

ART. VII.—*Disorders in Lancastrian Westmorland: some Early Chancery Proceedings.* By R. L. STOREY, B.A.

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THE class of documents in the Public Record Office known as Early Chancery Proceedings consists for the most part of petitions addressed to the lord chancellor. They were sent or delivered into Chancery by persons seeking remedies for alleged wrongs done to them. There were several reasons why resort should have been made to the chancellor, the most common being that the Common Law was inadequate, either because it was not competent to deal with certain cases, particularly those arising from trusts, or because it could not make its remedy effective on account of the troubled state of the country. Plaintiffs requested that the chancellor would call the offenders before him by a writ of *sub pena*, examine them, and ordain a remedy. As these petitions put only one side of a case, they cannot be regarded as impartial. There was also a certain amount of common form in drawing up petitions; offences were made to appear as heinous as possible. The great majority of petitions are undated, so, unless external evidence is to be found, the only indication of date is the name of the chancellor to whom they were addressed.

The number of petitions from Cumberland and Westmorland in the first twelve bundles of Early Chancery Proceedings is very small; of approximately 3,000 petitions belonging to the period c. 1380-c. 1450, only twenty came from plaintiffs in these two counties. They are, however, of value for the light they throw upon local

history in a period of which our knowledge is unfortunately slight. Only one or two petitions concern cases of the sort for which the Common Law was unable to give a remedy, that is, which were of an equitable nature. The petition of Thomas de Bethome and his wife Mary, the widow of William Stapleton of Cumberland, belongs to this class. Their complaint was that William, the son and heir of Stapleton, had broken a verbal agreement regarding the disposition of his father's lands and goods. As the Common Law took no cognisance of agreements by word of mouth only, the plaintiffs asked that William should be called to Chancery and examined, and that the chancellor should see that right was done according to the dictates of good conscience and reason.<sup>1</sup> The lack of remedy at Common Law also caused Thomas Unthank of Westmorland to send a petition alleging a breach of faith by "Sir Stevon", the rector of Asby. To the usual concluding exhortation of "Pour dieu et en oeuvre de charite", Unthank added "et pour les almes dez voz tresnoblez progenitors queux dieu par sa graunte mercy assoile."<sup>2</sup> The petitions more often complained of violence committed by persons of standing who could use their influence in the county to prevent the normal machinery of justice from giving redress. The earliest petition relating to Cumberland suggests that it was due to this reason. The prior and convent of Guisborough alleged that Thomas del Sandes, with a number of armed "marchers", had made an attack on the convent's vill of Bridekirk and fatally wounded one of its tenants. As the offender was a justice of the peace, married to a cousin of the sheriff and also related by marriage to the

<sup>1</sup> *Bundle 12, No. 220.* Addressed to the bishop of Bath, and thus belonging to the period 1432-1443. (See Appendix).

<sup>2</sup> *Bundle 6, No. 229.* To the bishop of Winchester, clearly Henry Beaufort in view of the exhortation, and therefore 1404-1405, 1413-1417 or 1424-1426. (See Appendix).

Another unusual exhortation worthy of note is in the petition of John de Ermythwayt (*Bundle 7, No. 11*). "Pour lamour nostre seigneur ihesu crist qi se suffrist peyner en la sainte Croice pour nous rechater de morte perpetuele ovesqe soun precieuse saunc et en oeuvre de charite." (This petition is also summarised in the Appendix).

under-sheriff,<sup>3</sup> the plaintiffs had good reason to fear that no legal redress would be provided in the county.

Half of the petitions relate to disturbances in Westmorland, mostly in the northern part of the county and within a few miles of Appleby. Kirkby Lonsdale was the scene of one reported breach of the peace, however. The abbot of St. Mary's, York, showed that he held the manor of Kirkby Lonsdale by right of his church and that his tenants held their lands "at will", according to the custom of the manor. At a recent manor court, an inquest had been taken on ruinous houses, and similar defects. During it, Richard Midelton and John Neuton, both natives of the county, and many others in warlike array, interrupted the enquiry, threatening the jurors with physical injury if they made presentation of defects in any property for which Midelton and Neuton were responsible. As a consequence, the jurors were afraid to speak the truth. The abbot asked that the offenders be called to Chancery to be examined, and also to be constrained to give security that they would do no harm to the abbot, his monks or servants. Without such sureties, neither the abbot nor his servants dared to dwell in the manor for fear of death. The chancellor was also asked to take into consideration the fact that Midelton and Neuton were "saunz gouvernance de leez" and refused to obey the law or any of the king's officers.<sup>4</sup>

The two petitions from John de Helton of Burton, near Appleby, are of particular interest as they show that a plaintiff's troubles were far from over even after he had been granted writs of *sub pena* against his adversaries. The purpose of this writ was to summon a person to

<sup>3</sup> *Bundle 7, No. 313.* To the archbishop of York: Thomas Arundel, and thus 1388-1389 or 1391-1396, as Thomas del Sandes was on the commission of the peace from 1385 to 1399. (*C.P.R.* 1385-1389, p. 81; 1388-1392, pp. 136, 346; 1391-1396, pp. 440, 587, 728; and 1396-1399, p. 240).

("C.P.R." will be used as abbreviation of Calendars of Patent Rolls, and "C.C.R." for those of Close Rolls).

<sup>4</sup> *Bundle 6, No. 158.* As the defendants' unruliness was said to have increased since the death of the noble king, the father of the then present king, the petition belongs to 1413-1417 or 1424-1426, more probably the second period.

appear in Chancery or before the King's Council on a stated day. The cause of summons was not given, but in order to ensure compliance, a financial penalty for disobedience was enjoined. A plaintiff probably had little difficulty in obtaining the issue of this writ once he had given security to pay the costs of subsequent proceedings if judgment was given against him. After the writ had been granted, the next step was to have it served on the defendant. Helton's case shows that it was left to the plaintiff to serve the writ, and, as it will be seen, this was sometimes an extremely dangerous undertaking. Another point to be noted from Helton's second petition concerns the presentation of petitions to the chancellor. It is not unreasonable to assume that most petitions were sent to Chancery, but some suitors may have felt it better to present their bills in person. This was the course Helton seems to have taken, on the second occasion; at least, after his first application for aid had failed to produce its desired effect, he undertook the long and, in the event, hazardous journey to London. It is obvious that the petition was not drawn up until after his arrival in the capital.

After these general observations, the petitions themselves may be considered. The first alleged that Thomas de Warcop of Sandford, Richard de Quarton (Wharton), Robert Kneton, William Byndelawe of Dent, John de Graunge, Robert de Graunge, and William Rude of Westgate, and other "maufeisours" of their "covyne", to the total of an hundred men, came in warlike manner to John de Helton's house at Burton, in order to kill him. They would have set fire to the house but for the mediation of certain good men, who persuaded the evil-doers to desist in their malice. Warcop and company then departed, saying that they would kill Helton whenever they found him again. The plaintiff wanted his enemies to be summoned to Chancery and to be ordered to make security not to harm him, for otherwise he dared not live

at home. He had sought writs from the sheriff and justices of the peace to take sureties, but had had no success on account of his enemies' great maintenance, that is, because of their influential connections.<sup>5</sup> The second petition shows that the chancellor had granted writs of *sub pena*, but Helton had been unable to serve them on his adversaries because they went about with a great company, and hid in woods, so that he could not find them. They had chased him out of his house and followed him to London, intending to slay him. He requested the chancellor to order the sheriff, under penalty, to have proclamation made that the malefactors, and also their adherent, Thomas de Warcop of Lamerset,<sup>6</sup> were to appear in Chancery to answer for their riots and give security for keeping the peace. This method of summons was successful, for a note added to the petition shows that both parties came to Chancery on the appointed day. It would appear that a reconciliation was effected, since the note adds that the defendants were dismissed *sine die*, with Helton's assent.<sup>7</sup>

Another Westmorland feud is revealed by petitions from both parties. John de Lancastre of Brampton, again near Appleby, complained that William Blenkinsop, with soldiers ("sawdiours") from Carlisle, some two hundred in number, in warlike fashion as if they were making a foray into Scotland ("si come eux voillont avoir chivache en Escoce en temps de gurre"), had trampled down the plaintiff's growing corn.<sup>8</sup> William Blenkinsop had a similar story to tell. Sir William Sandford and John de Lancastre, with two hundred armed

<sup>5</sup> Bundle 6, No. 282.

<sup>6</sup> A Thomas Warcop of Lamerset was appointed to the commission of the peace for Westmorland in 1412 and again in 1413. (*C.P.R.* 1408-1413, p. 486; 1413-1416, p. 424). This may well have been the same man as the "malefactors'" adherent, in which case, it was probably his maintenance of which Helton complained in his first petition. Should this surmise be correct, the petitions may be dated 1413-1417, as they were addressed to the bishop of Winchester.

<sup>7</sup> Bundle 6, No. 196.

<sup>8</sup> Bundle 6, No. 213.

men, "ove lancez levez, chapelles de ferre", and other warlike accoutrements, came to Colby Lathes, where the plaintiff was living, on 9 September (1415). They attempted to kill or maim him and his servants, made an assault in which two of Blenkinsop's servants were wounded, and chased other servants away. They finally wasted some forty acres of oats, wheat and barley by riding over them and letting loose two hundred of the plaintiff's cattle.<sup>9</sup> Clearly, one of the parties had not waited for redress by the chancellor, but had taken his revenge first. The outcome was that both parties were called to Chancery, where they entered into recognisances not to do any harm to each other.<sup>10</sup>

The Blenkinsops were an unruly family, for another petition relates to their misdeeds, again at Brampton, Westmorland. This time their victim was William Hoton. He alleged that Thomas Blenkinsop and William Querton, at the instigation of William Blenkinsop of Helbeck and his brother Richard, came to the plaintiff's house at Brampton with a great number of armed men. They destroyed his growing crops, threatened his tenants and still menaced them, so that they were on the point of leaving their holdings. The Blenkinsops and Querton were still assembling large bodies of unknown men, causing great disturbances in the district. They had arranged certain signals whereby they would know when to gather together for their nefarious purposes, namely by firing beacons ("par arsure dez Bekyns") both night and day. They did all this with the sole motive of ousting him from his free tenement at Brampton and of wasting his property. He was thus unable to take proceedings against them at Common Law, or to procure any assistance locally. (The point here is that Hoton claimed to have been impoverished by his enemies' depredations: the poverty of suitors was a reason of

<sup>9</sup> *Bundle 6, No. 278.*

<sup>10</sup> William Blenkinsop on 22 Jan. 1416, and John Lancastre on 30 Jan. following (*C.C.R. 1413-1419*, pp. 298, 294).

application to Chancery.) The result of this petition has not been ascertained, but a note, presumably added in Chancery, indicates that a day had been appointed for the parties to appear.<sup>11</sup>

Two petitions from Robert Crakenthorp provide evidence of the most serious case of all. The second was apparently drawn up only a few days after the first had been despatched, since it adds only a few details, no doubt forgotten in the heat of the moment, and otherwise repeats the first word for word. With these petitions, there is filed the report of the earl of Westmorland and Sir Thomas Parr, justices of the peace, which fully confirms all the allegations made in the fuller petition. It is thus possible to place a greater degree of reliance upon Crakenthorp's statements than it is wise to do upon the majority of petitions. He reported that there had been many grave breaches of the peace caused by large, unlawful assemblies of armed men in the county. In consequence, being a justice of the peace and one of the Quorum, he had given his assent to the holding of an inquest into these riots, and had attended its session at Appleby. At the enquiry, Sir Henry Threlkeld and William Thornburgh of Meaburn so threatened the jurors that for fear of injury they did not dare to speak the truth about the disturbances. Sir John Lancastre, his wife Katherine, and Robert and Christopher Lancastre, sons of William Lancastre of Yanwath, also had no wish for the inquest to be held and were therefore incensed against Crakenthorp. In retaliation, they planned to ambush and kill him on his way home from Appleby. At their instigation, William Thornburgh of Meaburn, Oliver Thornburgh of Selside ("Celsheved") and William, son of Robert Lancastre of Strickland, lay in wait for him in Whinfell Forest. He must have received warning of this ambush, however, for he managed to avoid

<sup>11</sup> *Bundle 7, No. 256.* Addressed to the archbishop of York; if John Kemp, the date would be 1426-1432 or 1450-1452, but if Thomas Arundel, as dates in note 3.

it by returning home by a longer route. He told the chancellor that his enemies continued to threaten his life, so that he dared not hold a session in the county: the sessions were thus discontinued, to the subversion of the peace.<sup>12</sup> The Lancastres were later accused of stealing cattle and sheep from Crakenthorp's tenants, and of burning one of his barns. Even after his death, they were said to rob and menace his widow. As a result of her complaints, a strong commission, headed by the bishop of Carlisle and the earl of Westmorland, was appointed to enquire into the truth of her allegations.<sup>13</sup>

The gravity of the last case lay in the open contempt shown for the normal machinery of local justice. The intimidation of the jury and the attempted murder of Crakenthorp, notwithstanding his commission of the peace, are evidence of the extent to which certain men would go in order, presumably, to save themselves from the legal consequences of earlier unlawful activities. The serious nature of this open defiance of law and order did not only lie in the ways in which it manifested itself, but also in the fact that the offenders were men of substance, not mere felons and outlaws. Sir Henry Threlkeld, one of those who menaced the jury at Appleby, was M.P. for Westmorland in the Parliament of 1433,<sup>14</sup> when the Commons had sought that the lords should take an oath not to maintain robbers and other breakers of the peace. This request was granted, and the Commons, Threlkeld doubtless among them, also took this oath.<sup>15</sup> William Thornburgh, who also intimidated the jurors and afterwards lay in wait for Crakenthorp, was a fellow justice of the peace.<sup>16</sup>

<sup>12</sup> *Bundle 12, Nos. 192, 193 and 194.* Addressed to the bishop of Bath and thus after 1432, but before 1439, when the plaintiff was dead (see next note). Probably towards the end of this period. (Nos. 193 and 194 were printed in CW2 x 489-493).

<sup>13</sup> On 11 Mar. 1439. (*C.P.R. 1436-1441*, p. 273).

<sup>14</sup> *C.C.R. 1429-1436*, p. 270.

<sup>15</sup> *Rolls of Parliament*, Vol. IV, pp. 421, 422.

<sup>16</sup> *C.P.R. 1436-1441*, p. 592. Thornburgh was appointed a justice on 7 March 1437, but was not put on the next commission (28 Nov. 1439), probably as a consequence of his lawless exploits.



The last case selected brings home the point that the responsibilities of office did not deter their holders from committing the very acts it was their duty to suppress. The same Sir Thomas Parr, who had joined in the investigations into the attempted assault on Crakenthorp, was the object of complaint in a petition from Henry Belyngham. The latter wrote that Parr had come to his house at Burneside with a great "multitude of pople" with the intent to pull or burn it down, and kill his men and servants. Parr was diverted from this scheme "through trefree of gode Gentilmen of the same cuntre", but continued to menace Belyngham with such force that he dared not venture near his home. The aid of the chancellor was sought because Parr was sheriff of the county, as he had been for the past six years at least.<sup>17</sup> Further, "the coroners of the same Shire bene his meynyall men". There was thus no hope that Belyngham could get any redress at Common Law. The chancellor was asked to summon Parr before him, to judge him and relieve him of his office.<sup>18</sup> This obvious measure was not taken.<sup>19</sup> Parr was not, of course, sheriff of Westmorland, as the petition states, but under-sheriff to the hereditary high sheriff, Thomas, Lord Clifford. He was thus in an advantageous position; doubtless Clifford, in the language of the time, "maintained" his unruly deputy in whatever proceedings arose subsequent to Belyngham's petition.

A brief reference to the social position of the offenders in the cases reviewed is instructive. They included in their number men who had sat in Parliament for Westmorland and who had held commissions of the peace.<sup>20</sup> It

<sup>17</sup> Parr became under-sheriff at the end of 1435 (*Lists of Sheriffs for England and Wales*, p. 151). The Chancellor addressed was the bishop of Bath. The petition may thus be dated 1441-1443.

<sup>18</sup> *Bundle* 10, No. 83. Unlike the other petitions mentioned, this is in English: the remainder are in French.

<sup>19</sup> He was not replaced until 1446. (*Lists of Sheriffs, loc. cit.*).

<sup>20</sup> John de Lancastrre (see p. 73) was a J.P. from 1405 to 1416, (*C.P.R.* 1401-1405, p. 520; 1405-1408, p. 498; 1408-1413, p. 486; and 1413-1416, p. 424) and knight of the shire in 1406 and 1421. (*N. & B.*, I, p. 387). His

was the powerful local standing of such law-breakers that made it necessary for those who had suffered at their hands to resort to Chancery for redress. So strong was the influence and "maintenance" of the "malefactors" that it would have been vain to have sought justice in the county, through the normal channels of local administration. And when the leading men of the county set such an example of disregard for the law, it was not likely that those of less consequence were more law-abiding. One cannot avoid the conclusion that violent breaches of the peace were frequent in Westmorland in the time of the kings of the House of Lancaster. It would be difficult, however, to determine whether the county was more subject to disorder than the rest of the kingdom: lawlessness was a characteristic feature of English life in the fifteenth century.

APPENDIX: *Abstracts of some further Early Chancery Proceedings.*

*Bundle 4, No. 88.* William de Aspatre was seised of 3 messuages, 40 acres of arable land and 5 acres of meadow in Gilcrux, Cumberland, at the time of the king (Henry V)'s last passage to Normandy. He was expelled from his tenure by Robert Hemore and John de Rybton. (1417-1422).

*Bundle 6, No. 229.* Petition of Thomas Unthank of Westmorland. Certain disputes between "Sir Stevon", rector of Asby, and John Tomson, had been submitted to settlement by arbitration. Each party gave security to the other. The rector sought the plaintiff to stand as surety that he, the rector, would abide by the award to be made by the arbitrators, solemnly promising that he would ensure that the plaintiff would lose nothing by making this security. Unthank therefore bound himself to Richard de Musgrave in the sum of £10. Musgrave was now seeking execution of the bond, so that the plaintiff was on the point of being outlawed and ruined. Since the bond had been drawn up without any conditions being expressed, Unthank had no defence at Common Law, nor any other surety

enemy, and William Hoton's, William Blenkinsop, was knight of the shire with Lancaster in 1421, and his son Thomas in 1422. (*Ibid.* I, p. 583). Christopher Lancaster, one of the instigators of the plot against Crakenthorp, represented the county in 1429. (*Ibid.* I, p. 561).

save the rector's promise. The Chancellor was asked to summon the rector, so that he should discharge the plaintiff from his bond. (See note 2).

*Bundle 7, No. 11.* John de Ermythwayt to the archbishop of York. The plaintiff was a tenant of the king of an assart at Armathwaite in the Forest of Inglewood, at an annual rent of 2 marks. He thus held as his ancestors had done since the assart was made, as had been recognised before William de Westyngham of Normanvyle and Richard de Creppynghs, justices of the eyre of the forest, in the eyre held at Carlisle on 3 Nov. 13 Edward I (1285). Now, recently, John de Skelton has requested the king that he might have the assart. The plaintiff asked the chancellor that no charter should be issued from Chancery touching the assart without his being warned, so that he should be able to defend his title to his inheritance.

*Bundle 10, No. 291.* (English). Thomas Baty to the bishop of Bath. Hugh of Salkeld, senr., Roger and Richard of Lancastre, John of Hoton of Penrith and Alexander and Thomas Fetherstanehalgh, conspired to ruin the plaintiff. On—October 18 Henry VI (1439), Salkeld, Hoton, and the two Lancastres, removed from Brougham 37 oxen worth 40 marks belonging to him. Then they sent to him one Lancastre of Hertsopp to persuade him to submit to their arbitration in his quarrel with the Fetherstanehalghs. Being ignorant of the plot against him, Baty entered into a bond for 100 marks, that he would accept the award. Salkeld and the others deemed that he should make account to Alexander of various sums of money that had in fact been paid to strangers. Baty was unable to fulfill this award. Consequently execution of the bond was being sought in the court of the earl of Salisbury in the county of Cumberland. So that Baty might have redress, he asked the chancellor to cite Salkeld, Roger and Richard Lancastre, and John Hoton to appear in Chancery.

*Bundle 11, No. 24.* (English). Joan, widow of Robert Rodyngton, to the bishop of Bath. Their daughter, Alice Lowetham, and John Hawe, with others, had dissiesed the plaintiff of lands in Cumberland worth 12 marks per annum, and sold them to strangers. After a long dispute, it had been agreed that the plaintiff should quitclaim the purchasers, and that Alice should make her a legal bond that she should be paid an annual rent of 4 marks from lands of Alice in Essex. Joan had made the quitclaim, trusting in the oath of Alice and John that she should be given a legal deed in respect of the rent charge, with powers of distraint. Now, although six years had passed, the deed had not been made.

*Bundle 12, No. 220.* Petition of Thomas de Bethome and his wife Mary, widow of William Stapilton, of Cumberland. At his death, William had lands in the county worth 200 marks p.a. and goods worth 1,000 marks. He had appointed as the executors of his will Mary and their son and his heir, William Stapilton. During the father's lifetime, there had been a dispute as to the partition of these lands and goods between the wife and son. In order to settle the quarrel before the father's death, an agreement had been reached between Mary and the son, through the mediation of friends and the advice of William senior: after his death, Mary was to have a moiety of the lands for the term of her life, with reversion to the son, and a moiety of the goods for her own use, together with the administration of the remainder with the son, as executors. After the father's death, the agreement had been verbally rehearsed, yet the son would not permit the plaintiffs to occupy the lands or possess the goods. As the agreement had been made by word of mouth only, the plaintiffs could not obtain any remedy at Common Law. (See note 1).

A petition of William de Egremont, rector of Workington, belonging to 1401-1403, is printed in *Select Cases in Chancery* (Selden Society, 1896), pp. 55-6. He complained of armed attacks on himself and his servants by Richard Goldsmith and others.