and report. The report was submitted on 7th May, and it was admitted by Stephen Postlethwaite that he did in fact demand and receive the fees complained of. He also acknowledged receipt of the direction earlier issued by the Board for the guidance of officers, forbidding the several officers on the coast to take "any fee under pretence of Lading or Discharging Coast Goods but what is allowed by Law."<sup>53</sup> He contended however that the fees in question were in fact lawfully due. Having regard to all the various facts of the case the Collector Lancaster was directed to suspend the offender, Stephen Postlethwaite, from his duty, and "to charge him with Demanding illegal fees and with particular Breach of Our said Order, requiring his answer in writing." Both charge and answer were to be submitted in due course to London. The Board added, "And we expect that he returns what he has received under the Pretence of fees from whom he received them, and send a certificate under their hands that it is repaid."<sup>54</sup>

<sup>53</sup> *Lancaster Letter Book*, 31 July, 1731.

<sup>54</sup> *Ibid.*, 15 May, 1731.

The attitude of the Commissioners of Customs was perfectly clear then. A place in the creek of Milnthorpe had been assigned and appointed to be a legal quay, a place at which it should be legal to lade and unlade goods. The instrument assigning this place had been returned into the Court of Exchequer and was on record there. There was a technical imperfection in the instrument, but the intentions of the persons appointed in the commission were perfectly clear. Thus, although it cannot be disputed that Milnthorpe was in fact within the extents bounds and limits of the port of Lancaster (and thus goods brought there from Whitehaven were brought from another port, and hence potentially liable to coastwise duties), yet Milnthorpe remained a place at which discharges should be legal, and therefore the fees payable in respect of the transactions there should be at the "legal" scale, and not the "unapproved" scale. A decision in these terms was notified to the Collector at Lancaster, who however, notwithstanding the Board's decision, still held that the fees at Milnthorpe had been lawfully demanded. Lancaster even went so far as to inform the Board that in the local view the demand for fees at the higher scale should be continued. The Board now took a forceful line, and wrote to Lancaster,

And in regard we did in our Said Letter give it in strict Charge to you to See the Order duly Comply'd with, and You having in direct Disobedience to the Order not only Encouraged the Officer to go on in their former Practice of exacting Illegal fees, but in your said letter of the 7th inst have presumed to give Your Opinion they should be continued, We hereby charge You therewith and Expect You to show Cause why You should not be Dismissed for such a Manifest Breach of Your Duty, and likewise that You should fully explain to us the present Method of Shipping and Discharging Coast Goods and

particularly Show how far the Regulations made under the 31st July have been duly Comply'd with.

### THE PORT OF PEEL OF FOWDRAY.

It was not only at Milnthorpe that this matter of fees became a live issue during the course of the eighteenth century. The principal creek "North of the Sands" was of course the Pile of Fowdray, by Walney Island. The Pile was known as a creek even in Plantagenet times<sup>55</sup> and was specifically mentioned in a short statute in 1423—"The Peel of Foddrey in Lancashire" . . . "a New Place of Shipping"—as a place of irregular exportation of wool in the reign of Henry VI.<sup>56</sup> It was recorded also in 1579<sup>57</sup> and 1565<sup>58</sup> in the Tudor lists already referred to. It remained however a mere creek and was never appointed either a port or a member-port. Its improving trade however in the first half of the 18th century is demonstrated in the records of the port of Lancaster (on which it was dependent during the period before the appointment of the port of Barrow in 1872).<sup>59</sup> The shipping and trading community of Furness generally was much interested in an attempt to secure that if the Pile could not be appointed a member-port, at least it should have fully competent deputies of the principal port officials actually resident in Furness in order to transact the increasing trade of the place without the need to travel "over the two dangerous sands" to Lancaster to have each separate arrival and departure, exportation and importation, properly authenticated.

<sup>55</sup> *Cal. Pat. Rolls, Ric. II*, 1396-9, p. 329.

<sup>56</sup> *2 Hen. VI*, cap. 5.

<sup>57</sup> *S.P. Dom. Eliz.*, vol. 135, f. 3.

<sup>58</sup> *Acts Privy Council*, n.s. 7 (1558-70), 288.

<sup>59</sup> Barrow was appointed a port, not by the process of Exchequer Commission, but by Treasury Warrant dated 21st August, 1872, under the act 12 and 13 Vic. (1849), *cap. 90 sec. 40*, the jurisdiction of the Court of Exchequer having been extinguished in that particular by the act 9 and 10 Vic. (1846) *cap. 102, sec. 14*.

Their petition of 1717 in this regard reads as follows:

To the Rt Honble the Lords Commrs of His Majesty's Treasury.

The Humble Petition of the Owners & Masters of the Ships belonging to the Pyle of Fowdray in Furness in the County of Lancaster and the Two Creeks of Leven & Kent Sands which make ye Harbour there, and also the Petition of the Gentlemen Freeholders and other Inhabitants within high and low Furness fells & Cartmell, being the Countys adjoining to the said Harbour & Creeks.

Sheweth

That there are now belonging to the said Harbour and Creeks above forty sail of Ships, besides a great many from Ireland Whitehaven and other places constantly employ'd in exporting Iron Oare, Oak Timber, Oak Bark, Corn, and manufactured Iron, all of the product of this Country.

That your Petitioners labour under great Hardships and Inconveniencies upon the Acco<sup>t</sup> of their Trade, for want of a proper Office to discharge & Clear out their Ships, being forced every Voyage to ride to Lancaster over two dangerous Sands,<sup>60</sup> at very often the Hazard of their Lives to make their Invoices, some twenty, some thirty Miles and Upwards, the Charge & expence of each Journey and Horse Hire amounting to above ten shillings. And likewise they are forced to take ye same Journey to clear out their Ships, and very often the Tydes are so cross and out of Office hours that they are obliged to stay a whole day, besides the day of going and coming, by which they frequently loose ye Opportunity of a wind and of making their Voyage, as by many hundred instances may be made appear.

<sup>60</sup> As regards the route "over two dangerous Sands," see E. Cuthbert Woods *Oversands Route Between Lancaster and Ulverston*, *Trans. Hist. Soc. of Lancs. and Ches.*, vol. 87 (1935) 1-21, and John Fell *The Guides over the Kent and Leven Sands*, these *Trans.*, o.s. vii (1884), 1-26.

Your Pet<sup>rs</sup> are further discouraged from venturing at Sea upon Acc<sup>t</sup> of the great charges and fees which are paid to the officers at Lancaster for coming over to discharge the smallest parcell of duty goods.

Your Pet<sup>rs</sup> humbly represent that the charge of an Office would be inconsiderable in respect to the Advantage wou'd thereby accrew to the Governm<sup>t</sup> for the Harbour of ye Pyle of Fowdray, being a bold and safe Harbour capable of receiving the largest Ships, is so convenient not only for the Merchants of Dublin and other Ports of Ireland to land their Debent<sup>r</sup><sup>61</sup> goods, but for the Town of Kendall, which is a town of considerable Trade, and the Country thereabouts as well to import all foreign Commodities as to export their own manufactures: We doubt not but most of the Trade of those Countries would center there, and besides there are already Sevens or eight established officers placed att proper Distances to attend ye Coasts.

Your Pet<sup>rs</sup> further make bold to acquaint your Honours that the Creeks of Poulton in this County has the priviledge of Port of Delivery. Notwithstanding their Trade nor Shipping is one Tenth of Ours.

Your Pet<sup>rs</sup> therefore humbly pray your Lordships to give Directions to make the said Pyle of Fowdray a Port of Discharge, And your Pet<sup>rs</sup> as in duty bound shall ever pray:

Jno Robinson	Thos Lowther
Jno Wood	Wm Knipe
Jno Taylor	Miles Sandys
Tho Turner	James Penny
Wm Fell	Wm Sawrey <sup>62</sup>
Tho Banks	

<sup>61</sup> Export goods qualifying for refund of import duties.

<sup>62</sup> Lancaster Letter Book, 18 May, 1717.

In the first instance, the Board of Customs were not by any means pleased to have it represented to them "that the Merch<sup>ts</sup> trading in Foreign goods at Pile of Fowdray are frequently hinder'd in the despatch of their The Board therefore gave it in strict charge that "for ye business by the delays of the officers of Customs there." future ye said Merch<sup>ts</sup> have all ye despatch in their trade that ye nature thereof will admit," and that they are not put to "any unnecessary charges for their despatches from the Port, Officers' Attendance or otherwise."<sup>63</sup> After consideration of the representations made to them as regards the opening of a Custom House at the Pile, the Commissioners of Customs did not feel disposed to take any steps to secure the appointment of the Pile of Fowdray as a member-port, but agreed to appoint competent deputies to reside locally. Accordingly, Thomas Gill, Ralph Harwood and Thomas Winter were appointed Deputy Customer, Deputy Comptroller, and Deputy Searcher respectively, that is to say, deputies for their seniors at Lancaster, who in their turn, acted legally as deputies for their patent principals at Chester. All cash taken at the creek at the Pile was required to be remitted, and all accounts rendered to the port of Lancaster as the port upon which the creek of Pile was dependent. These officers were duly sworn in on 4th June, 1719, the amounts being borne on the establishment being £30 *per annum* in respect of the Customer, £25 for the Comptroller, and £20 for the searcher.<sup>64</sup> (They would, as already explained, receive additional emoluments by way of fees).

Although the various returns rendered by Lancaster in respect of the creeks under its control showed Thomas

<sup>63</sup> Lancaster Letter Book, 15th Nov., 1718.

<sup>64</sup> Lancaster Oaths of Office Book, and Lancaster Letter Book: Establishment Return, Christmas Quarter, 1719.

Gardner, the Waiter and Searcher, as having been employed at the Pile of Fowdray, it is clear that in point of fact he performed his duties from Rampside,<sup>65</sup> a place on the mainland opposite to the Pile. It was now proposed that the new offices, for which there had been such pressure, should likewise be at Rampside as "being the most commodious place both for the service of the Revenue and the case of the Traders," and "it not being possible to get one nearer."<sup>66</sup> The rent incurred was £4 *per annum*.<sup>67</sup> It might be noted that it was not thought necessary to give the new Deputy a commission as a Coal Meter, it having been reported that "the number of Coal Ships w<sup>ch</sup> discharge near Rampside is inconsiderable."<sup>68</sup>

There seems however to have been some sort of hitch with regard to providing the requested facilities, either at the Pile or at Rampside, for as late as the September the masters of ships could still complain that they had to journey to Lancaster to "clear" their ships. The Board ordered that "if the Officers do refuse to act at Pile Fowdray, pursuant to our former orders, you are to take care that no Salary be pd. them till they do."<sup>69</sup> The matter seems to have been settled eventually, satisfactorily to all parties, and in the next few years the traffic passing into and out of the creek increased considerably. During the course of the next seven or eight years, for example, there are many accounts of seizures effected by the officers at the Pile, until in 1730 it is reported that the Custom House "is not large enough to contain the seizures made," and there is therefore "a Necessity for hiring a Warehouse at that Place." The

<sup>65</sup> Lancaster Oaths of Office Book, 26 Oct., 1709.

<sup>66</sup> Lancaster Letter Book, 23 June, 1719.

<sup>67</sup> *Ibid.*, 11 July, 1719.

<sup>68</sup> *Ibid.*, 28 Jan., 1719/20, cf. *Cal. Treas. Bks. and Pp.*, 1729-30 (9 May, 1729), 66 (quoted above), where Rampside was mentioned as one of the creeks doing a fair trade with Whitehaven in coals.

<sup>69</sup> Lancaster Letter Book, 26 Sept., 1719.

Board however were not prepared to sanction a warehouse, but gave instead authority to the local officials "to hire a Store Room to Secure the Goods in the best Terms they can, which they must pay off as soon as the Goods are Dispos'd of, that the Crown may not be put to any unnecessary Expence."<sup>70</sup>

### THE PORT OF CARLISLE.

So far as Carlisle itself was concerned, it will be recollected that an open place had been "assigned and appointed" to be the "place key or wharf" at which it should be legal to unlade and lade, discharge and ship merchandise in the foreign trade. The place so assigned was

called Raven Banke, on the South side of the River Edden to five hundred yards in length down the Rivulett called Raven Banke Lake lying near to a great grey stone on the point of Raven Banke aforesaid.

But with the passage of time and the shifting of the channels in the Solway, it became impracticable for vessels to come up to that point with safety, and the practice grew up of permitting discharge or shipping of goods at other berths, lower down, and more accessible to the ships concerned. This was known as the "sufferance" procedure, that is to say, although the transactions were not in strict law provided for, they were not exactly *permitted*, but they were suffered to continue. As in the case of Milnthorpe noted above, the "sufferances" would involve the traders concerned in a higher scale of fees than would otherwise obtain,<sup>71</sup> and it was on this account that

<sup>70</sup> *Ibid.*, 14 Nov., 1730.

<sup>71</sup> With regard to the relation between the revenue collected in any particular port, the amount of salaries paid, and the fees received, these can be stated exactly in respect of the year 1781, when a special census was held for

the local trading community petitioned along much the same lines as the traders and shippers of Milnthorpe had petitioned in 1729.

The "Merchants and Principal Traders in and about the Port of Carlisle" made representations to the Crown that the place in Carlisle at which alone it was lawful to ship and unship goods in the foreign trade "is now, and has been for upwards of Thirty Years last past, on Account of the Setting in of the Tides and great Alterations of the Current up the Solway Firth, rendered dangerous and impracticable for vessels to come up to with safety."

During the course of that time, goods have been shipped and unshipped (both in the foreign and coastwise trade) "with a Special Sufferance and Leave from the Officers of the Customs" at three other places within the limits of the port, namely at Bowness, Sandsfield, and Rockcliffe. But these three places had not been duly assigned and appointed. As the Chief Baron of the Exchequer would have said, they had not "the superinduction of a civil signature upon them." In consequence, as in the case of Milnthorpe, the officers locally had insisted, and quite properly insisted, "upon extraordinary fees from the Merchants, who by that means are put to very great Expenses." Nor was that all. "Disputes frequently arise between the Merchants and the Officers thereupon,

the information of the Commissioners Appointed to Examine, Take, and State the Public Accounts of the Kingdom.

In the case of the port of Carlisle £189. 16s. 11d. was collected as revenue, while £870. 5s. 9½d. was paid as salaries and incidents—a loss on the port of £680. 8s. 10½d. But where Benson Fearon, the patent customer, drew a salary of £32, he received in addition £343. 13s. 7d. as fees, etc. Peter Garrick, the patent Comptroller, drew £10 as salary, and £211. 9s. 11d. as fees, and William Brownrigg, the patent Searcher, £20 as salary and £185. 1s. 2d. as fees. These receipts were very modest in comparison, for example, with Jeremy Robinson, the patent Searcher of Chester (which included, as explained above, Milnthorpe and the Pile of Fowdray) whose salary was as low as £3. 6s. 8d. *per annum*, and his fees as high as £1323. 7s. 8d. (out of which sum he allowed his deputies £120 per annum to collect them).

which cause much delay and much Injury both to the Revenue and the Merchants and Traders." The merchants and traders concerned therefore petitioned that a Commission might issue "to such persons as are proper to Examine the Coast" within the limits of the port of Carlisle, and set out, with a view to "assigning and appointing," such places as were considered most convenient to be new lawful quays for the shipping and unshipping of merchandise.

The matter was referred, in accordance with the usual practice, to the Board of Customs, who "caused Inquiry to be made into the practices" then obtaining. The Board as a result of this inquiry reported that they too were of opinion "that it will be a great Benefit to the Revenue as well as to the Officers and the Traders" if new legal quays were appointed in the case of the port of Carlisle.

A Commission accordingly issued from the Court of Exchequer, reciting the petition from the Carlisle merchants and traders, and authorising new legal quays to be assigned and appointed. The Commission went on to recite that the Commissioners of Customs had likewise made representations to the effect that they had caused an inquiry to be made into the late practices in the port of Carlisle with regard to the granting of suffrances in respect of the "unapproved places" at Bowness, Sandsfield<sup>72</sup> and Rockcliffe. They were of opinion that it would be to the benefit of the revenue as well as the officers concerned and the merchants and traders also if the three places named in the Commission were "assigned and appointed" to be legal quays, or places where goods could be shipped or unshipped without any special suffrance on the part of the local Customs. The Commission went on to name as "persons proper to examine the coast" with

<sup>72</sup> As to the traffic at the old creek of Sandsfield, see W. T. McIntyre, "The Old Port of Sandsfield." *Trans.* n.s. xliii (1943), 71-81.

this object, Charles Lutwidge, the Surveyor-General of Customs and Supervisor for the County of Cumberland, Westmorland, and the Coast of Lancaster; John Norman, the Collector of Customs of Carlisle; John Addison, Riding Surveyor for the Borders; and Joseph Hodgson, Thomas Wilson, and Thomas Hodgson, merchants.<sup>73</sup>

A new Exchequer Commission was accordingly drawn, dated 7th November, 1769, appointing Bowness, Sandsfield and Rockcliffe to be legal quays within the port of Carlisle. The full text of these Commissions is reprinted below—as Appendix III.

Considerations of space prevent one here from following out the history of the appointment of the ports of Workington, Maryport and Barrow.

#### APPENDIX I.

##### CARLISLE.

###### LIMITS OF PORT AND LEGAL QUAYS.

Exchequer Commission, 27th October, 1681.

We whose names are subscribed being four of the Commissioners hereunto annexed mentioned for the doing and executing the several matters and things in the said Commission contained relating to the Port of Carlisle in the said Commission mentioned Do humbly Certify the Right Hon'ble the Barons of His Majesty's Court of Exchequer at Westminster That by virtue of the said Commission to us and others therein named and directed We did on the six and twentieth day of October one thousand six hundred eighty one and at several days and times afterwards and before the return of the said Commission personally repair to the said Port of Carlisle in the said Commission mentioned and did search and survey the open places there and thereabouts and by virtue of the said Commission we do humbly set down and settle the extents bounds and limits of the said Port to be as followeth that is to say:—

From the River Alne alias Elne southerly to eight fathoms water seawards to Bowness up to the Bay that divides England and Scotland Eastwards from thence further up the midstream in the said Bay called Solway Sands to the Rivulett called Sarke

<sup>73</sup> Exchr: K.R., Conn., 6938.

Foote which begins to divide the lands of England and Scotland Eastwards as aforesaid from thence to the Scotts Dyke and so to Liddall Foote and from thence to Carsope (Kershope) Foote and from thence up Carsope to Burnt Shields and so to Dove Cragge on the West Marches and from thence all along the utmost bounds extents and limits of the County of Cumberland and Westmoreland to the seashore near to Arnshead in Westmoreland aforesaid bounding on the County of Lancashire.

And by virtue of the said Commission we have assigned and appointed the several open places hereafter mentioned to be places keys or wharves respectively for the landing or discharging lading or shipping of any Goods Wares or Merchandizes within the said Port of Carlisle that is to say:—

That open place called Raven Bancke on the South side of the River Eadon to five hundred yards in length down the Rivulett called Raven Bancke Lake lying near to a great grey stone on the point of Raven Bancke aforesaid. And in regard to the great quantity of Goods Wares and Merchandizes that comes constantly out of Scotland into England and out of England into Scotland by land carriage we have by virtue of the said Commission assigned that all the said Goods Wares and Merchandizes that shall be carried out of England into Scotland or brought out of Scotland into England by land carriage as aforesaid within the limits of the Port of Carlisle shall pass through the City of Carlisle and there be brought directly to the King's Warehouse And we do further assign and appoint that all Goods Wares and Merchandizes that shall be brought out of the Kingdom of Scotland into England so soon as they shall come upon English ground shall be brought the nearest and most usual road to the said City of Carlisle and warehouse aforesaid which said place and places so assigned and appointed as aforesaid are in our judgments and discretions most convenient and fit for the use and services aforesaid and we do by these presents set down appoint and settle the extents bounds and limits of the said places keys or wharves and roads to be as aforesaid and we do hereby and by virtue of the said Commission utterly prohibit disannul make void determine and debar all other places within the said Port of Carlisle from the privilege right and benefit of a place key or wharf for the landing or discharging lading or shipping of any Goods Wares or Merchandize as aforesaid (except as in the said Commission is excepted).

Given under our Hands and Seals at Carlisle aforesaid this twenty seventh day of October in the three and thirtieth year of

M

the Reign of our Sovereign Lord the King over England, etc.  
A.D. 1681.

William Kirkby, Riding Surveyor Liverpool.  
Matt, Miller, Comptroller Carlisle  
Thos. Addison Searcher Carlisle  
(Sir) Christopher Musgrave Collector Carlisle

## APPENDIX II.

### WHITEHAVEN

LIMITS OF PORT AND LEGAL QUAYS,  
Exchequer Commission, 24th October, 1681.

We whose names are subscribed being six of the Commissioners in the Commission hereunto annexed mentioned for the doing and executing the several matters and things in the said Commission contained relating to the Port of Whitehaven a Member within the Port of Carlisle in the said Commission mentioned do hereby humbly certify the Right Hon'ble the Barons of His Majesty's Court of Exchequer at Westminster That by virtue of the said Commission to us and others therein named directed We did on the one and twentieth day of October one thousand six hundred eighty one and at several days and times afterwards and before the return of the said Commission personally repair to the said Port of Whitehaven in the said Commission mentioned and did search and survey the open places there and thereabouts and by virtue of the said Commission We do hereby set down appoint and settle the extents bounds and limits of the said Port to be as followeth that is to say:—

From midstream of the River Dudden South East to ten fathoms water seawards all along the Coast to the North East side of the River Alne alias Elne.

And by virtue of the said Commission We have assigned and appointed the several open place or places hereafter mentioned to be places keys or wharfs respectively for the landing or discharging lading or shipping of any Goods Wares or Merchandizes within the said Port of Whitehaven that is to say:—

That open place from Jackson's Point upon the East side of the Rivulett near the lowest bridge in Whitehaven in a direct line to the East side of the new pier containing three hundred and fifty yards in length or thereabouts, from thence along the inside of the new and old piers to the angle at the salt pan sump and from thence along the old pier on the South West side to Henry Addison's house and from thence along the townside to the said Jackson's Point.

Also that open place at Workington a Creek under the Collector of Whitehaven from the house of the late John Miller near the Church five hundred yards down the River Darwin on the South side thereof.

Also that open place at Millthrop a Creek within the Port of Whitehaven from the House called the Hatter's House about South West to that part of the Marsh on the North East of Betha opposite the Bowling Green being distant about three hundred yards which said places so assigned and appointed as aforesaid are in our judgements and discretions most convenient and fit for the uses and services aforesaid and we do by these presents set down appoint and settle the extent bounds and limits of the said places keys or wharfs to be as aforesaid.

And We do hereby by virtue of the said Commission utterly prohibit disannul make void determine and debar all other places within the said Port of Whitehaven from the privileges right and benefit of a place key or wharf for the landing or discharging lading or shipping of any Goods Wares or Merchandizes as aforesaid (except as in the said Commission is excepted).

Given under our Hands and Seals at Whitehaven aforesaid this four and twentieth day of October in the three and thirtieth year of the Reign of our Sovereign Lord the King, etc. one thousand six hundred eighty one.

Will Christian (Customer)  
 Matt. Miller (Comptroller)  
 Thos. Addison (Searcher)  
 Thos. Tickell (Surveyor)  
 John Lamplugh  
 Rich'd Patrickson

### APPENDIX III.

#### CARLISLE

#### LEGAL QUAYS,

Exchequer Commission, 7th November, 1769.

We whose names are hereunto subscribed being six of the Commissioners in the Commission hereunto annexed named, for the doing and executing the several matters and things in the said Commission contained Do humbly certify the Hon'ble the Barons of His Majesty's Court of Exchequer at Westminster That by virtue of and in Execution of the said Commission We did on the 6th day of November 1769 and at several times before and since and before the return of the said Commission personally

repair to the said Port of Carlisle for the purposes in the said Commission mentioned and by virtue and in pursuance of the said Commission We have assigned and appointed and by these presents do assign and appoint the several open places hereinafter mentioned to be further lawfull places keys and wharfs respectively for the landing and discharging loading and shipping of Goods Wares and Merchandizes within the said Port of Carlisle which said several places keys and wharfs are meted limited and bounded as followeth that is to say.

All that open place near Bowness in the County of Cumberland commonly called or known by the name of Bowness East March containing in length from a place called Knock Cross in a supposed direct line South-Eastward to a Rivulet or Brook called Hurling Dub sixteen hundred yards or thereabouts and bounded by the Dykes or Hedges of the Inclosures towards the South and the River Eden towards the North.

And also all that open place commonly called or known by the name of Sands field in the foresaid County of Cumberland containing in length from a Creek called Long Creek in a supposed direct line Eastward along the banks of the River Eden 1000 yards and bounded by the Dykes or Hedges of the Inclosures on the South and the River Eden on the North.

And likewise all that other open place near Rowcliff in the County of Cumberland aforesaid containing in length from a place called Flat Meadow Dyke in a supposed direct line Westward along Blucklocks March 500 yards bounded on the South by the River Eden and by the Dykes or Hedges of the Inclosure on the North which said Places Keys and Wharfs as by us assigned and appointed and named as above mentioned are in our Judgments and discretions most convenient and fit for the uses and services intent and purposes in the said Commission mentioned and We do by these presents set down appoint and settle the extents bounds and limits of the said Places Keys and Wharfs within the said Port to be as aforesaid.

In Witnesses whereof we have hereunto subscribed and set our hands and seals this 7th day of November in the 10th year of the Reign of our Sovereign Lord George the third by the Grace of God of Great Britain France and Ireland King Defender of the Faith and so forth and in the year of our Lord 1769.

(Signed) Tho's Wilson  
Charles Lutwidge  
Tho's Hodgson

John Norman  
Jos. Hodgson  
John Addison

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