

ART. XI.—*The disfranchisement of Christopher Musgrave, M.P., by Carlisle Corporation in 1692.*
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Read at Alnwick, September 6th, 1975.

ON the morning of 29 July 1692, Christopher Musgrave was on duty at Carlisle Castle in the capacity of clerk of the ordnance. He had been given the responsibility of taking command of the remaining stores in the castle. He ordered the gunners to attend him at six o'clock. One wayward recruit, however, did not turn up until eight. When pressed for an explanation, he replied impertinently that "he had other business". Such insolence and insubordination provoked Musgrave "to exercise his cane upon him and [he] broke his head".¹

If the unrepentant gunner's excuse, such as it was, had any basis in fact other than sheer idleness, it may have been connected with council affairs, for the culprit was John How, an alderman of the city of Carlisle. Although the castle was not within the jurisdiction of the Corporation, and regardless of the breach of discipline for which he had been punished, How's resentment led him to remonstrate with his father, who happened to be Mayor. He urged him to summon the aldermen "to meet by candlelight" that evening in the Guildhall, where the bare question was put, without explanation of the reasons or circumstances attending the decision: "whether Mr Christopher Musgrave be disfranchised from the Freedom within this City of Carlisle or not". Accordingly Musgrave was

¹ Sir Christopher Musgrave to Robert Harley, 1 August 1692. British Museum Loan 29/186/73, partly printed in the Historical Manuscripts Commission *Report on the MSS. of the duke of Portland*, vol. III, 495 (hereafter cited as HMC *Portland III*).

arbitrarily disfranchised on a unanimous vote (*nemine contradicente*).²

Christopher Musgrave (affectionately called Kit by his father, Sir Christopher) had entered parliament as member for Carlisle in 1690, when, subsequent to the death of his elder brother Philip, his father had removed his personal interest from the city to take up the more desirable representation, in terms of prestige, of the county of Westmorland. In succession to his elder brother, Kit became one of the clerks of the ordnance, an employment he was to enjoy, through successive promotions, for twenty-five years, and Clerk-Extraordinary to the Privy Council. Through the influence of his father he had weighty political allies in parliament. Sir Christopher was, along with Sir Thomas Clarges, Paul Foley and Robert Harley, one of the leaders of the emerging "Country" party which had severely censured Court mismanagement, especially over supply, during the 1691/2 parliamentary session.³ In the course of the year he had kindled an enduring and intimate relationship with Harley in particular.⁴ Only a few days after the incident for which Kit had been disfranchised, Sir Christopher wrote to him informing him of the details, and asking him: "whether the taking away of a freehold to which several immunities appertaine, is not a high violation of the Privilege of Parliament". His own view was that it was "a very summary way of proceeding, to take away his birthright — for so his freedom is — and freehold, without summoning [the accused] or hearing" his testimony. The only reason for the disfranchisement, according to Musgrave, was the "cudgling an alderman out of the corporation, for the

² The order of disfranchisement is taken from the Carlisle Corporation Common Council Order Book "No. 2" 1689-1705, deposited in Cumberland Record Office, CA/2/2, f. 14.

³ See *The Parliamentary Diary of Narcissus Luttrell 1691-1693*, edited by Henry Horwitz (Oxford, 1972), 3 *et seq.* (hereafter cited as *Luttrell*).

⁴ For examples of their extensive correspondence, see HMC *Portland III*, *passim* and BM Loan 29/151 and 29/312.

castle is not within their liberties". Sir Christopher was certain that "things of a far inferior nature have been judged a breach of privilege".⁵

Although he was himself an alderman of Carlisle, Sir Christopher had presumably not been invited to attend the meeting at which his son had been disfranchised. Out of the full twelve aldermen of the city, Musgrave assured Harley that there were, in addition to the Mayor, only six present, some of whom were "called out of their Beds". The Common Council was also summoned, but a mere nine of the twenty-four capital citizens turned up.⁶ Initially Sir Christopher was refused a copy of the order of disfranchisement, but after a "sharp" letter to the town clerk he received one and forwarded it to Harley.⁷ Affixed to the order was a preamble to the effect that the council meeting had been attended by "ye Maior and ye Major part of ye Aldermen & Capitall Citizens of the City". It is significant that the original order, as noted in the Common Council Order Book of Carlisle Corporation, had no preamble.⁸ The whole affair smacked of petty political jobbery.

⁵ HMC *Portland* III, 495.

⁶ Musgrave to Harley, 1 August 1692, BM Loan 29/186/73; and the same to the same, no date [15 August 1692], BM Loan 29/312. A list of the twelve aldermen (and the rest of the councillors) is to be found in Cumberland Record Office, CA/2/2, f. 17. The document is dated 7 November 1692, by which time John How junior had succeeded his father as Mayor:

John How junior, Esquire, Mayor.
 Sir George Fletcher, Baron^t [M.P. for Cumberland]
 Sir Chris. Musgrave, Kn^t & Bar^t [M.P. for Westmorland]
 John How, Gent.
 William Railton, Gent.
 Robert Jackson, Gent.
 James Nicholson, Gent.
 William Nicholson, Gent.
 Henry Fletcher, Esq.
 Basil Fielding, Gent.
 Thomas Simpson, Gent.
 William Barwick, Gent.

⁷ Musgrave's term, used in a letter to Harley of 15 August 1692, and partially printed in HMC *Portland* III, 497 (the original is in BM Loan 29/186/84). The copy of the order is in BM Loan 29/312.

⁸ In addition to the copies of the order already noted, as well as the printed version in the *Journals of the House of Commons*, X 699-700, several of the documents relating to the disfranchisement are to be found copied in Bishop Nicolson's almanac for 1692. See "Bishop Nicolson's Diaries", CW2 i 36. I am obliged to C. Roy Hudleston for drawing my attention to this reference.

In his history of Cumberland and Westmorland M.P.s, Richard Ferguson suggests that in the summer of 1692 the parliamentary war between the Lowthers and the Musgraves had moved to Carlisle.⁹ There are good grounds for this assumption. Musgrave interest in Carlisle Corporation had been supreme from the Restoration, and had extended to the choice of members of parliament. In delegating to his son the responsibility of representing the city in the 1690 elections, Sir Christopher's stock within Carlisle seems to have started to sink. He himself was elected for Westmorland by virtue of a written agreement with the other Knight of the Shire, Sir John Lowther of Lowther, and despite endemic friction between these jealous neighbours, Sir John felt that he would rather stand "with Sir Christopher Musgrave than with any other gentleman in the kingdom".¹⁰ Unfortunately the desirability of this arrangement was short-lived. As principal Court "manager" in the House of Commons, Sir John Lowther bore the brunt of the Country party offensive on the question of supply in the winter of 1691/2. At a bye-election for Carlisle on the death in 1692 of the city's second member, Captain Jeremiah Bubb, a scion of the House of Lowther was chosen to represent the city for the first time since the Restoration, and he was none other than William, the brother of Sir John Lowther of Lowther. Thus the disfranchisement of Christopher Musgrave in the summer of 1692 would appear to be symptomatic of emergent Lowther influence in Carlisle in the face of traditional Musgrave pre-eminence, which had evidently begun to wane.

Although he was aware that there was "a remedy

⁹ Richard Ferguson, *Cumberland and Westmorland M.P.'s* (London and Carlisle, 1871), 69.

¹⁰ Sir John Lowther of Lowther to Sir Daniel Fleming, 18 October 1695. HMC *Le Fleming*, 338. A copy of the written agreement between Musgrave and Lowther is in the Le Fleming papers, see *ibid.*

at law" in reversing the injury done to his son, Sir Christopher thought that because "the honour of the House [of Commons] is concerned in it", it was wiser to leave the case in their hands, as "they will do right to themselves and the members". Concluding his plea to Harley for assistance, he apologised for "so tedious a Narrative", but emphasised that he had heard the facts of the incident not only from Kit himself, "but from others y^t were upon the place". Sir Christopher warned Harley that it was likely that "some may endeavour to put false colours upon this matter, and so to make Kit a criminal", but he thought that by "truely informing those y^t are ignorant of ye provocation and ye circumstances", he could avoid any undesirable developments. At any rate he requested him "to consider of it and advise with your friends, for the affront is too great to sit down quietly with".¹¹

Harley's reaction to Sir Christopher's news illustrates the firm nature of their friendship, founded on a similar "Country" attitude to politics, and a strong mutual interest in parliamentary procedure. Responding immediately he took steps to prevent the spurious relation of the affair rebounding to Kit's detriment, writing in reply to Musgrave's letter of 1 August on the 6th and 9th of that month, occasioning the following acknowledgement from Sir Christopher:¹²

Your letters give fresh instances of your great friendship to the family; preventing the first impression is a great kindness, and I have great reason to be assured that your early care hath had its effect. To my poor apprehension it is a great violation of privilege, and hope it will be so accounted, but those so much favoured as myself are apt to favour their own wishes which makes me an improper judge. The most knowing lawyers in this ignorant country agree the act illegal and cannot be justified, but I had much rather have relief from the House of Commons.

Musgrave was quick to emphasise that "both Kit and

¹¹ BM Loan 29/186/73, partly printed in HMC *Portland* III, 495.

¹² BM Loan 29/186/84 (partly printed in HMC *Portland* III, 497): Musgrave to Harley, 15 August 1692.

myself entirely rest upon your assistance in this affair for ye last winter hath so broken my constitution & having no summer to repair it", he felt unequal to the task of safeguarding his interests, and was resigning himself to spending the forthcoming parliamentary session in the north. "To my mind the order made by the people at Carlisle makes a good ground for bringing it in to Parliament", he told Harley in a subsequent letter, "but that must be left to the consideration of friends myself being unfit to judge in the matter".¹³

Other Country party members of Musgrave's acquaintance felt strongly that the disfranchisement was a breach of privilege, and were anxious lest the affair would reinforce his opinion to remain in the country. Francis Gwyn, also in the process of founding an enduring friendship with Harley, wrote to him:¹⁴

I suppose you have lately heard from Sir Christopher concerning the quarrel between his son and the city of Carlisle, for which I shall be very glad to humble the town, and so say many of our western members who I have discoursed with; I wish it would have one good effect which is bringing Sir Chris: to Towne this winter; for I am sure we shall extreamly want him if he doth not appear which I am afraid he intends not to do.

Sir Christopher had succeeded in stirring up a hornet's nest of trouble for Carlisle Corporation, who were clearly unequipped to challenge the considerable interest of the Country party in parliament which was being mobilised in defence of the rights of one of its members.

Country party activity made it evident that the affair was drifting towards discussion in parliament. Carlisle city council was well aware of the possibility, and in anticipation of the event it was ordered, on 7 November:¹⁵

¹³ HMC *Portland III*, 498: 28 August 1692.

¹⁴ BM Loan 29/186/121 (partly printed in HMC *Portland III*, 500): Gwyn to Harley, 19 September 1692.

¹⁵ Cumberland Record Office, CA/2/2, f. 17.

that if Mr Christopher Musgrave shall move in Parl^t to have any of the members of this Corporation sent for upp to London, that a defence be made therein by this Corporation, and ye charges thereof defrayed by the Corpora[*tion*].

Parliament had finally re-assembled after the summer recess on 4 November: only a very few sessions later, on 14 November, Sir Thomas Clarges brought the matter to the attention of the Commons.¹⁶

Clarges called the disfranchisement a breach of privilege, as Musgrave's freedom was "a sort of freehold of which a man cannot be deprived without just cause". When the order of disfranchisement was delivered to the Clerk's Table and read it would be apparent to those members primed by Harley that although there was indeed a narrow majority of aldermen at the meeting, the claim that the major part of the capital citizens of Carlisle had been present was false. The town clerk was examined on the details of the case, suggesting that duplicity was suspected, as it was afterwards:¹⁷

Resolved, Nemine contradicente, That the Disfranchising of Christopher Musgrave, Esquire, a Member of this House, by the Mayor, Aldermen, and Citizens of the City of Carlisle, is a Breach of the Privilege of this House.

But this verdict was not reached without a warm debate that demonstrated the deterioration of the Lowther-Musgrave *entente*. While the leading Country members were united on Musgrave's behalf, with Clarges, Harley, Sir Simon Harcourt, Sir Edward Seymour and Paul Foley speaking for a declaration of breach of privilege, they were opposed by the Court's leading spokesmen in the House, Sir John Lowther and Sir Henry Goodricke.¹⁸ Significantly Lowther "moved against passing so severe a censure"

¹⁶ Luttrell, 225.

¹⁷ *Journals of the House of Commons*, X, 699-700 (hereafter cited as JHC).

¹⁸ Details of the debate are taken from Luttrell, 225-226.

upon the Corporation before the matter had been fully investigated. In so doing he not only attempted to defend embryonic Lowther interest in Carlisle, but, by implication, he suggested, in pressing for an inquiry, that Christopher Musgrave was not necessarily innocent of any action that might warrant his disfranchisement. Goodricke, free from any personal considerations, but loyal to the Court nevertheless, thought that there had been "a breach of the peace, in which case privilege does not hold". This was parried by Paul Foley from the opposition benches, who stated that: "Though there was a breach of the peace, there is a proper remedy for it — by indictment, etc. — not by turning a man out of his freehold as this of disfranchising a member is." Lowther's insinuation that Musgrave was guilty of a crime in assaulting an alderman of the city had borne sufficient fruit to necessitate a Country comment that if an illegality had been committed, there were normal channels through which the offence could be examined, without an improper order of disfranchisement. This had been what Sir Christopher had sought to avoid in soliciting Harley's aid. Though Kit had indeed assaulted his subordinate, Sir Christopher stressed that it was not a criminal act. "If a much better man than an alderman make himself a gunner or soldier", he wrote to Harley, "he must be subject to his superior officer and to bear punishment for neglect of duty."¹⁹

Despite Lowther's intervention the point was gained, unanimously in the end, that the disfranchisement had been a breach of privilege. But there was further debate concerning who, "though the whole town council were guilty", should be summoned to answer the charge. The injured party himself, however, desired that only "the most notorious might be sent for in custody to answer" the Commons. Accordingly those who "were mostly concerned in the said matter" were ordered to

¹⁹ HMC *Portland* III, 495.

attend. "*John How senior, late Mayor of Carlisle, William Nicholson, [and] Robert Jackson, senior*" were called for out of the body of aldermen, and three councillors, "*Robert Jackson, junior, Tho. Jackson, and Edward Monckhouse . . . [were] sent for in Custody of the Serjeant at Arms attending this House.*"²⁰

On 19 November 1692 Carlisle Council met in the Guildhall to discuss the Commons order. It was agreed that the Corporation should reimburse the six summoned councillors for "the charges of the defence and prosecution of all matters and things touching the said Information or complaint or thereunto relating". The six were also officially "impowered to defend and prosecute the same". Finally the cause of all the trouble, John How junior, who had in the meantime succeeded his father as Mayor, was, "it being likewise thought convenient", sent to London as well "to make a better defence". His expenses were to be similarly defrayed by the Corporation.²¹

Despite spirited talk of defiant defence in parliament, there is no evidence that the seven men who journeyed to London presented their case. On their arrival, the six who had been summoned were held in custody by the Serjeant at Arms. When, by 5 December, no decision had yet been made concerning the prisoners, their cause was championed, not surprisingly, by Sir John Lowther, who presented a petition on behalf of the senior members of the party, How, Nicholson, and Robert Jackson senior, but which included the pleas of their fellows. In bringing the matter once more to the attention of the House, "they acknowledged their Offence; and begged Pardon of the House for the same; and prayed to be discharged".²²

²⁰ *JHC*, X, 700.

²¹ *CA/2/2*, f. 17.

²² *Luttrell*, 294; *JHC*, X, 734. Cf. Bodleian Library, MS. Rawlinson D. 1362, f. 176: an alternative account of the debate which suggests that the three aldermen, who "were aged & infirme", coming up to London "fel sicke upon the road".

It is perhaps significant that although the costs of defence were to be met by the Corporation, little attempt was made to establish the validity of the city council's proceedings in disfranchising Musgrave. Abject submission was, apparently, the only method employed by the imprisoned men in securing their liberty. This may reflect conscious acknowledgement of guilt. On the other hand, it is interesting, in the light of the promised reimbursement of expenses for those sent to London, that although there are Chamberlain's Accounts extant for the city of Carlisle for the years up to and including 1691/2, and for the years from 1693/4 onwards, no Mayor's accounts survive for John How junior's term of office, from September 1692 to September 1693, despite the fact that considerable amounts would need to be forthcoming to cover all costs relating to travel, board and the payment of fines for the party of seven. Does this silence on the matter of accounts indicate that Carlisle Corporation was involved in fraud over the disfranchisement of Christopher Musgrave, or were the expenses incurred so heavy that it was deemed more prudent not to record them for posterity, but to let the whole affair lie in obscurity?²³

In the face of apparent Court complicity in the presentation of the petition, the Country members objected on the grounds that the offenders "had not made their application to the member [concerned] and begged his pardon". Sir Edward Seymour, who in the course of the year had tempered his stance as an independent Country gentleman by accepting a place on the Treasury Board, as well as entering the Cabinet, having already aired his view that the disfranchisement was a breach of privilege, trimmed his sails in deference to his new position as Courtier. Supporting Lowther, he professed that it was "not

²³ Cumberland Record Office, CA/4/3: Chamberlain's Accounts, vol. III.

material" that the Corporation and its representatives had not asked for Musgrave's forgiveness: "The privilege is the House's, and if the House be satisfied you may discharge them; and the end of punishing is but to assert your privilege". Once more this argument was foiled by the opposition, which pointed out that the Corporation "had not restored the member to his freedom as they ought, so the contempt continued". The matter of privilege bulked high in Country considerations.

Kit was absent from the House on 5 December, so the defendants were ordered to "be brought to the Bar of this House upon *Wednesday* Morning next, in order to their Discharge". Accordingly on 7 December after paying their fees "they were discharged but for the present". They received a reprimand from the Speaker, Sir John Trevor, "upon their Knees", and he told them, "by Direction of the House", that the Commons expected Mr Christopher Musgrave to be restored to his freedom within the city of Carlisle forthwith, their continued liberty being conditional upon the entire fulfilment of the Commons order.²⁴

At a Common Council meeting held in Carlisle on 15 December, Kit was restored to his freedom. The order ran:²⁵

In obedience to an ord^r of the Hon^{able} the House of Commons bearing date on Wednesday the seventh day of this instant December It is this day ordered that Christopher Musgrave Esq. be restored and he is hereby restored to his freedome and to be a freeman of and in this City, and all and every order and orders to the contrary hereof and hereby repealed made void; In testimony whereof we the Maior Aldermen Bayliffs & Citizens of Carlisle have hereunto caused our Common seal to be affixed. the day and year of inst. above written.

Though the incident was no doubt quickly overtaken by events as far as national politics were concerned,

²⁴ JHC, X, 734-5; *Luttrell*, 294 and 300.

²⁵ CA/2/2, f. 18.

it had repercussions in the local sphere. Sir John Lowther had led the Court offensive on Kit's claim that his disfranchisement was a breach of privilege, and relations between he and Sir Christopher Musgrave were very strained for the rest of the life of the parliament. When the next general election was held, in 1695, Lowther demanded in addition to the terms upon which they had agreed in 1690 to sit together as members for Westmorland, that Sir Christopher would pledge his support to Court requests for supply in the war with France. His proposals were rejected, and regardless of his professed desire to stand along with Sir Christopher, he suggested that Sir Richard Sandford, "to whom youth alone can be objected", should be his next colleague in parliament.²⁶ William Nicolson was "much troubled at the differences between my two great neighbours", and in writing thus to Sir Daniel Fleming, he added that if Sir Christopher Musgrave was unable to get a seat in Cumberland and Westmorland, "there's scarce a county in England besides but will" choose him.²⁷ But Sir Christopher was up against not only the interest of the Lowthers, as the extensive electoral influence of "Honest Tom" Wharton, one of the Whig lords of the Junto, was being employed to exclude "2 of ye members of this present Parlm^t from being in ye next", as he himself had written to Harley in the summer of 1695, gloomily forecasting that such efforts "probably will effect it".²⁸

In Carlisle, preparations were being made to ensure the re-election of a Lowther. Although a second bye-election had been needed in 1694 due to the premature death of William Lowther, representation of the city had passed to the Whitehaven branch of the family when James Lowther, son of Sir John Lowther of

²⁶ HMC *Le Fleming*, 338: Sir John Lowther of Lowther to Sir Daniel Fleming, 18 October 1695.

²⁷ *Ibid.*, 337: Nicolson to Fleming, 17 September 1695.

²⁸ BM Loan 29/312: Musgrave to Harley, 21 August 1695.

Sockbridge, was chosen. In 1695 though, Sir John Lowther feared that "the clergy of Carlisle will support Mr Musgrave rather than my son at the election", and he hoped that Sir Daniel Fleming and the Bishop would use their influence "to set this right".²⁹ In addition, Lowther's agent William Gilpin was employed in making ready for the contest. In the event Christopher Musgrave was rejected by the Carlisle electorate "amid severe and barbarous riots".³⁰ James Lowther was returned successfully, along with William Howard. Musgrave influence in the city had suffered a marked decline.³¹

His opinion reinforced by the "barbarous usage" that Kit met with at Carlisle, Sir Christopher decided against standing for Westmorland, despite the fact that, as one observer wrote, it was "generally believed Sir C. would have carried it here".³² He retired to Appleby, Sir Richard Sandford coming in as second member for the county, adding to Musgrave's resentment that a "minor" should have been put forward against him.³³ 1695 was a watershed in Sir Christopher's political career: after that date he was never the vital force within the Country party in parliament that he had been. The task of leadership passed to younger men, of whom Robert Harley was pre-eminent.

But the disfranchising of Christopher Musgrave by Carlisle Corporation in 1692 illustrates that at the time local politicians were far from insignificant on the national front. Musgrave had been able to call on all

²⁹ HMC *Le Fleming*, 337: Sir John Lowther of Sockbridge to Sir Daniel Fleming, 14 September 1695.

³⁰ Ferguson, *Cumberland and Westmorland M.P.'s*, 72.

³¹ For the relationship of the Musgraves, Lowthers and Howards in the period directly subsequent to the 1695 elections, see Robert Hopkinson's unpublished Newcastle University Ph.D. thesis, *Elections in Cumberland and Westmorland 1695-1723* (1973). For the 1695 elections themselves in Cumberland and Westmorland, see Dennis Rubini, *Court and Country 1688-1702* (London, 1967), 56-58.

³² Alderman Thomas Robinson of Appleby to Mr John Nicholson of Carlisle, cited in Ferguson, *Cumberland and Westmorland M.P.'s*, 73 n.

³³ HMC *Le Fleming*, 338: Musgrave to Fleming, 19 October 1695. I would like to thank John Beckett for his comments on this article.

the leading members of what was to become known as the "New Country Party" — Country Tories, such as Sir Thomas Clarges, Sir Edward Seymour and Sir Simon Harcourt, coalesced with Country Whigs of the kidney of Harley and Foley in opposition to the Court. This cut across Whig/Tory alignments, and the disfranchisement affair demonstrates that this amalgam was at work not only over major issues in the 1692/3 session, such as supply, but over comparative trivia, the rights of a country gentleman. The elements that came together in support of Musgrave provoked a classic Court/Country conflict in the Commons, and this is perhaps indicative of a two-party system, Court and Country, at work in the day-to-day business of parliament in the 1690s.