

THESIS SUBMITTED FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

THE POLITICS AND ADMINISTRATION OF THE BOROUGH OF MORPETH
IN THE LATER EIGHTEENTH CENTURY

BY

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PREFACE

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J.M. Fewster.

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ABBREVIATIONS

The following abbreviations have been used in this thesis:

D.N.B. The Dictionary of National Biography.

J.H.C. Journals of the House of Commons.

M.C. "Morpeth Collectanea" - several volumes of manuscripts, newspaper cuttings etc., forming part of the Woodman Collection in the Library of the Society of Antiquaries of Newcastle upon Tyne.

CHAPTER I

THE BOROUGH OF MORPETH - A GENERAL SURVEY

The Borough of Morpeth in the County of Northumberland is a small market-town situated by the river Wansbeck about fifteen miles north-west of Newcastle upon Tyne. In the eighteenth century the staple occupation of the inhabitants, who in 1801 numbered 2951,¹ was the manufacture of goods for local sale out of the raw materials and produce of the surrounding countryside. Tanning, for which plentiful supplies of oak bark were obtainable from the woods nearby, was the chief industry,² though there were signs in the later eighteenth century of its impending decline.³ During the same period, however, the weekly cattle market assumed increasing importance. Sylas Neville described it in 1781 as "one of the best in the North of England",⁴ and by the early nineteenth century it had become not only the chief source of meat supply for the great industrial regions of Northumberland and Durham, but also one for the Midlands, and, on occasions, even for London.⁵ By 1825 there was an average weekly sale of two hundred fat cattle and two thousand five hundred sheep - four times the number that had been offered for sale sixty years earlier.⁶ To supply

1. J. Hodgson, Northumberland (London, 1818), p. 184.
2. J. Hodgson, A History of Northumberland (Newcastle, 1832), part ii, vol II, 454.
3. See below, chapter XIV, p. 454.
4. The Diary of Sylas Neville, 1767-1788, edited by Basil Cozens-Hardy (1950), p. 273.
5. Hodgson, op. cit. as in n. 2, 441; E. Mackenzie, Northumberland (1825), II, 180.
6. Mackenzie, op. cit., II, 180.

the demand, cattle and sheep were brought from Roxburghshire, Berwickshire, and the northern regions of Northumberland, and at certain seasons some were brought from East Lothian and Cumberland. The influx of buyers and sellers was especially advantageous for the inn-keepers: the number of inns in Morpeth was large for a small town, and many of the proprietors rented fields in which their guests' animals could be kept before and after sale.¹ But, though the cattle mart was the chief source of wealth for Morpeth, it was not sufficient, even in the nineteenth century, to bring the town into a flourishing condition.²

In the eighteenth century, most of the townsmen were self-employed workers such as shoemakers, tailors, weavers, smiths, carpenters, tanners, and butchers. To carry on a trade in the borough a man had to belong to one of the seven trade companies or guilds within the town; and, since membership of one of these companies was a necessary qualification for citizenship, the burgesses were mostly men of but modest means and in some cases were very poor. The chief professional men residing in the borough in the later eighteenth century were the Rector of the Parish Church and his curate, a Presbyterian minister, a Catholic priest, the headmaster and usher of the local Grammar school and another schoolmaster, a few attorneys, an apothecary and a surgeon.³

1. Newspaper cuttings preserved in M.C., VII, ff. 47-9.

2. Hodgson, History of Northumberland, ii, II, 423.

3. This list is merely indicative and does not mean that there were no others living in the borough who could be included among the professional classes.

A quarter of a mile outside the town stood the Parish Church of St Mary, a fourteenth century building. The Earls of Carlisle were patrons of the living. Oliver Naylor, Rector from 1745-1775, acted for a time as manager of the fourth Earl of Carlisle's election interest in the borough,¹ and often took an active part in the Corporation's affairs. He was succeeded by Jeffery Ekins, D.D. (a former tutor of the fifth Earl of Carlisle), who was in turn succeeded by his son in 1782.²

From 1758-1807, Robert Trotter, "a gentleman distinguished ... for his unaffected piety, the meekness of his disposition, and his theological and classical learning",³ was minister of the Presbyterian congregation in Morpeth. By 1763, the members of his congregation, which about that time evidently included most of the leading tradesmen and shop-keepers of the town,⁴ had involved themselves in debt by enlarging and repairing the meeting-house, and had "considerably augmented" Trotter's salary, bringing it to just over £100, thereby rendering his living, as he himself declared, "Superior to many Settlements in Scotland".⁵ Subsequently his income dropped considerably - it was only £55 in the years 1794-1796 - but the interest he received from investment of a gift or legacy of £300, together with an increased grant from a Presbyterian fund and greater generosity on the part of his congregation, restored it

1. See chapter III, p. 77.

2. Mackenzie, Northumberland, II, 179. Another member of the Ekins family was Rector when Mackenzie wrote c. 1825.

3. Ibid., p. 188 footnote.

almost to its former level in the closing years of his ministry.¹ By this time, however, another Presbyterian church had been established by the adherents of the Scottish Secession, and after Trotter's death there was a serious division in his congregation.² Although not himself a burgess, Trotter was for many years leader of the opponents of the Carlisle family's control of the borough. In some respects an idealist, he believed that he was thereby fighting in the cause of Liberty against injustice and oppression.

The small group of Roman Catholics who in 1778 built a chapel dedicated to St Robert of Newminster, a local Saint, were not politically important, nor were the relatively small number of Methodists who founded a chapel in the early nineteenth century.

In 1552, Edward VI had founded a Free Grammar School in Morpeth and granted to the bailiffs and burgesses lands belonging to three local chantries for its maintenance. These lands, which were then valued at £20-10-6 per year, were by 1771 yielding a revenue of over £150 annually, out of which the headmaster received £100 and the usher £50.³

4. Rev. A.H. Drysdale, Bi-Centenary Memorial of the Presbyterian Church, Morpeth, with a historical Sketch (reprinted from the Morpeth Herald, 3 June 1893).

5. Trotter to Lord Gairlies, 31 May 1763, quoted by James Fergusson in his Souvenir of the Ministerial Jubilee of the Rev. A.H. Drysdale...Minister of St. George's Presbyterian Church Morpeth, with... historical sketches (Morpeth 1911).

1. Drysdale, op. cit., as in n. 4.

2. Ibid.

3. "Morpeth Free Grammar School. A True Copy of Case for Mr Dunning's Opinion", 1771 (Morpeth School MSS, I, ff. 155-7).

But, since by the terms of Edward VI's charter the only subjects which the headmaster and usher were to teach (apart from the English catechism) were Latin and Greek, and, if any pupils so desired, the rudiments of Hebrew, the bailiffs and burgesses had to procure another master to teach English, writing, and arithmetic. By 1771 this master used to receive £10 per year from the headmaster of the grammar school and £5 per year from the usher, but this contribution was merely "a matter of favour" on the part of the headmaster and usher concerned, and the Corporation was advised in that year that it had not, "in strictness", power to bind them by any such arrangement.¹ In the later eighteenth century there was evidently no great demand for the purely classical education which the Grammar School offered, and by 1771 the number of pupils had fallen so low that there was danger that the posts of headmaster and usher would become mere sinecures.²

The town-hall, "an elegant structure of hewn stone",³ was erected in 1714 at the expense of the Carlisle family. Another building of note was the county goal, which, according to Sylas Neville, "much pleased" John Howard, the prison reformer, on account of its "strength, airy rooms and good garden for the debtors to walk in, and a place on the top of

1. Case for Dunning's opinion. This includes copies of Dunning's opinion on the questions submitted to him.

2. William Crawford to the Dean of Winchester, 25 Feb., 1772 (M.C., I, ff. 563-6).

3. Mackenzie, Northumberland, II, 179.

of the house where even the felons are permitted to take the air".¹ A small square tower situated near the market-place, and known, because of its large clock with four dials, as the clock-house, served as a prison to which, up to the end of the eighteenth century, the bailiffs used to commit petty offenders taken within the borough.²

Morpeth had no newspaper or journal of its own in the eighteenth century - there was no printer in the town until 1805.³ The Members of Parliament for the borough, or the Earl of Carlisle, used to supply the bailiffs with the London newspapers during the later eighteenth century, but none of the Earl's opponents had access to them. When Trotter wanted some of the London newspapers to read at gatherings of the opposition party, he had to make special arrangements to have them sent from London.⁴ The several Newcastle newspapers of the day were, of course, available to all, but as sources of first-hand news of national events they were of little value.

The manor and borough of Morpeth were co-extensive and originally formed part of the greater barony of the same name. From about the time of the Norman conquest until the later thirteenth century, the barony had been

1. Diary of Sylas Neville, 1767-1788, p. 273.

2. Hodgson, History of Northumberland, part II, vol. II, 455.

3. Ibid., 528.

4. See below, chapter V, p. 157.

held by the de Merlay family, several members of which had conceded to the inhabitants of Morpeth a certain measure of autonomy and called it a borough.¹ In 1199, Roger de Merlay paid £13-6-8 and two good palfreys to the crown for the privilege of a weekly market and annual fair for the town.² He also granted to his "free burgesses of Morpathia" a charter confirming all their "liberties and free customs" which were to be held of him and his heirs "honourably, freely and wholly", as a charter which he himself had been given by the king set forth.³ Roger de Merlay III confirmed his father's grant and himself granted the free burgesses certain immunities and privileges.⁴ But neither of these charters gave them the right to hold any courts or transferred to them any seigniorial jurisdiction.⁵

By the marriage between Mary, eldest daughter and co-heiress of Roger de Merlay III, and William de Greystoke, the barony of Morpeth passed, on Roger's death in 1265, to the Greystoke family. It remained in their possession until 1507, when Elizabeth, baroness Greystoke and Wemms, the grand-daughter and heiress of the last Lord Greystoke, married Thomas Lord Dacre of Gilsland. She died in 1516 and in 1525 her son William, who was regarded as her successor to

1. S. & B. Webb, English Local Government from the Revolution to the Municipal Corporations Act: the Manor and the Borough (1908), part II, 494.

2. Hodgson, History of Northumberland, part ii, vol. II, 480.

3. Ibid., 421.

4. Ibid., 428.

5. S. & B. Webb, op. cit., 494.

the Barony of Greystoke, succeeded Thomas Lord Dacre. William died in 1563 and his successor, Thomas Lord Dacre of Gilsland and Lord Greystoke, died in 1566. The latter's widow married Thomas, fourth Duke of Norfolk, who thereby became step-father to the children of the deceased Lord Dacre. Norfolk planned that his own children by his two previous marriages should eventually marry Lord Dacre's, and, though George Lord Dacre, over whom Norfolk had secured wardship, was accidentally killed and another of Lord Dacre's children died, Philip Earl of Arundel, Norfolk's eldest son, married Lady Anne Dacre, and Lord William Howard, Norfolk's third son, married her sister Lady Elizabeth. These two sisters were, in consequence of their brother's death, co-heiresses to the Dacre properties, and the Morpeth estates, among others, thus came into the possession of Lord William Howard. In 1584, however, the title of the co-heiresses was challenged by their uncle, Francis Dacre. Years of litigation followed, and finally the crown claimed the estates by virtue of an attainder against Francis Dacre, who, for the purpose of the claim, was assumed by the crown lawyers to be the rightful owner. Lord William Howard was eventually forced to buy back the property from the crown, but he thereby secured possession for his family, and the Manor and Borough of Morpeth thus passed to the Earls of Carlisle, that title being conferred on Charles Howard in 1661.¹

The Lord of the Manor and Borough held courts leet and courts baron at Morpeth, received tolls of the markets and

1. G. Ornsby, ed., Selections from the Household Books of the Lord William Howard (Surtees Soc., 68, Introduction).

fairs, and could oblige the inhabitants to grind at his mills and bake at his ovens. In the early seventeenth century, the bailiffs and burgesses evidently attempted to assert their independence, but Lord William Howard instituted quo warranto proceedings against them, and, on being advised by their Counsel that the courts leet and court baron, the fairs and markets did "of right appertaine unto the said Lord William Howard as Lord of the said Mannor of Morpeth", and that they had not, nor ought to have, "any use or exercise of in or concerning the same but under the said Lord William Howard and his officeres and ministeres", they renounced their claims, though with the exception "that we the said Baliffes and Burgesses are and claime still to be a lawfull corporacion by the name aforesaid so as a judgment may be lawfully given and entered against us for and concerninge the said liberties...".¹ In 1619, after "deliberate and mature consideration", the bailiffs and burgesses "voluntarily and freely" acknowledged in a deed Lord William Howard's right to the courts leet and court baron, the fairs and markets, with the several tolls, and that by "antient custom" they ought to grind at his mills. But they repeated their predecessors' claim to be "a corporation incorporate by the name of the bailiffs and burgesses of the Borough of Morpeth".²

1. The disclaimer of the bailiffs and burgesses is printed in full in Archæologia Aelianæ, new series, III (1859), 69-70. It is dated 9 April 3 James I.

2. The deed, dated 17 January 1719, is printed in Hodgson's History of Northumberland, part ii, vol. II, 516-7.

This claim rested only on prescription. The borough did not receive a royal charter until 1662, and this merely recognised its prescriptive status. It set forth that Morpeth was an ancient borough and that the burgesses had, beyond the memory of man, been a body corporate by the name of the bailiffs and burgesses of the Borough of Morpeth, and had enjoyed divers liberties and privileges. It confirmed the existing bailiffs in their office for the customary term, and confirmed the existing burgesses. It further confirmed all the liberties and free customs of the bailiffs and burgesses, their lands and tenements, and granted the corporation its liberties in perpetuity, reserving, however, payment to the crown of the "usual services".¹

In 1523, the constitution of the borough had been set down in a book of the "Principall orders, Rewles, and Costomses, thoughte and devysed by Thomas L Dacre burgenss and Comynaltye of Morpeth aforesaid, expedient holsome and necessarie to the Comon welth p'fitt and Regiment of the same towen...".² First, Lord Dacre and the burgesses and commonalty ordered that seven principal crafts should be instituted to which all others in the town should be annexed. These seven crafts were: (1) the Merchants', to

1. For the charter, see Hodgson's History of Northumberland, part ii, vol. II, 429. Its main provisions are summarised in the report on Morpeth by the Commissioners investigating the municipal corporations. See their Report, IV, 1628.

2. These ancient orders of the borough are printed in Archæologia Aeliana, new series, XIII (1889), 209-16.

which the Tailors', Barbers', Wex makers', Bowers' and Fletchers' crafts were annexed; (2) the Barkers' and Tanners'; (3) the Fullers' and annexed to them the Dyers', Wrights', Carvers', and Hatters'; (4) the Smiths', to which were annexed the Sadlers', Slaters', Lorriners', and Sword Slippers'; (5) the Cordwainers', to which the Curriers' trade was annexed; (6) the Weavers'; (7) the Glovers' and Butchers' (to which the Skinners' craft was annexed evidently at a later date).

Each of these seven companies so constituted was to elect an alderman to govern it, and each alderman, "by consent of his craft," was to select two proctors to assist him. New proctors were to be chosen each year, and every company was to change its alderman "at all tymes when they shall think the said exchaunge to be for the Comon welthe and p'fitt of their Occupacone". Apprentices to the various crafts were to serve for seven years.

At the "hed Courte at Michaelmas", the "great Inqueste" was to nominate four men for the office of bailiff and two for that of sergeant, and from these the Constable of Morpeth Castle together with the seven aldermen was to select two bailiffs and a sergeant for the ensuing year. If any alderman, bailiff, proctor, or other officer died, "the said crafts wth their alderme[n] Immediatlie after the decease of the same" were to elect a new officer to replace him.

A common chest was to be made for the accounts, records, and cash belonging to the town: each alderman was to have a key for one of its seven locks, and the bailiffs were to hold a key of the toll-booth where the chest was to stand. The aldermen were to have access to it as often as they had need.

The retiring bailiffs were to account for their handling of the town revenues to their successors together with the sergeant, aldermen and "one honeste mane of everye crafte elected and broughte to the same by the said alderme'". It was also ordered that if a case of debt owed within the town was brought to the notice of the bailiffs and aldermen, and the defendant acknowledged the debt, the bailiffs and aldermen were to "gyve aucthoretie to gyve comandement to the officers to leye suche debte wthin viij dayes havinge therefore his fees, as if it hade been recov'ed in the courte and executone therof maid or directed". To provide for the bailiffs' fees, Lord Dacre undertook to buy lands within the town to the value of £4-0-0 per annum. The sergeant was to receive an annual fee of ten shillings.

By the eighteenth century, certain important changes had taken place in the constitution of the borough. The aldermen no longer had the right to participate in the appointment of the bailiffs and sergeant. At the Michaelmas courts each year, the grand jury of the court leet and the jury of the court baron each returned the names of two of

their members to the steward of the courts for the office of bailiff and the name of one of their members for that of sergeant. The steward made the final selection without consulting the aldermen. Since they were exempt from jury service, the aldermen could not participate in any way in the nomination of the officers of the corporation. Moreover, by the middle of the eighteenth century they had no judicial authority within the borough, though they appear by the constitution of 1523 to have been entitled to exercise such authority in conjunction with the bailiffs in cases of debt. The aldermen audited the bailiffs' accounts in the later eighteenth century, but they no longer selected one of the members of their respective companies to assist them as ordained in 1523. Again, the seven companies no longer exercised the right which they evidently had in the sixteenth century of selecting the successor of a bailiff who died during his term of office.¹ Thus, by the middle of the eighteenth century a change had taken place in the balance of power within the framework of the ancient constitution of the borough: the influence of the Lord of the Manor, exercised through his steward, had increased; that of the aldermen and the seven companies had in certain respects correspondingly decreased. Still, the constitution as established in the later eighteenth century was regarded by all as the ancient and immemorial

1. See below, pp. 93-4.

custom and usage of the borough from which any deviation would be illegal. "As this is a burrough by Prescription", declared John Dunning in 1764, "the usage is the Law of the Place".¹ This was a fundamental principle, the importance of which was repeatedly demonstrated during the later eighteenth century.

Although the aldermen had fewer powers in the eighteenth century than in the sixteenth, they continued to occupy a position of considerable importance in the government of the borough. Besides auditing the bailiffs' accounts, they executed, in conjunction with the bailiffs and with the consent of the freemen, all leases of corporation property;² and, except between 1772 and 1788, they and the bailiffs often decided who should occupy the lands and tenements belonging to the borough.³ Although they had "neither Judicial [n]or Ministerial Authority"⁴ within the borough in the later eighteenth century, and were not constituted as a formal assembly or court, the aldermen formed what has been described as "a sort of inchoate Executive Council" to the bailiffs.⁵ But, without the bailiffs, the aldermen could not lawfully act in corporation affairs. In 1803 they attempted to

1. "Burrough of Morpeth, Case I" (M.C., I, ff. 92-4).

2. State of the case in the action Doe on the demise of the Mayor Aldermen and Burgesses of the Borough of Morpeth v Brady (and others) c. 1839 (M.C., VII, ff. 60-107).

3. On 11 May 1772 it was unanimously agreed at a Common Guild of the bailiffs, aldermen and burgesses that no houses, shops or lands belonging to the corporation should be "privately let", but should be let to the best bidder at a public Guild. In December 1788, however, the bailiffs and aldermen agreed to repeal this order, because persons who had been granted leases in pursuance thereof had fallen into arrears of rent. They resolved that in

govern the town by themselves. Without the bailiffs' knowledge or consent, they called a meeting of the burgesses, where it was resolved that the aldermen should appoint a town clerk, and, in conjunction with him, collect the rent due to the corporation. Tenants who paid their rents to them were to be indemnified by the corporation.¹ Six of the aldermen soon afterwards appointed a town clerk;² but, when one of the tenants who had been indemnified for paying his rent to the aldermen refused payment to the bailiffs, they distrained his goods. He replevied them, and the action was tried at the subsequent Northumberland Assizes, where the bailiffs gained a verdict.³ The resolutions of the assembly convened by the aldermen, which had been entered into the Guild book, were struck out by the bailiffs as "illegal and void, being made without the Assent and in the absence of the then Bailiffs...and entered in this Book which was surreptitiously taken out of the Hutch for that purpose".⁴

future all leases should be let at a full meeting of the bailiffs and aldermen (Guild book, p. 75). It seems, however, that the practice of letting the property to the highest bidder at a public Guild was resumed, since this was evidently done for many years before 1810 (Doe...v Brady, M.C., VII, ff. 60-61).

4. Affidavit of William Seaburon of Morpeth, 21 Sept., 1754, against an information made against him in King's Bench for a misdemeanour (Howard of Naworth MS).

5. S. & B. Webb, English Local Government...the Manor and the Borough, part II, 497.

1. Guild book, 1741-1835, p. 95.

2. Ibid., p. 94.

3. See state of the case in the action Doe...v Brady as cited above.

4. Guild Book, p. 94.

Although the aldermen occupied an important place in the corporation, their main task was to preside over their respective companies. These seven companies existed primarily for the regulation of their several trades and the benefit of their members, but they were intimately connected with the corporation, forming, as it were, "so many lesser corporations within the general body".¹ Besides the alderman, each company consisted of an indefinite number of brothers and freemen. The brothers, although not full citizens of the borough, were regarded in the eighteenth century as burgesses of an inferior class to that of the freemen.² In common with the freemen they had the right to exercise their particular trade in the borough, and, subject to the regulations of their companies, to take apprentices. They could vote on all matters brought before their companies, and participate in the election of the aldermen and freemen. They had the right to pasture their cattle and sheep on the commons owned or leased by the corporation, and were entitled to vote at the Common Guild on all matters relating to the management of these lands. They were exempt from the tolls taken by the Lord of the Manor. Their children were entitled to free education at King Edward VI Grammar School.

1. See a case submitted to Kenyon, Lee and Wallace, c. January 1774, printed in Mackenzie's Northumberland, II, 192-6.

2. This is expressly stated in a case submitted to Dunning about Morpeth Grammar School in 1771 (see above, p. 4, n. 3).

Every brother was a potential freemen. By the ancient custom of the borough, the Tanners' company had the right to elect as freemen six of its brothers at a time; the Merchants' and Tailors' company four at a time; the Fullers' and Dyers', the Smiths', the Weavers' and the Cordwainers' companies each three at a time; ^{and} the Skinners' and Butchers' company two at a time. The alderman of each company (often, though not necessarily, in consultation with his fellow aldermen) decided when these elections should take place; but those so elected could not enjoy the privileges of freemen until they had been sworn in and admitted to their freedom at a court leet.

The freemen retained all the privileges they had as brothers. In addition, they were eligible for the offices of alderman, bailiff and sergeant as well as for the lesser offices of the corporation; they might be called on to participate in the government of the borough as jurors at the manorial courts to which they owed suit and service; they were, together with the bailiffs, governors of the Free Grammar School and, as such, elected its headmaster and usher and voted on all matters relative to its management at the Common Guild - the assembly of the bailiffs, aldermen and freemen; they had the right to make bye-laws at the Common Guilds and there to vote on all the corporation's affairs; they had the exclusive right of voting in the

parliamentary elections for the borough; and their sons had the right to admission as brothers of their respective companies without serving an apprenticeship.

The close connection between the companies and the corporation is the chief of what Sidney and Beatrice Webb have called the "special peculiarities" of the manorial boroughs of Northumberland and Durham, and, although they do not class Morpeth as a manorial borough, they cite it as the town in which these special peculiarities were "most markedly developed".¹ Apprenticeship as a means of admission to corporation privileges was, they point out, "virtually unknown in the manorial boroughs outside Northumberland and Durham".² Certainly, in Morpeth, apprenticeship was one means of admission into the companies - free-men's sons were admitted by patrimony - and the brother so admitted might subsequently be elected a freeman. Again, the companies contributed towards certain corporation expenses in proportion to the number of freemen each had the right to elect, probably because this (theoretically) determined their respective degrees of influence in every corporate act. Thus they paid for a silver cup for the races known as the "Freemen's and Corporation plate" in the following manner: the Tanners' company, which elected six

1. English Local Government ... the Manor and the Borough, part I, 206.

2. Ibid., 206, footnote.

out of every twenty-four freemen, paid one quarter; the companies which elected three freemen each paid one eighth; and the Skinners' and Butchers' company, which elected only two freemen at a time, paid one twelfth.¹ The wages of the herd of the common lands held by the corporation were paid by the companies in the same manner.²

In the course of time, however, the relative importance of the companies had changed. By the second half of the eighteenth century, the Tanners' company was "decayed and of less importance in the Borough than formerly",³ but the Skinners' and Butchers' and the Cordwainers' companies had so increased in membership that by 1775 they together had more members than the other five companies combined.⁴ Nevertheless, the Tanners' company continued to elect six out of every twenty-four freemen (a right obviously acquired when it was the most important company), and the Skinners' and Butchers' and the Cordwainers' companies had to remain as content as possible with their respective quotas of two and three out of twenty-four. The number of freemen elected by each company no longer bore any relation to the number of its members or to its general importance in the borough.

1. See case in Mackenzie's Northumberland, II, 192-6. The companies electing three freemen are here stated to have paid one seventh of the expense, but this appears an obvious error, three being one eighth of twenty-four.

2. *Ibid.*

3. "A Narrative of the Oppressions of the Borough of Morpeth" (1775). A copy of this MS. tract by an opponent of the Carlisle family is preserved in M.C., II, ff. 107-115.

4. Affidavits of Andrew Bullock of Morpeth and others (21 April 1775) to show cause against rules for an information in the nature of a quo warranto against Thomas Young and others being made absolute (Howard of Naworth MS).

As the source of the brothers, aldermen and freemen, the seven companies were of fundamental constitutional importance in the borough. Besides regulating their respective trades, they passed orders concerning the common lands held by the corporation and sometimes ratified the resolutions of the Common Guild in respect of these lands. In the later eighteenth century, each company elected two stewards to manage the commons and to direct the improvement of part of them. It seems, then, that the Webbs are justified when they conclude from these circumstances:

"It may well be that in these Trade Companies of the Borough of Morpeth, having their separate pecuniary and agricultural rights, making their own By-laws for their respective trades, and intimately connected, though not identical, with the Municipal body corporate, we find, as it were, "stereotyped" a typical example of the early stage of the interpolation of the Gild into the Municipal Corporation".¹

The "Municipal body corporate" in Morpeth was the Common Guild of the bailiffs, aldermen and freemen. This assembly dealt with all matters concerning the Free Grammar School of which the bailiffs and burgesses were the governors. In 1771 when the Guild resolved to take Counsel's opinion on several matters relating to the School, one of the queries that was accordingly submitted to John Dunning was whether the brothers, who were burgesses of an inferior rank to the freemen, were entitled to vote at elections for the headmaster and usher of the School, the grant in the charter of

1. English Local Government...the Manor and the Borough, part II, 496.

foundation being to the bailiffs and burgesses without distinction. Dunning replied:

"The word Burgess in the Charter of K. Edw. 6 means only as I conceive those who in this Case are distinguished by the Name of Freemen or in other words Members of the Corporation of Morpeth which the Brothers are not but only of Fraternities or Companies within the Town: & tho' they have the same right as Freemen to have their Children educated at this school, they have certainly no right to vote in the Election of the Master".¹

But, though the brothers were excluded from the management of the School where their children might be educated, the same principle did not apply when a Guild was called to discuss the management of the common lands on which their cattle grazed. On such occasions they were always summoned with the freemen, and had liberty to express their opinions and vote on all questions that arose. Even when the Guild discussed other business they sometimes took part (though not in matters relating to the Grammar School), but by what right they did so is far from clear. The Guild did not meet at regular intervals but was summoned by the bailiffs when need arose. The bailiffs then gave notice to the aldermen through the sergeant, and they in turn ordered the proctors to summon the members of their companies. The custom before the Municipal Corporations Act, which was probably the same as the usage in the later eighteenth century, was stated in about 1838 as follows:

1. Morpeth School MSS., I, ff. 155-7.

"When the Guild concerned the management of King Edwards Grammar School the Freemen only of the Companies were summoned - when they concerned the Commonable lands the free brothers were always summoned as well as the Free-men, when the Guilds were for purposes not connected with either the Grammar School or the Commonable lands the free brothers were not regularly summoned though they sometimes received Summons and even without Summons attended and took part in the Meetings but in every Guild the Freemen were summoned and took part in the proceedings as of right".¹

The brothers' participation in the proceedings of the Common Guild was "very difficult to explain", declared Serjeant Merewether in 1839, and was "in all probability an usurpation or corruption" introduced when the Lords of the Manor placed a restriction on the admission of freemen at the court leet.² Since the companies had never been incorporated, they could only be considered as "Adulterine Guilds" and could have no title to the common lands; the usage, however, was "perhaps sufficient to support the concurrent right of the Brethren with the Freemen to the pasturage of the Common".

"The being a Brother", Merewether observed, "appears to be a necessary qualification for being a Freeman & that coupled with the fact of their being either the Sons or Apprentices of Freemen or Brothers resident in the Borough is perhaps sufficient to account for their being allowed to share in the pasturage though not Freemen and also attending the Corporate meetings where the Stints &c were regulated: But it is clear that unadmitted Brothers are not Members of the Corporation & can have no right to the lands...".³

As the Webbs say, the original constitutional position

1. Doe on the demise of the Mayor Aldermen and Burgess-
es of... Morpeth v Brady (and others), c. 1839: state of the
case (M.C., VII, ff. 60-107).

2. Merewether's opinion on a case submitted to him in
respect of the above action is preserved (in a copy) in
M.C., VII, ff. 53-9.

3. Ibid.

of the Common Guild is "not easy to determine".¹ It stood midway between the companies and the manorial courts: it derived the aldermen from the former, the bailiffs from the latter, and the freemen (who though they were elected by the companies had to be sworn in and admitted at the court leet) from both. Moreover, the business transacted at the Common Guild was on occasions closely akin to that which fell within the cognisance of the grand jury of the court leet or which might have been dealt with by the companies themselves. In 1754, for example, an order of the grand jury, that no persons should be elected bailiffs for the future who had failed to account for the rents and profits of the corporation received during their term of office to their successors, was entered into the Guild book, presumably after being approved by the Common Guild.² Again, in 1772, the Guild ordered that houses, shops or lands belonging to the corporation should not be privately let, but should be let at a public Guild and to the highest bidder, and that no shop within the corporation should be occupied by anyone other than a freeman or brother.³ Such a matter might well have been the subject of an order or recommendation by the grand jury. Between 1748 and 1752, the Guild passed by-laws confirming the exclusive rights of six of the seven companies with respect to trade within the borough.⁴ Conversely, the companies sometimes confirmed the

1. English Local Government...the Manor and the Borough, part II, 498.
2. Guild book, 1741-1835, p. 53.
3. Ibid., p. 75.
4. Ibid., pp. 17-19 sqq.

resolutions of the Guild, but such resolutions were probably submitted to them for approval or rejection only when their co-operation was required to put them into effect.¹ Apart from the Grammar School, the chief concern of the Common Guild during the later eighteenth century appears to have been the commons and other land and property belonging to, or held by, the corporation.

The importance of the Common Guild, the Webbs believe, declined during the eighteenth century.² There seems, however, to be no evidence to support this view, though the scanty records of the Guild's proceedings preserved in the Guild book might well prompt such a conclusion. It is clear from other sources, however, that meetings were held and decisions taken which were never recorded in that book. For example, it is known that after one of the bailiffs died in 1760 "Several common Guilds were called",³ but no record of what passed at them has been kept. Again, on the death of the headmaster of the Grammar School in 1771, the bailiffs called a Guild at which it was decided that Counsel's opinion should be taken on several points relative to the School,⁴ but no record of this meeting appears in the Guild book.

1. In 1787, for example, a "Publick Guild" resolved to carry on the improvement of the Low common and ordered among other things that two stewards should be elected annually by each company to direct operations for that purpose. The alderman of each company was to lay a copy of these resolutions before his company for "Perusal and Approbation", and, if approved, they were to be entered into the company's book (paper among records of the Merchants' and Tailors' company).

2. English Local Government...the Manor and the Borough, part II, 498.

3. See below, chapter III, p. 94.

4. See below, chapter X, p. 308.

Nor is there any entry relative to the Guild which the bailiffs summoned after they received Dunning's opinion on the queries submitted to him. Another Guild was called in 1772 when the recently elected headmaster resigned, but there is no indication in the Guild book that such a meeting was held.¹ It is clear from these examples that the Guild book does not provide a reliable indication of the importance of the Common Guild, but, if its importance did decline in the eighteenth century, it is extremely doubtful whether it was, as the Webbs suggest, "perhaps because the small class of Burgesses found itself in full control of the Manorial Courts".²

The manorial courts were held thrice yearly on certain prescriptive days: a court leet and a court baron on the first Monday after Easter and the first Monday after Michaelmas, and a court baron only on the first Monday after the Epiphany. At the court baron a jury of twelve freemen tried cases of debt and trespass in which the damages claimed were less than forty shillings: witnesses might be summoned under penalty on the authority of the Lord of the Manor, and the parties in the suit might employ attorneys to assist them. The commissioners inquiring into the Municipal Corporations stated in their report on Morpeth that between five and twenty-five cases were at the time being tried annually at

1. About these meetings see below, chapter X, pp.313, 315-6.
2. Op. cit., as above, part II, 498.

this court. The costs in each case were one shilling, and sixpence for execution by the sergeant.¹

At the court leet, a jury of between twelve and twenty-three freemen was empanelled, and after walking the bounds of the borough they returned to the court and presented any nuisances they had observed. Presentments made by the grand jury during the later eighteenth century commonly included those of parts of the King's high-street in disrepair, of animals straying on the streets, of carts and dung left on the highway, of hedges and boundary fences in disrepair, of bread short of weight and of meat or ale "not wholesome for men's bodys".² As each offence was presented, the Lord of the Manor's steward stated an amerciament - generally 3s.4d. or 6s.8d. - which was either confirmed or reduced by two freemen who were sworn as affeerers.³ Besides presenting offences and nuisances, the grand jury had power to make orders for the better government of the borough. In 1706, for example, it made two orders concerning apprenticeship which it recommended to the companies "to be by them inserted amongst their orders", and also ordered that no one should be made a freeman of the borough until twenty-one years of age.⁴ In 1754 the grand jury made the following order:

1. Report on the Municipal Corporations, IV, 1629.
2. The books in which proceedings at the court leet and court baron were recorded during the later eighteenth century, are preserved among the Howard of Naworth MSS. at Durham.
3. See J.C. Hodgson, "An Account of the Customs of the Court Leet and Court Baron of Morpeth, with the Court Roll of 1632" (Archæologia Aeliana, new series, XVI (1894), 62).

Tailors' Entries in large minute book &c of the Merchants' and Company, p. 6.

"Whereas it has been a custom time immemorial for the Bailiffs of Morpeth to receive the rents and profits belonging to the corporation, and to pay the balance on accounting into the hands of their successors, but yet of late, regard has not been paid to this laudable custom; now for the better observance thereof, it is ordered by us, the Grand Jury now assembled, this 22nd day of April 1754, that no person shall be elected bailiff for the future that has not first accounted for the rents and profits of the said corporation and paid such ballance and overplus money as shall appear on such account to the hands of their successors for the use of the said corporation. We whose names are hereunto subscribed do recommend the above order to the consideration of the present bailiffs and Aldermen".¹

It is not certain whether the "orders" of the grand jury were in fact merely recommendations or whether they had force similar to that of a by-law. The order just quoted was entered into the Guild book,² and it appears that from about this time the bailiffs' accounts were audited by the seven aldermen as well as by the succeeding bailiffs.³ The procedure established in 1523 was thus largely restored, though whether this was entirely due to the grand jury's order is not known. During the later eighteenth century the grand jury does not appear to have frequently exercised its right to make orders, though in a few instances it recommended to the bailiffs or Lord Carlisle that certain repair-work should be carried out in the borough.⁴

The Michaelmas court at which the officers of the corporation were appointed for the ensuing year was one of the chief annual events at Morpeth. The manner in which the bailiffs and sergeant were chosen has already been described (pp. 12-13). The grand jury and the jury of the

1. Guild book, 1741-1835, p. 53.
2. See above, p. 23.

court baron each returned to the steward the name of one of their members as ale-tasters-and-bread-weighers, one each as fish-and-flesh-lookers, and two each as constables.¹ The steward had no power in these cases to exercise choice as he had in the appointment of the bailiffs and sergeant when the numbers returned by the juries were double the number required.

The bailiffs controlled all the other officers of the corporation. They alone had power to summon a Common Guild, and as head-officers of the corporation their participation was essential to constitute a corporate act. They collected the rents of corporation property and applied the revenues of the corporation and the Free Grammar School. They were Returning Officers at the parliamentary elections for the borough. They acted as judges in the court of piepowder at the fairs held in Morpeth - a function usually fulfilled elsewhere by the Lord of the Manor's steward - and fixed and presided at the "hirings" held thrice a year in the borough for masters and servants. In several other ways they exercised the powers of magistrates, and, indeed, they appear to have qualified as Justices of the Peace at the Christmas Quarter Sessions for Northumberland. Their exact rights

3. In 1838 it was said that previous to the last eighty years the audit of the bailiffs' accounts took place before the succeeding bailiffs alone, but since then the seven aldermen had also taken part in it (Doe...v Brady (and others): state of the case, M.C., VII, ff. 60-107).

4. Court Rolls preserved at Durham (Howard of Naworth MSS).
1. Case quoted in Mackenzie's Northumberland, II, 192-6. By the time of the Municipal Corporations' Report, the fish-and-flesh-lookers were not elected, since the retiring ale-tasters-and-bread weighers were appointed to that office as a matter of course (Report, IV, 1627).

2. F.W. Dendy, "The Court Leet and Court Baron of Morpeth," Proc. of Soc. of Antiquaries of Newcastle, 1891-2, V, 152.

in this respect are not altogether clear, but entries in the Guild book between 1741 and 1743 show that the bailiffs were at that time both acting as and styling themselves ¹ Justices of the Peace for Morpeth.² They dealt summarily with pick-pockets and others guilty of petty theft; administered the oaths of office to a land surveyor, issued out billets to soldiers, and, in one instance, condemned brandy that was being illegally carried from place to place and gave authority to an exciseman to sell it. There is no evidence in the Guild book of the continued exercise of such powers by the bailiffs after 1743, but they evidently committed offenders to the clock-house up to the end of the century.³ By the eighteen thirties, however, they had ceased to exercise judicial powers. The corporation had at that time no civil or criminal jurisdiction, and there were said to be very few persons within the borough who were qualified "from their education or situation in life" to carry out the duties of magistrates.⁴

Despite the uncertainty as to how the bailiffs acquired magisterial authority, and the undoubted fact that it eventually lapsed, the Webbs have attached great importance to the bailiffs' having acted as magistrates in the eighteenth

1. J. C. Hodgson states that the bailiffs qualified as Justices of the Peace at the Quarter Sessions (Archæologia Aelianæ, n.s., XVI, 1894), but does not say by what right they did so. The Webbs were puzzled by this point (op. cit., part II, 493-4, footnote).
2. Guild book, 1741-1835, pp. 3-11.
3. Hodgson, History of Northumberland, part ii, vol. II, 455.
4. Municipal Corporations' Report, IV, 1629.

century. The privilege of enfranchisement from the county officers, they declare, was "the really significant attribute" of the municipal corporation as distinct from the manorial borough, and, although "merely indicative of the distinction and not a precise means of demarcation" between them, was sufficiently important to enable them to class as true municipal corporations "all those communities which, whether by prescription or Charter, actually enjoyed the privilege of clothing one or more of their members or officers, within the limits of the Borough, without personal appointment by the Crown, with the well-known powers elsewhere given by the Commission of the Peace".¹ Morpeth, they point out, stands almost exactly on this line separating the manorial borough from the municipal corporation, for unlike the neighbouring town of Alnwick, which in other ways it greatly resembled, it "seems somehow to have secured for its Bailiffs, without the explicit authority of seigniorial Charter or Royal grant, the privilege of acting within the Borough, virtute officio, as if they were Justices of the Peace".² Thus "merely because it happens to have assumed the power of creating its own Corporate Justices", they class Morpeth as a municipal corporation, though it was "even more dependent on its Lord than Alnwick", and provides the best example of the special peculiarities of the manorial boroughs of Northumberland and Durham.³

1. English Local Government...the Manor and the Borough, part I, 266-7.

2. Ibid., part II, 493.

3. Ibid., part I, 206.

But, even as a municipal corporation, the Webbs place Morpeth in the special class of "municipal democracies", where the voice of the freemen, whether expressed in a public meeting or through representative institutions, was the "determining factor".¹ The "popular constituency" which controlled the municipal administration of Morpeth was that of the freemen, who governed through the manorial courts and the Common Guild. . . But the "broad base" of the municipal government lay in the brothers of the seven companies² who, although not full citizens, had a "certain Corporate unity in their control over the valuable common pasturage" of the borough through two stewards and a common driver annually elected by each company, and through the Common Guild when it dealt with the management of these lands.³ The importance of the Common Guild, the Webbs believe, declined during the eighteenth century perhaps because the freemen acquired "full control" of the manorial courts:

"It was the invariable custom", they explain, "to choose alike for the Grand Jury and for the "Party Jury" none but Burgesses of the Borough. We see the Grand Jury so formed getting into its hands the nomination of the officers of the Borough, for which the candidates had once been suggested by the Free Brothers in their Companies. Eventually we see this Jury, chosen, not by the Steward, but by the retiring Bailiffs, at what was called the "Cite Court", three weeks before Michaelmas, practically securing the appointment of most of the officers, and, subject only to a final choice by the Lord's Steward between two nominees, even the election of the Bailiffs".⁴

1. Op. cit., part II, 492.

2. Ibid., 495.

3. Ibid., 496.

4. Ibid., 498.

As already pointed out, however, it is far from certain that the Common Guild did decline during the eighteenth century.¹ Moreover, it appears from the constitution of 1523 that the seven companies had the right to nominate the officers of the corporation only in the case of the death of an officer: normally, the "great Inqueste" was to nominate the candidates, and the grand jury did not, therefore, acquire this right at the expense of the brothers of the companies.² By the eighteenth century, the jury of the court baron (the "party jury") also participated in the nomination of the candidates for office, but this really increased the influence of the Lord of the Manor's steward who could now choose the bailiffs and the sergeant from two sets of nominees, whereas formerly he had evidently been obliged to choose (in conjunction with the aldermen) from the candidates nominated by one jury. The jurors were indeed selected by the retiring bailiffs, but, as will be shown, the steward was able to change the composition of the juries as he pleased. In view of the steward's considerable power and influence, it would seem that the freemen can be said to have had full control of the manorial courts only in a strictly qualified sense.

1. See above, pp. 24-5.

2. See above, p. 11. J. Hodgson in his History of Northumberland, part ii, vol. II, 432 states that the brothers had the right to nominate the officers of the corporation, but gives no authority for the statement. The Webbs themselves appear somewhat doubtful of its truth since they write: "If we may trust our historians it was the Free Brothers of the seven Companies who formerly nominated candidates for the offices of Bailiff, Sergeant and the other Corporation officers, two of each Company being put forward for each of the several positions to be filled" (p. 497).

The Webbs themselves realise that the power of the steward was great: without his consent, they point out, "no Burgess could be admitted, and no appointment to office made. He had the final choice even in the selection of the Bailiffs, and a very real influence in their nomination".¹ How real that influence was can be illustrated from statements of two of the stewards themselves.

Writing to the third Earl of Carlisle on 17 October 1734, John Aynsley, an attorney of Hexham, who was at that time steward of the Morpeth courts, declared that it was the ancient custom of the borough

"That the Bailiffs made return of the Jurys - But that your Lordshipps Stewards on all occasions when they thought it for your Lordshipps Interest, did add to, and alter those Jurys as they thought proper. This was done by M^r Ward, M^r Simpson and Myself, as a right belonging to your Lordship, and Without the least opposition".²

Thus, as long as the ancient custom that the bailiffs and sergeant were selected from the members of these juries was maintained, the steward could ensure that all or most of those appointed to these offices were the Lord of the Manor's friends. "...If None Can be Bailiffe But who are on the Jurys", Aynsley explained, "Than your Lordshipps Steward Can always have Such Jurymen, who are in your Lordshipps Interest, as that they can Chuse for Bailiffs such persons as are your Lordshipps Friends".³ The

1. Op. cit., part-II, 500.

2. Castle Howard MS.

3. To Lord Carlisle, 3 October 1734 (Castle Howard MS).

Lord of the Manor's privilege, exercised through his steward, of "Adding to and altering the Jurys and Strikeing out who you please" were, Aynsley declared, "the Very Reigns by which your Lordpp and your Successors must Govern that Corporation, otherwise it will prove too headstrong".¹ If the Lord of the Manor had no such power, or if the juries had the right to nominate for corporation office persons who were not members of either jury, "the Town Could than Impose what Bailiffs and Serjeant they pleased Upon your Lordshipp", Aynsley pointed out, but, by altering the juries, "Your Lordshipp's Steward Can allways Secure one part of those Officers, who are in your Lordshipp's Interest".²

That the steward's influence did not decrease as time passed is clear from a letter of Christopher Fawcett, who held the office for some thirty years until obliged through old age and bodily infirmity to resign. Writing to Andrew Fenwick, one of Lord Carlisle's agents at Morpeth, to inform him of his resignation, Fawcett concluded:

"The Bearer of this has applyed to me to be made one of the Bailiffs: If I had been able to see you at Morpeth, I should have made it my Request to you to put Him into the proper Way of being elected a Bailiff; I therefore take this Method of recommending Him to you".³

1. To Lord Carlisle, 7 Nov., 1734 (Castle Howard MS).

2. Ibid. If, of course, opposition to the Lord of the Manor became so widespread that all or most of the freemen were involved in it, the alteration of the juries would be of little or no avail to the Lord. Thus on 8 October 1724, Aynsley informed Carlisle: "As to the choice now made of your Bailiffs, nothing better could be Done", for though the senior bailiff was entirely in Carlisle's interest, the other was "the Captaine of the disaffected party". He was made bailiff after promising to act "quite otherwise" for the future (Castle Howard MS).

3. 29 September 1794 (Howard of Naworth MS).

"The Privilege of chusing their own Magistrates the People had lost", wrote an opponent of the Carlisle interest in 1775, "and as these were appointed by the Steward of the Court Leet they were generally such Men as were a disgrace to their office...".¹ Whatever the truth of the latter part of this assertion, the first part of it was certainly justified. Throughout the eighteenth century, the office of bailiff was held a considerable number of times by a small number of men. In 1767, for example, George Nicholls declared in an affidavit that he had been admitted a freeman in 1729 and had been "Nine several times Bailiff and one of the Chief Magistrates of and in the said Borough and Corporation of Morpeth in Nine several years".² Between 1760 and 1790 there were few occasions when one of the bailiffs was not one of seven men who among them held the office some thirty-seven times in that period. The position carried responsibilities and duties for which not everyone was fitted, but it was not for lack of suitable alternative candidates that the office was virtually monopolised by a few of the staunchest supporters of the Carlisle interest in the borough.

Apart from the influence the steward could exert in the election of the principal corporation officers, he could in several ways control the proceedings at the manorial courts. "If a poynt of Law Ariseth", wrote John Aynsley,

1. "A Narrative of the Oppressions of the Borough of Morpeth".

2. Sworn on 1 May 1767. It is preserved in the Public Record Office, K.B. 1/17, Trinity 7 Geo. III, parcel 2.

"I take it to be my right to direct that; but as to facts, I allways left them to the Jury".¹ But he had the Earl of Carlisle's order "Neither to Impose any new Customs on the Town, nor to suffer any to be Imposed on your Lordshipp".² Later stewards were equally/zealous as Aynsley in safeguarding Lord Carlisle's rights, but they did not scruple to impose innovations on the town, particularly in respect of the creation of freemen. Again, the steward's right to give a charge to the grand jury to inquire into any matter he chose, and his right to adjourn the court, or close it, as he saw fit, enabled him to direct proceedings very much as he willed.

Although the Webbs recognise that the Lord of the Manor kept a "tight grip" over the town, they appear, in their references to the "practical autonomy" of the brothers and burgesses, their "virtual control over the juries", their "practically elective Bailiffs", and their "full control over the Manorial Courts", to qualify the tightness of his "grip" to an unjustified extent.³ In theory the burgesses had a considerable degree of autonomy, but in practice it was strictly limited by the Lord of the Manor and his agents, not only by their insistence on their actual rights, but also through exercise of indirect influence, wherever it could be brought to bear.

1. To Lord Carlisle, 7 Nov., 1734 (Castle Howard MS).

2. Aynsley to Carlisle, 3 Oct., 1734 (Castle Howard MS).

3. English Local Government...the Manor and the Borough, part II, 500.

This was especially the case with the seven companies. The Webbs' impression that they governed themselves without interference by the Lord of the Manor is not wholly justified. Admittedly they were more independent of him than were the manorial courts and the Common Guild, but their independence was limited by the fact that some of their members lay under ties of obligation to him, or were in other ways under his influence, and that the freemen whom they produced were both suitors at his courts and voters in the parliamentary elections for the borough. The Lord of the Manor thus had a special interest in the companies as the sources from which the freemen emerged. As Robert Lisle, a Morpeth attorney who was frequently employed by the Carlisle family, pointed out in 1766 or 1767, the freemen had, as members of the corporation, "great trusts to execute", for which men of integrity and ability were required: the good government of the borough and the administration of justice in it depended upon the election and admission of such men as freemen. But, if freemen were admitted without the Lord of the Manor's consent, the ancient constitution of the borough would be overthrown and "anarchy and confusion" would ensue:

"...As the lowest and worst of the people in the said several trades or companies are the most numerous they likely will as they on this occasion have elected Journey-men and some of the most turbulent and worst of the said trades or companies; and should they be sworn and admitted it would not only have an evil effect on the corporation but also be of very evil consequence to the Lord of the Manor or his successors by his being obliged to accept such suitors and jurymen in his courts and such magistrates

and officers in the borough and markett of which he is lord and has the tolls thereof as they the turbulent and meanest of the people shall think fit and that they only shall be the judges who when and what number to make burgesses clearly contrary to the ancient usage Custom and Constitution of the said borough...".¹

These were all good reasons why the Lord of the Manor should seek to control the election of freemen by the companies; but he had an even more important motive for doing so. If he was to control the parliamentary representation of the borough it was obviously expedient that he should concern himself with the organisations from which the voters came. One method by which the fourth Earl of Carlisle, or his agents, sought to control the election of freemen was by securing the passage by the grand jury and the corporation Guild of orders' restricting the companies in the exercise of their right. At the Michaelmas court 1747, the grand jury ordered that for the future no alderman should proceed to an election for freemen without obtaining the Earl of Carlisle's consent "for the making & confirming of such Freemen".² The same day, the Earl's agents prevailed upon the bailiffs, aldermen, and most of the freemen to pass the following order:

"It is resolved & ordered by the Bailiffs, Aldermen & Burgesses of the Corporation of Morpeth...at a Corporate meeting or Assembly there this day held that no Company or Trade within this Corporation shall or do proceed to any Election of freemen in or for the said Corporation without first applying to, and obtaining the Consent of the R^t Hon. the Earl of Carlisle...L^d of the Manor of Morpeth aforesd & his Heirs Lords of the said Manor for

1. "A further State of the Customs & Constitutions of Morpeth drawn up by Mr. Robert Lisle..."(c. 1766 or 1767; Howard of Naworth MS).

2. Morpeth Manor Court Rolls, 1736-1770, f. 185.

the time being agreeable to the ancient usage & Custom for that purpose had & approved within the said Corporation".¹

This transaction was kept secret: the brothers of the companies evidently did not learn of it until about fifteen years later, but during that time no company proceeded to elect its quota of brothers for freemen. Although there was no fixed time for such elections, so long a delay resulted in the number of the existing freemen falling to such an extent that by 1765 it was said to be "absolutely necessary" to increase their number.³ Such an increase was by no means acceptable to the Carlisle family, especially if, as their opponents planned, it was made without their approbation. Thus, in 1764, when most of the companies elected their proportions of freemen without the consent of the fifth Earl of Carlisle's trustees - the Earl himself was a minor - the alderman of the Fullers' and Dyers' company, who held lands of the Carlisle family and was said to be entirely under their influence, prevented his company by an "affected Delay" from electing its quota.⁴ It was only after his term of office had expired and a new alderman had been chosen that the election could take place.⁵ Again, in 1787, Andrew Fenwick, election agent for Lord Carlisle, paid three

1. Further State of the Customs &c of Morpeth by Robert Lisle.
2. Borough of Morpeth: Case 2d (for Dunning's opinion) 1765 (M.C., I, ff. 96-103).
3. Ibid.
4. Ibid.
5. Further State of the Customs &c as in n. 1.

guineas to the alderman of the Tanners' company for "stopping the election of freemen", and two years later he paid six guineas to "Ed. Atkinson & Sons standing Alderman" for "Preventing freemen being made".¹ Thus, although the companies were self-governing and were not subject to direct interference by the Lord of the Manor, he, or his agents, from time to time influenced their affairs through individual members. The members of the Tanners' company who were supplied with oak bark from Lord Carlisle's woods were particularly subservient to him and were described in 1775 as "devoted Tools to the Carlisle Interest".²

The right of the companies to elect the freemen brought them into the arena of parliamentary politics. It was chiefly for political reasons that the Lord of the Manor and his agents were anxious to keep the number of freemen as low as possible. For the same reasons, the opponents of the Carlisle interest strove between 1764 and 1767 to force the steward of the court leet to admit new freemen. Indeed, political considerations in the sense of ultimate concern with the parliamentary representation of the borough were never far from the minds of either the supporters or the opponents of the Carlisle interest, and, as a result, politics permeated ~~through~~ the whole of the local administration and affected in some degree or other

1. Andrew Fenwick's accounts of electioneering expenditure (Howard of Naworth MSS).

2. Narrative of the Oppressions of Morpeth.

transactions at each of the three organs of local government - the companies, the manorial courts, and the Common Guild.

This was especially the case when a General Election drew near. "I had your Lordship's Commands when last at Morpeth", wrote John Aynsley to Lord Carlisle on 25 May 1741, "to take a proper Care to have two Bailiffs chose in whom your Lordshipp might confide, with regards to the then ensuing Election, which I did carefully observe, and I hope to the good likeing of your Lordshipp".¹ Again, when one of the bailiffs died in 1760, a struggle took place between the supporters and opponents of the Carlisle interest over the election of a successor. One of the supporters of Lord Gairlies, who was contesting the borough in opposition to the Carlisle family's candidates, was set up for the office, but the Carlisles, anxious to have the Returning Officers in their interest, threatened to take legal action against him.² It appears that no successor to the deceased bailiff was in fact chosen; but at the Michaelmas court that year two staunch supporters of the Carlisle interest were appointed bailiffs and acted as Returning Officers at the subsequent General Election. One of them, Andrew Fenwick, who, if not at that time, was certainly at a later date an election agent for the Carlisles, was bailiff at the General Elections of 1768, 1774, and 1784 - a clear indicat-

1. Castle Howard MS.

2. See chapter III, p. 94.

ion that the election of the Bailiffs was managed by the Carlisles' agents for political purposes. Such tactics were not confined to the Carlisle party. In 1767 the opponents of the Carlisle interest took care to procure the election of seven of their friends as aldermen in order to prevent any further elections of freemen before the approaching General Election.¹ On other occasions, too, they sought in various ways to manipulate the local administration to their own political advantage.²

The administrative system in Morpeth was based on a multiplicity of elections: the aldermen and other officers of the companies were elected; the freemen were elected; the headmaster and usher of the Grammar School were elected; the bailiffs, sergeant and other corporation officers were elected, though in an indirect manner. Almost all these elections were at some time in the eighteenth century fought as campaigns in the most important election of all - the election of the Members of Parliament for the borough. It was almost inevitable that politics should enter into, and on occasions dominate, the local administration, because in Morpeth politics were entirely limited to local issues. The major issue during the later eighteenth century was whether Lord Carlisle should control the parliamentary representation of the borough, or whether the "independent" freemen should elect their own representatives. Questions of

1. See chapter VI, p. 190.

2. See chapter VIII, p. 251; chapter IX, p. 290.

national politics or of international affairs were irrelevant in elections fought on such an issue: indeed, national politics in the sense of national issues distinct from and dominant over local ones did not exist in Morpeth in this period. The electors showed no concern as to whether the candidates were supporters or opponents of the Government. The line of cleavage in the corporation was between the supporters and opponents not of the Government but of the Lord of the Manor.

The Webbs in what is otherwise a good analysis of the administration of the borough do not take into account the effect that politics had on it. Yet it was primarily for political reasons that the Lord of the Manor kept a "tight grip" over the borough and extended his influence even further than the Webbs seem to appreciate. Politics caused a rift in the corporation: there was jealousy between the brothers and freemen as a result of the Lord of the Manor's restriction on the creation of new freemen; subsequently, there was hostility, sometimes bitter hostility, between rival groups of freemen - between those who adhered to the Lord of the Manor, striving to serve his interest and, in return, receiving his favours, and those who despised such subservience and sought to assert their independence. The bailiffs invariably belonged to the former party, the aldermen, or most of them, generally to the latter: co-operation between bailiffs and aldermen was thus impossible on matters which had political importance.

These points will, it is hoped, become clear when the struggle between the Carlisles and their opponents during the later eighteenth century is described in detail. But first some account will be given of the state of the borough before 1760.

CHAPTER II

THE CARLISLE INTEREST SUPREME

The number of freemen that there might be at any given time in Morpeth was indefinite and in practice it fluctuated considerably. In 1653, there were some fifty-eight freemen, but the number gradually increased until 1697, when the admission of forty-one new burgesses brought the total to one hundred and twenty-two. The number varied between approximately seventy-six and one hundred and forty-one while Charles, third Earl of Carlisle, was Lord of the Manor (1692-1738), but though several batches of freemen were admitted during this period (generally when the number had fallen to about one hundred or below), it appears that only enough were admitted to ensure that the corporation offices were filled in accordance with the ancient custom of the borough.¹

The custom whereby the companies elected the freemen was not set down in the constitution of 1523, but by the eighteenth century it had become so well established that it was regarded by all as part of the law of the borough. The exact rights of the companies in this respect had never been defined, however, and in the second and more especially the third quarter of the eighteenth century several important questions were being raised: had they the right to elect freemen as often as they pleased, or had the Lord of the Manor

1. These figures are based on the number of freemen entered in the court books and suit rolls and quoted in documents relating to the suit Wright v Fawcett, 1767 (Howard of Naworth MS).

any right to control the frequency of such elections? Was he (or his steward) bound to admit at the court leet everyone the companies had elected, or had he legitimate power to select some and reject others? Was he obliged to admit them (if at all) immediately, or at his own pleasure?

Whatever the usage had been previously, from the seventeen twenties onwards the third Earl of Carlisle and his successor claimed and exercised definite rights in the creation of freemen, and built up a collection of written evidence in support of their powers. By 1726 the third Earl's policy was evidently giving rise to discontent: before the Michaelmas court that year there had been a rumour, John Aynsley informed him, that

"Your Lordship's People at Morpeth...had been planning Some Schemes to make Freemen, without your Lordship's help or leave; & to that end were to Seize the books in Court, & enter the Freemen themselves. This, my Lord, gave me noe uneasyness att all, being determined to Doe what was proper to Support yo'r Lordshipp's right there. But my lord, noe Violence of any kind was offered, only the pson who was said to be the Promoter of that designe Did apply to me by way of Complaint in Court, to desire more Freemen Might be made. But I told him I had noe orders about that affair, & till I had, he must Excuse me".¹

Even if, as Aynsley hoped, the story was "not well founded", Lord Carlisle was obviously exercising the right to determine when freemen should be admitted at the court leet.

The number of freemen had by this time dropped considerably: only seventy-six freemen voted at the General Election

1. 3 November 1726 (Castle Howard MS).

in August 1727,¹ and, in October that year, the bailiffs requested Lord Carlisle to assist them to hire constables, since only one freeman remained who could be obliged to serve in that capacity according to the ancient custom of the borough, and the corporation revenues were "not Sufficient to Inable us to lay out money on this Score".² At the Michaelmas courts that year the grand jury had been "obstinate" and had refused to return new constables, but, Aynsley reported, "as that was noe p'rjudice to your Lordship, nor the Corporacon in generall, and as there was the usuall number of old ones then in being, who were Swore to official for one whole year, and untill others were Swore in their place, I left them all in their offices, to Stand for another year".³

Very probably the grand jury's refusal to return new constables was designed to bring pressure on Lord Carlisle to admit more freemen. Some of the companies had elected their quotas of freemen in 1723, but none of them had been admitted at the court leet. Further elections were held by the companies in 1728 and 1729, and, at the Michaelmas court the latter year, forty-eight elected brothers were presented to the Earl of Carlisle who himself presided. The grand jury had already come to the following resolution:

1. Corporation of Morpeth: Case 3, 21 Nov., 1765 (M.C., I, ff. 104-9).
2. Thos. Warriner and Edward Marr to Lord Carlisle, 14 Oct., 1727 (Castle Howard MS).
3. To Lord Carlisle, 20 Jan., 1728 (Castle Howard MS).

"Where as no freemen being made In this Corporation for Severall Years last past In which time a great many is dead and other by age become unserviceable We therefore Desire the Bailifes and Aldermen for the time being to Joyn with my Ld's Jury In Requesting the R^t Honrable Earl of Carlisle to make such a number of freemen as to his Ld^tShip shall Seem Convenient according to the antient Custome of this Corporation".¹

From those presented to him the Earl chose twenty-four, some of whom had been elected in 1723, the others in 1728 or 1729. Evidently, still more freemen were needed, however, and on 17 October 1729 the bailiffs, aldermen, and grand jury made a "humble request" that Lord Carlisle should "give such directions as shall be agreeable to his Ldship for the swearing of 24 more freemen...& we shall acknowledge the obligation as becomes my Lordships most faithful & most obedient servants".² Twenty-four elected brothers were sworn in as freemen at the next court. It seems, however, that Lord Carlisle gave precise instructions as to the persons who were to be admitted, and his steward, evidently in obedience to his commands, secured a written acknowledgement by the bailiffs, aldermen, and the grand jury together with the rest of the freemen, of the rights he claimed:

"I received your Lordship's Commands in your letter of the 27th of March last" wrote John Aynsley on 20 April 1730, "And the sixth instant I held your Lordship's court at Morpeth, and made the Severall psons in the Schedule therein inclosed, who appeared, Freemen: but not till after the paper inclosed was entered in the Town's book and Signed by the Bailiffs, Aldermen & Grand Jury..."

"I am in hopes I have answered your Lordship's intentions in the wording the inclosed paper - I will take some suitable opportunity to draw up the intended letter of thanks & get it signed and sent to your Lordship".³

1. Morpeth Manor Court Rolls 1706-35, f. 304.

2. Ibid., f. 313.

3. Castle Howard MS.

The "paper" to which Aynsley referred read as follows:

"Whereas for Severall years last past the Members of the Corporacon of Morpeth have made it their request to the Rt Honōble Charles Earle of Carlisle the present Lord of this Manoꝝ that he would be pleased to make an Additonall number of Freemen to those then in being And Whereas his Lordship Did as often refuse the same thinking it not to be the Interest of himselfe and the Said Corporacon Soe to doe And Whereas at the last Court held for the said Manoꝝ the Sixth day of October last past (his Lordship then present) the Bayliffs Aldermen and Bur-gesses of the said Corporacon Did present his Lordship with a List of Such persons out of each Company as in their Judgments were proper to be made Freemen within the said Corporacon being Forty Eight in Number and then requested his Lordship that he would be pleas'd gratiouly to Condescend to the makeing the aforesaid persons Free-men-of the said Corporacon And Whereas his Lordship as Lord of the Said Corporacon (haveing a power to reject the said request in part or in all) Did nevertheless con-descend to make one halfe of the Said Number of the persons Soe presented to him Freemen of the Said Corporacon which was accordingly done. And Whereas the Bayliffs and Burgesseſ of the Said Corporacon thinking there was an Occasion for more Freemen have lately made it their request to his Said Lordship in Writeing under their hands that a further Addicon of Freemen may be made for the good and Ease of the Said Corporacon to which his Lordship hath alsoe most gratiouly condescended and the Same is accord-ingly done. Wee the Bayliffs Aldermen and Freemen and the Grand jury now Impannelled at this Court doe hereby agree that a letter of thanks Signed by the Said Corporacon Shall be Drawne up and Sent to his Lordship for Such his kind and gratiouſ Condescencon as aforesaid And Wee doe agree that as well these presents as the said last menconed letter of request to his Lordship be Entred under this Instrument verbatim in the Towns books with the names of the persons Signeing the Same there to remaine as a Record of the Said Corporacon".¹

The companies next proceeded to elections for freemen in 1737 when they elected two sets of twenty-four within a few weeks. Lord Carlisle evidently objected that they had acted irregularly in electing twice the customary number,² but the following year he died. It was not until Michaelmas 1747, however, that any of those elected in 1737 gained

1. Morpeth Court Rolls 1706-1735 f. 310.

2. Corporation of Morpeth: Case 2^d (M.C., I, ff. 96-103).

admission to their freedom. The Earl of Carlisle himself presided at the court and selected twenty-eight who were accordingly sworn in as freemen. As in 1730, the Earl's agents made every effort to strengthen their master's hold over the corporation. First, an order was secured from the grand jury

"that no Alderman in any of the Trades or Companys for Future shall or do proceed to an Election of Freemen within this Burrow without obtaining the Consent of the Earl of Carlisle Lord of the s^d Burrow, for the makeing & confirming of such Freemen as afores^d"¹

But, having thus endeavoured to bind the aldermen by means of an order of the grand jury, the Lord's agents sought to bind the companies by an order of the Common Guild. They therefore prevailed upon the bailiffs, aldermen, and most of the freemen, including all but one of those just admitted, to pass an order prohibiting any company from holding an election for freemen without first applying to and obtaining the consent of the Earl of Carlisle and his heirs, Lords of the Manor, "agreeable to the ancient usage & Custom for that purpose had & approved within the said Corporation".²

The Lord of the Manor's grip was tightening. The majority of the burgesses now acknowledged, and ordered it to be observed as an ancient custom of the borough, that he had in effect the right to decide whether at any given time the companies should elect freemen or not. Without his consent no election of freemen was to take place in the companies; without his approval

1. Morpeth Court Rolls 1736-1770, f. 185.

2. For full text of the order, see above, pp. 38-9.

none of those who were then elected could gain admission at the court leet; and he was sole judge of the time that those of whom he approved should be admitted to their freedom.

Five freemen were admitted in 1748;¹ no more were admitted until 1761, and two of the four then sworn in had not been elected by their companies.² By that date several of those elected in 1737 had died without being admitted to their freedom, and several remained who were still excluded from the privileges of that status to which they had been elected. The number of freemen had now fallen to approximately what it had been in the middle of the seventeenth century. At about the time that the fourth Earl of Carlisle succeeded as Lord of the Manor there had been approximately one hundred freemen in the borough; at his death, twenty years later, there were about sixty-one.³

The number of freemen continued to decrease during the next few years. Even so, in October 1760 the Tanners' company passed the following resolution:

"It is agreed upon by this Company that if any Brother or Brothers thereof shall directly or indirectly make any Application whatsoever or willingly suffer any Application to be made in his or their favour to be elected a Freeman, before a Licence for an Election shall be given by the R^t honourable the Earl of Carlisle; such Brother or Brothers shall for so doing be rendered incapable of being elected a Freeman".⁴

1. Documents recording the admittance of freemen at the court leet are preserved among the Howard of Naworth MSS.

2. See chapter IV, p. 100.

3. Documents relating to the suit Wright v Fawcett, 1767 (Howard of Naworth MSS).

4. Ibid.

5. Records of the Tanners' company, book Z, f. 36. The order is signed by the alderman and twenty-one members of the company.

Probably this resolution was designed to prevent the election of freemen before the approaching General Election, preparations for a contest being already well under way. The Tanners' company was said to be notoriously subservient to the Lord of the Manor, and the foregoing agreement was obviously designed to promote his interest. So far as is known, none of the other companies passed any similar resolution, or in any other way ratified the agreement of the bailiffs, aldermen and freemen of 1747. Still, the Tanners' company elected one quarter of each batch of twenty-four freemen, and its agreement to such an order strengthened the Lord of the Manor's position. The rights he claimed in the creation of freemen were now established by orders of the grand jury, the Common Guild and one of the chief companies, and were acknowledged in other documents signed by the bailiffs, aldermen and grand jury. The number of freemen had been reduced, and it appeared that by judicious exercise of his powers he could ensure that only those who could be relied on to serve his interest would be admitted as freemen for the future. It was chiefly from political motives that the Earls of Carlisle pursued this restrictive policy: every freeman added to the court rolls was an additional voter to be managed at the parliamentary elections - to be rewarded, if a supporter, or to be surmounted, if an opponent. Unless the number of freemen was restricted the expense of an uncontested election would be

great, and that of a contest probably enormous: the result of such a contest would even then be altogether uncertain. Thus restriction on the number of freemen admitted at the court leet became the chief foundation upon which the Carlisles built their electoral interest during the second and third quarters of the eighteenth century.

Several aspects of the politics of Morpeth in that period are illustrated by the following letter which George first baron Carpenter of Killagby addressed to Lord Carlisle on 17 March 1724:

"My Son had some thoughts of purchasing an Employment and was willing to sound the Corporation of Morpeth, and writt to the Bayliffs to know upon what termes he might be elected, provided he had your LoP^s approbation; their answere was that they had assembled the Freemen and for 500£ he should be chosen, but the very same evening they writt another letter and sent it to Newcastle after the post, telling us that Mr Bowes had been att Morpeth, and promising 20£ pr Man had got a majority, to which my Son answer'd that 500£ for the same Member to be reelected was a great Sum so soon after gratifying them largely, and it was not so kind as he expected; however since even complying with that would not secure his Election, he design'd nott to quitt his seat in Parliament, so that affair is over and I assure your LoP wee had no thoughts of proceeding without first having your approbation, For your LoP was so very obliging to us before, that if I had a certain interest in Morpeth I would never make use of it without your Free consent; For I detest ingratititude for favours rec'd...".¹

The terms offered to Carpenter's son,² who had been returned for Morpeth in 1717 and again at the General Election of

1. Castle Howard MS. The Mr Bowes mentioned in the letter was George Bowes of Streatlam, M.P. for County Durham 1727-1760.

2. He succeeded as second Lord Carpenter in 1731. He had been a cornet in the army in 1704 and had risen to the rank of lieutenant-colonel of the Horse Guards by 1715. He was M.P. for Morpeth 1717-27.

1722, were decided at a general meeting of the freemen, and the sum proposed was evidently intended not for the individual electors but for the whole corporation. It appears, however, that by offering money to the individual freemen, George Bowes of Streatlam, County Durham, had secured a superior interest to that of Carpenter's son in the borough.

The conflict between the freemen who wished to gain financial help for the corporation from the candidates, and those who sought to appropriate all pecuniary rewards to themselves was especially marked at the Morpeth election of 1727. The exact course of events is not altogether clear, but it appears that Bowes, who had by this date built up a considerable interest in Morpeth and had intended to stand at the election in opposition to the Carlisle interest, suddenly set himself up as a candidate for County Durham, in opposition to Sir John Eden, and "Scatter'd his money soe plentifully amongst the Freeholders" that Eden withdrew.¹ The bailiffs, two aldermen and four freemen informed Lord Carlisle of this on 28 July 1727, and requested the Earl to "think of some proper person to represent us as a Second Member" (the Earl's eldest son, Lord Morpeth, being the first Member to be returned):

1. Sir John Eden Bart. was M.P. for County Durham from 1713 to 1727. George Bowes sat for the County from 1727 to 1760.

"for tho' there be great offers made yet Wee have those particular regards for your L^dpp that Wee won't Soe much as think of any till Such time as Your L^dpp will Signifie to us your pleasure and not leave it to Mr Bowes to recomend one who has treated your L^dpps Friends with the greatest Indignity Imaginable, for if your L^dpp Should in Soe Criticall a Juncture as this Suffer Mr Bowes's recomending a Member your L^dpps Interest will Intirely be Sunk and gone and the Corporacon forever Ruin'd. Your L^dpp may plainly See by all our letters that Wee Contend for nothing but the honour of your L^dpps family and the honour and welfaire of the Corporacon for if Wee would have Ingaged rashly and without Consulting your L^dpp in the affaire Wee might have had Fifteen hundred pounds inStead of Mr Bows's Thousand pounds; Therefore wee most humbly begg of your L^dpp that your L^dpp will Stipulate for Such a Sume as may amply provide for those that will take money and that Such a Sume over and above may be procured for the publicke as may make the Corporacon easy and not be burden'd with an annuall Tax as the Bayliffs are Constantly obliged to fly too, the Townes Revenues being Soe very Small and Inconsiderable - If what my L^d wee have Sett forth be Comply'd with, that is if the poorer Sort be gratify'd with 20£ a man and Somewhat done for the publicke, Wee don't doubt but a Majority may be gained for your L^dpps recomendacion, a great many of Mr Bows's friends resolving not to vote for a Member of his putting up or recomending, Wherefore if the Neck of this Scheme Should be broke at this time Wee are of opinion that both your L^dpp and the Town may be made Easy for all times to come.

"Wee Crave your L^dpps Imediate Answer...".¹

There is no evidence of what reply, if any, Carlisle made to this letter, but it seems that a compromise was eventually arranged, whereby Thomas Robinson of Rokeby, Yorks, who the following year married Elizabeth, eldest daughter of Lord Carlisle and widow of Nicholas Lord Lechmere, should be returned on Carlisle's interest with Lord Morpeth, and the freemen in Bowes' interest should vote for Lord Morpeth, which they evidently promised to

1. Castle Howard MS.

do in a general letter to Lord Carlisle. The parties to the compromise evidently agreed that a certain "gratuity" should be distributed amongst the voters after the election.¹ Those in Bowes' interest were to receive £1000, but, when they were asked by the freemen who were anxious for the welfare of the corporation to apply part of that sum to some "publicke good", they absolutely refused. The situation was complicated by the entry of another candidate, Robert Fenwick of Bywell, Northumberland, Attorney General for the Duchy of Lancaster and "well affected to the present Government", who evidently offered £25 per man.² And at the election on 21 August 1727, seventeen freemen (including the bailiffs and all those who had previously written to Lord Carlisle as quoted above) voted for him. They explained their reasons for doing so in the following letter to Carlisle:

"We hold our Selves in duty obliged to acquaint your Lordship with the Steps that were taken at our Eleccon yesterday for Members of Parliament, and the reasons for our Voteing for Robert Fenwicke Esqr Attorney Generall for the Dutchy of Lancaster, a Gentleman of a good Estate in this Neighbourhood and well affected to the present Government.

"Now my Lord after our haveing made Severall applicac-
ons to those in Mr Bowes Interest that Some Share of the
Thousand pounds that they were to have (and lately lod-
g'd in Towne) might be apply'd to Some publicke good, Wee
were told for Answer that they would not apply one shill-
ing that way and that if Sixpence were given us they
would desert Mr. Bowes Interest. Therefore as they were

1. Robinson to Carlisle, 14 Jan., 1728 (Castle Howard MS).

2. Aynsley Donkin to Carlisle, 13 Dec., 1727 (Castle Howard MS).

got into Soe Vile a practice and the Corrupcon Soe flagrant and notorious and all the Neighbouring Gentle- men Complaineing of Soe unheard of a practice as not to apply out of soe great a Sume Some Share or proporcon thereof to the future well being of the publicke, Wee then thought for the honour and Security of Lord Morpeth and the future good of the Corporacon that nothing could more effectually preserve your Lordships Interest and to keep up the dignity of the Corporacon than to think of Some method to put a Stopp to Such a Vile Corrupcon, for nothing is plainer by their deserting Lord Morpeth Twenty Seven of Mr Bows's men voteing for Mr. Bowes and Mr. Robinson after giveing it under their hands in a letter to your Lordship that all of them would Vote for Lord Morpeth, Soe that if Some means were not used to frustrate their evill designes they will for the Sake of money throw off all duty and respect to your Lordship and the Noble family Soe long as they have abeing and as your Lordship was pleased to Express in one of your Lordships letters that your Lordship could not Indure the thoughts of Soe Vile a Corrupcon, Wee would faine hope that your Lordship will be rather pleased then otherwise with our behaviour for makeing Choice of Soe Worthy a Gentleman for our Second Member to Lodge a Petition and to Stiffle if possible Such base and unworthy doeings.

"Wee beg leave to acquaint your Lordship that it is not in the power of men nor money or ever Shall it be to Act unworthily by your Lordship and the Noble family, and Wee doe Solemly protest that Wee neither had nor have any other thing in View Save the honour Due to your Lordship and the publicke good of the Corporacon, for Wee are but too Senceable that Wee can never be a happy nor a flourishing Corporacon without your Lordships Assistance and Care over us...".¹

Lord Carlisle, however, was by no means pleased with these efforts of his self-styled friends to support his interest: he had recommended Robinson to the town,² and he did not wish him to be unseated on a petition, even though he was evidently much annoyed that Robinson had received fifty-four votes to Lord Morpeth's fifty-two - an "unhappy

1. 22 August 1727 (Castle Howard MS).

2. Robinson to Carlisle, 21 April 1729 (Castle Howard MS).

1

"mistake" Aynsley Donkin, Bowes' agent, called it. Thus Carlisle soon let Fenwick's supporters know that he wished them to try to prevail upon Fenwick to give up his intended petition. On 11 September 1727, fifteen of Fenwick's voters wrote thus to Lord Carlisle:

"Wee had the honour of a Message by M^r. Lambert from your Lordship that Wee might not faile to Inform your Lordship by the next post after his returne of any and what Steps were taken by M^r Fenwicke... Since the Eleccon. Wee beg leave to Informe your Lordship that Since our Eleccon Wee have heard nothing from M^r Fenwicke nor what he designes to doe but Soe farr Wee doe Assure your Lordship that Wee will not be at one penny Charge in prosecutinge the Peticon; therefore if M^r Fenwicke won't be at all Charges in that affaire Wee Shall wave it and give our Selves noe further trouble about it in order to gaine Somewhat for the publick as Wee understand that's intended to be given in case noe Petition Shall be lodged which Wee are thoroughly per- suaded proceeds from your Lordships goodness and the tender regards that your Lordship has for the Welfare and prosperity of the Corporacon.

"As Wee Voted (My Lord) for M^r Fenwicke and if he cannot be prevail'd upon to lye quiet but will goe on with his Petition, Wee humbly Crave leave that your Lordship will then pardon us for that Wee preferr our being accounted men of honesty reputacon & Integrity preferrable to every thing in the world besides - Wee returne your Lordship our most humble and hearty thanks for the kind recepcion of and the favour Shewne M^r Lums- den one of our Brethren and for the good advice your Lordship was pleased to give him, for wee are thoroughly Senceable that your Lordships care over us and for us is not only Equall but Superior to our owne and that it would not be possible for us to miscarry in any point of Conduct if the whole body would be Soe wise as to ad- here to and be govern'd by your Lordships direccons, but as for our parts Soe farr as it lyes in our power Wee will be directed and govern'd by Your Lordship ...".²

1. Donkin later "solemnly" declared in a letter to Carlisle that he was not responsible for Robinson's poll being higher than Lord Morpeth's. He was a "perfect Stranger" as to how the numbers stood in the poll-book until Bowes informed him that Lord Morpeth was behind in

Fenwick did petition against Robinson, charging him and his agents with bribery and other illegal practices both before and at the election.¹ He later told Robinson, however, that he had petitioned against him "very unwillingly" and would on no consideration have brought the petition to a hearing, since he knew Robinson's behaviour in Parliament and how little he could make out against him.² At all events, Fenwick's supporters, now that they knew that it would be agreeable to Carlisle to persuade Fenwick to withdraw his petition, "instantly sett about it", and Fenwick complied with their request to oblige Lord Carlisle and them. "Wee have Wills & Inclinations at all times devoted to your Lordships Service", wrote the bailliffs and four others who had voted for Fenwick, on informing Carlisle of Fenwick's decision. Immediately, however, they turned to the matter of the rewards that might now be expected:

"What M^r Lambert hinted to us of your Lordships haveing a security from M^r. Robinson, to answer soe much Money in case the Petition lodged against him should not be tryed, but be withdrawn: Wee desire that may remain in your Lordships custody and possession till such time as that affaire be adjusted to your Lordships satisfaction.

the poll and told him to see that all who had still to vote might be single votes for Lord Morpeth. This was done, but, as only two freemen remained to vote, Lord Morpeth did not gain a majority over Robinson (Donkin to Carlisle, 13 Dec., 1727, Castle Howard MS). That Bowes was anxious that Lord Morpeth should be the first Member returned probably arose from the compromise. Bowes may not have intended to stand the poll at Morpeth (he was returned for County Durham) but his supporters perhaps insisted on voting for him.

1. J.H.C., XXI, 42. 2. Robinson to Carlisle, 21 April 1729 (Castle Howard MS).

"This soe worthy an Act of your Lordships without our privety, Convinces us that your Lordships care of the Publicke good of the Corporation, and for us in particular (after Soe many indignities and affronts by a Majority of our Brethren) is Such a Proof and Testimony of your Lordships goodness as could not be hoped for, shall always be regarded by us and fill our hearts with the utmost thanks and Gratitude.

"Your Lordships care of us in the aforementioned Particular would gladly make us hope that your Lordship will Indulge us with a longer term of the HIGH COMMON, and the receipt of the BURROUGH RENTS, for as the Interest and advantage of these two branches Circulates more amongst your Lordships Friends than five times as many more of these who are Enemies to your Lordships Interest and the good of the Corporation, therefore would gladly persuade ourselves on that Account that your Lordship will give us leave to possess the one and receive the Rents of the other, Soe long as our behaviour is dutifull to your Lordship, for Wee desire to hold neither these nor anything else belonging to your Lordship longer than Wee approve ourselves to be

My LORD,

Morpeth Nov., 28, 1728. Your Lordships faithfull and most
obedient humble Servants". 1

On 21 April 1729, Robinson informed Carlisle that he was about to send him a sum of money, "£150 of which I desire yr Ldp woud distribute as you think most proper att Morpeth":

"...My Lord I give this in compliment to your recommendation of me to the Town, & to those of yr Ldps Friends, who I thought were hardly used att the Election, and to convince yr Ldp & them I had no pt in that transaction, which at the time of the Election I protested agst & I would have those Gentlemen know this Gratuity was given out of that consideration, & not out of any fear of the Petition Mr Fenwick was oblidgd to lodge agst me... & I can assure yr Ldp in that Town I never did nor will act agst yr Ldps Interest, which in my opinion must be lookd after, & some Schemes prevented that are now on foot to lessen or in time to break that settled Interest which has for so many Generations been justly confirm'd in yr Ldps Family".²

1. There is a printed copy of this letter in M.C., I,
f. 20.
2. Castle Howard MS.

The transaction against which Robinson declared that he had protested at the time of the election may have been the desertion of Lord Morpeth by twenty-seven freemen, who had promised to vote for him, in favour of Bowes and Robinson. But, at all events, it is clear that there was at this time considerable opposition to the Earl of Carlisle's interest and much hostility between rival groups of freemen. And, when a contest arose over the election of a master for the Free Grammar School in 1727, the adherents of the rival candidates were, it appears, largely those who had taken opposite sides at the General Election.¹

It appears that Lord Carlisle attempted to bring pressure to bear on those who opposed his interest by depriving them of some privilege they had evidently enjoyed on one of the tracts of common land:

"...The Small Steps your Lordship hath been pleased to make about Morpeth High Comon I hope may have a very good effect on those ungratefull people", wrote John Aynsley, "And as nothing of bounty or Friendship will ever make them doe their dutys, If your Lordship give an order to lessen the advantages of the disaffected party to Cottingwood Its my opinion it may produce very good effects".²

Twice previously the Earl had deprived those who had opposed his interest at parliamentary elections of free access for their cattle to Cottingwood Common,³ but on this

1. See chapter X, pp. 299-307.

2. Castle Howard MS. The letter is dated 20 Jan., 1728, but it may be that this should be corrected to 1729, new style.

3. Writing to Aynsley on 18 February 1730, John Stoddart, who had been at one time employed as a bailiff by the Earl of Carlisle, declared that about thirty-five or thirty-six years previously "all or most of the freemens

occasion he took no action until the corporation took it upon themselves to make a "Course" in the common without asking his permission (they evidently regarded the common as their own property), when he resolved to take vigorous action against them:

"I design to enter upon it", he told Aynsley, "& I will oblige every freeman to agree with me for ye stints yt they put into it; I will likewise prosecute them yt will venture to put in any without first agreeing with me to haveing my leave for their so doing. I can moderate ye value & price of ye stints as I think fit; by this means I shall effectually assert my right, & possibly bring ye Freemen to be a little more dependant upon me, as this is a common yt ye Town can not very well be without".²

The brothers and freemen finally agreed on 25 May 1731 to pay the Earl 1s:6d for every "stint" (two head of cattle or five sheep) they set to pasture on the common.³

A short period of calm ensued. After canvassing the borough in October 1732, Sir Henry Liddell wrote thus to Lord Carlisle:

"I am in the most particular manner obliged to your Lordship for your ready declaration in my favour and the good effects of which I was very sensible of upon my coming here, and I can with pleasure observe to you that the good harmony which seems to be in this place now leaves no room for a third person to give any disturbance".

"I can with great sincerity say", he added, "that from my

Cattle were Stop't and put back that opposed My Lord in the then Contested Eleccon Between the late S^r Harry Bellasis & late Generall Lumley". And, when the brothers had presumed to vote at a parliamentary election some years later, their cattle had been refused access to Cottingwood (Howard of Naworth MS).

1. Carlisle to Aynsley, 6 Sept., 1730 (Howard of Naworth MS).

2. Same to the same, 25 Dec., 1730 (Howard of Naworth MS). 3. The agreement signed by the brothers and freemen is preserved amongst the Howard of Naworth MSS.

first undertaking this affair, I never took any one step to prejudice your Lordships interest".¹ After the General Election of 1734, however, Liddell took steps which appeared highly prejudicial to Carlisle's interest.

"I was told that there wou'd be distinctions made among y^e Freemen in the Distribution of Sr Harry Liddells Favours", wrote Robert Bulman, one of Lord Carlisle's agents, on 27 December 1735, "and therefore I have endeavour'd to get an account thereof to send to your Lpp... According to y^e best information I can get y^e inclosed is a perfect account, by which yr Lpp will see that a Considerable majority of ye Freemen have recd 10£ a peice, & wch no doubt will establish Sr Harry a very great interest. And I am alsoe informed that the severall distinctions of 10£ - 5£ - and nothing are on the following Consideracons (Viz) 10£ a peice for those who promisd Sr Harry at his first Comeing, - 5£ for those who promist Sr Harry a vote whn yr Lpp gave him y^e interest, and nothing for those who reserved both their Votes till they saw Lord Morpeth was secure, wch they did at my request, because Sr Arthur Hasterigg and others were than offering their service, and I cou'd not than tell that Ld Morpeth might not want their Single votes. But to prevent Sr Arthur or any other persons meeting with encouragemt here, I proposed to Mr Wm Richardson an Agent of Sr Harry that a joint interest shou'd be publickly declared between Ld Morpeth and Sr Harry, and desired him to communicate it to Sr Harry and Collie Liddell, wch some short time afterwards he told me he had done and that they approved of it, and woud doe soe, as soon as they came to Town. Accordingly when they came to Morpeth I sumond all Ld Morpeths friends together, and than I waited on Sr Harry and told him the Scheme.

"But to my great Surprize I found that Richardson had imposed upon me, and had no such authoritie from Sr Harry as he pretended, Being than told by Sr Harry that at his first Comeing some of the Freemen had engaged his promise not to join any body, but that he had and woud have a great regard to Ld Morpeths interest. Yet as I knew not what the consequences might be, I prvailed on all yt I cou'd to reserve both votes for Ld Morpeths Service, by which (I have some reason to believe) I disobliged Sr Harry and ye Collie and those poor men forfeited their Favour

1. 26 Oct., 1732 (Castle Howard MS).

tho' next to Ld Morpeth I am very sure all of them woud have given Sr Harry a vote; I am concernd for some of them who are extreamly poor, and for the divisions that these distinctions will surely make upon another Election. It woud have been a trifle to Sr Harry to have made them all alike, wch woud have kept peace & unanimity among them".¹

According to John Nowell, another of Lord Carlisle's agents, some of those who were offered only £5 each had accepted it and others had refused it. The Liddells had evidently secretly promised some of Carlisle's friends that they would pay them the other £5. Still, Nowell feared that the distinction tended to undermine Carlisle's interest, and Liddell's agents, Thomas Shipley, a half-pay officer, and William Richardson, usher of Morpeth Grammar School, would, Nowell alleged, "entirely Sap it out if in their power, for they are men of restless wicked spirit".²

On 22 May 1736, six freemen who had been denied any reward put their "verry hard" case to the Earl of Carlisle:

"When Sir Herry Lyddle offered his Service to the Corporation we Stod off to wait your Lordship opinion In the affair: when that was given in faver of Sir Herry we joynly declared for him and our wating your Lordship Pleasur is the reason why that Intrest hes dis-pised us: you Came at last, say they, into our mesurs but it was through the Earl of Carlisle hands; if that be a reason why they Should neglect us, we hope it is non to your Lordship - our other friends in your Lordship Intrest have received half pay, but we nothing, and yet we are not So much Concerned at our own privet sufferings as to se that Intrest which we always Stuck by, by this means Intirely Sunk; for there are two Gentlemen hear, whose persons and Caractors are not unknown to your Lordship, who make a Great handle of it: what, say they, would any man adhear to an Intrest whose best friends are Treated with so much Indifferince; have

1. Castle Howard MS.

2. Nowell to Carlisle, 21 Aug., 1735 (Castle Howard MS).

not you who received ten pound a man as much Liberty on Cottinwood, as large a share in my Lords favers as those who got nothing. This hes Such an Influence amongst the fremen that the most disarning heare think that the two Gentlemen may make who they plese members: if this power is Suffered to lodge in ther hands, your Lordship hes little to Expect from parsons who are not to be bound by any ties of honour or gratitude.

"We have made free to Speak our Sentiments: we hope your Lordship wil pardon; our Case we think hes not been farly Stated, or if it hes and no notice taken of it, we Imagine your Lordship dos not think an Intrest in this Corporation with supporting, and if this be the case, we Hope the next Electon we may with out offence be allowed to go along with our nighbours, that we may not be any longer laugh at and In sulted by them: we are, my Lord, with Duty & Respect your Lordships most obedient most Humble Sarvants...".¹

Obviously, there was ample justification for the alarm with which Lord Carlisle's agents viewed Sir Henry Liddell's action. Liddell's agents, Shipley and Richardson, were undoubtedly trouble-makers and were very probably the two gentlemen who were making "a Great handle" of the treatment which the freemen in the Carlisle interest had received. John Aynsley once described Shipley as a "Common Incendiary in all Mischievous Acts". "...There is Noe Wickedness", he declared, "but he Can goe into it without any remorse".² Such a man was obviously dangerous as agent of one of the Members of Parliament for the borough who although not an opponent of the Carlisle interest did not scruple to act in a manner that could have jeopardised it.

1. M.C., I, f. 29. Thomas Warriner, bailiff, who was one of the signatories of this letter, declared in a postscript that, despite his attachment to Carlisle's interest, it had been his hard fate to be ill used at the last two elections for the borough. He had not, he declared, received one shilling of the money given by Robinson after Fenwick withdrew his petition in 1728.

2. Aynsley to Carlisle, 3 Oct., 1734 (Castle Howard MS).

But, in the event, Shipley did not attempt to set up a candidate, and Sir Henry Liddell, when about to be elevated to the peerage as Lord Ravensworth in 1747, "earnestly enjoind" Shipley to serve the candidate that Lord Carlisle should recommend "and to let all his Friends in this Town know that he beg^d they woud doe the same". "No Person liveing", declared Robert Bulman in a letter to the fourth Earl of Carlisle, "coud behave with greater Generosity and Respect to your Lordship than S^r H. Liddell did on this Occasion".¹

After informing Carlisle of Liddell's attitude, Bulman made some observations on the state of the borough which clearly indicate the local nature of its politics. Commenting on Carlisle's remark that his father, the third Earl, had always secured the return of one Member for the borough without expense and that he himself expected the custom to be continued in the case of Robert Ord,² one of the candidates he was now recommending, Bulman wrote:

"Your Lordship was the Member who was chose wthout Expence, and I dare say that at all Times any of your Lordships Relations may rely upon the same, But give me Leave to ob-serve to your Lordship, that the way to establish your Lordships Interest so firmly that none would presume to oppose it, wch is the Footing I wish to have it upon, is to engage every indifferent Person that your Lordship may at any Time think fit to recomend, to give some Grati-fication particularly among the poor who can receive no other Benefit from your Lordship, haveing no Cattle to put on Cottingwood nor able to take a Farm.

1. 12 June 1747 (Castle Howard MS).

2. Ord was one of the sitting Members for Morpeth, having been returned on the Carlisle interest in 1741. He was the eldest son of John Ord, under-sheriff of Newcastle. About his appointment as Lord Chief Baron of the Scottish Exchequer, see below, pp. 69-70.

"The Towns Lands are mortgaged for abt 150£ and there being frequent Losses by Fire here, an Engine and Bucketts are much wanted and likewise a new Clock, wch Debt shoud be paid, and an Engine and Clock procured them. I hope your Lordship will excuse the Observations I have made, as you cannot otherwise be rightly informd of the Towns State & necessitys, and wt I am sure will make yr Lordships Interest Firm and lasting. I think Sr H -'s Bounty was generally one thousand Pounds or thereabouts".

Lord Carlisle did not provide a fire engine as Bulman had advised. In December 1752 the principal inhabitants of the borough agreed to get an estimate of the cost of the most convenient fire engine and leather buckets and pipes,¹ and on 8 January 1753 a Common Guild decided against petitioning Lord Carlisle to meet the expense but recommended that the money should be raised either by voluntary subscription or compulsory rate.² Still, Bulman's suggestion that the Earl should provide the corporation with a fire engine, buckets, and clock, and discharge the debt on the town lands, as a means of strengthening his political interest, illustrates the terms in which politics were then thought of in Morpeth.

Although, as a result of transactions at the Michaelmas court 1747 and at a corporate assembly held the same day, Lord Carlisle had secured from the freemen express acknowledgement of the absolute discretionary powers he claimed over the creation of freemen,³ the borough still required careful management. In 1755 some of the freemen evidently rebelled over some matter, though they eventually

1. Guild book, 1741-1835, p. 43.

2. Ibid., p. 44.

3. See above, pp. 50-1.

submitted to the Earl. On 3 April 1755 John Nowell wrote:

"I am very Glad to hear from Morpeth that Your L^dship has overcome the Rebellious Freemen there and brought them to a sense of the duty; they now find their error, and know that Your Lordship is their only true friend & a forgiving Father".¹

He added that the new steward of the Skinners' and Butchers' company wished to apply for "forgiveness of his Costs", which indicates that Carlisle had taken legal action against him.

Certainly, the Earl had caused certain members of the Cordwainers' company who had occasioned a disturbance at the head meeting of the company in 1753 to be prosecuted, and quo warranto proceedings had been taken against one of the brothers who had been set up as alderman of the company by the rest of the brothers who were then at variance with the freemen of their fraternity.² "I had the Inclosed from 4 of the Riotous shoemakers of Morpeth who want to submitt to yr L^dpp in what shape you please", wrote Nowell in June 1755. "They cannot gett the rest of their Brethren to submitt to sign any Paper". Perhaps as a result of the

1. Castle Howard MS.

2. At the head meeting of the company on 11 October 1753, the brothers insisted that a poll should be taken on a proposal that brothers' sons should be admitted into the company without serving an apprenticeship, in the same manner as the sons of freemen. The retiring alderman and freemen opposed any discussion of the matter until a new alderman was chosen. The brothers feared that if a new alderman was elected the retiring alderman would immediately close the meeting, and therefore pressed for a vote on their proposal first. The disagreement between the brothers and freemen finally led to blows and the meeting broke up without a new alderman being chosen. Two months or so later, one of the proctors summoned a meeting of the company: no freemen attended, but the brothers, who constituted a majority of the company, chose one of themselves, William Seaburon, as steward or alderman of the company. But quo warranto

restriction on the creation of freemen which the Earl of Carlisle was imposing, the brothers were showing clear signs of discontent. By 1755 the Earl had decided to punish most of them by depriving them of the privileges they had enjoyed on Cottingwood common; and his agents took it upon themselves to execute the sentence a year earlier than he had intended:

"On Monday we design to put into Cottingwood", wrote John Nowell on 15 May 1755, "& as Yr L^dpp thinks proper to make an alteration next Year as to the Brors being turnd out of Cottingwood except some peaceable ones we thought it proper to do it this Y^r & so putt an end to it at once, and wt Stints we take in to alter the price both of the Freemen & others".¹

Although the brothers were sufficiently active in opposition to incur such punishment, and some of the freemen had only recently been brought to subjection, Lord Carlisle's hold over the borough was now so strong that in September 1755 he recommended Robert Ord, one of the Members for Morpeth, to the Duke of Newcastle for the position of Lord Chief Baron of the Scottish Exchequer,² without any fear of the consequences of the vacancy that would result at Morpeth if the recommendation was accepted.

proceedings were commenced against him at the instance of Lord Carlisle and his agents, and the brothers who had been involved in the disturbance were prosecuted in the Court of King's Bench. John Nowell's remarks about the "Riotous shoemakers" quoted on p. 68 indicate that the prosecution had been successful, and in a letter to Carlisle of 3 April 1755 Nowell mentioned that Seaburon was "for going off to avoid paying his Costs" (Castle Howard MS). The papers relating to the proceedings against Seaburon and the other members of the company are preserved among the Howard of Naworth MSS.

1. Castle Howard MS.
2. Carlisle to Newcastle 14 Sept., 1755 (Add. MSS. 32859 f. 82).

Ord was appointed, whereupon Carlisle informed Newcastle that he would not engage with any candidate to succeed Ord (although Colonel Howard had formerly applied to him about a seat at Morpeth) until he knew whether there was "any particular person that your Grace would recommend".¹ Newcastle, "infinitely obliged", requested Carlisle to delay in choosing a candidate: "I shall acquaint the King with your Lordship's Kindness to me", he promised.²

Some weeks later, Newcastle suggested to Sir Matthew Fetherstonhaugh of Uppark, Sussex, the very wealthy son of a merchant and hostman of Newcastle upon Tyne, who had applied to him a few months previously about a seat for Seaford, Sussex, and had been piqued on being told that it was already promised to someone else, that he should stand for Morpeth.³ Fetherstonhaugh replied that next to Seaford "none cou'd have givn me more Satisfaction than the serving for one in Northumberland"; ~~and~~ he would therefore accept the offer, provided the expense did not exceed £500, or £600 at most, and that he should not have the trouble of a journey to Morpeth, because he was "not in a State of Health to undergo such fatigue". Still, if it was absolutely necessary he would undertake the journey, provided the expense was included in the sum already mentioned.⁴ "My Lord Carlisle has been extremely obliging to me", Newcastle replied. "I did imagine that

1. 28 Sept., 1755 (Add. MSS. 32859, f. 257).

when It was not in My Power to assist You in a Borough in Sussex, one in Northumberland, attended with little Expence, no Trouble, & a Certainty of Success, would not be disagreeable". Lord Carlisle had informed him through Ord that the expense would be £600 and "no more". Ord, however, said that there would also have to be a dinner, but that could not exceed £20: "upon that We shall not differ", declared Newcastle. He was anxious to have Fetherstonhaugh in Parliament before the "great Question upon the Russian Treaty" came before the House in about two weeks' time, and Ord's writ would therefore be moved on 20 November and sent by special messenger to Morpeth. The election would thus be held and the return made within a fortnight. There was no need, he added, for Fetherstonhaugh to give himself the trouble of a journey to Morpeth.¹

Fetherstonhaugh was unanimously elected on 29 November 1755. His election was a triumphal assertion of the power and influence of Lord Carlisle, on whose instructions the whole electorate had voted for someone they had never seen. The expense of the election was relatively small and was met by Fetherstonhaugh himself, though the twenty pounds for the dinner was possibly paid by the Treasury: "we can

2. 4 Oct., 1755 (Add. MSS. 32859, f. 372).
3. History of Parliament Trust's biography of Fetherstonhaugh.
4. 17 Nov., 1755 (Add. MSS. 32861, f. 9).
1. 19 Nov., 1755 (ibid., f. 25).

easily find Means to pay that", commented Newcastle in a letter to John Page who was handling the negotiations with Fetherstonhaugh.¹

If Lord Carlisle was able to avoid personal expense on this occasion, he had still to try to oblige the free-men. The following letter which he received from John Nowell seven months after Fetherstonhaugh's election provides an example of what was entailed:

"...I have a letter from Mr Brown Your late Servt (as Surveyor) from Berwick by last Post who Says Mr Thomas Dickonson (for whom You got the Coal and Candle in the Garrison there) lyes at the point of death - I wish it could be got for Thomas Clark y^e Bayliff who is a Free-man of Morpeth, and who Mr Naylor promised something should be done for him. I have writ to Genl Howard to acquaint him I desire he will secure it for Clark as yr Ldpp is out of Town and told him I have acquaint. Yr Ldpp with it and doubt not but Your Ldpp will ask it. I know not whether I should have troubled the Genl or not but I hope he will Pardon me as it is for Serveing yr Ldpps Interest at Morpeth & a post lost may loose the place".²

Oliver Naylor, Rector of Morpeth, was about this time acting as chief manager of the borough for Lord Carlisle, and his promise to Thomas Clark may have been made in connection with Fetherstonhaugh's election. Whether or not Carlisle took any action in the matter is not known, but at all events Clark got the place.

As owners of the Manor of Morpeth and several neighbouring Manors, the Earls of Carlisle had opportunity to reward the freemen and place them under obligations in

1. 19 Nov., 1755 (Add. MSS. 32861, f. 27).
2. 26 July 1756 (Castle Howard MS).

other ways, though the freemen's greed for such favours made it difficult, if not impossible, to satisfy them:

"Wee have Let the Farms of w.^{ch} a List of the names are inclosed, and at or about the price wee Valued them, Some more and Some less", wrote Nowell on 1 December 1757. "... Wee have furnish'd most of the freemen of note: I hope to answer friendship but not to answer their avorititous temper".¹

The grant of farms "greatly undervalue" was mentioned by an opponent of the Carlisle family in 1766 as one of the means by which the Lord of the Manor had brought "undue influence" to bear on the freemen.²

During the second quarter of the eighteenth century, then, the Lords of the Manor sought to build up and maintain their interest in Morpeth by restricting the increase of freemen and by laying the existing freemen under obligations by leasing farms to them on favourable terms and by granting them privileges on other lands such as Cottingwood Common. Although the third Earl of Carlisle was able to secure the return of his son without expense, the freemen, particularly those who were poor, clearly expected a pecuniary reward from the other Member, and in the latter part of this period it evidently became customary for the Lord of the Manor's agents to pay each freeman £20 "as a Compliment" for voting for the candidates recommended by Lord Carlisle.³ In the seventeen twenties,

1. To Lord Carlisle (Castle Howard MS).

2. Unsigned note by one of the lawyers acting for Crawford and Hancock in the first two mandamus causes (M.C., I, ff. 110-111).

3. Corporation of Morpeth: case 3, 21 Nov., 1765 (M.C., I, ff. 104-9).

some members of the corporation sought to make terms with the candidates whereby the financial difficulties of the corporation would be relieved, but after 1727 there is no evidence of any attempt by the freemen at this sort of bargaining with the candidates. Still, as Robert Bulman pointed out in 1747, one of the means by which the Lord of the Manor could strengthen his interest in the borough was due provision for the corporation's needs.

From 1729 onwards, the Earls of Carlisle tightened their grip over the borough in every way. Sir Henry Liddell's policy had indeed appeared likely to undermine the Carlisle interest, and the agents whom Liddell employed were evidently hostile towards it, but these dangers did not materialise. Some of the freemen had also tended to be hostile, but by 1755 all opposition from them had been subdued. Morpeth was by that date a pocket-borough in which elections could be conducted with "little Expence, no Trouble, & a Certainty of Success", as Sir Matthew Fetherstonhaugh's election showed. The other Member was Thomas Duncombe of Helmsley, Yorks, the fourth Earl of Carlisle's son-in-law.¹ Yet strong as the Carlisle interest was, it was not impregnable, and in the course of the next two decades a series of vigorous assaults brought it to the verge of destruction.

1. He represented Morpeth from 1754-1768, and Downton 1768-1774. He was returned again for Downton in 1774 but was unseated on petition. He was Colonel of the North Riding Militia and uncle to Charles Duncombe who was created Lord Feversham in 1826.

CHAPTER III

THE MORPETH ELECTION OF 1761

On 4 September 1758, Henry fourth Earl of Carlisle died. His eldest surviving son, Frederick, was at the time only ten years of age, and management of his affairs thus fell to his father's Executors, John Lord Berkely of Stratton, and Robert Ord, Lord Chief Baron of the Scottish Exchequer and formerly Member of Parliament for Morpeth.

In October the following year, the Duke of Newcastle wrote to Sir Matthew Fetherstonhaugh enclosing a letter from Chief Baron Ord, the contents of which had "concerned & surprized" him "extremely".¹ The letter dated 5 October 1759 ran as follows:

"I was sent for to Morpeth a few days ago upon a Stir raised there among some of ye Voters, occasion'd by some of ye Yorkshire Militia Officers offering mony for ye chusing of a Member ye next Election: ye particulars of this affair would be too tedious to trouble your Grace with, but I found it necessary to name immediately two Candidates who would not be disagreeable to them; our Chief Manager had sent an Express to Lady Carlisle at ye same time that he wrote to me, proposing to her to name Mr Duncomb & my Son for Candidates & had received her answer approving of his proposal; I found ye Voters would not agree to Sr Matt: Fetherston, & ye necessity of naming ye Candidates immediately made me consent to ye naming my Son without waiting for your Graces approbation, which I would not otherwise have done, & for which I beg your Grace's pardon & excuse; what ye consequence has been I do not yet know having been obliged to set out ye same day to hold ye Chancery Sittings here [Durham], but I believe there is no reason to doubt of ye success; I thought it proper to give Your Grace the earliest acpt of this affair, being very anxious that this & every other undertaking of mine May meet with your Graces approbation".²

1. 13 Oct., 1759 (Add. MSS. 32897, f. 59).

2. Add. MSS. 32896, f. 306.

Newcastle, however, was offended, and would not reply until he heard from Fetherstonhaugh:

"I shall certainly acquaint My Lord Chief Baron That I think myself very unkindly used by His Lordship", he declared. "What effect that my have upon him who has such obligations to me; I know not. I am persuaded the late Lord Carlisle would not have served me so. In all Events, I hope there can be no Doubt of your having a Seat in Parliament which may be very agreeable to you".1

Meanwhile, Ord wrote to Fetherstonhaugh from Durham:

"When I waited on You last in Town, You desired me to let you know when any resolution should be taken concerning ye proposing Candidates for ye next Election for Members for Morpeth; I came through that Town a few days agoe in my way hither, I found a Stranger had been making very great offers there, which had not been in ye least accepted of, but had raised a ferment among ye lower Sort which made them insist upon ye Candidates being named or they should look upon themselves at Liberty to engage to whom they pleased; this my Lord's Managers thought proper to comply with & to avoid further trouble to name such as they perceived would fall in with ye inclination of ye Voters; for this purpose they wrote to Lady Carlisle & me to propose Mr Duncomb & my Son; this letter missed me, but upon my coming to Morpeth they insisted so strongly upon ye expediency of it, that I could not avoid allowing them to name my Son with Mr Duncomb; they have accordingly since I left Morpeth named them for Candidates, & as I understand they are unanimously agreed to, & an end put to all ye other applications; this I thought proper to acquaint you with as soon as possible...".2

Fetherstonhaugh enclosed this letter when he replied to Newcastle's on 19 October 1759. He had, he declared, been "long sensible of the secret Contrivances for this Change":

"I had a Letter from a Gentleman near Morpeth dated ye 7th instant, that fully inform'd me the Design was now disclos'd, and that the next Day Mr Duncomb & Mr Ord were to be propos'd. The Words of the letter are these;

1. To Fetherstonhaugh, 13 Oct., 1759 (Add. MSS. 32897, f. 59).
2. 9 Oct., 1759 (Add. MSS. 32897, f. 245).

Having heard of the Bustle at Morpeth, I determin'd to see Mr Naylor to know what was to become of You; (Mr Naylor, My Lord, is the Manager for Lord Carlisle's Interest there, & is a Clergyman) Accordingly I went to him Yesterday; He told me You cou'd not be one, that the Freemen were offended, & resolv'd not to chuse a Person they had never seen & that to preserve the Intst of the Carlisle Family he was oblig'd to honour the Freemen, who had been tamper'd with by an Attorney or two, & a great Sum of Money offerr'd them: That they were to have a Meeting y^e next day, when Mr Duncomb and Mr Ord (the Chief Baron's Son) were to offer themselves Candidates & He had no doubt but these two Gentlemen wou'd be agreeable, & there wou'd be an end of the Bustle. These are the Words of my Friend's Letter who closes it with saying, the Chief Baron has outwitted You".

Fetherstonhaugh then mentioned some circumstances from which Newcastle would be able to judge whether the whole affair did not look like a "design'd thing". During the life of the late Earl, Oliver Naylor (Rector of Morpeth) had express'd his friendship for Fetherstonhaugh in frequent letters; but, soon after the Earl's death, his letters ceased, even though Fetherstonhaugh had offered, through a friend, to procure a place for his son as a Writer to the East Indies. Comparing this with his former conduct, Fetherstonhaugh was forced to the conclusion that he was "then going into the Chief Baron's Scheme". Moreover, when the Chief Baron had dined with Fetherstonhaugh the previous winter, and Fetherstonhaugh had asked him, as a friend, for his advice about Morpeth, telling him that he had no intention of being returned for the borough on any other than the Carlisle interest, he had given "but a very short kind of an Ans'r", had appeared "uneasie at the Subject", and had referred him

to Lady Carlisle, declaring that he was determined not to act as an Executor while she did so. Fetherstonhaugh, suspecting that what his friends had hinted about Ord's son and Morpeth was but "too true", decided to visit the borough to feel the pulse of his constituents, but the Duke of Newcastle, who for some reason or other wished Fetherstonhaugh to go to Lewes at the time, persuaded him to postpone his visit. "...I believe My Lord, You may remember that I told you I shou'd go, for that the Freemen wanted to see me & might be offended", he observed, "But you ans'd. me another time wou'd do as well; So I thought no more on it. Indeed I did not think these designs woud have come forth So Soon". He had done nothing to disoblige the freemen, but on the contrary had done everything he could to serve them, and therefore had no reason to believe that the dissension had arisen "without Instigations". Had the fourth Earl of Carlisle lived, he was sure that neither Newcastle nor himself would have had reason to complain.

Since Ord and his son appeared to be the immediate gainers from these transactions, Fetherstonhaugh not unnaturally concluded that the discontent, which was evidently directed primarily against himself, had been deliberately provoked to further the Chief Baron's "scheme". But, although Ord took advantage of the "Stir" to exclude Fetherstonhaugh and set up his son, it is unlikely that it

was deliberately instigated for that purpose. The freemen were really discontented, and far more seriously than Ord appreciated. Nor did the nomination of two candidates quell the unrest. Within six months, some of the freemen had risen in revolt against the Carlisle interest and were seeking to set up two candidates in opposition to those "unanimously agreed to" in October 1759.

The only evidence relating to this critical period is contained in legal documents drawn up several years later and written from highly interested points of view. Still, once allowance has been made for this, the information they provide can be taken as substantially true. According to a case drawn up in November 1765 by the opponents of the Carlisle family, the opposition arose when the Lord of the Manor's agents, seeing that as a result of his control over the admission of freemen the borough was "wholly" in his power, and "thinking they had nothing to fear",

"made other encroachments on their [the freemen's] Priviledges relating to Lands etc. belonging to the Borough, which so irritated Some of the most considerable Freemen, that they were determin'd if possible to break their Chains...".¹

Possibly the ownership of Cottingwood common had given rise to dispute between the freemen and the Carlisles' agents: in December 1756, many documents relating to

1. Corporation of Morpeth: Case 3 (M.C., I, ff. 104-9).

previous disputes between the Lord of the Manor and the corporation over this land were left with one of the Carlisles' agents at Morpeth,¹ and in March the following year many documents relating to Cottingwood were taken either to or from Castle Howard.² The transfer of these documents suggests that the title to Cottingwood may have once again become an issue between the Carlisles and the corporation. Perhaps the "turning out" of the brothers (except some "peaceable ones") in 1755 had provoked a challenge to the Lord of the Manor's title to this land.³ Certainly, by 1773 Cottingwood had been "taken from" the corporation - exactly when is not clear - but, even if the freemen were not immediately dispossessed, it is possible that the dispute had started before the General Election of 1761.

At all events, by May 1760, serious opposition to the Carlisle interest had broken out. The following account almost certainly exaggerates the extent of the opposition but in essentials it is probably true:

"For a long series of years the family of Carlisle had been accustomed to name the members of Parliament who had as regularly been returned by the corporation.

1. "A schedule of sundry Papers relating to the Earl of Carlisle's Estate in Northumb^d." (M.C., IV, ff. 27-8). The papers listed largely concern Morpeth mills and Cottingwood. The schedule bears an endorsement to the effect that these documents were left with Mr Potts at Morpeth 22 Dec., 1756.

2. "Writeings Received from Mr Cleaver at Castle Howard 23rd March 1757". This list is preserved among the Howard of Naworth MSS. It is not known who "received" these documents. Three of the documents were acknowledgements by the bailiffs and burgesses of the Lord of the Manor's right to Cottingwood.

From this almost uninterrupted possession they began gradually to regard it as a part of their private property and in consequence of this notion long adopted some of the family having previous to the late elections [1761] treated the freemen de HautenBas and in such manner as they judged tyrannical & an insult upon their liberties the whole corporation & those who wished well to it were in an uproar....To such a height had this political contest inflamed the minds of the freemen that any opponent of the family of Carlile would have been received in Morpeth with open Arms".¹

Through regarding the control of the parliamentary representation of the borough as part of their private property, then, the Carlisles had not been "Solicitous to oblige the Freemen, or behave toward them with that Complaisance & deference they expected", and, "Jealous of their libertys and provoked at the disrespect they thought they were treated with", the latter had determined to oppose that family's interest.² Or, as another account puts it,

"Some of the Freemen who yet breathed the Spirit of Liberty & Independency were determined to Shake off the Yoke of Slavery under which they had so long groaned & assert their native & constitutional rights".³

3. See chapter II, p. 69.

4. Queries submitted to the consideration of the independent freemen of Morpeth (c.1773), M.C., II, ff. 2-3.

1. Answers for the right honble John Ld Gairlies to the Condescendance for John Bulman, p. 2. The remainder of this chapter is almost entirely based on evidence from documents drawn up in the process "Bulman v the Earl of Galloway and Lord Gairlies" which was carried on in the Scottish Courts from 1762-1766. Bulman brought the action as Administrator of the estate of his relative James Aitkenson, an attorney of Morpeth, to obtain payment of £500 which Bulman alleged was due as Aitkenson's fee for services as Gairlies' agent at the Morpeth election of 1761. A full account of the suit is given in appendix II. The documents are preserved in the Scottish Record Office and the Signet Library, Edinburgh.

2. Memorial for Galloway and Gairlies, pp. 1-2.

3. Narrative of the Oppressions of Morpeth.

Foremost among the opponents of the Carlisles was James Aitkenson, an attorney, who although not a freeman was a "man of consequence in the borough"¹ and had been appointed town clerk by the corporation in 1742.² It was not, however, in this official capacity that he led the opposition to the Carlisle interest: his motives for doing so are far from certain and were the subject of much dispute after his death in November 1761.

The first task of the opposition party was to find two candidates to contest the borough. Major Robert Mitford of Mitford, near Morpeth, who had strong local connections, had been awaiting an opportunity to offer his services and was an obvious choice for the discontented freemen.³ While on occasional visits to Scotland, Mitford had heard that Lord Gairlies, eldest son of Alexander sixth Earl of Galloway, was anxious to enter Parliament, and, having become acquainted with him, proposed that they should together contest Morpeth, which "from the prevailing sentiments of the Inhabitants" would be an "easy Conquest".⁴ Gairlies evidently declined to engage unless there was the "greatest probability of success", but he allowed Mitford

1. Information for Galloway and Gairlies, p. 4.

2. Guild book, 1741-1835, p.8.

3. He was the eldest son of Robert Mitford of Mitford Castle, high-sheriff of Northumberland in 1723, who died in 1756. Mitford was made a major in the army in 1745 and at the time he contested Morpeth he was on half-pay. He had been a candidate for Leicester in 1754 but was unsuccessful. See Burke, The Landed Gentry, and W.W. Bean, The Parliamentary Representation of the Six Northern Counties (1890), p.561.

4. Answer for Galloway and Gairlies to Petition of John Bulman, p. 8.

5. Ibid., pp. 8-9.

to mention his name in the borough.¹ Sometime during spring 1760 Gairlies visited Morpeth to "feel the pulses and Sound the inclinations of the Electors". He met Aitkenson, but the latter evidently tried to dissuade him, warning him that his connection with Mitford would prove a "dead Weight" and "ruin all his Measures".² Gairlies, however, having returned to Scotland again met Mitford, who was now "greatly encouraged" by letters from his friends in Morpeth,³ and agreed to stand subject to his father's approval. The Earl of Galloway and Mitford then met and agreed on joint measures for the contest. If the sums of money which they decided should be immediately advanced proved insufficient, they were to go to an "equal expence not exceeding a sum ... mentioned".⁴

Mitford now informed his friends that Gairlies would stand, whereupon they suggested that to clear up all doubts and make final arrangements for the plan of campaign some of them should meet Mitford and Gairlies. On 26 May 1760, the Earl of Galloway informed Aitkenson that Gairlies had "left it to me to meet with the Major and settle with him the time and place for the meeting you propose, which both he and the Major entirely approve of and he takes it as a very great proof of your zeal and anxiety to serve him and the Major; accordingly we have agreed to meet you and your friends at Kelso, upon Monday the 2d June. I wish the delay may not hurt our scheme".⁵

1. Answer to Bulman's Petition, p. 9.
2. Information for Bulman, p. 3. Gairlies' visit to Morpeth and meeting with Aitkenson is completely ignored in the documents drawn up on behalf of Galloway and Gairlies in this suit.
3. Ibid., p. 4.
4. Galloway to Aitkenson, 15 July 1760, quoted ibid., p. 9.
5. Quoted in Information for Bulman, p. 7.

The meeting was held as arranged. Two or three voters attended as "Commissioners on the part of the Town"; they were accompanied by Aitkenson, William Crawford, a wine merchant of Morpeth, and William Weatherhead, who had been elected as a freeman by his company in 1757 but had not been sworn in at the court leet. These three, although not themselves freemen, were "as warmly engaged as it was possible for them to be".¹ Any doubts that Gairlies may have still entertained were swept away: he was assured that it would be "extremely easy to prevail" while the Carlisles were "at variance with the freemen", and that the expense would be "very inconsiderable": at the utmost, the election would not cost him above six hundred pounds sterling.³ Accordingly, the agreement between Mitford and Galloway was ratified, and their understanding as to the sharing of the expenses "fully settled".⁴ Mitford and Gairlies each undertook to advance £300 to Aitkenson and Crawford "to be by them applied as they should see most proper",⁵ but it was agreed that if it was found impracticable to carry the election for both candidates "the majority of the friendly electors should determine which of the two should have their votes, and the chance of election, with one of the friends of the family of Carlisle".⁶ Finally, each of the candidates (it was later

1. Answer to Bulman's Petition, p. 9.

2. Information for Galloway and Gairlies, p. 5.

3. Memorial for Galloway, p. 3.

4. Information for Bulman, p. 4; Galloway to Aitkenson, 15 July 1760, quoted ibid., p. 9.

5. Ibid., p. 4.

6. Ibid., p. 4.

alleged) chose an attorney to look after their individual and joint interests, Gairlies appointing Aitkenson and ¹ Mitford another Morpeth attorney, William James. Gairlies, however, subsequently denied that he had formally appointed Aitkenson his agent or had employed him, in a professional capacity, in any business relative to the election: Aitkenson had been chief spokesman for the deputation from Morpeth at Kelso, and as he appeared to be the "most intelligent and active man of the party" Gairlies and Galloway had carried on a correspondence with him during the election campaign;² but his endeavours to secure victory for Gairlies were prompted by friendship, love of liberty, regard for the borough and, to some extent, by personal ambition.³ On the other hand, it was alleged that Aitkenson acted as he did because he had been employed by Gairlies in a task which fell within the scope of his profession: he had consented to act as Gairlies' agent only at the "earnest Intreaty of Lord Gairlies and the freemen there present" since he fore-saw "almost unsurmountable difficulties" in the way.⁴ Certainly, Aitkenson did not disguise the difficulties, but, as the following letter of the Earl of Galloway to him shortly after the meeting at Kelso shows, Galloway and Gairlies entrusted the entire management of the election to him:

1. Information for Bulman, p. 5.
2. Information for Galloway and Gairlies, p. 5.
3. See appendix II.
4. Replies for Bulman to the Answers given in for Galloway and Gairlies (to his Condescendance), p. 3.

"Both my son and I are most sensible of your friendship, and of your zeal and activity for Mr Mitfoord's interest and his, and we make no doubt of your utmost endeavours to bring the affair to a happy conclusion; he [Gairlies] showed me the present situation of the town, with a list of the freemen in their different classes, and your opinion of their dispositions, inclinations, and attachments. Our opposite party are surely very numerous; twenty-one at first out-setting is very promising: pains, promises, and generosity, I shall not call it money, gives too fair a prospect of making at least nine more, and that would carry the election; yet, as the affair is left entirely to your discretion, and you are perfectly capable to manage it, I don't despair of success. I have likewise this satisfaction, that as you know perfectly the dispositions and characters of all the freemen, you'll soon be able to judge with some certainty, whether there is a probable chance of success or not; and 'tis, no doubt, much better and wiser to give up a losing game, than to persist in it; yet, to be able to form a certain opinion, and to bring the affair to a trial that can be depended upon, money must be laid out. I make no doubt Mr Mitfoord has given directions that way already; I had no possible opportunity of doing it till now. You shall not find me backward in this, or any thing else that can contribute to our success. You may draw upon Mr John M'Kenzie, writer to the Signet, at Edinburgh, for three hundred pounds; he is my doer or agent, and I have given him directions to answer your draught at sight; if as much more is afterwards necessary to secure the affair, it shall be ready at a call: yet I expect that the money will be so laid out, that, in the event of a disappointment, it will be returned; I mean the greatest part of it. Lord Gairlies offers his compliments to you; he would have wrote to you himself, but he leaves all money transactions to me, as it is not proper he should know anything of that transaction".¹

By joining Mitford, Gairlies had the prospect of twelve or fourteen votes at the outset, but several of them were "not to be Depended on".² To carry the election, the

1. 10 June 1760, quoted in Information for Bulman, pp. 7-8.

2. Replies for Bulman to Answers for Gairlies and Galloway, p. 3; Memorial for Bulman, pp. 11-12. The Defenders, however, alleged that twenty freemen had declared for Gairlies and that only three or four who were "dubious" had to be gained (Answer of Gairlies to Bulman's Condescendance, p. 4). Galloway's letter quoted above does not suggest that he expected so much support at that stage, and the Defenders elsewhere admit that the task proved more difficult and expensive than had been anticipated (Memorial for Galloway, p. 3).

doubtful votes would have to be secured and twelve or fourteen more gained. The candidates in the Carlisle interest with twenty-one freemen already in their favour must have seemed to have a much better chance of victory. Thomas Duncombe was one of the sitting Members for the borough, and John Ord's father had represented it from 1741-1755. Besides the support of the Carlisle family, they "had the Interest of the whole County" behind them.¹ Gairlies, however, had "no patrimonial Interest, Ministerial Influence, Acquaintance, Connection, or friendship"² in the borough except what he derived through his alliance with Mitford; but, as Aitkenson had evidently predicted, this connection did not work well in practice. Mitford's affairs soon fell into disorder,³ and, despairing of success, he was "very tardy in granting the necessary supplies".⁴ On 15 July 1760, Galloway wrote to Aitkenson:

"...I am a little surprised at what you write me, that Mr James told you that Mr Mitfoord had given him no directions with regard to advancing three hundred pounds, as was concerted; however, that Mr James said he would do it; but what he said further, surprised me still more, to wit, that he was apprehensive that Mr Mitfoord and I did not perfectly understand each other, with regard to the proportion of the expence, and that he would not undertake for anything further. Mr James had certainly mistaken Mr Mitfoord: when he and I communed about this affair, and when he proposed it to me, it was always understood that we were to be at equal expence, not exceeding a sum we mentioned. I believe this is the constant practice in affairs of this kind; and further I apprehend it was fully

1. Condescendance for Bulman, pp. 1-2. The Defenders, however, replied that it was well known that Gairlies' opponents had not the "whole interest" of the Carlisle family in their favour, and that, even if they had, such was the spirit then prevailing in Morpeth that they would have found it "no very strong support" (Answers for Gairlies to Condescendance for Bulman, p.3). There is no other evidence to suggest that Duncombe and Ord had not the full support of the Carlisles.

settled at the meeting at Kelso. However, to prevent all mistakes, I have wrote to Mr Mitfoord, to desire that he would give directions to Mr James to advance the money that may be necessary for defraying our expences equally betwixt us, as I was ready so to do upon your advising me that more was wanted: but I do own, that in case Mr Mitfoord should not incline to advance any more money, and to go on in an equal expence, I should be obliged to give it up likewise; for I could not think of carrying on an expence against a couple. But I have no imagination that it can come to this event. Let me know frequently how matters go on; and whether our prospect of success grows better or worse".¹

Mitford did advance the sum agreed upon, but only by instalments, the first of which Aitkenson did not receive until 8 September 1760.² By 15 October, only £6-12s-0d remained unpaid, but it was now obvious that there was no chance of victory for both Mitford and Gairlies. As agreed at Kelso, therefore, the majority of their mutual friends selected the candidate who was to have first chance of election.³ They chose Gairlies, perhaps as a result of Aitkenson's influence:

"I'm most sensible of your friendship, activity, pains, and parts, to which the prospect of my son Lord Gairlies' success is entirely owing", Galloway wrote to him on 24 October 1760. "I am heartily sorry that 'tis not in your and our friends' power to carry the election for both Major Mitfoord and my son; and, since that is the case, the preferring Lord Gairlies is a mark of regard I could scarcely have expected. I must regret the Major's disappointment; you know my son did every thing in his power to serve his interest; and your having satisfied the Major, and in some measure made him easy, and hearty to serve my son, has given me great satisfaction. I don't pretend to give you my directions; I shall be ready to follow yours".⁴

Aitkenson was indefatigable in the cause, keeping those

2. Condescendance for Bulman, p. 1.

3. Ibid. Information for Galloway and Gairlies, p. 5.

4. Information for Bulman, p. 8.

1. Quoted ibid., pp. 8-9.

2. Aitkenson's account of receipts and disbursements, appended to the Answer to Bulman's Petition.

3. Information for Bulman, p. 9. 4. Quoted ibid., p. 9. Mitford, however, did not withdraw altogether from the contest. See below, p. 95.

who had declared for Gairlies "stiddy to their promises", confirming the "wavering", and, "by the utmost activity and address", gaining those who had been undecided.¹ Still, Chief Baron Ord, who on 9 October 1760 had discussed the situation at Morpeth with Bishop Trevor was not at that time unduly alarmed: "Chief Baron Ord is now with me who is attacked at Morpeth by Ld. Gairlies whose trust is in money and the disadvantage of Ld. Carlisle's minority", wrote Trevor. "The Chief Baron apprehends expence, but not much danger".²

Perhaps one reason why Ord did not think that there was much danger of his son's being defeated was that he believed that the Carlisle family had the right to create honorary freemen whenever they pleased and could thus make a majority in their interest on the very eve of the election. Some "transactions" in Scotland relative to this privilege of the Carlisle family had already occasioned the publication of private letters in the Newcastle Journal.³ Galloway and Gairlies had thereupon ordered Aitkenson to publish an extract from one of Galloway's letters, which he did, introducing it with the statement that as "some very extraordinary Things" had been said about this letter he thought it proper to publish an extract from it "in order that if any Person shall think

1. Information for Bulman, p. 5.

2. Quoted Hughes, North Country Life in the Eighteenth Century (1952), pp. 288-9.

3. Information for Bulman, p. 5. I have searched the Newcastle Journal for 1760 but have failed to find the correspondence alluded to.

himself injured by it, he may know whom he ought to apply to for Satisfaction". The extract, dated 23 September 1760, ran as follows:

"...As I depend upon your [Aitkenson's] Friendship, Truth, and Honour, I must inform you that I have seen a Friend who is an Acquaintance of My Lord chief Baron Ord; he told me that the Baron said to him that he was certainly informed that I was engaged with Mr Mitford to endeavour to carry the Town of Morpeth for Mr Mitford and my Son; that he was sorry for it, because he had a Regard for me; that he was convinced I wou'd not have engaged in Such an Affair, if I had known the Situation of that Town; that the Family of Carlisle could add as many Freemen as they pleased, even the Day before the Election, who had all a Title to vote So that they could make a majority at any Time".¹

Ord evidently did consider himself injured by publication of this letter containing his alleged remarks on so highly controversial a subject, and he, or his friends, therefore moved the court of King's Bench for an information against Aitkenson "for having published in the Newcastle paper, an extract of a letter from the Earl of Galloway to him, reflecting on a person of great distinction in this country, and charging him with having said, The family of Carlisle could make as many freemen in the borough of Morpeth as they pleased, the day before the election".² The information was not granted, though the prosecutor was "left to try an indictment against Mr Aitkenson at common law". Steps were therefore taken to safeguard Aitkenson against summary procedure,³ but the case does not appear to have been carried any further.

1. Newcastle Journal, 4 Oct., 1760.
2. Quoted in Information for Bulman, p. 6.
3. Ibid., p. 6.

About the same time, Aitkenson, evidently at the direction of Galloway and Gairlies, wrote a pamphlet on the subject of honorary freemen in which he supported the "privileges of the borough".¹ "The pamphlet you published has done you great honour", Gairlies wrote to him from London; "your name is very well known to a number of people of the first fashion".² Again, Galloway and Gairlies called upon Aitkenson to draw up a case on the constitution of Morpeth in general and "particularly with respect to the election of freemen, and the rights of honorary burgesses in trade, or out of trade, to vote in the election of members to parliament".³ This case Galloway laid before Council at London with a view to having the existing honorary freemen disfranchised if that became necessary.⁴ Despite the rumours that had arisen, no new honorary freemen were created: whether or not Ord had really hoped to carry the election for his son by having honorary freemen made is not clear, but he must have realised that the rights of such freemen would almost certainly have been made the subject of a petition. Some of Gairlies' supporters were in distressed circumstances of which their opponents were quick to take advantage and Aitkenson was put to great trouble to defend

1. Information for Bulman, p. 5.

2. Quoted ibid., p. 5.

3. Ibid., p. 6.

4. Bulman's Petition, p. 8.

them. For example:

"One John Charter a freeman who had failed in his business about 12 Years before the Election and was reduced to Charity, he haveing promised his Vote for Lord Garlies, The Opposite Party influenced one of his Creditors to Arreast him and put him in Goal to deprive him voting. Mr Atkinson bailed him, and defended the Action, Charter declareing the debt was not Just. Mr Atkinson attended the Assyses at Newcastle and feed Councill upon the Tryall".¹

The result of the trial is not known, but Charter voted for Gairlies and Mitford at the election.

Aitkenson made a valiant attempt to secure the vote of another freeman in similar circumstances:

"One Thomas Gayer a freeman in Goall promised his Vote to Lord Garlies if he was at liberty. A Bill in Chancery being fitted to have Gayer's Estates in Mortgage foreclosed, And he not putting in his Answers thereto he was Confined by Virtue of an Attachment for Contempt. Mr Atkinson had a great deall of trouble in this Matter And his Agent charges him near 40 shillings for Attendance &c Upon Lord Galloway and Lord Garlies when in London upon it. The Gentleman to whom Gayer owed the Money lived 20 Miles from Morpeth And his Attorney at near the same distance. Mr Atkinson Waited upon them at different times to make the matter up and Offered them 400 Guineas to discharge Mr Gayer and Assign over the Securities, which they then agreed to accept: after this Agreement was made, the Attorney for Gayer's Creditor was influenced (as supposed) by the Opposite party and refused to Ratify the Bargain. Mr Atkinson in order to carry his point went to the high Sheriff near 30 Miles distance, he haveing power to take the money and Discharge him, which he refused: being thus disappointed Mr Atkinson applied for a Writt of Habeas Corpus...".²

The writ was sent to Morpeth by express, but for some unknown reason Gayer did not vote at the election.³

1. Bulman's Petition, p. 8.
2. Ibid., p. 7.
3. Copy of the Poll (M.C., I, f. 53). Gayer is listed among three freemen who did not vote.

A more unusual case with which Aitkenson had to deal was that of James Hannay who had for several years been under sentence of excommunication for defamation. By this time, the person on account of whom he had been excommunicated was dead, and in order "the better to intitule Hannay to Vote" it was thought advisable to have the ban removed. Aitkenson therefore applied to one of the Proctors in the Ecclesiastical Court of Durham and obtained the removal of the excommunication before the election.¹ But, evidently unknown to Aitkenson, Hannay had sometime been disfranchised, perhaps on account of his excommunication,² and if he actually tendered his votes they were disallowed.²

The previous year, the death of one of the bailiffs had given Aitkenson and his friends hope of securing a successor in Gairlies' interest. Although there was "no precedent in the Memory of any One... Livesing of [a] person appointed Bayliffe in place of a deceased Bayliffe",³ the constitution of 1523 had decreed that the aldermen and the seven companies should elect a successor to a deceased bailiff, alderman or other officer "immediatlie", and it seems from the following account that this was the procedure by which Gairlies' supporters hoped to achieve their aim:

1. Bulman's Petition, p. 6.
2. He is noted as disfranchised in the copy of the poll previously referred to. At the court leet on 30 March 1761, two days after the General Election, Aitkenson appeared for Hannay and moved the court several times for production of the Court roll on which the disfranchise had been entered (see chapter IV, p. 99). This suggests that he did not learn of the disfranchise until the General Election.
3. Morpeth Manor Court Rolls, 1736-1770, ff. 335-6.

"It was thought advisable at the death of a Bailiff who died in his Office, to elect a New one in his Room before the time the two Bailiffs are usually chosen; Gabriel Dun one of Lord Garlies Voters was pitched on for that purpose; but as he was opposed by the Carlyle family (who wanted the Returning Officer to be in their interest) And threatened to be prosecute &c. Mr Atkinson wrote and received Answers from Lord Galloway on this Subject; Upon which it was resolved, that Mr Dun should stand and Severall common Guilds were called, where Mr Atkinson Attended And explained to severall freemen the Nature of the Affair, And drew a Bond of indemnity from the Aldermen of the severall Companys to Mr Dun, And also Bonds from the Members of the severall Companys to their Respective Aldermen; And Moreover drew a State of the case and had Councells opinion thereon: The trouble attending this business was very Great and Answered a Good purpose to Lord Garlies".¹

If these proceedings did answer a good purpose for Gairlies, they must have done so only in an indirect manner, since the attempt to make Gabriel Dun bailiff did not succeed. On 12 September 1760, a court styled "Chief Court of the Manor of the Town & Burrough of Morpeth" was held, and the juries (of the previous Easter courts) which had been summoned were each ordered to return one of their members for the office of bailiff, it being "thought Expedient that this Election Should be made as near as possible to Correspond with the Annual Elections of Bayliffs".² Gabriel Dun was not a member of either jury, and it seems, therefore, that the plan to have him appointed had by this time failed. Even the special procedure now adopted failed to solve the problem, for each jury resolved to make no return. The Michaelmas courts would be held in three weeks' time, however, and this may have influenced their decision. It was very un-

1. Bulman's Petition, p. 6.

2. Court Rolls, ff. 335-6.

likely that a bailiff chosen from the juries would have been a supporter of Gairlies: the two bailiffs appointed at the subsequent Michaelmas court were staunch supporters of the Carlisle interest.

In striving to secure a majority for Gairlies, Aitkenson had been obliged to "ransack the Gaols And to resort to all the Courts Ecclesiasticall, Civill and Criminall of the Country".¹ Mitford, however, having dissolved partnership with Gairlies, had to seek to further his own interest by other methods. On 10 February 1761, a few weeks before the election, he wrote to the Duke of Newcastle:

"...As I am at present engaged at Morpeth against Mr. Duncomb and Mr. Ord If I am not too hardy I most earnestly entreat your Grace for your order, advice or directions to have one George Marshal, Surveyor of Wool at Newcastle and Thomas Clerk employ'd in the barracks at Berwick, to vote for me, or give me one vote and the other to whom they please, by these two, I am persuaded I should gain my point, and all I can presume to offer your Grace in return for so great a favour, you may with certainty command me - If I have ask'd too much, I hope your Grace will impute it to my inexperience in these affairs, as I amongst the last of men who would give you offence, and particularly to your Grace....I should not have troubled your Grace on this subject if these two people were not employ'd by the Government".²

Whether or not Newcastle replied is not clear, but neither of the freemen mentioned voted for Mitford: both gave their votes to Ord and Duncombe.

The election was held on 28 March 1761. Gairlies' voters were "put and kept under the care of...Atkinson and led out one by one to the Poll".³ Their opponents thus had

1. Petition of Bulman, p. 9.

2. Add. MS 32918, f. 419. I am greatly indebted to Sir Lewis Namier for having a copy of this letter made for me.

3. Petition of Bulman, p. 8.

no chance to win them over by persuasion or intimidation or to prevent them from polling by getting them drunk and concealing them until the election was over.¹ At the close of the poll, Duncombe had thirty votes, Gairlies twenty-six, Ord twenty-four, and Mitford twenty. Four of Ord's voters were honorary freemen, but, nevertheless, Ord evidently proposed to petition against Gairlies.² He did not, however, carry the threat into effect.

The total cost of the election for Gairlies and Mitford was £2,244.³ Aitkenson, who handled about a third of this sum, paid a total of £537-7s-6d to five persons, presumably publicans, in settlement of their election bills. Apart from payments made to Counsel, attorneys, Under Sheriff, and poll-clerk, he expended £40-10s-0d on account of Thomas Gayer and John Charter, the freemen mentioned above, four guineas on advertisements and pamphlets, ten guineas "towards making a Horse Race on Cottingwood Moor near Morpeth by order of...Lord Garlies", and twelve pounds "to the Poor of Morpeth at different times", again at the direction of Lord Gairlies.⁴ The greater part of the money was, however, handled by William Crawford, the wine-merchant of Morpeth, with whom the Earl of Galloway "Cleared Accnts ...to the Extent of about £1500".⁵ This was said to have been ex-

1. For an example of such tactics at the Gloucester election of 1761 see Sir Lewis Namier's Structure of Politics at the Accession of George III (1957), pp. 78-9.

2. Information for Bulman, p. 11.

3. Trotter to Spottiswoode, 19 September 1766 (M.C., I, ff. 148-9).

4. An account of Aitkenson's disbursements which came to £737-19s-0d, is appended to the answer given in for Galloway and Gairlies to Bulman's petition.

pended "not in the Stile of Bribes but [on] feasting, Carousing &c",¹ but it is very probable that part of it was paid to the freemen after the election as a reward for their support.

Certainly, Gairlies' friends were not slow to call on him for favours, and once he had been returned they "applied to him for pensions, offices, and places" which involved him in a "very numerous and laborious correspondence, and a more troublesome solicitation at all the boards, offices, and otherwise at London":²

"...You must be sensible at this rate I shall have so many applications (and some of them impossibilities), that I will not have a moment to myself", he commented in a letter to Aitkenson on 16 June 1761. "May I therefore beg, if it is possible, that all my Morpeth friends, when they have any commands for me, would apply to you in the first place? if it were not in my power to serve them, you could let them know it, without their giving me or themselves any further trouble. And, secondly, You would be able to give me a distinct state of the case, without which it is impossible for me to do anything. And you would let me know what things are of most consequence. It would have these and many other advantages".³

Shortly afterwards, Gairlies sent Aitkenson a long account of "fruitless Solicitations at Treasury, Admiralty, and War-office".⁴

To the opponents of the Carlisle interest, Gairlies' success must have appeared to be the foundation on which

5. Manuscript note in the margin of a printed copy of Bulman's Petition (Sessions Papers 96/5 in the Signet Library, Edinburgh).

- 1. Answer to Bulman's Petition, p.4.
- 2. Information for Bulman, p. 10
- 3. Quoted ibid., pp. 10-11.
- 4. Ibid., p. 11.

would be established their future liberty and independence. By maintaining an "inflexible Integrity which no bribes cd. corrupt, no Promises nor threatenings Shake"¹ - the "premium" of the freemen who voted in the Carlisle interest had risen to £50 per man² - they had gained a Member of their own free choice to act as "a faithful Guardian and an able Protector of their Rights & Privileges".³ But, only two days after the election, proceedings at the Easter court leet showed that far from ushering in an era of liberty Gairlies' triumph had merely provoked measures more arbitrary and oppressive than before; and Gairlies, from whom so much had been expected, proved unwilling to assist his constituents in their new plight. Soon after taking his seat in the Commons, he advised them to "Submit to yr former yoke of Bondage" and left them alone to struggle with various difficulties into which they had been brought by steady support of his interest.⁴

1. Trotter to Spottiswoode, 18 August 1766 (M.C., I, ff. 134-6).

2. Corporation of Morpeth: Case 3 (M.C., I, ff. 104-9).

3. "A Narrative of the Oppressions of the Borough of Morpeth".

4. Trotter to Spottiswoode, 18 August 1766 as in n. 1.

CHAPTER IV

THE FRIENDS OF LIBERTY GO TO LAW

On 30 March 1761 the Easter courts were held at Morpeth. Passions aroused during the hotly contested election campaign had scarcely had any chance to cool, and the presence of John Orde, a Justice of the Peace, at the court was perhaps a sign that the Carlisles' agents feared that disorder might break out. Lord Gairlies, Mitford and Aitkenson attended the court: the latter came as attorney for James Hannay, who, although no longer under sentence of excommunication, had been debarred from voting on the grounds that he had been disfranchised. Aitkenson now proceeded to move the court several times for production of the court-roll on which the disfranchisement was entered, and, when Robert Lisle, a Morpeth attorney who was acting as deputy steward of the courts, replied to the effect that he had not the court-rolls in his possession, he made a speech "with great heat & violence" to inflame the freemen and the "mob", which, it was alleged, Gairlies' supporters had "got assembled in the Court".¹

The incident passed without giving rise to any disturbance. The grand jury prepared to leave the court to

1. A MS. account of the riot at the court leet, endorsed "Baldero", who was a London attorney employed by the Carlisle family (Howard of Naworth MS).

walk the bounds, but, before they went out, one of the jurors, perhaps "Suspecting...Some Sinister intention of making freemen contrary to the Custom and Constitution"¹ of the borough, asked Lisle whether he intended to admit any freemen that day. Lisle replied to the effect that he was holding the court only to try causes and knew nothing about admissions of freemen.² After the grand jury had gone and the usual business of the morning had been completed, however, Matthew Potts, the clerk of the court, suddenly, without notice to the aldermen, or even (as it appeared) without Lisle's direction, called upon four brothers to take the oath as freemen.³ Several brothers who had been elected by their companies as long ago as 1737 but who had not yet been admitted to their freedom were present but were ignored. Even at a normal time such discrimination would have aroused jealousy and discontent, and coming immediately after the General Election which had rent the corporation into two hostile factions it was even more provocative. Potts' action was, however, no mere arbitrary distinction between persons who had a right (or a supposed right) to be sworn as freemen, because two of the brothers he called upon to take the oath had never been elected by their companies. True, they had purchased the rights of brothers who had been elected in 1737, but this transaction had never been ratified by the companies concerned.⁴

1. Affidavit of Thomas Weatherhead, 30 Oct., 1761 (Howard of Naworth MS.).

2. Ibid., and affidavit of John Grey of same date.

3. Affidavit of Thos. Weatherhead, Wm. Weatherhead, James Hewitt and others, 23 Nov., 1762.

Immediately, uproar broke out. Several brothers, making "great tumult and noise" ¹ clambered on to the table around which the jury of the court baron was seated; some who had been elected by their companies attempted to take the oath at the same time as the four ² and tried to wrest the Bible from them. ³ Thomas Weatherhead, alderman of the Smiths' company to which one of the non-elected brothers belonged, "fell into a Rage", ⁴ and, rising from the bench in "great fury and wrath", struggled with one of the bailiffs, climbed on the table, and encouraged the "rioters" ⁵ among whom was his son who had been elected a freeman in 1757 but had not been admitted at the leet. Struggling and pushing, they "bullyed, abused and clamoured" with "great noise and riotting". ⁶ Orde, the Justice of the Peace, called on them to desist and threatened to read the proclamation against riots, but they took no notice. Aitkenson began to make another speech, urging the freemen to protest against the proceedings at the court, but Lisle thereupon adjourned ⁷ the court and went away with the bailiffs.

On learning of the admission of freemen, several members of the grand jury went to the inn where Lisle dined

4. Corporation of Morpeth: Case 3.
1. Affidavit of Roger Hedley, 21 April 1761.
2. Affidavit of Wm. Wright (sergeant), 31 Oct., 1761; Corporation of Morpeth: Case 3.
3. Affidavit of Edward Richardson and Andrew Fenwick, bailiffs, 28 April 1761.
4. Corporation of Morpeth: Case 3.
5. Affidavit of Richardson and Fenwick.
6. Account of the riot among the Howard of Naworth MSS.
7. Ibid.

and "formally protested...against the said proceeding, contrary to the custom and constitution of the said Borough".¹ William Weatherhead and several others also came to the inn and "insisted they were Sworn freemen and threw down on the dining room table what they called their fees".²

Meanwhile, crowds had gathered in and near the town hall, and, hearing that the "rioters" had greatly increased in numbers and appeared "more outrageous", Lisle refused to re-open the court, which had been adjourned until 3 p.m.³ Several persons assured him that there was no danger,⁴ but others warned him that if the court was held "mischief wd. be done",⁵ and he refused to change his decision. The mob then "had three figures painted":

"the one they called M^r Ord, another the Rector and the 3rd the devil; they carried them on a long Pole with Ropes; they went in Procession and afterwards burnt them over a large tar barrel with great Mobbing & huzzaring".⁶

No one was injured and no damage was done in the disturbance at the court. Nevertheless, those responsible for it were prosecuted in the Court of King's Bench on a charge of riot with intent to "overturn the Ancient Customs of the ... Borough during the minority of the Earl of Carlisle".⁷ For the defendants this had extremely serious consequences. Their London agent failed to appear for them in court and attachments were granted against them for contempt.⁸ They were arrested on 18 August 1762 by "no less

1. Affidavit of Charles Warriner and other members of the grand jury, 30 Oct., 1761 (Howard of Naworth MS).

2. Account of the riot (Howard of Naworth MS).

3. Affidavit of Robert Lisle, 28 May 1761.

4. Account of the riot; affidavit of Roger Marr a member of the grand jury, 30 Oct., 1761.

than four Sheriff's officers and as many assistants", and to remain at liberty were obliged to pay them several sums of money which by 24 October that year amounted to over fifteen pounds.¹ Joseph Warriner, one of the defendants who lived in Newcastle, was immediately flung into the "Common Goal", however, and confined "a close Prisoner" until 24 October. His family had to be supported by charity, and he was obliged to accept similar assistance for the journey to London.² Two of the other defendants were so poor that they had to travel there on foot in the depth of winter.³

The prosecutors were particularly anxious to secure the conviction of the Weatherheads: "Thomas Weatherhead the Alderman and W^m Weatherhead are the men of most Consequence and best able to bear the expence" runs a note among the papers used by the prosecution, "But their intention is to slip their own necks out, and leave the Prosecutors to do what they will with those who are poor, So that if you should think any other affidavits necessary you'll please to desire time for that purpose".⁴ The faithful support which the Weatherheads had given to Lord Gairlies, it was alleged, was the reason why the prosecutors' "malice" was chiefly directed against them.⁵ Some, indeed, believed that the

5. Affidavit of George Nicholls, junior; affidavit of Robert Lisle.

6. Account of the riot (Howard of Naworth MS).

7. Note among the papers relative to the prosecution (Howard of Naworth MS).

8. "A Narrative of the Oppressions of... Morpeth".

1. Defendants' affidavit, 12 Nov., 1762 (Howard of Naworth MS).

2. Ibid. 3. Ibid. 4. Howard of Naworth MS.

5. "A Narrative of the Oppressions of Morpeth".

whole prosecution was largely an act of revenge by members of the Carlisle party for the defeat they had suffered in the General Election. George Lawson, Cuthbert Clark, and Francis Fenwick declared in an affidavit on 21 November 1761 that the accused and those who had made affidavits against them "were of contrary partys & espoused opposite interests at the said election" and that the prosecution of Weatherhead, his son, and the others "was chiefly occasioned by resentment to their opposition at the election & that but on account of such opposition their behaviour at the Court Leet ... would have been regarded & considered as trifling & unworthy of notice".¹

The defendants themselves denied that they had any intention to cause any riot or breach of the peace. They pointed out that no violence or injury had been done to anyone, and that the four brothers had not been prevented from being sworn in as freemen. They regarded the admission of the two non-elected brothers as "an invasion of the rights & Privileges of the...Borough & a particular injury to themselves", and had therefore remonstrated against it: to make themselves better heard they had climbed on the table, and some of them who believed they had a better right to be sworn freemen had tried to put their hands on the Bible and asked to be sworn in. Thomas Weatherhead

1. Howard of Naworth MS.

declared that, as alderman of the company to which one of the non-elected brothers belonged, he thought it "more particularly his duty" to oppose the admission of that person as a freeman.¹

The prosecution embittered relations between the supporters and opponents of the Carlisle interest in Morpeth. Those who made affidavits for the prosecution were abused and threatened. "So farr have the Defendants been from making any Submission" wrote one of the prosecuting lawyers, "that their friends at Morpeth (as is supposed by their instigation) abuse all those who made the Affidavits and will not suffer them to go quietly about their business so that it is hoped that Some Punishment will be inflicted on the spott to prevent such riots for the future".² On 16 November 1762 a weaver named Roger Hedley swore that since making an affidavit against the defendants he had been "frequently abused" and was afraid of receiving "Some hurt either in his Body or his Goods, he...having been desired to take care of his Goods".³

The defendants were ordered to pay £100 costs and damages, but when they remitted the money to London they learnt that Sir William Musgrave, step-father to Lord Carlisle, had paid them;⁴ but despite this act of compassion

1. A further Affidavit of the defendants, 23 Nov., 1762 (Howard of Naworth MS).

2. Unsigned note among papers relative to the prosecution (Howard of Naworth MS).

3. Howard of Naworth MS.

4. Trotter to Spottiswoode, 26 Jan., 1768 (M.C., I, ff. 449-50).

(which, however, was revoked some years later¹) the victims of the prosecution suffered considerably. "This grievous prosecution", wrote the author of a case relative to the borough in 1765, "nigh ruined Several of them & hurt the health of others".² The two Weatherheads against whom the "Persecution" was chiefly carried on, "did not long Survive the cruelty of their Enemys, but died of broken Hearts to ye belief of all their Acquaintances".³ Whether or not the deaths of the Weatherheads were in any way connected with what they had suffered as a result of the prosecution, the whole episode aggravated existing hostility against the Carlisle interest. There was now no chance of the question of the admission of freemen, which had come into prominence as an issue during the General Election, falling into even partial oblivion. The admission of the two non-elected brothers was a challenge and an insult not only to the excluded brothers, but also to the freemen themselves. The right of the companies to elect the freemen had been infringed: the ancient custom of the borough, which every freeman swore to defend, had been attacked.

The freemen in the Carlisle interest did not, of course, share such views: the Lord of the Manor, they believed, had both the right to create persons freemen who

1. See chapter VII, p. 223.

2. Corporation of Morpeth: Case 3.

3. Trotter to Spottiswoode, 26 Jan., 1768 (M.C., I, ff. 449-50).

had not been elected by any of the companies and to exclude at his pleasure those who had. Still, the subject was a delicate one, and Robert Lisle who was employed by the Carlisle agents to prepare the case for the prosecution sought to avoid all mention in the course of the trial of the custom with respect to the creation of freemen, and was alarmed when he found that his colleagues in London had inserted in a draft of the information against the "rioters" the statement that all who were elected by their companies ought to be sworn as freemen. All Lord Carlisle's agents whom he had consulted agreed with him that this should "by no means stand", he declared, since the Lord of the Manor had a negative and admitted only those he willed.¹ "Entering upon the Constitution of the Borough in regard to making freemen", he continued, "Wd. require great circumspection & Nicety and therefore I omitted saying a word of swearing freemen...". Counsel for the prosecution insisted on the inclusion of that in one of the counts, however, since the obstruction was "not to ye Judicial Proceedings of ye Leet as a court of law; but to ye Corporate Acts, ye Swearing of freemen into ye Corporation".² The wording of the draft was therefore altered so as to read that all lawfully entitled to be sworn and admitted as freemen had

1. Lisle to Baldero, 21 May 1762 (Howard of Naworth MS).

2. Opinion of J. Yates: marginal note on the draft of the Information (Howard of Naworth MS).

of right been admitted and of right ought to be admitted as freemen, the words "lawfully entitled" covering every necessary qualification, including the Lord of the Manor's approbation.¹

Meanwhile, it had become clear that the opponents of the Carlisle interest would have to pursue their struggle for independence without help from the source from which they had most reason to expect it. Lord Gairlies had "ungenerously deserted their Cause" and "meanly advised them to submit to their former yoke of Bondage".²

"This advice", declared Robert Trotter, "was treated with the Contempt it deserved, & being given in a Public Compy of his friends, one of them with a becoming Spirit took a glass in his hands and drunk it saying May hemp bind whom honour won't; from that time they Saw ye face of yr. representative no more".³

Trotter had been one of Gairlies' most active supporters; indeed, in May 1763 Gairlies offered him, in return for his "kind friendship" during the election campaign, one of the livings in Scotland of which the Earl of Galloway was patron.⁴ In declining the offer on account of obligations to his congregation at Morpeth, Trotter told Gairlies: "Your success & the good of your constituents was all the reward I wished & all I expected".⁵ Disappointed

1. Yates' opinion as cited above.

2. Trotter to Spottiswoode, 18 Aug., 1766 (M.C., I, ff. 134-6). 3. Ibid.

4. Gairlies to Trotter, 20 May 1763. This letter and Trotter's reply are contained in a copy of Hodgson's History of Morpeth which William Woodman interleaved with documents from his own collection. I have not myself had access to this volume which has been given out on a long term loan by its owners the Society of Antiquaries of Newcastle, but Mr R. Bibby of Morpeth kindly showed me transcripts of the documents it contained.

and angered at Gairlies' conduct, Trotter resolved to do all in his power to revive the "Spirit of Liberty", which, he later declared, "was almost extinguished when poor Atkinson was laid in his grave".¹

"I beheld wt Indignation that Party of honest Men wt Some of w^m I was nearly Connected" (he declared) "basely betrayed on one hand by the Very person chosen to support yr Liberties & in whom they had placed the greatest confidence, and on the other subjected to the Arbitrary Caprice of the little Engines of Power who had nothing to recommend them to their Tyrannical Masters but sordid meanness of soul hackneyed in all the arts of Venality & Corruption. I advised them to assert their Rights like free born Englishmen, being persuaded the Laws of their Country would give them redress".²

The opposition to the Carlisles acquired considerable impetus in 1763 when Matthew Potts and others attacked what the corporation believed were its rights on and to the common lands. From time immemorial, the corporation had held a tract of four hundred and one acres known as the Low Common, and another tract of about three hundred and twelve acres, immediately adjacent to it, called the High Common.³ In 1762, the corporation decided to improve the Low Common, which was in many parts "barren waste land", and, after cultivation, lay it down to grass.⁴ The

5. Trotter to Gairlies, 31 May 1763. His friendship for Gairlies had been "so real, sincere & disinterested", he declared, that even if it had never been acknowledged, he would not have thought himself affronted. He concluded by hoping that Gairlies would never know him unworthy of being ranked among the number of his friends "none of whom can more gladly embrace every opportunity than I shall of testifying how very much I am my Lord with the greatest esteem & regard yr Lordship's very obliged friend & most dutiful Servant...". This language is in strange contrast to the hostile comments which Trotter makes about Gairlies quoted in the text above.

1. Trotter to Spottiswoode, 14 Jan., 1767 (M.C., I, f. 206).

2. Same to same, 18 August 1766 (ibid., ff. 134-6).

commencement of improvements raised the question of the ownership of the land. The corporation regarded the Low Common as their own property, but the Lord of the Manor's agents did not share this view: they claimed that the commons belonged to Lord Carlisle, and, presumably because the improvements had been started without his consent, they entered on the Common and broke down the fences erected by the corporation.¹

This attack united the corporation. On 25 July 1763 the bailiffs paid for "putting up the dyke in the common pull'd down by Mr Potts & Co", and on or about 11 August the companies each elected one of their members to act with the bailiffs and aldermen in defence of the corporation's privileges. For example, the Fullers' and Dyers' company

"Unanimously agreed...that Edwd Bennit being the Person appointed & Nominated to be in the commitee with the rest of those Elected in the Sevrl Companys & to meet them & the Bailifs & aldermen upon Such occassion is necessary to conduct the affairs to Defend the Rights the Burrow of Morpeth has to thir Commons & other Land & Privileges".³

Two days later, the Weavers' Company deputed William Tate to act with the bailiffs and aldermen "in all affairs Relating to the Corporation";

"and the said Deputed Wm Tate is to be Present at all meetings of the Said Bailiffs and Aldermen both Publick

3. J.C. Hodgson, "The Customs of the Court Leet and Court Baron of Morpeth" (Archæologia Aeliana, new series XVI (1894), 58).

4. Oliver Naylor v John Bilton and others, Hilary term 10 Geo. III (Exchequer Decree and Order Book in the P.R.O.)
1. "Queries...Submitted to...the Independent Freemen of Morpeth", 1773 (M.C., II, ff. 2-3).

2. Bailiffs' Account Book.

3. Fullers' and Dyers' minute book &c.

and Private and the Said Wm Tate Doth promise that he Will Do all that Lies in his Power to the Advantage of the Corporation".¹

One of this committee's tasks was to examine the corporation's records. William Weatherhead, the delegate of the Smiths' company, was expressly appointed "to be an assistant to ye Bailiffs & Aldermen to peruse ye Writings in ye Towns Hutch".² A search was made for a charter, but none could be found.³ What action was taken to defend the supposed right of the corporation to the common lands is not clear, but the improvements continued, apparently without hindrance for many years.

By October 1763, the creation of freemen had become the chief concern of the majority of the corporation. It had evidently been proposed that Counsel's opinion should be taken on the subject, and this was duly considered by the companies. On 6 October, the Cordwainers' company agreed by a majority "to have a Councils opinion concerning the distinction of Brothers and Freemen and why they are not all alike free burgesses and the Charge is to be paid out of the Company's money".⁴ A week later, the Fullers' and Dyers' company resolved

"that thir Shall be Laid out of our Box or publick money a Dividen Equal in proportions the other Companyes in town to take a council oppinion to Rectifie the constitution in town as & to making freemen in a Regular way & manner for future".

1. Records of the Weavers' Company. For the location of these and the other companies' records, see note on sources at the end of the thesis. 2. Smiths' Records.

3. "Burrough of Morpeth: Case I, July 1764 (M.C., I, ff. 92-4).

4. Cited in brief for a consultation in the suit, Hancock v Fawcett, 1766 (Howard of Naworth MS).

On 18 October, the Skinners' and Butchers' company chose two "Trustees" for the company "in Order to procure A counsels opinion of A Burgess", and deposited ten guineas in their hands for the purpose.¹ There is no record of similar decisions by the other companies at this time, but, from the order of the Fullers' and Dyers' company quoted above, it appears that they had agreed to bear a proportionate share of the expenses. (Even the Tanners' company had been so far influenced by the spirit of revolt against the Carlisles as to repeal on 14 October 1762 the order it had passed two years earlier whereby any brother seeking to be made a freemen before a licence for an election had been given by the Earl of Carlisle was rendered incapable of being elected a freeman.²)

Some nine months after the "friends of Liberty" (as Trotter and his associates liked to call them) had started to subscribe for the purpose, a case was submitted to John Dunning, the young barrister who was rapidly building up a reputation and a flourishing practice. It set forth that Morpeth was a borough by prescription and according to the usual custom brothers duly elected by their companies ought to be sworn and admitted as freemen on being returned by their aldermen to the court leet, but recently the Lord of the Manor or his steward had admitted some so returned but

1. Records of the Skinners' and Butchers' Company.
2. Records of the Tanners' company, book Z, f. 37. For the full text of the order of 1760, see chapter II, p. 51.

had rejected others, on the grounds that the companies had elected them without the previous licence of the Lord of the Manor. Although the bailiffs, aldermen and freemen had ordered in 1747 that no company should elect freemen without such a licence, it was "apprehended" that they "had it not in their Power to give up the rights of the other burgesses called Brothers, by investing the Lord of the Manor with such a power as was prejudicial to their interest and subversive to the liberty of the Corporation". Several brothers who had been elected by their companies more than twenty years ago were still unable to gain admission as freemen, but, recently, some who had never been so elected had been sworn and admitted as freemen. The Lord or his steward had thus

"assumed a power of making freemen and rejecting whom they please and thereby violated all ancient Customs and rules of the said Borough; if this should be allowed then the right of the brothers in chusing persons to be made freemen would be of no Signification for the Lord by proposing and the freemen so accepting such persons might keep up a succession of freemen without the brothers ever having anything to do with it, as at these courts at which the freemen are Sworn no brother is ever called upon or can interfere so that if a brother hath not been previously concerned in electing the persons proposed for freemen he cannot possibly have any concern in it at all".

Dunning was therefore asked how the elected brothers who had hitherto been excluded should proceed in order to gain admission as freemen, and whether the aldermen and their companies had the right to elect freemen when they thought fit, without a licence from the Lord.¹

1. "Burrough of Morpeth": Case I, July 1764 (M.C., I, ff. 92-4).

"As this is a burrough by Prescription", he replied, "the usage is the Law of the Place. If it can be Proved therefore in point of fact that the Ald. & Comps. have usually and antiently elected freemen without a licence from the Lord, it will follow that in point of law they have a right to do so still; nor will a contrary Practice introduced So recently as this appears to have been Prevail against the antient usage. The Proper Course to assert their right & to procure an admission of those who have been thus elected & rejected or may hereafter be so circumstanced, is to apply to the Court of King's Bench for a mandamus under which the Parties will be admitted, unless the Lord thinks Proper to dispute the right, which in that case may be Put in issue on the return to the writ & brought to trial - The Lord's admitting Some who were elected at the same time & in the Same manner is a strong circumstance against his Present objections, whatever they may be to the titles of those he has thought proper to reject".¹

A second point on which Dunning's opinion was requested was as follows:

"The brothers apprehend they have all a right to be made freemen as all the antient customs & rules of the burrough have been broken & changed, the agents for the C - le family having from time to time varied in the method of making freemen to answer their own purposes & if this be practicable be particular in your directions to effect it".

Dunning, however, replied that the recent violations of the constitution could in no way alter the rights of the parties, and, since by the custom of the borough the freemen had to be elected by their companies, such election remained necessary. Those admitted contrary to this custom could be removed by quo warranto procedure.

Soon after receiving this opinion, most of the companies elected their quotas of freemen: by October 1764, all but the Fullers' and Dyers' company had done so, and

1. An eighteenth century copy of Dunning's opinion, which was dated 15 July 1764, is preserved in M.C., I, ff. 93-4.

at the Michaelmas court on 1 October, the aldermen of the six companies returned the names of the elected brothers to the steward to be sworn in as freemen. As the Fullers' and Dyers' company had not made any return, however, the elected brothers decided not to demand admission until the next court, except a brother of the Cordwainers' company, who "of his own accord personally demanded the...Steward in open Court to Swear him in as a freeman". The steward refused, declaring that he was not entitled to admission because he had been elected without the licence of the Lord of the Manor.¹ Clearly, the others would meet with the same objection when they demanded admission at the next court.

Three days later, on 4 October 1764, at least two of the companies took steps to prevent further elections of freemen before those lately elected had been sworn in. The alderman of the Merchants' and Tailors' company bound himself under a penalty of ten pounds for the "true performance" of an order made for this purpose, and the alderman of the Weavers' company was placed under a penalty of five pounds, a penalty which was to extend to his successors. These orders were designed to safeguard the recently elected freemen by preventing the steward from choosing from more than one set of persons returned to be sworn in as freemen.

1. Borough of Morpeth: Case 2d, c. March 1765 (M.C., I, ff. 96-103).

Meanwhile, the Fullers' and Dyers' company had been prevented from electing its quota of freemen "by reason of an affected Delay" on the part of the alderman who held lands of the Lord of the Manor and was "entirely under his influence".¹ In the middle of October 1764, however, that alderman's term of office expired, and the company was thus free to follow the example of the others. They chose as alderman William Arthur, a cooper who lived several miles from Morpeth and had no employment in the town. According to Robert Lisle, such a choice was unprecedented. Arthur, he alleged, "left the Company's Box, books & Papers, Money &c" in the custody of the company, and was "ready on all occasions to act as they directed him".² He immediately held an election for freemen, when three staunch opponents of the Carlisles were chosen: James Crawford, son of the wine-merchant who had taken an active part in support of Gairlies at the General Election, and Edward and Henry Lumsden, owners of an extensive fulling business in and about Morpeth. The same day (16 October 1764) the company passed a series of stringent orders designed to ensure that the newly elected freemen would have every chance of gaining admission at the court leet and to prevent any future alderman from frustrating the designs of the majority of the company.

1. Borough of Morpeth: Case 2d. It would be more correct to say that the alderman was under the influence of the Carlisle family and agents, since the Earl himself was still a minor.

2. "A further State of the Customs & Constitutions of Morpeth drawn up by Mr. Robert Lisle" (Howard of Naworth MS).

First, the alderman and majority of the company ordered that no alderman should hold an election for freemen until the three brothers just elected were sworn in, under the penalty of fifty pounds to be paid to the company, or, "on Non-payment thereof", total exclusion from the privileges of the company. Second, any alderman who neglected to make a proper return to the steward of the next court leet after any election of free-men should be liable to the same penalties. Third, within a month of the admission of the three brothers just elected, the alderman should call a meeting of the company "to consult of what is further to be done", under the like penalty of fifty pounds. Fourth, no alderman should refuse to convene the company at any time, if requested to do so by the majority of the company, under the same penalties. Fifth, no brother or freeman of the company was to accept the office of deputy constable of the borough under the penalty of ten pounds or exclusion from the company.¹

1. Fullers' and Dyers' company's order book. This latter order is crossed out, but, judging by the colours of the inks, probably at a later date. It is probable that the other companies were encouraged by the Carlisles' opponents to make similar orders about this time. Certainly, the Weavers' company agreed on 4 October 1764 that any brother who served as constable should forfeit five pounds to the company. About 1740, the number of constables was reduced from six to four, and, soon after, Lord Carlisle was evidently prevailed on to hire constables. At first free-men were hired, but after some years anyone who would take on the office was accepted. By 1767 this had cost the Earls of Carlisle nearly a hundred pounds and had made a breach in the constitution of the borough. It had once been customary for freemen to serve more than one year as constables, but now after serving once they passed on to other offices and the Earl was obliged to start hiring again. (Statements made by Mr Potts c. 1767, Howard of Naworth MS.)

(This was probably designed to bring pressure to bear on the Lord of the Manor to admit more freemen by preventing so far as possible the hiring of deputy constables, an expedient which in the prevailing shortage of freemen had been frequently employed in recent years.)¹ Sixth, it was ordered that the company should

"enter into a Security to Save harmless and keep indemnified the Present and future Alderman belonging to this Company of from and against all actions Suits Costs and Charges which shall or may at any time hereafter be brought against them for any matter or thing Acted or done agreeable to the aforesaid orders".

Lastly, "for the fulfilling the above Several orders and to enforce the Several Brothers so elected for Freemen to be Swore and Admitted", the company proposed to borrow a hundred pounds which was to be repaid by means of a levy of one shilling per month on each member of the company. Any refusing to pay were to be excluded from the privileges of the company, unless it appeared that they were unable to pay, in which case the company was to pay that part of the money due out of its funds. This order was perhaps cancelled soon after being passed,² and it was not until 16 April 1765 that the company made definite arrangements as to the amount that should be contributed and the manner in which it should be raised. William Crawford, James Crawford, Edward Lumsden, Henry Lumsden and Edward Bennit then sub-

1. For the year 1764-5 the Carlisles paid eight guineas to persons who had served as constables, and the next year twelve guineas was disbursed for the same purpose. The "usual Allowance" for a hired constable was evidently two guineas per year (Carlisle's rentals and account books 1760-7 preserved in the P.R.O. (C. 114, 69-70). It seems from these payments that the companies did not succeed in stopping the practice.

2. It is crossed out in the book.

scribed ten pounds each, and John Bilton and Charles Pye each subscribed five pounds, making a total of sixty pounds. The majority of the Company then ordered

"That the Several Subscribers abovementioned Shall be reimbursed the Several Sums Set opposite to their Names by the Profitts which shall from time to time arise and be Paid into this Company's Box proportionably but Henry Lumsden Edward Lumsden and James Crawford Members of this Company and lately elected for Freemen Shall be the last of the Said Subscribers who are to be paid their Subscriptions".¹

Already, on 25 January 1765, the Merchants' and Tailors' company had by a majority agreed to levy sixpence per month on each member towards defraying the expenses "Attending the compelling the Swearing in of the four Several Brothers lately elected for Freemen by the Company". This levy was to continue "'till the Suit be determined", and any refusing to contribute were to be "excluded from all right title and benefit" in the company.²

It was obvious that legal action would have to be taken to secure the admission of the recently elected brothers as freemen. Another case with several queries was therefore submitted to Dunning. It set forth that as a result of the Lord of the Manor's policy, the number of freemen, which until recently had generally been between eighty and a hundred, had fallen to forty-nine, "Several of whom from great age infirmities & other accidents" were incapable of carrying out the duties of freemen. Thus, it

1. Order book of the Fullers' and Dyers' company.
2. Order book of the Merchants' and Tailors' company.

had now become "absolutely necessary" to increase the number of freemen. The recent elections of freemen and the rejection by the steward of the elected brother who demanded his freedom were described, and it was pointed out that the Lord of the Manor and his steward had in fact shown that they did not believe that a licence from the Lord was necessary before an election for freemen could take place, since they had recently "sworn in "such brothers or other Persons as they have arbitrarily thought fit...without any licence for their previous election by their Resptive Companies as it's now pretended they ought first to have had...". The agreement of the bailiffs, aldermen and freemen of 1747 was then mentioned and similar observations made upon it as in the previous case. It was "apprehended" that this agreement was the real ground on which the steward refused to admit the recently elected brother who had demanded admission as a freeman. The Lord of the Manor and his agents had of late years "assumed & exercised the Swearing in of Such Brothers only freemen who were either under immediate obligations as Tenants & occupiers of lands or tenements under the Sd. Lord or Such as were well known from their connections would Support his interest & claims preferable to the established rights & privileges of the Corporation". Besides, the borough sent two Members to Parliament "elected by the Sd. Free burgesses or rather by the Lord of the Sd. Manor who if

the above arbitrary method of picking & chusing such brothers only to be made free as he thinks fitt will be always sure of imposing such members only to serve the Sd. Borough as he thinks proper wch it is submitted to your consideration is not only a total Subversion of the liberty & freedom of the Sd. Corporation in the choice of their own Members but is absolutely contrary to and destructive of the true policy & Constitution of the Kingdom".

The elected brothers had never before been "in a capacity... of undertaking So arduous and expensive a recourse to justice", for the "arbitrary and litigious" agents of the Lord of the Manor would certainly thrust every obstacle in the way that "mercenary self-interested views could suggest or effect": even now, the brothers and elected freemen would not have contended with "so Powerful tho' equitable an opposition", had not their resolution been "concurr'd in & approved of by the almost unanimous Suffrage & assistance as well of the Brothers as the free Burgesses of the Said Corporation". Determined to ascertain and support the rights and privileges of the corporation, and particularly to compel the steward to admit the recently elected freemen, they desired advice on the following questions:-

First, could any act of the bailiffs, aldermen and majority of the freemen vitiate the ancient usage of the borough and in particular give to the Lord of the Manor

the right to create freemen, especially without the assent of the brothers who were "neither parties nor privy" to such act? Dunning replied on 11 March 1765 that from what was stated in the case about the agreement of 1747 he believed it could have no effect, unless as a by-law; but even then it could not be supported, since it empowered the Lord of the Manor to destroy the corporation by not allowing any elections of freemen, and was not, therefore, designed for the good of the corporation.

Second, should the brother already refused admission sue on his own or wait until the others joined him in demanding their freedom at the next court? Dunning replied that he could take whichever course he preferred.

Third, if the steward offered to swear in some of the brothers who had been elected by their companies but refused the others, should those he was willing to admit decline? Dunning answered that the admission of some would "afford a Strong argument ad homines against any Pretence of objection to the titles of the others all claiming under the Same election". They might all contribute to the expense of asserting their rights, he added, but each must have a separate writ of mandamus. In reply to a further query, he explained that on being served with the writs the steward would either admit those concerned or return the reason for his refusal to do so: "His return will probably be as is usual in these

cases that they were not duly elected. That question will then be put in issue by a Traverse under a late Act of Parliament or action for a false return". This would bring the parties' titles to a fair trial, and if they obtained verdicts peremptory writs of mandamus would issue to oblige the steward to admit them as freemen.¹

At the Easter court leet 1765, the elected brothers demanded their freedom, and, as expected, were refused admission. Encouraged by Dunning's opinion, the Carlisles' opponents resolved to bring writs of mandamus against the steward. James Crawford of the Fullers' and Dyers' company and Michael Hancock of the Cordwainers' company (perhaps the brother who had first demanded his freedom) were "fixed upon by the Corporation as proper Persons to try this important Cause", by which, it was believed, the "Liberties of the Borough wou'd be forever determined".² On 16 April 1765, the Fullers' and Dyers' company agreed to pay £45-5s-0d into the hands of John Bulman, the attorney (James Aitkenson's kinsman), to be applied by him in bringing one or two writs of mandamus against the steward and proceeding to a trial to determine whether he could be compelled to admit Crawford and Hancock as freemen.³ The other companies, except the Tanners',⁴ made similar contributions in due course, and in this manner nearly three hundred

1. An eighteenth century MS copy of the case and Dunning's opinion is preserved in M.C., I, ff. 96-103.

2. "A Narrative of the Oppressions of... Morpeth".

3. Order Book, and Bulman's receipt to the company.

4. "This trade of Tanners has not entered into the Mandamus Scheme or contributed to their Proceedings" (Hancock v Fawcett: brief for consultation; Howard of Naworth MS).

pounds was lodged in Bulman's hands for carrying on the suit.¹ By November 1765 two writs of mandamus had been issued against Christopher Fawcett, steward of the court leet.² His return in each case was that the plaintiff had not been duly elected and could not, therefore, be admitted as a freeman.³

Both sides prepared for trial. Dunning advised the plaintiffs that since the Lord of the Manor's policy enabled the existing freemen to engross to themselves all the perquisites of that status, thereby giving them an interest in the questions to be tried, they would be "most unexceptionable" witnesses for the plaintiffs, but not "competent" for the defendant. Conversely, the brothers would be good witnesses for the defendant, whose actions were against their interest, but not for the plaintiffs.⁴

1. Trotter to Spottiswoode, 5 Sept., 1766 (M.C., I, ff. 144-5).

2. Christopher Fawcett was born in 1713, the eldest son of John Fawcett, Recorder of Durham. Educated at Exeter College, Oxford, and at Gray's Inn, he was called to the Bar in 1735 and practised for some years in Newcastle. He was appointed Recorder of the city in 1746, but resigned after being involved in a scandal arising out of allegations he made about the Jacobite sympathies of Dr Johnson, Bishop of Gloucester, Andrew Stone, sub-governor of the Prince of Wales' Household, and William Murray, Solicitor General, later Lord Mansfield. Fawcett alleged that these persons and himself had frequently attended supper-parties in the house of a rich mercer named Vernon where the Pretender's health was often drunk on bended knee. Stone and Murray had joined in the toast, though he was not certain whether Johnson had done so. This tale was brought to the notice of the Government by Lord Ravensworth and in 1753 Fawcett was examined before the Cabinet. He gave his evidence in a very hesitant and fearful manner, and his statements were strongly denied both by Stone and Murray. The Cabinet finally dismissed his allegations as false and scandalous. He was re-appointed Recorder of Newcastle in 1769 and held

The plaintiffs therefore tried to procure the testimony of the oldest freemen as to the ancient custom of the borough.

Thomas Gayer, the freeman whose release from goal had been one of Aitkenson's tasks during the election of 1761, was the oldest witness they could find, but he soon died, aged eighty-eight. Before his death, however, he declared that he had been a freemen for sixty-six years and had never known of a licence granted by the Lord of the Manor to the companies before they elected freemen, but that they had elected them whenever they thought proper. Twenty-four brothers were elected, and they were sworn in at the court leet when they demanded their freedom: he knew of none being refused until recent years.¹ John Lutton, aged eighty-one, who had lived in Morpeth from his infancy and had been made a freemen in 1719 when he was thirty-four, declared that he did not believe that any licence was ever given by the Lord of the Manor for the election of freemen and that the companies had elected them whenever they pleased: he regarded the recent elections by the companies as perfectly agreeable to the ancient constitution of the borough.²

the office until 1794. He acted as steward of the Morpeth courts from the early seventeen sixties until 1794. He died in 1795 aged eighty-two (Welford, R., Men of Mark 'twixt Tyne and Tweed (1895), II, 191-7; Fawcett to Andrew Fenwick, 29 Sept., 1794, Howard of Naworth MS - see chapter I, p.34).

3. An eighteenth century copy of the ~~mrit~~ and Fawcett's return is preserved in M.C., I, ff. 116-7.

4. Copy of Dunning's opinion dated 2 Jan., 1766 (M.C., I, ff. 112-3).

1. Corporation of Morpeth: Case 31 (M.C., I, ff. I04-9).

2. Ibid.

Ralph Bullock, alderman of the Cordwainers' company, aged seventy-one, Andrew Bullock, freeman, aged sixty-five, Thomas Bittlestone, freeman, aged fifty-four, and William Arthur, alderman of the Fullers' and Dyers' company, aged forty-five, all made statements to the same effect. They were supported by the evidence of four old men who were neither brothers nor freemen.¹ By Easter 1766 one of them had evidently died, but the testimony of the others was regarded as valuable: "We have three good evidences, old men who have lived from their infancy in the burrough neither Freemen nor Brothers", wrote one of the lawyers acting for the plaintiffs.² Robert Lisle, however, later described them as "Men of as bad Characters as any in the Boro...and a disgrace to any cause".³

Dunning believed that the written evidence would not be of much help to either party. The parole evidence seemed to him of most importance, and he thought from what had been submitted to him that this would be sufficient to establish the only point in question - the due election of the plaintiffs. By the return to the writs of mandamus, he pointed out, the steward had not denied that the Lord of the Manor was bound to admit those who were properly elected: he had merely asserted that the plaintiffs had not been duly elected. It could not be contended, therefore, that the Lord of the Manor had power to admit or reject at his

1. Corporation of Morpeth: Case 3.

2. Unsigned letter in M.C., I, ff. 118-9. It is undated but was written the day after the Easter court 1766.

3. Further state of the customs and constitutions of Morpeth (Howard of Naworth MS).

pleasure those who were duly elected: the point at issue was whether, as the defendant asserted, the Lord's licence was necessary for a valid election.¹

At the Easter courts on 7 April 1766, however, the steward acted contrary to the return he had made to the writs by swearing as freemen six brothers elected at about the same time and in the same circumstances as Crawford and Hancock. Two brothers who had stood elected for several years were also sworn in, but then, "to shew the utmost stretch of arbitrary power", he called upon five brothers who had never been elected at all and administered to them the freeman's oath.² This provoked protests from the aldermen and some of the freemen: when honorary freemen had been created in former times, they declared, the Lord or his steward had always requested it as a favour of the freemen.³ Undeterred, the steward adjourned the court, and a few weeks later sent his clerk to Morpeth who held a resumed session at an inn called the Black Bull and swore in Robert Cooper, another of the brothers elected in the same circumstances as Crawford and Hancock.⁴ Neither bailiffs nor juries were present at this 'court'; "The L - d's power at present is absolute - & Not the least Shadow of Liberty remaining to the Corporation", commented William Crawford on 2 May 1766, "& if they can prevent the Trial coming on as they certainly Expect, the Sole Power of Sending two

1. Crawford v Fawcett: Case 4 (M.C., I, ff. 121-3).

2. Unsigned letter (M.C., I, ff. 118-9) as above.

3. *Ibid.*

4. William Crawford to Edward Boutflower, 2 May 1766 (M.C., I, ff. 124-5).

Members to Parliam^t is vested in One Person".¹

The ultimate political significance of the struggle was never forgotten. The tactics of the Carlisles' agents were designed, it was believed, to secure the return of Chief Baron Ord's son at the next election.² There was thus a clear link between the recent oppressive measures and parliamentary politics. These exhibitions of arbitrary power made the plaintiffs and their friends all the more eager to bring the causes to trial as soon as possible:

"Never was Such a Spirit of Liberty & Independency in the Corporation of Morpeth as at Prest", wrote William Crawford on 2 May 1766; "we are not in the least afraid for suffering any damage, the people will most certainly generously Contribute to Support the Expence of the Mandamus Causes & we are impatient to hear that Notice is given & that it is out of the power of the Dft to postpone the Trial. All we ask is to have a Legal decision, & if we fall, we will fall gloriously, & have more honor though defeated than the Conqueror will have of his Victory".

In seeking to bring the causes to an early trial, the plaintiffs had to overcome opposition from an unexpected source. John Bulman, who was employed as their attorney, suddenly informed them that it was his opinion that they should submit and allow a nolle prosequi to issue.

"O shame! O infamy! O mores hominum!" Crawford commented, "We long suspected treachery, now it is demonstrated. We have had to work up hill these last 6 months &

1. William Crawford to Edward Boutflower, 2 May 1766 (M.C., I, ff. 124-5).

2. James Crawford to Boutflower, 29 August 1766 (M.C., I, ff. 137-8).

when every Laudable Principle in human nature prompted us to proceed, to lay down our arms at the moment of victory & basely to submit to tyranny & oppression would indeed have branded us with cowardice, treachery & baseness. We treated the Proposal with the contempt it deserved".¹

When the plaintiffs learnt that without their knowledge Bulman had asked his London agent for an account of the expenses in case a nolle prosequi issued, Trotter wrote a long letter which Crawford and Hancock signed urging Bulman's agent to "go on with Spirit" and give immediate notice for trial.² Accordingly, he ordered the issues to be made up and promised that notice for trial would be given shortly afterwards.³ What led Bulman to advocate submission is not clear, but he was evidently anxious that the causes should not be brought to trial and even offered to arrange a compromise. Trotter denounced his behaviour as "most villainous",⁴ and Crawford declared that those who had treated him as a friend had lost all confidence in him. Still, they were obliged to keep on as good terms as possible with him until the suit was determined.⁵

Meanwhile, to harrass their opponents, some of the freemen in the Carlisle interest filed a bill in Chancery against the aldermen who had laid out money belonging to their companies to carry on the lawsuits. This move was

1. William Crawford to Boutflower, 2 May 1766 (M.C., I, ff. 124-5).
2. *Ibid.*; Trotter to Spottiswoode, 14 Nov., 1766 (M.C., I, ff. 186-8).
3. Crawford to Boutflower as in n. 1.
4. Trotter to Spottiswoode as in n. 2.
5. Crawford to Boutflower as in n. 1.

undoubtedly inspired by the Carlisles' agents, but it did not seriously embarrass the 'friends of liberty'. Their answer to the bill was "clear and full to the purpose", and Edward Boutflower, a friend of the Crawfords, who was a clerk in the Court of Chancery, assured them that as soon as their answer was heard the prosecution would be dismissed with costs.¹ So far as can be ascertained, the suit was carried no further than the bill and answer stage, and the aldermen concerned evidently suffered no damage.

The attorneys acting for the plaintiffs gave notice for trial in the mandamus causes for the sittings in Middlesex after Trinity term 1766.² The agents for the defendant, however, moved for a trial at the bar of the Court of King's Bench in the following Michaelmas term, since the point at issue was of great consequence to the borough and its Lord and was a matter of great difficulty which would require a great length of time to try, as many witnesses and records would have to be examined.³ This attempt to postpone the trial failed, and suddenly, just before the trial was due to be held, the defendant submitted. A day or two before the trial, Christopher Fawcett later declared, Counsel had advised that the issue was not "safe" and it had therefore been withdrawn.⁴

1. William Crawford to Spottiswoode, 28 Nov., 1766 (M.C., I, f. 192). I have failed to find the bill or answer among the Chancery records in the Public Record Office.

2. Papers relative to the suit among Howard of Naworth MSS. 3. Affidavit of John Cleaver, 6 June 1766 preserved among affidavits in the P.R.O., K.B. 1/16.

4. Journals of the House of Commons, XXXII, 1768-9,

Counsel on both sides agreed that peremptory writs of mandamus should issue,¹ and the Court awarded the plaint-² iffs costs of suit which were later assessed at £81-16s-4d.

Fawcett offered to swear in and admit Crawford and Hancock immediately when they served the peremptory writs on him, but they thought it more prudent to wait until the next Michaelmas court when the other elected brothers would demand their freedom.³

"...Then we shall apply to Mr. Dunning for proper instructions for how to proceed in order to compel the Steward to do his duty", wrote James Crawford on 29 August 1766, "& likewise to set aside these burgesses illegally admitted by a Quo Warranto. As all the oppressive Methods have been taken in order to Secure O r d's Election, we make no doubt, but the Steward will refuse to admit any More Elected Burgesses at the next Court wtout being compelled by fresh Mandamus's which we are determined to try on as many as have true spirits to demand y^r freedom..... We are determined if possible to shake off our oppressor's yoke and chuse 2 Representatives in opposition to ye C - le Junto".⁴

Since many of the brothers elected as freemen about the same time as Crawford and Hancock could not be trusted to oppose the Carlisles, the companies had been advised to elect a further twenty-four. From these, Crawford expected eighteen or twenty "Steady friends": "if we can Compel them to be made freemen before the general Election", he remarked, "we hope to give a good account of ourselves".⁵

1. Papers relative to the case among the Howard of Naworth MSS. A note by one of the defendant's lawyers states that neither Chief Baron Ord nor Lord Berkely had given directions for entering into any agreement, "but rather the contrary", and there seemed to be some difference in opinions on the affair, especially about admitting the plaintiffs "without their submitting to ask their freedom" of the Earl of Carlisle "the usual way". The Earl was a ward of the Court of Chancery, the debts on his estate were "very considerable" and no costs could be paid out of it without

The plan was comprehensive and ambitious. The first round of the contest had indeed been won, but, as Crawford realised, it was only a small victory. The merits of the case had not been determined: by the submission, the Carlisles had merely agreed to admit two new freemen whom they would have otherwise excluded. Any others who wished to become freemen without the express consent of the Lord of the Manor or his trustees would have to resort to the same procedure as Crawford and Hancock. Such proceedings were costly, slow, and, if brought to trial, uncertain in their result. If further writs of mandamus were brought against the steward, a different return might be made which might bring the issue to trial on grounds more favourable than those on which the defendant took his stand against Crawford and Hancock. Or perhaps by careful management, further proceedings could be avoided, and some act secured from the freemen whereby they irrevocably surrendered to the Lord of the Manor the privileges they now claimed.¹ By the submission, then, the Carlisles lost very

an order from Chancery which might be refused. Fawcett, the defendant, was not expected to pay any of the costs.

2. The costs were paid in January 1767 (Carlisle's rentals and accounts in the P.R.O., C. 114, 69-70). The entry is among "Casual Disbursements" in the rental for 1767, pp. 117-8.

3. James Crawford to Boutflower, 29 Aug., 1766 (M.C., I, ff. 137-8).

4. Ibid.

5. Ibid.

1. It was later alleged that the defendant's Counsel had advised submission solely in order to give the Lord of the Manor an opportunity to get such an act from the corporation, lest the agreement of 1747 proved insufficient to uphold his claims (see chapter V, p. 154).

little and retained the chance of gaining a future victory; their opponents had gained slightly but had failed to secure a decisive verdict.

"Indeed I can't understand How ye affair of the Submission in the late Mand^s Causes was managed", wrote Trotter, some six months later: "...Neither do I understand to ys day why the Agents for the Town did not insist upon a Verdict at Law, when everything was ready for the trial w^c wd. have Put an End to all this trouble & Expence. They had no orders from yr. Clients to Accept of Such a Submission".¹

The direct results of the two causes were indeed somewhat disappointing for those who had hoped for a verdict whereby the "Liberties of the Borough wou'd be forever determined".² But, if the direct results of the victory were not great, the indirect ones were of the utmost consequence.

1. Trotter to Spottiswoode, 14 Nov., 1766 (M.C., I, ff. 186-8). There is no evidence in any of the documents I have examined which would help to explain why the lawyers acting for the plaintiffs agreed to accept the defendant's submission.

2. "A Narrative of the Oppressions of the Borough of Morpeth".

CHAPTER V

UNEXPECTED ASSISTANCE

"I have heard with pleasure on that noble struggle you have Induced our friends att Mor[peth] to undertake & persevere in for their Long Lost Libertys", wrote John Spottiswoode to his friend Trotter on 12 August 1766, "and I hope the day not far off that under your happy auspices they will be fully ascertained and so secured as to hand them down to latest Posterity accompanied with that Benevolent Gratitude towards you which your Inestimable Services highly merit".¹ Spottiswoode, a member of the famous Scottish family of that name, was an attorney practising in London.² His friendship with Trotter, who was himself a descendant of a notable Scottish family,³ was evidently long standing, and he had become acquainted with William Crawford while the latter was in London on account of the recent mandamus causes.

"I have had the pleasure of Seeing your good friend Mr Crawford 2 or 3 times", he informed Trotter on 26 June 1766; "he is a man whom I admire, I had almost said adored. His Soul towers above the Clouds - his Spirit for liberty - Zeal for the freedom [and] independence of his fellow citizens, added to an honest

1. M.C., I, ff. 130-3.
2. He was eldest son of John Spottiswoode of Spottiswoode who in 1740 had married Mary, daughter of John Thompson of Charleton, Fife. In 1779 he married Margaret Penelope daughter of William Strahan of London and hence acquired an interest in the firm of printers later known as Eyre and Spottiswoode. About the family, see Burke's Landed Gentry.
3. The family was descended from the house of Marr, and "for centuries" its members held places of "great public trust and emolument". They espoused the cause of the Stuarts and were brought to complete ruin in 1745 (Mackenzie, Northumberland, II, 185).

sincere integrity of heart makes his character amiable and commands the respect and esteem of mankind - Post-erity will bless you and him for taking them out of the Land of Egypt and the House of Bondage".¹

Spottiswoode did not confine himself to mere eulogies, however; soon he broached a matter of the utmost practical importance:

"As I am my Dr. Sir particularly Interested in every-thing that concerns you", he told Trotter, "permitt me to Suggest that It ought now to be Your anxious Care as well as that of your friends to fix upon a proper person worthy to fill yt place wh. our Countryman [Lord Gairlies] So unworthily occupies - a person in whom the Bur: can Confide as a man of Honor who will have their real int-
[erest] att Heart & Study to Deserve their Esteem.

"I was Sometime since mentioning your case to a Gentle-
man a friend of mine & wishing that a proper Person could be found to Espouse the Cause & represent so worthy a Body - He told me that He himself had for some time past enter-
tained thoughts of Coming into Parliamt - That he woud on no Consideration submit to represent a venal mercenary Body whose only attachment is gold and who are always att market to be bought & sold - but that if he cd. gett foot-
ing in such a Corporation as I represented yours to be full of honor and Integrity he would account it his only happiness to render them real services and shd. always reckon their Interest his own.

"You sometime since wrote me for my opinion of the offer made by Callmirs (?) and since that Informed me it was att an end - Allow me therefore to recommend this Gentleman as a person of strict honor & Probity, a Bene-
volent heart and Blest with a sufficient Fortune, one who would Chearfully undertake all your Battles agt. power and riches and his knowledge in the Law which he has studied and practised for many years joined with his natural Spirit activity and address points him out to me as the person you wish for and ought to have".²

Spottiswoode went on to ask whether Crawford and his friends were engaged to anyone, and whether such a person as he mentioned would be acceptable to the corporation and to

1. M.C., I, ff. 126-9.

2. 12 August 1766 (ibid., ff. 130-3).

Trotter in particular whom he considered the "Soul of the whole". He requested full information on the state of the borough: the number of voters, whether any new ones could be enrolled before the election, to what side did the Returning Officer incline, by whom and when was he chosen. "Write me all other particulars that will more readily occur to yourself & which it may be of use to know", he requested. "If your answer which I desire may be in a Post or two is Encouraging, we will treat more Closely. If it is otherwise no harm is done..".

In his long reply of 18 August 1766, Trotter described how Lord Gairlies had deserted his supporters and how they had at length asserted their rights and gained success in the two mandamus causes:

"but", he continued, "this I hope is only a prelude to the future Establisht of their rights & Libertys - their spirit is still the Same their finances are Yet good; they are determined to have their privileges fixed on a permanent foundation, either by bringing the Lord of ye Manor to a Trial or to oblige him by another Submission to Swear in all the Burgessses properly elected by their Companys as well as set these aside whom he has arbitrarily Sworn in freemen without such an Election".¹

There were some fifty-six "real" freemen in the borough: thirty or more could be counted staunch in the Carlisle interest and would like spaniels "cringe the more they are threshed". Nine persons had also been sworn as free-men without previous election by their companies, but they (Trotter declared) had no right to vote. Forty-three

1. M.C., I, ff. 134-6.

or forty-four brothers were now standing duly elected by their companies and would bring writs of mandamus against the steward if he refused to swear them in at the next court. If he could be compelled to admit them before the General Election the balance "in favour of the town" would be considerable and they would have it in their power to choose two representatives "Mangre all opposition". Writs of mandamus could be served on the steward in the approaching Michaelmas term, and, since all material for the trial had already been prepared, notice for trial could be given immediately after the return of the writs.

"Now, Sir, if your friend whom you so strongly recommend of whose Probity & honour I cannot entertain the least doubt wd. chuse to embark in this cause, I would advise him in the first place to offer his Services in Support of their Libertys, I mean to assist them in obliging the Steward to swear in the Brothers Burgesses now duly elected. This he may do in as private a manner as he pleases; it will be hazarding a very trifle of money & that point being obtained would undoubtedly gain him more Esteem in ye Corporation after he offered himself a Candidate when his generosity was known than a £1000 wd. though given by an indifferent person. If I was a man of fortune I would glory in espousing the cause of the oppressed and think it my highest honour in life to represent So respectable a body in the British Senate, who have persevered with amazing such spirit in the support of their constitutional rights agst the most formidable opposition. ... Perhaps you will think me too Sanguine in their cause but you know my heart & that I wd. not advise a friend of yours to engage in chimerical Projects. I do think the borrough might easily be redeemed from slavery, by hazarding a little, & you well know that Some hazard must be run in affairs of this kind. Your friend will most assuredly be very acceptable to the Corporation".

The corporation was not engaged to any candidate, though

it had been hinted to Crawford that two neighbouring gentlemen of family and fortune were inclined to stand. If Spottiswoode's friend wished to stand, the sooner the freemen were engaged in his favour the better. The bailiffs, he added, were the Returning Officers: "they were last Election and now are the dupes of L[ord] C - le - but that is of no Consequence, because the votes in favour of the Cause of Liberty are all indisputable & they dare not make a false return". Finally, he said that he would like to know the name of Spottiswoode's friend, if there was no reason for concealing it.

Spottiswoode replied on 1 September 1766 and enclosed a copy of a letter he had received from his friend who still remained anonymous: "...I admire the Spirit and panting after freedom of these honest people", the writer declared, "& shall think myself happy in being the Instrument of their delivery. And if the Mandamus's can be heard & determined before the Generall Election I will propose myself & another Gentleman as a Candidate".¹ But in order to judge properly he wished for more information. He had found that a writ of error could be brought against judgments in mandamus causes as in all common suits, and, although peremptory writs of mandamus might be moved for pending the error, it lay in the discretion of the Court whether to grant them or not: they might be granted the same term in ^{as} which they were moved for, or "according to

1. M.C., I, ff. 139-42.

the Chicance of lawyers" adjourned until Hilary term 1768 or even longer, or not granted at all. Even if they were issued without delay, they could not be moved for until November 1767, since the Assizes for Northumberland were only held once a year (in summer), and judgement could not be affirmed until the first four days of the next law-term. This would be too late to compel the steward to swear in the mandamus men at the Michaelmas court at Morpeth, and, unless they could be sworn in at some other time, a whole year might be lost, which would "Greatly over run the Genl^l Election". If the steward still refused to admit them, they could move for attachments, "all of which seem to speak an impossibility of getting through these Mandamuses before next general election, or if it be possible it will be using the greatest ability, activity & address & not without immense expence if the adverse party are equally high spirited & determined to fight all the way through...". He wished to know whether Trotter thought that the townsmen could bear the expense of a total of fifty-two writs of mandamus, besides that of quo warranto proceedings against the nine persons improperly admitted as freemen. Such proceedings would be "absolutely necessary", otherwise the steward would, if need arose, swear in a hundred other such freemen to make a majority at the General Election, which "with a return agt us woud make it horrid uphill work". Moreover, he

wanted to know what sort of assistance Trotter meant that he should give the townsmen if he became their candidate - whether it was personal assistance, the lending of money or otherwise:

"These things being satisfactorily answered so as to give a reasonable probability of success, Nothing shall prevent me from Engaging in this matter & you may rely upon it that I shall go through it with Firmness, altho upon reading this letter & your friends you will See how different the State of this Burrow is from what you imagined it was when you first represented it to me. If this matter shd. not go on so as for me to embark my name being mentioned on this occasion may be a means of prejudicing me elsewhere. I should therefore wish that it was not done at present".

In his reply, Trotter admitted that the objections that had been raised seemed obvious from the state of the borough.¹ He believed, however, that the Carlisles would never face a trial once they found that the townsmen were determined to bring the causes to a hearing: "It wd. open out such a Scene of oppression that wd. hardly be credited in a free Country & they must be sensible that it is next to a certainty the Cause will go ags^t them & the Expences will be heavy". Their submission in the cases of Crawford and Hancock against whom they had "the greatest Enmity" was "presumptive proof" that they would never stand a trial. But, even if they did, it seemed possible to bring the causes to a hearing and, if successful, oblige the steward to admit the plaintiffs before the General Election. The causes would be tried not in Northumberland but at Westminster, and Dunning had stated that peremptory writs of mandamus

1. 5 Sept., 1766 (M.C., I, ff. 144-5).

would issue immediately after a verdict for the plaintiffs. The steward would then be obliged to swear them in at once and not delay until the Easter or Michaelmas courts. Everything was ready for a trial: all the records had been examined and "material evidence" from them "authenticated on Stamps".

"I am informed", he added, "that the Townsmen will have near £300 in Bank to begin afresh, which will go a great way in the Trial, but if they shd. be straitned at last I Think the Candidates who offer to Represt them in Parliament might hazard a little for their assistance if it shd be wanting".

No doubt, he continued, the personal assistance of Spottiswoode's friend would also be of great service,

"& if he chuses to Embark, the offer of this assistance at prest. is absolutely Necessary because if they are left alone to Struggle agst every Difficulty, either these who are dastardly will be Tempted to Submit to their former Yoke or if they Shd. persevere & Succeed at last some Country Gentlemen will likely make their Interest amongst them, when they see the way Clear, & your friend at that Juncture wd. not have half such a prospect of success - for certain it is, the first who offers his assistance will have the best Chance, & most readily secure their affections".

Moreover, Chief Baron Ord, who, it was said, was responsible for denying the elected brothers admission to their freedom (in order to secure his son's return at the next election), would soon be coming to Morpeth and would probably use all his influence to strengthen his party. It would therefore be expedient for Spottiswoode's friend to decide as soon as possible whether to stand, and, though he might "see it requisite to conceal his name", it would

greatly encourage the townsmen to know that two gentlemen would offer themselves candidates at a proper time and assist them in support of their liberties. It might perhaps be necessary to give them a treat at the same time as Ord gave one to his friends.

"Your friend may probably Succeed Easier Elsewhere", Trotter concluded, "& therefore I shall not take upon me to advise him in an affair of such Consequence. I have honestly & fairly represented to you the present state of the B - h in this & my former letter ^{Wc} he may judge of & I hope my correspondence wt. you will be kept a Secret betwixt you & your friends...".

Spottiswoode assured Trotter, when he replied ten days later,¹ that the letters did not go further than to himself and his friend. He enclosed another anonymous letter from him² and observed:

"You will perhaps think the Gentleman over Cautious or too Scrupulous but allow me to Say that Calculating every Chance agt himself is the most prudent way of determining an affair of this kind & allow me further to assure you that when fixed you will find him the most determined Spirited Man you perhaps ever knew".

The letter opened with the observation that, as the previous two mandamus causes had not been brought to trial, little could be inferred from them as to the mode of trial and the delays that might occur or be contrived in future ones. The former submission appeared to determine the merits of the case, but "not actually". Moreover, the proposed fifty-three causes were, he considered, very different from the other two: "those could give no Majority, these will a very great one & more than all

1. 13 Sept., 1766 (M.C., I, f. 147).
2. Same date, ibid., f. 146.

will effectually forever Unfetter the Town & destroy the Tyranny Complained of". He agreed that the time seemed to be critical and had therefore "come to a Determination So far as in the Nature of Things it is Possible to determine". He accordingly wished Trotter to declare that there would certainly be two candidates but that "Names must not be mentioned untill Preliminary's between Myself & the Town are settled or at least some Measure of the Expence ascertained & some plan settled between Us".

"In which Expence", he continued, "very great Regard must be had as well to the Merits of a Man who dares venture upon Such an arduous Task as redeeming those honest fellows from Slavery as also to the Expence, which must be great at any rate, & may be very great indeed, in the conducting such a number of Causes only, exclusive of the other incidental Charges; & therefore some Estimate Should be immediately made & sent of what is expected or that it may Cost exclusive of the Conduct of all those Causes, which if I Embark in, neither Money nor my own personal Care & Attendance Shall be wanting, but they Shall be Spiritedly conducted & I hope happily Ended".

Much would depend, he declared, on Trotter's spiritedly declaring previous to the Michaelmas court that the costs upon fifty-three causes, which would be brought instantly and pushed with vigour, might "destroy the Steward or cost him many Thousands, if he should refuse to swear in the Burgesses...". If he did refuse, and verdicts were obtained against him, "I will endeavour to flogg him by bringing Actions for Damages upon his refusal also", he promised.

This "Spirited Letter" arrived in time for a meeting which the elected brothers had arranged to consider how to

gain admission to their freedom. Trotter caused an extract from the letter to be read by Crawford as if it had been addressed to him, and this "so animated" them that more than twenty agreed to demand their freedom at the approaching court and to have writs of mandamus brought against the steward if he refused to admit them. Trotter advised Crawford, who was known as the "General" on account of the leading part he played in organising the opposition to the Carlisles, to "spend a few Shill[ings] Extraordinary": they cheered, drank the health of their unknown friend, and crossing hands, promised to stand by the Cause of Liberty and him. Some who were not present at the meeting were equally warm in the cause, and Crawford would approach several others who lived in Newcastle. A few, however, were "intimidated Either thro influence or a dastardly Spirit, being afraid to Enter into Law". A few shillings would have to be spent by the General to "quicken their Hopes" and likewise to take notice occasionally of the old freemen who supported Lord Gairlies and who would, Trotter expected, all oppose the Carlisles. Four or five pounds well laid out at a proper time was, he declared, better than hundreds of pounds ill-timed: "...your friend will never scruple such a trifle which will enable us to bring things in a little time to some degree of certainty, provided the men can obtain their freedom at the general election". Thirty or more of the forty-two elected brothers

(the previous number had been mistaken) would, Trotter hoped, be faithful to the cause, and with the old freemen would constitute a considerable majority. It was, however, impossible to estimate the cost of the election:

"The Burgesses will Expend Every Shill: they have on the Law Suits, & will put your friend to no Expence till they can do no more - his offer to conduct the Causes has gained their affections, as I expected, & Many of them will be tender of putting him to any Extraordinary Expence; open Cellars they neither desire nor Expect. L[ord] G[arlies]'s Election wt M[itford] ye other Candidate cost 2244£ when ye. accts. were settled after a contest of 10 months. His prospect at first setting out was not equal to that of your friends at present".

A personal conference would be necessary when he determined to embark. Trotter suggested that Spottiswoode and his friend should meet Crawford at York where all plans could be made. A list of the freemen showing how they stood affected would be supplied, and also copies of all the papers relative to the two mandamus causes. Spottiswoode's friend would then be able to judge whether to "retire in good time or to proceed with Vigor & Spirit".¹

The approach of the time for the Michaelmas court, however, forced him to make his final decision almost immediately, and it was not without grave misgivings that he did so:

"Seyl. Times have I put Pen to Paper to answer yr Friend's Letter of the 19th instant and as often found myself distressed", he confessed to Spottiswoode on 30 September 1766, "but at last I am determined; Your Friend cannot deceive you, I am you upon this Occasion & he will not deceive me; His Honour is concerned, mine is also, And I have such Opinion of him that I am sure we shall succeed.

1. 19 Sept., 1766 (M.C., I, ff. 148-9).

Having by this curious process of reasoning reached his decision, he requested that the brothers in his interest who wished to gain admission to their freedom would sign and deliver to the steward, a day or two before the court, the following notice:

"Mr.... Take Notice that we whose Names are hereunto subscribed intend to apply at the genl Court at Morpeth next Monday to be admitted Freemen pursuant to our undoubted Right, & in Case of Delay or Refusal We are each for himself determined to bring Mandamus for that purpose instantly - Dated this ... Day of Oct. 1766 A.B.C. D. etc"

If possible, this notice was to be served on the steward in person and in the presence of two witnesses; his answer was to be noted down. Two other copies of the notice should be made: one to keep, the other to be returned to London with the following addition:

"We the before named A.B. C.D. etc do hereby authorize Mandamus's to be brot & prosecuted to Judgement pursuant to the above Notice. Witness our hands ...".

"I am now embarked", he declared, "& believe me there is nothing they can expect with any degree of Reason & that I can do which I will not do. This is very comprehensive from a Man of my Temper". He was sure of getting a proper colleague, he added, for he had many offers from which to choose: the canvass, therefore, he declared, "must be for two". He agreed that they should have a personal conference, "where as Lord Bolingbroke Says to Pope we may have the feast of reason & the flow of Soul". Meanwhile, he would await with impatience the result of the Michaelmas court.¹

1. M.C., I, f. 150.

"You observe my friend Says himself that he is Embarked", commented Spottiswoode.¹ "Trust me he is most Sincerely So; his heart full Bleeds for you all: his first Toast is always to the Sons of freedom & prosperity to the Burrow". Although "not over fond of making Comprehensive declarations or positive assurances", his nod, like Jove's, was always decisive: "he with the person he will enlist in freedom's Cause will like Castor & Pollux tear down the Usurpers & assertors of Tyranny".

The notice which was to be served on the steward, Spottiswoode explained, was designed to prevent his pleading surprise and occasioning delay: it might "save the ensuing Term upon a rule to shew Cause" which was most essential as they could not afford to lose a single hour. It might also have a "happy Effect in the matter of Costs", besides many other useful consequences.

"Allow me My dear Trotter to assure you that if there is a single Person or a corporation who boggle att the expence or startle at being brought into lawsuits...that he may delete from their thoughts:order them to drink a pint of Lethe & forget all their cares - Induce them to sign the notice to the Steward & the power to move for the mandamus's and on my honest word the expence shall never trouble them. I will take that upon myself for my friend who is most warmly Engaged in all your Interests and Concerns".

The same applied to the four or five pounds which Trotter had suggested should be judiciously expended: "...draw on me", Spottiswoode ordered; "I will give Ten times the sum out of my own pocket to serve you...& when your Interests

1. To Trotter, 30 Sept., 1766 (M.C., I, ff. 151-3).

are Joined with those of the man for whose success I am concerned Twenty Times the Sum ... to do Essential Service".¹

Twenty-nine elected brothers signed the notice which was duly served on Christopher Fawcett two days before the court. There was a certain element of irony in the situation, since he had been consulted as Counsel by the townsmen before his appointment as steward of the Morpeth courts, and had himself advised them to apply to the Court of King's Bench for redress. Now he declared that he was only a servant and had instructions to swear in two brothers only (Crawford and Hancock); he hoped they would bear him no ill-will, for he would swear them all in if he had directions to do so.²

Thirty-four elected brothers demanded their freedom at the court two days later. As expected, all were refused. Fawcett declared that they ought to have applied to the Lord of the Manor. Whoever had dictated the notice that had been served on him, he added, was a "novice in the Law".³ Two of the thirty-four who demanded their freedom "wanted resolution" to sign the order to move for writs of mandamus, and, to persuade others who were somewhat "timorous" to join in the scheme, an indemnity clause had to be inserted.⁴ This, declared Spottiswoode, vitiated the whole plan,

"for tho' it is absolutely & positively understood that these people Should be att no Expence nor Suffer either in person or purse, Yet such an agreement can never

1. M.C., I, ff. 151-3.
2. Trotter to Spottiswoode, 6 Oct., 1766 (ibid., ff. 159-162).
3. Ibid.
4. Trotter to Spottiswoode, undated but drafted on the back of the letter previously cited.

appear for less in a Court & it is really & truly in the strictest meaning Bribery & Corruption & such a slip might Incapacitate them for ever from being sworn in or giving their votes - It must be signed without this & they must rely upon the Assurances of men of honor for their Indemnity who mean to do every fair honest thing for their Advantage & shd. they be at any time afraid of their being brot into Expence in this matter they have always the power of withdrawing".¹

As Trotter pointed out, however, to attempt to get a new authority from them might endanger the scheme: "they wd. immediately imagine there was some contrivance to ruin them" (their opponents had already "dunn'd it in their Ears that they would be ruined by contending wt Ld. C."),² and it was decided to proceed without producing the signed authority.³

"The Term soon begins", wrote Spottiswoode on 28 October 1766, "when we shall give our opponents a sweat, I hope a decisive Blow and Crush them att once & as long as you are assured of keeping these people together no pains Trouble or Expence will be Saved to restore them to their freedom & have them Inrolled : att the Same time you must see the great Risque a Candidate runs in fighting their Battles for them, for when they are once declared freemen they may desert to the other Party & repay his great Services & Expences wt. Such base ingratitude. I here talk of men as they are Sometimes found in like Circumstances but not as what I expect from my friends wt. you".⁴

The proposed meeting at York did not take place: Spottiswoode's friend was stricken with a severe attack of rheumatic fever which obliged him to abandon all his plans in that respect.⁵ Then, all letters from Spottiswoode to Trotter ceased: Trotter wrote twice but received no reply. On 29 October 1766, now throughly alarmed,

1. Spottiswoode to Trotter, 11 Oct., 1766 (M.C., I, ff. 163-4).

2. Trotter to Spottiswoode, 15 Oct., 1766 (ibid., ff. 167-8).

3. Spottiswoode to Trotter, 28 Oct., 1766 (ibid., ff. 169).

4. Ibid. 5. Spottiswoode to Trotter as in n. 1.

Trotter wrote again:

"Has faith failed on the Earth & is Virtue, honor, Truth & friendship & every Principle that dignify & adorn Human Nature become Empty Names? Can you be insensible to the Uneasiness I feel? Not a Scrape of your pen has reached me since the 14th Inst. tho' I have wrote you twice in that time. Any Disappointments in a private Concern I cd. bear wt. firmness; but when the Interests of thousands, the Liberties of Brittons, the privileges of Citizens & the Rights of their innocent Posterity are at Stake the least coldness & indifference in So important a Cause, so happily & Successfully begun amazes & confounds me, espec. from one on whose honor I cd. with so much confidence rely. ... My Soul abhors the least suspicion of a man who never yet deceived me: but there is something So unaccountable, so mysterious in your not answering my letters in So critical a time that I own I am distressed above measure. ... The Time draws on when the People will be kept no longer in Suspence, when something must be done for them.... let us know the worst, it will at least be Some degree of ease".¹

Greatly surprised and alarmed, Spottiswoode replied immediately.² He had written, he explained, on 18 October, enclosing two letters from their mutual friend who had offered "everything on his part, Money, Labour, pains, Trouble". "They may rely upon it", he had declared, "that everything Shall be done that can be done: I consider them as People in whom I have a Concern & Intert; they ought to do the like as to me. It is this mutual Confidence that can & will destroy Tyranny in the Burrough, restore Freedom & Liberty to the Broyrs". And in the second letter:

"My Courage is so far from failing that I am animated beyond what I thought - They never will be att a Shilling Expence if they act like men of Conscience. It is impossible for any man to be more anxious about

1. M.C., I, f. 172.

2. 1 Nov., 1766 (ibid., ff. 173-6).

the matter than I am. I solemnly declare I mean to do as I woud wish to be done by".

These letters, Spottiswoode observed, must have been intercepted at Morpeth Post Office by some of the opposite party. He had shown Trotter's last letter to their mutual friend who was "distracted & like to run mad": he wished Trotter to write immediately and let them know ^{whether} if the letters had come to hand, and, if they had not, he would offer a reward of fifty pounds for the discovery of those who had intercepted them. "We may possibly Grace our victory wt the execution of Some of our enemies", declared Spottiswoode: "Generosity & clemency is never extended to traytors". Spottiswoode sent this letter to John Wright, an attorney of Newcastle, with a request to send it by private express to Morpeth.

The letters were never delivered, nor were those responsible for the supposed theft discovered. This was not the only time that Trotter and his friends had reason to suspect that their opponents had tampered with their letters, and at critical moments they were forced to take precautions. "I Shall Send my letters to be put in at Newcastle or forward them to you under Cover to G. Crawford at London", Trotter informed Spottiswoode on 7 November 1766, "& let yours be directed by a different hand & Seal to Mr Crawford at Morpeth, signed wt. a mark lest Such another accident may befall us".¹

1. M.C., I, ff. 177-8.

Meanwhile, the aldermen of the companies met and resolved that quo warranto proceedings should be instituted against those persons believed to have been illegally admitted as freemen.¹ Having convened their companies and obtained almost unanimous support, they ordered John Wright, the attorney of Newcastle (who was himself one of the elected brothers who had agreed to have writs of mandamus brought against the steward), to proceed against these "freemen" immediately. This, declared Trotter, was "striking at ye very root of Tyranny & oppression".²

The immediate task was, however, the prosecution of the mandamus causes. Thirty-three elected brothers had by this time agreed to have writs brought in their names, and on Saturday 8 November 1766 the first batch of writs was issued by the Court:

"There was this day the Greatest Splutter noise & Confusion in the Court of King's Bench that ever was known since it Existed", wrote Spottiswoode. "14 of the Mandamuses were moved for. The whole Court was astonished. Sir Fler. Norton was Thunderstruck & made a thousand Inquirys of who did this, who gave directions did My Ld. Carlisle know of it, where was MR Ord, was he Privy to it, all of which were answered by "I dont know". The rest wd. likewise have been moved for, but as it behoved to be done by separate Councill they had gone out court & cd. not be Called in Time, but it makes little difference; they will be all ready to send by Mondays Post".³

The thirty-three writs arrived at Morpeth by express at 2 a.m. on 14 November.⁴ With them were detailed instructions as to how they were to be served on the steward which, Spottiswoode warned, should be followed exactly:

1. Trotter to Spottiswoode, 7 Nov., 1766 (M.C. I, ff. 177-8).
2. Same to the same, 14 Nov. 1766 (ibid., ff. 186-8).
3. To Trotter (ibid. ff. 181-2).
4. Trotter to Spottiswoode, 14 Nov., 1766 (ibid. f. 185)

"the Smallest error", he declared, "would ruin us forever".¹ Also enclosed was a letter from Spottiswoode's friend.² The letters that had miscarried, he wrote, were "the only ones that I wd. have wished not for our adversaries to have Seen, but I Cannot see any real injury that can arise to the Cause: they will See the Criterion of honor in my Sentiments & that we Pant after a liberty which I hope to restore to them". A point in one of those letters deserved mentioning, however: Trotter had offered to have fifty pounds sent to Spottiswoode, out of the money raised by the companies, to help meet the cost of the mandamus causes, to which he answered that ten times that sum would "hardly return those Mandamus's".

"The Expence & Incertainty", he declared, "wo^d be alarm-
ing & deter perhaps any thinking Man alive but the Man
who does it; he has spoke to several who are very anxious
about a Seat in Parliament but they shudder at it. Three
& thirty mandamus Causes are what perhaps never were at-
tempted by one Man before; however, the greater the Danger
the greater the Honour".

The very issuing of the thirty-three writs had cost a hundred pounds out of pocket, and "a designing Person of an Agent would have got another Hundred for his Trouble, Fees & Expences, so that in every small step almost, you can't Move & get a Rule without fifty or a hundred Pounds". If their opponents defended the causes "with Chicane & Spirit", the expense would be "infinite".

1. M.C., I, f. 185.
2. The letter, again unsigned, is dated 11 Nov., 1766 (ibid., ff. 183-4).

"There is one Thing we may rely on", he added: "that the two last Causes were given up not at all, & I & you [Spottiswoode] apprehended from what was represented to us as if it was upon the Merits; It was done by the Advice of our adverse Counsel with no other View than to put the Borough in better Humour & to get Some essential Act from them of giving up their Libertys if the Paper rely'd on & not yet produced Shd not be Sufficient; For they insist, I find, that this Paper is a Bye Law. Now if it is so, & is made pursuant to Charter, farewell us, for by it they Can chuse no Freemen without Consent of the Lord; I think, however, that cannot be".

"You can't conceive the Joy which the Mands. have diffused among all honest fellows in the Corporation", wrote Trotter;¹ the opposite party, however, were "Amazed & confounded & like people in a dream...". The companies had meanwhile given Crawford and Hancock full authority to settle accounts with John Bulman, the attorney, and to "lay out the remainder of the Money as they see Proper for ye Support of yr. Libertys":

"I was much pleased to see ye Compys so Unanimous, & So readily agree to ys proposal", commented Trotter, "as Crawford & Hancock are men of true Spirit & in ^{wm} you may Confide. This Bank shall be kept Sacred, in case of a defeat yt our frnd may not bear the whole burthen alone".²

By 29 November 1766 an affidavit had been sent to Spottiswoode for the purpose of commencing quo warranto proceedings against some of the supposed illegally admitted "freemen". This affidavit was, however, "altogether insufficient", and it was decided to postpone these actions until the next term, lest an early blunder in what was a "nice process" gave their opponents an ³ imaginary victory and dispirited their friends.

1. To Spottiswoode, 14 Nov., 1766 (M.C., I, ff.186-8).
2. Ibid. 3. Spottiswoode to Trotter, 29 Nov., 1766 (M.C., I, ff.193).

To Trotter complete victory seemed virtually certain: the only hazard, he believed, was "the Chicanery of Lawyers", who would seek to put off the trial until the General Election was over. If this could not be done, he was convinced that the Carlisles would submit without a trial; and, once the thirty-three mandamus men were admitted, and five "free-men" who had been illegally admitted set aside, the election of two Members of Parliament in opposition to the Carlisle interest would be "so indisputable" that the Carlisles would save the expenses of a contest.¹ Moreover, the Carlisles family were "highly disengaged" at the conduct of their present agents, and Chief Baron Ord would probably meet with "little countenance" from them; his own influence in the borough was "next to Nothing", and he might therefore offer to compromise the election. If he did, "you must stand firm like a Rock", Trotter warned Spottiswoode, "for two Represnts in Parlt. will be as Easily Obtained as One".² Indeed, Trotter sought to persuade Spottiswoode to become the other candidate.

"I write this in Confidence to yourself only", he began a letter to Spottiswoode on 14 January 1767; "after a great deal of pains, trouble & Some Expence, I have revived the Spirit of Liberty which was almost extinguished when poor Atkinson was laid in his grave. I have succeeded So far, beyond my Expectations; the Interposition of our friend & you So opportunely, gives me the greatest Reason to hope that the day is near at hand when the Libertys of an oppressed People will be Established on a solid foundation".³

1. Trotter to Spottiswoode, 6 Jan., 1767 (M.C., I, f. 206).
2. Same to the same, 14 Jan., 1767 (ibid., ff. 206-8)
3. Ibid.

Spottiswoode, he continued, had acquired great popularity in Morpeth on account of the services he had rendered: the townsmen were "Sensible" that without his aid it would be impossible to baffle their adversaries backed as they were with power and riches and "hackneyed in all the Arts of Venality & Corruption": "to you", declared Trotter, "as their Deliverer they stretch out their hands, to you as the future supporter of their Liberties they give their hearts, their Votes & Interest; your name is often mentioned with all the warmth of affection that Gratitude can prompt, your health toasted in all the Companys of our friends". The law expenses would be the chief charge attending a contest, and part of these, Trotter hoped, would be recovered from their opponents. "For these reasons", he continued, "(for a considerable time by past) I have had you in my Eye as one of the properest persons to offer yourself at this time; it is a prospect which perhaps May Never again present itself to you in life".

Spottiswoode considered the proposal "with Great attention":

"Some Spark of (I hope a laudable) ambition makes me wish to form the Closest Connection with this Event", he declared. "Your Lers have kindled that Spark & made almost a Conflagration; your Invitation & assistance weigh with me above every oyer Argument & sink deep. . . .

"Att present you must think of Me as a man that wishes to be in that Predicament You Incline to see me. My views Extend to the Mark where you wish to see me arrived & my hopes Even flatter the prospect.

"I have att present an affair in dependance wh if it ends fortunately determines me att once. . . . In the mean-

time I am resolved that the Ground shall be kept clear till we see what happens - If I am fortunate I shall be superlatively so: if on the Contrary these things misgive I am but where I was".¹

To keep the opponents of the Carlisles together, Trotter had considered forming a club, but, realising that this would be attended with "many inconveniences", he decided on another scheme. A publican named John Lumsden had at his inn suitable conveniences for a coffee house, and Trotter proposed that they should meet there; he himself would attend and read to them the London newspapers, which he asked Spottiswoode to have sent down three times per week: he would meet the expense, but he believed it would save Spottiswoode's friend as much as a hundred pounds if he was returned for the borough.² Spottiswoode fully approved the idea: a coffee house, he observed, had all the advantages of a club without its "many insurmountable & disagreeable Evils & mischieffs". He undertook to have newspapers supplied regularly.³ The room, styled "the British Coffee House", was duly opened. The London Chronicle and the Daily Gazeteer were the only papers that would be required, Trotter informed Spottiswoode on 30 January 1767: "They seem to breathe the greatest spirit of Liberty, & are fullest for our Constitution".⁴

In the legal battle, the next step that had to be taken was to commence quo warranto proceedings against

1. 29 Jan., 1767 (M.C., I, ff. 215-7).
2. Trotter to Spottiswoode, 14 Jan., 1767 (ibid., f. 209).
3. Spottiswoode to Trotter, 24 Jan., 1767 (ibid., f. 211).
4. Trotter to Spottiswoode, 30 Jan., 1767 (ibid., f. 218).

the honorary freemen and those who had been admitted without election by their companies. The result of these causes, declared Spottiswoode, would "resolve the fate of the Candidates & the Liberties of the Burgesses"; for, if the agents of the Carlisle family could admit any person as an honorary freeman and could thereby give him the right to vote, or if they could admit brothers as freemen without their being elected by their companies, they could create a majority at will and "Baffle the best Concerted measures supported with Spirit & ability".¹ Moreover, time was short, even if Parliament lasted its full legal span, and a premature dissolution would be disastrous for the "friends of liberty". "There is Some Talk of the Parliaments being to be dissolved", Spottiswoode remarked in a letter to Trotter of 17 February 1767. "Shoud this happen we Shall all be ruined & our Operations rendered useless: don't Let our people in Gen¹¹ know of this for fear of Disheartening them".² Trotter, however, thought that Spottiswoode's friend would still stand a fair chance of success, but, he declared, "we must have two if possible".³

Meanwhile, on 12 February 1767, the Court of King's Bench granted rules ordering five non-elected brothers who had been admitted as freemen at the Easter court 1766 to show cause why informations in the nature of a quo

1. Spottiswoode to Trotter, 24 Jan. 1767 (M.C., I, ff. 211-3).

2. M.C., I, ff. 224-5.

3. Trotter to Spottiswoode, 20 Feb., 1767 (ibid., ff. 226-8).

warranto should not be exhibited against them to show by what authority they claimed to be freemen.¹ For some reason which he did not fully explain, Spottiswoode delayed sending the rules to Morpeth until 17 March 1767: "We have lost nothing by the delay", he wrote, "& if the serving them had produced what I was afraid of the consequences might have been dreadful". He preferred that they should not be served until the end of the month at the earliest,² but he feared that further delay would give their opponents grounds for having the rule enlarged whereby the whole of the next term would be lost. To avoid this was of the greatest consequence.³

The five "freemen" were "greatly confounded" when served with the rules and appeared ready to give up without resistance. The Carlisle agents, however, encouraged them to stand fast, assuring them that they would send in return to the rules affidavits which would stop all proceedings against them.⁴ These affidavits were duly procured. Matthew Potts swore that he had known Morpeth for fifty years and had been clerk of the Morpeth courts for over twenty-three years. He believed that from time immemorial there had been two ways of making freemen in the borough: brothers elected by their companies were returned to the Lord of the Manor for approbation, and if approved were sworn and admitted as freemen at a court leet; but others had been made

1. Spottiswoode to Trotter, 13 Feb., 1767 (M.C., I, f.223).
2. Same to the same, 17 March 1767 (ibid., ff. 231-3).
3. Same to the same, 28 March 1767 (ibid., ff. 235-7).
4. Trotter to Spottiswoode, 28 April 1767 (ibid., ff.238).

freemen by the nomination of the Lord of the Manor and were known as honorary freemen. The Lord's right to nominate such freemen had never been challenged until very recently. Between 1696 and 1747 thirty-four honorary freemen's names were recorded in the court book in his custody, and he believed that they "did or might...legally exercise and Use the Liberties, Priviledges and franchises of free Bur-gesses or freemen of the said Borough", except that their sons were not entitled to admission as brothers of the companies as were the sons of the other freemen. Several of these honorary freemen had served on the juries at the manor-ial courts, and had been returned by the juries to serve the offices of constables, ale-tasters, fish-and-flesh lookers and, in one case, of sergeant, and they had served these offices which only freemen were entitled to hold, generally by appoint-ing a deputy. The five persons against whom the rules had been granted by the Court had been nominated as freemen and had been duly sworn and admitted as such at the Easter court 1766. Several other persons made affidavits to the same effect as the above, and four of the five non-elected "free-men" themselves made a deposition in which they insisted that they had a right to exercise all the liberties and privileges of freemen.¹

John Grey, one of the freemen who made an affidavit on behalf of the defendants, was described by Trotter as a person of "most infamous Character".² Bribery and cor-

1. Copies of these affidavits are preserved amongst the Howard of Naworth MSS. The originals are in the P.R.O., K.B., 1/17 (Trinity, 7 Geo., III, parcel 2).

ruption, Trotter alleged, had been employed by the Carlisle agents to procure the affidavits they required.¹ Robert Singleton, a freeman aged eighty-six, "a poor blind old man living upon charity",² swore that he had been threatened and bribed by Matthew Potts to make an affidavit, and declared that he was willing to go to London if it would help to defeat "such wicked Purposes".³ This information Crawford and his friends regarded as of such importance that they insisted that Edward Newton, one of the attorneys handling the local business connected with the lawsuits, should send it by express to Spottiswoode:⁴

"If the Court cd. be moved so as to punish Matthew Potts for So flagrant a crime it wd. have a noble effect on the cause", wrote Newton. "I am just now informed that Grey who has made another affidavit is terribly uneasy at what he has done; & I doubt not but the same undue influence has been used with him, so that probably we Shall soon have more of the same work. How bad is the Cause that needs such rotten props to support it?"⁵

Whether Spottiswoode was able to make any use of the affidavit is not clear, nor is there any evidence to suggest that Potts was punished for his alleged "flagrant crime".

Meanwhile, Christopher Fawcett had made his return to the thirty-three writs of mandamus. The return was somewhat different from that which he had made in the Crawford and Hancock cases. Although he again stated that the

2. Trotter to Spottiswoode, 28 April 1767 (M.C., I, ff. 238-9).

1. Same to the same, 18 May 1767 (ibid., f. 246).

2. Edward Newton to Spottiswoode, 4 May 1767 (ibid., f. 242). The letter (a copy) is not signed, but bears an endorsement "from Mr. Newton".

3. Trotter to Spottiswoode, 18 May 1767 as in n. 1.

4. Newton to Spottiswoode, 4 May 1767 as in n. 2.

5. Ibid.

person named in each writ had not been duly elected, he now declared that according to the ancient and laudable custom of the borough everyone sworn and admitted as a freeman "hath been and hath used and been accustomed and of right ought to be before his being admitted and sworn into the place and office of a free Burgess...approved of by the Lord of the said Manor and Borough to be a free Burgess or freeman of the said Borough"; and since the person named in the writ had neither been duly elected nor so approved he could not be admitted as a freeman.¹

Dunning gave it as his opinion that this return was illegal, two distinct reasons being given for the rejection of the plaintiffs, whereas by the forms of pleading, he believed, only one reason should have been stated. He therefore advised that an attempt should be made to have the return set aside: if this could be done, peremptory writs of mandamus would issue immediately and the trouble, expense and uncertainty of a trial would be saved.² The validity of the return was argued before four judges of the Court of King's Bench, but they unanimously agreed that it should be allowed.³ The news of this was "blazed

1. A copy of Fawcett's return is preserved among the Howard of Naworth MSS.

2. Spottiswoode to Trotter, 14 May 1767 (M.C., I, ff. 243-5).

3. Counsel for the plaintiffs stated that double pleas were permissible only in civil cases between party and party. By Common Law, a double answer could not be given to a party and on the same principle it could not be given to the Crown. The writ of mandamus merely suggested that the plaintiff was duly elected: the double

thro the Town like wild fire" by the Carlisle agents who "Positively asserted" that it was a "compleate Victory".

By the same post, however, Trotter received Spottiswoode's account of what had taken place, and was thus able to show the "falsity & absurdity" of their opponents' assertions.¹

Despite the opposite party's attempts to arouse in the mandamus men "apprehensions of sustaining damage in Case of a defeat", none of them had flinched.² True one or two had at one time appeared timorous, which greatly alarmed Spottiswoode, but by 18 May 1767 all were steady.³

return put it on the Crown to show that both answers were false, and if two answers were allowed so also might two thousand which would distract the attention of the Court. Counsel for the defendant replied that the writ ordered the defendant to admit the plaintiff or show cause for his refusal to do so. The defendant had accordingly shown two reasons why he had refused to admit the plaintiff in each case. Lord Mansfield pointed out that there was a duplicity in the writ which necessitated a double return: the writ asserted that the plaintiff was duly elected and thereby entitled to be admitted as a freeman; the return stated that he had not been duly elected and was not entitled to be sworn and admitted because he had not been approved ~~of~~ by the Lord of the Manor, which, according to the custom set forth in the return was "essentially necessary" before he could be so sworn and admitted a freeman. Where two conclusive answers could be given it was "contrary to every principle of Justice" to confine a person to one of them. Mr Justice Yates agreed that several consistent answers might be given in a return to a writ of mandamus: these writs always concerned public offices, and, if the defendant was restricted to only one answer in his return, the Court might admit a person to such an office who had no right thereto. Mr Justice Hewitt gave an opinion to the same effect. Mr Justice Aston declared that the return was good in so far as it answered the supposal of the writ which charged the steward criminally with a breach of duty, and to this charge he might return as many consistent answers as he pleased (Burrow's Reports of cases in the King's Bench, IV (1766-70), 2041-6).

1. Trotter to Spottiswoode, 26 May 1767 (M.C., I, ff. 247-8).

2. Same to the same, 18 May 1767 (ibid., f. 246).

3. Spottiswoode to Trotter, 14 May 1767 (ibid., ff. 243-5).

Both parties were now making final preparations for the trial of the mandamus causes. Robert Lisle, the attorney acting for the defendant, drew up a state of the customs and constitutions of Morpeth, in which he pointed out that the welfare of the borough depended on the admission of able and trustworthy persons as freemen; if the plaintiffs succeeded in gaining admission without the approbation of the Lord of the Manor, "anarchy and confusion" would result.¹ This approbation was an immemorial custom: it was recorded and recognised as such in the corporation books in 1747; several of the witnesses who were to appear for the plaintiffs had themselves signed this order and owed their own freedom to the approbation of the Lord of the Manor. William Arthur, formerly alderman of the Fullers' and Dyers' company, had been elected in 1737 but had not been admitted a freeman until the Lord approved of him in 1748; Andrew and Cuthbert Bullock, two freemen who were "very Obstinate & Opinionated", had signed the order of 1747. Andrew Bullock had been elected in 1723 but not admitted until 1729; he had waited until then "for the consent & approbation of the Earl of Carlisle". Gabriel Dunn, another freeman and witness for the plaintiffs, had signed the order of 1747. All these witnesses had also signed an undated petition to the Earl of Carlisle requesting his consent and approbation for certain persons to be admitted freemen. Moreover, as all freemen, they had sworn to be

1. "A further State of the Customs & Constitutions of Morpeth drawn up by Mr. Robert Lisle in the Manner that he and other witnesses will prove it" (Howard of Naworth MS).

faithful to the Lord of the Manor and his heirs: "How Andrew & Cuthbert Bullock, Gabriel Dunn & William Arthur who took this oath & waited for and had the Lord's Approbation will account for endeavouring to alter, change and overturn the custom orders & Privileges of the Corporation must be answered for by them", commented Lisle.

From the books of the various companies Lisle extracted evidence which he believed would support the defendant's case. On 3 October 1729, for example, when the Tanners' company had elected two groups of six brothers as freemen, it was agreed that if only twenty-four freemen were "consented to be sworn by the...Earl of Carlisle" the latter six were to "stand postponed". In 1760, the company had agreed that any of its brothers seeking directly or indirectly to be elected a freeman before a licence for such an election was given by the Earl of Carlisle would be "rendered incapable of being elected a freeman". Although this order was repealed two years later, it showed, Lisle declared, the "sense of the CompY and the Custom". Again, in 1737, the Fullers' and Dyers' company had elected several brothers as freemen "in order to their being sworn upon the first Occasion of freemen to be returned by the Alderman for the time being to the...Earl of Carlisle for his probation". This entry, Lisle declared, was said to be in the handwriting of William Richardson, "a sensible man", born in Morpeth and well acquainted with the customs and

constitutions of the borough of which both he and his father had been freemen.

Again, Lisle went to some trouble to show the lapse of time ~~there had been~~ between the election of certain brothers and their admission as freemen. Those elected in 1723 had not been admitted until 1729 or 1730; none of the forty-eight elected in or about 1737 were admitted until 1747: some of them had been obliged to wait for over twenty years, and others had died without being admitted. Some had resigned their rights to other brothers who had then been elected by their companies instead. If there had been no custom that the Lord of the Manor should approve those who were to be admitted, what, Lisle asked, could have prevented all the elected brothers being sworn and admitted immediately?

In 1696 several brothers had endeavoured to gain admission as freemen by mandamus proceedings. They had not been elected by their companies, but alleged that service of an apprenticeship of seven years under a freeman entitled them to admission as freemen. The return to their writs of mandamus set forth the necessity of election by the companies, but stated that no one ought to be admitted a freeman without notice being given to the Lord of the Manor "nor without his license by himself or his Agent in that behalf given and granted to the Bailiffs Aldermen and Burgesses of the said Borough to make an election of such

Burgesses". Moreover, when these plaintiffs later disclaimed their alleged rights, they acknowledged that they should have been elected by their companies and submitted for approval to the Lord of the Manor.

Again, when there was a shortage of freemen in 1729, the grand jury called on the bailiffs and aldermen to join them in petitioning the Earl of Carlisle "to make such a number of Freemen as to his Ldship shall seem convenient according to the ancient custom of this Corporation", and the bailiffs, aldermen and grand jury later acknowledged that the Earl had power to reject their request in part or in whole. And, in an undated petition to the Earl, evidently drawn up sometime after 1748, the bailiffs and forty-seven freemen requested that several persons might have his consent to their being admitted freemen, since there were not enough freemen to fill the offices of several companies, and although these persons were well disposed towards him they had the "mortification" of being treated as those of a very different behaviour.

Then there was the order of the grand jury at the Michaelmas court 1747 whereby no alderman was to proceed to an election for freemen without obtaining the consent of the Earl of Carlisle for making and confirming such freemen, and the famous order of the bailiffs, aldermen and majority of the freemen whereby no company was to elect freemen without the previous consent of the Earl

and his heirs, in accordance with the ancient usage and custom of the corporation. All this written evidence was to be supported by the testimony of witnesses such as Robert Lisle himself, Chief Baron Ord, and Matthew Potts.

On 21 May 1767 the agent for the plaintiffs gave notice to the attorney for the defendant that the issues joined in the case of Edward Lumsden (one of the mandamus men) would be tried on 2 June.¹ The attorney for the defendant refused to accept this notice, because it gave only twelve days warning instead of the usual fourteen.² Nevertheless, the plaintiff's agent moved for a special jury, and Spottiswoode, believing that the trial would be held early in June, ordered six of the most sensible witnesses to be sent from Morpeth. "This matter", he wrote to Trotter, "now Comes to a Crisis when the Law will determine whr. Ld. Carlisle or the Burgesses of Morpeth are to Send the representatives to parliament for that Burrough. We beg the continuance of your prayers for our Success which will give joy to hundreds...".⁴

Watched by a "great concourse" of well-wishers, the witnesses left Morpeth in high spirits on 30 May.⁵ The opposite party appeared to have made no preparations for

1. Documents drawn up by the defendant's lawyers relative to an attempt to postpone the trial (Howard of Naworth MSS).

2. Ibid.

3. Ibid.

4. 28 May 1767 (M.C., I, ff. 249-50).

5. Trotter to Spottiswoode, 30 May 1767 (ibid., ff. 251-3).

the trial: "I am only afraid that by the Chicanery of Law the Deft. may get the trial put off till next term", commented Trotter.¹ His fears were justified. Before the witnesses arrived, the plaintiff's lawyers had a "battle" in Court with Counsel for the defendant in an attempt to have the trial fixed for 6 June. Sir Fletcher Norton, Counsel for the defendant, insisted that his client could not be ready.² The Court appointed no day for the trial, but Spottiswoode declared that on 5 June the plaintiff's lawyers would "have a great push" to get it fixed for the next day.³ This attempt, if made, failed. The agents for the plaintiff then gave notice for trial at the first sittings Nisi Prius within Trinity term, and on 10 June 1767 they gave similar notice in respect of the thirty-two other causes for the second sittings within the term.⁴ These proceedings provoked numerous complaints from the defendant's lawyers, who declared that the notices could not be given with any other view than to "harrass the defendant". Many books and records and "very antient witnesses" had to be brought from Morpeth - two hundred and ninety-one miles from London - and Robert Lisle made an affidavit setting forth that the issues joined would, he believed, be attended with difficulty and require a great length of time for trial, and that several points of law were likely to arise, for which reasons he believed the cause "very proper and

1. To Spottiswoode, 30 May 1767 (M.C., I, ff.251-3).

2: Spottiswoode to Trotter, 2 June 1767 (ibid., ff.254-5).

3: Ibid. 4. Same to the same, 4 June 1767 (M.C., I, f. 256).

5. Howard of Naworth MS.

6. Ibid.

necessary to be tryed at the Barr of this Honourable Court".¹
On 16 June, the defendant's agent gave notice to the plaintiff's lawyers that the Court would be moved that Edward Lumsden's cause should be tried at the Bar of the Court of King's Bench in Michaelmas term 1767 and that the thirty-two other causes should be determined by the verdict in that case, and that, until such trial was held, the trial of these causes should be stayed.² "You may be assured that we will dispute this to the Last Inch without flinching", declared Spottiswoode in a letter to Trotter, "& I have great hopes of their being Baffled in this Attempt". Their opponents' hope was now in delay: if they could be prevented from postponing the trial, Spottiswoode imagined that they would "give in without Striking another Stroke".³ Three days later, he reported that the defendant's Counsel had moved for a trial at Bar but had been "overruled in every point they had to alledge for an Inducement to grant such Tryal".⁴

Now that a "fair, Candid & Impartial tryal by a sensible & unprejudiced Special Jury of the County of Middlesex"⁵ had been fixed, Counsel for the plaintiffs ordered that more witnesses should be procured. Three or four of the "most distinct old men" well acquainted with the constitution of the borough but in no way connected with the companies were

1. The affidavit, sworn at Morpeth on 10 June 1767 is preserved in the P.R.O. (K.B. 1/17 Trinity 7 Geo.III, parcel 1).
2. A copy of the notice is preserved in M.C., I, f. 260.
3. Spottiswoode to Trotter, 16 June 1767 (M.C., I, f.259).
4. Same to the same, 19 June 1767 (ibid., f. 257).
5. Ibid.

required, and also witnesses who could prove the election of each plaintiff. Altogether, seven or eight new witnesses would have to be brought to London: the expense would be considerable, but, as Spottiswoode remarked, there was "no help for it".¹ The evidence of the witnesses who had already arrived gave him much satisfaction: they were all "good fellows" and seemed to stick to "one sensible tale". Still, the long delay made them grow tired of London: "even a second sight of the Lions affords Andrew Bullock no Pleasure",²

Spottiswoode remarked towards the end of June 1767. Earlier he had declared that but for William Arthur, who was always cool and sober, he would have been at a loss^{to know} how to manage the others: several times Arthur had prevented them from going to places where they had been invited "merely to be pumped & hurt the cause".⁴

The trial was held on 17 July 1767. As soon as the jury had been empanelled in Westminster Hall, Sir Fletcher Norton, Counsel for the defendant, made a motion to withdraw one of his issues and thereby took the lead in opening the case, so gaining the "very Great advantage" of making the reply.⁵ He made no mention of any claim on the part of the Earl of Carlisle to the right to give a licence before an election of freemen could be held, but insisted that the Lord of the Manor had always had and exercised the right to approve or reject those whom the companies elected. He cited the mandamus proceedings of 1696 and the return and

1. Spottiswoode to Trotter, 3 July 1767 (M.C., I, ff. 266-8).
2. Same to the same, 4 June 1767 (ibid., f. 256).
3. Same to the same, undated (ibid., I, 265).

disclaimer of 1697. At the Michaelmas court 1729, when forty-eight elected brothers had been presented to the Lord of the Manor, he had chosen twenty-four (and also three others who had neither been elected nor presented); and at the following Easter court the other twenty-four had been sworn in, together with eight who had never been elected at all. In 1747, he had approved and disapproved as he pleased and this had given rise to no complaint. Norton then proceeded to make great use of an undated petition, which appeared to have been drawn up in or about 1751, in which the bailiffs and many freemen had requested the Earl of Carlisle to consent to the admission of several brothers (who had stood long elected) as freemen. Some extracts from the books of the Tanners' company were then read, after which Robert Lisle, the defendant's first witness, declared that he himself and everyone in the borough with whom he had spoken believed that the Lord of the Manor had the right to approve or reject the brothers elected by the companies. He denied, however, that he had ever heard that the Lords of the Manor pretended to have the right of granting a licence for such elections. Other witnesses including Chief Baron Ord, Coxon, a former curate at Morpeth, and Matthew Potts gave evidence to the same effect.

The case for the plaintiff was then opened by Thurlow, the future Lord Chancellor. After answering some observa-

4. Spottiswoode to Trotter, 19 June 1767 (M.C., I, ff. 257-8).
5. Same to the same, 18 July 1767 (*ibid.*, ff. 270-6).

The account of the trial, unless otherwise stated, is based on this letter.

ions by Norton which were "nothing to the purpose", he pointed out that the writs of mandamus had been brought in 1696 by non-elected brothers who, all agreed, had no right to be admitted as freemen. The return of 1697 set forth that the Lord of the Manor had the right to grant a licence previous to the election of freemen, which contradicted the defendant's present plea as to the Lord's right of approbation. The disclaimer of 1697 (which mentioned such approbation) could be no evidence against the plaintiff because it was Lord Carlisle's private record, being entered in the court book; besides, it was signed by only six of the fifteen who had brought these writs, and appeared to have been drawn up by persons unacquainted with the constitution of the borough, since it stated that the elected brothers were presented at the court leet by the jury, whereas they were in fact presented by the aldermen. In 1729, when only twenty-four out of forty-eight elected brothers were admitted, the reason was not that the Lord exercised a claim to approbation, but that forty-eight was an unusual number to admit at one time. The others were admitted at the next court. Those who had been admitted without being elected or presented in the usual manner were honorary freemen.

It was in 1747, Thurlow alleged, that the Lord of the Manor's claim to rights of approbation was first made. In that year, forty-eight elected brothers were presented to him at the Michaelmas court and he chose twenty-eight of

them, rejecting the others. At different times the Lords of the Manor had made distinct and contradictory pleas: the return to the writs of mandamus of 1696 mentioned the necessity of a licence being obtained from the Lord before an election of freemen took place; and so anxious was the Lord of the Manor to support this alleged right that in 1747 he had by various undue means prevailed upon many of the freemen to sign an order acknowledging and confirming it. Now, however, he was claiming the right to approve those whom the companies elected and denied all right to any previous licence. Having answered the defendant's parole evidence in detail, Thurlow concluded with several "striking remarks" on the Lord of the Manor's unconstitutional claim, and "Sounded the horn of Liberty Loud wh had a good Effect upon the walls & fetters of oppression".

Counsel for the plaintiff then brought evidence to show that previous to 1747 the Lord of the Manor had neither claimed nor exercised a right of approbation but had always sworn in twenty-four elected brothers whenever presentments were made to him. "To prove this", Spottiswoode explained, "we were obliged to go thro all the Companys books to prove the different Elections betwixt 1719 & 1729 that the 48 presented att Mich. 1729 were duly Elected. This piece of evidence we went thro with Great Tardiness & ought to have been much better prepared with considering the Long Time we have had, but, however, with pulling & hauling we gott thro

att last". A difficulty arose over four tailors whose elections had apparently not been recorded in the company's books, but the parole evidence of one of the witnesses served in some measure to make good the deficiency.

The plaintiff's witnesses were then heard and cross-examined by Sir Fletcher Norton, notorious for his bullying tactics. Cuthbert Bullock was "so brow bett" by him that he "hardly knew what he had Said or was then Saying". "Both he and the cause was much beholden to Councillor Dunning who set him pretty well to rights again".¹ William Arthur spoke very well. The undated petition of about 1751 was produced and he admitted signing it, whereupon Sir Fletcher Norton asked whether he had signed it as a truth or as a lie. Arthur replied that he had signed it as a truth. "You have signed it as a truth", said Norton: "then were you persuaded that the Earl had a right to admit or reject as he saw fit?" Arthur replied that he had never believed that the Earl had such a right, but he had signed for the sake of the persons it concerned; he considered that they had a right to be admitted, but, being poor, they were unable to compel the Earl to do them justice. Richard Marr, another witness for the plaintiff, declared that he had first heard of the Earl's having or claiming to have the right of approbation in or about 1747. He admitted signing the order relative to the election of freemen that year,

1. Captain Stevenson to Trotter, 7 Aug., 1767 (M.C., I, ff. 284-7). The details of the evidence and cross-examination of the witnesses for the plaintiff are taken from this letter. I have no information about Stevenson.

but declared that he was "much in liquor" when he signed it (at the Black Bull) and he believed that had it been his death warrant he would have signed it as readily. On being cross-examined, he declared that he had talked with old men about the Lord of the Manor's approbation some ten years before 1747. Immediately the trap closed: "How could you talk to old men about the approbation of the Earl about 1737 when you say that you never heard of the Said approbation until the year 1747?" - demanded the cross-examiner. For a moment Marr was confused. Then he replied that in 1747 he had first heard that the Earl had such a claim, but in conversation with old men ten years earlier he had heard that the Earl had no such claim. Thus "the snare was broken and he escaped". When another witness happened to say that he had been admitted a freeman in 1747 instead of in 1748, Norton "snatched it up with as much ardour as though the whole merits of the cause rested on it", but Lord Mansfield and the foreman of the jury interposed and "the roaring Lyon was Silenced". Gabriel Dunn, alderman of the Tanners' company, after giving his evidence "clasped his right hand to his left breast like a Peer in the House of Lords", and turning to the Judge told him that the borough of Morpeth had been the most "barbarously used" of any in the kingdom. After cross-examination, Andrew Bullock, alderman of the Skinners' and Butchers' company, turned to the bench and said

"very gravely" to the Judge: "Our Company is the greatest & yet we have the fewest freemen in it; We're about 160 men in the Company & there's nane free but twe main & myself".¹

Sir Fletcher Norton made a "very excellent" reply. He did not omit a single circumstance, declared Spottiswoode, and said all that anyone could possibly say.² He pointed out that the freemen were "judges" in the Earl's courts and it was therefore highly necessary that the Earl should have power to refuse to admit as freemen any he deemed unfit for such privileges. In every borough and city throughout the kingdom there was or ought to be some superior power to limit the proceedings of the interior companies: in some places the mayor and two aldermen were invested with such restraining powers. But in Morpeth, according to the "new upstart Constitution of their own framing", twenty-four new freemen must be admitted at every court leet - forty-eight per year - without the Lord of the Manor's having the least privilege of objecting to any of them. The evils of such a system were very easy to foresee, and in order to prevent improper elections some of the freemen had freely and of their own accord signed a paper whereby they declared that they would not proceed to any election without a previous licence from the Earl. He extolled the witnesses who had given evidence for the defendant and "depreciated"

1. Stevenson to Trotter, 7 August 1767 as cited above. It is not known whether Stevenson took notes at the trial or was merely relying on memory when he wrote to Trotter. It is therefore uncertain whether he has faithfully recorded the actual words of either Sir Fletcher Norton or the witnesses.

2. Spottiswoode to Trotter, 18 July 1767 (M.C., I, ff.270-6)

those who appeared for the plaintiff, calling them "lag rags", but he was "stopt in his wild career by the Judge's telling him that the law knows of no distinctions".¹

The "long & obstinate Battle"² drew to a close. Lord Mansfield gave his charge to the jury, stating the evidence in the "most fair, Candid & Impartial manner".³ According to Spottiswoode, he expressed no opinion of his own but "Left the Jury to Judge upon it".⁴ Captain Stevenson, however, declared that he spoke as follows:

"If you believe that their right to be admitted & sworn in as freemen does depend upon the approbation of the Lord of the Manor according to the ancient usage & custom, then you must give a verdict for the defendant, but if you believe that their right to being made free does depend upon their being duly elected by the Several Companies to which they belong & properly presented by the Aldermen of these Companies as indeed I think it does, & not upon the approbation of the Lord of the Manor, in that Case you must give a verdict for the Plaintiff".⁵

The jury retired about 7 p.m. Lord Mansfield sent to them after about an hour. They told him that they were not agreed, but that if he cared to go home they would bring their verdict to his house. It was after 10 p.m. when they made their way there and delivered their verdict.⁶

"My dear Trotter", wrote Spottiswoode an hour or so later, "I give you the Best news you ever heard in your Life, A Verdict for the Plaintiff7

So eager was Spottiswoode to give Trotter a full account of the trial that he started writing to him at 7 a.m. the next day.

1. Stevenson to Trotter, 7 Aug., 1767.

2. Spottiswoode to Trotter, 17 July 1767 (M.C., I, f. 277).

3. Same to the same, 18 July 1767 (ibid., ff. 270-6).

4. Ibid. 5. Stevenson to Trotter as in n.1.

6. Spottiswoode to Trotter as in n.3.

"...Had we mett with an unfortunate Issue", he declared, "I shoud have been miserable all my Life to think that I had in some measure drawn in a well-meaning spirited Man into such a Sea of Trouble, for allow me to tell you the the Expences in this Single Cause will cost 1000 on Each Side besides the Expences in the oyrs So that the party losing them will be [at] an Immensity of Expence. Thank God we have been Successful, for I would not Suffer again what I did yesterday for a great deal. Let not our people exsult too much: they may be decently merry without being altogether transported beyond just bounds".¹

The news reached Morpeth on 20 July:

"We were all under the most painful suspence till 3 Oclock Monday afternoon", wrote Trotter, "when the packet arrived & immediately followed by 2 gentlemen of Newcastle in a Chaise waving a letter in their hand with which they drove up street to our house followed by a crowd of people shouting liberty - the Bells were immediately set a ringing, bonfires blazed, Cannons roared while at the same time the Artillery of the Skies in loud peals of thunder Seem'd to Join in the General acclamations of Joy. I Never saw so many happy people!"²

Had the cause been lost, he declared, "I would have disdain'd to live in a Land of Slavery & wd rather have chused to preach the Doctrine of Liberty to ye Sons of freedom in the wilds of America".³

Apart from some boys who directed satirical remarks at those who had been "active in destroying their liberties", the townsmen behaved with surprising restraint considering that they had just been "emancipated from Such grievious Bondage". Heavy thunder-rain soon drove them indoors where they drank the healths of their benefactors and spent the evening in "cheerful mirth" without the least excess.⁴

Once the quo warranto causes had been determined and the mandamus men admitted to their freedom, the time would

7. 17 July 1767 (M.C., I, f. 277).

1. M.C., I, ff. 270-6.

2. To Spottiswoode, 22 July 1767 (ibid., ff. 278-81).

3. Ibid. 4. Ibid.

have come for the appearance in the borough of their benefactor and his colleague. Complete victory for them now seemed assured; but soon it became obvious that such expectations were far too premature, for even in the mandamus causes the battle had not yet been completely won.

CHAPTER VI

ATTACK AND COUNTER-ATTACK

The identity of the "good Samaritan", as Trotter called Spottiswoode's mysterious friend, had up to the trial of the mandamus causes been kept a profound secret. "It will certainly be prudent not to discover our friend to any of our people till Success attend the grand attempt in obtaining the freedom of the elected burgesses", wrote Trotter, after the witnesses had set out for London. Victory in the mandamus causes reduced the need for secrecy: a personal appearance of the "friend of liberty" as candidate in the borough could not be long delayed, and he was probably introduced to some, if not all, of those who had come from Morpeth on account of the trial, immediately after the verdict. His next letter to Trotter (6 August 1767) was unsigned as previously; but on 10 August Trotter first mentioned his name - almost a year after negotiations with him had begun.⁴ Meanwhile, the supporters of the Carlisle interest at Morpeth were under the delusion that "Sir James Lowther or Some Nobleman or Gentleman of immense fortune" was at the bottom of the affair: indeed, even in November 1767, long after their opponent had come into the open, Sir

1. Trotter to Spottiswoode, 22 July 1767 (M.C., I, ff. 278-81).
2. Same to the same, 30 May 1767 (*ibid.*, ff. 251-3).
3. So called by Spottiswoode in a letter to Trotter, 6 August 1767 (*ibid.*, f. 288).
4. Trotter to Spottiswoode (*ibid.*, ff. 290-1).
5. Same to the same, 22 July 1767 as in n.1.

William Musgrave, step-father to the fifth Earl of Carlisle,¹ informed him that he had by chance heard of circumstances which gave him reason to think that Lord Shelburne had "at bottom supported the people who brought the causes against you".²

The name of the "determined Spirited Man",³ the "man of Steel",⁴ who had ventured on the arduous task of delivering the burgesses from "slavery" was Francis Eyre. He was born in 1722, the fifth but only surviving child of Francis Eyre of Truro, a cordwainer, by Elizabeth Pascoe. In 1737, at the age of fifteen, he was articled to Zacharias Williams, an attorney of Truro, and, after four years with him and two years with another local attorney, Hugh Mander, he was admitted an attorney in the Court of Common Pleas in or about 1744. Although he probably continued to practise in this Court, and also in the Court of Chancery, he appears to have specialised in cases relative to trade and plantation affairs, especially between 1753 and 1765. His father had meanwhile died, leaving him only fifteen pounds under his will, but by 1759 he had acquired a fortune chiefly, perhaps, by investments in privateering ships during the Seven Years' War. In partnership with a London merchant, John Dunbar,

1. Sir William Musgrave of Hayton Castle, Cumberland, married Isabella, widow of the fourth Earl of Carlisle. He was a commissioner of Customs and, later, an auditor of Public Accounts. "Conversant in several branches of literature and science", he was Vice President of the Royal Society and a trustee of the British Museum. He died in 1800. See the Gentleman's Magazine (1800), I, 87.

2. Musgrave to Carlisle, 2 Nov., 1767 (H.M.C., Carlisle, p. 291. 3. Spottiswoode to Trotter, 13 Sept., 1766 (M.C., I, f. 147).

he owned at least three such ships: in 1759 or 1760, one of them, the Lissa, operating from Emden, took a very rich prize, the cargo of which fetched a "large Sum of Money", and at the same time a suit was being carried on in the High Court of Admiralty over the valuable cargo of a Dutch ship, Yong Vrow Adriana, which had been captured off Cadiz by another of Eyre's privateers, the Nelly's Resolution. The suit was determined in favour of the captors in 1764, but, even before that, Eyre was rich enough to invest large sums in land.

Between 1759 and 1761 he purchased 1030 acres in Jamaica, together with negroes and stock, for £5700. Then, in 1765 he bought the Manor of Colesbourne in Gloucestershire (some 1466 acres and a "handsome Dwelling house") for £7500 plus an annuity of £300 to the vendor for life; and, two years later, he purchased the Manor of Holnest in Dorsetshire. He had a house in Surrey Street, London, near the Strand, and, about the time he became involved in the struggle over Morpeth, he evidently had another house in Surrey itself.¹

Victory in the mandamus causes raised several problems for Eyre. Soon he must appear in Morpeth, but exactly when was difficult to determine. All his Morpeth friends agreed that he must be accompanied by a colleague, but as yet one

4. Spottiswoode to Trotter, 2 Oct., 1766 (M.C., I, ff.155-7).

1. For a more detailed account of Eyre's career, and for the materials on which the above statements are based, see appendix I.

had not been found. Spottiswoode, despite Trotter's persuasive arguments (and his own ambitions), would not stand, and before the trial of the mandamus causes it had been in effect impossible to open negotiations with anyone; even now the situation of the borough made it necessary to seek a man of "Consequence & Resolution & of Integrity" upon whom Eyre could rely, and, as he declared, such a man was not easily found. He had hoped to be joined by "a certain Noble Lord, Eldest Son of an Earl with powerful Alliances & Attachments", but the friend who had pressed Eyre "hard & much" to consent to this, had not had an opportunity to settle the matter, and Eyre suspected that he would not succeed in doing so.
¹

Another "very material" reason against his immediate appearance in Morpeth was, Eyre declared, "the exceeding fluctuating State of the Ministry & Men in Power which I must look forward to as effectual Service must be considered & to that every other Considerations must give way".² By "effectual Service" he presumably meant support of the Government: it was indeed unlikely that he was going to the great trouble and expense of breaking into a borough controlled by a powerful noble family, merely with the idea of spending his time in Parliament in fruitless opposition. Such a rôle might suit certain independent country gentlemen who entered Parliament on their own interest, but not an adventurer such as Eyre. "At Present And for Some

1. Eyre to Trotter, 6 August 1767 (M.C., I, ff. 282-3). This is the last of the unsigned letters.

2. Ibid.

time to Come", wrote Spottiswoode on 10 September 1767, "the Ministry are of Some Concern to us as it will be a happy thing to have them on our Side when a return is to be made. The Present set Stand on no Sure Bottom & they will certainly never meet a new Parliamt but how they will be settled time will Show".¹ "The death of M^r Townshend has a little disconcerted my Scheme", Eyre admitted a fortnight later, "but I look upon my not having declared my Colleague in his Life as another providential Act in my Favour".²

Meanwhile, Eyre had been sorely perplexed over the quo warranto causes. Five of them had been entered for trial at the approaching Northumberland Assizes, but Eyre had developed grave misgivings about the expediency of this: he told Trotter on 6 August 1767 that he considered that by yielding to have the causes tried at such a time he had "payed a compliment" of his judgment to the pressing zeal of their mutual friends who had "so anxiously Pushed this matter on".³ The object of the quo warranto proceedings was, he argued, a mere secondary matter. Even if the Court gave a verdict against the defendants, they might still be polled at the General Election on the grounds that only the House of Commons could decide on their right to vote.

1. To Trotter (M.C., I, ff. 297-8).

2. To Trotter, 24 Sept., 1767 (*ibid.*, ff. 299-300). Charles Townshend was Chancellor of the Exchequer in Pitt's second administration and was the strongest man in it in the absence of Chatham. He died on 4 September 1767 aged forty-two.

3. M.C., I, ff. 282-3.

Again, most of the parole evidence that could be brought against them was that of brothers or freemen who might be subject to objection by the Defence and perhaps not allowed. It might also be argued that a disfranchisement must be a corporate act, and, in that case, the bailiffs would never participate in it. Moreover, the Carlisles would certainly be able to prove that from time immemorial the Earls of Carlisle had created honorary freemen: the only thing that could be said against this was that the Earl used to ask it as a favour of the burgesses. If his right to create honorary freemen was upheld, although it would not profit the Carlisle party greatly at the approaching General Election, because the Act 3 George III cap. 15 disqualified occasional freemen created within a year of an election from voting at that election, it might "have an Effect upon the Minds of Some & perhaps create an Opposition which might otherwise subside". It was vital for the Carlisles to support their cause by every means in their power: "We are risking a great Deal by even giving them a Chance of Success now", Eyre declared, "whilst, if we succeed we gain little or Nothing more than what we now have & Shod gain upon the like Event next Year". Thus,

"after near two Hours Conversation with one of King's Counsel, a particular Friend of mine, I concluded to order a Countermand of the Notice of Tryal, & yet to Day when I considered the great Zeal & Anxiety of our Friends for this Determination, and that they are at such a Distance as for me not to be able to consult them or our Counsel hereon I cannot this Minute resolve

but wish them to act & go on as if it was to be tryed,
& yet not to be surprised if it is putt off".

Despite Eyre's doubts, Spottiswoode believed that he could assure Trotter that the causes certainly would be tried, and urged him to have all preparations made for the trial. ¹

Eyre and Spottiswoode evidently decided to come to Morpeth on 10 August. Eyre had not yet found a colleague - Spottiswoode could not be induced to stand, though exactly why is not clear - but it was perhaps feared that further delay in appearing might be dangerous. "General" Crawford ordered the publicans to prepare an entertainment, and free-men came from distances of over twenty miles to offer their votes. Eyre, however, did not arrive. Puzzled and disappointed, Trotter did not mince his words: "You never committed so great a blunder in your life", he lectured Spottiswoode. "... No doubt our enemies will avail themselves of this". Matthew Potts and "a few of their dupes" were busy canvassing; still, Trotter did not think there was any danger because the people were so much attached to Eyre. But the time was critical, and, in Trotter's opinion, not an hour was to be lost in further delay. ²

It is not known why Eyre suddenly changed his plan. He left London on 11 August, the day after he should, according to his original plan, have arrived in Morpeth. But, as a result of the delay, he was able to enter the borough in

1. Spottiswoode to Trotter, 6 Aug., 1767 (M.C., I, f.288).
2. Trotter to Spottiswoode, 10 Aug., 1767 (ibid., ff.290-1).

greater triumph: it had been learnt that the five non-elected freemen concerned in the quo warranto causes had submitted without trial.¹ Acclaimed by a joyous multitude, Eyre drove into the borough; before him was borne the standard of Liberty followed by the burgesses in his interest marching in ranks and wearing blue cockades which proclaimed Liberty restored. At the market-cross he got out of his chaise and made "Such a Pathetic Speech as drew tears of Joy from the eyes of many". His "glorious Entrance" reminded Trotter of the triumphal honours accorded to the heroes of Greece and Rome. "A Crowned head", declared Trotter, "might have envied his Glory that Day".²

Personal acquaintance with Eyre confirmed Trotter's already high opinion of him: "He is A Man whose high Sense of honor, true benevolence of Soul & upright honesty of heart must ever Endear him to all who have the Pleasure of knowing him", he declared.³ Spottiswoode had used almost exactly the same words in his letter to Trotter of 13 August 1767 to which Trotter was now replying (since Spottiswoode had evidently decided not to accompany Eyre to Morpeth):

"The Corporation of Mpth is now freed from every fetter forged by its aspiring Lords & Stand connected with a Gentleman of the Strictest honor & Soundest probity with a true Benevolence of Soul & upright Honesty of heart & in the borough I am Convinced he will find men of candor, gratitude & Steady principles. These are the Solid basis & foundation of true & lasting attachments & for the future I hope the names of Eyre & Morpeth Shall never be Separated".⁴

1. "A Narrative of the Oppressions of the Borough of Morpeth". Cf. Spottiswoode to Trotter, 13 Aug., 1767 (M.C., I, f.292).

2. To Spottiswoode, 18 Aug., 1767 (ibid., ff. 294-5).

3. Ibid.

4. Spottiswoode to Trotter, 13 Aug., 1767 (M.C., I, f.292).

Eyre and Trotter believed that the Carlisles might now give up the coming election without opposition. On 10 August 1767 Matthew Potts had made what Trotter called a "faint attempt" on some of the old freemen and had shown them a letter from the Earl of Carlisle advising them not to be rash in promising their votes, as he would nominate two "Representatives" for them and send them down soon.¹ This letter, Trotter believed, was designed to test the strength of the Carlisle party and to ascertain whether it was advisable to spend any money to preserve the family's interest which seemed "almost crushed to pieces". Before noon, however, Potts had retired from the town without spending a shilling, and was "so highly mortified" by the rebuffs he had received that Trotter was confident that Eyre and his colleague would meet with no opposition. Still, he realised that though the Carlisles might be prepared to yield to Eyre, they would be extremely loath to give up the other seat. Eyre, too, realised that vigilance was essential, "for although we may not have an Opposition", he observed, "we must act exactly the same as if we had".² On 2 October 1767, Trotter reported that their opponents were frequently assembled with a view to keep up the spirit of their party, but as yet they had no candidates.³

1. Trotter to Spottiswoode, 18 August 1767 (M.C., I, ff. 294-6).

2. Eyre to Trotter, 24 September 1767 (ibid., ff. 299-300).

3. Trotter to Eyre (ibid., ff. 303-5).

The time was approaching for the annual election of aldermen by the companies, and, unless they were well disposed to Eyre, new elections for freemen might be held to enable the Carlisles to increase the strength of their party. "Pray tell the General from me that much depends upon him about the Election of Aldermen & Brothers if any Sho^d be sett about", Eyre requested on 24 September 1767.¹ A week later Trotter replied that he thought there was not the least doubt that the election of the aldermen would be "secured in favour of Liberty" and consequently there would be no more elections for freemen "for some time".² On 17 October, he reported that the new aldermen were "all the friends of Eyre & Liberty". "This Manceuvre was a dead Stroke to ye adverse party", he declared, "for by it they are prevented from availing themselves of any fresh Elections in the Companys by chusing & refusing whom they please".³ Spottiswoode was also pleased at the evidence it afforded of the strength of the "Sons of Liberty".⁴

Meanwhile, the Carlisles were taking what steps they could to defend their interest, for, despite the recent reversals, they had no intention of giving up even one seat without a struggle. Before setting out on his continental tour in September 1767, Lord Carlisle arranged

1. To Trotter (M.C., I, ff. 299-300).

2. 2 October 1767 (ibid., ff. 303-5).

3. Trotter to Spottiswoode (ibid., 400). The letters in the Collectanea have been irregularly numbered at this point: after f. 309 comes f. 400, though no letters have been omitted. A MS note on f. 401 acknowledges the error.

4. Spottiswoode to Trotter, 20 October 1767 (ibid., ff. 401-2).

for Sir William Musgrave, his step-father, to manage the borough in conjunction with the Duke of Grafton, whose nomination of candidates was to be accepted "without exception".¹ Although "entirely unacquainted with the people, and hating the sort of business", Musgrave promised to put the borough on the best footing he could.² Carlisle had left it without candidates and managers, for Potts, perhaps as a result of his reception when canvassing, had declared that he did not think himself "equal to the task of being sole agent in case of a contest".³ Robert Lisle was likewise unwilling to undertake entire management of the election, and additional agents had thus to be procured.⁴ Eventually, with the consent of the Duke of Northumberland, it was arranged that Collingwood Foster, the Duke's own agent and "the cleverest fellow in that part of the world", should assist Lisle and Potts, and the services of Gibson, town-clerk of Newcastle, were also secured.⁵⁶⁷

The problem of candidates was much more difficult.

At Carlisle's direction, Musgrave wrote to Chief Baron Ord,⁸ whose son was regarded as a probable candidate. Carlisle was, however, unwilling to give him first preference,⁹ and

1. Musgrave to Carlisle, 1 Oct., 1767 (H.M.C., Carlisle, p. 214).
2. Same to the same, 22 Sept., 1767 (ibid., p. 213).
3. Ibid., p. 213.
4. Same to the same, 29 Oct., 1767 (ibid., p. 218).
5. Same to the same, 16 Oct., 1767 (Ibid., p. 216).
6. Same to the same, 29 Oct., as in n. 4.
7. Ibid..
8. Same to the same, 22 Sept., 1767 (ibid., p. 213), and 1 October 1767 (ibid., p. 214).
9. Ibid., p. 214.

the Chief Baron's answer manifested "tartness".¹ Entirely unperturbed, Musgrave resolved to consult the Duke of Grafton, though he admitted that he would be glad if Carlisle could "strike out any new lights" on the matter, as he himself could not "pretend to offer to Lord C.B.'s fairness and candour any terms...which may not in the course of a contested election be liable to a course of trouble, expense, disappointment and misrepresentation".² As Ord had "left an opening for a treaty", however, Musgrave and Grafton agreed to inform him of the terms that Carlisle had settled before leaving England, and thereby bring him to a "decisive answer".

"...Accordingly I wrote to him", Musgrave informed Carlisle on 1 October 1767, "telling him that, being ignorant of the causes of his complaints, I could only say that when you desired me to write to him, it seemed you meant to shew him the greatest attention and civility by giving his son the preference next after your own very near relation, but that your being under prior engagements to another left it in your power only to offer Mr. Ord to be the second returned if your interest could carry two members, for which he must take his chance at his own expense; and if they should decline it, they might easily suppose that many others were ready to engage on the like terms".³

Carlisle was not in fact under prior engagements to anyone, though he had evidently given the Duke of Grafton the right to nominate the candidate who was to have the first chance of being returned on his interest. Musgrave, therefore, would not treat with any persons who had not

1. Musgrave to Carlisle, 22 Sept., 1767 (H.M.C., Carlisle, p. 213).

2. Ibid.

3. Same to the same, 1 Oct., 1767 (ibid., p. 214). Carlisle's "very near relation" was presumably Thomas Duncombe, whose wife was the Earl's half-sister, Diana.

been nominated by the Duke. "Many overtures have been made to me", he told Carlisle on 2 November 1767, "but I thought myself engaged by the offer that had been made to the Duke of Grafton",¹ and later he again alluded to Carlisle's "engagements" to the Duke.² That Musgrave might "safely" tell Ord that Carlisle had prior engagements with another candidate, Grafton proposed Sir Charles Bunbury's brother-in-law, Blake, as the first member to be returned.³ In accordance with Carlisle's directions, Musgrave immediately agreed;⁴ but soon it became known that Blake had embarked on a contest at Sudbury, where he was expected to be "drawn into great expenses without success".⁵ Grafton hoped that he might be induced to contest Morpeth instead,⁶ but, after tentative negotiations with him had dragged on for more than a month, Musgrave was informed that he was too far engaged at Sudbury to withdraw.⁷ Meanwhile, Chief Baron Ord had replied to Musgrave's letter, and, though he did not accept the proffered terms, he seemed, from the "smoothness and civility" of his reply, to be "satisfied".⁸

Musgrave had by this time heard a little more about Eyre.

"I have at last learnt that this Eyre, who has given you so much disturbance" is nothing more than an attorney, and behaved in such a manner at Morpeth as to give the people a very mean opinion of him", he informed Carlisle

1. H.M.C., Carlisle, p. 218.

2. Musgrave to Carlisle, 10 Nov., 1767 (ibid., p. 219).

3. Same to the same, 1 Oct., 1767 (ibid., p. 214).

on 1 October 1767; "and it is suspected that he does not mean to stand there himself, but to make the most of his influence by selling it to some nabob, &c. I have therefore been considering and desire to know whether you would have any objection to my making him a proposal on your part (in case the C.B.'s son declines) that you will not oppose Mr. Eyre, provided he will as soon as he is chosen entirely and solemnly relinquish the people at Morpeth, and withdraw all support from them, and think no more of that place after the end of the Parliament; or if he does not intend sitting there himself, then to see upon what terms he would desert the people, with whom I understand he is very little satisfied, and perhaps would be glad to slip himself out of the scrape upon the best terms he can. Either of these measures would secure to your interest the returning one member for the present, and break the schemes of your opponents for the future, which perhaps may be better than an attempt to force down two, and, in the doubtful situation of things, hazard the losing both. I shall expect your sentiments on this subject, as I should be sorry to take any step in so delicate an affair without your approbation".¹

Whether or not Carlisle replied to Musgrave's proposal is not clear; but for some time to come nothing further was said on this "delicate" matter. Musgrave had completely misjudged Eyre, who had certainly not gone to the considerable trouble and expense of liberating the borough with the idea of selling his interest to a nabob or any other person. Moreover, he had a far higher sense of honour than Musgrave imagined he might have, and was in fact sincerely attached to the cause of freedom in Morpeth.

4. Musgrave to Carlisle, 1 Oct., 1767 (H.M.C., Carlisle, p. 214).

5. Same to the same, 16 Oct., 1767 (ibid., p. 216). Blake, however, did succeed.

6. Same to the same, 29 Oct., 1767 (ibid., p. 218).

7. Same to the same, 10 Nov., 1767 (Ibid., p. 220).

8. Same to the same, 16 Oct., 1767 (ibid., p. 216).

1. Ibid., pp. 214-5.

Only a week before Musgrave suggested that it might be possible to persuade him to abandon those whom he was supporting, Eyre had assured Trotter of his sincerity in their cause: whatever he had said to Trotter at Morpeth, he declared, "I sayd from the Bottom of my Soul without the least Equivocation, Having ever made it my Maxim 'to do by Others as I would wish to be done unto myself in a like Scituation'".¹

Sir William Musgrave believed that the approaching election would decide the whole future of the borough: if it were "broke in upon", he declared in a letter to Carlisle, "I am afraid your interest would be gone for ever".² "It is agreed on all hands", he repeated some weeks later, "that this election will be decisive either for the establishing or utter ruin of your interest".³ He therefore "engaged largely" for Carlisle in the terms which he offered to prospective candidates, though only after they had themselves spent £6000 which, he hoped, would itself be sufficient. "All the persons that have hitherto been named have objected to engaging in an unlimited expense in support of an interest not their own", he explained. By the terms he now offered, the candidates risked no more than £1500 each if they were defeated, and if successful would pay

1. 24 Sept., 1767 (M.C., I, ff. 299-300).
2. 16 Oct., 1767 (H.M.C., Carlisle, p. 216).
3. 1 December, 1767 (Ibid., p. 221).

£3000 each for their respective seats. A fund of £6000 was thus provided to support Carlisle's interest. If only one candidate succeeded, his £3000 plus the defeated candidate's £1500 would mean that £4500 would be laid out before Carlisle himself would be required to "make good deficiencies".¹

Eyre and his supporters were meanwhile anxiously awaiting the Michaelmas court leet where the thirty-three mandamus men would demand their freedom. Despite the verdict in their favour, it was by no means certain that the steward would admit them. Judgment in the causes could not be signed until 12 November 1767 (the Michaelmas law term did not begin until 6 November), and until then peremptory writs of mandamus could not be obtained. The court leet, however, would be held at Morpeth on 5 October, and the steward could thus refuse to admit them with impunity. Eyre advised that two or three "neutral people" should attend the court so that in the event of a refusal they could make affidavits that the mandamus men had demanded to be sworn there. "I flatter myself that our mand.² men will be sworn at the court which event will make us all easy", wrote Spottiswoode on 29 September.³ Trotter, however, reported that Fawcett had said that he had no instructions to admit them, and that Sir Fletcher Norton had advised him to move for a new trial.⁴ On 5 October all doubts were sett-

1. Musgrave to Carlisle, 16 Oct., 1767 (H.M.C., Carlisle, p. 216).

2. Eyre to Trotter, 24 Sept., 1767 (M.C., I, ff. 299-300).

3. To Trotter (ibid., ff. 301-2). 4. Trotter to Eyre, 2 Oct., 1767 (ibid., ff. 303-5).

led: the mandamus men were refused admission. Even Spottiswoode was not now greatly surprised. "It was no more than I Expected", he declared on 13 October 1767, "...The more So that I well knew that Both Ld. Cle & his managers have Expected & really Believed that the parliamt would be dissolved and a new Election ordered before they could be Compelled to Swear in the mands. men upon peremptory writs".¹ He did not think that this was to be feared, however, nor did he believe that the Carlisles would move for a new trial. In this he was mistaken. "I have the pleasure to tell you that the Court has been held with all the success we could wish", Musgrave wrote to Carlisle on 16 October 1767, "and the mandamus men were not sworn in, and we have an open field for obtaining a new trial....It is a clear case if these men can be prevented from being sworn in before the election; it will otherwise be a very hard run contest".²

On 4 November 1767 the defendant's Counsel were to meet at Sir Fletcher Norton's chambers to consider how to avoid or postpone the granting of the peremptory writs of mandamus, and to consult on whether the defendant would be obliged to call a special court to swear in the plaintiffs in pursuance of such writs, if granted, or whether he could wait till the next prescriptive court (after Easter 1768).³

1. Spottiswoode to Trotter, 13 Oct., 1767 (M.C., I, ff. 307-9)

2. H.M.C., Carlisle, p. 216.

3. "Brief for a Consultation at Sir Fletcher Norton's Chambers on this 4th November 1767..." (Howard of Naworth MS).

As a result of their deliberations, the defendant's Counsel resolved to move for a new trial. "Our adversarys here as well as wt. you are Endeavouring to do everything both to procrastinate & occasion trouble & uneasiness", Spottiswoode wrote to Trotter on 7 November 1767. ¹ Notice had been given to their clerk in court that a motion was to be made on behalf of the defendant for trial in another of the thirty-three causes: "...for these two last days we have been gaping Expectation for this motion wh.,however, they have not yet made", declared Spottiswoode on 7 November, "& if it is not done on Monday we can have the Judgement signed Tuesday Morning & then apply for perempt. writs the obtaining of which must supercede every oyr consideration at present". On Monday, 9 November, however, Sir Fletcher Norton moved for a new trial, and the Court granted a rule to show cause why such new trial should not be granted. ²

"Never were any sett of Mortals kept in such anxious suspense as we have been here for these several days past", wrote Spottiswoode five days later, "& are unhappily still in the same Situation, Every day made to Believe that Ld. M. was to report his Opinn to the Court & as often disappointed. The Rule is now absolute So we intend to move on Monday wh will put us out of this disagreeable State of doubt & fears".³

Owing to a variety of other business, it was not until the afternoon of 17 November that Lord Mansfield reported to the Court the minutes of evidence he had taken during

1. M.C., I, f. 306.
2. Spottiswoode to Trotter, 9 Nov., 1767 (ibid., f. 401).
3. Spottiswoode to [James Crawford], 14 Nov., 1767 (ibid., f. 404).

the trial. He stated them very concisely, only touching upon many important points that had evidently been proved by the plaintiff's witnesses.¹ He declared, however, that the cause was and ought to be determined rather by the written evidence, which, to him, afforded a satisfactory proof of the ancient custom of creating freemen in the borough. Sir Fletcher Norton, he pointed out, had agreed while the jury was considering its verdict to let all the causes abide by the same determination; but he declined to give any opinion as to the validity of the motion for a new trial until Counsel on both sides had been fully heard.

"From hence it appears We are to have this Matter contested tooth & Nail, & that our adversarys are determined to fight ye Weapons thro & to dispute every inch of Ground with us", commented Edward Boutflower, "which though necessarily attended with delay will only serve in ye end to enhance ye Merit of our Conquest...".²

Although Boutflower was confident that this "Scandalous & oppressive attempt" would meet with the fate it deserved from the "most august Court this day in the known world", he realised that if the motion was determined against the plaintiff it would probably prevent the right of the mandamus men to their freedom being established before the General Election, thereby defeating "the principle End for which the Mandamus's were brought".

At Morpeth, Eyre's supporters were "all in the most painful Suspence agitated betwixt hopes & fears".³ Their

1. Edward Boutflower to James Crawford, 17 Nov., 1767 (M.C., I, f. 405).

2. Ibid.

3. Trotter to Spottiswoode, 18 Nov., 1767 (M.C., I, ff. 406-7).

opponents were making the most of the delay and by "every base artifice" were striving to defeat "the Virtuous designs of Supporting the rights of Britons & restoring Liberty to ye Oppressed Borough". (Sir William Musgrave later reported that John Cleaver (Lord Carlisle's principal agent and receiver of the rents from his estates) had been for some time "thoroughly active" at Morpeth.)¹ Trotter mentioned on 18 November 1767 that Cleaver had been there almost three weeks and had "Spent a good deal of Money in treats etc.", which had caused "General" Crawford to "Muster his forces more frequently than otherwise wd. have been Necessary". Still, nothing had been thrown away which "in prudence" could be saved. There was, Trotter observed, a time to cast away as well as to gather. It was said that one of the candidates who was to stand on the Carlisle interest was already at Durham, probably awaiting news of the result of the attempt to obtain a new trial in the mandamus causes. If he appeared in the borough, Trotter declared, "Our People are determined...to give him such a reception as will convince him that the Abettors of oppression ought to keep at a greater distance".³

Sir William Musgrave had indeed been making great efforts to find candidates and arrange for them to appear about this time in Morpeth. On 29 October 1767 he informed Carlisle that he had been waiting on the Duke of Grafton

1. Trotter to Spottiswoode, 18 Nov., 1767 (M.C., I, ff. 406-7)
2. Musgrave to Carlisle, 20 Nov., 1767 (H.M.C., Carlisle p. 220.)
3. Trotter to Spottiswoode, 18 Nov., as in n. 1.

for several days in an attempt to fix the candidates, and Coutts, a banker in the Strand, would certainly be one of them.¹ James Coutts, third son of John Coutts, Lord Provost of Edinburgh, was about thirty and was senior partner in the banking house of Coutts Brothers and Company.² His fortune was "very ample",³ and he had been Member of Parliament for Edinburgh since 1761. "...I think there can be no other objection to him than his being a Scotsman", Musgrave observed in a letter to Carlisle, "but as the people who are in opposition to you chose Lord G[arlies] at the last Election they have no ground to raise any clamour now".⁴ Musgrave regarded it as absolutely necessary to find a second candidate before 6 November,⁵ when the law term would begin and the fate of the mandamus men would have to be determined. He was still waiting for Blake's final decision on 2 November,⁶ but a few days later a letter from Sir Charles Bunbury brought that negotiation to an end.⁷ Thereupon, Nicholas Linwood, a director of the South Sea Company and Member of Parliament for Stockbridge, was chosen as candidate. Formerly "a very considerable merchant in the city", he had retired with a large fortune to live "in a very genteel manner" in Spring Garden.⁸

"In short", Musgrave told Carlisle, "your candidates are as good men as could have been thought of, and as they are both known to be worth 100,000£. each, I think they will deter any others from disturbing you,

1. H.M.C., Carlisle, p. 217.

2. E.H. Coleridge, The Life of Thomas Coutts, Banker (1920), I, 39-42.

3. Musgrave to Carlisle, 10 Nov., 1767 (H.M.C., Carlisle, p. 219).

4. Same to the same, 29 Oct., 1767 (ibid., pp. 217-8).

for as to Eyre we laugh at him and know we can buy him off whenever we please, but wish to have such an antagonist as it keeps others from appearing".¹

Nevertheless, he urged Carlisle in the strongest manner to send without the least delay a letter recommending the two candidates to the electors. He planned that within the next week or so they should appear at Morpeth at the "fittest time", and that "every person who had any concern there" should be "in motion" to support them.² Linwood may in fact have set out and reached Durham as Trotter had heard, but Coutts "thought proper to fail the appointment", and the whole plan was "dashed to the ground".³ Musgrave was "most heartily vexed". All reports from Morpeth assured him that, had the candidates met and begun their canvass as planned, the borough would have been "secured with the greatest ease". Now everything there was thrown into the "utmost confusion".⁴ Still, he again pressed Carlisle (this time somewhat sharply) to send a letter of recommendation for the two candidates: "Indolence, inattention, and procrastination", he declared, "have very nearly lost you the Borough and are the ruin of all affairs".⁵

The next day (21 November 1767) Spottiswoode informed Trotter that he had just heard that Coutts and Linwood had "gone down to Morpeth with their pockets full & a firm resolution to make a Wholesale Bargain for the whole Burrow

5. H.M.C., Carlisle, p. 218. 6. Ibid.

7. Musgrave to Carlisle, 10 Nov., 1767 (ibid., p. 220).

8. Ibid.

1. Ibid. 2. Ibid. 3. Same to the same, 20 Nov., 1767 (ibid., p. 220). 4. Same to the same, 1 Dec., 1767 (ibid., p. 221).

& they had no doubt but att the sight of their gold the whole freemen woud Jump at the Bait." Their money, he commented, was no better than that offered to the free-men at the last election, when they had proved themselves by their refusal to be men of the "strictest probity & honor", and he was confident that the same principles would again prevail among them. "However", he continued, "your cautious & prudent Supervision of them will be very necessary & I trust will not be wanting, the more so as I am Convinced these Gentlemen intend to make use of every art snare & Threat to gain friends & will not even hesitate to prostitute the Names of administration¹ to Serve their purposes". He would be "uneasy", he declared, until he heard how the candidates had conducted themselves and what impression they had made.

Spottiswoode need not have worried. It is not certain whether Linwood and Coutts ever reached Morpeth: Musgrave heard no news of them for almost ten days,² and then he had to inform Carlisle of another failure. Coutts, as he now discovered, was not a normal person: he suffered from some mental disorder and was totally unreliable.³ "...When

5. Musgrave to Carlisle, 20 Nov., 1767 (H.M.C., Carlisle, 220
1. M.C., I, ff. 413-6. The letter is unsigned but is in Spottiswoode's hand.

2. Musgrave to Carlisle, 1 Dec., 1767 (H.M.C., Carlisle, p. 221).

3. He had evidently had a nervous break-down when he attempted to speak in the House of Commons: "in consequence of some strange and incoherent language in the House of Commons, he was induced (at the suggestion of and by the persuasion of friends) to refrain from attending the House" (letter of Lord Dundonald to the Morning Post, 25 March 1822, quoted E.H. Coleridge, The Life of Thomas Coutts, I, 39).

we met here in town", Musgrave told Carlisle, "I found him capable of denying his own writing and retracting his most solemn promises, so that I was obliged to put an end to every transaction with him, and desire the Duke of G[rafton] to recommend some other person". Thus, chiefly through what Musgrave called Coutt's "duplicity, folly and absurdity", the "fairest plan" was completely ruined.¹

Musgrave had evidently intended that the candidates should have appeared in Morpeth at about the time that the result of the attempt to obtain a new trial in the mandamus causes would be known. On 19 November 1767, Counsel on both sides argued the point "with ye utmost spirit".² Sir Fletcher Norton and other Counsel for the defendant contended that the rights determined by the verdict in the former trial were of such extent and importance that the verdict ought to have the sanction of a review. The "great contrariety of Evidence on both Sides" had made it extremely difficult for the jury to form a clear and decisive judgment, and the great length of time the members of the jury had taken to reach their verdict indicated that they had been debating with one another their different sentiments; their verdict was "rather the effect of Hunger or compulsion than a unanimous approbation". Moreover, they had been prejudiced by

1. 1 Dec., 1767 (H.M.C., Carlisle, p. 221). Coleridge ascribes Coutt's conduct on this occasion to the return of the "fit". (op. cit., I, 42).

2. Boutflower to James Crawford, 19 Nov., 1767 (M.C., I, f. 409).

the insinuation of the plaintiff's Counsel that the matter to be tried was in fact "no more than whether the Lord of the Mannor Shod or Shod not have the choice or nomination of 2 Members of Parliament". The strength of the defendant's case had been greatly weakened in the former trial because Sir Fletcher Norton had considered that freemen would not be admitted as witnesses for the defendant, but (as it now appeared that this objection might not hold), if a new trial were granted more than twenty freemen could be produced who would prove that the Lord of the Manor's consent was necessary before any brother could be admitted as a freeman. Even in the previous trial, the "strength of Evidence" had lain on the side of the defendant.

"To all these & Some other less consequential arguments or grounds for a new trial", declared Edward Boutflower, "our Counsell not only gave such answers as exposed the weakness & fallacy of them, but as I thought full satisfied the Court & everyone in it that the application was the last weak effort of disappointed, baffled & defeated despoticism".

To Boutflower's great surprise and alarm, however, Lord Mansfield announced that he would defer his judgment for two days, and on this account opinions were very much divided as to what his decision would be.¹

At 11.30 a.m. two days later, Francis Eyre, who had "Scarce eat, Drank or Slept all this time", addressed

1. Boutflower to James Crawford, 19 Nov., 1767 (M.C., I, f. 409). Boutflower, a clerk in the Court of Chancery, was a member of the family of Boutflower of Apperley, Northumberland. A friend of Trotter and the Crawfords, he was occasionally consulted on points of law by them in the course of the struggle against the Carlisles. He was a "true son of Liberty" and had connections with some members of the corporation of Morpeth.

from Westminster Hall a hasty note to William Crawford:

"This Moment is ended the glorious & unanimous Opinion of all the Judges in Favour of Liberty. The New Tryal is refused. The peremptory writs are granted & will follow imediately in three Hours or less. Two Candidates I am told satt out a few Days ago with great Hopes of a New Tryal. Cheer our friends with Loud Huzzars of Liberty".¹

"On this auspicious Day", wrote Boutflower, "Lord Mansfield sealed the Liberties of the Corporation of Morpeth upon principles that will endure longer than the Sun or Moon, in short he not only refused granting a new Trial on the part of the Defts, but declared there was not the least ground or foundation for so doing".² Independent of the evidence, he had said, the defendant contended for rights that never did nor could exist either in law or justice: indeed, had the jury brought in a different verdict, he would certainly have ordered a new trial. In admitting that the companies had the right to elect the brothers who were to be sworn as freemen, the defendant had in effect admitted everything that the plaintiff contended, for it would be the "grossest absurdity" to suppose a previous right of election in the companies and an absolute and unlimited right of refusal in the Lord. The written evidence either totally contradicted the defendant's claim or "manifestly shewed the most unfair attempts to inveigle & extort the Rights of the Corporation from them". The parole evidence given for the

About Boutflower, see Trotter to Spottiswoode, 14 Nov., 1766 (M.C., I, ff. 186-8), and A History of Northumberland, VI (ed. by J.C. Hodgson), pp.167-8.

2. John Leigh to Trotter, 21 Nov., 1767 (M.C., I, ff. 433-5). Leigh was a London attorney acting for Eyre.

1. M.C., I, f. 234.

2. To James Crawford, 21 Nov., 1767 (ibid., ff. 410-2).

defendant "rather made for the Plt. ... being only calculated to shew acts of Usurpation done by the Lord or rather his illjudging Agents from the year 1747 at which recent period of time both Evidences concurred in marking that out as ye commencement of the usurpation upon the Rights of the Corporation". The defendant had produced no evidence to prove an immemorial custom agreeable to the claim set forth in the return to the writs of mandamus. His Counsels' arguments for a new trial were neither founded upon principles of justice, nor consistent with the grounds on which the Court usually granted new trials: the verdict for the plaintiff was perfectly consistent with both law and evidence. The jury had been composed of gentlemen several of whom were to his knowledge not only persons of great fortune and probity but also of capacity and experience as jurymen in that Court; they were well able, therefore, to form a correct judgment, and, in his opinion, by finding a verdict for the plaintiff, they had done so.

"This", wrote Boutflower, "is the substance of what Ld. Mansfield said upon this important occasion, which was entirely approved and concurred in by Judge Aston & Judge Hewit, but as to the purity of language, the energy of expression & majestic manner in which he expressed his sentiments, it is impossible for me writing as I do merely from memory to convey the most distant Idea, unless you will allow me the liberty to say he spoke worthy of himself & of that exalted station he is most deservedly placed in".¹

"By this verdict", declared Spottiswoode, "...the freedom

1. To James Crawford, 21 Nov., 1767 (M.C., I, ff. 410-2).

of the Br is perpetually Established & your freemen if they have no oyr Inheritance to bequeath their Children will Transmit to them all the rights & privileges of Independent Englishmen att their own free will uninfluenced for their choice of Representatives in the British Senate".¹

The peremptory writs of mandamus were served on Christopher Fawcett late at night on 24 November 1767.

They were returnable four days later.² Fawcett evidently said that he would go to Morpeth the next day and swear in the thirty-three men, but later he sent to inform them that he would not make the journey to Morpeth, but that if they would come to his house in Newcastle he would swear and admit them as freemen. On 25 November, therefore, they came in a body to his house and had the oath administered to them.³

"This is in some measure an End to our Toils after more than a full 12 months anxiety, Toil & fatigue", wrote Spottiswoode on hearing that the mandamus men had at last been sworn as freemen. "Success, however, in any undertaking is in Some degree a Recompence & it is the more so if the affair is of Difficult Execution".⁴ He little realised that the toil was by no means over and that the success was not complete. The opposite party

1. Spottiswoode to Trotter, 21 Nov., 1767 (M.C., I, ff. 413-6).

2. Evidence of Christopher Fawcett, Journals of the House of Commons, XXXII, 268-9.

3. The Case of Morpeth (1769). There is a copy of this case in M.C., IV (large volume) f. 194.

4. Spottiswoode to Trotter, undated. (M.C., I, ff. 417-8).

had still one hand to play. Some three weeks before the mandamus men were sworn as freemen, Sir William Musgrave wrote to Carlisle: "I have been with your principal council today, and they are clearly of opinion that the people who occasion all this disturbance cannot by any means have a right of voting at the next election, and in that case your friends will be chosen with very little difficulty".¹ This opinion of Carlisle's Counsel was based on their interpretation of the Statute 3 George III, cap. 15, an Act to prevent occasional Freemen from voting at Elections of Members to serve in Parliament for Cities and Boroughs, whereby, from 1 May 1763,

"no person whatsoever claiming as a freeman to vote at any election of members to serve in parliament for any city, town, port or borough in England, Wales, and the town of Berwick upon Tweed, where such voter's right of voting is as a freeman only, shall be admitted to give his vote at such election, unless such person shall have been admitted to the freedom of such city, town, port, or borough, twelve calendar months before the first day of such election: And if any person shall presume to give his vote as a freeman at any election of members to serve in parliament, contrary to the true intent and meaning of this act, he shall, for every such offence, forfeit and pay the sum of one hundred pounds to him, her or them, who shall inform and sue for the same; and the vote given by such person shall be void and of no effect.

"II Provided always, That nothing herein contained shall extend, or be construed to extend, to any person intitled to his freedom by birth, marriage, or servitude, according to the custom or usage of such city, town, port or borough".²

Thus, immediately after Lord Mansfield and the other Judges

1. 2 Nov., 1767 (H.M.C., Carlisle, p. 219).
2. Statutes at Large, XXV, 317-9.

had confirmed the verdict in the mandamus causes, Sir Fletcher Norton remarked to Thurlow that although the plaintiffs had established their right to be admitted freemen, they would not be entitled to vote at the approaching election. Thurlow retorted "loud enough to be heard by ... Lord [Mansfield] & the whole Court" that the late Act of Parliament was confined to honorary free-men and did not extend to those entitled to their freedom by patrimony or servitude. He would indemnify the mandamus men, he added, against any action that might be brought ¹ against them for voting at the next election.

"I mention this Circumstance", commented Boutflower, "[that you] may not be freightened by Bugbears or be intimidated with Shadows, which seems to be the only Game your ² adversarys have now to play". But, though he dismissed the matter so lightly, and Eyre and his friends paid it equally little regard, the Act did constitute a threat to the validity of the votes of the mandamus freemen. It was, however, nearly three months later before they realised how serious was the danger.

1. Boutflower to Crawford, 21 November 1767 (M.C., I, ff. 410-2).

2. Ibid.

CHAPTER VII

A REMARKABLE ELECTION

Despite the opinion of Lord Carlisle's lawyers that the votes of the mandamus freemen would be invalid, the defeat in the legal battle and the failure of Sir William Musgrave's electioneering plan of campaign were serious reversals for the Carlisle party. "...Your antagonists have acquired spirits", Musgrave told Carlisle on 1 December 1767, "and your success is now much more precarious than it would have been had my original plan been carried into execution".¹ Still, the Duke of Grafton had nominated Peter Beckford, nephew of the famous Alderman William Beckford of London, in place of Coutts, and Linwood and he were expected to set out for Morpeth soon.²

Peter Beckford, a notable sportsman (and, in later life, author of several works on sporting subjects - his Thoughts upon Hare and Fox Hunting (1781) is still highly esteemed by sportsmen) was the son of Julines Beckford of Stapleton, Dorset, M.P. for Salisbury, the wealthy owner of estates in Jamaica. He was educated at Westminster School and New College, Oxford, and had acquired a good knowledge of foreign languages and the classics. He was fond of music and the theatre, and had travelled widely,

1. H.M.C., Carlisle, p. 221.
2. Ibid.

especially in Italy. He was now about twenty-eight.

"I have just received a letter from Mr. Cleaver", Musgrave wrote to Carlisle on 11 December 1767, "which informs me that Mr. Beckford and Linwood have been through the town of Morpeth and have met with as much success as could be expected, and, he hopes, have reason to be satisfied with their reception".² According to Trotter, however, they were "hiss'd from one End of ye Town to ye other & Mortified wt. ye Shouts of Eyre & Liberty & down wt Slavery & oppression".³ Still, much to the alarm of all his Morpeth friends, Eyre continued to linger in London, despite their repeated and urgent appeals that he should appear in the borough, together with a colleague, without delay. All Eyre's friends in London, however, believed that he was pursuing the best policy: "...After the most Solemn Consultation with Mr. Eyre's Friends", wrote Spottiswoode in reply to an express and also another letter from William Crawford, "they are clearly of opinion that the Opposition having been formed in London, this was the only place to remove it; that & some other Unavoidable matters to be done here have been the only Reasons why M^r Eyre & his Colleague have not yet been down".⁴ Eyre's friends thought it was

1. Beckford was the first English writer to describe in detail the whole system of hunting. He married, in 1773, Louisa, daughter of George Lord Rivers, and by special patent (1802) his son succeeded to the Barony as the third Lord Rivers. Beckford died in 1811. See A.H. Higginson, Peter Beckford Esquire, Sportsman, Traveller, Man of Letters (1937) and Robert Harrison's article on him in the D.N.B.

"lucky" that Eyre had two such opponents, and that they were spending their fire: Eyre would be able to "follow upon their Heels" and "rivet" his interest. Daily, indeed hourly, Eyre repeated his professions of fidelity to Morpeth, Spottiswoode continued, and vowed that he would "rather suffer death than vary a tittle from them". He refused to believe that any of the freemen would desert him.

"The firmness of his Friends at Morpeth upon receiving the Enemies Fire will shock Them", declared Spottiswoode. "Their Instructions are from hence, & if our Friends Stand this Fire Obstinateley for a few Days, the Opposition will be lucky, our Victory wd. not be compleat without it. Where is our boasted Liberty if our Men are to be brought over from Us; what will our Enemies do that we have not done & will not do. We are sure of success if our Friends are honest, if not we have certainly deserved it".¹

Eyre and his colleague would set out "the Momentt that the Affair is over which he is now upon, in hopes of quelling the Opposition here", which would be in a few days.² The nature of the "Affair" is not known: the time was critical and for the sake of security Eyre's friends were careful not to send detailed accounts of their activities by post. "Write daily but take care of what you write by the Post", Spottiswoode warned Crawford, "for every Letter is certain-
ly opened. ... Letters by Express are Sayd also to be
opened".³ "I had the honor of yours today", wrote John

2. H.M.C., Carlisle, p. 222.

3. Trotter to Spottiswoode, 26 Jan., 1768 (M.C., I, ff. 449-50).

4. Spottiswoode to Wm. Crawford, undated but obviously written in the first week of Dec., 1767, since Linwood and Beckford are mentioned as being at Morpeth (M.C., I, ff. 420-1).

1. Ibid. 2. Ibid. 3. Ibid.

Leigh (an attorney who had handled some of the recent legal business for Eyre) to Trotter on 15 December 1767, "but I verily believe it had been opend', as I doubt not but many leſs from Morpeth are, for strange reasons, & therefore is caution enough to act as you have done".¹

Eyre himself appears to have stopped all correspondence with his Morpeth friends and left it to Spottiswoode and others to report his sentiments.

Edward Boutflower, for example, sent the following account of an interview he had had with Eyre to James Crawford, who had written to Boutflower a letter the contents of which, Boutflower considered, "invited Mr. Eyre's immediate attention":

"I then went to Mr. Eyre's house where I was received by him in ye most affable genteel manner. After desiring me to sit down by him, he then proceeded to read your letter which as it manifested ye steady principles of ye sons of liberty in his favour gave him ye most sensible pleasure imaginable. He says it is a mistake in imagining that L - d & B - ds appearance was occasioned by his & his colleagues delay, it having been a concerted scheme of ye Carlisle party even before ye final determination of Ld. Mansfield's refusing a new Trial & he says he is so far from wishing he had gone down upon ye determination of yt Event in case it had been convenient or practicable, that he is much better pleased he did not as he has now experienced that honor & fidelity in his friends which he never doubted they were possessed of. As to his opponents it is well known they are ye Refuse of other Boroughs where they have already been making Ducks & Drakes of their money & are now come to throw their last stake among a few venal dedicated Tools of the C - e family, who either have not sense enough to distinguish their real from their pretended benefactors or have not integrity enough to act as men influenced by ye principles of liberty & Justice".²

1. M.C., I, ff. 424-7.

2. 12 Dec., 1767 (ibid., f. 422). It is not clear whether the comment on Eyre's rivals is Boutflower's or Eyre's.

Eyre let Boutflower know the contents of a letter that Spottiswoode had already sent to Crawford, which, Boutflower declared, would fully answer the one just received. Soon Eyre and his colleague would appear in the borough, and, surrounded by the Sons of Liberty, would eclipse their "feeble competitors". The same day as Boutflower wrote this, however, James Crawford again warned Spottiswoode that the failure of Eyre and his colleague to appear in Morpeth the previous week (when Linwood and Beckford made their canvass) was "likely to be attended with disagreeable Consequences".¹ All Eyre's friends were "extremely uneasy", and unless he and his colleague arrived in a few days it would be impossible to keep them "in good temper". Despite bribery and corruption by the opposite party, Eyre's interest was stronger than ever, but it was impossible to say how long it would remain so without a personal appearance: if Eyre came without a colleague, he might be in danger himself, Crawford declared, "& therefore we beg again if they are not set off, they may not lose a Moment". Linwood and Beckford had left Morpeth a few days ago, and their agents were "indefatigable in Supporting their Interest by every species of V - y".

"In order to gaurd against them", he continued, "we are obliged to spare neither time, trouble nor Expence which might have all been prevented if any regard had

1. 12 Dec., 1767 (M.C., I, f. 423).

been Paid to our advice. Your best friend [Trotter] is terribly chagrin'd that no regard has been Paid to his letters. My Father has drawn a bill upon you for £100 Payable to Surtees & Burdon Esqrs. or order 30 Days after this Days Date".

The hundred pounds was probably part of the money which Eyre's friends had been obliged to expend to support his interest. "I have accepted your former & Last Bill to Surtees & Burdon for 100 each", Spottiswoode replied to Crawford's letter.¹ "You want for nothing but Mr Eyres presence with his friend", he added immediately afterwards: the juxtaposition of the two sentences suggests that the money was being used for electioneering purposes.

Although Spottiswoode had in a former letter used expressions which implied that Eyre had found a colleague,² he now informed Crawford that nothing detained Eyre in London "but his Earnest Concern to bring along with him a man in every Respect Such as himself", . . . As yet such a person had not been found.³ Still, Spottiswoode, unlike his Morpeth friends, was not greatly worried at the delay.

"My Dr Sir", he wrote to Crawford, "if your Impatience would allow you to reflect but fore one moment you would be satisfied that Little or no Time has yet been Lost and I am Certain none has been mispent. It is but three Weekes Since Mr Eyre could properly Say that your Borrough was free or think himself Secure. Till that happened he Could not propose to nominate any man tho he had Severall in his Eye. By most People here it was looked upon as a very dubious question wh might possibly be determined agt. him & he was Considered as a Bold whimsical undertaker who even by Success Could gain no

1. 17 Dec., 1767 (M.C., I, ff. 428-31).

2. See Spottiswoode to Wm. Crawford as summarised above, pp. 212-3.

3. 17 Dec., 1767 as in n. 1.

Beneficial Interest & a Contrary Event would involve him in a Certain & very deep Expence. Since it was happily determined I am most certain that he has done everything in his Power that good Policy sound Judge-ment & Engaging address Could Suggest or Perform.

"Att once you will see how greatly it is his Interest to have a Coll[eague] & that Immediately too: att presents he Stands att the Expence of one against Two: A very unequal Battle; was his friend declared he would att once free him of one half, but however willing he might be to Lighten himself of a part of this Load or however desirous you may be to see them Both, Yet I can assure you he neither does nor will Grudge it If he can att Last procur Such a man as may be agreeable to himself, acceptable to you & ever firm & unshaken in freedom's Cause.

"...Half an hours Conversation would Convince you not only of the rectitude but the propriety of every measure that has been Taken & of this Mr Eyre will Satisfy you when he Comes down which will be very soon. He neither rests night or day: it is his Sole Employment & his only Cure is to fix with a proper person.

"Look forward a Little & weigh with yourself what unhappy Consequences might attend a rash & unconsiderate Choice. You would be sold by a mercenary man, Betrayed to the Slavery of your former oppressors. There are Ten thousand reasons wh. will Convince you & every Sensible man that this is a measure not to be taken in a hurry, but requires much cool deliberation. That man who has already behaved nobly honourable by you woud sooner lose his Existence by the Torments of a hundred deaths than do any one Act that might be prejudicial to your Interest or endanger your Independence. - And always believe that every moment he stays here is Employed in Endeavors for your Benefit".¹

Trotter's advice, he added, was ever "Respected & Esteemed". Though his "manly ardor proceeding from an honest Benevolent heart" made him "judge too decisively upon Seeing one Side

1. Spottiswoode to James Crawford, 17 Dec., 1767 (M.C., I, ff. 428-31). Two days previously, John Leigh, the attorney, had written to Trotter in a similar strain. Trotter, he declared, should publicly assure Eyre's supporters "that until the Confidence in his [Eyre's] Colleague his firm & steady independence & his Positive Surety to support unbiassd' every freedom right & privilege of the Men & Boro of Morpeth as well as Mr Eyre's Honor & Public Spirit can be fully truly & equally supported - You will not

of the Case", . . . when he had a perfect knowledge of all that had happened he would be convinced that everything had been done for the best.

Probably before this letter reached Morpeth, Trotter, although weary of writing on the subject, again warned Spottiswoode of the grave risk Eyre was running by failing to come with his colleague to secure their interest.¹ Although Leigh had reported from London that Linwood and Beckford had returned despairing of success, and another friend had written to the same effect, Trotter was convinced from the recent manœuvres of their opponents that they intended to keep up an opposition and a violent one too: "they Stop at nothing", he declared, "& every Scheme wch the Policy of bad Men or the wealth & power of great Men can affect is put into Execution to ruin & destroy the friends & Cause of Liberty".

"I cannot enter into particulars", he continued; "If I did, you would be astonished at the firmness of our people against such dreadful assaults: but is it reasonable to continue to Expose Virtue so long to the Tryal? is it not dangerous to Stretch the Cord too far? Pray Consider, that men are but men: the Delay of M^r Eyre & his Colleague makes their Adversarys more daring; they continually insinuate he has no Colleague &c. else, say they, He wd. Name Him, or shew Him. They boast highly of the power & influence of their Party - ministerial

see his & his frds. faces at Morpeth - Now as this is certain on this hangs all your patience". "...Be easy, be happy, be certain every hour is employd' for you all & nothing else thot off. There's no delay, let it not be conceivd'. I am privy to the facts, to the industry, to the steadiness & the Dispatch & cannot help repeating If I durst write it I wod." (M.C., I, ff. 424-7).

1. 19 Dec., 1767 (ibid., f. 432).

influence &c. The Truth is they are devoted Tools of a family Interest & it makes no difference w^t them w^o are the Candidates if they are supported by a great Name. Now, tho' L & B Should not Stand, is they a certainty that no others will offer? If they do the last may be more formidable than the first; & if they Should appear in ye Boro before Mr Eyre & his Colleague, the Cause of freedom Wou'd Suffer considerably. Now is ye Time to strike a decisive blow & complete ye business. There are some Votes yet standing off, who have declared for no party, others who say they will not declare till they see Mr. Eyre's Colleague; to all these great offers have been made: they may grow weary at last, & if they do not see Mr Eyre & his Colleague Soon I verily believe they will be lost for ever. Their presence becomes Every Day more & more necessary for without it we can do nothing to purpose; & if we lose Grounds, they have none to blame for it but themselves. There is no Satisfying the People without seeing Mr Eyre's Colleague, or at least knowing who He is & if that is not done Soon I would not answer for the consequences".

Although John Leigh had reported that Linwood and Beckford had retreated from Morpeth without a "glimpse of hope", ¹ Sir William Musgrave informed Carlisle on 22 December 1767 that despite many difficulties and disappointments he now had "good reason to hope" that both candidates would be chosen. ² Such optimism was, however, far too premature: within the next week Eyre secured a colleague and set out with him for Morpeth.

Eyre's colleague was Richard Fuller, a wealthy London banker and Member of Parliament for Steyning, where he had been returned, on the death of his business partner Frazer Honywood in 1764, through the influence of business connections. The Duke of Newcastle, who described him as a "very honest man and a very good friend of mine", had readily agreed to his nomination, and, soon after taking

1. Leigh to Trotter, 15 Dec., 1767 (M.C., I, ff. 424-7).
2. H.M.C., Carlisle, p. 222.

his seat, Fuller voted in opposition over General Warrants and was later listed as a sure friend by the Duke.¹ He was classed as "Pro" by Rockingham in September 1765. He voted with the Administration on 27 February 1767, but by joining Eyre he was in effect opposing the Government interest which lay entirely on the side of the Carlisles. He was about fifty-five and was the son of a Baptist minister: "I hope Mr Fuller will answer well", Spottiswoode remarked in a letter to Trotter; "if he does not, part of the Blame shall fall on you for he is one of your own people".²

On reaching Morpeth, Eyre and Fuller were greeted by a large crowd with a flag representing Liberty and Justice, and were welcomed with "the firing of guns, ringing of bells and other demonstrations of joy".³ Their canvass the next day proceeded favourably, and both appeared to have a very good chance of success.⁴

"There is an undoubted Majority already for you Both, all undisputable Votes", Trotter declared in a letter to Fuller, shortly after he had left Morpeth with Eyre. "It is not so with your opponents - two of yr. Votes are as far as New York & Minorca - One totally deprived of reason & understanding and another Supper-annuated & in much ye same State of insensibility. 2 Honourary Freemen and 5 illegally made - in this situation the minority Stands agst. you a prospect sufft. to deter any man of Common understanding to engage in ye Opposition".⁵

1. History of Parliament Trust's biography of Fuller. On the death of his business partner, Frazer Honywood, Fuller applied to his heir, Sir John Honywood, who gave him his interest at Steyning. It was thought to be of "great service" to the banking firm to have one of the partners in Parliament, James West told Newcastle, since the correspondence of the firm was "very great" and the "very postage of their letters would amount to near £800 pr. ann...". This would be saved

Eyre and Fuller, he declared, had "the Hearts & affections of a body of Men, whom neither promises can Corrupt nor Threatenings intimidate & whose determined Resolution & firmness in supporting your Cause & that of Liberty will do honor to themselves & you & I hope will shortly put Opposition out of Countenance". The cause was one in which the happiness of thousands was interested.¹

Fuller himself was well satisfied with his reception:

"I take this opportunity of returning my most grateful acknowledgements to the Worthy the Free & Independent Electors of Morpeth for their generous reception and Promises to me - without any merit or claim to such favours except what I owe to Mr. Eyre's introduction & Friendship"- he replied on 15 January 1768 - "and the best returns I can make to him will be to prove myself not altogether unworthy of the esteem & support of his Friends at Morpeth. As I am enlisted under the Banner of Liberty, the Cause in which I have had the happiness to be educated - let me say that no consideration upon Earth shall tempt me to deviate from it - and if my poor endeavours should be conducive to establish the freedom & independancy of your Borough I shall esteem it the happiest Event of my Life".²

His position, however, was not as strong as Eyre's. Trotter's assertion that both had a majority was evidently based on the assumption that several of their opponents' votes would be disallowed at the poll, or be disqualified in some other fashion. Thus, Sir William Musgrave's report on the situation differed somewhat from Trotter's.

If one of the partners was in Parliament, since postage was free for M.Ps. Fuller's brother William died "a miser worth £400,000" (see Sir Lewis Namier's Structure of Politics (1957), pp. 57-8).

2. 19 Jan., 1768 (M.C., I, f. 445).
3. The Newcastle Journal, 9 Jan., 1768.
4. Ibid.
5. 5 Jan., 1768 (M.C., I, ff. 440-2).
1. Ibid.
2. M.C., I, ff. 443-4.

"I am sorry to inform you", he wrote to Carlisle on 19 January 1768, "that Eyre after many unsuccessful attempts has at last got a Banker in the City to join him and bear all the expense. If he had stood alone, both your candidates would certainly have been chosen, but now upon the strictest examination the numbers stand thus:

For your candidates	51	For Eyre	55
	43	his friend	46.

so that I think we have little chance of carrying more than one member, and Eyre's friend with 46 votes comes so near our 51, that it will be in the power of a very few knaves by deserting us to put both our candidates in danger. The Duke of Grafton and some other of your friends here seem to think it advisable to come to a compromise for this time of one and one. For Eyre has been applied to and offered very considerably to give it up, but is determined to stand himself".¹

Eyre himself described his opponents' attempts to induce him to withdraw; in a letter to Trotter three days after Musgrave wrote the above, he declared:

"I cannot tell you the very extraordinary Attacks I have had made upon me Since I came to Town - Soothings - Immense Promises - lastly Threatenings - I stood them all unmoved nay unfelt, unless it might be like a Rock of polished Adamant which when Shot at by pointed arrows receives, blunts and recoils them; Whatever becomes of the Election, it will be an infinite satisfaction for me to Say hereafter that our Electors as well as their Candidate had supported this Cause throughout with the Stubborn Virtue of Old Romans. Let it be your care often to inculcate & instill these principles into our People; it is amazingly catching, is pleasing even to Ordinary Men, to me it is almost every Thing Sublunary".²

Their opponents, he remarked, intended to "make another Push with Bribery". "...If a few of Our trusty Friends wod attend & lay themselves in the Way, it wod be a most effectual Stop to such Proceedings, & secure the Election without Opposition". "Pray, tell me what

1. H.M.C., Carlisle, p. 231.

2. 22 Jan., 1768 (M.C., I, ff. 446-7).

punisht does ye Law inflict for Bribery?" - Trotter asked Spottiswoode a few days later - "informations against Some of the Principals will I hope be obtained in a few days; one of the returning Officers, an Inveterate Enemy to Liberty is deep in y^e Guilt".¹

Bribery was not the Carlisle party's only weapon. On 25 January 1768, Robert Lisle served a notice on two of the mandamus men and another freeman in Eyre's interest, whereby they were ordered to pay a hundred pounds costs and damages in respect of the prosecution which had been carried on against them on account of their part in the "riot" at the court leet in 1761.² These costs had at the time been paid by Sir William Musgrave, evidently out of compassion for the victims of the "Persecution" (as Trotter called it). "This has at once cancelled all the Merit of that intended Charity", declared Trotter, "and shew ye design of that Seeming Compassion was to rivet ye Chains wch they had forged", for three other men had been equally concerned in the disturbance, but, because they were not freemen, no demand had been served on them. Two months previously, the Carlisle agents declared that they would have some of the mandamus men jailed before the election, and this, "the meanest & basests of all their mean Shifts", revealed the ground on which their threats had been based.

1. Trotter to Spottiswoode, 26 Jan., 1768 (M.C., I, ff. 449-50).

2. Ibid., About the "Riot", see chapter IV.

Startled by this sudden attack, Trotter and his friends were at a loss to know how to act for the best. Fearing the consequences of delay, they sent a special messenger to John Wright, attorney for the defendants, in Newcastle, and he sent an express to Eyre the next day. "The Express wd. arrive in London, before any Motion could be made in Court for Judgmt or attachments against our friends", wrote Trotter; "if they shd. succeed in ys. it would be a Severe Stroke to ye Cause of Liberty".¹ The matter, however, as Spottiswoode later reported, was "taken care of".²

Meanwhile, affidavits were sent to London to enable Eyre's lawyers to commence quo warranto proceedings against two remaining honorary freemen and several others whose admissions appeared open to objection.³ The position of

1. Trotter to Spottiswoode, 26 Jan., 1768 (M.C., I, ff. 449-50).
2. Spottiswoode to Trotter, 11 Feb., 1768 (ibid., f. 451).
3. The previous quo warranto proceedings had been directed against the five non-elected brothers who had been admitted freemen at the Easter court 1766. There were still two honorary freemen, John Nowell, steward of the fourth Earl of Carlisle, who had been admitted a freeman in 1729, and Oliver Naylor, Rector of Morpeth, who had been admitted a freeman in 1747. There were also several other "Exceptionable Votes", as they are called on a list evidently drawn up in 1767 or 1768 (M.C., I, f. 439). Included among them were the four brothers whose admission occasioned the disturbance at the court leet in 1761. On 19 January 1768, Cuthbert Bullock made an affidavit that Nowell, Naylor, George Softley (admitted 30 March 1761), and Thomas Potts (admitted 3 October 1763) had been made freemen without being elected and returned by any company. The same day, Michael Bailes made an affidavit to the same effect in the case of Henry Hancock who had been admitted on 30 March 1761. Eyre told Trotter that the Court would be moved for rules in the quo warranto causes on 23 January 1768 (Eyre to Trotter, 22 Jan., 1768, M.C., I, ff. 446-7) but the affidavits of Bullock and Bailes are endorsed "no Rule granted on these" (K.B. 1/17, Hilary 8 Geo., III, parcel 1). On 8 February 1768, new and more detailed affidavits were

the Carlisles' candidates was extremely precarious, and Musgrave therefore made renewed efforts to bring about a compromise.

"I have delayed writing to you for some time", he told Carlisle on 12 February 1768, "in hopes the negotiation for a compromise would have been concluded and all your election matters quietly settled, but though Eyre is now very willing to come into measures, his coadjutor, who has money, will not decline, so that I am much afraid we may lose both on the poll, and then we shall have the trouble and expense as well as risk of a petition. The election seems to be in the power of the split votes who appear to me to be thorough-paced rascals, on whom there can be no reliance, but if they will be artful enough to throw their votes so as to choose one of your candidates, it is my opinion we ought to remain contented for the present, and not render the new Free-men more your enemies by attacking them in the House of Commons".

The Duke of Grafton had expressed his "great unwillingness" that the election should be brought before the House if it could "by any means be avoided", Musgrave added, "but if our adversaries push us to the extremity, he said he certainly

procured at Morpeth. Cuthbert Bullock now swore that, according to the books of the Tanners' company, George Softley had been elected on 14 May 1747, but, as the company had already elected twelve freemen out of forty-eight then awaiting admission, Bullock believed that the company could not lawfully elect a greater number, because it would have been injurious to the rights of the other companies. Naylor and Nowell had been admitted freemen on the "mere Nomination" of the Lord of the Manor. Naylor, he believed, never served any of the offices of the corporation, and Nowell had only served some of the minor ones by deputy, though he had acted as a juror at the manorial courts. Neither of them had voted at the parliamentary elections for the borough (he believed) except at the General Election of 1761, when their votes were made the subject of an objection. A separate affidavit was now made against Thomas Potts by Andrew Bullock, who declared that he had examined the books of Potts' company but could find no record of his election as a freemen (K.B., 1/17, Hilary 8 Geo. III, parcel 1). It appears that the Court granted rules against three of the persons concerned in the quo warranto proceedings (Eyre to John Wright, 5 Jan., 1769, M.C., I, ff.508-9) but they still voted at the General Election.

would go as far in your case as in any whatever, not only on account of his regard for you, but also that he thought himself particularly called upon to support you in your absence".¹ Clearly, neither Musgrave nor Grafton was prepared to accept defeat without a desperate struggle. But within a fortnight of Musgrave's somewhat despondent letter the situation of the rival parties had been completely reversed.

"I suppose you have repeatedly heard that the fate of Morpeth is determined", Spottiswoode wrote to Trotter on 27 February 1768 - "That the returning officers will not admitt one of the Mandamus men to vote - They have got all the Great opinions in England that these men are within the Statute of 3 Geo III cap 15 as being admitted within the Year. Judge you the Shock to our Friends. Mr F is miserable & Mr Eyre ought to be much more so & the Town if nothing can be done to prevent this will sink into its former State. It has been beyond a doubt settled that neither Mr E nor F should sit but be drove to a petition & men who know this World but Little, too well know the Result of that ... but every thing is now att stake. If Mr Eyre att Least does not sit there will end your Liberty. I cannot tell you how full & Sure & Certain all London is about this matter & that we have lost it. Their Councill say it is hard but it is Law. We are trying everything to Combat this Intended Attack. I will not complain of your forcing Mr E to name & Come down with his Colleague when it was near being happily ended another way. Call in Mr Crfd to your Cabinet Council; Sift the matter; Consider what is to be done. Let me hear from you directly. Parliament is to be dissolv'd 10 March. Not a Moment to be lost - Mr F appears Timid & not hardy enough to bear up."²

"...We are all Anarchy & Confusion", Spottiswoode reported a week later.³ "I cannot describe the Difficultys Mr Eyre

1. H.M.C., Carlisle, pp. 240-1.

2. M.C., I, ff. 454-5. About the Act of Parliament 3 Geo III cap 15, see above, chapter VI, p. 209. It is not clear what Spottiswoode is referring to when he says that "it was near being happily ended another way", but he may be alluding to Eyre's attempt to get the opposition "drawn off" by negotiation.

3. To Trotter, 5 March 1768 (M.C., I, ff. 456-7).

has had to Combat with, having always in View the Preservation of the Rights & Libertys of the Town & securing his own Seat as Guardian thereof". His friends who were all equal friends to Morpeth were pressing him to secure his own seat

"as Mr Fuller after Standing the Poll would not go on with a Return against us which we were sure certain dead sure of, & which wod be the loss of both Seats. In this Situation Mr Dunning sent, of his own Accord, to Mr Eyre & Told him, in the Strongest Manner of the Counsells opinions obtained of the Return absolutely & certainly intended against us and advised nay press-ed him for the Honour of the Town to secure his own Seat & protect the Privileges of the Town if possible. The general Friends of Liberty are anxious to the last Degree that by grasping at too much we shod not lose all - We now know that we must have a Return agt us: a Petition then must be to Parliament: ten thousand pounds wod not carry it thro' but with that Return agt us, Linwood & Beckford in the House, we have no more Chance of succeeding in that than of succeeding to the next vacancy of the Crown of Poland. Mr Fuller proposed writing to the Town to know if they would bear the Expence of the Petition - ten thousand Pounds - Absurd - No - every Voter in the Town must Come up & kick their heels here for Six Months, because for the Sake of ruinous Expence the Hearing such Petition wd. be adjourned from Time to Time for perhaps Six Months to plague us. Nothing will be resolved on without the greatest Deliberation, but as things may be I am Sure I need not recomend Frugality to you but do as they do."

"Consult very seriously our Friend Crawford", he added, "but Secrecy shod be observed for fear of a Pannick". Their opponents' highest poll, according to their own declarations, was forty-eight votes; Fuller's was fifty-three, but one of these could be immediately subtracted because the freeman concerned was under-age, and two others were doubtful. If the numbers were adjusted to

allow for this, Fuller would be left with a majority of one: "but if it was two or three wod any reasonable Man risque both Seats & the Destruction of the Town for this", asked Spottiswoode. Moreover, their opponents evidently expected an elected brother to return to Morpeth almost immediately: "if he is sworn in, as he certainly may, a minute only before he Votes & be as good a Vote as our Mandamus Men, they have then an equality & the returning officers are justified in returning either", Spottiswoode declared, "but you See even upon that State they are so near Mr Eyre that tho' he wod rather perish Life & Fortune than quit & they know that & do not know Mr Fuller's disquiet to say nothing more of it, I think Mr Eyre might possibly command some certainty - Wait for better times & not risque All wod be a great Victory". The exception in the Act of Parliament did not apply to those made free by election, he explained in a postscript, in reply to a letter from Trotter which he had evidently just received. The mandamus men were free by election, not by birth or servitude, and were certainly within the meaning, if not the letter, of the Act.¹ "Mr Dunning, now Soll'r Gen'l, if you was upon the Spot would Convince you in a Minute that we have not the least Degree, Colour or Chance of Success in the House of Commons - It is ridiculous to suppose it with Ministry so very dead flat agt us".

1. It was expressly provided in the Act that it was not to extend to any person entitled to his freedom by birth, marriage, or servitude, according to the custom of the city, town, port or borough.

In the circumstances, the only way to avoid certain defeat was by compromise. Sir William Musgrave was still prepared to settle the election "quietly", and sometime during the week after Spottiswoode wrote the above letter an agreement was achieved. Fuller (and presumably Linwood also)¹ withdrew; Eyre and Beckford would be returned unopposed; Eyre's supporters would give one vote for Beckford, and Beckford's would give their second vote for Eyre. The mandamus men would be allowed to vote.²

"The general opinion which has prevailed in this part of the World", Fuller wrote on 12 March 1768, "is that Mr Eyre & myself stood no chance of being the sitting Members for Morpeth tho' we had no Doubt of a fair Majority from the great encouragment we met with on the Canvas - therefore in order to Secure the Freedom of the Town and Mr Eyre's Election, I have been induced by a compromise to give up any pretentions of my own as I never presumed on equal Merit with Mr Eyre".³

"...On a fair representation I Trust you will Think every-
thing has been done for the Best", Spottiswoode wrote the same day to Trotter, but he reserved explanations until Eyre and he arrived in Morpeth: they would set off on 14 March and would travel without stopping until they arrived.⁴

The election had been fixed for Monday, 21 March 1768. The compromise had not been disclosed by Eyre or his friends to his party, though some of his supporters had evidently heard about it from some of the freemen in the Carlisle interest a few days before Eyre arrived. They refused to

1. There is no evidence as to the time when Linwood withdrew, and it is therefore possible that he had already given up his candidature before the compromise.

2. No copy of the agreement has been found, but its

believe that Fuller had withdrawn, however, until Eyre confirmed it on his arrival.¹ On Saturday, 19 March the Newcastle newspapers reported that the election had been compromised² and that Eyre and Beckford would be returned unopposed, but that very evening the situation was revolutionised.

According to the story which later appeared in the press, a great number of the freemen, suspecting that there had been "Some Secret management and compromise which they did not like", became extremely dissatisfied,

"and, hating the thoughts of any imposition upon their freedom & independency, they made their application to Sir M. White, Son of Mr. Ridley, Member for Newcastle, a young gentleman of excellent character & great fortune in the neighbourhood of Morpeth, whom they earnestly Sollicited to offer himself a third candidate, with strong assurances that he should be supported with their free votes, and an interest which they did not doubt would gain him a majority upon the poll. Sir Matthew White, on being applied to in so generous a manner, upon the footing of freedom and independency, Chearfully & readily complied with this request, and immediately went over, on Sunday, to Morpeth, and, without canvas or farther application on Monday offered himself in a very polite & pertinent address to the freemen for their approbation & choice".³

If this story is true, the sudden approach to Ridley was a revolt by the freemen in the Carlisle interest against the management of Sir William Musgrave and the others who had acted on behalf of the Earl of Carlisle in

terms can be gathered from the letters of Fuller, Trotter, and Eyre. See, Trotter to Spottiswoode, 30 March 1768 (M.C., I, ff. 467-9); Trotter to Eyre, 1 April 1768 (ibid., ff. 470-3); Eyre to Trotter, 28 March 1768 (ibid., f. 465).

3. To Trotter (ibid., f. 458).

4. Ibid., f. 459.

1. Trotter to Eyre, 1 April 1768 (ibid., ff. 470-3).

2. Newcastle Weekly Chronicle; Newcastle Journal.

3. Newcastle Journal, 26 March 1768.

arranging the compromise. Certainly, none of Eyre's supporters had any part in the application to Ridley. A regard for freedom and independence was not characteristic of the freemen in the Carlisle interest, and, if the supposed revolt by them now was genuine, it probably arose from much less idealistic motives. So far as pecuniary rewards were concerned, a contest was likely to be more profitable than a compromise. In the hotly contested election of 1761, the freemen in the Carlisle interest had evidently received as much as fifty pounds each, and, while Linwood and Fuller remained in the field, a similar amount could perhaps be expected.² The compromise, however, would certainly put an end to any such expectations: perhaps each voter would now only receive "half Pay", as some aggrieved Morpeth freemen once termed the money usually doled out after elections.³ It is possible, then, that, as the freemen of Grantham in 1741, the freemen in the Carlisle interest were "sadly vex'd there was no opposition", and, as the freemen of St. Albans in 1761, grew "very clamorous for a third man".⁴

But perhaps the freemen, far from being in revolt, were merely obeying orders received from Musgrave or the Carlisle agents then at Morpeth. Eyre now stood alone; he

1. See chapter III, p. 98.

2. Even before Fuller became a candidate, Sir William Musgrave had been "obliged to undertake for and promise many things" in Carlisle's name, though nothing but what Carlisle could "very well execute". Musgrave told Carlisle that he confided in his honour to carry out what had been promised in due time (Musgrave to Carlisle, 1 Dec., 1767, H.M.C., Carlisle, p. 221).

3. See chapter II, p. 64.

4. See Sir Lewis Namier's Structure of Politics (1957), p. 107.

5. Ibid., p. 107.

would be at an immense disadvantage if there was a contest, and in the event of a petition he would have to struggle against overwhelming odds. The chances of defeating him were so good that unscrupulous men might well have been tempted to resort to treachery and thereby avoid yielding to him a seat which might give him a permanent and perhaps commanding interest in the borough. Were his opponents sufficiently guileful to have made the compromise solely to eliminate Fuller and lull Eyre into a state of security? Or was it only after the compromise that a plot (if it was a plot) was made to defeat him? Or, again, were Sir William Musgrave and his associates in London innocent of such designs - were they, in fact, suddenly confronted by a situation brought about by the Carlisle agents at Morpeth on their own responsibility?

In default of evidence, these and other similar questions must remain matters for conjecture. If the invitation to Ridley was really as sudden as it appeared to have been - less than two full days before the poll - news of it could not have reached London before the election. If, then, there was a plot, the Carlisle agents at Morpeth must have been entirely responsible for it; and, if, instead of a plot, the application to Ridley represented a genuine revolt on the part of the freemen, these agents would have to deal with the situation on their own responsibility. But was the approach to Ridley really as sudden and

unpremeditated as it seemed to be? The week before Eyre came to Morpeth, Robert Lisle's clerk, Edward Lawson, "hinted" to some of Eyre's supporters that he believed neither Linwood nor Fuller would stand, but that "there wd be a third Man & as they had a vote to Spare He hoped ¹ they wd. preserve it". Possibly, then, Ridley had already been secretly approached by the Carlisle agents and had agreed to stand before the freemen formally invited him ² to do so. And in that case there would be sufficient time for the agents at Morpeth to have consulted and received instructions from their superiors in London.

Whether the terms of the compromise would be observed (so far as they could be observed now that the circumstances had changed) would depend upon the Returning Officers and the Carlisle agents at Morpeth. One of the Returning Officers, Andrew Fenwick, was an agent for the Carlisles: Trotter described him as "an Inveterate Enemy to Liberty", ³ and declared that he was "deep" in guilt regarding bribery. Moreover, he was bitterly hostile towards Eyre, and had been heard to declare "with Oaths & Imprecations" that if Eyre had "ever so great a Majority, he never Should be returned a Member for Morpeth".⁴ The chief of the Carlisle

1. Trotter to Eyre, 1 April 1768 (M.C., I, ff.470-3).
2. I have discovered nothing amongst the Ridley MSS at Blagdon which throws any light on these transactions.
3. Trotter to Spottiswoode, 26 Jan., 1768 (M.C., I, ff. 449-50). Trotter does not actually name the Returning Officer he was referring to, but there can be no doubt but that he was Andrew Fenwick, whose subsequent activities as agent for the Carlisles rendered him notorious as an opponent to "Liberty" in Morpeth.
4. Evidence of John White and others J.H.C., XXXII, 271.

agents at Morpeth was John Cleaver, steward of Lord Carlisle's estates and general manager of his other concerns and interests. On the day of the election, before polling began, James Crawford and Michael Hancock approached Cleaver and

"told Him they were certain, if He ... would only ask his friends, there were not 5 among them yt. wou'd give a Vote contrary to Sir W. M[usgrave]'s inclinations, & they saw two or three of them at the Same Time & called them into his presence, & told them Mr. Eyre's Interest & Sir Wm M's was the same, & that they would vote for Mr. Eyre - Cleaver then was obliged to say Something, & He very faintly Said, if they pleased they might vote for Mr. Eyre".¹

It soon became clear, however, that none of the freemen in the Carlisle interest had any intention of voting for Eyre: most of them proceeded to give their second vote for Ridley. Eyre's supporters, however, gave their second vote for Beckford until it became all too evident that Eyre was being betrayed,² whereupon those who had still to poll voted for Eyre only.. When Trotter complained at the conduct of the freemen in the Carlisle interest, Cleaver replied that "He cou'd not help it, Mr. Eyre's friends had discovered the compromise too Soon".³ Trotter pointed out that "None of them knew any thing of the Matter, till Mr. Eyre came to NCastle and that it was propagated by some of their people some days before".⁴ As one of the voters "owed his bread to Sir W: M[usgrave]", he added, he was

1. Trotter to Eyre, 1 April 1768 (M.C., I, ff.470-3).
2. Trotter to Spottiswoode, 30 March 1768 (ibid., ff. 467-9).
3. Trotter to Eyre as in n. 1.
4. Ibid.

certain that he would have voted for Eyre (and Beckford) if Cleaver had "made a Point of it". Cleaver, however, Trotter believed, had given the freemen "very different instructions".¹

The election was evidently carried on against a background of disorder and violence. (Five pounds was later paid to a glazier as Beckford's "part of the bills for repairing windows broke at Morpeth election".²) In a letter to the Newcastle Journal of 9 April 1768, a correspondent signing himself "A Friend to the Liberties of Morpeth", accused the aldermen of the borough of "exciting unruly Mobs, to the great Disturbance of the Peace, and Injury of the Persons & Property of Some of the most respectable Inhabitants of that Place". The aldermen in reply, challenged the writer to disclose his name and "Produce one Instance of our countenancing in the least any Disturbers of the Peace",

"and we ask him, Who gave the first occasion to the Injuries he complains of? Were not the Inhabitants of Morpeth under the disagreeable necessity of defending themselves against Attacks of a very formidable Mob of Pitmen collected from different Collieries, and armed with Sticks & Bludgeons? Were not these Pitmen guilty of many Irregularities on the Day of Election, before the least Resentment was Shewn by the Friends of Mr Eyre? He hired no Mobs - His Friends despised such Assistance - his Cause needed it not. This Pretended Friend to the Liberties of Morpeth might also know, that had we given the least Encouragement to riotous Proceedings, the Consequences of that Day might have been very fatal".³

1. Trotter to Eyre, 1 April 1768 (M.C., I, ff. 470-3). Eight months later, one of the freemen who had voted for Ridley "candidly" told Trotter that Cleaver had never asked any of the freemen to vote for Eyre (Trotter to Eyre, 1 Dec., 1768, ibid., ff. 495-6).

The "very formidable Mob of Pitmen" was probably brought in to support Sir Matthew White Ridley, whose father was a prominent Tyneside coal-owner.

In these circumstances, the mandamus men came to vote for "Eyre and Liberty". Beckford had polled fifty-one, including eighteen of Eyre's supporters who had voted for him in accordance with the terms of the compromise,¹ Ridley had polled twenty-nine, to four of which Eyre had objected,² and Eyre himself had so far polled twenty-four. A great debate now arose: Eyre made a spirited defence of the legality of the votes of the mandamus freemen, and mentioned several "very eminent" lawyers who held the same view.³ The Returning Officers, although holding the opposite opinion, were at length "induced, from the Apprehension of great Riots and Disturbances" (so it was alleged), to consent to the mandamus men's votes being set down on the poll with a query, "subject to a Scrutiny".⁴ Twelve were polled in this manner, after which Eyre offered to poll twenty more if the bailiffs would accept them as legal votes. The bailiffs, however, refused, and Eyre did not call on any more to vote.⁵ He now had a majority of seven over Ridley.

2. Carlisle's Rentals and Account Books: "Sundry disbursements...", under 26 April 1769 (Howard of Naworth MS).

3. Newcastle Journal, 16 April 1768.

1. Trotter to Spottiswoode, 30 March 1768 (M.C., Iff.467-9).

2. The Case of Morpeth (1769). There is a copy of this case which sets forth Eyre's point of view in M.C., IV, f.194.

3. Letter signed by the aldermen of Morpeth in the Newcastle Journal, 16 April 1768.

4. A STATE of the CASE, as to the Election of Members to serve In Parliament for the Borough of Morpeth, March the 21st 1768 (copy among the Ridley MSS).

5. The Case of Morpeth (1769).

At the close of the poll, the Returning Officers, who
were evidently "pressed for Room on the Bench", retired
into the grand jury's room - the election was being held
in the town hall. Cleaver followed them. A few minutes
later they returned and declared Beckford and Ridley
elected.

1. Evidence of Matthew Waters, Journals of the
House of Commons, XXXII, 271.

CHAPTER VIII

THE HOUSE OF COMMONS DECIDES

"Your kind and generous Invitation of me to be one of your REPRESENTATIVES in PARLIAMENT, did me great Honour", declared Sir Matthew White Ridley in an address to the "worthy Free Burgesses on Morpeth". "It is much increased by your FREE CHOICE of me Yesterday, to that very important Trust.

"I shall on all occasions, use my best Endeavours to serve you; and I hope it will appear that the LIBERTIES and INTERESTS of the FREE BURGESSES of MORPETH will not suffer, by being entrusted to the Care of a FRIEND & NEIGHBOUR".¹

Enraged at the apparent treachery of the Carlisle managers and their agents, and bitterly disappointed at his unexpected defeat, Eyre determined to petition against Ridley. He returned to London on 24 March 1768 and the following day had an interview with Sir William Musgrave, who, Eyre declared, "in the most Solemn Manner" disavowed the "Villainous Proceedings of that most wicked treacherous Dog Cleaver",

"who So far from not knowing any Thing about the Compromise actually was in London at the Time and consulted upon it & liked every Step thereof and took away with him Memorandums in Writing of the Mandamus Men being to Vote & of the whole & how to conduct himself - Gibson had a Letter to the like Effect - And yet this Miscreant Cleaver swore most bitterly that he knew nothing of the

1. The Newcastle Journal, 26 March 1768.

Matter & was quite in the dark about it, otherwise than as he might have it from Mr. Beckford who then indeed told it to him. ... That Men shod take Such Pains to be Villains - Villains too of such Disgrace to Human Nature as to break down all social Tyes, for I now distrust almost my best Friends - And yet Sr. Wm. has worked upon me so as to believe him, giving me however as a Pledge his future Behaviour so as to use his Utmost to bring me into the House!...

If I did not fear and doubt every Body and every Thing after this Transaction, I shod say that there cou'd not be the least Doubt of my sitting as it is generally believed the D. of G[rafton] is an honest Man and they have not the least Shadow of Merit nor a Leg to stand upon - This I am certain that Nothing shall be spared or wanting on my side - Tell the Liberty Men that they are spoke of with the highest Esteem by every Body wherever I go, & tell them also that I Love and honour them if possibly more than ever And am equally Attached to them. You will therefore be pleased to pay my Compliments to every one of them in the Kindest Manner...".1 "

The "Sons of Freedom" were themselves bitterly disappointed and resentful:

"A lowring Sadness yet sits on Every face", wrote Trotter on 30 March 1768, "while a Conscious Sullen determined Virtue & fortitude looks thro the Gloom, & flashes confusion on the Guilty Countenances of their Enemies - Success they cou'd not command against Such premeditated Villainy (contrived & carried on by Men who without remorse cou'd trample on all Laws Human & Divine). Their Virtue & Integrity deserved a better reward; in the End I hope they will find it more than an Empty Name. The Cruel treatment of our worthy Patriot by the Agents & returning officers has made too deep an impression upon the Minds of the People ever to be erased; & they Vow their Lives and fortunes are ready to be Sacrificed to his Service".²

If Eyre petitioned against the return, they would pay all expenses for the mandamus men when they went as witnesses to London. As soon as Eyre's resolution was known, they

1. Eyre to Trotter, 28 March 1768 (M.C., I, f. 465).

2. Trotter to Spottiswoode, 30 March 1768 (ibid., ff. 467-9).

would open a subscription, and they were certain that they would meet with great encouragement from all the friends of liberty in the North of England.¹

The "pretended friends of the Carlisle family" had given a "Mortal Blow" to that interest in Morpeth, declared Trotter, if justice was not done to Eyre:

"They have let in a formidable family in the Neighbourhood, Active and enterprizing, and flushed with their Unexpected Success, wch one day will be a heavy load upon their Shoulders, & who avail themselves in being friends and Neighbours to the Corporation".²

Trotter believed that Ridley had been brought in by the Carlisle agents at Morpeth on their own responsibility.

"Many secrets have transpired within these few days", he declared on 30 March 1768. "I have got into ye Very foundation of the plot, & from many Circumstances am convinced that Sir Wm. M-g-e has Acted an honble Part, & was not privy to their transactions. The Ridley faction speak of Him (Sir Wm) in very disrespectful Terms, . . .".³

Cleaver, Gibson (town clerk of Newcastle), Foster (the Duke of Northumberland's agent) and "a certain person in ys. Town no friend to our happy Constitution"⁴ were, Trotter believed, "the MEN who contrived & carried on the treacherous conspiracy in defiance of the most Sacred Tyes wch are the ornament Support & protection of Social Life. What deep dissimulation & what pains did they Take to be Villains!"⁵

At a public meeting of country people, ten or twelve miles from Morpeth, on the day of the election, a friend of Matthew Potts had offered to wager five pounds that

1. Trotter to Spottiswoode, 30 March 1768 (M.C., I, ff. 467-9).

2. Ibid. 3. Ibid. 4. It is not certain to whom Trotter here refers. 5. Trotter to Eyre, 1 April 1768 (M.C., I, ff. 470-3).

Eyre would not be returned a Member for Morpeth. A man from Morpeth thereupon offered to stake a guinea that Eyre would be one of the sitting Members. The other refused this offer, but called the Morpeth man aside "& told Him, not to discover every thing (for He was assured Mr Eyre was not to be returned) & He wd. get some money laid that day". The man from Morpeth was, however, "so shocked at the Villainy, that He immediately called out not to lay a Shilling wt yt. fellow about ye Election for there was treachery, & the rascal was disappointed".¹

But the "Strongest indication of the horrid villainy of C[leaver]" was his behaviour at the close of the poll. When the Returning Officers retired into the grand jury's room to consult about the return, he followed them and asked what return were they going to make. They replied that they would return the candidates with the majority on the poll: "'By no means', Says He, 'you must not return Eyre; He will never Scrutiny it'". Two affidavits would be obtained about this, one from a man who was at the door, and another from one who was inside the room "keeping the Door".²

"Sir W^m Musgrave will certainly assist you in bringing Such Guilty wretches to Justice for a terror to all such Evil doers", continued Trotter (writing to Eyre) - "if He is your friend, you will have it in your power to make all your friends his friends - opposition will Cease, peace

1. Trotter to Eyre, 1 April 1768 (M.C., I, ff. 470-3).
2. Ibid.

will be restored & He will have No occasion to court any of the 29 w^o Voted for Sir Mat: White Ridley". In this case, Sir William Musgrave should order the steward of the court leet to admit the twenty-four newly elected brothers to their freedom when they were returned to the approaching court, and to call over the names of the mandamus men with the other freemen at that court. Once this was done, Sir William in conjunction with Eyre would find it "an Easy Matter to preserve y^e Boro against Every attack from q^tever quarter".¹

Two days previously, in a letter to Spottiswoode, Trotter had expressed his views on the subject in somewhat greater detail:

"In my opinion, nothing can save the Borough from being rent into Separate factions & filled wt. intestine commotions, & becoming the prey of some Indian Nabob, as a perfect understanding betwixt L - C - le & Mr. Eyre. Nothing will Satisfy the friends of Liberty, till Mr Eyre gets his Seat in Parlt. & you know they are 10 to 1 in the Borough, who will Sacrifice every thing for Him; in Short, He has got such hold of their Affections, that was He to desire them to March up to a battery of 100 pieces of Cannon in defence of his & their rights, they would conquer or fall by his side - It is He only who can restore peace & harmony, & even regain their lost affections to L - C - le when his Lordship in conjunct^{ion} with Mr Eyre shall maintain their rights & redress yr wrongs".²

Clearly, Trotter's concept of Liberty did not altogether exclude the influence of the Lord of the Manor. His opposition to the Carlisle interest appears to have sprung

1. Trotter to Eyre, 1 April 1768 (M.C., I, ff.470-3).
2. 30 March 1768 (ibid., ff. 467-9).

primarily from the local injustices (as he considered them) by which it was maintained, rather than from any wider political views.¹

Spottiswoode described two of the affidavits which were sent from Morpeth to elucidate some "Secret transactions"² on the part of their opponents as "Exceedingly material".³ They afforded, he declared, "a Strong & Convincing proof of the Villany & Deceit of Cleaver who I am very much inclined to believe Carried on a great part of that wicked Transaction Ex proprio motu but perhaps from a hint & under the Belief or knowledge that Such an Act Woud be agreeable to his Superiors - Time which discovers most things will in a Little throw more Light into this matter and give a Clearer view of the Springs of Action".

Parliament, he continued, would meet in May 1768, but it was doubtful whether any election petitions would be received until winter. This would be a "great hardship" on Eyre: if he was finally to lose, the delay with the suspense it would occasion was an injury; and, if he was to succeed, "why putt a man on the Racke and after Torturing him almost to Death, Tell him he is not to be killed - but we must submitt and those Evils wh we have not power to Cure must be Endured".⁴ Eyre had not yet

1. See chapter XI, p. 332.

2. Trotter to Spottiswoode, 30 March 1768 (M.C., I, f. 469).

3. Spottiswoode to Trotter, 21 April 1768 (ibid., f. 471).

4. Ibid.

had a meeting with the Duke of Grafton or other parties concerned in the compromise (apart from Musgrave), but from persons who were "near the fountain head & pretended to know" he had received hope of obtaining all he desired. "...In such a world as this & among Such men words seldom Convey the sentiments of the heart", Spottiswoode declared, however: "actions are only to be Believed; from these we shall in a short time have Conviction of one kind or other".¹

Another month passed, however, before Eyre obtained an audience with Grafton. He attended the Duke's levee where (Spottiswoode had heard) "a particular attention" was paid to him, in contrast to the two Ridleys, who were also present, but who had been "very Cooly received". Eyre was given leave to write to or call on the Duke, and arranged to call on him on 20 May 1768. When he began to open his case, Grafton told him that it was already sufficiently understood, and that he had "heard from all quarters how he had suffered & how honorably he had behaved". "Tho the D woud not make any Solemn promise as a Minr", reported Spottiswoode, "yet from what Coud be gathered from the Generall Tenor of his Discourse, I think we have the Greatest Reason to hope, without flattering ourselves, that we shall have his weight thrown into our Scale". He told Eyre to call again in a few days, when he would give him his "Explicite or definite answer".²

1. Spottiswoode to Trotter, 21 April 1768 (M.C., I, ff. 471-2)
2. Same to the same, 23 May 1768 (ibid., ff. 473-5).

In the course of the interview Eyre proved himself "the Same Enthusiast for Mpth that he ever was":

"The D said that he would not Speak as a minr, yet as a man he woud do every thing to procure him Satisfaction. MR Eyre replied that the only Satisfaction he asked or Could have was to be member for M, & added that was a million of money to be laid upon the Table & offered him with a Seat in parlmt for any oyr place to Give up his pretentions in M, I would not, Says he, accept of it So help me God". 1

Meanwhile, Parliament assembled, but, as feared, would not receive any election petitions. Eyre was thus left to behold "his Spoilers reaping all the fruits of their wickedness & his Mouth Stopt from Complaining".²

In June 1768 Spottiswoode passed through Morpeth on his way home to Scotland. He had promised to bring Wilkes's picture with him, and he evidently carried two letters from Eyre, one of which was an address to the "Free Burgesses & The Liberty Men" of Morpeth. It ran as follows:

"Gentlemen,

"After the repeated written Testimonys that you have been pleased to Send me approving my Conduct, I should think myself wanting in Respect if I did not return a Written Answer.

"It is certain that with a great Majority of undoubted Votes I am not returned your Member, but that is not the least Reproach upon any of my Friends; On the Contrary, when many who are not intimate with the very particular Circumstances of the Case have gone about censuring the Electors of Morpeth, I have heard them with Attention and been exceedingly happy in having an Opportunity to do Justice to you & to the Villains also by whom our

1. Spottiswoode to Trotter, 23 May 1768 (M.C., I, ff.473-5).
2. Ibid.
3. Same to the same, 14 June 1768 (M.C., I, f. 476).

Success is suspended. Upon these Occasions, I have been almost lavish in my Praises of you, & when I have related your being Some of you, frowned upon by Fortune, bullied by Authority, & all tempted by Gold or Gilded Promises & every Art practised upon you that Could be invented, and that you resisted, nay to a Man despised the whole, they have wondred indeed & wondring Sayd you were Noble Fellows.

"You have my Thanks in a very particular Manner for your upright Behaviour, & rely upon it that the same Spirited Conduct which I have hitherto pursued with Respect to Morpeth I will still continue; The Men in Power know my fixt Resolutions upon this Subject. I have Sent circular Letters to the Members, I shall present my Petition as soon as the House sits for that Purpose and I will do every other Thing that shall be thought necessary upon this Occasion, being truly & Sincerely your faithfull Friend

&

Surry Street
London.

19 June 1768.

Most obedient hble Servant
Fras Eyre."

This address was read to Eyre's supporters "in a full Company" on 27 June 1768, Spottiswoode being among those present.¹

The week after Spottiswoode's "very warm" reception, Ridley gave an entertainment to his friends at Blagdon. Two of his freemen (Trotter preferred to call them bondmen) who were very drunk were brought back to Morpeth in one of his carriages. Seeing it, some apprentice boys shouted "Eyre & Liberty", whereupon Ridley's servant shouted "Ridley", and threw a brickbat among them. One of the boys retaliated by throwing a stone at the servant and broke the window of the chaise. An apprentice, aged about fourteen, was influenced by his master to lay an Information against five boys for riot. Their parents and masters

1. The address bears an endorsement to this effect (M.C., I, f. 477).

gave bail for their appearance at the Assizes, and John Wright, the attorney, was engaged to defend them. He approached Ridley who seemed willing to withdraw the prosecution if the boys would ask his pardon before the Grand Jury, but they refused to do so.

"They were then bullied & threatened with the K[ing's] B[ench] or to be bound over to the next assizes, & being questioned who excited them to such behaviour, they answered no Body - Mr Wright who was present with them, very justly observed these were unfair questions, that He was certain none of the Boys had any Encouragmt. from Mr Eyre's friends to commit any outrages, but that their Voices in shouting Eyre, were only the echo of the Sentiments of the People both of the Town & County in general - all were for Eyre".

The boys remained obstinate; three of them asserted their innocence and refused to ask pardon where there was no offence. One of the others was "severely questioned" and admitted throwing a stone, but only after Ridley's servant had thrown the brickbat at them. Finally they were dismissed with a "very gentle" reprimand from the foreman of the Grand Jury. On coming out of court, they shouted "Eyre" and returned home with his blue cockade in their hats.¹

This prosecution, declared Trotter, merely tended to "kindle the Spirit or rather flame of Liberty afresh". Recently, the two Ridleys had been "Shouted & hissed through Morpeth" as they went to visit the Duke of Northumberland: "the favourite Name of Eyre was Sounded & resounded in their Ears, by an innumerable Company of

1. Trotter to Eyre, 23 August 1768 (M.C., I, ff. 480-3).

Women, Boys & Girls from one end of the town to the other". It was impossible to prevent the people from thus expressing their resentment, Trotter observed; and why should it be prevented, he asked, since "disgrace ought to attend Villainy".¹

Trotter and Eyre's other friends were by now suspecting that the "villainy" was deeper than they had at first believed.

"A Tide waiter's place at London has been offered to two of the Mands. Men, who are very poor (by F[enwic]k Bailiff) from Sir W: M[usgrave]", Trotter informed Eyre, "which they generously refused, & at last given to Bob Milburn's Son, a Stout young fellow, who would not work at his business, & who was Employed by Fenwick before the Election to Use his influence with his Father to break his promise to you but without effect....

"This however appears to all your friends a fresh proof of the Treachery of Sir W - and however political it may be to wink at it in the present Critical Juncture, you will see it necessary to dread all professions of friendship from that quarter, & to use the same precaution as if dealing with avowed Enemies".²

"The two Bailiffs are hardened in their Wickedness", he added; "Sir W certainly corresponds w[th]t. them - You have been Most basely betrayed!" Moreover, when the new bailiffs were chosen, both were men who had voted for Ridley. This Trotter regarded as "Another Evidence of y^r Baseness, & a farther proof y^t what they did was agreeable to Sir W.M -".³

On 4 October 1768, Trotter reported that he had heard that the Ridleys were basing their case against Eyre

1. Trotter to Eyre, 23 August 1768 (M.C., I, ff. 480-3).
2. Ibid.

3. Trotter to Spottiswoode, 4 Oct., 1768 (M.C., I, ff. 485-8).

entirely on the Act against occasional freemen.

"Can these be called Occasional freemen who were all Entitled to their freedom four years ago, & only deprived of that Privilege by ye Power of oppression agst. Law & Justice?" - asked Trotter. "Is it possible that R - y can rest the merits of his Cause on such a foundation, in a free Kingdom? If He Stands his Ground here, Adieu to Law, Justice & Brittish Liberty. Yet it seems, Everything is to be feared (shame on't) if Ad-m-n throws its weight into the opposite Scale; may not this certainly be known? How does y^e Att^W. & S - r Generals Stand affected? Is Mr. E assured of yr. friendship & influence or not?"¹

Meanwhile, it had become clear that as a result of the mandamus causes the steward of the court leet would no longer refuse to admit as freemen brothers who had been regularly elected by their companies and returned to him for that purpose. All twenty-four elected brothers who had been returned to the Easter court 1768 had been admitted to their freedom. This, declared Spottiswoode, had given the "Liberty Men" a "fair unimpassable Superiority", even though the whole twenty-four were not "men of Freedom & Independent Spirits".² At the following Michaelmas court, another twenty-four elected brothers were returned to the steward. Unable to reject them on the grounds that they had not been approved by the Lord of the Manor, he resorted to another excuse: he refused to admit them because the Skinners' and Butchers' company had elected two butchers, whereas by custom they ought to have elected a skinner and a butcher. The alderman of the company replied that the majority of the whole company had the right to choose any

1. Trotter to Spottiswoode, 4 Oct., 1768 (M.C., I, ff. 485-8).
2. Spottiswoode to Trotter, 21 April 1768 (ibid., ff. 471-2)

two brothers they pleased, whether skinners or butchers: he had voted for a Skinner himself, but had returned the two butchers who had the majority of votes. The steward grew angry

"& bade him hold his tongue. He Said He w^d not, He wd. Speak, He had a right to Speak - Do you know w^o I am, said the Steward. Yes I do, Says the honest Alderman, & do you know who I am Sir. I have a right to sit on ye Bench & to Speak as an Alderman, & to put my hat on too, & so put on his Hat - the Steward Calmed, said He would Adjourn the Court till tomorrow, & would give his sentiments then. The Court was called this day & the whole 24 were Sworn in, & the Lawyer even condescended to own the Alderman was right in returning the Candidates who had y^e Majority".¹

This, Trotter declared, was "a great point gained: our plan has succeeded, for there are very few Skinners in the Company and as few of them to be depended on & for the future that Company will always Elect two good Men".²

At the same court, James Crawford and Michael Hancock, who were now aldermen, had "a great deal of Altercation" with the steward about the mandamus men not being treated as freemen. (They had neither been summoned to the court nor called over there with the other freemen.) The steward replied that their rights had not yet been determined. The two aldermen declared that they were being excluded from their rights: all thirty-three had been admitted as freemen "upon Stamps" and if they were not enrolled as such thirty-three actions for damages would be commenced against him. He then "lowered his Sails" and ordered the clerk to enrol them immediately.³

1. Trotter to Spottiswoode, 4 Oct., 1768 (M.C., I, ff. 485-8).

2. Ibid.

3. Ibid.

"The Name of Eyre makes them tremble", declared Trotter triumphantly; "the Borough is more his own than Ever, the opposition to him only rivetts stronger the affections of ye people to Him. His Interest is now paramount & not to be shaken. He may avail Himself of his Influence, & I hope it will have a good Effect in determining the grand question. There is no fear of the next 7 Aldermen - Everything is done to increase his power & importance, till y^e affair is finally determined".¹

Thus, by skilful manipulation of the administrative machinery of the borough, Eyre's friends sought to strengthen his bargaining power in any negotiations with the Carlisle managers and the Ministry prior to the hearing of his petition. "Mr. Eyre received with great pleasure the Assurances of Support & adherence from his new friends", wrote Spottiswoode on 20 October 1768, referring to the newly-admitted freemen; "he will return them an answer in writing, but this perhaps he may delay Till near the meeting of parliament, wishing & hoping then To be able to give them some Good news".² The previous day Eyre had written to the Duke of Grafton to request a private audience, the result of which would "assure him on what Ground he is to Stand & what Support he may hope for".³

On 5 November 1768, Spottiswoode reported that Eyre had been received by Grafton a few days before: "There was much altercation & much discourse but it ended happily & wt promise of support & every thing Since Seems to Confirm it & that these assurances were meant with Sincerity".⁴ Eyre's

1. To Spottiswoode, 4 Oct., 1768 (M.C., I, ff. 485-8).
2. To Trotter (ibid., ff. 489-91).
3. Ibid.
4. Spottiswoode to Trotter, 5 Nov., 1768 (M.C., I, f. 492).

petition would be settled by Counsel within the next few
1
days and would be presented to the House immediately.

Eyre later declared that his petition had been settled by the "ablest Men in the Law" and was "purposely penned in such a way as to take in & hit every kind of illegal Conduct 2 in all any or either of my Adversaries". It set forth that the Returning Officers, particularly Andrew Fenwick, had both before and at the poll behaved with the "utmost Partiality" towards Sir Matthew White Ridley, and admitted several persons to poll for him who had no right to do so, and refused several who offered to vote for the petitioner and had an undoubted right to do so. They had also rejected the votes of several persons as illegal after they had voted for the petitioner, and, by improper conduct and frequent declarations before and during the poll, showed a determined resolution not to return the petitioner but Sir Matthew White Ridley at all events: "by which and several other indirect Practices, and illegal and unwarrantable Proceedings, a pretended Majority was declared in favour of Sir Matthew White Ridley", although the petitioner had a clear majority of legal votes. 3

The petition was presented to the House on 14 November 1768. Spottiswoode reported that

"Ridley wanted much that it Should have been heard att the Barr of the House (by which means it could not have come on this session as there are already So many of them

1. Spottiswoode to Trotter, 5 Nov., 1768 (M.C., I, f. 492).
2. Eyre to John Wright, 5 Jan., 1769 (*ibid.*, ff. 508-10).
3. Journals of the House of Commons, XXXII, 33.

appointed att the Bar). Mr Eyres friends insisted it should be heard att the Committee for Elections - Ridley Called for a Division but on Seeing Mr Eyres Great Strength he Gave it up without reckoning numbers. The Committee will meet on Friday next & fix the day for hearing the merits which I hope will be the End of this month or Early in December".¹

Ten days later, however, Eyre reported that the petition would be examined by the committee on 25 January 1769, or ² soon after that date. He was determined and optimistic: "... I will have my Seat for Morpeth and nowhere else", he declared, "or they shall turn me out. I think I shall as Sitting Member for Morpeth see you all soon after the 25th of January". He wished, however, that the Duke of Northumberland could be won over: he was supporting Ridley who otherwise would have been "little indeed". Even so, Ridley had not succeeded when he had called for a division (as Spottiswoode had related), and this, Eyre claimed, had "depressed them infinitely & helped me much". His opponents had "not a shadow of Merits", he declared, and he hoped that it was a "good House". "We beat them all to nothing", he claimed, comparing Ridley's printed case with his own. "...You see, I only print one part of my Case, the rest as to Partiality & Evil doings, I reserve like a Clap of ³ Thunder. Many witnesses will be wanted".

Trotter told Eyre when he answered his letter that he had always "dreaded" that the Duke of Northumberland

1. Spottiswoode to Trotter, 14 Nov., 1768 (M.C., I, f. 493).
2. Eyre to Trotter, 24 Nov., 1768 (ibid., f. 494).
3. Ibid.

would support Ridley:

"The County Connexions were Motives sufficient for a Politician; besides, a certain great Lady was paying him a visit last summer - no doubt all their Engines will be at work to ruin you & ye Liberty Men of Morpeth if they can. May the Guardians of ye Just maintain your righteous Cause, & turn their Counsels into foolishness - However great & Powerful this mighty Man May fancy Himself, perhaps one Day He may wish, He had been ye. friend of Morpeth - the Flame of Liberty wch burns bright in Every breast will not Easily be Extinguished & they will infallibly resent ye Opposition to you & them whenever An opportunity offers.

"R - ley himself stands upon one foot at NCastle & very probably before 7 years are Elapsed, neither fayr nor Son will be of much consequence to the politicks of his Grace".¹

Ridley's case, Trotter continued was "puerile", stuffed with contradictions and false representations of facts, especially of the trial of the mandamus causes, and was a "gross insult" to the honour of the Court of King's Bench. This removed the mask and showed how Eyre had been betrayed. Ridley stood as the "avowed Abettor" of the illegal claims of the Lord of the Manor and sided with all the Carlisles' acts of oppression.

The case which Trotter thus attacked set forth that Morpeth was an ancient borough by prescription, consisting of two bailiffs and an indefinite number of freemen or free burgesses only. No one was entitled to be a free-man of the borough except by election, and there was not a single instance, before 25 November 1767, of anyone being sworn a freeman and free burgess except at a court

1. 1 Dec., 1768 (M.C., I, ff. 495-6). The identity of the "certain great Lady" is not known. Trotter's prediction proved to be correct. Sir Matthew White Ridley succeeded his father as M.P. for Newcastle in 1774, and the

leet or an adjourned court leet. The free brothers of the seven companies had no right to admission as free burgesses unless elected by their respective companies in the customary manner; but it had never been usual for the Lord of the Manor to swear in the whole twenty-four so elected and returned to the court leet, and, frequently, several were never sworn in at all. The Lord used to swear in honorary freemen also, who exercised all the rights and privileges of free burgesses.

About four years ago, during the minority of the Lord of the Manor, a scheme had been formed to attack the discretionary power exercised by all former Lords of the Manor over admissions of freemen. At the resulting trial in the Court of King's Bench in July 1767, the plaintiff had obtained a verdict, "the Court and Jury being of Opinion that the Lord could not, without assigning a good Cause of Objection, refuse to admit any of the Twenty-four when regularly elected and returned by the Companies. But whether the Lord...has not a Right to judge of the Expediency of the Companies going to an Election, is a Question which, it is presumed, has not yet received a judicial Determination".

On 25 November 1767, the thirty-three persons came to the steward of the court leet and by virtue of peremptory writs of mandamus insisted that he should swear them

the Duke of Northumberland's treatment of Eyre (at a later date) had repercussions in the Northumberland county election of 1774. See chapter XI, pp. 388, 390.

in as freemen immediately. The steward, although of opinion that he had no authority to swear in and admit freemen except at a court leet, which could be held only on certain prescriptive days, administered to them the usual oath at his house in Newcastle.

At the last General Election, twelve of those so sworn and admitted offered to poll for Eyre. The Returning Officers considered that they had no right to vote, "but at length were induced, from the apprehension of great Riots and Disturbances, to consent to their being set down with a Query to each of their Names, subject to a Scrutiny". A scrutiny was demanded, and, as it appeared to the Returning Officers that the twelve were not legal voters, they rejected them and returned Beckford and Ridley who now had a majority.

It was presumed that this was a just return for the following reasons:

"1. THAT, by the Constitution of the Borough of Morpeth, every Freeman or Free Burgess must be sworn and admitted to his Freedom at a Court Leet, and no where else; consequently, these Twelve Persons not having been sworn and admitted at any Court, were not legal Freemen, or Free Burgesses, and therefore were not legal Votes.

II. THE Right of any Person to be admitted a Freeman or Free Burgess of Morpeth, is by Election only: no one is intitled by Birth or Service. The Oath which every Freeman takes before the Lord, or his Steward, is in these words, Viz. You shall swear, being now elected a Freeman and Free Burgess, within this Borough, to be true and faithful to the Lord of the same, his Heirs, and Successors; and also shall to your Wit, Power, and Ability, maintain and defend all the Orders, Privileges and Customs, belonging to this Town and Corporation. Therefore,

even supposing these Twelve Persons had been legally admitted to their Freedom, it is presumed, the Returning Officers could not be justified in admitting their Votes at the last Election, by the Express Words of the Act of the Third of the present KING, intitled, An Act to prevent occasional Freemen from voting at Elections of Members to serve in Parliament for Cities and Boroughs; as they were not admitted Twelve Months before the said Election, and not within the Saving Clause of the Second Section in the said Act".¹

"I can't help observing a Gross Contradiction in Your Antagonists Case", Trotter wrote to Eyre on 1 December 1768.² Ridley first stated that no one could be entitled to admission as a freeman or free burgess except by election. But he elsewhere mentioned honorary freemen who were admitted without such election. Then he declared that those admitted by election fell within the provisions of the Act relative to occasional freemen. On that reasoning there were and there were not any free burgesses of Morpeth; and on the same principle, all the free burgesses in England could be destroyed, as every corporation had its own particular custom. Trotter considered that the Act did not appear to operate in the case of the election of freemen, and pointed out that the custom of Morpeth remained the same as if the Act did not exist.³ Even if it did apply to those elected to their freedom, the ceremony of election was in consequence of the right of birth or servitude, according to the established custom of the borough - which was expressly provided for in the saving clause of the Act.

1. This case is preserved among the Ridley MSS. at Blagdon.

2. M.C., I, ff. 495-6.

3. Trotter to Spottiswoode, 4 Oct., 1768 (Ibid., ff. 485-8)

Trotter described these sentiments of his as of little consequence, but when Eyre's case appeared it was largely based upon these ideas. It set forth that Morpeth was a borough by prescription, consisting of two bailiffs and seven companies each composed of an alderman and an indefinite number of freemen. (The word "freemen" is here used by Eyre to describe the brothers of the companies who were free of their respective companies by virtue of birth or servitude.) When they thought proper, these companies elected twenty-four free burgesses, and all free burgesses of the borough were free by birth or servitude. In late years, the Lord of the Manor had "set up a Right in himself to put a Negative upon swearing and admitting any of the Free Burgesses when elected". This led to the thirty-three mandamus causes, one of which, "after every affected Delay imaginable on the Part of the Steward", was brought to trial and a verdict was returned for the plaintiff. On presenting themselves at the Michaelmas court 1767 the thirty-three men were again refused admission, and "by way of further delay" the defendant's Counsel moved first for a new trial, and, having finally waived that, confined themselves to taking the opinion of the Court as to whether the verdict was satisfactory. After the verdict had been confirmed, peremptory writs of mandamus were served on the steward, who first offered to swear the men in at Morpeth, but later sent to inform them that he was "determined not to stir out of his

1. The Case of Morpeth. A copy of this case is preserved in M.C., IV (large volumes), f. 194.

House at Newcastle". Accordingly they were sworn and admitted free burgesses there.

At the General Election, however, the Returning Officers would not receive their votes without a query. Twelve of them were thus polled, and twenty more offered but refused. Eyre had thus thirty-six votes to Ridley's twenty-nine (to four of which Eyre had objected). Another freeman had voted for Eyre but had been allowed to retract his vote and poll for Ridley instead. Although Eyre had a majority of seven on the actual poll, the Returning Officers thought proper to return Ridley, whose Counsel had objected to the mandamus men on the grounds that they were occasional freemen, and that they had not been admitted at a court leet.

The mandamus men, however, were neither within the letter nor the meaning of the Act concerning occasional freemen. Every one of them had been born free, or had become free by servitude, according to the custom of the borough, "which Custom has the additional Step of Election". Several of them had been elected almost twenty years, and the last elected over four years. The writs of mandamus had issued over two years ago, and, after "every gross and affected delay", the steward had at last admitted them as usual free burgesses of Morpeth. The word "Free-Burgess" was not even mentioned in the Act: it expressly extended to those whose right to vote was as freemen only, not as

free burgesses. The Act had been designed against honorary freemen made to influence an election, and, to prevent any possibility of doubt as to the freemen meant, it was expressly provided that the Act should not extend to anyone entitled to his freedom by birth, marriage or servitude according to the custom or usage of the city, town, port or borough. The mandamus men fell directly within the proviso. Each of them was free by birth or servitude, "beyond which, after an admission as a Freeman, and enjoying all his Privileges as such for several Years, he had a further Title of Election made necessary by the Custom of the Borough, which adopts itself to the very Words of the Proviso". They had pursued their rights for many years; the steward had admitted that he had excluded them: "Can such Men be occasional Freemen within the Meaning of this Act? It would be inverting the Order of Things and striking at the Root of the Constitution".

The other objection "that the peremptory Mandamus from the Superior Court of King's Bench shall not controul the usual method of swearing them in when done without a Contest at their Court Leet" amounted to this: "if a Cause coming on to be tried at a Court Leet of which it had a Competent Jurisdiction, was to be removed by Certiorari into the Court of King's Bench, who rendered Judgment, and thereby Justice to the Parties, the Court Leet should

say it was unjust, and we will in Effect reverse their Judgment". It was usual to swear in freemen at the leet when there was no contest over their titles, and all the mandamus men had presented themselves at the Michaelmas court 1767, but had been refused. Thus they had done all they could, and, now that a contest had arisen and the steward insisted on what was illegal and unjust, the Court of King's Bench took cognizance of the whole, judged upon it, and issued peremptory writs of mandamus returnable 28 November 1767. In obedience to these writs the steward had sworn the men in on 25 November.

On this state of the case, Eyre hoped that it would sufficiently appear that he had a majority of legal votes at the late election for Morpeth and ought to have been returned for the borough, without his having to resort to the "gross Misbehaviour" of the Returning Officers and their agents, and other allegations in his petition which he had no doubt of proving to the satisfaction of the House.

"You indeed beat them altogether, & must beat them if any regard is paid to Law, to Justice & Brittish Liberty", declared Trotter, commenting on the merits of the two printed cases in a letter to Eyre.¹ But in reality considerations other than those of the merits of the rival parties were likely to carry the greatest weight. On 6 December 1768, Spottiswoode reported that since Eyre had

1. 1 Dec., 1768 (M.C., I, ff. 495-6).

sent the two cases to Trotter (about twelve days previously), nothing had occurred but "daily & hourly sollicitations". Eyre and his friends were "always on the watch & ever on the Rack". Their "Enemys" were "Extreamly Alert and vigilant, being much Encouraged & assisted by a Duke of your Country", Spottiswoode told Trotter - a reference, presumably, to the Duke of Northumberland. The Duke of Grafton was holding a levee shortly and Eyre was to attend supported by numerous friends. There was also to be a general meeting of his friends to "Reckon heads" and estimate the strength of his support.¹

After this meeting, Spottiswoode reported that Eyre's affairs wore a "Tolerable good Aspect", though Sir William Musgrave appeared "Exceedingly cool & passive in the matter". "The Behavior of that party", he added, presumably referring to Lord Carlisle's friends, "is throughout of a piece designedly deceitfull or Cold & Indifferent; nothing is to be Trusted to them and it is even necessary to look narrowly after them to see that their Actions & words agree". The Duke of Grafton, however, had told some of his friends to befriend Eyre and attend the committee, and some of Eyre's friends were to be with the Duke during the Christmas holidays, when they hoped to do "Speciall service to his Suit".²

Eyre himself fully appreciated the importance of such influence. He knew that without the support of Lord

1. Spottiswoode to Trotter, 6 Dec., 1768 (M.C., I, f.502).
2. Same to the same, 13 Dec., 1768 (ibid., f. 503).

Carlisle's friends (who by taking his part when the petition came before the House would fulfil in the only way now open to them the engagements made on the Earl's behalf in the compromise) he would not have the least chance of success. "You treat my Petition as if because we know we have Merits we were to succeed", he remarked in a letter to Trotter - "If my Lord Carlisle's Friends were now to desert me, I should stand no more chance, with even if possible more Merits than I have, than you wo^d to be Archbishop of Canterbury - You don't know the turn of late Parliaments in regard to Election Matters nor can I by Letter tell you".¹

To prove his case, he thought that it would be necessary to have two persons who were not freemen ready to prove the admission of every freeman who had voted for him: "I don't know what may happen", he told John Wright, "And it is good to be prepared with examined Copy's of the Admission of every Free Burgess voting for me".² The same two persons accompanied by Wright with the "Chairman's Warrant" - one for documents and another for witnesses - should demand from Christopher Fawcett all the peremptory writs of mandamus with his return on the back that he had sworn and admitted the plaintiffs as freemen. If he hesitated, he was to be told that he should appear in person before the House with them to answer for his general conduct. The "Admission Stamps" and the peremptory writs would prove the

1. 7 Jan., 1769 (M.C., I, ff. 511-2).

2. 5 Jan., 1769 (ibid., ff. 508-10).

whole of his case as to the freemen who had voted for him and, unless the other party thought it proper, the mandamus men would not have to appear when the petition was heard; someone, however, would have to be able to prove Fawcett's handwriting. It was also important that two "unexceptionable" witnesses should prove that all the mandamus men had attended the Michaelmas court after the trial and had each separately demanded admission to his freedom. "This we must be Strong in", declared Eyre, "because it is the only shadow of objection they have". Thus, in their printed case they had "purposely dropped that which Destroys the very Shadow or colour to create a Doubt in any Persons Mind". The rules granted by the Court in the course of the quo warranto proceedings against three of those who had voted for Ridley would be sufficient to show the House that the Returning Officers had received bad votes against Eyre as well as rejected his good ones. "We are at Liberty", Eyre added, "to object to any others that are really bad Votes not fairly elected or Sworn, of which there are several". It should also be shown that the steward had in several instances sworn in free burgesses elsewhere than at a court leet. Then it should be shown how one of the freemen had been allowed to retract his vote after giving it for Eyre and to poll again for Ridley. Next, there was the partiality of the Returning Officers: how Fenwick had "always sollicited" against Eyre and sworn that he would

never return him. Then the offer of bribery by Sir Matthew White Ridley himself, which would be "very material".¹ Finally, there was the conduct of Cleaver in insisting that the Returning Officers should return Ridley "at all Events".

"...To Speak dispassionately", Eyre commented, "I am replete with Merits, and I hope I shall succeed, but it is rather too much tho' I will pursue it to the last". Evidently, he was afflicted, occasionally, at any rate, with grave doubts as to his chances of success. Indeed, at a later date, he declared that he had been "sure" that he would not succeed.² Still, he ended his letter to John Wright on a more confident note: "I never Sink under Oppressions, I always rise superior to them: I will be firm to the Liberty Men of Morpeth & I think I Shall represent them, but we must be on our Guard for our Enemies are adroit".

Meanwhile, it was evidently being strongly rumoured in Morpeth that Eyre would not continue with his petition, and that Beckford was going to resign his seat. Trotter hurt Eyre when he wrote to him in such terms that indicated that he had given some credence to the story.

"You ought to know me", Eyre replied on 7 January 1769; "I am jealous of the Wind that wod waft a suspicion to me that I cod do anyThing derogatory to the Honor or Interest of the Libertys of Morpeth. If I would accept of ANY Thing almost, I might have it, but I will have nothing but my Seat for Morpeth, I

1. This is the only reference to Ridley's alleged attempt to bribe the electors.

2. Eyre to the Aldermen and Free Burgesses of Morpeth (in his interest), 10 July 1772 (M.C., I, ff. 599-600).

have sayd so, I repeat it, And upon this Petition too; I Solemnly declare I know nothing of nor do I suspect any such Thing as Mr Beckfords resigning and there being a new Election: if there was I wod continue my Petn & set up a Friend So much do I wish to oblige the Liberty Men of Morpeth who have got possession of my Mind even perhaps beyond the Bounds of Prudence.

"...I will only Say that my Petition must be heard, that I am firm and determined, & you hurt me to believe first a strong Report in Morpeth to be true which is grossly false & then Reason from it as if true. And this you do from Your own Goodness of Heart & Love to me; I believe it, I know it, and therefore cannot nay do not take it unkind tho 'tis severe.

"...I am sure I neglect every Thing for Morpeth; Therefore pray call my Friends together & tell them once for all that I am pledged to them as a Man of Honor to go thro' this Thing, which I will do; that they are all dear to me, And I Shall Say (as Queen Mary speaking of Calais did) that on my Death you will find Morpeth engraved in Characters on my Heart".

"You wod pity me", he added, "were you to know how many & great Things give way to Morpeth".¹

Eyre had still to withstand "Temptations that might have Staggered a Common Man", but, he, as he proudly declared, was not "such a one": by withdrawing his petition, he later claimed, he could have "settled matters So much to my Advantage".² But he refused to be bought off.

Meanwhile, several of the companies had agreed at their private meetings to contribute towards the expenses of the witnesses who would have to appear before the committee examining Eyre's petition. On 26 December 1768, the Fullers' and Dyers' company agreed by twenty-nine votes

1. M.C., I, ff. 511-2.

2. Eyre to the Aldermen and Free Burgesses, 10 July 1772 (ibid., ff. 599-600).

to three to take money out of the company's funds to support the rights of the thirty-three mandamus men and to make these funds "lyable ... futurely to & with the payment of such Expences" as should arise in the process. The money then in the company's box was to be paid over to Edward Lumsden, who was also to receive any further sums raised by the company, to be applied by him as was necessary. It was also agreed that twenty-eight members of the company who had together subscribed a total of £63.8s.0d for the same purpose should be reimbursed out of the company's funds.¹ By 17 January 1769, Edward Lumsden had received £70.0s.0d from the company.²

The day after the Fullers' and Dyers' company had thus agreed to contribute, the Merchants' and Tailors' company gave a "promisory Note" to William Crawford for fifty pounds to be applied by Edward Lumsden towards the expense of conveying the witnesses to London and other charges that might arise in the course of the hearing of the petition relative to the rights of the mandamus men. To repay the fifty pounds with interest, the company agreed that each member should pay one shilling per month to the proctors; any member delaying or refusing to pay when called on to do so was to be excluded from the privileges of the company.³ Although the company had agreed to contribute fifty pounds, Lumsden had received only thirty pounds from them by 17 January 1769.

1. The minutes of the order, the subscription list and the poll taken on the matter are among papers in the box of the Fullers' and Dyers' Company.

On 29 December 1768, the Smiths' company agreed by twenty-five votes to one to raise thirty pounds to support the mandamus men,¹ and this amount was duly lodged with Edward Lumsden. By 17 January 1769, he had received fifty pounds from the Cordwainers' company, and five pounds two and six from the Weavers' company.² The Tanners' company does not appear to have made any contribution. The sums raised by the other six companies amounted in all to two hundred and thirty-five pounds two and six.

About thirteen witnesses left Morpeth for London on 19 January 1769 and arrived on 23 January.³ Eyre had expected that his petition would be heard on or soon after 25 January and had ordered that the witnesses should be in London for that date, but it was almost a month later before the hearing began.

After the Standing Order of 16 January 1735 restraining Counsel from offering evidence on the legality of votes contrary to the last determination of the House of Commons had been read, and also the last determination whereby it had been found (on 9 March 1695) that the right of election lay in the bailiffs and free burgesses of Morpeth, the poll was produced and Counsel for Eyre proceeded to examine William Tate, one of the Returning

2. An account of the money Lumsden received from the companies is preserved among the records of the Smiths' company.

3. Merchants' and Tailors' company's minute book.

1. The poll is preserved in the box of the company.

2. Lumsden's account, as above.

3. Lumsden's account of disbursements for the journey etc., also preserved among the Smiths' company's records.

Officers.¹ Tate explained that the twelve votes which had been set down on the poll with queries were struck off in the grand jury room, just after the close of the poll. There had been an argument before the first of the mandamus men polled; the candidates had agreed that they should be set down and queried; the argument was not resumed after the twelve had been thus polled, but there was "a Contest about their Titles". He and the other Returning Officer thought that they were not legal votes and "advised with Counsel upon it". To the best of his remembrance, the names were struck out in the grand jury room and not in "open Court in the presence of all Parties". The other Returning Officer had struck them out. They did not announce that this was going to be done before they went into the grand jury room. Cleaver did not say anything to him; if he said anything it was to Fenwick; but finally Tate admitted that he believed Cleaver did whisper to Fenwick.

Eyre's Counsel then proceeded to show the partiality of the Returning Officer and what had passed at the poll. He called Robert Swan to give evidence, whereupon Counsel for Ridley asked Swan whether he had subscribed to the expense of the petition. He replied that the aldermen had taken money from their companies' boxes to send witnesses to London, and some of his money was included in that. After Swan and Counsel had been ordered to withdraw, the

1. The following account is based on the Journals of the House of Commons, XXXII, 268-72.

committee decided that since Swan had admitted contributing towards the expense of the petition he could not be allowed as a witness to prove the allegations it contained.

Counsel for Eyre then sought to "establish the franchises" of the twelve mandamus men, and Ridley's Counsel admitted that both before and after the trial they had applied for admission as freemen at the court leet and had been refused. Edward Newton, a Morpeth attorney, explained that some of the twelve had been admitted as free brothers of their companies by virtue of birth, others by servitude.

After Eyre's Counsel had given an account of events leading up to the issue of the peremptory writs of mandamus Christopher Fawcett was called and produced the writs with his return setting forth that the plaintiffs had been sworn in at Newcastle. He stated that the writs had been served on him on 24 November 1767, very late at night, and were returnable on 28 November. He had been asked to go to Morpeth to swear and admit the plaintiffs, and (to the best of his recollection) he had replied that he would certainly go there if the writs required him to do so. Asked whether he did not understand that the writs required him to swear in the plaintiffs in a legal manner, he answered that he neither consented to go to Morpeth nor insisted that the plaintiffs should come to Newcastle: he wished to leave nothing undone on his part. It was his task to hold courts at Morpeth on prescriptive days; he understood that he

could hold no court except on a prescriptive day. He had told the plaintiffs that if they would come and tender themselves he would do all he could. He sent to the clerk of the court for the form of the oath and admittance which the clerk sent the next day. The clerk requested that, as he was unable to attend himself, Fawcett should secure for him the clerk's fees. There was some debate when Fawcett told the mandamus men that they must pay these fees and they finally refused to do so. He expected that the clerk would bring actions against them for payment at the next County Court.

He had wished the men joy of their freedom in the usual way, but he considered that it was not a "good Admission". He could not remember having at any other time declared that they were legally admitted: he believed that he could not have said so because his opinion was otherwise. He always understood that freemen should be admitted at a court leet; he knew of some, however, who had been admitted at an adjourned court leet. He had heard of one instance where the court at which freemen were admitted was styled a court baron, but he thought that must have been an error. He had not been asked to keep the court leet open by adjournment so that the thirty-three mandamus men could be sworn in. Between 25 November 1767 and 16 March 1768 he had sworn in at Newcastle a further ten persons as freemen. They had no concern in the mandamus causes. He had not

sworn them in on his own accord: he had the Lord of the Manor's orders to do so. Asked if he thought these orders more binding than those of the Court of King's Bench, he replied that he did not. Questioned why he had sworn in these persons when it was illegal, he said that as an officer of the court he thought it his duty to obey the Lord of the Manor's order where no injury could be done; he did not know anything of the illegality of it, and he did not say that he was bound to obey the order of the Lord to do an illegal thing. Asked whether he did not tell the persons concerned that their admission as freemen of Morpeth could not be legal, he answered that he could not precisely recall the conversation; very possibly he might have said that they ought to have been admitted at a court leet, because he thought so. Nine of those admitted at Newcastle other than the mandamus men, had since been sworn in at a court leet because they "apprehended the swearing at Newcastle was not agreeable to the ancient Usuage of the Borough of Morpeth". He had recommended that the mandamus men should also be summoned to this court leet, which was after the General Election, and he had told those who appeared that this was his first opportunity to "comply effectually" with the writ of mandamus, and that he was ready to swear them in according to the usage of the borough. They replied, however, that they were advised that there was no need for them to be resworn..

Asked whether he thought that he would have acted legally had he called a court on purpose to swear in the mandamus men, he said he thought not. (He had already explained that the Morpeth courts were "tied down" to certain prescriptive days.) He was then asked whether there had not been instances of writs of mandamus issuing to command the holding of courts leet, and answered that he believed there had been many instances of these writs issuing to order the swearing of officers into corporations and others for other purposes: he would have considered it his duty to have held a court upon being served with a peremptory writ of mandamus for that purpose. He understood that it was as legal to swear the mandamus men in at Newcastle as at Morpeth if not at a court leet. He would have exceeded his power had he done anything beyond what the writs of mandamus required. He had advised the plaintiffs in the first two mandamus causes (Crawford and Hancock) to wait until a court leet, after peremptory writs had issued in their favour, and they had done so. On being asked whether it was in the power of the Court of King's Bench to grant special writs of mandamus for swearing magistrates, he said that he could not tell.

Counsel for Eyre next called William James, an attorney of Morpeth, who produced examined copies of the admissions of the twelve persons at Newcastle. One of these was read: it was signed by Fawcett, and dated "Borough of Morpeth...".

James declared that he knew the custom of admitting free-men in Morpeth, but knew of no persons being admitted as freemen without being sworn in at a court leet, except forty-one who had been sworn in at a court baron. He offered to produce a copy of an entry relating to this from one of the corporation books in the custody of the clerk of the court leet, but to this an objection was made.

To prove the declarations of the Returning Officers against Eyre, previous to the election, John White, Jane Atkinson and Robert Mitford were called. They declared that in several different conversations with Andrew Fenwick, before the election, they had heard him say with "Oaths & Imprecations", that if Eyre had "ever so great a Majority, he never should be returned a Member for Morpeth, let the Consequence be what it will". At the time, Beckford and Eyre were candidates.¹ Jane Atkinson added that Fenwick had come to her and told her that if she could persuade her husband, a mandamus man, to give a vote in the Carlisle interest, "he Should have a Tide Waiter's Place of £40 a Year, and said now was the Time to make her Fortune; that she should never want for any Thing".

Counsel for Eyre then closed his evidence, and Ridley's Counsel called Matthew Waters, who stated that he had been present at the election and remembered how

1. It appears from this that even when Eyre and Beckford were the only candidates, Fenwick had sworn that

the twelve votes had been set down with a query on the poll. The Returning Officers were so pressed for room on the bench that at the close of the poll they retired into the grand jury room. They stayed there a few minutes and then came back and declared Beckford and Ridley elected, whereupon the poll-clerk at the direction of the Returning Officers, struck out the names of the twelve mandamus men in open court. Robert Lisle, who had taken the poll, was then called and confirmed that he had struck out the names of the twelve in open court.¹ He added that he was acquainted with the custom of the borough and no free burgesses could be admitted except at a court leet. On being cross-examined, he declared that he never knew any freemen who had not been admitted at a court leet vote for a Member to serve in Parliament.

The committee then came to the following resolutions: first, that the twelve mandamus men who had tendered their votes had not a right to vote, and ought not to have been allowed on the poll; and second, that Sir Matthew White Ridley was duly elected. The first resolution was read a second time, and the question being put the House divided: eighty-seven approved the resolution; seventeen opposed it. (The two Tellers should be added in each case.) The second resolution was then approved without a division: the "gentleman" had defeated the "attorney".²

Eyre would not be returned, which indicates that Fenwick ^{may have} ~~was~~ privy to a plot to bring in a third candidate.

1. This contradicts the evidence of William Tate the Returning Officer that the names of the mandamus men were

struck off the poll by Andrew Fenwick in the grand jury room. If all the witnesses were telling the truth, and if Tate was not genuinely mistaken - he was only speaking to the best of his remembrance - the discrepancy in their statements may be explained by the supposition that Fenwick had his own copy of the poll with him in the grand jury room, and that when the names were crossed off the poll in open court by Robert Lisle they were struck off the official poll.

2. According to a letter, signed "Old England", which appeared in the London Evening Post, 21 November 1772, when Eyre's petition was depending before the House of Commons, "it was a question usually asked amongst these Reverend Senators, Whether do you vote for the gentleman (Sir M. Ridley) or the attorney (Mr. Eyre)?"

CHAPTER IX

REFIT AND RE-ENGAGE

With the defeat of his petition, Eyre had to make a crucial decision: should he maintain his interest in Morpeth or sever all connection with the borough? As a result of the mandamus causes and the admission of forty-eight new freemen in 1768 (most of whom had pledged themselves to support him), he had an apparently dominant interest in the borough; but unless Beckford or Ridley accepted office under the crown, resigned his seat, or died, or Parliament was prematurely dissolved, he would have to wait seven years before he could take advantage of this interest. He had no hesitation in making his decision:

"I am told or have read somewhere", he wrote to Trotter on 13 March 1769, "that Oliver Cromwells Orders to one of his Captains of a Ship that was worsted in an Engagement were 'refit & repair your Honour'; That in Consequence thereof he refitted, Sailed, found out his Enemy, fought him & beat him. Perseverance is a very high Character when it is in pursuit of great & good Designs, And when I tell you that in my first Resolutions of Doing all the Good I can to my Country in General & to Morpeth in particular, in spite of all base Men & Treacherous Actions, I am determined to persevere to the last wherein I hope that you & all my Friends at Morpeth will concurr in thinking me right & advise and chearfully assist me.

"I need not tell you the News of my Defeat, you have heard it with all its Circumstances; those who were Eye Witnesses of the whole of my Behaviour will I hope do me Justice: I communicated to the Gentlemen everything that passed without the least Concealment,

even the Letter that I wrote to Lord Carlisle on his Arrival to which he has never thought proper to return me the least Answer. If I had a Doubt before, I am settled in my opinion now - Methinks I hear you Saying - How can these things be? I Say the same - Every body is astonished, and yet it is so. And therefore we must look forward now, refit & re-engage - Our Honors need not be repaired: those are high & entire, whilst those of our Adversarys or at least our pretended Friends are very low & much Shattered.

"I beg you would make my Compliments to all my Friends at Morpeth and Assure them that whilst I have Life & Health & their good wishes, I will chearfully go thro' everything for them that can be expected from a Man of Principles & Honour in support of their Rights and of the Constitution as by Law established, And I do assure you, that much will depend upon your good Endeavours; And as I know you do not want Court preferment or Lawn Sleeves, I venture to Speak of you in the World here as a Man of Conscience & of Constitutional Liberty, And I will do any Thing I could have pointed out to me to convince you how well & how kindly I take your Endeavours".¹

Eyre was puzzled over one question: should the mandamus men present themselves at the next court leet and be re-sworn as freemen? "The only Thing", he wrote, "(as I am determined upon Prosecutions against Fawcett, & I hope that are greater) is whether such reswearing may not hurt us".²

After much thought and deliberation, and after consultation with such Counsel as he could find in London (most of them were then on circuit), he decided that the mandamus men should be re-sworn at the Easter court leet (1769), but he thought that they should previously sign and deliver to Fawcett a note stating that such swearing and admission was done and accepted "without prejudice to any Action or Actions now depending or hereafter to

1. Eyre to Trotter, 13 March 1769 (M.C., I, ff.513-4).
2. Ibid.

be brought by Us against you for not Swearing us, or Swearing us, as you Say improperly or otherwise howsoever". "We certainly must try Actions ag^t him", declared Eyre, "And I am determined on my own part to lay the whole Affair before a Court of Justice & to make my Case Publick, and I will not spare the highest in Blood or Connection concerned in this iniquitous Transaction if I can legally fix them".¹ Presumably, Eyre was here referring to Sir William Musgrave, and the other parties to the compromise, perhaps even the Duke of Grafton himself. The large majority by which Eyre's petition had been defeated in the House may well indicate that the Ministry had thrown its weight against him: certainly, this seems to be the only conclusion that can be drawn from some remarks which Spottiswoode made nearly two years later. Writing to Trotter on 10 January 1772, he observed that the Parliament was still so vigorous that he believed that it would last its full legal term, "& I am afraid", he added, "our ministry may Even out Live the Parliament Notwithstanding both which I hope it is Impossible for any Power on Earth to prevent the Independ^t freemen of Morpeth being represented in the next Parliament by men of their own free choice, without haveing any one Imposed upon them Contrary to their Inclination by the vote of an arbitrary house of Commons under the direction of a wicked & tyrannical Oligarchy".² It seems clear from such strong expressions

1. Eyre to Trotter, 24 March 1769 (M.C., I, ff.534-5).

2. M.C., I, ff. 628-30.

that the Ministry had used its influence against Eyre. And, from what Eyre himself said about the honours of his "pretended Friends",¹ it appears that Lord Carlisle's associates, far from carrying out their promises to support Eyre, had also voted against him in the House.

A notice almost identical with that suggested by Eyre was drawn up and served on Christopher Fawcett at the Easter court 1769 where the mandamus men were re-sworn as freemen.² But when Eyre tried to carry out his intention of taking legal proceedings against his enemies he found that this mode of vengeance would not only be expensive but also probably futile.

"All the Writs which were served will be thrown away, for particular and good Reasons", he informed Trotter on 7 July 1769, "And that Expence which amounted only to about ten pounds besides the Service in the Country would have come to, with what the Lawyers call being intitled to a Declaration, if I had employed our Friend M^r Wrights Agent here at least 150£ which I hope will be employed to better Purposes; I am Sorry he is not pleased, it is without Reason, for in such a Case charity ought to begin at home. It is my Risque, if I was clear, I did not care, but to pay great Sums and to be foiled too, is too much".³

The two previous law terms had been "thrown away", he added - the former in negotiations with his adversaries and their lawyers about the costs in the mandamus causes, and the latter in consultations with his own Counsel both on that subject and on the general state of the

1. See above, p.278.

2. The notice dated 3 April 1769 and signed by thirty of the mandamus men is preserved in the court book. It is not known why the other three mandamus men did not sign, though they may have been away from Morpeth at the time.

3. M.C., I, ff. 536-7.

borough and the methods to be pursued in consequence of the recent determination of the House against him. Lord Carlisle, on coming of age, had changed the attorney who handled his affairs: henceforth they would be managed by Francis Gregg whom Eyre described as "a Young Gent¹ of Character and considerable Business" who would be "a fair Adversary" and do Carlisle "equal if not more Justice" than his former attorney.¹ Gregg assured Eyre that the costs would be paid but nothing had been settled. To avoid trouble and delay, however, Dunning had advised Eyre to comply with his opponents' demand that the mandamus men should execute a power of attorney in the presence of "that Scoundrell Potts", to which Eyre reluctantly agreed.² One advantage, however, had been gained during the previous term: all the peremptory writs of mandamus had been returned and one of them had been filed by order of the Court: "we may try it", declared Eyre, "if we please".

"Many a Heart ach & agitated Mind have I had about these Affairs during the last Term", he continued, "Multitudes of Consultations and Many different Opinions of our own Counsel at last united however, tho' to do this I became a very Slave myself and neglected every other Business. The Settling and receiving the Costs is material and I now enclose you a Power of Attorney which I pray you will get Executed in the Presence of this Potts and some Gentlemen of our own acquaintance which when Executed you will please to send me...".³

1. About Gregg who became M.P. for Morpeth 1789-94 see below, p. 540 and footnote.

2. Presumably it was Matthew Potts, clerk of the court leet to whom Eyre here referred. "I need not tell you", he wrote to Trotter, "that if I well knew how to prevent this I would not humour them"(7 July 1769, M.C., I, ff. 536-7)

3. *Ibid.*

Thus had Eyre for some time past "spared neither Trouble or Expence" in order that the freemen might have "satisfaction for the Injurys that have been done them".¹ He was still engaged on the same task four months later, but by this time he was growing weary and impatient:

"I am a little out of Humour with Mr Wright or his Agent", he wrote to Trotter on 21 November 1769; "the whole Term has been lost in complaisant Letters or Messages, & the Freemens Interest being decaying with Time - In short I have no Affidavits now to move for Informations; Mr Wrights Agent was to have called upon me Some Days before Term; two Days before he Sent me a Message he cou^d not see me until the first day of Term; I waited at home all the Morning and never saw or heard from him for near ten days Afterwards & then Mr Wright wanted to know how and why & where & when & what, which must be productive of a long Letter or Letters & which I told his Agent. I wished to be excused from Writing as I could only repeat what I had wrote before - There was a Time when if I desired a Thing to be done it was so; all whys & hows & wherefores at this Distance by Letter are ruinous to a Cause; it would do well enough in a Tête à Tête but that being impossible when a Thing is desired to be done it shd. be done or given up. I know Mr Wright means well, but there is So much Enquiry that it is like Some inimical Negotiations in War. His Agent writes him for me as I can write no more. Tell him, however, that any other person wo^d have put me out of Humour".²

This is the last reference to these legal proceedings that has been found. If Eyre did not abandon them at this point, it seems unlikely that his continued efforts were successful, otherwise the fact would almost certainly have been recorded in the Newcastle press, or in the manuscript tract "A Narrative of the Oppressions of the Borough of Morpeth".

1. Eyre to Trotter, 7 July 1769 (M.C., I, ff. 536-7).
2. M.C., I, ff. 538-9.

Meanwhile, Wilkes and the Middlesex election had stirred public opinion, and in many towns and counties petitions were drawn up begging the King to dissolve Parliament. A dissolution would give Eyre the chance to gain his seat, and thus he and his friends seized the opportunity to air their own electoral grievance. By 21 November 1769, Eyre had prepared the draft of a petition for his supporters. "You know that tho' I am not the Mover of this Petition", he wrote to Trotter, "yet the whole of it will lye at my Door in the World, And therefore that I ought to be particularly careful about it".¹ He had read it to Edward Boutflower, who had criticised part of it as "too strongly characterizing a Man & a Measure which should not be supposed to be known by the Borough". Eyre disagreed with him, but on reconsideration decided to omit the part which had evidently alluded to the Wilkes case in such strong terms.²

The draft which Eyre sent to Trotter set forth that the petitioners (the aldermen and very great majority of the free burgesses and free brothers of the borough of Morpeth, many of whom were freeholders of the county of Northumberland), although equally oppressed in their franchises with the freeholders of

1. 21 November 1769 (M.C., I, ff. 538-9).

2. Ibid.

3. Eyre was uncertain whether to put "all" the aldermen or six out of seven of them, and whether to say that "many" of the burgesses were freeholders or "several" instead.

Middlesex by a late determination of the House of Commons, would rather have submitted in silence to the injury than have applied for redress "had not the same evil Measures which compassed the Violation of our Franchises been pursued with Success in Subverting the Elective Rights of the Freeholders of the Great and opulent County of Middlesex & thereby endangered the Constitutional Rights of Election throughout all your Majestys Kingdoms". They therefore laid before the King a state of their grievances "in full Relyance that your Majesty will most graciously interpose your Royal Prerogative effectually to redress the same among the many great Grievances complained of by others Your Majestys Loyal and Affectionate Subjects". There followed a statement of the constitution of the borough, an account of the mandamus causes, . . . of the re-jection of the mandamus men's votes at the General Election, and of the petition against the return of Sir Matthew White Ridley. "The Question in Law and Conscience was should your Petitioners who had Acquired their Franchises by Birth, who had taken every quiet method in their Power for many years to be Admitted who were at last drove for Relief to the Laws of their Country and thereby Succeeded, be debarred from giving their Votes merely because the Steward would administer the Oath to them in one place when required to do it in Another; It would be punishing the Innocent instead of the Guilty, Yet Such was the Result of the

Petition in Parliament...".

"This Determination is the more fatal to the Constitution as it destroys all former Precedents upon the Right of voting vested in Men free by Birth or Servitude as Your Petitioners are; a Determination in its Nature of Extensive National Importance also as every Freeman of all the Citys and Boroughs in the Kingdom is affected thereby who have therefore Just Right to apprehend that all future Elections of Members to sit in Parliament is Precariously vested in a Corrupt Returning Officer and a Complaisant House of Commons.

"The Case of the County of Middlesex is more conspicuously hard but we think that our Case is as materially tho' not so notoriously hard. Be Pleased therefore most Gracious Sovereign to Pardon us who have Seen the Laws disregarded our most sacred Rights of Birth trampled upon and ourselves otherwise Injured when we concur with the opinion of our fellow Subjects the good Citizens of London and other great Citys and the Freeholders of Middlesex York and other Counties in your Majestys Kingdoms and humbly hope and pray Your Majesty will exercise that power which Your Majesty by the Constitution has and which your good Subjects So loudly justly and almost Universally request you to exert by dissolving the present Parliament of this Kingdom".¹

Even before Eyre sent this draft to Morpeth, his friends there had evidently been considering what arrangements should be made to have the petition, when drawn up, signed:

"You did exceeding Right in refusing any Chairman", Eyre declared in his letter of 21 November 1769 to Trotter. "Our Grievances are real, and therefore as we want no other Stimulative to Petition, the less Parade in Signing it the better - Take very Particular care no Copy of it gets abroad; see it Copyed fair for Signing Yourself, and take the Copy and Original into your own Custody & send it when Signed by some very Safe hand to me".

Eyre was prond of his composition and had been loath to alter it as Boutflower had suggested; still, he gave Trotter permission to do with it as he pleased. Trotter

and his friends evidently did not approve it in its existing form, however, and they therefore drew up another version in which they incorporated much of Eyre's phraseology but omitted all his strong expressions such as "evil Measures", "Subverting the Elective Rights of the Freeholders of ...Middlesex", "gross oppression" (relative to the refusal of the steward to admit as freemen those duly elected by their companies), "Corrupt Returning Officer", and "Complaisant House of Commons". Much of Eyre's draft was very briefly summarised, particularly his account of the mandamus causes and the petition to the House of Commons, and references to the Middlesex election were reduced to a minimum. The new version read as follows:

To the King's most Excellent Majesty

Most Gracious Sovereign The Humble Petition of the Aldermen Free Burgesses and Free Brothers of the Borough of Morpeth in the County of Northumberland.

We your Majesty's dutiful Subjects the Aldermen Free Burgesses and Free Brothers of the Borough of Morpeth in the County of Northumberland whose Names are hereto subscrib'd, impress'd with the highest Sense of your Majesty's paternal Tenderness and Affection for your People, and with Hearts full of Loyalty towards your Majesty's Person Family and Government beg leave with all Humility and Respect, to Supplicate your Majesty for Redress of a Grievance, which we have reason to believe hath unhappily been too prevalent in your Majesty's Dominions.

Conscious of our being a very inconsiderable part of your Majesty's numerous Subjects, we shou'd not have presum'd to complain to your Majesty if the Matter of Complaint had only affected ourselves, but when we consider that it affects all your Majesty's Subjects in

general in their first and greatest Privilege, the Right of electing their Representatives in Parliament, and that many of the greatest Counties and Corporations in this Kingdom have Petition'd your Majesty for Redress of the like Grievances, the Regard we have for your Majesty's sacred Person and Family under whom we have been hitherto so mildly and happily governed, and for those excellent Laws and that distinguish'd Constitution of Government from which we derive that Blessing, will not suffer us to remain silent, or to withhold from your Majesty's knowledge any Thing that may tend to discover the Cause of the dissatisfaction which so generally appears among your Majesty's Subjects.

Permit us therefore most gracious Sovereign to lay before your Majesty the following Particulars relating to the last general Election of Members to serve in Parliament for the Borough of Morpeth - Twelve of the Free Burgesses Your Majesty's Petitioners who had recover'd their Freedom by Verdicts obtained in your Majesty's Court of Kings Bench, and according to the establish'd Laws of this Kingdom (as we are advis'd and believe) voted for Francis Eyre Esquire, one of the Candidates at the said Election, and their Votes were admitted and set down upon the Poll which made a considerable Majority in favour of the said Francis Eyre, but the returning Officers (without a Scrutiny) thought proper to strike off the said Twelve Votes, and to return Peter Beckford Esquire and Sir Matthew White Ridley the two other Candidates as duly elected: Whereupon a Petition was presented to Parliament by the said Francis Eyre complaining of this Return, and the abovementioned Facts were either proved or admitted at the hearing of the said Petition, and tho' it was admitted that the said twelve Burgesses were legally intitled to their Freedom that they had legally demanded the same, both before and after obtaining the said Verdicts, and had been actually sworn and admitted to their Freedom under the Sanction and Authority of peremptory Writs of Mandamus (the last Remedy the Law can give) yet it was resolved that those Twelve Persons had not a right to Vote, and Sir Matthew White Ridley was declared duly elected.

This Resolution is the more fatal to the Constitution as it destroys all former Precedents and Determinations upon the Rights of voting vested in Men free by Birth or Servitude as your Petitioners are: It is in its Nature of extensive national Importance being as we apprehend and are advis'd a Violation of the elective Rights of your Majesty's Citizens and Burgesses in

equal Degree with the Violation of the Rights of the Freeholders of Middlesex so justly complained of by Millions of your Majesty's faithful Subjects.

Deprived thus of the Rights and Privileges we hoped from the Laws of our Country and apprehensive of the evil Consequences that may attend these Resolutions of Parliament we cannot but concur with the Opinion of our Fellow Subjects the Citizens of London, and other great Citys, and the Freeholders of Middlesex York and other Counties, who have petition'd your Majesty; and with them humbly hope and pray that your Majesty will be pleased to exercise that Power with which the Constitution has wisely invested your Majesty and which your good Subjects so justly and almost universally Request your Majesty to exert by dissolving the present Parliament.

And your Petitioners as in all duty bound shall ever pray etc.¹

On 28 November 1769, a meeting of the brothers and freemen which had been called by the aldermen "to consider of the most effectual methods for securing the constitutional rights of the electors of Great-Britain" was held in Morpeth town hall. It was agreed with only one dissension to petition the King for a dissolution of Parliament, and it was further resolved and unanimously agreed that the petition, which had been approved by the freemen and brothers, should be sent, when signed, to Francis Eyre, with the request that he should present it to the King either personally, or entrust it to such other person or persons as he thought proper to present it. It was unanimously agreed that the thanks of the aldermen, freemen and brothers present at the meeting should be given to

1. The original is preserved in the Public Record Office, S.P., 37/11. There is an eighteenth century copy of it in M.C., I, f. 540.

Eyre for "so disinterestedly supporting the rights & franchises" of the borough until they were restored in 1767; and for petitioning against the return made at the General Election by Andrew Fenwick and William Tate in face of an "admitted majority" on the poll, and for his "laudable tho' unsuccessful attempt against such return". It was resolved that a copy of these resolutions should be sent to Eyre. Finally, it was agreed that the petition should be left with John Lumsden (the publican on whose premises Trotter had established the "British Coffee House") so that all freemen and brothers who approved it but had been unable to attend the meeting might have an opportunity to sign it.¹

Two hundred and eighty-three burgesses signed the petition, and Eyre presented it to the King sometime in January 1770. Eyre took with him Thomas Delaval, a member of the famous Northumberland family, and the petition is actually endorsed "Presented...by Mr. Delaval".² This was one of the means by which Eyre was seeking to carry out Trotter's advice that he should form a connection with the Delaval family with a view to persuading Thomas Delaval to contest Morpeth as his colleague at the next General Election.³

Despite Eyre's hopes of an early dissolution, neither

1. Newcastle Chronicle, 2 December 1769.

2. Nevertheless, Eyre evidently presented the petition himself (Eyre to Trotter, 10 July 1772, M.C., I, ff. 600-2).

3. See chapter XI, p. 342.

the Morpeth petition nor any of the others that were presented about that time received the "good King's Fiatt".¹ "The parliament seems still so vigorous", wrote Spottiswoode on 10 January 1772, "that I apprehend it will die a natural or rather legal death att 7 years old, so many attempts have been made to cutt it short in middle age...".² Meanwhile, the situation at Morpeth was changing rapidly. Besides the mandamus men, who now that they had been re-sworn at the leet were indisputably legal freemen, forty-eight new freemen had been admitted in 1768: already, then; the total number of free burgesses was more than double what it had been when Eyre first resolved to contest the borough. As Spottiswoode pointed out in October 1768, a further increase would probably be dangerous:

"The Brohrs in the Tanners Company in our Interest are by this Time I suppose Exhausted which will Barr all thots of further Elections for some Time & indeed Increasing our numbers further woud be weakening ourselves (we should outshoot our strength): the Majority att present is great & formidable & I hope Impregnable; it may with a little Care be kept close & Compacted; making it greater woud only be Extending the Line which woud lay it more open to Attacks".³

Obviously, Spottiswoode expected elections of freemen to be regulated purely in accordance with what would be advantageous to Eyre and his party. No new freemen were created in 1769, which in view of what Spottiswoode had said on the subject is perhaps significant. Still, if

1. The phrase "the good King's Fiatt" was used by Eyre in his letter to Trotter of 21 Nov., 1769 (M.C., I, ff. 538-9). 2. To Trotter, (M.C., I, ff. 628). 3. To Trotter, 20 Oct., 1768 (M.C., I, ff. 489-91).

the aldermen were restricting the increase of freemen from political motives, such a restriction was unlikely to prove as severe as that imposed by the Lord of the Manor, since the aldermen generally held office only for a year, and the brothers of the companies who were the victims of any such restrictive policy had a voice in their election. Now that the Lord of the Manor could no longer successfully refuse to admit those duly elected as freemen by the companies, the aldermen would have to contend with considerable pressure from discontented brothers if they were slow in proceeding to elections for freemen. It is not surprising, then, that from 1770 onwards all restraint was abandoned: forty-eight new freemen were elected that year; another forty-eight were added in 1771. There were now about two hundred and thirty free burgesses: never before had there been so many, yet elections by the companies still continued. Eyre had broken the fetters which had held the companies in check: could he now control what he had unleashed? True, many of the newly admitted freemen immediately sent him a profession of loyalty, but they were less directly indebted to him than the mandamus men, and even the latter's gratitude might wear down in time. Moreover, the number of brothers in some of the companies was rapidly decreasing as a result of the numerous elections of freemen, and there was consequently less room for discrimination on the grounds of the known or suspected political sympathies of

the remaining brothers when they stood for election as freemen. Certainly, at the next parliamentary election Eyre would have to face a very different situation from that of 1768.

Yet the rapid increase of freemen could not be viewed without alarm by the Carlisles and their agents. "It seems to me to be highly necessary for my good Lord and all his Friends seriously to consider and determine upon what can and ought to be done by way of putting a Stop to the Addition of 48 new Freemen being made in every Year", wrote Christopher Fawcett on 27 January 1770. He therefore requested one of "the Earl's lawyers "to wait upon Lord Carlisle with my most dutiful respects, and beg he will give you directions to state a Case for the Opinion of his Lordship's Council in regard to the Conduct proper to be Exercised with respect to this Borough for the future".¹ Whether or not Counsel's opinion was taken as Fawcett suggested is not known, but nothing was done to stop the creation of new freemen. By Easter 1772, however, a new problem had arisen.

The Tanners' company, which elected six out of every twenty-four freemen, ran short of brothers to elect. The other companies each elected their usual numbers of freemen who were duly presented for admission at the Easter court 1772. The steward declared that he would not take it upon himself to say whether these eighteen could legally

1. Castle Howard MS.

assume the office of free burgesses, but Germain Lavie, Lord Carlisle's chief agent, declared that if any of them chose to be sworn in and "run the risque of the legality of...their admission", he would, pursuant to his directions from the Lord of the Manor, recommend that the steward should admit them. Six of them thereupon announced that they were willing to take upon themselves all hazards and were accordingly sworn and admitted as freemen.¹ Another eleven of them were sworn in under the same conditions at the following Michaelmas court, where a further eighteen were presented and similarly admitted. The number of "eighteeners", as those so admitted were called, continued to increase, and there was thus built up a considerable body of men whose freedom was of doubtful legality. This was bound to have important consequences at the next parliamentary election. But, though the state of the borough was rapidly changing, Eyre had still a very strong interest, and to have any chance of defeating him the Carlisles, too, would have to "refit and re-engage". The first engagement in the new campaign took place in the early months of 1772.

Meanwhile, in contrast to the turmoil of electioneering and litigation of the previous ten years, the period 1770-1772 appears to have been one of tranquility in Morpeth. Eyre still went to an "annual Expence" to

1. Morpeth court book.

maintain his interest,¹ and presumably his opponents employed similar tactics. The great event of 1770 was Lord Carlisle's marriage. His bride was Margaret Caroline, daughter of Lord Gower. The occasion was celebrated at Morpeth by a treat at Lord Carlisle's expense to the gentlemen and freemen there; and another treat was provided for "sundry" of the Morpeth freemen who lived in Newcastle.²

During 1771 Eyre was much occupied with negotiations over an estate which William Swinburne of Long Witton, Northumberland, was offering for sale and which had been recommended to Eyre as a "very desirable purchase". Eyre, though unable to purchase it immediately, was prepared to consider doing so in a few years' time provided he could sell one of his own estates. Meanwhile, he tried to borrow £16,000 to advance Swinburne on first mortgage, and attempted to raise £4,000 to advance on second mortgage. His friends were unwilling to grant him such loans on favourable terms, or at all, however, and he considered that Swinburne's price for an immediate sale (£35,000) was too high. Eventually, he sent his thanks to Swinburne for offers which he could not accept.³

Trotter, too, was largely engrossed with non-political matters at this time. He was having a house built in

1. See Trotter to Eyre, 18 July 1772 (M.C., I, ff. 603-5).

2. Carlisles' rentals and account books, 24 March 1770. The two bills came to £70.16s.11d.

3. For full details of these negotiations, see Appendix I.

Morpeth; and his brother, a sailor, had fallen out of employment and had suffered some hardships. Both Spottiswoode and Thomas Delaval approached their friends and business acquaintances on his behalf: Delaval wrote to an acquaintance in Liverpool and to another in Bristol and promised to speak to friends in London "relative to the command of a West Indian Man",¹ and Spottiswoode tried to secure for him a command in the African trade, but without success. He therefore suggested that if Trotter's brother could get together a number of shareholders it would be best to fit out a ship in that way. The ship, he suggested, should be able to hold two hundred and fifty slaves.² Obviously he had no objection to the slave-trade and did not expect Trotter to have any either. It seems, then, that the "friends of Liberty", who had so strenuously fought to overthrow what they considered slavery in Morpeth, acquiesced readily enough in the slave-trade. Eyre himself had purchased slaves with his estate in Jamaica, and he subsequently bought a large number with an estate in Dominica. But this does not mean that the "friends of Liberty" were hypocrites: they merely shared what was a general outlook in their age.

1. Delaval to Robert Trotter, 19 April 1771 (M.C., I, f. 549).

2. Spottiswoode to Trotter, 11 July 1771 (ibid., ff. 550-2).