

ART. XVII.—*The militia in Westmorland in 1715.* By
RUPERT C. JARVIS, F.S.A., F.R.Hist.S.

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IN general there have not survived in the counties at large any regular runs of lieutenancy minutes, or correspondence or other similar records relating to the administration of militia business and other lieutenancy affairs in the late-17th or early-18th centuries, at all comparable for example with the regularity of the records relating to quarter sessions.¹ It is not surprising, therefore, that the study of the administration of the lieutenancy at county level has been somewhat neglected during this period, and consequently relatively little is known about the detailed conduct of militia business.

In Cumberland the earl of Carlisle was restored to his offices of lord lieutenant and *custos rotulorum* on the accession of George I.² He seems to have relied for the clerkship of the lieutenancy (and hence for the treasurer-ship and muster-mastership of the militia also) upon Hugh Simpson of Penrith, whom he had, in his other capacity of *custos rotulorum*, as clerk of the peace. In Westmorland Lord Carlisle was lord lieutenant³ but the earl of Wharton was *custos rotulorum*.⁴ Nevertheless, Hugh Simpson seems to have acted in his lieutenancy and militia capacity in respect of both counties. It is presumably because of Simpson's relationship to the peace of Cumberland in 1715, and because his son, Thomas Simpson, was likewise clerk of the peace and clerk to the lieutenancy (and treasurer and muster-master of the militia) in Cumberland in 1745, that certain of the

¹ But see, for example, B. Cozens-Hardy, *Norfolk Lieutenancy Journal, 1676-1701*, 1960, Norfolk Record Society, and *History* xlvii (1962) 310.

² *Patent Roll*, 1 Geo. II, vi, dorse 36.

³ *Ibid.* 1 Geo. I, vi, 22.

⁴ *Ibid.* 1 Geo. I, vi, dorse 34.

lieutenancy records, containing as they do details of Westmorland business as well as Cumberland, are now to be found preserved with the Cumberland quarter-sessions records in the Record Office in Carlisle.

Apart altogether from the changes of lieutenants and *custodes* in the political unsettlement just prior to 1688, there had been changes since the Revolutionary Settlement also, and in a number of instances the clerks to the lieutenancies in the several counties at large seem to have found various excuses not to hand over the records of office to the new authorities. Indeed, when in the crisis of 1714 it was attempted to put the lieutenancy — and hence the militia — on a sounder statutory basis,⁵ it was found that the intentions of the Act might very well be defeated by the defaulting late clerks still improperly withholding the old minute books and other essential records. The Militia Act of 1714, therefore, specifically recited that since 1688 several clerks had been employed under the lords lieutenants in affairs relating to the militia who had retained in their own hands the various books and papers relating to the same. These books and papers were, or might be, of use in executing the powers of the current act; such former clerks were therefore required, under penalty, to deliver up the relative books and records to the current lieutenancy.⁶ In these circumstances it is not very surprising that lieutenancy records for this period have not in general survived in regular series, and that therefore little study of the administration of the period has been undertaken. In respect of Westmorland, however, certain items of record survive which have never been considered in relation to each other, and which therefore justify a more detailed study than they have hitherto received.

When it was known in 1715 that the Jacobites had risen in the Highlands and Lowlands of Scotland and in

⁵ 1 Geo. I, stat. 2, cap. 14.

⁶ *Ibid.* sec. vi.

Northumberland, the secretary of state wrote to Lord Carlisle to say that the king thought it for his service that the earl should repair to the counties whereof he was lord lieutenant.⁷ Carlisle, however, continued to correspond from Castle Howard in Yorkshire, and to rely upon the young Lord Lonsdale, one of his deputy lieutenants, to act in the two counties in the capacity of vice-lieutenant. Lonsdale, writing from Lowther, said in connection with keeping a better record of lieutenancy proceedings that

by the last Act of Parliament, I see a Register is ordered to be kept of the Proceedings of the lieutenancy which is extremely necessary, for we [the deputy lieutenants] find ourselves often much at a loss for want of such a one here; in that case a particular clerk must be appointed. I don't know who your lordship will think of for that office.⁸

He mentioned in the same letter, however, that Hugh Simpson "serves us for a clerk at our meetings", indeed both Lord Carlisle⁹ and Lord Lonsdale were even now working through him as though he had already been formally appointed clerk to the lieutenancy. The job was no sinecure. According to Simpson's petition, standing on the Cumberland quarter sessions roll for Michaelmas 1715, he used no less than "seven quire of paper in copying the letters" of the council in London, the lord lieutenant in Castle Howard, and the vice-lieutenant in Lowther, either calling meetings of the lieutenancy or communicating to the deputies and justices the exact terms of the letters of the council. Furthermore, it had been "a great expense as well as forteague" for him or his agents to travel "three tymes round both the counties Cumberland and Westmorland at times when [the roads in both counties] were very bad to travel in", to deliver these letters to all the deputies "at their respective

⁷ Hist. MSS. Com. XV, R. VI (Castle Howard MSS.) (19 September 1715) 15.

⁸ *Ibid.* (20 October 1715) 18.

⁹ R. C. Jarvis, *Jacobite Risings of 1715 and 1745* (Cumberland Record Series, vol. i (1954) — cited hereunder as *Cumb. Record Ser.* i) 148, 153, 158, 160 and 164-165.

places of abroad.”¹⁰ In a letter undated, but presumably of 9 October, Lord Lonsdale told Hugh Simpson that he, for his own part, was sensible of the great trouble and expense he was being put to on account of this lieutenancy business. “I will endeavour,” he said, “to find some means to make you reparacon.”¹¹ The lord lieutenant said, about a fortnight later, that Simpson should submit a demand for arrears of pay to the deputy lieutenants, and no doubt “they will take care to allow you what is reasonable.”¹²

Notwithstanding that Simpson appears to have been promised some “arrears of pay” before he was appointed — in fact he was later paid three years’¹³ arrears of pay as muster-master, apart from his reimbursements as clerk¹⁴ — and notwithstanding that he was clerk of the peace (in Cumberland), he seems nevertheless *not* to have been very good at keeping records.

We know, for example, that he made the practice — insofar as he made any practice at all — of keeping the lieutenancy minutes, which alone were the legal authority for the justices to raise the trophy money and charge certain expenses against the county stock, not in a proper minute-book, but “in his muster rolls in loose papers”. The “lieutenancy minute book” among the Cumberland county records¹⁵ — containing both Cumberland-and-Westmorland and Westmorland entries — is therefore not the formal minute-book currently kept as such, but rather a *post-facto* record made up from kept memoranda. It is not surprising, therefore, that representations were made by one of the Westmorland deputy lieutenants to

¹⁰ *Ibid.* 179-181.

¹¹ *Ibid.* 158.

¹² *Ibid.* 161.

¹³ The original warrant for payment reads “. . . Muster Master, three years pay . . .”, the words “three years” being inserted in another hand. The warrant was then (erroneously) endorsed — “A warrant to pay ye Muster master three days pay”. An entry in the minute book dated 26 October reads “three days”, but an entry dated 14 November reads “three years”.

¹⁴ *Cumb. Record Ser.* i 164 and 168.

¹⁵ Cited hereunder as “Cumb. LMB”.

Lord Lonsdale that "Mr Simpson be admonished to provide a book for taking minutes, and not as hitherto."¹⁶

Another version of the Westmorland minutes — in some passages rather fuller than Simpson's — was kept, apparently by Alan Chambre (or Chambers), barrister-at-law of Kendal, agent to James Lowther (cousin of Lord Lonsdale) and himself a justice of the peace and a deputy lieutenant, and is now in the British Museum.¹⁷ In addition to an abstract of the militia and lieutenancy law then in force, the little volume contains a miscellany of information about the county of Westmorland: rates quarter-sessions business and deaths from plague in 1598; notes regarding presentments relating to the repair of bridges; proposals by the judges of assize, 1676, "for the orderly holding of the quarter sessions for the county of Westmorland" duly assented to by nine (named) justices; an abstract of some of Charles II's business with the corporation of Kendal, and the rates of Westmorland.¹⁸

From both sets of minutes referred to above it is clear that at the critical time of 1714-15 the militia locally consisted of the following units: one company of foot raised in the "neighbourhood of Carlisle" and commanded by Major Henry Brougham; a company raised in the "neighbourhood of Cockmouth", commanded by Thomas Lamplugh; a company raised in the "neighbourhood of Penrith", commanded by Henry Blencow; a company raised in the "neighbourhood of Mellom", commanded

¹⁶ Add. MSS. 37721, f. 44.

¹⁷ Add. MSS. 37721.

¹⁸	Kendal Ward	.	£1,052	4	4
	Lonsdale	.	300	7	6
	Barony in all	.	£1,352	11	10
	East Ward	.	874	16	10
	West Ward	.	619	18	6
	Bottom in all	.	£1,494	15	4
	All Westmorland	.	£2,847	7	2

by Humphrey Senhouse; a company of "soldiers sent out of the West Ward and West side of the East Ward, Westmorland", commanded by Lord Lonsdale; a company out of "Lonsdale Ward and the Easterne side of Kendalle and East Wards", commanded by Daniel Wilson; and a company raised in Kendal ward, commanded by Captain James Fleming; and a company of horse under the command of Sir Charles Dalston.¹⁹ There can be no doubt that these forces, raised in the two counties under the current Militia Acts, came rightly or wrongly to be regarded as a single unit, raised as in a joint lieutenancy.²⁰

There was, however, an agreed scheme for dividing the cost of the "regiments" between the two separate counties, the Westmorland portion being raised by means of a rate on the county and the Cumberland portion by means of a "purvey".²¹ There was a further scheme for portioning the Westmorland sum between the two baronies of the county, namely the barony of Kendal (sometimes referred to as "the barony", and consisting of Kendal and Lonsdale wards), and the barony of Westmorland (sometimes referred to as "the Bottom of Westmorland" or "the barony of Appleby", and consisting of East and West wards).

When the said militia used to be raised only for a muster, each company and troop used to have 2l apiece, in all 40l of trophy money more, to wit,

Cumberland for its 4 companies	20 - 00 - 00
and towards the troop	03 - 00 - 00
Westmorland for its 3 companies	15
and towards the troop	02
	<hr/>
	40 - 00 - 00
	<hr/>

and each county pay their own forces, whereas Westmorland

¹⁹ Add. MSS. 37721, 34 rev. For postings see minute, 26 October 1715, f. 38 rev. (and *Cumb. Record Ser.* i 162-163).

²⁰ CW2 lxiv 219-239.

²¹ For a note on the system of "purveys", see *Cumb. Record Ser.* i 291, and Hutchinson ii 684.

to raise their money — a pound rate, to wit, the bottom 15 partes is said to

be divided	8 - 15 - 0
Barony 13	8 - 5 - 0
	17 - 0 - 0 ²²

The operation of this formula of 15 parts [out of 28] in respect of East and West wards, and 13 [one of 28] in respect of Kendall and Lonsdale wards, is seen from the minutes of the lieutenancy meeting at Appleby on 1 September 1711[5].²³ The high constable of West ward was claiming repayment of certain expenses incurred on the lieutenancy account to the extent of £2. 11s. 8d.; the high constable of East ward claimed £4. 15s. 0d.; the high constables of Kendal and Lonsdale wards had not as yet made any claims. Thus the total to be found was £7. 6s. 8d. The deputy lieutenants ordered:

Whereas the High Constables of Kendall and Lonsdale Wards have not exhibited any Bills of disbursements or for allowances, and nevertheless these two wards do contribute towards the payments of the said sum of £7. 6s. 8d.

It is therefore ordered that thirteen parts of the said sum of £7. 6s. 8d. in twenty eight to be divided shall be advanced and paid by the High Constables of the East and West Wards out of the next Trophy money to be raised in the said county, and be by them rateably paid unto the Treasurer of the Militia for the time being for the separate use of the said wards of Kendall and Lonsdale.²⁴

The lieutenancy immediately after the accession of George I was established as follows:

The Right Honourable Charles Earl of Carlisle, Ld. Lieutt.

Barts.

- | | |
|-----------------------|-------------------------------|
| 1. Ld Visct. Lonsdale | 6. Sir Chas. Dalston |
| 2. Ld Bp of Carlisle | 7. Sir Wilfrid Lawson |
| 3. Sir W. Pennington | Esquires. |
| 4. Sir Rd. Sandford | 8. James Graham |
| 5. Sir W. Fleyming | 9. James Lowther |
| | 10. R ^d Brathwaite |

²² Add. MSS. 37721, f. 35.

²³ "1716" in error in the MS.

²⁴ Add. MSS. 37721, f. 42 rev.

- | | |
|-----------------------------|------------------------------|
| Esquires. | 19. Ferdinando Latus |
| 11. Thom. Lamplugh | 20. Alan Chambre |
| 12. Edward Stanley | 21. Tho. Pattenson |
| 13. Henry Blencow | 22. Reginald Dobson |
| 14. Th. Brougham | 23. Daniel Wilson |
| 15. Timothy Fetherstonhaugh | 24. Edward Wilson |
| 16. Gilfrid Lawson | 25. Anth. Askew |
| 17. Henry Aglionby | 26. Ch. Hilton ²⁵ |
| 18. Tho. Stanwix | |

This list is endorsed:

the Ld Lieut afterwards sent for the Deputations of Sir Wm. Pennington and R^d Brathwaite, Esqs. they not having attended any meetings.

The militia as it was then established in the two counties, was stated to consist of a single regiment of foot of seven companies, and a single troop of horse. The three Westmorland companies were described as follows:

- | | |
|----------------------------------|------------------------------------|
| 1. company | |
| Ld Visct Lonsdale, Col: | Soldiers sent out of the West Ward |
| Mr Tho. Wybergh, Captn. Lieutt. | and West side of the East Ward, |
| Mr Tho. Harrison, Ensgn. | Westmorland. |
| 2. Daniel Wilson Esq., Lt. Col. | Lonsdale Ward and the Eastern |
| Edward Wilson Esq., Coy Lieut. | sides of Kendall and East Wards. |
| Mr Wm. Moor, Ensign | |
| [3 & 4: Cumberland] | |
| 5. Capt. James Fleming. | Kendall Ward. |
| Mr Thomas Rowlandson, Lieut. | |
| Mr George Cumpston Esq., Ensign. | |
| [6 & 7 Cumberland] ²⁶ | |

The orders of the council used to come down to Westmorland by way of Lord Carlisle at Castle Howard in Yorkshire, who seems to have made the practice of retaining the originals at Castle Howard and sending a copy down to Hugh Simpson at Penrith. Simpson seems to have retained this copy as a loose sheet or to have copied it into the Cumberland lieutenantancy book, and delivered further copies to the deputies of the two counties. Thus, for example, the original of the council's order reciting the first news that "the Pretender is preparing

²⁵ *Ibid.* f. 34.

²⁶ *Ibid.* ff. 34 rev. and 35.

to invade this kingdom" (dated 20 July 1715) is among the Castle Howard MSS.,²⁷ a copy is on a loose sheet in the Cumberland minute book in Carlisle,²⁸ and its text is contained in the Westmorland minute book also.²⁹

By these orders of 20 July the lieutenancy, through the lord lieutenant, was directed to seize and secure "all arms belonging to Papists and Nonjurors (and others) being dangerous to the Peace of this Kingdom"; and the justices, through the *custos rotulorum*, were directed to tender the statutory oaths to all known or suspected papists and generally to put into execution the laws against them and the nonjurors.

Although neither of these orders made any specific reference to the militia, the lord lieutenant seems to have thought it advisable to send down to Westmorland (through Simpson's agent) "the Deputacons for those Gentlemen [the deputy lieutenants] who are in the Countrey, [and] . . . likewise Commissions for all the Captains [of the militia]." Also, commissions were prepared "for the Subaltern Officers, leaving Blanks for their Names, for I shall leave it to the Captains to name their Officers."³⁰

With the raising of the Jacobite standard in Scotland in September, it was necessary that England "be put into the best Condition of Defence with as little Inconvenience to his Majesty's Good Subjects as may be". The lord lieutenant was therefore directed "forthwith to cause the whole Militia . . . both Horse and Foot to be put in such a Posture as to be in readiness to meet upon the first orders."³¹

There is, among the Castle Howard papers, the draft of two letters, apparently dated about a year before this, relating to his mortification at the king's refusal to show

²⁷ Castle Howard MSS. 14.

²⁸ Cumb. LMB 1-2.

²⁹ Add. MSS. 37721, f. 35 rev.

³⁰ Cumb. Record Ser. i 148-149.

³¹ Cumb. Record Ser i 149-151, and Castle Howard MSS. 15.

any mark of favour to either the writer or his son. Quite possibly on account of this earlier correspondence, but quite possibly because of the strategic position of his lieutenancy upon the border, the secretary of state now sent the earl an additional brief letter, saying that the king would take his lordship's "exact and faithful discharge of these his commands as a great mark of his true zeal and loyalty."³²

In consequence of the lord lieutenant's letter to his deputies of 22 September, Lord Lonsdale on 25 September called a meeting of the lieutenancy for Thursday, 4³³ October in Penrith, at the house of Henry Hayton, high constable of Leath ward. This was a joint meeting of the lieutenancy of the two counties; Lord Lonsdale, the bishop of Carlisle and eight other deputy lieutenants attended for Cumberland; Edward Wilson of Dallam Tower, Daniel Wilson his son, lieutenant-colonel of the militia and captain of the Lonsdale company, Alan Chambre the barrister of Kendall, and Anthony Askew of the noted Kendal family, attended for Westmorland.

The intended and first meeting of the D. Lieuts [in King Geo's reign, *intercalated*] was held [4 Oct. 1715] where were present all the Dep. Lieuts except Sir Wm. Pennington, Sir Wm. Fleming, Sir R. Sandford, Sir Wilfrid Lawson, Sir Charles Dalston, Jas. Graham, John Lowther, R^d Brathwaite, Ed. Stanley. Henry Aglionby and Reg Dobson, when a view of men and arms by the respective capts. was ordered, and also the war[rant] next examined was granted against Henry Curwen, Tho: Howard, Jn Warwick Esq. and others.³⁴

Because the various companies of militia had, since their last muster, fallen below strength, the captains of the several companies were immediately directed "to

³² *Ibid.* 15.

³³ Simpson's minute book reads — "Thursday the [blank] of October" (Cumb. LMB 5). Lord Lonsdale's report to the earl of Carlisle reads — "Thursday the 4th of October", "Tuesday" being substituted for "Thursday" (*Castle Howard MSS.* 16). Chambre's version reads — "Oct. 4th, 1715" (Add. MSS. 37721, f. 37).

³⁴ Add. MSS. 37721, f. 37. With regard to the issue of the warrants, see *Cumb. Record Ser.* i 177-178.

Issue out a Precept to the High Constables of the Respective Wards" out of which their companies were raised, "to Returne and Summon three persons, between the Ages of Twenty and Fifty" to appear before them, at such time and place as they shall appoint, in respect of every person now found to be "deceased, Superannuated or removed", one of which three should be duly enlisted. The high constables of wards were also directed to produce at the same time and place, the arms that had belonged to the "deceased, superannuated or removed" men, and

also to warn all other foot soldiers in their respective Constablewick to appear before respective Captaine, and to produce before him their respective Arms.³⁵

No person was to be excused by reason of age or infirmity, but upon his being first viewed by his respective captain.

In the meantime, brigadier Thomas Stanwix, mayor and commander of Carlisle received an express from Newcastle to the effect that the Jacobites designed to seize Carlisle. Brigadier Stanwix reported this to Lord Lonsdale, the vice-lieutenant, who advised him to arrange forthwith a meeting of the Cumberland lieutenancy in order to raise the neighbouring company of militia and throw it into Carlisle castle. Lord Lonsdale, for his part, instructed Hugh Simpson the muster-master, to call a meeting of the lieutenancy at Henry Hayton's house, in Penrith, on the following Friday, 14 October.

At this meeting the lieutenancy ordered the militia light-horse to be raised, to meet on Dalston Green that day week, Friday, 21 October, with fourteen days' pay in hand.³⁶ The Cumberland lieutenancy minute-book gives no record of any further business that day, the next item in the book referring to the quartering of the militia on 26 October already "mustered this day before us".

³⁵ *Cumb. Record Ser.* i 155.

³⁶ *Ibid.* 159.

The Westmorland book, however, is not so deficient. At the meeting at Penrith on 14 October not only was the light horse ordered to be raised, but Henry Blencow's and Thomas Brougham's companies of foot were posted to Carlisle, "the both to remain at Carlisle with 1 month's pay, the rest of the foot to meet at round table Oct. 26 171[5] with 3 days' pay and powder and ball."³⁷

By this time the body of Jacobites under Mackintosh of Borlum had crossed to the Forth and marched to the Border, while the Northumberland men under Thomas Forster had marched north and joined them at Kelso. This considerably altered the position as seen from Cumberland and Westmorland. The lieutenantcy meeting on 26 October therefore, "taking the conjunction of the Northumbrian and partie of the Scotch rebels into consideration", ordered the mustered militia — the "troop of horse and the seven companies of foot" — to their respective stations throughout the two counties.

The Westmorland units of foot were posted as follows: Lord Lonsdale's West Ward and West Side company at Appleby; James Fleming's Kendal Ward company at Kendall; and Daniel Wilson's Lonsdale East Ward and East Side company at Kirkby Lonsdale; the Cumberland bodies were posted: Lamplugh's company at Penrith, and Senhouse's company at Cockermouth; Blencow's and Brougham's companies to remain at Carlisle in accordance with the posting of the 14th.

It has already been noted that Alan Chambre had earlier complained that Hugh Simpson, the treasurer and muster-master of the militia, had not kept proper minutes of the lieutenantcy meetings; that in consequence he ought to "be admonished to provide a book for taking minutes, and not as hitherto, keep them in his muster rolls in loose papers". It is not surprising, therefore, that Simpson's lieutenantcy book, now at Carlisle, is occasionally less informative than the record kept by Chambre.

³⁷ Add. MSS. 37721, f. 38.

With regard to the important joint meeting of the lieutenancy at Penrith on Wednesday, 26 October (already mentioned), Chambre's notes of minutes records a significant item of business not recorded by Simpson in his version. It relates to the sheriffs and their raising of men — altogether outside the lieutenancy procedure.

The Rev. Robert Patten, who some time before the rising had been curate at Penrith, was out with the Northumberland Jacobites; he marched through the two counties with them and was captured at Preston. He later turned king's evidence, and on his testimony some number of the prisoners were convicted. During the proceedings against Lord Wintoun, he was required to state upon oath what exactly happened when they passed through Penrith on 2 November. He testified:

There was the Posse Comitatus: [and then recalling some doubt] whether that Posse Comitatus were the Militia, I cannot tell; they were got together and upon our advancing they dispers'd themselves.³⁸

The question is, then, whether the force mustered on Penrith Fell on Wednesday, 2 November, was the *posse comitatus* or the militia. What exactly it was and what its numbers were has been much discussed.³⁹

It is in this particular respect that Chambre's (Westmorland) notes are altogether fuller than those of Simpson (Cumberland). The Penrith meeting of 26 October was a lieutenancy meeting. Humphrey Senhouse, who is known to have attended, was presumably there in his capacity as a militia captain rather than as a deputy lieutenant. It chanced that he was that year also sheriff of Cumberland, and therefore exercised two separate functions.

The relationship of the lieutenancy, and hence of the militia, to that of the shrievalty, and hence of the *posse comitatus*, is particularly to be noted. Although Camden

³⁸ *State Trial of the Earl of Wintoun* (1716), and *A Faithful Register* (1718) 153.

³⁹ *Cumb. Record Ser.* i 97-100.

made an effort to derive the office of the lieutenancy from the Anglo-Saxon period,⁴⁰ he nevertheless spoke of the Tudor lieutenant as an extraordinary magistrate constituted only in "troublesome times".⁴¹ However, the military functions hitherto exercised in the county by the sheriff, were certainly generally transferred during the middle of the 16th century to the lieutenant, who thus became responsible, under the crown, for the military power throughout his lieutenancy. Out of this primary military power grew certain other secondary concerns, such as the impressment of seamen, the survey of landing-places, the restrain of papists, and so forth; but the lieutenancy's main concern was always with the militia or trained bands, although *not* (it is particularly to be noted) with the *posse comitatus*, the major muster of the county, which remained within the civil power of the sheriff. This latter point is perhaps of particular interest in Cumberland and Westmorland, inasmuch as the last time the *posse comitatus* was called out in England in the face of an invasion was upon Penrith Fell in 1715.

To revert to the Penrith meeting on 26 October 1715, the lieutenancy — in the absence of the lord lieutenant — seems to have realized that no force the lieutenancy could then muster was likely to be adequate in numbers to bar the Jacobite path. The united Jacobite forces had not yet left Kelso and hence there was no power in law to call the Lancashire or Yorkshire militia north or the Northumberland or Durham militia west into the county. It was decided therefore to augment the inadequate county militia by calling out the *posse comitatus*, the liability to answer which was altogether broader.

For the better resistance of and discouragement of any invasion of the two counties, the D[eputy] Lieut[enant]s requested the High Sheriff of Cumberland then and there present to raise the posse com[itatus,] and the D[eputy

⁴⁰ *Britannia* (1610) 159.

⁴¹ *Ibid.* 103.

L[ieutenant]ts of Westmorland wrote from the board to the Dep[uty] Sheriff of Westmorland to do the like.⁴²

The instrument calling out the posse recited that a rebellion had broken out "within that parte of Great Britain called Scotland and also in Northumberland", and that

severall of the Rebels are marched from the Highlands in Scotland, ioined with other rebels and others, and both parties are ioined by the said Northumberland rebels, headed by the Earle of Derwint Water, the Lord Widdrington, Thos. Forster Esq. and others, papists and disaffected persons.

Chambre's version of this instrument, with its amendments insertions and *intercalations*, has the appearance of being quite possibly the original draft, or one of the original drafts.

By the threat of invasion the county committed to the sheriff's custody was likely to be speedily subjected to all those injuries that are incidental to war, plunder or rapine.

Wherefore, for prevention of the said deplorable consequences, and for the better preservation of my said county and the peace thereof, I do hereby in his majestie's name require and command you . . . and any of you, to wit, you the said bailiffs and high constables, in and thro' your respective wards and liberties, and you the said petty constables in and thro' your respective constablewicks, upon notice hereof from the respective high constables which they are by the presents required and enjoined immediately by their warrants reciting as above recited, to impart unto you, to summon and warne the power of my said County [within your respective districts, *intercalated*] to wit, all lay persons capable to travel and bear arms and not listed in the militia of my said County [and of all lay degrees, *deleted*] to [be and *intercalated*] appear before me in the best military Array which they [are *deleted* — shall be *intercalated*] able in the present exigence of affairs to provide for themselves . . . Fail not as you will answer the contrary at your respective perils.⁴³

⁴² Add. MSS. 37721, f. 39. These Westmorland notes of minutes record the text of the Cumberland instrument.

⁴³ *Ibid.* 39 and 39 rev.

At the Penrith board of lieutenancy on Wednesday, 26 October, Humphrey Senhouse, sheriff of Cumberland, was present in his other capacity, but the sheriff of Westmorland was not so present. The Cumberland summons was therefore signed and sealed the same day and the *posse comitatus* called to appear "upon Penrith Fell in my said County upon Wednesday the 2nd day of November next at 11 of the clock in ye forenoon."

In the case of Westmorland, however, the deputy sheriff had to be written to "to do the like". The Westmorland *posse*, therefore, was summoned to appear one day later at Appleby on Thursday, 3 November. It is thus clear — whatever the confusion in other records — that the force in fact on Penrith Fell on 2 November consisted of Lamplugh's (Leath ward) company of Cumberland militia and the Cumberland *posse comitatus*.

The lieutenancy manuscript closes on a somewhat ironic note. It makes a few excuses for the county by way of "the want of constant Intelligence of the motions of the rebels", and the "several false reports designedly spread." It attributes the general ineffectiveness, however, of the measures taken, particularly on the part of the *posse comitatus*, to "the late disarming of ye people by our wise game laws." Although the game laws were successful in preserving the gentry's game, the game was preserved only at the cost of leaving the country defenceless in the face of the invader.⁴⁴

⁴⁴ *Ibid.* f. 39 rev.