

ASPECTS OF THE GOVERNMENT
AND SOCIETY OF COUNTY DURHAM, 1558-1642

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This thesis was conceived with the aim of examining in depth the nature of a county society during the early modern period. Durham was chosen for two main reasons. Firstly, I felt that the county about which I was best equipped to write was my own. Secondly, because of its peculiar palatinate jurisdiction, it offered many administrative contrasts with other counties. The nature of the interaction between local jurisdiction and national demands is one of the main themes of the thesis. I have also attempted to analyse in depth the main components of the county's administrative system. Given the nature of the palatinate, it was natural that the Church should feature extensively in this work. However, I have attempted to restrict my treatment of ecclesiastical matters to aspects which have not received extensive coverage elsewhere. Thus, special emphasis has been given to the establishment of Arminianism in Durham whereas, on the other hand, I have not treated Roman Catholic recusancy separately.

The form of the thesis has, to a large extent, been determined by the nature of the available evidence. Apart from the more obvious state papers and Exchequer records, the sources I consulted most extensively in the Public Record Office were those relating to the Palatinate of Durham. This created problems. Many of the important palatinate records have been destroyed. Much of what remains is trivial, while the bulk of the remaining records ensured that these sources, few of which have been cited in previous works, were sampled rather than subjected to thorough examination. Most of the other documents consulted were institutional, produced largely on behalf of organs of local government and the church, the former being more plentiful towards the end of the chosen period. Unfortunately, however, few private papers from county Durham in this period have survived.

I have not suggested that Durham is in any way either typical or unique. In national terms its significance was limited. Nevertheless, the nature of the relationship between palatinate and government highlighted the shortcomings and conservatism of much early modern government. In administrative terms the operation of the lieutenancy and shrievalty offered lessons which central government did not heed. I have also attempted to show, within the context of greater indifference to organised religion than has usually been allowed for during this period, that Durham, having been one of the first counties to experience a Calvinist-dominated hierarchy, was also the first area to witness the disintegration of the Calvinist consensus, with profound consequences for religion both locally and nationally. In terms of landownership and

social structure, the county enjoyed few really wealthy members of the gentry, the distinction between the lower gentry and the rest of society was by no means clear and social categories beneath the level of the gentry were determined more by wealth and income than by forms of tenure.

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ABBREVIATIONS

<u>AA</u>	<u>Archaeologia Aeliana</u>
<u>APC</u>	<u>Acts of the Privy Council</u>
<u>BIHR</u>	<u>Bulletin of the Institute of Historical Research</u>
BL	British Library
<u>CBP</u>	<u>Calendar of the Border Papers</u>
<u>CJ</u>	<u>Journal of the House of Commons</u>
<u>CPR</u>	<u>Calendar of the Patent Rolls</u>
<u>CRS</u>	<u>Catholic Record Society</u>
<u>CSPD</u>	<u>Calendar of State Papers, Domestic</u>
<u>CSP Dom. Add.</u>	<u>Calendar of State Papers, Domestic Addenda</u>
<u>CSP For.</u>	<u>Calendar of State Papers, Foreign</u>
DCL	The Dean and Chapter Library, Durham Cathedral
<u>DNB</u>	<u>Dictionary of National Biography</u>
DPD/PK	University of Durham Department of Palaeography and Diplomatic: the Prior's Kitchen
DPD/SR	University of Durham Department of Palaeography and Diplomatic: South Road
DRO	County Record Office, Durham
<u>DUJ</u>	<u>Durham University Journal</u>
<u>Econ. HR</u>	<u>Economic History Review</u>
<u>EHR</u>	<u>English Historical Review</u>
GPL	Gateshead Public Library - Local History Department
<u>HJ</u>	<u>Historical Journal</u>
<u>HMC</u>	<u>Report of the Royal Commission on Historical Manuscripts</u>
<u>NH</u>	<u>Northern History</u>
NRA	National Register of Archives
PRO	Public Record Office
<u>PSAN</u>	<u>Proceedings of the Society of Antiquaries of Newcastle upon Tyne</u>
<u>PP</u>	<u>Past and Present</u>
<u>SR</u>	<u>Statutes of the Realm</u>

SS	Surtees Society
<u>TRHS</u>	<u>Transactions of the Royal Historical Society</u>
<u>VCH</u>	<u>Victoria History of the County of Durham</u>
<u>YAJ</u>	<u>Yorkshire Archaeological Journal</u>

NB The method of citing volumes published by the Surtees Society accords with that adopted in recent history theses presented in the University of Durham. Contemporary spelling has been retained in quotations from original materials except that normal contractions have been expanded and the punctuation modernised. 'Old style' dates have been used except that the year has been taken to begin on January 1st.

CHAPTER ONE

THE COUNTY: TOPOGRAPHY AND COMMUNICATIONS

"The Bishopricke of Durham or Duresme ... is shaped in fashion of a triangle ... On that part where it gathereth narrow to the Westerne angle, the fields are naked and barraine, the woods very thinne, the hilles bare without grasse, but not without mines of yron. As for the Vallies, they are reasonably grassie and that high hill which I tearmed the Apenine of England, cutteth in twaine this angle. But on the East part or Base of the Triangle, as also on both sides, the ground being well manured, is very fruitfull, and the increase yeeldeth good recompense for the husbandmans toile, it is also well garnished with meddowes, pastures, and corn-fields, beset every where with towmes and yeelding plenty of Sea coals, which in many places we use for fewell."

(W. Camden Britain or a Chorographically Description of the most flourishing Kingdomes, England, Scotland, and Ireland ... (English translation, London, 1610) p. 735.)

The County Palatine of Durham was the eighteenth in size of the traditional shires of England. Forming roughly the shape of a triangle whose base was a coast-line of some thirty miles, the county was bounded on the south by the River Tees and on the north and west by the Tyne, Stanley Burn, Milkwell Burn and the Derwent. Durham was contiguous with four other counties, Northumberland, Yorkshire, and, briefly, Cumberland and Westmorland.¹ A county of greatly varied landscape, Durham provides a microcosm of the geographical division of England into Highland and Lowland Zones. While much of the eastern part of the county sustained an agricultural organisation typical of the farmlands of lowland England, the inhospitable Pennine uplands in the west exhibited the remoteness and inaccessibility characteristic of such areas.² Travel across the moors and fells was difficult and dangerous, and travellers were also particularly susceptible to the vicissitudes of the climate.³ Only the valleys of the Rivers Tees, Wear and Derwent with their tributaries provided comparative relief

1. The administrative county included the episcopal manors of Craike and Howden in Yorkshire and the liberties of Bedlingtonshire and Norhamshire in Northumberland.
2. A.E. Smailes Northern England (London & Edinburgh, 1961) pp. 2-3; The Agrarian History of England and Wales iv 1500-1640 ed. J. Thirsk (Cambridge, 1967) p. 16.
3. See, for example the case of Henry Johnson of Harrowbank who "perished to death with extremity of wynd & snow, which fell on the 23rd of this monthe [March, 1622], in his comyng from Hexsam" to Stanhope, a journey which would have taken him over Stanhope Common passed the grotesquely appropriate Dead Friars. C. Sharp Chronicon Mirabile seu Excerpta Memorabilia e Registris Parochialibus (London, 1841) p. 80.

for the traveller. Even they were in places wild and barren. John Leland, the intrepid antiquarian and topographer, journeyed up Teesdale and Weardale late in the reign of Henry VIII, and he seems to have been particularly impressed by this aspect of the upper reaches of the Tees. "Yade More hath the hedde of Tese, then it takith a course emong rokkes, and reseying divers other smaul hopes or bekkes, and cummith much by wild ground for a 8 or x miles to Aegleston bridge wel archid." Downstream though on the Yorkshire side, he "ridde a mile on the stony and rokky bank of Tese to the bek caullid Thuresgylle, a mile from Barnardes Castelle."¹ Barnard Castle, "a meatly praty toun, having a good market and meatly welle buildid",² dominated the dale. The town grew up around the castle, essentially a fourteenth century building based on Norman foundations.³ Strong enough to withstand a siege of eleven days during the 1569 rebellion,⁴ the castle decayed rapidly during the seventeenth century. It was unroofed in 1630 by Sir Henry Vane who had recently acquired Barnard Castle

1. J. Leland Itinerary in England and Wales ed. L. Toulmin-Smith (London, 1907) i p. 77. A modern study of Teesdale at this time is D.A. Alexander Settlement Field Systems and Landownership in Teesdale between 1600 and 1850: A Study in Historical Geography. (University of Durham M.A. thesis, 1972) pp. 81-118.

2. Ibid. pp. 76-7

3. N. Pevsner The Buildings of England: County Durham (London, 1953) p. 48.

4. The castle eventually fell because of mass desertions to the rebels by the followers of Sir George Bowes. CSP Dom. Add 1566-79 pp. 147-8.

lordship from the Crown's trustees.¹ Vane was not, however, totally responsible for the decay of the castle. In 1609 Bishop James reported to the Earl of Salisbury that it was "very far out of order".² The town itself, on contrast to the decline of the castle, survived and prospered, if one is willing to believe the claims, advanced in 1591, by the leading local landowner, Sir William Bowes of Streatlam. It was "in good repair, well built, verie populous, conteyning nigh fower hundred householders, amongst which are many auntyent men, and about 12 scoore good freholders in good trade, and reasonable state for wealth." Bowes continued his advertisement by stressing the prosperity of the local market and the public spirit of the townspeople in subscribing towards the maintenance of a "publique preacher". Furthermore, the town chapel attracted 1400 communicants. Recusants were unknown.³ Much of what Bowes wrote was exaggerated. Nevertheless, Barnard Castle was the most important settlement in the upland part of the county, and this was reflected in 1621 when the parliamentary committee, to which the matter was referred, rejected the

1. DCL: Hunter MS 44/6 ("Certaine Observations Touching ye Estate of the Common-wealth, Composed Principally for the Benefitt of the County of Durham.") p. 113. See also a similar tract written five years earlier in 1629 by the same anonymous author. BL: Additional MS 18, 147.
2. HMC: Salisbury xxi p. 119.
3. R. Surtees The History and Antiquities of the County Palatine of Durham 4 vols. (London, 1816-40) iv (part one) p. 68. Surtees failed to specify the source or recipient of this piece of propaganda.

claims put forward on behalf of four out of six towns in the county to representation in the House of Commons. Barnard Castle and Durham City were the only two towns successful. Unfortunately for them the bill was never enacted.¹ The royal forest of Marwood Chase, extending from the walls of the castle north-west to Egglestone and north to Langleydale, was the chief wooded area of the upper Tees. Like the lordship of Barnard Castle, Marwood was purchased by Sir Henry Vane who disparked the area, sold the deer and discharged the officers, who included Sir Talbot Bowes, an experienced and respected local justice of the peace.²

Weardale appears to have presented a less forbidding aspect to Leland. Although the upper part of the dale was "not very fertile of corne", there was "very fine gresse in the dale self wher the ryver passith."³ To Camden it was characterised by "vast moores and heathes, by great parkes of the Bishops."⁴ Leland appears to have penetrated far to the west where "there resorts many redde dere stragelers to the mountaines of Weredale."⁵ Fifty years later the number of deer in the bishop's park had declined dramatically from around 200 to about 40, while the bishop's

1. CJ i 1547-1628 pp. 539, 553.

2. R. Surtees Durham iv (part one) p. 94. Bowes was one of the many Durham toes on which Vane was to tread during his twenty years' connection with the county.

3. Leland Itinerary i p. 71.

4. Camden Britannia p. 738.

5. Leland Itinerary i p. 71.

"praty square pile on the north side of Were ryver caullid the Westgate" had been plundered by Bishop Pilkington, who attempted to alleviate his constant financial problems by having the lead stripped off the roof and sold to a Newcastle merchant, Robert Barker.¹ Leland very quickly dismissed Stanhope, not at this time a market town.² It was, however, the home of the leading Weardale family, the Fetherstonhaughs who resided at Stanhope Hall situated just west of the town.³ Forsterley, the source of the so-called 'marble' quarried there since at least the thirteenth century, was the next settlement downstream noticed by Leland. It was roughly

1. Ibid. i. p. 70. DPD/SR: Weardale Chest MS 42. Pilkington was alleged to have caused damage amounting to £300, Bishop Barnes £60 and Bishop Hutton £40. Barnes was also responsible for the death of 120 deer because no provision had been made for feeding them in winter. This information was extracted from depositions taken during the course of a survey into the lands and rights of the bishop in the parishes of Stanhope and Wolsingham. The survey was ordered by Bishop Matthew shortly after his elevation to the see of Durham in 1595. From his point of view the results were doubly depressing as the deponents made clear that episcopal revenue from the area had declined.
2. Cf. M.E. James Family, Lineage and Civil Society: A Study of Society, Politics and Mentality in the Durham Region, 1500-1640 (Oxford, 1974) p. 5.
3. See Pevsner Durham p. 218. The main part of the house was "built or remodelled" in "Elizabethan or Jacobean Times", probably when John Fetherstonhaugh, who died in 1619, was head of the family.

equidistant between Stanhope and Wolsingham where the small medieval market had disappeared by the time of Leland's visit.¹

Derwentdale differed from Teesdale and Weardale, for it possessed no substantial settlement like Barnard Castle or Stanhope, and even Leland appears not to have surveyed the area. Much of the dale was forested. The upper reaches of the dale were dominated by the Bishop's forest of Ruffside and by the Dean and Chapter of Durham's wood of Muggleswick Park, "the goodliest wood in the north of England." By the 1620s, however, it had been "utterlie consumed", by, it was claimed, a combination of neglect and spoilation.² Indeed, neglect seem to have been the keynote of the attitude of those in authority to the area. Emanuel Barnes, one of the prebendaries of Durham, was alleged to have stripped the lead from the roof of the prebendal manor house at Muggleswick.³ In 1593 the lay impropiator of Hunstanworth, Alexander Eggleston, was cited for his failure to provide a curate.⁴ The situation

1. Leland Itinerary i p. 70; v pp. 48, 129. There are signs of increasing prosperity at Wolsingham in the early seventeenth century. Bishop James regranted the town a weekly market along with an annual fair. R. Surtees Durham i p. lxxxviii. In 1612 Bishop James granted some land there for the foundation and upkeep of a school. DPD/PK: PDM/Loose Papers/Box 12/14th October 1612.
2. DCL: Sharp MS 49 f. 247. I am most grateful to Dr. D. N. Marcombe for supplying this reference.
3. Ibid.
4. DCL: Hunter MS 5 p. 69. A similar sort of neglect was to persist even after the Restoration. From 1662 the Dean and Chapter combined the incumbencies of their two upland parishes, Muggleswick and Edmondbyers. R. Surtees Durham ii p. 364.

was little better when incumbents were provided, for the livings of the three upland parishes, Hunstanworth, Edmondbyers and Muggleswick, were among the poorest in the diocese.¹ As a result, the quality of incumbents left much to be desired. In 1578 the curates of Muggleswick and Hunstanworth both neglected their task of comprehending one of the gospels, having been enjoined to do so by Bishop Barnes who was attempting to raise the standards of the clergy in his diocese. In addition, the curate of Hunstanworth was threatened with excommunication.² There was no discernible improvement over the following two generations and by 1642 Muggleswick had been destitute of a preaching minister "ever since any of us that now are breathing were borne, to our soules great griefe and dreadfull hazard of destruction", while ten or twelve surrounding parishes were "in like manner void of the meanes of salvation."³

1. See, for example, the list (c 1635) in DCL: Hunter MS 22/19 where the values of Edmondbyers and Muggleswick were respectively £26 6s 8d and £23 6s 8d.
2. SS 22 p. 73. Cf. James Family p. 129. In contrast it should be added that the rector of Edmondbyers performed his task successfully. SS 22 p. 72. On the attempts of Bishop Barnes to improve standards generally, see below pp. 441-4.
3. BL: TT 669f4 (69) A Most Lamentable Information of Part of the Grievances of Muggleswick Lordship. The reaction of the Dean and Chapter was one of magisterial indifference. Cf. J.E.C. Hill 'Puritans and the Dark Corners of the Land' in Continuity and Change in seventeenth century England (London, 1974) p. 19 where the author confuses the Mayor of Sunderland who sent up the petition with the petitioners thereby suggesting that Sunderland and the surrounding area had been destitute of preaching ministers. It was small wonder that the area later became a stronghold of Anabaptism. R.F. Howell Newcastle upon Tyne and the Puritan Revolution (Oxford, 1967) p. 253. On the 'Muggleswick conspiracy' of 1663 see J. Hodgson 'Papers Relative to

The difficulties of settlement in the Pennine uplands of west Durham were manifold. Much of the land was either barren or forested.¹ The high carboniferous limestone moorlands occupied the wettest and most remote part of the county, while the land was almost entirely of poor quality.² The growing season was of course correspondingly shorter than in the more equable climate of the eastern lowlands. Cultivation was never extensive, and it has been suggested that by the first decade of the seventeenth century there was a marked trend away from tillage.³ Despite the area's infertility corn was still grown.⁴ Much of the meagre crop yield was probably destined to be used as animal feed.⁵ The mainstays of the

the Plot in the North in 1663' AA i (1816-22) pp. 143-8; C.E. Whiting 'The Great Plot of 1663' DUJ xxii (1920) pp. 155-69; R. Surtees Durham iv pp. 389-91.

1. Camden Britannia p. 735. See above p. 3.
2. D. A. Kirby 'Population Density and Land Values in County Durham during the Mid-Seventeenth Century' Transactions of the Institute of British Geographers lvii (1972) pp. 83, 92-3.
3. Alexander Settlement in Teesdale pp. 225-6.
4. See, for example, the will of Edmund Wilson who in 1601 made specific reference to all his "lands, cornefields, etc., of Middleton in Teesdale." SS 112 p. 179.
5. See, for example, the inventory made in 1599 of the goods of Anne Neville of Westernhopeburn in the parish of Stanhope, in which the most valuable item was hay valued at £6. SS 38 p. 337.

upland agricultural system were cattle breeding and sheep rearing.¹

Despite the harshness and disadvantages of the area, the sparse population, it has been argued, remained fairly stable.² Yet, like other northern upland areas, west Durham was both sparsely populated and over-populated in relation to the available resources.³ This assertion has been argued for Durham by Dr. D. A. Kirby.⁴ He has used as his basis the four far western parishes of Edmondbyers, Muggleswick, Stanhope and Middleton in Teesdale.⁵ According to his calculations, "these parishes occupy 18% of the land area, and account for only 3% of the county's population."⁶ However, by correlating population densities

1. The cattle tended to be sold for fattening either in the east of the county or further south. Agrarian History ed. Thirsk p. 22.
2. Alexander Settlement...in Teesdale pp 98-100. Cf. A. M. Everitt's contention that moorland areas generally sustained a slight level of population increase during the period. Agrarian History ed. Thirsk p. 532.
3. On this phenomenon in North Tynedale and Redesdale see S. J. Watts From Border to Middle Shire: Northumberland, 1586-1625. (Leicester, 1975) p. 41. For a general investigation of the population of the whole county, see below pp.
4. Kirby 'Population Density' pp. 92-3.
5. Dr. Kirby did not notice the independent existence of the parish of Hunstanworth.
6. Kirby 'Population Density' p. 92. According to the figures in Dr. Kirby's own tables the proportion is much nearer 4%, the parishes having a combined population of 2,472 out of a county population of 64,670. Ibid pp. 86. According to figures derived from the Protestation Return of 1642 the percentage of adult males from the western parishes to the whole county is slightly higher at 4,379. SS 135 pp. 15, 22-3, 3405, 98-9, 100-3. (An adjustment based on Dr. Kirby's figures has been made to take into account the parish of Staindrop whose Protestation Return is no longer extant.)

and the yields derived from a Book of Rates compiled during the 1640s, he has been able to "imply that the uplands (were) more densely populated than the value of the land, taken as an average over the whole county, would suggest."¹ There were two main reasons for the maintenance of this surprisingly high level of population. The first was that, especially in Weardale, the conditions of land tenure were considered particularly attractive by the tenantry.² The second was the proliferation of 'by-employments'. Coal was mined, for example, in the parish of Wolsingham.³ Slate was quarried at Rackwood Hill west of Hamsterley, as well as in several other areas further east in the lowland zone of the county.⁴ Alum was apparently mined in west Durham.⁵ The most important industrial activity in the area was the mining of lead and iron. The Bishop of Durham's mineral rights in Weardale to lead and iron were each leased at £5 per annum,⁶ and the whole of the dale from Kilhope to Harperley has been noted as a centre of lead mining.⁷ From the point of view of the miner lead

1. Kirby 'Population Density' p. 93.

2. Agrarian History ed. Thirsk iv p. 19. Hence the spirit reaction of the Weardale tenants to the efforts of Bishop Neile to break their system of customary tenure. See below. pp. 731-6.

3. See, for example, DPD/SR: CC 190213 (Main account of the Receiver General of the Bishop of Durham, 1640-1.) Many other examples can be found in the Receiver General's Accounts, passim.

4. DPD/SR: CC 190249 (Main account of the Receiver General of the Bishop of Durham, 1558-9).

5. Agrarian History ed. Thirsk iv p. 20.

6. DPD/SR: CC 190213.

7. A. Raistrick & B. Jennings A History of Lead Mining on the Fenines. (London, 1965) p. 51.

mining could be as hazardous as coal mining, the dangers of which have been better documented.¹ Lead has been mined in upper Teesdale since the Middle Ages.² Perhaps the most important mine there was that of Flakebridge in the manor of Eggleston, a parcel of the vast possessions of the Earl of Westmorland forfeited to the Crown after the rebellion of 1569.³ Sir George Bowes of Streatlam (1527-1580) had also possessed lead mines in Teesdale, while the family tradition was continued in 1597 with a lease in reversion to Robert Milner and John Quarles presumably the agents of Robert Bowes in consideration of whose services the lease was granted, of, among other things, a lead mine in Teesdale Forest.⁴ The evidence for lead mining in Derwentdale is even more scanty than for Teesdale. In the later 1620s Charles I granted the Duke of Buckingham all the mines of silver and of lead mixed with silver in and around Muggleswick.⁵ There is rather

1. In 1625 Robert Rutter of Stanhope parish "was hurt in a groove, & died within one week after." Sharp Chronicon Mirabile p. 81. (A "groove" is a mine shaft).
2. Alexander Settlement ... in Teesdale p. 92.
3. See PRO: E178/735.
4. PRO: E 134/7 James I/Michaelmas 40; CSPD 1595-7 p. 347.
5. DCL: Allan MS 7 p. 150. See also Raistrick & Jennings Lead Mining pp. 54-5. Buckingham was to open and work the mines at his own charges. 10% of the silver was to be given to the King while the residue was to be sent to the Mint. The grant was to be effective over a 10 mile radius around Muggleswick. As the existence of silver in the area seems dubious to say the least, it is possible that the whole business was contrived in order to wrest the mineral rights from their rightful holders, most notably in this case the Bishop and Dean and Chapter of Durham.

more evidence for iron mining in Derwentdale. Sir John Forster of Bamburgh, one of the leading gentlemen of Northumberland, had iron interests at "Haddry Bowene" in the parish of Hunstanworth.¹ However, the comparative paucity of documentation of these 'by-employments' may in itself be indicative of the small scale of the operations undertaken, and to the hard-pressed inhabitants of the Highland Zone they would have been mere palliatives in the constant struggle for survival in an unfavourable environment.²

The narrow belt of land where the lower slopes of the Pennines imperceptibly merge with the Lowland Zone of the county was one of the most important areas of Durham during the period under consideration.³ Too much attention should not be paid to any 'unity' which this area may be thought to have possessed. Farming conditions, for example, varied tremendously. The soils of the area embraced by the valleys of the Deerness and Browney were

1. One Matthew Armstrong had "gotten and wonn" 100 wain loads of ironstone which he sold for £12 10s. to George Bowes of Biddick, a prominent mining entrepreneur. He also agreed to supply Bowes with a further 1,000 horse loads at £15. Bowes, who had leased the iron works from Forster, never paid Armstrong. PRO: DURH 2/9/Unnumbered.
2. Cf. the evidence relating to the mining of coal, especially in the parishes of Gateshead and Whickham. See below pp. 21-2.
3. The area discussed here comprises roughly the parishes of Lanchester, Brancepeth, the Aucklands, Witton le Wear, Standrop, Gainford and Winston.

not particularly favourable to cultivation.¹ In contrast, the more southerly part of the area was well suited to cattle rearing. Sir William Brereton, a noteworthy Cheshire baronet who travelled extensively in the 1630s, was much taken with the quality of the wild cattle reared in the Bishop's park at Auckland.² The southerly parishes were more densely populated,³ despite the decay of tenancies which especially affected the former lands of the Earl of Westmorland.⁴

The area had been dominated by the two traditional sources of influence in the Palatinate, the episcopal palace at Auckland and the Neville patrimony, based on the lordships of Brancepeth and Raby. Bishop Cosin (1660-1672) was mainly responsible for the present buildings at Auckland, the bishop's palace having suffered

1. J.S. Ingleson Settlement, Agrarian Systems, and Field Patterns in Central Durham, 1600-1850: A Study in Historical Geography. (University of Durham M.A. thesis, 1972). pp. 2-3.
2. W. Brereton Travels in Holland, the United Provinces, England, Scotland and Ireland ed. E. Hawkins (Chetham Society, Manchester, 1844) p. 80. See also the inventory of John Burrell of Langton in the parish of Gainford. Burrell was a substantial yeoman who in 1597 left goods valued at £279 15s. 6d. including "twelve oxen, twelve kyne, seaven stotts and whies, seaven horse and mairs and one fole, three calves, 43 olde sheep, 54 sheep hoggs, 14 swine and 26 geese". SS 112 p. 166.
3. Kirby 'Population Density' p. 88. (Map)
4. PRO: SP 15/28/80.

greatly during the interregnum. Brereton has left the best description of the previous building, "a stately, pleasant seat ... of great strength", with "a very fair, neat hall, as I have found in any bishop's palace in England."¹ The college there had, like many other places in the diocese, suffered from the depredations of Bishop Pilkington.² The town of Auckland was "of no estimation."³ It did, however, possess a "praty market of corne."⁴

The Nevilles had long been established as the leading lay family in County Durham. Although they possessed other lands, both in the county and elsewhere,⁵ their

1. Brereton Travels pp. 79-80.
2. R. Surtees Durham iv (part two) p. 167. Pilkington had had built there a bowling alley and a pair of butts.
3. Leland Itinerary i. p. 70. It is significant that the town does not enter Dr. Kirby's calculations involving urban areas. 'Population Density' pp. 90, 92.
4. Leland Itinerary i p. 70. In the opinion of Miss Dodds, Bishop Auckland had, along with Darlington, the most important market for corn and cattle in the county. M.H. Dodds 'The Bishop's Boroughs' AA 3rd series xii (1915) p. 111. The market was held each Thursday while the town also had two principal fairs every year. The burgesses and inhabitants of Bishop Auckland could buy "cattell, corne and all other things and provision whatsoever" for their own use without paying any tolls, while the town's tradesmen could sell from stalls in the market place on payment of 3d. per annum for the market and 1d. per fair for stallage. Outsiders who brought fresh meat and fish to the market had to pay 1d. per market day for the privilege. However, it was alleged in 1607 that the bailiff of Auckland, Matthew Hutton, son of the former bishop, had charged these rates of the burgesses and inhabitants as well. PRO: DURH 2/5/7.
5. For example, the manor of Eggleston in Teesdale, Winlaton, a manor on Tyneside rich in coal deposits Stotfold in the parish of Elwick and Kirbymoorside near Pickering in the North Riding of Yorkshire. For Eggleston, see PRO: E 164/37. ff. 349-54. Stotfold and Winlaton were both sold in 1569 shortly before the rebellion. PRO: DURH 3/156/32, 35.

wealth and power derived principally from the two massive lordships of Brancepeth and Raby.¹ Brancepeth lordship, which included the manors of Thornley (in the parish of Wolsingham) and Willington comprised an area ranging from Hedleyhope in the north-west to Byers Green in the east and from Brandon in the north-east to Crook in the south-west.² The lordship was centred upon the castle at Brancepeth which was "strongly set and buildid."³ In contrast, Edmund Hall and William Humberston, the surveyors appointed by Sir William Cecil in the aftermath of the rebellion found the building rather unimposing. It was "but a small house of no great receypt."⁴ The castle was surrounded by two parks which before the rebellion had been well stocked with deer and wild cattle and which after the rebellion were subject to the

1. Both lordships had been acquired through marriage, Brancepeth through the marriage of Emma, daughter and heiress of Bertram de Bulmer to Geoffrey de Nevill (ob. 1194) and Raby through the marriage of Robert Fitz-Maldred, lord of Raby to Isabel, sister and heiress of Henry de Nevill (ob. 1227). Robert and Isabel's son Geoffrey assumed the name Nevill. R. Surtees Durham iv (part one) p. 158. The passing of the lordships to the Crown after the failure of the 1569 rebellion has ensured the survival of much survey material. For Brancepeth see (1570) PRO: E 164/37 ff. 278-316; (1606) PRO: LR 2/192; (1614) PRO: E 178/3765. For Raby see (1570) PRO: E 164/37 ff. 317-49; (1606) PRO: LR 2/192; (1608) PRO: E 178/3752. (This refers only to the castle and park.) On the position of the Nevilles in county society and politics see below pp. 585-9.
2. The boundaries of the lordship were delineated in PRO: E 178/3765.
3. Leland Itinerary i p. 71. Much of the present building was restored unconvincingly in the early nineteenth century. Pevsner Durham pp. 58-60.
4. PRO: E 164/37 f. 278. The usefulness of this survey has

depredations of self-serving officials.¹ The surrounding countryside was extremely fertile, the soil was "good and bounteful for corne and gresse", while local supplies of timber and coal were plentiful. Through the extensive holding of leases "not emproved of long tyme past", many of the Brancepeth tenants had become "welthy and substanciall". They had been improving their financial position at the expense of their lords, the Earls of Westmorland, who were becoming subject to increasing financial, as well as political, pressure.² Raby Lordship, separated from Brancepeth lordship by the episcopal and former collegiate church lands of Auckland, was a large segment of land comprising the bulk of the parishes of Staindrop, Gainford and Cockfield. The castle's effect on contemporaries far exceeded that of Brancepeth. Leland considered it to be "the largest castel of logginges in all the north cuntery", while forty years later it was to Hall and Humberston "a marvelouse huge house". Cecil's surveyors did, however, have certain aesthetic reservations. There was "no ordre or proporcion in the buylding therof". The castle itself was weak and its situation was windswept. They could also foresee how expensive its upkeep was likely to be, for it was "but lyke a monstrouse old abbey

been discussed from a Yorkshire point of view in (Anon.) 'Humberston's Survey' YAJ xvii (1903) pp. 128-54.

1. PRO: E 164/37 f 278; E 178/3765. See below chapter 10. on the social dislocation which resulted from the enforced withdrawal of the traditional Neville munificence.
2. PRO: E 164/37 f. 278.

and will soone decay yf yt be not contynnually repayred".¹ As at Brancepeth the surveyors were impressed by the quality of the soil which was well suited to tillage, but even then there was concern at the dearth of timber which was to become almost an obsessive government concern during the subsequent two generations.²

In the eastern half of the county the low lying areas drained by the rivers Tees and Skerne in the south and Tyne and Wear in the north were separated by a plateau where the land, lying at an altitude of between 350 and 450 feet, is regularly crossed by a series of denes, steep sided and well wooded valleys.³ Soil conditions in this area were often considered rather poor.⁴ Parts of the area exhibited a population density matched by parts of the upland area in the west of the county.⁵ Urban settlements were lacking. The largest villages were

1. Leland Itinerary i p. 75; PRO: E 164/37 f. 317.
2. Ibid.
3. See the description in R. Surtees Durham i (Introduction to Part II).
4. A typical example would be the parish of Kelloe. See Kirby 'Population Density' p. 94. Ingleson Settlement ... in Central Durham p. 3 has noted that the land found within a triangle joining Seaham, Sedgfield and Hart has suffered from the infertility of the heavy clay soils which produced very poor grain crops. The village of Hart itself should be exempted from this particular generalisation. D. Austin 'Fieldwork and Excavation at Hart, Co. Durham, 1965-1975'. AA 5th series iv (1976) p. 69. Compare also Mr. Ingleson's assertion with Dr. Kirby's classification of the manor of Easington. This stands upon a Magnesium Limestone escarpment, the area of which is characterised by a clayey loam, but outside the coastal fringe the soils were well drained and the land regarded as good quality. SS 183 p. xvi.
5. Kirby 'Population Density' p. 88.

parochial centres like Easington and Hart, but the situation of a parish church did not, of course, necessarily indicate the presence of a substantial village. The church at Kelloe, for example, was situated at some distance from the village of the same name, while the village of Elwick found itself, somewhat anomalously, to be in the parish of Hart. However, markets for the area's agricultural produce were available thanks to the demands of industrial Tyneside. One of the features of east Durham was intensive stock rearing on depopulated tenements indulged in, for example, by Sir Cuthbert Collingwood of Eslington in Northumberland. Collingwood, through a fortunate marriage to the daughter and heiress of Sir George Bowes of Dalden and Streatlam (1517-1546), had managed to accuire extensive property in at least five east Durham parishes.¹

Collingwood seems to have had his stock bred at Eppleton in the parish of Houghton-le-Spring and fattened on the coast at Dalden (now known as Seaham Harbour) and at Grindon, on land presumably purchased from Sir William

1. R. Surtees Durham i pp. 6-7, iii p. 209. PRO: SP 12/257/80. In 1584 a survey of decayed tenancies suggested that Collingwood was responsible for the entire conversion of Seaham to heath, resulting in the decay of seven tenancies and the consequent restitution of the potential border forces by the same number; hence the government's concern. PRO: SP 15/28/80. However, the subsequent presentments suggested that the tenancies had decayed by only three. PRO: SP 15/32/83 i. By 1596 Collingwood had five ploughs tenanted under him, a decrease of six according to a jury which included several members of greater eminence than was usual in such bodies. PRO: SP 12/257/80. On the enquiries into decay of tillage and service see below pp. 744-54.

Hilton.¹ Although Collingwood's stock at the time of his death in 1596, of 958 sheep and 143 cattle was obviously exceptional, the area did sustain other extensive stock rearing enterprises. For example, the aged Margery Bellasis of Morton, who died in 1587, left 187 sheep of various sorts at Morton.² She had farmed the episcopal grange there, and this provided the basis of the wealth of one of the county's leading families.³ The two episcopal granges in the area of the east Durham plateau, the other was at Quarrington, provided a ready income for the lessees. Morton had been let on a long lease at £6 per annum. The jury empanelled by the parliamentary surveyors in 1647 considered the grange to be worth £60, an estimate which the surveyors themselves increased by 50%.⁴ Bishop Cosin was even more extravagant, claiming in 1662 its annual value to be £140.⁵ Quarrington had been leased to Ralph Allanson⁶ at £22 4s. 8d. per annum, but the surveyors assessed an improvement of £138 18s.⁷ In 1662 Cosin claimed that the clear annual value was £366 13s. 4d.⁸

1. Cf. Agrarian History iv ed. Thirsk pp. 26-7; SS 38 p. 270; R. Surtees Durham i p. 242.

2. SS 38 p. 316.

3. On the influence of the family and in particular the role of its most influential member, Sir William Bellasis of Morton (1593-1641) see below pp. 289-90.

4. SS 185 p. 157.

5. DCL: Sharp MS 167 p. 138. Cosin refused to allow a lease for a term of three lives rather than years.

6. This was probably the same Ralph Allanson, mayor of Durham, who married a daughter of the notorious and unpopular Durham prebendary, Marmaduke Blakiston. R. Surtees Durham iii p. 163.

7. SS 185 p. 182.

8. DCL: Sharp MS 167 p. 123.

To the north of the east Durham plateau the land between the mouths of the rivers Tyne and Wear was particularly unsuited to intensive agricultural exploitation. The soils tended to drain very badly and consequently, outside the newly developing port of Sunderland and the salt manufacturing town of South Shields, the area sustained only a small population.¹ Further to the west the population increased in density, and it has been suggested that by the mid-seventeenth century Gateshead was the most populous town in the county², while the neighbouring parish of Whickham also sustained a large population, including seasonal workers recruited from the borders and Scotland in order to work in coal mining and ancillary industries.³ Of the three towns in Durham in the Tyne and Wear lowlands, Gateshead had the longest history of continual habitation. Although long overshadowed, and indeed coveted, by its wealthy and powerful northern neighbour, Newcastle upon Tyne⁴ Gateshead was considered by Camden to be "a memorable towne", a point of view to which few subsequent commentators have

1. Kirby 'Population Density' p. 94.

2. Ibid. p. 91. Cf. below pp. 40-2.

3. Ibid. p. 91. It therefore seems somewhat contradictory for Dr. Kirby to suggest that the impact of coal mining in this area was only superficial. Cf. below pp. 42 n.4, 809-10.

4. W.H.D. Longstaffe 'The Attempt to Annex Gateshead to Newcastle in 1575' AA new series ii (1858) pp. 219-25.

subscribed.¹ By the outbreak of the Civil War Sunderland had developed from insignificant origins. A report of 1565 suggested that it was a depressed fishing port with 30 households and a mere 7 cobbles supporting 20 fishermen.² Developing as the port for the shipment of coal mined in the lower Wear valley, Sunderland owed much to the enterprise of merchants like George Lilburne who were able to exploit the customs advantage which Sunderland held over Newcastle.³ By the 1630s the port saw the shipping of an estimated 70,000 tons of coal on average every year, representing approximately 12.6% of north-east coal shipments.⁴ The rise of South Shields, while less spectacular than that of Sunderland, was nevertheless impressive. In 1565, it was reported that of the 51 householders there, only one was not a fisherman.⁵ By the time of Brereton's visit seventy years later

1. Camden Britannia p. 743. Leland made no attempt to describe the town. Neither Sir William Brereton nor John Aston, like Brereton a Cheshire man, mentioned the town despite the fact that both of them must have passed through Gateshead on the way to Newcastle. Aston's visit took place in 1639. He was attending Charles I on his abortive expedition to Berwick against the Scots. SS 118 pp. 1-34.
2. CSP Dom. Add. 1547-1565 p. 573.
3. In 1610 coal shipments from Sunderland and Blyth were exempted from the tax of one shilling per chaldron imposed upon coal shipped from the Tyne, a decision which aroused the ire of the Newcastle merchants. BL: Lansdowne MS 169 f. 54.
4. J.U. Nef The Rise of the British Coal Industry ii (London, 1932) p. 357.
5. The townspeople possessed 3 ships and 6 cobbles. However, the town had suffered depression and depopulation CSP Dom. Add. 1547-1565 p. 573.

South Shields had changed its character completely. It was now the centre of the Tyneside salt manufacturing industry, and it obviously fascinated Brereton whose description of the scene is particularly graphic.¹

In contrast, Hartlepool, traditionally the bishopric's premier port, was declining, which was hardly surprising since the port was unable to hold large vessels even at high tide. While at low tide all vessels lay on dry ground.² By 1639 the town and walls were "very ruinous".³ The claim, made in the following year by Sir John Conyers, that Hartlepool, along with Berwick and Holy Island, was a place of "wonderfully great consequence" can be dismissed as a piece of hyperbole inspired by the effect of the Scottish occupation.⁴ Hartlepool was one of the two principal settlements in the agriculturally advanced south-east part of the county, the other being Darlington. Darlington was, according to Leland, "the best market town in the bisshoprick, saving Duresme".⁵ A century later,

1. Brereton Travels pp. 86-9. On the development of the salt industry on the north-east coast see below pp. 82-4.
2. CSP Dom Add 1566-79 p. 146. One of the major weaknesses of the 1569 rebels was that the only port which they were able to control was Hartlepool which fulfilled a dual purpose; as a port for the landing of foreign aid and the means of an easy escape should the rebellion fail. The port was of course completely inadequate and the rebels' expectations were totally unrealistic.
3. PRO: SP 16/412/57.
4. CSPD 1640-1 p. 202.
5. Leland Itinerary i p. 69.

John Aston found Darlington "a pritty market toune, seated upon a hill over the River Skerne". However, the town's charms were somewhat abated by the high price of drink.¹ During the intervening period the town had suffered a considerable decline. The dissolution of the collegiate church of St. Cuthbert had economic as well as ecclesiastical consequences, a survey of 1584 discovering that the deanery, which had formerly supported nine able² men, was now uninhabited.³ The town suffered much from the extensive involvement of its inhabitants in the 1569 rebellion.⁴ In May 1585 Darlington was much damaged by fire. A total of 273 houses were reportedly destroyed, leaving some 800 persons homeless. Many of these were claimed to have sought shelter in barns from which they had to be displaced at harvest.⁵

1. SS 118 p. 7.

2. 'Able' in this sense denoted the ability to render service on the borders.

3. PRO: SP 15/32/83. i.

4. The Earl of Westmorland had extensive landed interests in and around the town PRO: E 164/37 ff. 316, 343. He had claimed, allegedly illegally, the tithes of Darlington deanery. PRO: C 3/77/38. According to the figures which Sir Cuthbert Sharp was able to extricate from the Bowes manuscripts, 83 men from Darlington borough and Bondgate joined the rebellion. Of these 16 were executed. C. Sharp Memorials of the Rebellion of 1569 (London, 1841) p. 251.

5. See N. Sunderland A History of Darlington (Darlington, 1967) pp. 35-6. Mr. Sunderland's description was based upon a short pamphlet entitled 'Lamentable News from the Town of Darlington in the Bishopric of Durham'. This was written to stimulate support for a national appeal to raise funds for the rebuilding of the town, a procedure which had been previously followed by Nantwich in Cheshire. The pamphlet appears to have

Stockton-on-Tees was a settlement of rather limited significance during the period under consideration. It had been granted borough status by Bishop Bek in 1310.¹ However, the market and fair there had long been discontinued when, in 1602, the mayor and burgesses petitioned Bishop Matthew for a grant to renew operations. The bishop responded by granting the borough a new charter.² The market established thereby was of purely local importance,³ and it would appear that the members of the corporation were not conspicuous for their wealth.⁴ Perhaps the strongest indication of limited urban development was given by Bishop Matthew himself when in 1597 he fled to the episcopal castle there to avoid the ravages of

been based on a document in the State Papers which comprised suggestions by Captain Brickwell for the relief of the distressed people of Darlington. PRO: SP 12/275/44. This document has been mistakenly calendared as dating from 1600. CSPD 1598-1601 p. 459. Brickwell, a captain in the garrison at Berwick, was farmer of Darlington deanery. CPR 1566-9 pp. 187-8.

1. R. Surtees Durham iii pp. 173-4.
2. DCL: Randall MS 5 pp. 29-30.
3. Stockton was not included in Professor Everitt's list of market towns operating in County Durham between 1500 and 1640. Agrarian History ed. Thirsk iv p. 469.
4. In 1635 the mayor's house was described as a "mean thatched cottage." R. Surtees Durham iii p. 174.

plague in Durham City.¹

The south-eastern part of the county, the area roughly included within a triangle linking Hartlepool, Darlington and Stockton, was agriculturally the most advanced in Durham.² It has been argued that the comparative paucity of population in this area suggests that the area was one of extensive stock-rearing, the land supporting fewer persons than would have been expected from its value.³ The incidence of arable farming, however, should not be under-estimated. Evidence from surviving

1. J. Brewster The Parochial History and Antiquities of Stockton-upon Tees (Stockton-on-Tees, 1829) p. 43. Matthew's action indicates his desperation, for the castle could not have been the most comfortable episcopal residence. Bishop Pilkington had been accused of causing dilapidations there totalling £1591 3s 8d. J. Raine jun. 'Survey of the Manor House of Stockton, commonly called Stockton Castle, taken after the death of Bishop Pilkington.' AA new series vii (1876) pp. 120-3. Dilapidations of a similar amount were alleged against Pilkington's successor, Richard Barnes. DCL: Additional MS 36.
2. SS 183 p. xviii. (Introduction by Dr. Kirby): Studies in Field Systems in the British Isles ed. A.R.H. Baker & R.A. Butlin (Cambridge, 1973) p. 128. According to Dr. Kerridge's classification, the area termed the 'Vale of Stockton' formed the most northerly part of the Midland Plain. E. Kerridge The Agricultural Revolution (London, 1967) p. 91. His disparaging account of the 'North-eastern Lowlands', Ibid. pp. 156-60, although perhaps somewhat over-reliant on the collaborative History of Northumberland (15 volumes, 1905-40), emphasises the contrast between the area under consideration and the north-east as a whole.
3. The parishes of Elwick, Elton and Egglecliffe, for example, sustained population densities not significantly different from the upland parishes of Lanchester and Wolsingham. Kirby 'Population Density' pp. 88, 94. It was, of course, in this area, at Long Newton, that the brothers Colling developed in the eighteenth century the famous breed of cattle which became known as the 'Durham Ox'. J. Bailey General View of the Agriculture of the County of Durham (London 1810) p. 230-4.

inventories suggests that arable farming remained an important feature of the area.¹ Robert Lambton of Great Stainton, who made his will on March 27th, 1563 left corn valued at £28.² Marmaduke Chapman of Billingham, a prosperous yeoman farmer and tenant of the Dean and Chapter of Durham, left corn and hay valued at £68 16s. 8d.³ Between 1628 and 1630 the declared annual income of the rector of Long Newton, Ralph Tunstall, from corn tithes averaged £85, although from 1636 to 1638 nearly a quarter of rectorial income was alleged to have been derived from tithes of oats.⁴ The swing towards pastoral farming, however, encouraged the spread of the enclosure of common

1. In contrast to Dr. Kirby, Mr. Butlin has argued, from the observations of travellers and topographers, that the east and south of the county had the greatest amount of arable land in the common fields. Field Systems ed. Baker & Butlin p. 130.
2. SS 2 p. 212. The Lambtons of Great Stainton were a family of middling gentry who never aspired to the higher offices of the county.
3. Chapman's goods were inventoried in January 1604. SS 112 p. 185.
4. DRO: D/Lo/F/192. Cf. DCL: Hunter MS 22/19 where the annual income of the rector of Long Newton is given as £66 13s. 4d. (The apparent date of this document is about 1635.) Despite the discrepancy in the figures, the indication is clear that rectorial income could still be maintained from corn tithes even in an area of predominantly pastoral farming. This did not of course prevent clergymen from voicing their opposition to enclosure from their own economic standpoint, rather than from any consideration of possible social dislocation. A good example of this attitude was given by Henry Ewbank, rector of Haughton Le Skerne. DUL: Cosin Letter Book 1 no. 5. This problem has been discussed in the national context by J.E.C. Hill Economic Problems of the Church from Archbishop Whitgift to the Long Parliament (Reprinted, Oxford, 1968) pp. 103-6.

fields,¹ much of which in this part of the county predated the registrations of enclosure agreements of land held of the Bishop of Durham recorded in the first entry book of decrees and orders of the Court of Chancery of the County Palatine of Durham.²

The city of Durham dominated the county, even though it was exceedingly small in comparison with most county towns at this time.³ Dr. Kirby has even argued that it had by 1640 been superseded by Gateshead as the most populous town in the county.⁴ The foundations of the city's domination were religious, social and political, for, as Brereton noticed, although there were "some reasonable handsome houses in this city", it was "but poor by reason here is no trade."⁵

1. SS 183 p. xvii.

2. PRO: DURH 4/1. The survival of this corpus of records only from 1633 has led to confusion, because it has been suggested that these enclosures by agreement originated at that date. Agrarian History iv p. 238. Chance evidences have survived indicating earlier enclosures by agreement. See E.M. Leonard 'The Inclosures of Common Fields in the Seventeenth Century' TRHS new series xix pp. 101-46; SS 185 pp. xvii-xviii; below pp. 766-7.

3. See, for example, the comparative population estimates given in W.G. Hoskins Provincial England: Essays in Social and Economic History (London 1963) p. 72.

4. Kirby 'Population Density' p. 91.

5. Brereton Travels p. 84. Brereton's opinion was no doubt coloured by the impression of economic vitality he obtained from his visit to Newcastle, but the deafening silence of topographers and travellers such as Leland and Aston on the question of trade, in comparison with their ample descriptions of the Cathedral and its environs, suggests its minimal significance. (In Aston's case one cannot even argue that this resulted from any massive impression created by the Cathedral. SS 118 p. 7.) One test of the state of trade would be to examine the upward social mobility of Durham merchants. Only one man in

The city itself had grown around the seats of the medieval prince-bishops' ecclesiastical and temporal power, the Cathedral and the Castle. The great Norman Benedictine Abbey and 'new foundation' Cathedral dominated the small city and its surrounding countryside; within its confines, the Bishop's throne, the highest in Christendom, served even more to emphasise episcopal power. Although the bishops had in 1536 suffered a reduction in their powers, they nevertheless still retained certain legal privileges.¹ Their continued importance in this respect as a source of patronage incidentally made Durham City a provincial centre for the legal profession, an aspect of city life emphasised by the fact that the county's Quarter Sessions were, with one

this category, Hugh Wright, managed to secure a place on the Commission of the Peace in his own right during the period under consideration. Wright's position may have owed more to his episcopal service than his trading activities. This, of course, contrasts with the inroads made into county society in Durham by the leading merchants of Newcastle. However, within limits, the enterprising Durham merchant could amass wealth, although the market from which that wealth was derived was that of the county gentry and the diocesan ecclesiastical hierarchy, rather than the citizens of Durham. See, for example, the will and inventory of the possessions of William Walton, a Durham draper who died in 1566. The list of those indebted to him is especially revealing. SS 2 pp. 253-9.

1. See below pp. 66-7.

exception, invariably held at Durham.¹ As well as fulfilling a legal function, the Quarter Sessions and the annual visit, usually in late July of the northern circuit Assize Judges, provided an excuse for the social gathering of the leading members of county society, both ecclesiastical and lay. Indeed, Aston, whose visit to the city in April 1639 closely followed the Spring Sessions, considered Durham to be almost a northern regional capital.² Although Leland found the area of the peninsula outside the cathedral close, the 'College' as it is known in Durham, comparatively insignificant,³ the North Bailey provided the most desirable lay residences in the city.⁴ Like Chichester, a city of similar size, some members of the landed gentry kept town houses.⁵ Sir John Conyers of Horden, a baronet and prominent Easington Ward J.P., was the most important of these. However, the bulk

1. The exception was the session of January, 1598. This was held at Bishop Auckland. Durham was still suffering from the effects of plague. DRO: QS/I/1. Durham's southern neighbour, the North Riding of Yorkshire, without an equivalent focal point, made do with only one common session per annum, at Thirsk after Easter. The other sessions were divided between the eastern and western wapentakes. G.C.F. Forster 'The North Riding Justices and their Sessions' NH x (1975) p. 111.
2. The session began on April 24th. DRO: QS/OB/2 p. 301. On April 29th Aston noted in his journal that "in this towne are much gentry, it beeing the London (as it were) of those north parts, which extend as farre as Barwick." SS 118 p. 7.
3. "The toun it self withyn the peninsula is but a smaull thing in respect of cumpace of al the stately close." Leland Itinerary i p: 74.
4. R. Surtees Durham iv (part two) p. 37.
5. A.J. Fletcher A County Community in Peace and War: Sussex, 1600-1660 (London, 1975) pp. 8-9.

of the residents were members of the episcopal noblesse de robe.¹

Communications between Durham and the capital were arduous. Occasionally the discomforts and intermittent dangers from Dunkirk pirates on the sea journey between Newcastle and London were preferred.² The county was bisected by the Great North Road, the principal route between the two capitals of London and Edinburgh. This road entered the county at Croft Bridge and passed through Darlington and Durham, traversing the Bishop's waste of Chester Moor, and going along the single main street of Chester-le-Street to the Tyne at Gateshead. This route must have been taken by many eminent persons of the sixteenth and seventeenth centuries: divines³, politicians, envoys, most notably Sir Robert Carey, who in 1603 made the epic journey from London to Edinburgh in only three days in his successful attempt to be the first to announce to James VI that he had entered into a greater

1. See, e.g., DCL: Hunter MS 37 f. 7.

2. For example by the Lilburnes on their return to East Thickley from Greenwich in 1619. J. Lilburne Innocency and Truth Justified (London, 1645) p. 8.

3. But not by Tobias Matthew who on his first visit to his new deanery took the alternative route from York via Yarm and Stockton. H. Gee 'A Sixteenth Century Journey to Durham' AA 3rd series xiii (1916) p. 68. Each newly appointed Bishop of Durham was to enter the diocese at Croft Bridge, or before its erection, Neasham Ford, where he would be ceremonially presented with the Conyers falchion in accordance with the ancient tenure of Sockburn manor. R. Surtees Durham iii p. 243.

inheritance south of the border¹ and monarchs, James' necessary journey in 1603 being the first time for almost a century that a reigning monarch had set foot in the county. A subsequent royal visit, that of Charles I in 1633, was preceded by a Privy Council order enjoining the improvement of roads and bridges due to be traversed by the royal party.² There was, of course, considerable scope for improvement. A Durham Chancery case heard in March 1634, but referring to abuses allegedly made for several years past, showed how susceptible the Great North Road was to mining subsidence between Chester-le-Street and Lamesley. "His Majesties people travellinge that way, many of the said ffallings being in the king's highe streete, are enforced to goe a contrarie or by way into the plaintiff's grounds whereby they are become very unprofitable being much waisted and consumed by theire dailie treading downe occasioned as aforesaid."³ Nevertheless, bad road conditions could provide an unforeseen benefit. In 1628 Cosin reported to Laud that his fellow prebendary Augustine Lindsell was "lighter by 21 stones than he was

1. Carey had landed interests in Durham County and was for a time a Durham J.P. CSPD 1603-10 p. 98; R. Surtees Durham p. 43; PRO: C181/1 pp. 42-3, 61, 111. His riding feat appears all the more remarkable when one considers that by contemporary standards he was well into middle age at the time.
2. PRO: PC2/42 p. 371. The king was due to arrive in the county at the end of May. Consequently the Justices were guaranteed a busy Spring Session that year dealing with warrants and presentments against those neglecting their legal obligations towards repair. DRO: QS/OB/2 pp. 98-106. The select vestry at Gateshead attempted to alleviate some of the burden of labour by paying a piper to entertain the work-force. Gateshead parish disbursed over £11 that year to improve the condition of the highway for the king's visit. GPL: St. Mary's Vestry, Gateshead; Minute Book, 1625-1678. f. 47.
3. PRO: DURH 4/1 pp. 130-2.

before he took his journey from London, having been troubled here with that disease these three weeks, but now growing to a faire recoverie of his health; for which, next under God, the physitian sayes he is beholden to his long travell, which by stirring of his bodie hath beene a meanes to remove and send away those tormentours that otherwise might have handled him with greater crueltie, if not ston'd him to death."¹ Road conditions continued to be deplorable despite the strenuous efforts of the justices of the peace to enforce upon householders their statutory obligations.² Matters were worsened by the unreliability of bridges, a problem which was particularly acute where bridges crossed the county boundary.³ In bad weather, unreliability turned to danger. In 1622 Richard Teisdaile of Wearhead "fell as he was going over Harthrop Bowne bridge, & light upon a stone with his head & so was slayed."⁴ Flooding could be responsible for unanticipated disasters. Thus Ralph Eden of Ivesley, third son of Robert Eden of West Auckland,⁵ forfeited an episcopal lease through

1. SS 52 p. 145.

2. It would appear that rigorous attempts at enforcement in Durham preceded such attempts in Somerset. T.G. Barnes Somerset, 1625-1640: A County's Government under the Personal Rule (Oxford, 1961) pp. 63-4, 183.

3. In the 1560s controversy had surrounded the financing of the county's contribution to the repair of the Tyne Bridge at Gateshead. During the 1630s a King's Bench ruling was necessary to solve a dispute with the North Riding over liability for the repair of Yarm bridge over the Tees. See below p. 420 n. 1.

4. Sharp Chronicon Mirabile p. 80.

5. J. Foster Pedigrees Recorded at the Visitations of the County Palatine of Durham (London, 1887) p. 111.

non-payment of rent at "which day of payment by no possibility they could observe by reason that the waters were so overflown at that time that none could pass without danger of life",¹ a financial loss which a younger son could ill afford to sustain. Unlike many counties Durham did not benefit from substantial inland waterways.² The Wear was navigable for only small vessels as far as Lumley Lock and the ambition of Durham City to become an inland port was never realistic.³ Upstream from Stockton the Tees was not navigable, while below Stockton its potential was barely exploited. The Tyne was used for passenger as well as for freight traffic.

The limited nature of its inland waterways apart, Durham can be seen in some ways as a microcosm of the nation with a remote highland zone based on kinship connections and dependent on a crude agrarian system which barely supported its inhabitants, and a lowland zone which supported a wide range of agrarian activities and varied social relationships which do not readily lend themselves to generalisation, and with a nascent industrialisation which, although not as significant as some have implied, nevertheless laid the foundations of the county's future development.

1. SS 183 p. 124.

2. Cf. Sussex, for example, where the "comparative excellence" of the inland waterways compensated for the state of the roads. Fletcher Sussex p. 7.

3. Kirby 'Population Density' p. 97 n.18.

CHAPTER TWO

THE COUNTY: POPULATION AND DISEASE

"Poor Durham this yeare was almost undone. Elvet had the plague first, which in John Talentire's house, a walker or lister, and all therein dyed: it began the 14th of May, and few or none escaped it that did not fly to other places. The poorer sort caused lodges to be made in the moore on this side Durham, and in other places about Durham, but the ayre being infectious many dyed among them."

(R. Surtees Durham iv (part one) p. 7)

"After some few moneths intermession, (the plague) hath broken out fearefully and begins to spread like wildfire, more perishing by it the first fortnight since it began or was discovered amongst us, then either formerly with us or yet with the great and mother citie of London in the first three moneths after it began with them some 11 yeres agoe."

(R. Jenison Newcastle's Call to her Neighbour and Sister Townes and Cities throughout the Land, to Take Warning by her Sins and Sorrowes Lest this Overflowing Scourge of Pestilence Reach Even unto Them Also, as Also a Direction How to Discover Such Sins as Are the Procurers of God's Judgments by Divers Methods, London, 1637)

Estimates of the population of the county during this period must necessarily be tentative. The nature of the evidence is not conducive to certainty, and consequently it is hardly surprising that the two most recent estimates of the county's population have diverged so widely. Mr. M.E. James has noticed a "perceptible upward demographic trend." Presumably this means that he thinks the population was rising. His estimates are based on the numbers of those, supposedly all adult males between the ages of 16 and 60, who attended the general musters in 1569 and 1615. Using a multiplier he has thereby concluded that the population of County Durham was about 30,000 in the former year and about 33,280 in the latter year.¹ It is impossible to reconcile these figures with Dr. Kirby's estimate of 64,470 derived from his study of the Protestation return of 1642 and the Hearth Tax return of 1666.² A useful comparison with the general muster return of 1569 is a document produced by Bishop Pilkington in response to a Privy Council order of August 1563.³ This document purported to record all the churches and chapels within the diocese of Durham along with the number of households in each. The return for Durham county is almost complete.⁴ The main difficulty

1. James Family, Lineage and Civil Society p. 7.

2. Kirby 'Population Density' pp. 86-7.

3. BL: Harleian MS 594 ff. 187-91.

4. The parish of ~~Herrington~~ has been omitted. No figure is listed for Lanchester. The parish of Hurworth was listed twice, the first time in error for the neighbouring parish of Middleton St. George, the name of the rector corresponding with that given in R. Surtees Durham iii p. 224.

in the use of this document is that the number of households listed under Auckland (St. Andrew) is 3818. This is quite clearly an absurd figure; the next highest is Darlington with 366. If the Auckland figure is ignored, the total number of households for the rest of the county is 8,647. Provided one accepts the assertion that "household size was remarkably constant in England at 4.75 persons per household at all times from the late sixteenth until the early twentieth century"¹ this gives a population of just over 41,000, Merrington, Lanchester and Auckland excepted.² The general muster roll for County Durham in 1569 is a remarkably detailed document.³ However, it appears that Mr. James's interpretation of it can be faulted on two counts; the total which he has arrived at for the total numbers mustering appears to be incorrect and his use of the multiplier of four can be questioned. The total for the county given in the document is 6,477.⁴ This includes the numbers for Bedlingtonshire which I have excluded, and making adjustments for miscalculations within the document a total of 6,352 has been arrived at.⁵ Using the

1. T.P.R. Laslett The World We Have Lost (2nd edition, London, 1971) p. 93. The usefulness of this assertion has been queried. See, for example, L. Stone The Family, Sex and Marriage in England, 1500-1800 (London, 1977) p. 690 n 32.
2. This suggests a total population in the region of 45,000.
3. PRO: SP 12/51/14.
4. This figure was used in E.E. Rich 'The Population of Elizabethan England' Econ. HR 2nd series ii p. 254.
5. Cf. James Family, Lineage and Civil Society p. 7.

multiplier four as suggested by Mr. James and Professor Rich we arrive at a population of about 25,000. Using a multiplier suggested more recently by Professor W.G. Hoskins we arrive at a figure more closely related to that derived from Pilkington's survey. He has asserted, if somewhat vaguely, that the multiplier should be six or seven, the former "conservative" figure having been adopted by the most recent historian of Newcastle.¹ A multiplier of six gives a population of just over 38,000. The muster certificate of 1580, although not as detailed of course as the roll of 1569, seems to indicate both a steady increase in population and a substantial change in the distribution of that population.² The total number of able men certified was 7,505.³ Making the possibly unwarranted assumption that the Bedlingtonshire proportion remained unchanged, I have arrived at a working total of 7,393, an increase of over 16% in eleven years. While the proportions of the population from Chester and Easington Wards were virtually unchanged, there was a considerable shift of population from Darlington to Stockton. While some of this may be explained by the dispersal of the Neville households

1. W.G. Hoskins Local History in England (2nd edition, London, 1972) p. 172; Howell Newcastle p. 4. It has been recently suggested that a multiplier of 6.5 would be "reasonable" in the border conditions of Northumberland. Watts Northumberland p. 40. Application of this multiplier to Durham would bring a total population of over 41,000.
2. PRO: SP 12/142/34.
3. Despite the insistence of the clerk who drew up the certificate that the total was 7,506.

after 1569 it is probable that the main reason would be that the mustering from Stockton Ward was more efficiently conducted in 1580. Using the multiplier of six we find a population of approximately 44,000. More information is forthcoming from a note of the numbers appearing at a muster in 1615. The total was 8,320, representing an increase in 35 years of 12.5%,¹ the rather slower rate of population growth presumably being largely the consequence of the high rate of mortality in the 1590s due to the ravages of plague and famine.² The use of the multiplier of six would suggest a population in the region of 50,000. Perhaps the most significant point raised by this document is the considerable increase in the proportion of the population resident in Chester Ward, a rise of almost 50% in 35 years. Despite the defects of the evidence this would appear to suggest the increasing importance of the industrial activities of the north-eastern part of the county. The evidence of the Protestation return of 1642³

1. DUL:Mickleton & Spearman MS 2 f.252. The document however, omitted Lanchester parish. Consequently the total given represents a small under-estimate.
2. See below chapter 2.
3. The Protestation returns listed the names of those adult males who assented to, or dissented from, the oath taken by Members of Parliament in May, 1641, "to maintain and defend ... the true, reformed Protestant Religion, expressed in the doctrine of the Church of England, against all Popery and Popish Innovations ...; as also the Power and Privilege of Parliament, the lawful Rights and Liberties of the Subjects And further ... to preserve the Union and Peace betwixt the Three Kingdoms of England, Scotland and Ireland." SS 135 p.x (In other words, it was expressed in terms which would ensure the widest possible acceptance.) The Durham returns are complete except for the parish of Staindrop. The Protestation was one of ten such oaths of loyalty imposed between 1640 and 1660. J.E.C. Hill Society and Puritanism in Pre-Revolutionary England (London, 1964) p. 396.

would suggest that the trend towards a substantially increasing population continued. Evidence from the Protestation returns indicates that some of Dr. Kirby's figures for individual parishes are in need of modification, while he also has a tendency to place certain townships in the wrong parishes, thus distorting the figures slightly.¹ Nevertheless, his estimates are by far the most convincing to have been produced for the whole county. Although his figures represent in many cases a slight exaggeration for 1642, it seems reasonably safe to assume that the county's population in that year exceeded 60,000.

Although there was a considerable increase in the proportion of the population residing in urban areas between 1558 and 1642, these areas remained few in number and small in size. At the time of Pilkington's survey in 1563 Durham was easily the largest settlement. 280 households were reported to exist on the peninsula, giving a probable population there well in excess of 1,300. The three sub-urban parishes, St. Margaret's, St. Oswald's, and St. Giles's, all included rural areas and townships, and it is not possible to determine what proportion of the households in those parishes were within the urban area. Of the three parishes, St. Margaret's was the most obviously urban, and we can safely assume that the bulk of the 208 households

1. For example, using Dr. Kirby's suggested multiplier^{of 1.468} to obtain from the adult males listed an estimate of the population of the parish^{of} Haughton Le Skerne, we arrive at a figure of about 720.⁹⁷⁴ SS 135 pp. 90-3. Cf. Kirby 'Population Density' p. 86 where a population estimate of 1,821 is given. He has incorrectly placed Tudhoe in Whitworth rather than Brancepeth and Broom in Witton Gilbert rather than St. Oswald's, Durham, Ibid. p. 87. See Appendix One for table of comparative population figures

there were in such urban areas as Crossgate, Framwellgate and Allergate. We can thus add another 900 to the city's population. A far greater proportion of the 301 households in St. Oswald's and St. Giles's was likely to be rural in character. The total population of the city therefore probably did not exceed 2,700.¹ In 1642 437 adult males were noted in the Protestation returns of the three peninsula parishes.² The use of Dr. Kirby's suggested multiplier indicates a population there in excess of 1,650. We know from the Protestation returns that a minimum of 82 adult males resided outside Elvet borough.³ If we therefore assume that 60% of the population of St. Margaret's parish came from Elvet, the population of that suburb can be estimated roughly to be 600. It seems likely that at least 1,000 of the population of St. Margaret's⁴ resided within the urban area. With the addition of the parish of St. Giles one can arrive at an approximate population figure for the city of 3,400-3,500.⁵ Gateshead was the next most populous urban

1. BL: Harleian MS 594 ff. 189-90.

2. SS 135 pp. 118-21, 126-30.

3. Ibid. pp. 146-7.

4. Dr. Kirby's estimate of the population of this parish is perhaps rather low. Use of his suggested multiplier would indicate an increase of at least 100 over his estimate of 1138. Kirby 'Population Density' p. 86.

5. This suggests that Durham remained the most populous town in the county at this time. However, it seems that the proportionate growth was rather less than that of the county as a whole, and Durham City was being rapidly overhauled by Gateshead. Cf. Ibid. p. 91.

settlement in the county, but unlike Durham its population appears to have risen substantially between 1563 and 1642.¹ Filkington's survey recorded that the parish contained 307 households.² This suggests that the population was about 1,450. It may be inferred that some 1,300 were resident in the town itself. The protestation return for the parish listed 740 persons who assented, 6 who dissented and 11 parish officers.³ This appears to indicate a doubling of the population in 80 years. Like the neighbouring parish of Whickham, the population of Gateshead had risen in response to the demands created by the development of coal mining and its ancillary industries.⁴ In 1638 it had been suggested that at least 1,000 miners were unemployed through a dispute between the Hostmen and the shipowners.⁵ It has been argued that these were only a minority of pitmen, and that they numbered at least 3,000.⁶ Given the domination

1. Although the parish was much more extensive than the town itself, the bulk of the population was concentrated within the urban area. Much of the parish was covered by Gateshead Fell which extended as far south as the Wrekendike, the Roman road from Chester le Street to South Shields. R. Surtees Durham ii p. 107.

2. BL: Harleian MS 594 f. 188.

3. SS 135 pp. 16-22.

4. Dr. Kirby has suggested that it may be significant that the population estimate obtained from the Protestation return is much higher than that from the Hearth Tax return. This, he suggests, may indicate the presence of large numbers of able-bodied miners temporarily domiciled there but normally resident elsewhere. 'Population Density' pp. 90-1. However, the Protestation was administered in winter, at Whickham on February 20th. SS 135 p. 47. This was the time of year when seasonal workers had returned to their normal places of residence. Nef British Coal Industry ii p. 148.

5. PRO: SF 16/408/57.

6. Nef British Coal Industry ii p. 138.

of the manors of Whickham and Gateshead in the coal mining industry at this time many of these 3,000 must have been resident in Gateshead. Of the other four settlements in the county which Dr. Kirby defined as urban, South Shields and Sunderland were both enjoying similar spectacular growth. According to Pilkington's survey South Shields comprised 115 households.¹ The Protestation listed 433 names.² This would appear to indicate a trebling of the population from about 550 to 1,650. Such a direct comparison is not possible in the case of Sunderland, which was not separately recorded in Pilkington's survey, though the number of households recorded in the whole of Bishopwearmouth parish was only 190.³ The combined Protestation return for Bishopwearmouth and Sunderland suggested a population of 3,000, over a third of whom resided in the small area of Sunderland borough and many more besides in the immediately adjoining area.⁴ Little need be said about the other towns. Darlington's population growth appears to have been considerably less than that of

1. BL: Harleian MS 594 f. 191. Cf. the report of 1565 which indicated that there were 51 households in the port area. CSP Dom. Add. 1547-65 p. 573.

2. SS 135 pp. 40-4.

3. BL: Harleian MS 594 f. 188.

4. SS 135 pp. 111-5, 149-52.

the county as a whole.¹ The attribution of urban characteristics to Hartlepool by Dr. Kirby appears to have been merely a technicality.² Although Hartlepool had been incorporated by Queen Elizabeth in 1593, and although there had been an attempt to secure parliamentary representation for the borough, its meagre population ensured that its functions as a town must have been very limited.³ Of all the county's parishes, Whickham seems to have undergone the most spectacular rise in population.⁴ This was understandable because of Whickham's link with the coal industry. Other partly industrialised parishes, for example Chester-le-Street, Jarrow, Tanfield and Ryton also seem to have sustained increasing populations, even if their increases were considerably less spectacular. However, apparent increases were not confined to such areas and were also

1. The populations suggested by Pilkington's survey and the Protestation returns were respectively 1,738 and 2,007, a growth of approximately 15%. BL: Harleian MS 594 f. 188; SS 135 pp. 80-4. (The parish of Darlington was more extensive than merely the area of the town, although the three outlying townships were much more thinly populated. Kirby 'Population Density' p. 92.
2. Ibid. p. 92.
3. R. Surtees Durham iii p. 105; CJ i p. 553.
4. 93 households were recorded there in 1563, suggesting a population of less than 450. BL: Harleian MS 594 f. 188. 779 names appear in the Protestation list. SS 135 pp. 47-53. This represents an increase of 573% as the population of the parish suggested by these numbers is almost 3,000.

noted in some of the more remote upland parishes, most noticeably Muggleswick, Hunstanworth and Hamsterley.¹ Had the same phenomenon been apparent in Stanhope and Middleton in Teesdale, one might have been able to assume that household sizes in the dales, where social organisation was dominated by the kinship group, were significantly higher than elsewhere. However, in Stanhope the increase was negligible; in Middleton in Teesdale it was non-existent.² Perhaps the most likely explanation of the apparently great increases in the populations of Muggleswick, Hunstanworth and Hamsterley parishes is inefficiency in the listing of the household numbers in Pilkington's survey.

Although there was a steady increase in the county's population, this increase was achieved only by surmounting the natural check imposed by epidemic disease. Whether the recurrent outbreaks were always the result of bubonic plague is perhaps open to some question.³ In contemporary writings we usually read of the "infection" or the "visitation", the latter with its underlying connotation of the infliction of disease as divine punishment for human

1. The increases were respectively 145%, 88% and 146%.
BL: Harleian MS ff. 190, 187; SS 135 pp. 34-5, 22-3, 89-90.
2. BL: Harleian MS 594 f. 188; SS 135 pp. 101-3, 98-9.
3. Cf. the suggestion that one of the main causes of death in parts of Cumberland and Westmorland in 1588 was typhus. A.B. Appleby 'Disease or Famine? Mortality in Cumberland and Westmorland, 1580-1640' Econ HR 2nd series xxvi (1973) p. 413. Other writers appear to have made little attempt at such differentiation.

wickedness.¹ Although there were exceptions,² plague was a disease which mainly afflicted the poor.³ This, it has been argued, accounted for the relative indifference of the upper classes and intellectuals towards the outbreak of the disease.⁴ They could, of course, attempt to flee from infected areas. However, when one Anthony Gilpin of Bishop Auckland attempted the same he was bound over for his good behaviour at the Quarter Session of April, 1643 "for comeing abroad being in an infected place."⁵ As well as enforcing such negative policies as the restriction of movements, the magistracy made positive attempts at alleviation of the worst effects of the disease by ordering cesses, that is local rates, to assist the afflicted, the

1. To Robert Jenison, the Newcastle lecturer, the outbreak of plague in and around that town in 1636 was "an overflowing scourge of the Lord" on "this sinfull place." R. Jenison Newcastle's Call to her Neighbour and Sister Townes and Cities (London, 1637) pp. 3-4. Bishop Matthew considered that the plague of 1597 was one of "God's great judgements for oure synnes." HMC: Seventh Report (Molyneaux MSS) p. 657. This type of attitude was not confined to Calvinists. The Arminian Thomas Jackson (born at Witton le Wear) considered that "men of covetous minds or unseasonably greedy of gain are usually soonest caught by it, though exposed to no greater or more apparent visible danger than others are." Quoted by K.V. Thomas Religion and the Decline of Magic (London, 1971) p.102
2. The 1623 outbreak in Newcastle claimed several distinguished victims including at least two former mayors and the vicar of St. Nicholas. R. Welford Men of Mark 'twixt Tyne and Tweed i (London, 1895) p. 54: A History of Newcastle and Gateshead iii (London, 1887) p. 249
3. The housing conditions of the poor, which encouraged the existence of the roof of the house-rat and of course its fleas, enabled the disease to spread. The wealthy, in their stone-built castles and stone or wooden built manor houses with more than one storey, were protected from the rat. J.F.D. Shrewsbury A History of Bubonic Plague in the British Isles (Cambridge, 1970) p. 4.
4. Thomas Religion and the Decline of Magic pp. 789-90.
5. DRO: QS/OB/3 p. 50.

amount of the cess depending on the severity of the outbreak. Thus, in 1625 a minor outbreak of infection in the Brancepeth area was made the subject of a demand for a rate of one penny in the pound, but the virulent outbreak at Gateshead eleven years later was considered worthy of a shilling in the pound rate.¹ Such attempts were doomed to be mere palliatives. The nature of the machinery of local government was such that the quick collection of rates, necessary if effective aid for the sufferers were to be provided, was impossible. Not only was the coercion of unpaid officials difficult, but the officials themselves would be most reluctant to travel through possibly infected areas to collect the money. In the face of this, the authorities were forced to rely on the traditional methods of control, the effective incarceration of the poor inside their own houses in what was usually an ineffective attempt to restrict the course of the disease, or the wholesale expulsion of the poor from the towns on to the town fields and moors surrounding, a policy attempted with disastrous consequences in Durham city in 1597.²

Little evidence appears to have survived concerning the existence of plague during the earlier part of our period. Chance references in wills seem to indicate the existence of the disease in Gateshead in the autumns of

1. DRO: QS/OB/1 p. 240; 2 p. 208.

2. See below pp. 52-4.

1570 and 1571.¹ By the second half of the following decade the evidence for severe outbreaks of the disease is far more conclusive. Although the disease had been present in Newcastle in 1585² there does not appear to be any evidence that this particular outbreak crossed the Tyne. Neither is there any evidence of an outbreak in the following year.³ However, there was an outbreak in 1587, a year in which resistance to disease had been lowered because of the extraordinarily high price of grain following two bad

1. SS 2 pp. 326, 351. The virulent and contagious nature of the disease, which provided practical difficulties in the drawing up of wills, and the fact that it was primarily a disease of the poor, make testamentary evidence an unreliable guide to the effects of an epidemic. The difficulties a plague victim could face in the disposal of his or her property were well illustrated in a testamentary case brought before the Durham Consistory court in the aftermath of the 1589 outbreak. The victim, Thomas Wilde of Kibblesworth, made his will verbally by shouting his bequests through his window to two local gentlemen, Thomas Scurfield and Ralph Lawes who were "standeing a little from his window in the streat." DPD/SR: DR/V/5 f. 27r.
2. See, for example, the will of William Grey, a Newcastle miller. SS 38 pp. 113-5. Included in the inventory were the disbursements made by the testator during his final illness, including the payment of 28s. to two women for their pains in cleansing his house.
3. Cf. James Family, Lineage and Civil Society p. 9. Mr. James suggested that there was an outbreak in 1586, and that it began in Stranton, a statement which would be more applicable to 1597. There were 18 deaths registered in Stranton in 1586, the lowest total from the start of the earliest register in that parish until 1592. DRO: EP/Str. 1. Sykes misleadingly attributed the 1597 outbreak to both that year and 1587. J. Sykes Local Records; (Newcastle, 1833) pp. 79, 81.

harvests.¹ The most remarkable aspect of this outbreak was the fact that it was almost entirely restricted to the rural parish of Hart, where Sharp recorded 89 burials.² The county again suffered in 1589 in an attack which had spread from Newcastle where fatalities from plague were said to have totalled 1,727.³ The visitation seems to have been at its worst in Durham City where it was first noticed in Gilesgate at the beginning of June.⁴ The plague was blamed for 22 of the 28 deaths registered in St. Oswald's parish in the autumn of that year.⁵ The outbreak of 1597 was probably the severest to afflict the county during the period under consideration. Once again suffering was at its greatest when the poor were least able

1. According to an entry, probably made by the vicar Charles Moberley, in the register of the parish of St. Oswald's, Durham city, "many poore people weare supposed to dye for lacke of bredde, notwithstanding greate store in the handes of the hard harted carles, yt styll rayased the price untyll harvest." The Parish Registers of St. Oswald's, Durham, 1538-1751 ed. A.W. Headlam Durham, 1891) p. 31. Many of the deaths in the parish during the summer months of 1587 can be attributed to famine. The problem seems to have been most acute in the rural part of the parish. On June 27th "a poore woman (was) buryde from Shynklye bakhouse", and later two poor children and a woman from Sunderland Bridge were also buried. Ibid. p. 31. The registers of the neighbouring parish of St. Nicholas told a similar tale. Grain prices reached their peak on July 29th. Wheat was 15s. per bushel, rye 14s. and bigg 8s. Sharp Chronicon Mirabile p. 48. Fifty inflationary years later the prices of the same products were respectively 7s., 5s. 6d., and 6s. DRO: D/Lo/F/192.
2. Sharp Chronicon Mirabile p. 8. There is no evidence of a more widespread attack. Cf. Sykes Local Records; p. 79; James Family, Lineage and Civil Society p. 9.
3. G.B. Richardson Plague and Pestilence in the North of England (Newcastle, 1852) p. 15.
4. Sharp Chronicon Mirabile p. 56.
5. St. Oswald's Parish Registers ed. Headlam pp. 33-4.

to cope with infection because of the prevailing conditions of famine. On July 11th Henry Sanderson reported to Sir Robert Cecil that many people had not tasted bread for twenty days. The hungry were "starving and dying in our streets and in the fields for want of bread".¹ The pressure on the market at Newcastle was intense. Because of the decay of tillage in county Durham thousands would have perished for want of bread, according to Dean James, had they not resorted to Newcastle to purchase corn imported there. However, Newcastle was visited by the plague and as a result the disease was spread around the northern counties.² If one accepts the inadequacy of Dean James's diagnosis, then it may also be possible to query the normally accepted explanation of the high rate of mortality in the early part of 1597.³ The earliest documented rural outbreak of the disease appears to have been at Stranton on May 31st. Yet there had already been more deaths registered there between January 1st and that date than there had been in any whole year since 1584^{from} whence the extent registers of

1. HMC: Salisbury vii p. 296.
2. PRO: SP 12/262/10, 11. James was writing in January. As the rat-flea only flourishes between temperatures of 20 and 25 degrees Centigrade, it is difficult to see how the plague could have been the disease so prevalent at the time. Shrewsbury Bubonic Plague p. 3.
3. Cf. Shrewsbury Bubonic Plague p. 254. It should be noted that Professor Shrewsbury's grasp of local detail is somewhat imprecise, relying in the main on sources of somewhat dubious accuracy. His work should be read in conjunction with the critical review by C. Morris 'The Plague in Britain' HJ xiv (1971) pp. 205-15.

deaths in that parish date.¹ A similar pattern was apparent in the larger and more densely populated parish of Whickham. There the first noted plague burial was on June 14th, but there had already been 104 deaths in the first four months of 1597.² The average number of deaths per annum over the previous six years was 58.³ The rate of mortality in the county's two main towns was horrific. A contemporary account asserted that there were 340 plague deaths in Darlington by October 17th.⁴ It is not possible to check this assertion with the parish register because of a gap in entries between October 2nd and November 30th. The disease was reported to have begun in July when 27 deaths were recorded. The totals for August and September rose to 89 and 137 respectively.⁵ About 20% of the town's population appear to have perished. The consequences of

1. DRO: EP/Str/1. The number of deaths registered in the parish during 1597 was 116. Both Sharp and Sykes give an incorrect figure of 93. Sharp Chronicon Mirabile p. 6; Sykes Local Records i p. 82. The actual number of deaths was probably much higher than 116. There was usually a tendency for deaths to go unrecorded during epidemics. The register of deaths ceased abruptly on July 27th, the next entry being on October 8th.
2. DRO: EP/Wh/1 pp. 184-6.
3. Ibid. pp. 179-84. This figure itself was distorted by the figure of 113 registered deaths in 1596. Many of these can presumably be at least partly attributed to the high price of corn and consequent famine. Indeed this seems to have been responsible for a far higher rate of mortality than the following year's plague. 21 deaths were noted without a date of burial being recorded. It seems likely that these were plague victims buried outside the churchyard and there may have been few victims whose names at least were not recorded.
4. R. Surtees Durham iv (part two) p. 7.
5. W.H.D. Longstaffe The History and Antiquities of the Parish of Darlington (London, 1854) p. 231

the visitation were even more far-reaching in Durham City. According to Professor Shrewsbury the city "certainly lost one-quarter and possibly one-third of its population."¹ He has suggested a minimum number of fatalities of 959.² Of these an estimated 400 were formerly resident in the parish of St. Oswald's. This estimate was based on the figure of 344 persons who "died within Elvitt streates."³ The inference to be drawn from that statement in the parish register is that it excludes those who had been taken out to Elvet moor and housed temporarily in booths, where many of them were to die.⁴ It is therefore impossible to estimate with any certainty the death toll in this parish. The total number of deaths given for the parish of St. Margaret's was 200.⁵ This sounds suspiciously like a rounded estimate, and it is likely that more died than this figure suggests. The total number of deaths given for the parishes of St. Giles and St. Mary's was 60 in each case,⁶ again an under-estimate likely to exclude those who made their escape from the urban area only to

1. Shrewsbury Bubonic Plague p. 254. There is an amusing misconception here by Professor Shrewsbury who lists the deaths of 24 prisoners in the epidemic, residents, he claims of the parish of St. Gaol.
2. Ibid. p. 254. The figures were originally derived from R. Surtees Durham iv (part two) p. 7.
3. Shrewsbury Bubonic Plague p. 254: St. Oswald's Parish Registers ed. Headlam p. 37.
4. R. Surtees Durham iv (part two) p. 7. The 1597 outbreak had begun in this parish, at the home of John Talentire on May 14th, one week before the disease reached Stranton. Ibid. p. 7.
5. Ibid.
6. Ibid.

perish in the suburbs. The figures given for the parish of St. Nicholas appear to be rather more convincing. In this parish the burial places of deceased parishioners were noted. Seventy victims were interred in their own church and churchyard, thirty were buried on the moor, one was buried at St. Giles, but the majority were interred in the chapel yard of St. Thomas in Claypath. There were altogether 210 recorded victims in the parish of St. Nicholas.¹

Professor Shrewsbury's suggested minimum number of deaths can, given the likelihood of unrecorded burials, be increased, and as the population of the city at this time was probably little more than 3,000, the rate of mortality seems to have exceeded one-third and may even have reached 40%.² Yet paradoxically the plague seems to have exercised the minds of the county's leaders to a far smaller degree than the threats of famine and agrarian discontent which so coloured the 1590's.³ This was particularly so in the case of William James, dean of Durham from 1596 to 1606

1. Sharp Chronicon Mirabile p. 49.

2. The only comparable visitations in the north-east during the sixteenth and seventeenth centuries were those of 1522, centred on Durham city where the death toll was said to be over 3,000, and 1636, centred on Newcastle where Dr. Jenison put the death toll of his native town at 5,027. James Family Lineage and Civil Society p. 7; Jenison Newcastle's Call p. 250.

3. Unfortunately the Quarter Sessions Order Book for this period has not survived. Therefore we have no detailed knowledge of how the county's justices of the peace coped with the problem. The fact that they temporarily deserted their normal place of meeting does not in itself suggest that they were particularly conscientious in the discharge of their duties. DRO: QS/OB/1/1. The 1597 Assizes were also cancelled. R. Surtees Durham iv (part two) p. 7.

and bishop for eleven years thereafter, for whom the decays of tillage in the 1590s were obsessional.¹

Although the plague never again afflicted the county with such vehemence, and although its end was noted in Durham city on December 7th,² the disease was never completely extirpated, occasionally breaking out to attack particular localities. Surtees discovered that the parish of Merrington suffered two years later, the township of Ferryhill being particularly badly affected with 26 deaths in August and September, 1599.³ Durham city was again afflicted by plague in 1604, although this outbreak appears to have been confined to the parish of St. Giles where there were 18 fatalities between September and January.⁴ By 1604 the civic authorities at Durham seem to have made some attempt to help combat the spread of disease by seeking to ensure that notification of the disease was prompt.⁵ Although the city of Durham was to suffer intermittent recurrences of the pestilence,

1. See below pp. 750-2.

2. Sharp Chronicon Mirabile p. 56.

3. R. Surtees Durham iii p. 283.

4. Sharp Chronicon Mirabile p. 56; Surtees Durham iv (part two) p. 7. The likelihood of the bacteria passed by the rat-flea surviving in the temperatures of a Durham mid-winter seem rather remote, and other causes will more likely explain the high mortality rate in the parish after autumn. Cf. Shrewsbury Bubonic Plague p. 275.

5. SS 160 pp 6-7. The comparatively low rate of mortality may indicate that these measures were reasonably successful, although it is difficult to avoid the impression that nothing would have been done had not the outbreak coincided with the date set aside for the annual election of officers.

it was never again to be ravaged in such a manner. The main determinant of the subsequent areas of affliction was proximity to Camden's "eye of the north." Most subsequent outbreaks until the early years of the Civil War either began in Newcastle or were effectively restricted to the semi-industrialised north-east part of the county. Thus in 1609 and 1610 there was an extensive outbreak in Newcastle¹ which soon spread south of the Tyne to affect the parishes of Whickham and Lamesley. The number of plague deaths in Whickham in 1610 is not absolutely clear. The register of deaths, a later transcript of the original document, has been copied in a somewhat confusing manner. However, of the 38 deaths registered in August and September about 30 seem to have been the definite result of plague. These include the deaths of Francis Heron and four children who "died on the Fell", possibly an example of the same type of expulsion of the poor on to the town fields and moors as had occurred in Durham city in 1597.² In the neighbouring parish of Lamesley 28 deaths "of the pestilence" were recorded.³ The outbreak of 1623 was restricted to Newcastle, and the high rate of mortality in the county can be attributed to the dearth following the bad harvest

1. G.B. Richardson Plague and Pestilence p. 23; Shrewsbury Bubonic Plague p. 303.

2. DRO: EP/Wh/1 pp. 195-6. This practice was followed in the regular but intermittent outbreak from 1644 to 1647. R. Surtees Durham ii p. 242.

3. Ibid. p. 207; Richardson Plague and Pestilence p. 303.

of 1622.¹ In 1625 the outbreak in Newcastle, which recurred in the following year,² spread directly across the Tyne to Gateshead where 89 burials were recorded.³ Although the outbreak of 1635 was the worst to hit Durham county since 1597, its greatest ravages were suffered on the north bank of the Tyne. The disease erupted in North Shields in October 1635.⁴ By the following May the epidemic had worked its way upstream. The effects were devastating.⁵ It was not long before the infection crossed the river and Gateshead suffered accordingly, though not to anything like the extent of its northern neighbour. "Less is known about how hard Durham was hit, beyond the 515 dead in Gateshead", writes Mr. M.E. James,⁶ thus perpetuating a myth which has beguiled historians of north-east England for almost a century. Richard Welford and

1. See, for example, the number of deaths of "poor travellers", particularly in parishes like Darlington and Merrington which included principal thoroughfares. Longstaffe Darlington p. 232; Sharp Chronicon Mirabile p. 21. On famine as a cause of mortality in Cumberland and Westmorland during this year see Appleby 'Disease or Famine?' pp. 429-30.
2. In May 1626 the sheriff of Durham wrote that he desired to meet the mayor of Newcastle at Durham or some other convenient place, the sickness being so widely dispersed at Newcastle. DUL: Mickleton & Spearman MS 2 ff. 389-90. See also Bodleian: Tanner MS 72 f. 150.
3. H. Surtees Durham ii p. 122. The figure of 89 appears to represent all the deaths in the parish in that year, not only plague deaths. In the following year Gateshead escaped, but plague deaths were registered in neighbouring Whickham. Sharp Chronicon Mirabile p. 58.
4. Jenison Newcastle's Call p. 4.
5. Ibid. pp. 5, 250-1. On the measures used to combat the outbreak see G.B. Richardson Plague and Pestilence p. 30. On the actual number of fatalities see Howell Newcastle p. 7; Shrewsbury Bubonic Plague pp. 382-4.
6. James Family, Lineage and Civil Society pp. 8-9.

Professors Howell and Shrewsbury have made the same error.¹ The misconception appears to have arisen from a misreading of the text of Robert Jenison's Newcastle's Call in which the author reported that 515 people were buried "in Garth-Side in Newcastle" during the epidemic.² The garth-side was not, however Gateshead, commonly known as Gateside during this period so the slip is understandable, but the area to the south of the castle through which the main railway to Edinburgh now runs.³ Because of this misreading the effect of the plague on Gateshead has been exaggerated, and the apparent contradiction which Professor Shrewsbury discerned between his figures and those supplied by Surtees can be explained.⁴ Although there were no doubt some unregistered deaths, the parish registers indicate a rather lower rate of mortality. Altogether there were 286 deaths registered in the parish in 1636, the average annual number registered over the previous five years having been 104.8. The peak period of the plague was June and July when 158 deaths were recorded,⁵ although seven of the deaths in June were not,

1. Welford Newcastle iii p. 337; Howell Newcastle p. 7; Shrewsbury Bubonic Plague p. 382.
2. Jenison Newcastle's Call pp. 251-2.
3. Many of the 515 skeletons were unintentionally exhumed when the railway was being built in the 1830s. G.B. Richardson Plague and Pestilence p. 28.
4. Shrewsbury Bubonic Plague p. 382. Surtees noted 200 plague deaths in Gateshead by September 30th. R. Surtees Durham ii p. 122.
5. The peak of this outbreak was reached remarkably early. See Shrewsbury Bubonic Plague p. 384.

it appears, caused by plague. In August and September, 47 burials were recorded. However, in the last three months of the year the difference in the number of registered deaths and the average number of registered deaths for the last three months of each year from 1632 to 1640 was hardly significant.¹ Nevertheless, the importance of the visitation can be attested by the reaction of the justices of the peace at the quarter session of July 12th. The cess of one shilling in the pound imposed then "for the present relieve of the infected persons at Gateside" should have brought in just over £360.² By October, when the collectors were ordered to pay up at least some of the money, the worst ravages of the plague in Gateshead had been spent. Therefore it was decided to send two-thirds of the money to South Shields.³ Presumably South Shields had suffered a similar visitation, although I have not found any confirmatory evidence of this.⁴ The more southerly parts of the county escaped more lightly. On July 28th Bishop Morton reported to the Privy Council that

1. GPL: Gateshead Parish Register (Transcript).

2. DRO: QS/OB/2 p. 208. The rateable value of all lands in the county in the following year was £7202 18s. 1d., although George Martin, the county's Ship Money treasurer, had calculated it to be one shilling less. DCL: Hunter MS 22/19 ii. The county's ratepayers seem to have been somewhat remiss in their support of this worthy cause. At the following session in October the collectors of the cess were ordered to pay what had been collected. It was assumed that they would only have collected £150. Even so, there was a proviso that the clerk of the peace should make up any shortfall from £150. DRO: QS/OB/2 p. 218.

3. Ibid.

4. There is no extant parish register for the chapelty of St. Hild's in South Shields at this time.

"nyne miles beyond Durham, God be thanked, it is verie safe, and on this syde only two howses twelve miles off have been infected". The bishop went on to praise those who had been appointed to watch for outbreaks of the disease and to attempt to convince a probably dubious Council of the efficacy of the arrangements made for the safety of the assize judges.¹ Between 1636 and 1644 there were intermittent outbreaks of epidemic disease. In 1644 Framwellgate was affected and a cess of 3d. in the pound was imposed for relief of the sick there.² Outbreaks were also reported in that year at Whickham and Eggescliffe.³ Two outbreaks of infection in Durham city in 1637 and Whitburn in 1638 were marred by suspicions of maladministration of funds raised to aid the infected. In Durham the suspect was the mayor, John Heighington, none of whose financial dealings pass close scrutiny.⁴ He came under suspicion during the quarter session of January 1638. Early in the meeting he was one of four justices appointed to examine the accounts of the

1. DUL: Mickleton & Spearman MS 25 (Unclassified loose paper).

2. DRO: QS/OB/3 p. 57.

3. Shrewsbury Bubonic Plague pp. 404-5. The confusions of the Whickham parish register have led Professor Shrewsbury to unnecessary speculation as well as grammatical error. The rector, not vicar, of Whickham did not die during the visitation. In fact he survived until after the Restoration when he became Dean of Lichfield. R. Surtees Durham ii p. 241.

4. Doubts were raised concerning Heighington's financial integrity over his administration of Smith's Charity, a fund for which the corporation of Durham was responsible. Furthermore, Bishop Morton alleged that his assessments of the city's inhabitants towards payment of Ship Money were disproportionately severe on the poor. See below pp. 337-9.

High Constables referring to the relief of the sick.¹ Later, however, the insinuation against him was clear. The sum of £80 was "pretended ... to be by him layd out" on behalf of the infected people within the city.² Subsequently the insinuation was rendered more formal by indictment.³ Fortunately for Heighington the indictment was quashed, although the suspicions of the bench were not removed and in 1640 several justices of the peace were appointed to re-examine the matter. In the meantime Heighington was to "give a note of the number of those that were shutt up and infected that the Contrey may be provided to answeare."⁴ In Whitburn those suspected of misappropriation were the parish constables Thomas Lettany and Cuthbert Bainbridge, and although the amount of public money involved was trivial⁵ the case had unexpected repercussions when Lettany and Bainbridge petitioned Parliament for redress of their grievances. In their petition they claimed to have disbursed £76 12s. 4d. of their own money to assist the infected.⁶ Matters were complicated by a further outbreak of epidemic disease in Whitburn and the

1. DRO: QS/OB/2 p. 242.

2. Ibid. p. 256.

3. Ibid. p. 259.

4. Ibid. p. 322.

5. The original cess had been 1s. in the pound for the parish of Whitburn alone. DRO: QS/OB/2 p. 263. According to the unrevised Book of Rates then in operation this should have amounted to £3 12s. 11d. DCL: Hunter MSS 22/1.

6. HMC: Fourth Report (House of Lords papers) p. 110. They also alleged that they paid the contribution of the parish towards powder and match for the trained bands before the anticipated invasion of the Scots in 1639.

neighbouring parish of Monkwearmouth.¹ The response of the magistrates to the petition was procrastinatory. They desired that the account of the disbursements be first audited by Sir Thomas Swinburne,² but eventually some fourteen months after the judgment they agreed to abide by the ruling of the assize judges that Lettany and Bainbridge be reimbursed.³

The maladministration and inefficiency of official provision for victims of the plague is perhaps symptomatic both of an official attitude which was casual except when the authorities felt directly threatened and of a popular attitude which encouraged fatalism and an acceptance of the righteousness of the divine wrath which exerted such a terrible toll. Naturally, these two attitudes were mutually reinforcing. Fatalistic attitudes were reinforced by the published and no doubt also the pulpit pronouncements of divines while the official attitude must have been partly conditioned by the apparent equanimity and resignation with which the poor met their fate. Together, these attitudes contributed to a social harmony which must on the surface have appeared paradoxical.

1. Relief was provided through a cess of 8d. in the pound levied on five surrounding parishes. DRO: QS/OB/2 p. 319.

2. DRO: QS/OB/3 p. 48.

3. Ibid. p. 57.

CHAPTER THREE

THE OPERATION OF THE PALATINATE OF DURHAM

"But wee thinke it a verie straunge attempte that injuncons shold com forthe under that countie pallatyne seale to comandd men to surcease theire sutis before her Majesties President and Counsell in the North such hath the nowe bishop of that sea awarded sithens the death of the laste Lord President."

('Touching the commission for the councell established in the north parts'. PRO: SP 12/259/100.)

"The Court of Chancery of this County Palatine was anciently and still is as a court of exchequer for the bishop's revenue, to determine matters between him and his tenants, and was not considerable or in tolerable order, the proceedings being in paper and irregular, till Cardinal Wolsey's time who reformed and improved it, wherein equitable affairs of the subject are determined for this county, as at Westminster, by persons of worth and learning who have filled the bench by patent for life under the bishop's Great Seal."

(J. Spearman An Enquiry into the Ancient and Present State of the County Palatine of Durham, 1729.)

Durham was one of the three counties palatine of medieval England. The others, Lancashire and Cheshire, were also located in the north. Their historical development was different, for their respective palatinate lordships came ultimately to rest in the person of the monarch. Cheshire's distinctiveness, it has been argued, reached its apogee in the mid-fifteenth century, and, despite the challenge to palatinate independence associated with the later years of the reign of Henry VIII, the remnants of palatinate development continued to exert influence on the county's community and institutions.¹ To a large extent, of course, the three English counties were never palatines in the strictest sense of the word which demands the full exercise of royal privileges and jurisdiction within the geographical limits of the palatinate. Thus, in medieval Durham the seizure of the bishopric by the monarch could follow too arrogant a flaunting of his privileges by the bishop.² A recent historian of the medieval palatinate of Durham has stressed the limitations of the palatine jurisdiction. Indeed, she argues that the three palatinates all possessed 'inflated reputations'.³ This, of course, runs counter to the ideas of Lapsley, who 'was so fascinated by the idea of the bishopric as a microcosm of the realm that he forced its institutions into unrealistically formal patterns and, overvaluing Durham's theoretical claims, gave inadequate consideration to the

1. J.S. Morrill Cheshire, 1630-1660 County Government and Society during the English Revolution (Oxford, 1974) pp. 1-2.

2. J. Scammell 'The Origin and Limitations of the Liberty of Durham' EHR lxxxix (1974) p. 472.

3. Ibid. p. 452.

practical strength of the monarchy, the importance of personalities and the pressure of expediency'.¹ This criticism may be rather unfair for Lapsley did acknowledge that in the relationship between king and bishop there were "constant discrepancies between theory and practice."² What is clear is that during the later Middle Ages the bishops of Durham, though their freedom of action could be circumscribed by such variables as differing royal attitudes to the iura regalia and to the exhibiting of signs of episcopal independence, Anglo-Scottish strategic considerations and the varying interpretations by individual prelates of the practical limits of their palatine jurisdiction, were able to exercise various functions which were normally the preserve of the monarch. Professor Jones has argued that the palatines had decayed by the end of the fifteenth century.³ He offers no evidence to substantiate this statement, although there are indications that the peculiar national conditions of the second half of the century may have tended to limit the degree of jurisdictional and administrative independence which the bishops of Durham had hitherto enjoyed. Lapsley considered that Bishop Langley had not been unduly perturbed by having been ordered, according to the terms of an act of Parliament

1. Ibid. p. 449.

2. G.T. Lapsley The County Palatine of Durham: a Study in Constitutional History (Cambridge, Mass., 1899) p. 76.

3. W.J. Jones 'Palatine Performance in the Seventeenth Century' in The English Commonwealth, 1547-1640: Essays in Politics and Society Presented to Joel Hurstfield ed. P.A. Clark, A.G.R. Smith & N.R.N. Tyacke (Leicester, 1979) p. 189.

to which as a member of the House of Lords he had subscribed his support, not to receive, or by implication, to cause or suffer to be received, any felons or outlaws from outside the liberty. Furthermore, he was instructed to summon an assembly of persons from the liberty to administer to them an oath to abide by the provisions of the statute. Just over thirty years later, in 1466, Bishop Booth had to be reminded of the terms of the act. This casts grave doubts about the effectiveness of the act's enforcement.¹ Booth, by his skilful manipulation of the warring factions of Lancaster and York, appears to have been able to maintain the palatine's privileges. Originally a supporter of the Lancastrians in the Wars of the Roses, he was deprived by Edward IV in 1462, but was reinstated after two years and later received further preferment in the shape of the Lord Chancellorship and Archbishopric of York.² In 1470 he was able to obtain from the king an acknowledgment of his right to the forfeitures of the palatinate in general and the disputed Barnard Castle lordship in particular.³ However, the position was to change suddenly and dramatically through Edward's employment of his brother, the Duke of Gloucester, as the effective ruler of the north. The nature of Gloucester's task and the maintenance of palatine privileges were clearly incompatible. Gloucester's power was based

1. Lapsley County Palatine pp. 227-8.

2. R. Surtees Durham i pp. lviii-lix.

3. Lapsley County Palatine pp. 46-7.

on the possession of lordships in north Yorkshire and south Durham. One of his retainers was Sir George Lumley, sheriff of Durham from 1470 and heir of one of the county's most powerful magnates. Gloucester and various of his retainers were added to Durham commissions after the appointment of Bishop Dudley in 1476. A year later Gloucester, not the bishop, was the recipient of a petition from Gerard Salvin of Croxdale.¹ During Dudley's episcopate Anglo-Scottish relations were deteriorating, and although in 1480 the bishop went through the pretence of issuing his own commission of array for the raising of the forces of the palatinate to fight under Gloucester, a later commission was issued by the king direct to his brother, by-passing episcopal authority altogether.² Palatinate impotence was implicit in Bishop Routhall's plea to Wolsey in 1511 about the failure of royal officers to return fugitives from Durham for punishment.³ The position of Wolsey as the king's chief minister and absentee bishop of Durham confirmed the tendency towards subjugation of palatinate privileges. Consequently, in practical terms the Act of Resumption of Liberties in 1536 emphasised the existing relationship between Crown and bishop almost as much as it redefined it.

It is, of course, a truism to suggest that the institutions of the palatinate had both administrative

1. M.A. Hicks 'Dynastic Change and Northern Society: the Career of the Fourth Earl of Northumberland, 1470-89' NH xiv (1978) pp. 85-6.
2. Lapsley County Palatine p. 307: R. Surtees Durham i p. lx.
3. Lapsley County Palatine p. 252-3.

and legal significance. The palatinate's administration devolved upon two types of officers appointed by the bishop, either as county officers fulfilling the same or a similar role as their counterparts elsewhere or as officers appointed specifically to enforce the bishop's iura regalia, often performing the same functions as those performed in other counties by officers of the Crown or their nominated deputies. The most significant officer of the first type was the sheriff, appointed by the bishop usually for life and answerable to him and not to the Exchequer. Otherwise, his tasks were comparable to those which sheriffs performed in the rest of the country.¹ Most of the bishop's significant officers came into the second category. The most important officer whose duties were a local microcosm of the national equivalent was the Chancellor.² However, the analogy between the chancellor at Durham and the Lord Chancellor should not be pressed too far, for the development of an equity jurisdiction under the Durham Chancery came rather late.³ Indeed, it can be claimed that this tradition was stronger after 1536 than before it.⁴ However, one similarity between the two offices was that the Durham Chancellor had the keepership of the Great Seal of the County Palatine in the same way

1. Ibid. pp. 80-6 and below chapter six passim.

2. The Chancellor of the County Palatine should not be confused with the Chancellor of the Diocese. Local casual usage often failed to make the necessary distinction.

3. Lapsley County Palatine pp. 188-9.

4. This supposition is suggested by the issue in 1596 of a book of rules regulating the court's practice. Ibid. p. 198.

that the office of Lord Chancellor came to comprehend the keepership of the royal seal. The Durham chancellor in addition bore a heavy administrative burden before 1536.¹ The bishops also employed an attorney-general, an officer who first appeared in 1307. His duties partly reflected those of the royal equivalent, for the bishop's attorney-general represented episcopal interests in the bishop's own courts. However, he also defended episcopal interests in the royal courts.² Among the other officials whose tasks embraced both legal and administrative duties were the coroners. They performed a wide variety of duties, collecting rents and issues as well as fulfilling the tasks more normally associated with the office.³ The position of steward of the bishopric, of fundamental importance during the thirteenth and fourteenth centuries, later declined in significance. The office should not be compared with the feudal office of lord high steward of England.⁴

The legal foundation for the upkeep of the palatine privileges safeguarded by these officers was the claim that the king's writ did not run within the palatinate's area. This claim was more apparent than real. The bishops enforced parliamentary statutes. There was throughout the period from the Norman Conquest to the Act of Resumption in 1536 'a perceptible drift toward the extension of royal justice at the expense of the palatine

1. Lapsley County Palatine pp. 96-7.

2. Ibid. p. 179.

3. Ibid. pp. 87-8.

4. Ibid. p. 80.

immunities and privileges'.¹ Durham could even find itself subject to the burden of parliamentary taxation. By the middle of the fifteenth century local consent to this was 'becoming a formality after the fact'.² However, the bishop did benefit materially from the possession of several privileges, profits from the wardship of minors who held land of the bishop by knight's service, profits from the bishop's admiralty jurisdiction and proceeds from criminal forfeitures. Furthermore, his influence was bolstered by his powers of pardon and appointment of justices of the peace and judges of assize. There was considerable dispute over the geographical extent of these powers exerted by the bishop. The lordship of Barnard Castle was the subject of a recurring controversy between bishop and crown, having twice been granted out by the latter without reference to palatinate rights.³ The bishop's regalian rights extended outside the area bounded by the rivers Tyne and Tees. Norhamshire, Islandshire and Bedlingtonshire in Northumberland were administered as part

1. Ibid. p. 258.

2. Ibid. p. 118.

3. The bishops claimed that the lordship was a parcel of the wapentake of Sadberge acquired by Bishop Puiset towards the end of the twelfth century. This wapentake retained its distinctive nomenclature in official documents long after its incorporation in the county palatine. On the various medieval dispositions of Barnard Castle lordship see R. Surtees Durham iv (part one) pp. 50-1, 64.

of the palatinate as was the manor of Craike in Yorkshire.¹

That the Act of Resumption of 1536 had a significant effect on the powers and privileges described cannot be denied. However, its effect was much less significant and straightforward than was admitted by generations of Durham antiquaries and historians who interpreted it as a manifestation of the centralising tendencies of an ill-disposed government which had no regard for the ancient traditions surrounding St. Cuthbert. Furthermore, there have been misinterpretations of the terms of the act itself. The act's effect on the iura regalia of the bishops of Durham, which inter alia it was attempting to dismember, was mixed. Some aspects of palatinate power were removed and others reduced. On the other hand, some remained untouched and in the course of time were able to develop vigorously a new form. The most important feature of the act was that it transferred episcopal jurisdiction in criminal matters to the Crown. Only the monarch was to have authority to pardon treasons, felonies and outlawries. Hitherto, the bishops had exercised this right in the palatinate.²

Writs, indictments and processes were to be made only in the king's name. In light of the steady diminution in the degree of palatinate independence in over half a century before the passing of the act, this change was perhaps

1. The bishops also possessed the lordships of Allertonshire and Howdenshire in Yorkshire, but did not enjoy regalian rights there. BL: Lansdowne MS 8 No. 84.

2. SK iii p. 555. On the bishops' use of pardoning power hitherto see Lapsley County Palatine pp. 68-70.

more cosmetic than fundamental.¹ Justices of the peace and judges of assize and gaol delivery were to be appointed by letters patent under the Great Seal of England.² The loss of the right to appoint J.Ps. was perhaps the most grievous of these. Through this the bishop lost one of the most effective means of exerting control and influence over some of the more important of his subjects who were instead likely to become more responsive to national demands.³ In practice the bishops had already surrendered the appointment of judges, for the judges of assize of the northern circuit were usually empowered under the bishop's seal to hear cases in the palatinate's common law courts anyway.⁴ The monarch was to take fines and amercements which might be imposed upon judicial officers for neglect in the performance of their duties.⁵ All of these changes in the law stemmed logically from governmental desire to transfer much of the bishop's dignity to the king. However, the act did not seek to dismember totally the bishop's regalian rights. Although legal process was now to be conducted in the king's name, the traditional courts of the palatinate were allowed to continue, with marked consequences both for

1. SR iii p. 556. See above pp. 64-8.

2. SR iii p. 556.

3. There is a widespread misapprehension that the bishop still retained the power to appoint his own justices of the peace after the passing of this act. The error was even made in 1621 by a subsequently eminent member of parliament. Common Debates, 1621 ed. W. Notestein, F.H. Relf & H. Simpson (New Haven, 1935) iv. p. 284

4. Jones 'Palatine Performance' p. 193.

5. SR iii p. 556.

the volume of local litigation and for the ability of the comparatively poor to go to equity to prosecute a claim. The bishops, of course, also derived considerable legal benefits from the continuation of their courts.¹ The act did not attempt to detach the scattered members of the palatinate, although arguments in favour of this course of action were put forward in the seventeenth century.² The bishop continued to enjoy the profits of wardship, admiralty jurisdiction and forfeitures, although the latter was withdrawn pro hac vice on the occasion of the 1569 rebellion.³ The bishop continued to appoint his palatinate officers, and although these posts were no longer as significant as they had been before the act, they were still seen as useful additions to a gentleman's prestige and local importance. The bishop also continued to appoint the sheriff who regarded himself bound to account with his appointer and not with the Exchequer.⁴ Why did the government adopt this curious compromise? The general level of care devoted to the framing of statutes during the Reformation Parliament does not suggest that this could have been the result of governmental ineptitude, but rather that it was part of a deliberate attempt to make the reform appear as moderate as possible to the act's potential opponents. The historian of this parliament has not discussed the circumstances of

1. See below pp. 110-2.

2. CSPD 1625-6 p. 165.

3. See below pp. 74-8.

4. See below pp. 317-8.

the act's passage.¹ Presumably lack of evidence precludes this.

The powers of the bishops of Durham had been circumscribed both by the terms of the Act of Resumption and also by the gradual incursions upon their prerogatives which had characterised governmental responses to Durham for over half a century prior to 1536. Nevertheless, episcopal influence in Durham remained more extensive than that enjoyed by any other mere English diocesan. It was dependent partly upon the bishop's interpretation of the breadth of his remaining palatine powers, the wealth which the see enjoyed and the extent to which the government was prepared to entrust the bishop with the unofficial role of a northern political agent. Only three of the bishops in the period under consideration appear to have been able to maintain or extend palatine privileges, and it is no coincidence that two of

1. S.E. Lehmborg The Reformation Parliament, 1529-1536 (Cambridge, 1970). Cf. the idea that this bill represented 'a general statement of policy' rather than a 'piecemeal suppression of such franchises'. G.R. Elton England Under the Tudors (London, 1955) p. 175. Professor Elton has argued that Cromwell himself was responsible for the drafting of this act and its preamble. Ibid. pp. 175-6. It is difficult to measure the exact effect of the act upon its opponents. The bishop was unconcerned at the loss of most of his regalian rights; in any case he was compensated with the presidency of the Council of the North. Many of the county's magnates became involved in the Pilgrimage of Grace. These included men like Sir Thomas Tempest and Sir Robert Bowes who had previously benefited from their service to the crown. Numerous Durham men joined the Pilgrimage, following the symbol of the palatinate, the banner of St. Cuthbert. Their commitment to the cause can be doubted for they were not involved in any hostilities. Popular discontent in the north was much more closely associated with areas which had not been affected by the act. On the Pilgrimage in County Durham see James Family, Lineage and Civil Society pp. 45-8.

the three, Matthew and Neile, were regarded with considerably more favour as crown servants than the other holders of the office. Bishop Pilkington tried manfully though ultimately unsuccessfully to maintain his position. He was twice placed in an invidious position for financial reasons by the parsimonious Elizabethan administration. On appointment to the see a substantial proportion of the episcopal estate was detained by the crown.¹ This had a twofold significance. Not only was the revenue from the lands transferred from the bishop to the crown, the detention also had implications for the bishop's remaining regalian rights, enforcement of which could be contested in those lands which had been detained.² The lands were eventually restored on payment of an equivalent rent-charge, which suited the crown because of the greater ease of collection and appealed to Pilkington because it ensured the maintenance of his rights over the whole of the palatinate.³ The second occasion on which Pilkington's

1. Estimates of the exact annual value of the lands detained vary. According to Pilkington himself the total value was £970. 2s. 11d. BL: Lansdowne MS 8 no. 84. In 1561-2 this would have been deducted from an episcopal income of £2876 7s. 8½d. DPD/SR: CC 190143. On the relationship between Pilkington's political and ecclesiastical roles see below pp. 432-5.
2. BL: Lansdowne MS 8 no. 84. It would have been difficult under feudal practice for Pilkington to claim forfeitures on lands detained by the crown. Furthermore, the bishop argued, lands which were detained from their rightful lord, i.e. himself, could not be sold.
3. With the exception of Norham and Northamptonshire the detained lands were restored with effect from Lady Day 1566. CPR 1563-6 pp. 496-7. The rent-charge was computed by Lord Treasurer Winchester and Sir Walter Mildmay, the Chancellor of the Exchequer at £1,000. CSPD 1547-80 p. 273.

rights were threatened came in the aftermath of the 1569 rebellion. According to the remaining regalian rights Pilkington should have been entitled to possession of the lands within county Durham of those rebels who were to be attainted for treason. The government, however, had other ideas. The rebellion had proved expensive to suppress, although it could be argued that much of this costliness stemmed from the over-reaction of central government to the threat represented by the rebels.¹ The government, in its desire to meet the charges of suppression without recourse to the raising of extraordinary revenue, sought to maximise possible gains from rebels' forfeitures, which, among other things, involved the staying of the execution of martial law against wealthier rebels. The crown had an incontestable right to the forfeiture of those rebel lands outside the county of Durham. However, in order to maximise their profits and, in particular, to secure the large Neville estates in the county, ministers needed to devise a legally acceptable means of diverting the estates from their rightful recipient, the bishop, to the crown. The government could easily justify this course of action by reference to Bishop Pilkington's actions, or rather lack of them, during the rebellion. Before the first sign of trouble Pilkington had fled from Durham.² As the bishop had played no part in the suppression, it was argued,

1. CSP Dom. Add. 1566-79 pp. 181, 161

2. Ibid. p. 87.

neither should he benefit from the suppression.¹ The bishop had in fact been aware from an early stage of the government's intention, and as well as the likelihood of financial loss, he must have been perturbed by the implication that the iura regalia was retained only at the sufferance of the monarch. As early as January 1570, however, he appeared to have resigned himself to the crown having the disposal of forfeitures, for he warned Cecil that "iff the forfeited landes be bestowed on such as be strangers & will not dwell in the cuntre, the peple shall be without leaders, the cuntre desert, & no number of freeholders to doe justice."² Indeed, a note by Cecil suggests that his acquiescence was willing enough. The bishop had been willing to release his forfeitures, a proportion of which he was to receive for bestowing upon schools in the bishopric.³ However, by April 1570 it appeared that, during Pilkington's continued absence, precedents had been shown locally in favour of the bishop's right to forfeitures. There is no evidence to demonstrate conclusively that this was done on Pilkington's initiative, and the general tenor of the report, by the Attorney-General, Sir Gilbert Gerard, seems to imply that this stemmed from a local initiative, presumably by some of the bishop's officers.⁴ In contrast to his earlier acquiescence, the

1. This was the implication of the legal argument put forward for the Crown's retention of the forfeitures in the Act for the Confirmation of the Attainders of the Earl of Westmorland, Earl of Northumberland and Others.
SR iv pp. 549-52.

2. BL: Lansdowne MS 12 No. 29.

3. PRO: SP 12/66/45.

4. CSP Dom. Add. 1566-79 p. 267.

bishop decided to contest the Crown's right to the forfeitures in law, only to be frustrated by the retrospective statute of 1571 which gave the forfeitures on the occasion of the rebellion to the crown while purporting not to interfere in the subsequent exercise of the bishop's remaining regalian rights in the palatinate.¹ Pilkington's inability fully to maintain his regalian rights, despite his strenuous attempts to do so, reflected his comparative lack of influence in government circles. Both his initially concealed marriage and his radical standpoint in the vestiarian controversy helped to ensure that he never enjoyed the confidence of his queen, even though he did enjoy the approbation of her favourite, the Earl of Leicester.² His relations with Cecil, although formally cordial, remained distant.³ In the circumstances, therefore, his

1. SR iv pp. 549-52. A further argument in favour of Pilkington's energetic defence of his regalian rights has been adduced by Mr. James. He has argued that Pilkington "prepared the way too for the defeat of the renewed attempt of the Corporation, just before the Parliament of 1576, to annex the town of Gateshead and reduce the liberties of the Palatinate." James Family, Lineage and Civil Society p. 150. In fact the attempted annexation was made after the death of Pilkington while the see was still vacant. PRO: SP 12/107/57. It was the coincidence of a vacancy and the calling of a parliament which tempted the burgesses of Newcastle to make their greedy proposal.
2. SS 38 p. 8; BL: Lansdowne MS 7 No. 88 printed in J. Pilkington Works ed. J. Scrofield (Parker Society, Cambridge, 1853) p. 237. Pilkington's closest aristocratic connection was with the aggressively Protestant Earl of Bedford who was both an executor of his will and the godfather of one of his daughters. SS 38 pp. 9, 11.
3. His frequent correspondences with Cecil remained formal. Cecil never displayed the same sort of interest in him as he did, for example, in Bishop Matthew.

persistence in the dispute over the delayed full restitution of his temporalities was creditable.

His successor, Richard Barnes, a sound ecclesiastical administrator,¹ was never able to cope satisfactorily with the temporal side of his duties and consequently the regalian rights of the bishop were subjected to much pressure. This was demonstrated most clearly in an area in which temporal and spiritual rights were closely connected. One of the ecclesiastical benefits which accrued from the palatine status of the bishops of Durham was their freedom from archiepiscopal direction in the matter of diocesan visitations. Barnes threatened this time-honoured privilege by willingly acceding to the request of Archbishop Sandys to conduct with two other clerics a visitation on his behalf, a decision which incurred the wrath of Dean Whittingham, rather an unlikely defender of such an ancient liberty.² Barnes also showed himself ignorant of the connection between wealth and local power by allowing the Queen a long lease of his lucrative manors of Gateshead and Whickham, at the time the centre of the coal-mining industry.³ His succumbing on this occasion to royal pressure did as little for his relationship with his monarch as it did for his relationship with the local inhabitants, and he was held in so little regard that his temporal chancellor, Thomas

1. See below pp. 441-4.

2. DCL: Hunter MS 35a ff. 3-4; 'Life of Mr. William Whittingham, Dean of Durham' ed. M.A.E. Green, Camden Miscellany vi, Camden Society (1871) p. 27.

3. See below pp. 445-6.

Calverley, was able to ignore his attempts to interfere with the dispensing of justice in his court of Chancery.¹

Matthew Hutton was able to demonstrate a much clearer degree of independence in spiritual affairs than his predecessor and was also a stout defender of his rights of patronage against the attempted manipulations of Sir Robert Cecil.² Yet, he does not appear to have been able to maintain the same degree of independence in palatinate affairs, even though years later Archdeacon Morton claimed that Hutton had become exceedingly covetous after the acquisition of his iura regalia, implying that he interpreted his regalian rights rigorously.³ There is evidence to the contrary. In 1589 the Privy Council peremptorily instructed Hutton to deal with his chancellor for the latter's alleged oppression of a poor defendant in his court. In the following year the matter was taken out of the bishop's hands completely when the assize judges were ordered to deal with the case.⁴ Furthermore, Hutton does not appear to have opposed the grant of a royal charter to Hartlepool in 1593. The queen had little justification for such an action even though the town had received a royal incorporation from King John. From the end of the thirteenth century episcopal rights there, though much disputed, had never been denied. The queen acted at the behest of

1. PRO: SP 12/162/46.

2. See below pp. 455-8.

3. PRO: SP 14/88/94.

4. AFC 1589-90 pp. 181-8; 1590 p. 195.

Lord Lumley who claimed lordship rights in the port.¹
Episcopal rights there were restored thanks to the opposition of Bishop Matthew.²

Professor Jones has suggested that it was during Matthew's episcopate that the Durham palatinate was effectively re-established, though as the local expression of royal authority rather than as an example of traditional local particularism.³ The bishop was certainly highly regarded by local antiquaries for his defence of regalian rights.⁴ This seems to have been due mainly to his resolute advocacy of such rights in the case of Anthony Arrowsmith of Coatham Mundeville who was pressed to death for refusing to plead a felony. By standing mute Arrowsmith sought to protect his goods for his heirs. Matthew was apparently concerned to secure the title of lands which Arrowsmith had leased in Eggleston, a parcel of the estate, forfeited to the Crown by act of attainder, of the Earl of Westmorland.

1. R. Surtees Durham iii pp. 102, 105; Lapsley County Palatine p. 310. It was occasionally claimed that Hartlepool was a parcel of the county of Northumberland.
2. As a result of Matthew's pressure, two lawyers, Sir John Savile and Robert Cooper, were appointed to investigate the rival claims. They found that Hartlepool was a parcel of the county palatine of Durham. Although Lumley was still to enjoy his accustomed liberties there, this nevertheless represented a victory for the bishop. DCL: Hunter MS 3 p. 197.
3. Jones 'Palatine Performance' p. 189. No evidence is offered for this argument.
4. See, for example, R Surtees Durham i p. lxxxvi.

The Crown had granted the lease to Ralph Bowes who assigned the lease to Arrowsmith.¹ Matthew claimed the lease as part of the goods of Arrowsmith as a felon, a claim which had been disputed by the Crown on Bowes' behalf. Matthew's claim proved to be successful.² However, his contribution to the increased exercise of regalian rights should not be over-emphasised. It has been argued, for example that he was instrumental in thwarting the award of a royal charter to the city of Durham in 1601.³ However, this argument is based entirely on an unsupported remark by Surtees.⁴ In fact, Matthew's own charter to the corporation of Durham considerably enhanced their privileges and degree of independence from episcopal control, much to the chagrin of Matthew's successor.⁵ Similar lack of devotion to his

1. PRO: E 134/43 Elizabeth/Easter 25; CPR 1569-72 p. 238.
2. PRO: E 134/43 Elizabeth/Easter 25; DUL Mickleton & Spearman MS 10 pp. 75-6. The key to the dispute was the right to forfeitures in the contested lordship of Barnard Castle. The case has the appearance of a test case since Arrowsmith's goods, in view of his refusal to plead the felony, should have been reserved to his heirs.
3. James Family, Lineage and Civil Society p. 154.
4. R. Surtees Durham i p. lxxxvi. In 1606 the king did confirm the city's privileges, obtained from Bishop Matthew, in letters patent, PRO: E 126/1 f.221.
5. Matthew's charter replaced one granted by Bishop Pilkington in 1565. Pilkington's charter was very restrictive. Burgesses, from among whom the ruling alderman was to be elected, could be removed by the bishop, while the bishop had power to veto statutes of which he did not approve. Although those burgesses who served the bishop in various official capacities were unlikely to be too concerned with the restrictiveness of this charter, the mere burgesses would find this increasingly irksome. The initiative for Matthew's charter came from the corporation who had "suffered great damage by reason of the defect of some of the said

regalian rights is demonstrated by the alacrity with which Matthew used his palatine liberty of Norhamshire as a means of currying favour with James I after the latter's accession in 1603. The king, who had quickly assessed the character of his bishop, did not have to resort to subtlety or force to persuade Matthew.¹ Norhamshire was leased to the king who assigned the lease to the Earl of Dunbar who over the next few years was destined to play a significant role in north-east politics.² Matthew, like Barnes before him, made over several properties to the king on long leases with small reserved rents, behaviour which did little for the income of his successors in the see of St. Cuthbert. As Bishop Cosin was to remark with characteristic tartness after the Restoration with reference to one such lease, it was "among many other farmes granted away by Bp. Toby Matthew to please certaine Scotchmen."³ Despite Matthew's predilection to gratify instantly the whims of those in authority by his leasing policies, he managed to enhance the prestige and effectiveness of the palatinate during his episcopate. This may not have been entirely due to his own efforts, although he was undeniably an effective

charters, ... fearing lest in time to come they should be molested in the enjoyment of their liberties." The corporation remained oligarchic, but the hold of the bishop was slackened. Ibid iv (part two), pp. 14-5

1. DPD/PK: PDM/Loose Papers/Box 8/24 December 1603.
2. R. Surtees Durham i p. lxxxvii. On Dunbar's career in northern administration see, in particular, Watts Northumberland pp. 152-6.
3. DCL: Sharp MS 167 pp. 5, 42, 128; DPD/PK: Register 6 f.187.

administrator. It was during his episcopate that the palatinate managed to secure an effective measure of independence from the Council of the North as an administrative organ, but this owed more to the decline in the latter's influence following the death of the Earl of Huntingdon in 1595 than to the work of the bishop.¹ Durham Chancery proceedings were regularised in the following year, but the initiative for this seems to have originated in Westminster rather than in Durham.² Matthew was also unsure initially about his right to exercise his admiralty jurisdiction, for he was forced to write to Julius Caesar in the latter's capacity as judge in the High Court of Admiralty in order to solicit favourable treatment in a case involving what he considered to be his own rights which, he claimed, had been confirmed by Parliament and sanctioned by custom.³ Matthew's rights appear to have been established, although whether this was due to his own actions or not remains unclear, for his successor was able to appoint a water bailiff in the port of Sunderland.⁴

The episcopate of William James saw the bishop's general powers subjected to considerable pressure. This was not directed solely against the iura regalia, for in the later stages of the episcopate the Earl of Somerset was appointed to the county's lieutenancy.⁵ However, the

1. See below pp. 171, 177.

2. Lapsley County Palatine p. 198.

3. BL: Add. MS 12507 f. 373.

4. R. Surtees Durham i p. 257.

5. See below pp. 188-9.

right of the bishop to felons' goods within the lordship of Barnard Castle was once again questioned following the bestowal of the lordship upon Prince Charles.¹ It was especially difficult for the veteran James to withstand such pressures. Following the disgrace and death of the Earl of Salisbury he was bereft of influential backers.² No such disadvantage afflicted Bishop Neile. His privileged position ensured governmental reluctance to interfere with his local rights.³ Neile himself, though not dependent upon maintaining local support, nevertheless resisted the temptation invariably to insist upon the fullest possible enjoyment of his regalian rights at the expense of local susceptibilities. There is, for example, evidence to suggest that his exercise of his wardship privileges could be generous.⁴ He did not oppose the proposed provision of members of parliament for Durham, a move which would have brought the county into line with the other counties

1. CSP Dom. Add. 1580-1625 pp. 545-6.

2. Salisbury's influence was probably instrumental in providing James with the only real triumph of his episcopate, his Exchaquer victory over the mayor and burgesses of Durham City. For James's letters to Salisbury on the matter HMC: Salisbury xxi pp. 195, 224.

3. He was not unduly discomfited, for example, by the recommendation of the deputy lieutenants of Northumberland that Bedlingtonshire, Norhamshire and Islandshire should be detached from the County Palatine, despite the obvious attractions which such a scheme might have possessed for a government obsessed with problems of security.
CSPD 1625-6 p. 165.

4. SS 142 p. 202

palatine.¹ On the other hand, he could be punctilious in his insistence upon the maintenance of rights which might appear to have been rather trivial.² There is no evidence to demonstrate how Bishop Howson conceived his regalian rights though his weakness in controlling the spiritual side of diocesan affairs hardly suggests that he could have been vigorous in their defence.³

There is ample evidence, however, with which to examine Bishop Morton's exercise of the iura regalia. Such an examination quickly reveals that the traditional assumptions made about Morton's conduct in this matter are questionable. According to Hutchinson "his conduct in regard to the rights of this see was singularly benevolent." Among the examples given by Hutchinson some refer to Morton's conduct of the benefits of his spiritualities, but others refer to his generous conduct in respect of wardship, wrecks and deodands.⁴ Much the same tale is recounted by Surtees with even greater effusiveness. "It is scarcely possible to speak in adequate terms of Bishop Morton's prudence, generosity and moderation in exercising the rights and employing the revenues of his opulent see." His palatine prerogative was exercised with the "utmost mildness", claims for deodands and forfeitures

1. Cf James Family, Lineage and Civil Society pp. 166-7
2. Thus the bishop brought a chancery suit against Robert Johnson of Seaton Carew to ensure his right to an alleged "fish royal" washed ashore at Seaton. There was some doubt about whether the creature was a royal fish, and therefore the bishop's entitlement, or not, for it was "a huge fishe ... and such an extraordinary fishe as the like hath not bine seene there before, nether could any give it any certaine name." PRO: DURH 5/7/3.
3. On Bishop Howson's ecclesiastical difficulties see below
4. W. Hutchinson The History and Antiquities of the County Palatine of Durham (Newcastle upon Tyne, 1785) i pp. 498-9.

were moderate and his exercise of the rights of wardship was characterised by "the most exemplary kindness and forbearance" to both the persons and the estates of the minors in his care.¹ This interpretation of Morton's conduct continues to hold sway. Thus, Mr. James has affirmed that the bishop took a "studiously moderate view of his prerogatives both as bishop and as Count Palatine".² These viewpoints were derived from two largely hagiographical compilations, the sermon preached at Morton's funeral by his protege, John Barwick,³ and a life begun by Morton's devoted and long-serving secretary, Richard Baddeley, and completed by his former chaplain, Joseph Naylor.⁴ The circumstances of the writing and publication of these works demand that their interpretations of the life of Morton be treated with great caution. The former, published with a royal dedication shortly after the Restoration, was clearly intended to help restore the reputation of the institution of episcopacy by dilating extensively on the favourable points of the life of one of its most widely respected

1. R. Surtees Durham i p. xciii.

2. James Family, Lineage and Civil Society p. 120.

3. J. Barwick The Fight, Victory and Triumph of St. Paul Accomodated to the Right Reverend Father in God Thomas, Late Lord Bishop of Duresme, in a Sermon Preached at his Funeral in the Parish Church of St. Peter at Easton Maudit in Northamptonshire on Michaelmas Day 1659 Together with the Life of the Said Bishop (London, 1660)

4. R. Baddeley & J. Naylor The Life of Dr. Thomas Morton, Late Bishop of Duresme (York, 1669).

former luminaries.¹ The latter work was more unofficial in character, being an act of homage published several years after it was written² The two works quote many examples of Morton's praiseworthy and munificent conduct. They do not, however, tell the whole story. Alternative evidence exists to show that the bishop attempted vigorously to uphold his regalian rights and in so doing upset the sensibilities of the most powerful man in the North, Lord Wentworth. They clashed over Morton's interpretation of episcopal rights in the matter of distraint of knight-hood. This was a particularly sensitive issue in Durham for a body of opinion existed within the county that the freeholders there could not legally be subjected to the charge.³ Morton, who was translated to Durham after the scheme was introduced, quickly made up for lost time by claiming a 5% additional fee payable to himself on compositions paid to the crown. Wentworth was unable to fathom the legal justification of this demand by the "peevish bishop". Subscribers felt that they had been wronged. Wentworth demanded that the bishop justify his conduct.⁴ The only possible explanation of Morton's conduct is that he felt that his demands were consonant with his rights and status as lord of the palatinate. If this is so,

1. Barwick was a chaplain to Charles II. A protégé of Morton, he had been a prebendary of Durham for an indeterminate time. P. Mussett Deans and Canons of Durham, 1541-1900 (Durham, 1974) pp. 6, 36, 65.

2. Internal evidence suggests that Naylor's contribution to this was written c. 1657-8, Baddeley & Naylor Life of Morton p. 165.

3. DCL: Hunter MS 22/14. For details of the operation of distraint of knight-hood in Durham see below chapter 10.

4. The Earl of Strafforde's Letters and Despatches ed. W. Knowler (London, 1739) i p. 267.

however, it still does not explain the curiousness of his action. If he felt that he had a legitimate claim to the profits within Durham of this particular financial expedient, he should have taken legal action to have it either confirmed or denied by the Court of Exchequer. In such cases it is difficult to envisage how there could be any conjunction of interests between royal and palatinate rights; the bishop was either entitled to the whole composition through his iura regalia or he was entitled to nothing. The evidence suggesting a rather different attitude to wardship, while not conclusive, is nevertheless strong. In 1648 Parliament was petitioned on behalf of a ward whose father had been seised of lands held of the bishop by knight's service. It is, of course, conceivable that the petitioner's guardian was merely trying to mislead Parliament in order to cash in on prevailing anti-episcopal sentiment. However, the petitioner had previously appealed against episcopal conduct in 1641 and the bishop had been ordered to pay £40 per annum. It was alleged that the bishop and the tutor he nominated, Henry Blakiston,¹ had received £400 between them and had provided nothing for the ward's maintenance.²

Coincidentally, it was during Morton's episcopate that the

1. Blakiston was a younger brother of Sir William Blakiston of Gibside. He had been commended for his hospitality by the Cheshire traveller, Sir William Brereton. W. Brereton Travels in Holland, the United Provinces, England, Scotland and Ireland ed. E. Hawkins, (Chetham Society Manchester, 1844) p. 78. He did not hold any county offices until Morton's episcopate. Even then his role in county affairs was minor. He was commissioner for sewers in 1638 and one of the county's commissioners for the Scottish accounts in 1641, his most significant role. PRO: C 181/5 p. 219: DCL: Hunter MS 7/6. He appears to have been friendly with Morton's unlikely protege, Isaac Basire. Ibid. 9/36.

2. HMC: Seventh Report (House of Lords) p. 58

strongest challenge to the bishop's prerogative in this matter was launched by the Northumbrian peer, Lord Gray of Wark, who, in suing out his livery in the Court of Wards, challenged Morton's wardship rights in the liberty of Norhamshire. This represented "the infringement of one of the greatest prerogatives that belongeth to the Sea of Durham", and Morton had to solicit assistance from Archbishop Laud, the lord keeper and the Master of the Court of Wards.¹ Morton appears to have been less successful in defence of his admiralty jurisdiction, though this does not necessarily presuppose that he was reluctant to press his claims in the matter. However, the High Court of Admiralty's superior authority was implicitly recognised by Chancellor Hutton when he recommended, much to Morton's dismay, that certain sailors of English, Scottish and Irish origins who had been involved in a continuing coastal conflict between a Dutch and a Dunkirk vessel could only be proceeded against in that court.² Furthermore, the High Court of Admiralty was clearly disinclined to recognise the bishop's independent jurisdiction. Instead Morton found himself instructed to examine the petition of the lieutenant of Holy Island which was technically part of his jurisdiction on behalf of the

1. DUL: Mickleton & Spearman MSS 20/30, 31; 46/5. The bishops of Durham paradoxically benefited from the confirmation of the abolition of the Court of Wards in 1661. Cosin was offered and accepted the generous compensation of the restoration of the rents which had been detained by Queen Elizabeth from Pilkington. R. Surtees Durham i p. cxii.
2. HMC: Twelfth Report (Earl of Cowper, Coke MSS), Appendix II p. 113. The sailors had landed in Bedlingtonshire.

High Court of Admiralty.¹ Nevertheless, it should be borne in mind that Morton considered it to be a point of honour that "the zeale which I have had for succession in this place hath bene for the preservation of the full jurisdiction lest it might suffer by my default."²

The determination with which individual bishops pursued their regalian rights was clearly an important determinant of palatinate performance in county Durham. However, their role was subject to the significant constraint of royal policy which attempted either to limit episcopal initiative or at other times to encourage it. Even in the case of the former it was possible for adroit work by the bishop and his officers to inhibit the effectiveness of what was only rarely a secure grip by central authority on the locality. Furthermore, some regalian rights and privileges were easier to maintain than others. The admiralty jurisdiction of the palatinate seems to have been especially difficult to enforce. This was perhaps the consequence mainly of the rather curious development of the High Court of Admiralty. This court operated largely as the personal fief of the Lord High Admiral himself, supported by his team of civil lawyers.³ The rigour with which the Lord Admiral was willing or able to exercise his jurisdiction was the most important determinant of palatine independence in this particular field.⁴

1. CSFD 1637 pp. 33, 202.

2. DUL: Mickleton & Spearman MS 2 f. 458.

3. On the development of the Admiralty Court see The Tudor Constitution: Documents and Commentary ed. G.R. Elton (Cambridge, 1960) p. 160.

4. See below pp. 117-21.

Wardship rights were generally more secure.¹ The Chancery Court of the Durham palatinate was subjected to comparatively little external interference intended to limit its jurisdiction. Not only was it tolerated by its national equivalent, its use was implicitly encouraged by national policy which recognised in the court a useful means of encouraging stability in a potentially unstable area by providing a comparatively cheap focus for local litigation in disputes whose conduct might otherwise have been less orderly.

The development of the Chancery Court of the County Palatine was undoubtedly the most significant feature of the iura regalia in the eighty years before the outbreak of the Civil War, a feature which it shared with its counterparts in Cheshire and Lancashire.² This was especially important for it was argued by John Spearman that chancery proceedings in Durham were irregular before the sixteenth century and that the responsibility for its reorganisation lay with Wolsey during his period as bishop. The court "was not considerable, or in tolerable order, (the proceedings being in paper and irregular) till Cardinal Wolsey's time, who reformed and improved it; wherein equitable affairs of the subject are determined for this county, as at Westminster, by persons of worth and learning who have filled the bench, by patent for life under the Bishop's great seal".³ The court's jurisdiction was not harmed by the

1. See below pp. 121-4.

2. Jones 'Palatine Performance' p. 190.

3. J. Spearman An Enquiry into the Ancient and Present State of the County Palatine of Durham (Edinburgh, 1729) p. 56.

legislation of 1536, and in 1563 it received a crucial fillip when parliament decreed that bargains and sales entered there were as valid as if they had been enrolled in the courts at Westminster.¹ This provision had an important effect on the attitude of the landowning classes to the existence of the court which thereby became linked with the maintenance and furtherance of their property interests.² Apart from the provision of this administrative convenience the court had two main functions. The first of these was the "determining (of) all causes of equity arising between all parties inhabiting within the County Palatine or the Liberties thereof, or for matters lying or arising within the same".³ This statement exaggerates the importance of the Durham Chancery. It takes no account of the rival equity jurisdiction which the Council of the North was able to exercise in the county.⁴ Neither does it allow for the ability of litigants to pursue their cases at Westminster. Durham cases were heard in the Chancery there. Occasionally the reasons for this procedure were obvious. For example,

1. SR iv (part one) p. 456. (5 Eliz. c. 26) The same privilege was granted to the assize judges at Durham.
2. Some of the products of this legislation can be found in an incomplete series of rather decrepit deeds enrolled in Chancery which have suffered from the neglect and maltreatment which have afflicted most of the Durham Palatinate records. PRO: DURH 3/155, 156. Some of the surviving documents in this series indicate that the practice of enrolling bargains and sales in the Durham Chancery predated the 1563 act which was therefore presumably merely regularising an existing procedure. See, for example, PRO: DURH 3/155/1-4, 6, 9-13.
3. Spearman County Palatine p. 3.
4. See below chapter 4 passim.

cases could be heard there if they concerned lands held both inside and outside the county.¹ Chancery suits at Westminster could have a certain nuisance value. Thus, Archbishop Fiers and Thomas Burton, his commissary, entered a presumably frivolous Chancery suit against Dean Matthew and the Chapter of Durham for attempting to inhibit them in their disputed exercise of spiritual jurisdiction sede vacante. The defendants argued that they were not answerable to such a case in the Court of Chancery. The main motive of the plaintiffs was presumably to involve the defendants in unnecessary expense and inconvenience.² In this particular case both parties enjoyed considerable reputations. Similarly, a family dispute between the Gascoignes, a Yorkshire gentry family, and their Neville relatives was pursued at Westminster rather than at Durham.³ Because palatine courts were unable to direct process outside their boundaries, suits to be decided in equity concerning lands held in Durham by outsiders could only be pursued outside the county.⁴ After 1599 room for legal manoeuvre was restricted further by the definition of Durham rights in relation to the Council of the North.⁵ It is likely that this resulted in an increase in the incidence of Durham

1. PRO: C 3/45/3.

2. PRO: C 3/254/18.

3. PRO: C 3/69/26; C 3/77/38.

4. Jones 'Palatine Performance' p. 200. On the other hand plaintiffs resident elsewhere could bring suits in the Durham Chancery provided that defendants were resident locally. Bishop Neile prosecuted at least two suits in the Durham Chancery after his translation. However, this practice was not restricted to former bishops of Durham. PRO: DURH 2/49/31, 5/15/17, 2/2/22.

5. See below pp. 164-5.

suits in the national courts of equity.¹ In these circumstances it is remarkable that the relationship between the chancery courts at Westminster and Durham should have been so untroubled.² However, the form of Durham Chancery proceedings had been regularised through central initiative.³ The circuit judges were becoming involved in the close supervision of the conduct of affairs in the local court.⁴ The Durham court was brought even further into the judicial mainstream by the appointment of Richard Hutton as Chancellor of the County Palatine in 1608. Hitherto, holders of this post were usually local lawyers whose national significance was limited. Hutton, on the other hand, although a northerner with a landed estate in Yorkshire, was a jurist of national repute who was well aware of current chancery practice at Westminster and who influenced Durham proceedings accordingly.⁵

The Durham Chancery was also effectively the

1. The pressure of lack of time and the unsorted nature of the Chancery records for the reign of James I and Charles I conspired to prevent me from examining the Chancery proceedings for those reigns in order to test my hypothesis.
2. This was not necessarily the case between the Durham chancery and the other equity jurisdictions. There were Durham clashes both with the Court of Exchequer and with Star Chamber. See below pp. 114-5.
3. Lapsley County Palatine p. 198.
4. AFC 1590 p. 195; Lapsley County Palatine p. 198.
5. Hutton was appointed shortly after the death of his predecessor, Sir Cuthbert Pepper. He was appointed to the 1608-9 commission of the peace, a position to which he was entitled because of his office. PRO: C 181/2 f. 81. Professor Jones has hinted strongly at the importance of Hutton's influence on the court under his control. Jones 'Palatine Performance' p. 195. For a fuller assessment of Hutton's career see below pp. 128-32. Professor Jones has pointed out that the conciliar courts at York and Ludlow retained flexible procedure. W.J. Jones The Elizabethan Court of Chancery (Oxford, 1967) p. 348. Durham seems to have followed the Westminster course more closely.

episcopal Exchequer court to determine matters between bishop and tenants which could not be settled in the Halmote courts of the various episcopal manors.¹ The usual procedure in such cases was for the bishop's attorney general to present informations which would be answered in the usual manner. Occasionally such informations and bills were merely formal, especially when they were concerned with the process of enclosure by agreement.² The use of the chancery court as the bishop's exchequer, administered by officers appointed by the bishop, could lead to discontent among tenants who were naturally inclined to think that the system was devised to thwart them.³ The Durham Chancery fulfilled various tasks within the context of these two main functions, some of which were equivalent to those performed by the royal Court of Chancery and others which were closely connected with local palatine privileges. Perhaps the most important of the former was the court's involvement in the regulation of enclosure. Such regulation exhibited tendencies associated with both Exchequer and Chancery jurisdictions. Many of the enclosure agreements ratified in the Durham Chancery concerned episcopal estates and were therefore directly concerned with the revenue of the bishops. Other agreements concerned lands in the county over which the bishops did not possess feudal lordship rights.⁴ The Durham

1. Spearman Enquiry p. 55.

2. See below pp. 771-2.

3. See below pp. 734-5.

4. See below p. 771

Chancery could issue commissions of enquiry, the members of which could fulfil an administrative as much as a legal role. Such commissions were issued under the seal of the County Palatine of Durham by the clerk of the court under the instruction of the bishop. For example, in 1638 Bishop Morton ordered the clerk to issue a commission to inquire into conditions in the gaol at Durham, particularly in regard of those unfortunates imprisoned for debt, and to mediate between debtors and creditors in order to facilitate the release of the former.¹ Other aspects of the bishop's prerogatives were administered through his Chancery Court. The court could be used to aid the enforcement of the bishop's admiralty jurisdiction.² The bishop's escheator used the Chancery Court to organise the administration of the affairs of lunatics who held land of the bishop in capite.³ The bishop's coroners could prosecute in the episcopal chancery to secure fees and perquisites to which they claimed entitlement.⁴ The Chancery fulfilled an important role in the bishop's wardship jurisdiction.⁵ In short, the use of this

1. PRO: DURH 4/1 p. 572.

2. See, for example, PRO: DURH 5/7/3.

3. The most notable case in our period was that of Francis Lawson of Thorpe Bulmer who owned property at Sheraton and Hart as well as the manor of Thorpe Bulmer. In 1610 he was allegedly "outrageous in his behaviour." Five years later the escheator, John Richardson, committed Lawson to Chancellor Hutton who himself made the arrangements and set the conditions, enforceable in the Durham Chancery, for Lawson's custody with Edward Blakiston of Great Chilton. DCL: Raine MS 110; Hunter MS 4 p. 439; PRO: DURH 3/144 (Recognizance of Edward Blakiston to be bound for the "sufficient dyett & lodging and enterteynment fitt and convenient" for Francis Lawson.)

4. See, for example, PRO: DURH 2/5/78, 79, 110.

5. See Jones 'Palatine Performance' p. 201 and below p. 123.

court was fundamental to the whole of palatinate administration in Durham. Few of the bishop's prerogatives were exercised independently of the court. In view, therefore, of the court's comparatively late development it can be seen that in the exercise of their palatine privileges the bishops of Durham in the period under consideration were not really relying upon the last vestiges of a virtually defunct medieval concept of palatinate prerogatives, but were instead exercising an influence which had evolved through the positive reshaping of a comparatively recent institution in response to contemporary demands and influences. One of the most pervasive of those demands was the continuing government desire to secure a greater measure of control over what it considered to be the almost ungovernable north. As such, the Durham Chancery, especially after 1599, became in the words of Professor Jones an agency of the national system.¹

The welter of surviving materials of proceedings in the Durham Chancery court would appear to suggest that the inhabitants of the county largely shared the assumptions of the government. It likewise implies the existence of local confidence in the court's efficacy in the exercise of its equity jurisdiction, for the amount of litigation pursued in the Durham Chancery was clearly far in excess of what this comparatively small and remote county might have been expected to provide in the Westminster courts. Professor Jones has suggested that between 100 and 150 major orders and decrees were made in the Durham Chancery each year during

1. Jones 'Palatine Performance' p. 189.

the early Stuart period, although the fragmentary nature of the records makes too dogmatic an assertion of the exact volume of litigation unwise.¹ The range of litigation pursued in the court was wide. Some of this litigation was not significant from the standpoint of the court's popularity. Cases involving the episcopal exchequer and cases testing palatine prerogatives were heard in this court as a matter of course. These appear to have comprised only a small minority of the matters heard. The remaining private suits covered a wide variety of causes involving the inhabitants of the county palatine. Cases involving indebtedness were common. Such cases were often trivial. Thus, in one series of bills and answers presented in cases heard in 1638 and 1639 there was litigation involving sums as low as £5 and £7.² However, the same series revealed a case brought over a bond of £1,200 made on condition of payment of £619 3s. 4d., while the following series included a complicated case involving the substantial debts of Sir George Bowes of Biddick who had borrowed over £1,200 from a wealthy Durham draper, John Lambton.³ Bowes was not the only impecunious knight whose financial affairs became the subject of Durham Chancery proceedings. Sir John Hedworth of nearby Harraton frequently appeared to defend suits for sums both large and small brought not only by fellow members of the gentry but also by small traders, farmers and

1. Ibid p. 192. The equivalent court in Cheshire appears to have been even more popular.

2. PRO: DURH 2/49/34, 37.

3. PRO: DURH 2/49/20, 2/50/105.

former employees.¹ Clearly the court played a large part in ordering and regulating the financial affairs of the county's inhabitants. Property disputes were a staple of the court's proceedings even though the court's jurisdiction in such matters was restricted.² The court did not restrict itself to minor property suits, although, as might have been expected, many suits came into this category. A 1638 suit, for example, concerned 16 acres of land at Lumley worth £8 per annum.³ On the other hand, a suit of 1628 concerned lands worth £7,000.⁴ While such a case was obviously exceptional, there was nevertheless a substantial number of suits which dealt with sums in excess of £500. One suit of 1617 concerned copyhold lands in Darlington and Blackwell bought for about £1,000.⁵ A suit of 1637 concerned the sale of a farmhold for £1,000.⁶ The type of property suit heard in the Durham Chancery varied widely. Several suits concerning tithes were heard in the Court. This was an interesting development which may not have been reflected elsewhere. Nationally, the period after 1549 saw a gradual usurpation of jurisdiction in tithe cases by the common law courts.⁷ In Durham there was a tendency for clergymen to

1. PRO: DURH 2/2/4; 2/5/138; 2/6/17, 41, 42, 2/15/81.

2. The Durham Chancery could not determine title or freehold. Jones 'Palatine Performance' p. 196.

3. PRO: DURH 2/49/101.

4. Jones 'Palatine Performance' pp. 196, 261, n 27. The document which Professor Jones cited as evidence of the suit concerning lands worth £7,000 is incorrect.

5. PRO: DURH 5/3/76.

6. PRO: DURH 4/1 pp. 353-7.

7. J.E.C. Hill Economic Problems of the Church from Archbishop Whitgift to the Long Parliament (reprinted Oxford, 1968) p.91

look to the equity jurisdiction of the Palatinate Chancery for the defence of their tithe claims, presumably in the hope that a court run under episcopal auspices would be more amenable to their claims.¹ This did not prevent the tables being turned: John Brackenbury prosecuted the vicar of Gainford to protect his right to his tithe commutation.² Cases alleging wrongful entry and encroachment were prosecuted.³

One of the most significant aspects of the Durham Chancery's work was its regulation of disputes in which mining practices became entangled with property rights in the county. Such disputes became more common with the increasing incidence of coal mining. The attitude of property owners to this increase can best be characterised as ambivalent. Some managed to reach a satisfactory accord with the industry by coming to acceptable leasing arrangements with mining entrepreneurs, less commonly by extracting their own mineral resources, or most easily and profitably by the successful negotiation of wayleave concessions. Others were less successful. The practice of the large ecclesiastical corporations of leasing farming and mineral rights separately could obviously lead to disputes in cases where

1. See, for example, PRO: DURH 4/1 p. 11; 5/7/84. Going to law in such cases without the backing of one's ecclesiastical superiors could be injurious. A Berkshire rector who had successfully obtained a decree in the High Court of Chancery increasing his tithe rents was forced to mortgage them in order to pay for legal expenses. Hill Economic Problems p. 103.

2. PRO: DURH 5/15/17.

3. See, for example, PRO: DURH 2/50/32-4; 5/4/54.

it might be alleged that mining activities had damaged farming prospects. Disputes between landowners and their mining lessees could often be resolved only by recourse to equity. The terms of mining leases were often so vague and the area covered often so imprecise that disputes between mine owners, even among nominal allies, were heard in the Durham Chancery. This was not an area of litigation in which either common law or statute could be of much assistance. Much therefore depended upon the legal skill and local knowledge of the chancellor and the care with which the commissioners, who might be called upon to examine the evidence in such difficult cases, were selected.¹ The most significant clash between agricultural and mining interests involved the copyholders of Whickham and the Grand Lessees, a combination of the leading coal-owners of Newcastle. During the early seventeenth century Whickham manor was probably the most intensively mined area in the whole country.² Both the mining operations and the careless abandonment of exhausted pits served to antagonise the local farmers. The latter

1. Litigation involving coal mining in county Durham was not pursued solely in the local chancery. Cases in which royal revenues may have been at stake were obviously heard in the Exchequer. See, for example, PRO: E 126/3 ff. 58-60; E 134/29 Elizabeth/Easter 4; E 178/3758. There were also occasional Star Chamber suits in which, according to form, violent behaviour was alleged. See, for example PRO: STAC 8/53/10; 8/161/17; 8/163/18. The Council of the North was also involved although the extent of its involvement cannot be measured. See British Coal Industry i p. 292. However, the bulk of mining disputes in county Durham appear to have been prosecuted in the Palatinate Chancery, either as matters directly affecting episcopal revenue or as suits brought independently.

2. According to a Durham Chancery bill of 1620 it was claimed that over 150 pits had been sunk in Whickham in the previous ten years. DPD/SR: CC 244236. Cf. SS 185 pp 105-6, 135-9.

fault had dire consequences for "divers of the king's subjects have casually in the night tyne falne into them and there perished". Cattle had similarly been destroyed. The draining of mines had affected the water supply. The copyholders' dwellings had been undermined. The resulting compromise by Hutton tended to favour the mining interests despite apparent episcopal support for the copyholders. However, certain restrictions were placed on unplanned mining developments. Abandoned pits had to be filled. No pits were to be sunk under the copyholders' houses or the parish church. Buildings were not to be erected on copyholders' grounds without consent. In addition, an attempt was made to reconcile the apparently opposed interests in the order that copyholders should be given preference in the "leading"¹ of coals and with the reinforcement of the traditional privilege of the copyholders to purchase coal at a preferential rate.² A tenant at Whickham, in what may have been a test case, sued successfully for damages for the loss of a cow which had fallen down an unfenced pit.³ The Chancery was required to adjudicate in a case brought by some freeholders in Lumley who alleged they had been duped by Jeffrey Walker, an unscrupulous speculator in the mining industry, into leasing their mineral rights to Walker and his confederates.⁴ The Chancery was also obliged to adjudicate in disputes stemming from the complexities of leases

1. "Leading" was the task of carrying coal from pithead to staithe.

2. PRO: DURH 5/7/100.

3. PRO: DURH 5/7/1

4. PRO: DURH 2/24/7.

which appear to have been devised almost with future litigation in mind.¹ Boundary disputes were common, and adjudication in such disputes was never easy. Prosecutions could be brought if a lessee of mining rights in one freehold dug under another freehold.² A pit could be drowned by inefficient working of an adjoining pit.³ Such drowning might have been accidental. On the other hand, it could have been the result of sabotage.⁴ The Chancery also became involved in cases concerning the ancillary industries of coal mining. Occasionally, this involvement was merely concerned with business disputes.⁵ On other occasions, however, adjudication was sought in cases in which the effect of the industry on the local environment was the main issue.⁶ With the absence of so many of the decrees and

1. Thus, a colliery in Cockfield Moor was let for fifteen years at £5 per annum with a proviso that if the mine made a clear annual profit of £33 6s. 8d. or more then the rent would be increased by £1 3s. 4d. per annum, a clear recipe for controversy. PRO: DURH 4/1 pp. 351-2
2. PRO: DURH 4/1 pp. 145-6; 2/5/91.
3. See, for example, PRO: DURH 5/5/88.
4. PRO: DURH 4/1 p. 714. In 1610 or 1611 Thomas Liddell of Ravensworth threatened to drown a neighbouring pit which had been sunk under the glebe land of the rectory of Whickham. PRO: DURH 2/10/77.
5. See, for example, PRO: DURH 2/9/95, 2/29/23.
6. The most important of these cases concerned the allegation of the Dean and Chapter's leaseholders in Westoe who claimed that the activities of the salt manufacturers of South Shields had resulted in their common pasture being "altogether burnt upp & waisted". PRO: DURH 2/15/49. Commissioners were appointed to mediate with the owners of the salt pans in order to work out the terms of compensation. In other words, the Chancellor was convinced of the veracity of the leaseholders' case; the commissioners' task was to measure the extent of their loss. PRO: DURH 5/3/13. The salt makers were ordered to pay an annual compensation. Even so, they attempted to avoid their obligations. Ibid. 5/4/36, 5.

orders of the Durham Court of Chancery, it is difficult to generalise categorically about the attitudes displayed by successive chancellors to industrial developments. No clear policy, either of favouring coal-owners or of favouring their opponents, emerges. Coal-owners appear in Durham Chancery suits as plaintiffs and as defendants. There does not appear to have been any consistent attempt by the coal-owners to use the court to further their own economic ends. Nef expressed considerable surprise at the degree of litigation which was disproportionate even to the importance of what was the world's most productive coalfield.¹ The explanation can be found not in the size of the industry, but in the complexities of its use of land and the relationship of that use to a legal system which had not yet accustomed itself to the changed conditions. The court itself seems to have favoured ad hoc judgments, often entailing compromise between the parties and often the consequence of commissioners' findings.² Whether these judgments could be enforced was, of course, another matter.

The other major form of property dispute with which the Durham Chancery was involved concerned adjudication in cases which had arisen from dissatisfaction with the result of proceedings in the Halmote Courts, the manorial courts of the episcopal estates. Such disputes embraced controversy

1. Nef British Coal Industry i p. 287.

2. The authority of the commissioners was not always accepted. On one occasion they were hindered by miners employed by the defendants when they attempted to verify claims in a boundary dispute. PRO: DURH 4/1 p. 714.

over both land and custom. An example of the latter was the case brought against a widow in the manor of Wolsingham who baked her own bread for sale at her inn rather than using the manorial bakehouse.¹ Cases involving that perennial source of local trouble, the manorial mill, were also heard. There were at least three such cases in 1638 alone.² Cases involving the former varied. Occasionally it appears that advantage was taken of the weakness of a particular tenant. Thus, in 1607 it was claimed, on behalf of a minor, that his tenement in Whickham had been forcibly occupied.³ On the other hand, forcible entry was also alleged by a prominent local gentleman, Charles Wren of Binchester, who claimed that his tenement at Newton Cap in the manor of Auckland had been entered by a neighbour.⁴ On another occasion a widow surrendered her tenement in the same manor on condition that the agreed grantee would make suitable provision for her. No such provision was forthcoming and she was forced to seek redress in the Durham Chancery.⁵ The court also examined suits alleging forms of negligence. In 1617 Hugh Wright was accused of causing damage totalling £40 to a keel which he had hired from James

1. PRO: DURH 2/50/1.

2. They were concerned respectively with the mills at Easington, Blackwell and Darlington, the plaintiffs in the last two cases being identical. PRO DURH. 2/49/115; 2/50/13, 22. In 1637 certain inhabitants of Whitburn and Cleadon were fined one shilling each "for keeping of whornes and handmills" instead of using the bishop's mill at Whitburn. PRO: DURH 4/1 p. 360. Such cases were not restricted to the 1630s. In 1605 the miller of Ryton claimed that he had lost £20 by the failure of the local brewers and bakers to use his mill. PRO: DURH 2/2/7.

3. PRO: DURH 2/5/63.

4. PRO: DURH 2/1/27.

5. PRO: DURH 2/2/71.

Bellasis.¹ Accusations of fraud were also made. Henry Hilton of South Shields was accused by a neighbouring mariner of defrauding him of £100 in a deal involving the mastership of a vessel with which Hilton had been entrusted.² A case alleging fraud in the South Shields salt industry was heard in 1638.³

The range of the Durham Chancery was extremely wide and the number and variety of suits heard testifies to an apparent popularity among those who pursued litigation there. To a large extent this was a local manifestation of a national phenomenon. "Judicial authority and procedures were normal components of governing."⁴ However, the presence of a local forum undoubtedly enhanced the reputation of this form of proceeding in those areas in which such a facility was available. The ease and convenience of pursuing suits at Durham compared favourably with the difficulties of travel and accommodation which faced potential litigants at London and, to a much lesser extent, at York. The standard legal charges imposed in the Durham Chancery do not seem to have been excessive, despite the opportunity to enhance fees afforded by the monopoly of pleadings in the court enjoyed by local

1. PRO: DURH 2/15/21. Wright, who first came into prominence in Durham civic politics, dabbled extensively in coal-mining in the lower Wear valley. His involvement in this case stemmed from a lease which he had taken of a colliery in Penshaw.

2. PRO: DURH 2/29/17.

3. PRO: DURH 2/49/15.

4. Jones 'Palatine Performance' p. 192.

lawyers.¹ The level of fees charged in the Durham Chancery had been investigated in 1597-8 as part of the commission of enquiry into Chancery fees. The assize judges of the northern circuit, who conducted the investigation, found, it was claimed, that fees charged at Durham were lower than those charged in the equivalent courts in Cheshire and Lancashire.² Litigants occasionally stressed the advantages of pleading in the Durham Chancery, comparing proceedings there with the slow, expensive and dilatory proceedings at common law.³ Some of the arguments put forward in favour of the Durham Chancery could be applied equally to other courts, both royal and regional, in which the law was dispensed in a similar fashion. Plaintiffs sometimes admitted the weakness

1. No "foreign" attorney could either practise law or sue writs in the Durham Chancery. Only attorneys sworn of the courts of the county palatine could be used. Spearman Enquiry p. 55. This rule did not preclude the swearing of outsiders who were prepared to practise regularly at Durham. John Browne, a former recorder of Berwick, comes into this category. M. Eccles 'Barnabe Barnes' in Thomas Lodge and Other Elizabethans ed. C.J. Sisson (Cambridge, Mass., 1933) p. 211.
2. DCL: Raine MS 123 f. 158r. A table of fees was produced in response to a later commission of the same type in 1628. Ibid. ff. 150r-152r. The costs in a suit of 1637 totalled £1 13s. 4d. PRO: DURH 4/1 p. 351. The comparative cheapness of Durham Chancery proceedings may be implied in the court's use for the enrolment of decrees enforcing enclosure agreements.
3. PRO: DURH 2/1/51. Cf. Professor Jones's castigation of the High Court of Chancery. "The really offensive thing about Chancery was its structure, costs and delays. The institution and its officials invited an investigation which was as deep as it was extensive." W.J. Jones Politics and the Bench: the Judges and the Origins of the English Civil War (London, 1971) p. 118.

or non-existence of their cases at common law. Thus, in 1615 William Shafto of Spen affirmed that if he could not secure the counterpart of the lease of a coal mine he would be unable in common law to gain his rents, and in 1638 the rector of Redmarshall admitted he had no case in common law in regard of his having secured an uncanceled loan on behalf of a deceased debtor¹ In the same year a plaintiff, already successful in a suit in the Court of Pleas at Durham, was forced to resort to Chancery because he was unable to levy the fine imposed upon his opponent.² Counter suits were brought in Chancery alleging the inequity of common law proceedings.³ Chancery complainants could attempt to play upon judicial sympathies by stressing their vulnerability to the machinations of their opponents. John Read of Great Lumley, "being a simple & plaine man illiterate", was able to claim that he was therefore easily duped by more adroit operators.⁴ The local connections of the chancellors helped secure the court's popularity. Until the first decade of the seventeenth century the chancellors tended to be resident locally. This obviously helped to sustain the court's efficiency and also ensured considerable local knowledge and expertise on the part of chancellors who in addition played a considerable role in the ordering of the rest of the county's affairs.⁵ The corollary of this, however, was that

1. PRO: DURH 2/15/154; 2/49/85.

2. PRO: DURH 2/49/15.

3. PRO: DURH 2/50/12.

4. PRO: DURH 2/2/2.

5. See below pp. 124 ff.

such chancellors possessed neither national repute as jurists nor wide legal experience. In the case of Thomas Calverley, chancellor from 1563 until 1605, continuity of office-holding may have sufficed in overcoming this weakness.¹ After the retirement of Calverley the pattern of appointments to the chancellorship changed. Each of the three succeeding pre-war chancellors had strong northern connections. None, however, was resident in Durham. What was lacking in their comparative lack of local connections was more than made up by their quality as jurists. This was especially so in the case of Sir Richard Hutton, one of the most noteworthy lawyers of the period, whose influence on the affairs of county Durham transcended by far the court of which he was head and which formed only a small part of his total legal responsibilities.²

The court did not, of course, meet with unanimous approbation. Professor Jones has implied that the court's effectiveness was being reduced in the years before the Civil War. This may contradict his surely undeniable judgment that Hutton was "the outstanding palatine Chancery judge of the early Stuart period". He has asserted that "while the impact of wars and interregnum is incapable, the disruption of 1642-60 is inadequate as the sole explanation for their subsequent and reduced circumstances.

1. BL: Lansdowne MS 902 f. 31; DUL: Mickleton & Spearman MS 2 f. 17. Calverley was a Durham J.P. for fifty years and possessed an estate at Littleburn which was conveniently near Durham City. He managed to bring some essential continuity to a post which had had a succession of holders since 1558.

2. See below pp. 128-9.

Instead it seems that these courts were damaged by developments and restrictions apparent before the great upheaval".¹ He has not substantiated this assertion. It may perhaps be justified in regard to Lancashire and Cheshire. However, in Durham the Chancery appears to have been operating with its accustomed vigour until the Scottish invasion of 1640 effectively curtailed all public life in the county.² The most fundamental criticism which could be levied at the Durham Chancery court was that chancellors were occasionally prone to follow the interests or wishes of the bishops in cases in which they were personally interested. Given the structure of the palatine Court of Chancery and its subsidiary role as the court of the bishop's exchequer, it is surprising that more such allegations have not survived, suggesting perhaps that the bishops disdained direct interference in all cases except those which were perceived as most fundamentally affecting their interests. The most important allegation of this type concerned the relationship between Hutton and the bishop's tenants of Weardale. Tenants and successive bishops had engaged in a series of suits in various jurisdictions, at common law, in the Exchequer and before the Council of the North, in which their customary estates had been confirmed. Now, however, without any new

1. Jones 'Palatine Performance' pp. 190, 194-5

2. The entry book of decrees and orders covering the period after 1633 gives a very strong impression of recording the judgments of a court which was soundly managed and confident in its own jurisdiction. PRO: DURH 4/1. In 1639, after the death of Hutton, Morton resisted the importuning of a candidate for the chancellorship whom he deemed to be inadequate by stressing the need to preserve the full jurisdiction. DUL: Mickleton & Spearman MS 2 1. 458.

evidence having been produced, their customary estates had been overturned in several Durham Chancery decrees instituted at the behest of Bishop Neile. These decrees had been awarded by Chancellor Hutton who had previously been counsel for the tenants in their earlier suits and "did ever assure them their Customary estates were very valid & impeachable". In addition to casting doubts on Hutton's professional integrity, the tenants' petition summed up the standard grievance against the operation of the court succinctly. It supplicated "a faire triall at lawe for the iustificacon of their auncient Customary estates in any other Court of Justice within this kingdome wherein the said Bishopp, being a partie, hath no Interest, power or prerogative, nor choice of eleccion of the Judge or Chancellor".¹ Bishop Barnes attempted to intervene in Chancery suits on behalf of the hospitals of Sherburn and Gateshead, though he was motivated more by personal than by altruistic considerations.² Barnes "peremptorily" required his chancellor Calverley to give judgment in the way which he favoured and threatened that if he did not he would have to answer before the Privy Council. Barnes' threat was rather desperate. He had often required Calverley to "do Mr. Lever justice, and for ought I can perceave, as yet, he can get no reliefe at your hands".³ It would appear therefore that this bishop's attempted interference in the processes of the local chancery was to

1. DPD/SR: Weardale Chest MS 115.

2. Barnes was anxious to improve his frosty relations with the obstreperous and eccentric Master of Sherburn Hospital, Ralph Lever.

3. PRO: SP 12/162/46.

little avail. The other recorded complaints against the court were of the type familiarly made against many of the courts of early modern England. Allegations of corruption were made.¹ Corrupt practices were, however, virtually endemic in all courts and, in addition, one of the cases of possible corruption cited by Professor Jones, that involving the prominent Durham lawyer John Richardson, needs to be considered in its full context where a rather different interpretation might be put upon it than Professor Jones's allegation of peculation.² Vexatious litigants appear to have been as common in the Durham Chancery as in its national and regional equivalents.³

The Chancery Court of the County Palatine of Durham was, until the outbreak of the Civil War, the most significant remaining aspect of the regalian rights of the bishops. In view of the increasingly anomalous position of the County Palatine and the ever greater competition among the various courts of law, whether national, regional or local, and the various types of jurisdiction, it may seem strange that this particular court was able to flourish, apparently with the approval of central government. It was not, however, free from jurisdictional disputes. Occasionally its freedom of action was circumscribed by interference from the centre. More often it suffered from the constraints imposed by

1. Jones 'Palatine Performance' pp. 196-7.

2. The case to which Professor Jones has referred involved the former palatinate officer, John Richardson, who was locked in a virtually continuous conflict with Bishop Neile. PRO: DURH 5/9/29.

3. Jones 'Palatine Performance' p. 196.

rivalry with other courts. Such rivalries were endemic and do not represent a conscious attempt to limit the competence of the Durham Chancery. This court appears to have enjoyed a satisfactory relationship with its national equivalent. The latter's primacy was implicitly acknowledged. No attempt was made to prevent the hearing of Durham cases in the Chancery at Westminster, although the relative paucity of such cases is itself an eloquent testimony both to the popularity of the local court and to the inconvenience and dilatoriness of the national court. The relationship between the Durham Chancery and the common law was less clear. The Privy Council used assize judges to regulate activities within the Durham Chancery, and on one occasion this policy was instigated in response to a manifestation of local discontent following the inability or refusal of the bishop to instruct his chancellor to deal favourably with the case of an aged and distressed man and his wife who had complained to the Council of "sundry wronges and injuries done unto them" by Chancellor Calverley.¹ Ten years later in 1600 a case in the Durham Chancery was heard by Calverley "with the assistance and in the presence of Edward Drewe, the Queen's Maiestie's serjent at Law, then and yet one of the Queen's Maiestie's justices itinerant in the said Countie and eftesones likewise at large."² The wording implies that the initiative for this unusual procedure lay with Calverley himself. The Durham Chancery appears to have been careful

1. APC 1590 p. 195

2. Lapsley County Palatine p. 198

in avoiding trespassing upon the local common law jurisdiction. A case of 1618 concerned with the lease of land and a stone quarry at Great Unsworth formerly held by a convicted felon was referred to common law. Similarly, a decree of 1635 concerning the ownership of "divers ingines, trammes, shovells, pitts and lodges" which had been allegedly seized by the defendant referred the case to common law.¹ There was the usual rivalry between common law and equity in the sense that defendants in one jurisdiction were often inclined to bring counter-suits against their adversaries in the rival jurisdiction, especially in cases involving debts.² Such counter-suits were merely tactical and did not possess any broad jurisdictional significance. Durham lawyers were equally likely to appear in both the Chancery and the Court of Pleas there. Much more significant were those cases in which the Durham Chancery and Star Chamber clashed. One of the chief features of the latter court was its ability to transcend the type of local conflicts which could conceivably lead to allegations of perjury, partiality or injustice.³ One such case heard in Star Chamber alleged that there had been perjury committed in a Durham Chancery suit concerning a family dispute in Wolsingham.⁴ Various cases heard in the Court of Exchequer would appear to suggest that that particular court was anxious to circumscribe the regalian rights of the bishop. Professor Jones has argued

1. PRO: DURH 5/4/14; 4/1 p. 212.

2. PRO: DURH 2/49/57, 71.

3. G.C.F. Forster 'The North Riding Justices and their Sessions, 1603-25' NH x (1975) p. 103.

4. PRO: STAC 8/291/14.

that the case heard there in 1610 between Bishop James and the mayor and burgesses of Durham City came into this category. "Borough disputes might be entertained by a palatine court, but the frustrated could turn to Westminster in the hope of outranking that authority if the matter concerned jurisdiction and privilege".¹ Unfortunately for this argument, it was the bishop, not the city, which brought the case under the pretext that the burgesses had claimed freehold in grounds which were accounted a parcel of the valuation of the bishop's possessions in the Exchequer for the purpose of the computation of episcopal taxation liabilities.² The other case cited by Professor Jones was rather more complicated. Firstly, it was one episode in a series of disputes between Neile and some of his officers and the former episcopal factotum, John Richardson, which not only embraced matters of only peripheral concern to the question of episcopal regalian rights, but also at one point was brought up in the House of Commons as part of a wider attack on practices in ecclesiastical courts. Secondly, it was partly concerned with temporalities of the type which accrued to any diocesan from his episcopal estates. Thirdly, one of the main points in question was the alleged detention of episcopal revenues during the vacancy in the Durham see caused by the death of Bishop James. These revenues, of course, should have been collected on behalf of the Crown.³

1. Jones 'Palatine Performance' p. 199.

2. PRO: E 126/1 ff. 218-23.

3. DPD/SR: CC 221341.

The substance of this case was very different from Professor Jones's description of it as a questioning of the bishop's temporalities.¹ The information did not, in fact, concern itself with the temporalities to which the bishop was entitled and to which his entitlement was recognised. It was concerned with alleged abuses stemming from the acquisition of funds to which he was not entitled. Not even John Richardson, hitherto one of the most prominent beneficiaries of the profits of palatine jurisdiction, would have been hypocritical enough to supply a relation, upon which the attorney-general's information was based, questioning one of his former, and indeed future, sources of income.² It is no part of my argument to question the general conclusions arrived at by Professor Jones. However, his misinterpretation of the relationship between the Durham Chancery and the Court of Exchequer suggests that some modification of the contention that palatine "jurisdiction and privileges were being determined from above, and the national courts applied the same principles to palatines as the latter did to lesser courts with their area" is necessary. The most significant such determinant was a court, but only in the technical sense that it was the High Court of Parliament in four acts which most clearly delineated the extent and limits of the powers of the palatinate of Durham.³

1. Jones 'Palatine Performance' p. 199.

2. For details of Richardson's career see below

3. Jones 'Palatine Performance' p. 199; SR iii pp. 555-8, 805-6; iv (part one) pp. 456, 549-52.

The Court of Chancery was by far the most important facet of the remaining regalian rights of the bishops of Durham. It was a permanent court which operated busily and effectively throughout the period before the outbreak of the Civil War. The other palatine privileges, forfeitures, deodands, wardship and admiralty were more intermittent in the operation and significance. Forfeitures were on one occasion subjected to the parsimonious whim of the government. However, it is significant that Tunstall was allowed to enjoy the forfeitures which accrued after the Pilgrimage of Grace, and after 1570 the bishops did not experience any great difficulty in maintaining this right.¹ The sale of deodands, the agents of accidental deaths, was an irregular and largely unimportant source of income.² Profits of wardship and admiralty were potentially more important and were therefore coveted more. The bishops had laid claim to the profits of wrecks and royal fish from the twelfth century, and this claim was consolidated during the later Middle Ages.³ The jurisdiction was not affected by the Act of Resumption and Spearman claimed that the bishop appointed his own commissioners, vice-admiral, registrar, marshall and water bailiffs.⁴ The evidence regarding the exercise of the palatinate admiralty jurisdiction is patchy. No episcopal

1. Lapsley County Palatine p. 47.

2. Ibid. p. 291.

3. Ibid. pp. 317-23.

4. Spearman Enquiry pp. 5-6. In 1579 William Whitehead of Monkwearmouth was appointed vice-admiral by Bishop Barnes. DUL: Mickleton and Spearman MS 91/27. The choice of Whitehead may not have been wise. Matthew, while Dean, seems to have entertained grave doubts about his integrity. DPD/PK: PDM/Loose Papers/box 25/5. Dec. 1589. See also his later and vituperative attack on Whitehead.

admiralty court was established, and determination of local controversies associated with the jurisdiction lay with the palatine Chancery. This contrasted with the development of the civil courts established by the Lords High Admiral which undoubtedly enabled them more effectively to challenge the separate Durham jurisdiction. The most obvious justification for such a challenge would have been strategic need in a time of national emergency. Therefore it was fortunate from the point of view of palatine privileges that the projected Spanish invasion of 1588 coincided with a vacancy in the see occasioned by the death of Bishop Barnes in the previous year. Barnes in fact had received an exemplification of his admiralty jurisdiction in 1579, though this did not prevent Bishop Matthew expressing considerable concern, entreating Julius Caesar, judge in the High Court of Admiralty, "for alloweance of (his) privileges & liberties in this Realme and by the Queens Majestie herself and by Actes of Parliament of this Realme established: but continued also by custome & preception beyonde all memorie of man".¹ Matthew did not receive complete reassurance for two years later he again had to write to Caesar because a suit had been brought in the Admiralty Court by a Frenchman about a ship which had been stayed at Sunderland, a small but growing port which was to become the focal point of the palatine admiralty jurisdiction.² Matthew was right to be

1. DUL: Mickleton & Spearman MS 91/72; BL: Add. MS 12507 f. 373.

2. BL: Add. MS 12506 f. 407. On the development of Sunderland as a port see above p. 22.

concerned about the threat to his admiralty jurisdiction, for in the last year of Elizabeth's reign a piracy commission covering other northern counties as well as Durham was issued with three members, the Earl of Nottingham, Lord Burghley and Earl of Cumberland named ahead of the bishop.¹ The issue of such a commission clearly demonstrated that the government was prepared to override the episcopal admiralty jurisdiction. However, the expedient proved to be short-lived and Bishop James attempted to reassert regalian rights by appointing a water bailiff at Sunderland to safeguard his prerogatives in that port, presumably in response to economic developments there.² The bailiff, John Rand, was reappointed by Bishop Neile whose privileges had been threatened by ^{the} Duke of Buckingham's appointment of Matthew Dodesworth to be the admiralty judge for Northumberland, Cumberland and Durham.³ There was a clear link in the minds of officers of the palatinate between the effectual appointment of such officers and the maintenance of regalian rights by the bishop. This was demonstrated most

1. PRO: C 181/1 p. 61. Nottingham was Lord High Admiral, Burghley was President of the Council of the North and Cumberland was a prominent privateer.
2. DUL: Mickleton & Spearman MS 91/72. James appointed as water bailiff John Rand, the brother of James Rand, a prebendary of Durham while James was bishop. This appointment was, from John Rand's point of view, especially opportune for he had been in trouble with Newcastle's Company of Hostmen, of which he was a founder member, by continuing to reside in Gateshead. SS 105 pp. 11, 29; Welford Newcastle p. 145.
3. DUL: Mickleton & Spearman MS 91/72; DCL: Hunter MS 3 p. 191; Lapsley County Palatine p. 323

clearly in the local reaction to Rand's death in 1626. Four of Neile's senior officers wrote of the immediate necessity of appointing someone "least his lordship should be prejudiced in such duties as belongs unto him in that place".¹ This was sound advice in view of the uncertainties of the nation's foreign policy at that time. Nothing was more calculated to induce the Crown to abrogate episcopal admiralty privileges than the threat of a national emergency. However, Neile, presumably because of his influence within the government, seems to have been able to surmount such difficulties and he was able to appoint a successor.² This success was in reality an aberration in view of the centralising tendencies exhibited by the Caroline administration and although the independence of episcopal admiralty appears to have been confirmed in 1663, the jurisdiction came under considerable pressure in the late 1630s.³ The then bishop, Thomas Morton, lacked the range of Neile's contacts and influence at court. Furthermore, the national emergency of those years was much more apparent to those in the government, if not to the governed.

1. DPD/PK: PDM/Loose Papers/Box 12/23 October, 1626.

2. Rand's immediate successor Richard Bartlett is rather an obscure character. He possessed a surname which is not readily associated with the north-east of England. There were no Bartletts, for example, among the Durham Protestations. The most likely explanation of his identity might be that he was a household servant of the bishop. He did not hold his office for very long and was succeeded by Nicholas Whitfield, an alderman and former mayor of Durham City. R. Surtees Durham i p. 257.

3. Lapsley County Palatine p. 325.

Under pressure from the Scots, the government had little compunction about overriding episcopal interests. In April 1639 Sir John Delaval, deputy to the vice-admiral for Durham and Northumberland, peremptorily instructed the mayor of Sunderland to stay Scottish shipping on the Wear.¹ The implications for the real nature of the admiralty prerogatives were clear and the Earl of Northumberland, the Lord High Admiral, showed his contempt by appointing his own water bailiff at Sunderland, Michael Crake. It does not seem probable that Northumberland had any overt political motive in making this appointment. Admittedly, he was no friend of Laudianism, but that should not necessarily have led him to become antagonistic towards the Calvinist Morton. Crake appears to have been a minor royal official, and he may have been connected with courtiers like Northumberland, Vane and Holland who were associated with Queen Henrietta Maria. Crake and the Bishop's nominees contested their disputed rights before Parliament without the matter being finally resolved.²

The episcopal claim to profits of wardship was never in as much immediate danger as the admiralty jurisdiction. It was not subject to the same strategic considerations. Wardship rights did not extend over the whole of the county but were derived only from lands held of the bishop by some form of knight's service, the essential feudal and military

1. DUL: Mickleton & Spearman MS 2 f. 223.

2. R. Surtees Durham i p. 257; Spearman Enquiry pp. 30-5. On Northumberland's attitude to Laudianism see his letter to the Earl of Leicester in December 1639 quoted in P. Zagorin The Court and the Country: the Beginning of the English Revolution (London, 1969) pp. 70-1.

justification of the practice. Part of the early success of the Court of Wards set up under Henry VIII can be attributed to the vast increase in lands held of the Crown by that tenure, a consequence of the dissolution of the monasteries. The palatinate of Durham did not enjoy a comparable benefit, for even in Durham the feudal lordship of the dissolved property devolved upon the Crown.¹ After 1569, what had been by far the largest concentration of land held by the bishop of knight's service, the lordship of Brancepeth, was forfeited to the Crown which appears to have granted out the forfeited lands in free and common socage.² The Crown therefore had little incentive to challenge the bishop's wardship privileges which had been specifically acknowledged in the act of 1540 which set up the Court of Wards as a separate branch of the royal administration.³ That the palatinate privileges were acknowledged does not necessarily presuppose that the bishop employed a microcosmic framework of the national institution. It is misleading therefore for Professor Jones to claim that "Lapsley's belief that the bishop did not 'maintain' a Court of Wards is misplaced."⁴

1. G.R. Elton Reform and Reformation: England, 1509-1558 (London, 1977) p. 246. After 1548, however, former monastic lands were granted out as of the manor of Greenwich, which effectively denominated absolute freehold. Ibid. Apart from the lands of the dissolved hospital of Kepier only a very limited amount of Durham monastic property was destined for sale by the Crown.

2. See, for example, SS 183 p. 9.

3. Lapsley, County Palatine p. 200: SR iii pp. 805-6. For an early seventeenth century view of the operation of this statute on palatine wardship privileges see DRO: Salvin MS D/Sa/F/412.

4. Jones 'Palatine Performance' p. 201.

The procedure by which the bishops secured their wardship revenues was a judicious combination of various facets of existing palatine and episcopal institutions.¹ The revenues obtained from wardship were irregular, comprising the profits from wards' lands during their minority. The right to enjoy such profits was either sold by the bishop or granted to a favoured individual. Relatively little controversy appears to have been attached to the bishop's exploitation of this privilege, implying that such exploitation was usually undertaken cautiously. The evidence is patchy, but it seems that the most profitable wardship to fall to a bishop was that of George Bowes of Dalden which produced £800 for Wolsey, significantly the bishop who was least dependent upon the maintenance of satisfactory relations with the local gentry.² Those bishops who were actually acquainted with their regality seem to have been much more circumspect in the exercise of their privileges of wardship. Neile allowed William Scurfield of Elstob to nominate the recipient of the wardship of his heirs. Scurfield, naturally, chose his wife.³ Obviously, such offers could not be made in every case, but it may imply the existence of a regular policy of moderation which in at

1. The bishop's escheator had technical oversight of lands held of the bishop. The administration of the lands of wards of the bishop devolved upon him and the chancellor.

2. Memorials of the Rebellion of 1569 ed. C. Sharp (London, 1840) pp. 369-70. Bishop Matthew managed to secure £150 from the wardship of the heir of the Gerard Salvin of Croxdale who died in 1602. DRO: Salvin MS D/Sa/E/5. In obtaining this sum Matthew may have been attempting unofficially to punish the family for its Catholic connections.

3. SS 142 p. 202.

least one case was not continued by Bishop Morton, despite the opinion of his biographers.¹ The overall impression gained is that the wardship privileges of the bishop, though worth defending, were only a minor perquisite, the main feature of which was the fees which the Durham Chancery officials were able to extract from heirs suing out their liveries.²

The influence of the Palatinate affected the people of County Durham in a variety of ways. It increased their litigiousness, or at least their awareness of the possibilities of litigation, through the existence and convenience of the Palatine Court of Chancery, which also served to expand the influence of lawyers upon local society. The Palatinate helped to create a marked sense of local consciousness and identity, although this consciousness was not exemplified by the completion of a county history.³ It tended to enhance the comparative influence and prestige of successive bishops of Durham, especially in their relationship with the archbishops of York, and still helped to provide a significant supplement to episcopal income. Perhaps its most significant effect was to increase the scope and variety of local office-holding so that offices, which might in normal circumstances have been filled by outsiders with little reference to local needs and aspirations, were filled either by local men, who might not otherwise have been expected to aspire to the national equivalent of such offices and who

1. See above pp. 86-8.

2. DCL: Raine MS 123 ff. 151-2.

3. See below pp. 702-4.

would in addition enjoy the benefit of local knowledge and connections, or outsiders who would nevertheless be responsible and responsive primarily to local rather than national considerations.

The most important office created under the Palatinate of Durham was that of the temporal chancellor. The main function of the chancellor was to preside over the Court of Chancery, a position of considerable local influence in view both of the flexible nature of the equity law which the chancellor dispensed and of his function in appointing commissioners to investigate the truth of allegations made in suits depending before his court. In addition, the Chancellor was keeper of the bishop's seal and was ex officio a justice of the peace in County Durham. During the period under consideration there was a marked change in the type of official appointed to the post. During the second half of the sixteenth century there was a preponderance of chancellors who were as much members of the northern gentry as they were professional lawyers. This may possibly reflect lack of confidence in his position by Bishop Pilkington who was actually the only Protestant bishop of Durham to appoint a chancellor during the reign of Elizabeth. The only exception to this type of appointment was Ralph Skinner's brief tenure of the office. Skinner was Dean of Durham for almost as short a time as he held the chancellorship. Skinner's appointment may not have been as odd as it might have appeared, for he was one of the last members of the clerical-lawyer tradition which had been so prominent in the upper reaches of the English hierarchy during the first half of the sixteenth

century. He was highly thought of by Archbishop Parker who recommended him for the deanery. The flexibility of Skinner's religious opinions may well have appealed to Parker, although by the same token it is difficult to see why Pilkington was so attracted to him.¹ Perhaps the bishop's main concern was to make a rapid appointment in order to forestall pressure which may have mounted for the reappointment of Michael Wandisford, a member of a Yorkshire landed family with a strong legal tradition. Wandisford had exercised the office of Chancellor during the vacancy in the see following the death of Bishop Tunstall, and had too many Roman Catholic connections to be acceptable to the radical Pilkington. In 1561 Pilkington had thought it unlikely that Wandisford would take the Oath of Supremacy, and in addition he was too closely associated with Robert Meynell, whom Pilkington had identified as his main local opponent in the exercise of the temporal part of his jurisdiction.² After Skinner's death the chancellorship once again fell into the hands of a Yorkshire lawyer though this appointee, Thomas Layton, was a firm Protestant. For reasons which are not clear Layton, like Wandisford and Skinner before him, held the office for only a few months even though he remained in episcopal service.³ After such a succession of chancellors it became

1. DUL: Mickleton & Spearman MS 2 f. 17; DCL: Allan MS 13; M. Parker Correspondence ed. J. Bruce (Parker Society, Cambridge, 1853) p. 124.
2. DCL: Randall MS 13 f. 42; DUL: Mickleton & Spearman MS 2 f. 17; BL: Lansdowne MS 902 f. 31; CSP For, 1561-2 p. 225. Wandisford and Meynell had between them exercised the temporalities sede vacante
3. BL: Lansdowne MS 902 f. 31; DUL: Mickleton & Spearman MS 2 f. 17; CSP Dom. Add. 1566-79 p. 131.

essential that some degree of stability in the office should be secured; this was achieved with the appointment of a young Yorkshire lawyer, Thomas Calverley, who was to hold the office for over forty years. The post must have appeared attractive to Calverley who was still in his twenties and as yet unestablished, and in contrast to Wandisford and Layton he left Yorkshire in order to settle in Durham, where he founded a family of landed gentry whose position in the county was bolstered by a combination of continued office and a series of sound marriages.¹ Calverley's career in palatinate administration was almost aborted because of the material damage which he suffered during the 1569 rebellion, although it is not clear whether the damage was incidental or whether it was perpetrated deliberately against one regarded by the rebels as a threat. His political and religious affiliations were not in doubt. According to his fellow countryman Sir Thomas Gargrave he was both learned in the law and honest in religion and had rendered considerable assistance to Sir George Bowes in the local resistance to the rebels.² As a reward he benefited from the limited largesse which Elizabeth allowed to those who had actually borne the most responsibility for the suppression of the rebellion.³

1. DUL: Mickleton & Spearman MS 2 f. 17; BL: Lansdowne MS 902 f. 31. Calverley also filled some lesser offices. He was, for example steward of the Halmote Courts of the bishop. ibid. f. 36. His younger brother Michael was Coroner of Chester Ward. DCL: Randall MS 6 p. 376. PRO: DURH 2/5/110. The first two wives of Thomas Calverley's heir were respectively a daughter of Archbishop Hutton and a granddaughter of Dean Whittingham. J. Foster Pedigrees Recorded at the Visitations of the County Palatine of Durham (London, 1887) p. 63.

2. CSP Dom. Add. 1566-79 p. 213; BL: Harleian MS 6991 no. 33.

A slight deviation from the prevailing pattern of appointments to the chancellorship can be discerned in Matthew's bestowal of the office upon Sir Cuthbert Pepper. Like Calverley, Pepper was a Yorksnireman. Unlike Calverley, however, he did not restrict his interests to County Durham. Indeed, the county palatine formed only a small part of his wide legal interests. He had been a bencher of Gray's Inn, a Surveyor and later an Attorney of the Court of Wards and a member, and later one of the Judges, of the Council of the North.¹ It might perhaps be argued that such an appointment, whether by accident or design, was likely to bring the Durham Chancery more into the legal mainstream of seventeenth century England. Pepper did not hold the temporal chancellorship long enough to exert any really significant influence on the court's development. He was, however, in Bishop James's estimation "a learned and worthy gentleman of whom these counties shall have great want".²

The appointment of Pepper demonstrated that the bishops were beginning to look beyond the attractions of local lawyers or their own connections in securing suitable candidates for this office. This policy reached its apotheosis when Pepper was succeeded by Richard Hutton. The latter was a distinguished common lawyer by the time he was appointed chancellor. He was already a serjeant and would later become Chief Justice of Common Pleas. A northerner, born in Westmorland and resident in Yorkshire, he supplemented his national legal

1. R.R. Reid The King's Council in the North (London, 1921) pp. 253-4, 497.

2. HMC: Salisbury xx p. 226.

interests by membership of the Council of North and the recorderships of Doncaster and York.¹ In view of the wide nature of Hutton's responsibilities and commitments, it was obvious that he could never have hoped to become as locally active as, for example, Calverley who was solely preoccupied with his Durham work. His activities as a circuit judge obviously restricted his local activities still further. Nevertheless, his work as chancellor transcended these difficulties and he rapidly came to justify Professor Jones's admiring description of him quoted above.² The effusiveness of this opinion was shared by Bishop Morton, even though he and Hutton occasionally disagreed. Writing to Sir John Coke, Morton referred to "The worthiness of our oracle, the judge".³ Morton was fond of this description of Hutton, which seems to indicate a considerable degree of both affection and respect. He told Lord Keeper Coventry that he had written "by the direction of my Oracle Judge H." to Lord Cottington over his suit in the Court of Wards with Lord Gray of Wark.⁴ After his death Hutton was mourned by Morton as "an Oracle of lawe, by whome our Causes in lawe were concluded beyond exception."⁵ Hutton appears to have enjoyed similarly amicable relations with Bishop Neile. In 1627 Lord Clifford asked the bishop to deliver his good wishes to his chancellor. Hutton's partiality towards Neile in the matter of the

1. Reid Council in the North pp. 253, 497; DNB sv. 'Sir Richard Hutton'.

2. Jones 'Palatine Performance' pp. 194-5.

3. HMC: Twelfth Report (Coke MSS), Appendix II p. 113.

4. DUL: Mickleton & Spearman MS 2 f. 441.

5. Ibid. f. 458.

Weardale tenants has already been noted.¹ Despite his rare appearances in Durham, Hutton's judicial expertise and prestige ensured that he was frequently consulted on matters which lay outside the competence of his office. Such consultations appear to have conferred respectability on proposals which might otherwise have had little chance of achieving any success. Thus, Sir William Bellasis, sheriff of Durham from 1625 to 1640, suggested that Hutton, if necessary, should advise the bishop and justices of the peace on the revision of the Book of Rates.² He formed a useful link between the Privy Council and the locality similar to that formed by the judges of assize, with the difference, of course, that Hutton's links with Durham were much more long-standing and permanent than those enjoyed by judges. This enabled him the better to represent the Council to the county and the county to the Council. Hutton was called in to advise those councillors who had attempted to determine the vexed question of whether or not the sheriff of Durham should account at the Exchequer.³ Durham was omitted from the

1. DUL: Mickleton & Spearman MS 31/3, 4. See also above Bishop Neile's latest historian does not appear to have grasped the significance of Hutton's position in Durham, nor does he appear to have perceived the exact nature of the relationship between bishop and chancellor. He writes vaguely that "while at Durham (Neile) also sought the advice of the Hutton family", a strange statement in view of the number of unconnected families surnamed Hutton who were resident in Durham at the time. A.W. Foster 'The Function of a Bishop: the Career of Richard Neile, 1562-1640' in Continuity and Change: Personnel and Administration in the Church in England, 1500-1642 ed. M.R. O'Day & F.M. Heal (Leicester, 1976) p. 47. It appears that Hutton did not altogether approve of the innovations in services introduced under Neile's aegis. SS 34 p. 220.

2. PRO: SP 16/347/59.

3. PRO: SP 16/302/6.

arrangement by which privy councillors were assigned to particular circuits to oversee the justices of the peace in their enforcement of the instructions contained in the 1631 Book of Orders. Instead, the bishop and Hutton were entrusted with task.¹ In 1633 Hutton on coming to Durham was to take order "as he shall see occacon" regarding the indictment of several mercers.² The appointment of a lawyer as eminent as Hutton and his retention of an office which Morton feared he might give up indicate that the chancellorship of the County Palatine of Durham was still an office worth retaining and not the sinecure for failed provincial lawyers which it became after the Restoration.³ Much of the credit for this must lie with Hutton who, despite occasional criticisms from disappointed suitors, used his long chancellorship to implement the regularised procedures which expanded upon guidelines set down in 1596 by governmental initiative,⁴ and it is remarkable that the inherently controversial equity jurisdiction which he administered should have met with so little criticism in his long exercise of the jurisdiction of the Chancery Court of the County Palatine of Durham. Hutton was obliged to overcome an anomaly in his own position. He was primarily a common lawyer. Indeed, he was one of the finest common lawyers of a period characterised by their

1. APC 1630-1 pp. 215-7.

2. DRO: QS/OB/2 p. 112.

3. In a letter explaining his choice of Hutton's successor, Morton remarked upon the plan he had devised "if Judge Hutton should have given over the place." DUL: Mickleton & Spearman MS 2 f. 458. Morton's adoption of a contingency plan in this matter implies that he was aware of a possibility that Hutton might resign even though no resignation was ever forthcoming.

4. Jones 'Palatine Performance' p. 195.

suspicion of Chancery. Hutton's own position on the relationship between common law and equity was clear. Like Sir Edward Coke, he criticised Lord Ellesmere for seeking to extend the jurisdiction of Chancery at the expense of common law. Ellesmere's attitude was explained by his increasingly choleric temperament.¹ Despite his own reservations, Hutton managed successfully to exercise his equity jurisdiction by occasionally deviating from common law principles.²

Morton could not have hoped to have replaced his oracle with a lawyer of equivalent status. For the sake of convenience he selected a lawyer whose career and experience stamped him as a man of similar standing in the profession to Sir Cuthbert Pepper. Like Pepper, Sir Richard Dyott was a Judge of the Court at York.³ Morton claimed that Dyott was "a lawyer knowne to be well studied." However, this was not the main reason for his appointment. Dyott was chosen "having an opportunity by his better accomodation, by his nearnes."⁴ Furthermore, he was one of several officers appointed by Morton with strong connections with

1. G.W. Thomas 'James I, Equity and Lord Keeper John Williams' EHR xci (1976) pp. 512-3, 520.
2. Some of his judgments deviated considerably from common law principles and relied much on equity principles of the mitigation of the effects of common law and a consideration of the intention of parties in suits. In addition he seems to have been keenly aware of the possible political implications of some of the suits which he heard. See, for example, his lenient judgment in the case of Chapman versus Smart. PRO: DURH 4/1 pp. 72-3. This case is descussed more fully below pp. 527-8. For a definition of equity principles in the early seventeenth century see Thomas 'James I, Equity and Lord Keeper Williams' pp. 512-3.
3. Reid Council in the North pp. 253, 498.
4. DUL: Mickleton & Spearman MS 2 f. 458.

the bishop's former see of Coventry and Lichfield, Dyott having represented Stafford as "one of the most anti-puritan members in the whole of the Commons".¹ Dyott appears to have been appointed to the chancellorship in March 1639.² Consequently, he had little chance to impose his own style and opinions on a court which collapsed following the Scottish occupation of Durham and Northumberland in August of the following year. It seems reasonable to infer, however, that Dyott's defence of Richard Montague and apparent acceptance of Arminianism would have inclined him to adherence to governmental demands.³

The other palatinate officers tended to be drawn either from the local reserve of politicians and administrators or from men with family connections with particular bishops. There were exceptions to this generalisation. William Fleetwood, Pilkington's escheator, was a lawyer based in London and his title disguised a function concerned primarily with the representation of episcopal interests in the House of Commons or with ministers of the Crown.⁴ A later escheator, Sir Henry Lindley, who held the post under Bishop Matthew,

1. C.S.R. Russell Parliaments and English Politics, 1621-1629 (Oxford, 1979) p. 153. Dyott was one of several unimportant figures to fall foul of Pym. C.S.R. Russell 'The Parliamentary Career of John Pym' in The English Commonwealth ed. Clarke, Smith & Tyacke p. 159.
2. DUL: Mickleton & Spearman MS 2 f. 17.
3. Russell Parliaments and English Politics p. 232.
4. BL: Lansdowne MS 902 ff. 31-2; DUL: Mickleton & Spearman MS 2 f. 71; DCL: Randall MS 13 f. 21. His most important action on behalf of the county was to defend the rights of the borough of Gateshead from the encroachment of Newcastle. PRO: SP 12/107/75. Fleetwood was not Pilkington's temporal chancellor. Cf. James Family, Lineage and Civil Society p. 150.

was a Kentish gentleman whose main contribution to local affairs was his employment as a broking intermediary by potential purchasers of crown lands.¹ Lindley was not one of Matthew's more inspired appointments, although Matthew's good relations with his patron, Sir Robert Cecil, managed to survive Lindley's involvement in the Essex rebellion from which he luckily emerged relatively unscathed.² Such appointments were untypical. Most of the Durham escheators were men with local connections. They were, however, a disparate group. Robert Tailboys of Thornton, escheator under Barnes and Hutton, was the son of a Durham justice of the peace. As such, he would have expected to follow in his father's administrative footsteps and he consolidated his position by marrying a daughter of Bishop Barnes. Tailboys was typical of many of the senior officers of the palatinate in that he held more than one senior position. He was attorney-general as well as escheator.³ Despite these advantages he quickly fell from grace after an intemperate attack on Bishop Matthew and his implication in the attempt by Lord Eure to dispose of John Browne, the recorder of Berwick.⁴ Thomas Swinburne, escheator to Howson and Morton, was also a man of securely gentle origins

1. On his dealings in land see R. Surtees Durham III p. 202, 312; iii p. 117; iv (part one) p. 135.
2. HMC: Salisbury xi p. 86.
3. Multiple office-holding was also common in the County Palatine of Lancaster. R. Somerville Office-holders in the Duchy and County Palatine of Lancaster (Chichester, 1972). This reference was supplied by Dr. B.W. Quintrell.
4. PRO: SP 12/96 p. 132; R. Surtees Durham iii p. 382. On the dispute between Tailboys and Matthew see below pp. 399-400.

although he came from a Northumberland rather than a Durham background.¹ The other two escheators who were local residents did not come from a landed gentry background. John Richardson the younger may have held the office briefly, but met with considerable resentment from those who considered that the Richardsons had appropriated too great a proportion of the episcopal largesse.² The appointment of John Stephenson of Darlington by Bishop Neile was rather anomalous. Stephenson was an inexperienced young man without any significant connections. However, according to Mickleton the Bishop "tooke a very great love & fancy insomuch as (Stephenson) wanted not for any thing laid in this Bishops guift".³ Among the other gifts which Stephenson received were the clerkship of the assizes, the keepership of the bishop's manor house at Darlington and leases of the mills at Darlington and Blackwell.⁴ After Neile's translation to Winchester Stephenson reverted to the obscurity from which he had been so peculiarly plucked by the bishop. Although he had been appointed escheator for life, he presumably surrendered his patent, returning briefly to the stage during the Civil War during which he was a "captain against the Parliament and was still of a malignant spirit

1. DUL: Mickleton & Spearman MS 2 ff. 484-5; R. Surtees Durham ii p. 279.

2. Richardson was clearly deputy escheator and may have held the full office. DCL: Hunter MS 4 p. 189. There was discontent among the Dean and Chapter at the number of offices held by Richardson's father. Concern was also expressed at the bestowal of offices upon his sons. DUL: Cosin Letter Book 1/10. The Dean and Chapter had the right to refuse to confirm appointments issued by episcopal patent.

3. DUL: Mickleton & Spearman MS 10 p. 78.

4. PRO: SP 16/124/82.

and said before some of us that he would live and die so".¹ The only escheator of the period whose identity has been established was Francis James, a civil lawyer and younger brother of Bishop James. Francis James received other local offices from his brother. He was, for example, steward of the episcopal Halmote Courts. However, as a civilian based in London he was unable to fulfil these roles actively. His function as a palatine officer was similar to that of Fleetwood; to represent Durham interests at London at a time when the bishop was becoming persona non grata with the government. There was, of course, nothing unusual in the gratification of family interests by the bishop.²

In a direct analogy with the Crown, the bishop's chief law officer was the attorney-general of the County Palatine. This office had two main functions: the prosecution of episcopal interests in the courts of the palatinate and the representation of those interests in the courts of the realm. The office itself was ideally suited to those who desired professional advancement, but lacked the wealth, patience or connections to establish themselves in the royal courts. The attraction of the post did not lie in the fee to which the attorney-general was entitled. In 1614 Robert Cooper received £5. This, however, was in the nature of a retainer.³ In addition the attorney-general could benefit

1. SS 183 p. 90.

2. DUL: Mickleton & Spearman MS 2 ff. 60, 72; DCL Randall MS 13 f. 22; DPD/PK: PDM/Loose Papers/Box 12/6 July, 1609. For biographical details of James see B.P. Levack The Civil Lawyers in England, 1603-1641: a Political Study (Oxford, 1973) p. 243.

3. Lapsley County Palatine p. 179; DPD/SR: CC 221644.

from earning standard fees, from developing a private practice and from holding other local offices in addition to the attorneyship. The stewardship of the episcopal Halmote Courts and the office of attorney-general were usually held by the same officer although this practice was not obligatory.¹ Cooper was keeper of the manor of Stockton. Robert Tailboys was both escheator and attorney-general. Thomas Layton, while attorney-general, had the additional important task of deputy escheator to the absentee Fleetwood.² Eight names appear on lists of attorney-generals in Durham between 1558 and 1642. Two of these seem to be very unlikely. There appears to be no evidence confirming their holding of the office. The remaining six were all northern lawyers, four of whom were natives of Yorkshire. The other two, Robert Tailboys and Sir Thomas Tempest, were both members of Durham gentry families. It can therefore be assumed, given the length of time each attorney-general of the County Palatine of Durham held the office, that the office was considered to be well worth possessing, even though it had little appeal outside a fairly narrow circle of northern based lawyers. The important professional nature of the office narrowed the number of potential holders

1. At least four of the six authenticated attorney-generals, Meynell, Layton, Cooper and Smith held the stewardship of the episcopal Halmote Courts at some time in their careers.

2. PRO: SP 14/92/33; BL: Lansdowne MS 902 ff. 31-2, 35; DUL: Mickleton & Spearman MS 2 f. 37; HMC: Salisbury vi p. 411 Tailboys had begun his legal career in the county as Clerk of the Peace. DUL: Mickleton & Spearman MS 2 f. 68; DCL: Randall MS 13 f. 21.

and it is significant that only Robert Tailboys can be accounted, in his case by marriage, a member of an episcopal family. In legal terms the most substantial figure among the attorneys was the Yorkshireman Robert Meynell. He was a serjeant-at-law and one of the professional members of the Council of the North.¹ If one is to believe Bishop Pilkington's vituperative criticisms of Meynell in their entirety, and because of Meynell's close association with Marian Catholicism they should perhaps be treated with some caution, Meynell appears, through his concentration of local offices to have been a political figure of the first importance in county affairs. He was one of the assize judges of the county and during the vacancy in the see which followed the death of Bishop Tunstall he was reappointed by the crown to his offices.² According to Pilkington, Meynell had "ruled this country alone above twenty years with the evil report of all men".³ Meynell represented a clear threat to Pilkington's intention to introduce the reformation to his ecclesiastically backward diocese and he does not appear to have been restored to his palatine offices after Pilkington's appointment even though he remained a force in the north through retention of his office with the

1. Reid Council in the North p. 492.

2. CSPD 1547-80 p. 122; CSP For. 1559-60 p. 444. For Pilkington's criticisms of Meynell see Ibid. 1561-2 p. 225; CSPD 1547-80 p. 188. Meynell was a surety for the appearances of the Roman Catholic clerics Dean Robertson and prebendaries Bennett and Tutting before the commissioners for the Visitation of the northern province in 1559. SS 187 pp. 108-9.

3. CSP For. 1561-2 p. 225.

Council of the North. The only other attorney-general of the County Palatine of Durham to enjoy a significant legal career outside the bounds of the county was Sir Thomas Tempest who was attorney-general of Ireland as well as of Durham. Though a local man, whose father was a Newcastle merchant descended from an old Durham gentry family, he appears paradoxically to have first achieved office in Durham because of his court connections. Following the deaths of William Smith and Bishop Howson, Tempest was appointed attorney-general during the vacancy apparently through his connection with the Crown's attorney-general, William Noy.¹ He was counsel to Chief Justice Heath in the latter's dispute with the burgesses of Newcastle.² In 1628 Sir Henry Vane had appointed him deputy steward of the manor of Raby.³ More typical was William Smith's professional progress. Like most northern lawyers, though curiously unlike Cooper and Tempest who were members respectively of the Inner Temple and Lincoln's Inn, Smith had been trained at Gray's Inn. He had returned to the north originally as Recorder of Durham. He may have owed this post to his uncle George Lightfoot, himself a prominent lawyer and a close associate of the Eures. In his position as recorder and as steward of the mayor's court in the city, he was identified with the opposition to Bishop James. He was well placed to benefit from the widespread changes in

1. R. Surtees Durham iv (part two) p. 93; SS 34 p. 207.

2. CSPD 1631-3 p. 334.

3. CSPD 1628-9 p. 428.

palatinate personnel which followed that bishop's death and was an obvious choice to replace Robert Cooper, the long-serving attorney-general who died in 1621.¹ Among the other legal officers appointed by the bishop was the solicitor. This was not one of the traditional palatine offices and its use seems to have been confined to Bishop Matthew with Hugh Wright and to Bishop James as a reward for his chief agent John Richardson who, without holding any senior palatine office, was nevertheless by far the most important figure in palatine administration during James's episcopate.² The office of coroner was a minor perquisite exploited largely by those members of the gentry or their connections who were closely associated with the administration. Michael Calverley, a younger brother of the Chancellor Thomas, was coroner of Chester Ward and, in addition, was a substantial episcopal leaseholder at Cleadon in the parish of Whitburn.³ Some men like Robert Dearham and John King appear to have become recognised as members of the gentry class through their exploitation of the potential of such offices.⁴ It should, however, be borne in mind that outside the main legal offices of the palatinate there was little or no distinction made between service to the bishop as lord of the palatinate, as proprietor of

1. R. Surtees Durham i p. 187; iv (part two) p. 20; PRO: E 126/1 ff. 218-23; BL: Lansdowne MS 902 f. 35.

2. Ibid.; DUL: Mickleton & Spearman MS 2 f. 38; DCL: Randall MS 13 f. 94.

3. PRO: DURH 2/5/110; DCL: Randall MS 6 p. 376.

4. See below chapter 10.

the largest landed estate in the county or as diocesan head. Each branch of the administration allowed scope for official advancement and officers were disinclined to restrict themselves to any one branch.¹ Some offices, although essentially dependent upon one branch, also comprehended features of another. Thus the receiver-general, whose main function was the oversight of the receipt of the landed income of the episcopal estates, also received the income of the sheriff and the escheator who fulfilled palatinate functions.² The existence of the palatinate and its offices increased the opportunities for financial and social advancement offered in Durham. The beneficiaries of this advancement naturally became tied to the source of that advancement in the person of the bishop and associated ecclesiastics. This has induced Mr. James to discern the existence of what appears to have been an immutable "church interest" in the county.³ Members of this "church interest" benefited from the enjoyment of offices and lands associated with the palatinate and the church. There was nothing permanent about this arrangement. A particular bishop was under no obligation to depend upon the officers of his predecessor when

1. See, for example, the career of John King of Durham. He had served the bishop's palatinate jurisdiction as coroner of Chester Ward and helped administer the episcopal estates as bailiff of the Halmote Court of Chester-le-Street. DCL: Raine MS 41/19; DPD/PK: Register 8 f. 271.
2. DFD/SR: CC Main Accounts of Receiver General.
3. James Family, Lineage and Civil Society p. 72. The validity of this idea in terms of county society is discussed below chapter 10.

such officers did not enjoy patents for life. Some officers like Chancellor Hutton served a series of bishops and were never in danger of losing their offices. There were other occasions, however, when incoming bishops lost little or no time in appointing their own men to particular posts. Thus Bishop Pilkington sought to remove for religious reasons Catholic sympathisers like Robert Meynell and Michael Wandisford. They were replaced by sound Protestants like Thomas Layton and Thomas Calverley. Pilkington, like many other bishops of Durham was keen to promote the interests of his relatives, though he managed to achieve this largely through the exploitation of his powers of ecclesiastical patronage.¹ Bishop Barnes represented a different brand of Protestantism, and his relatives were notorious for their rapacity, though whether justifiably so is questionable.² Neither Hutton nor Matthew made significant unenforced changes in their teams and the career of Bishop Barnes' lawyer son, John, in palatinate and county administration long after the death of his father might seem to imply the

1. Pilkington appointed his brothers John and Leonard to the Chapter of Durham and to their various substantial livings. In addition he bestowed the archdeaconry of Durham on John Pilkington. He appointed his relative by marriage John Kingsmill to the mastership of Greatham Hospita. R. Surtees Durnam iii p. 136.

2. See below pp. 446-7.

continuation of a "church interest".¹ On the other hand, Bishop James, despite the cordiality of his personal and professional relations with his predecessor, cared little for some of his officers who found their opportunities for advancement restricted.² Similarly, Neile found James's reliance on the services of John Richardson repugnant and not only promoted Richardson's enemies, Hugh Wright and John Cradock, but also found an unlikely ally in George Lilburne in his dispute against the former episcopal solicitor.³ With the exception of Neile's curious preferment of John Stephenson almost as a local minor equivalent of George Villiers though without the sexual overtones of the latter's relationship with his king, the palatinate administration seems to have become more professional during the years between 1617 and 1640. General episcopal servants like Edward Lively, Francis Cressett and Thomas Layton were more concerned with obtaining profit from leases rather than

1. Barnes was a justice of the peace in the episcopates of Matthew and James. PRO: C 181/1 pp. 42-3, 61, 111, 183; C 181/2 ff. 16, 44, 64, 81. He was chief clerk in the Durham Chancery and, describing himself as Clerk of Gaol Delivery, deposed on behalf of Matthew in his suit against Sir Jerome Bowes. PRO: DURH 2/5/20; E 134/43 Elizabeth/Easter 25. On Bishop James's opinion of Barnes see HMC: Salisbury xxi p. 140.
2. James was particularly scathing about Henry Sanderson, Matthew's effective hammer of recusants. HMC: Salisbury xxi p. 132; PRO: SP 14/63/92. James similarly distrusted Hugh Wright, whom he had inherited from Matthew as receiver. HMC: Salisbury xxi pp. 194-5
3. Richardson allegedly stirred up an Exchequer suit against Neile and George Lilburne over former chantry land in Bishopwearmouth. DPD/SR: CC 220750.

from office.¹ Such men's first loyalties lay with their employer as a person rather than to him as a bishop or to the palatinate of Durham as an institutional or geographical entity.

Palatinates by their very nature tend to emphasise feelings of local awareness, and there has been almost a natural tendency among Durham antiquaries to emphasise the county's distinctiveness. However understandable adherence to such an emphasis might be considered, its uncritical acceptance should be avoided, for during our period it cannot be denied that the forces conducive to greater centralisation and absorption into a national framework were usually more influential than those emphasising local particularism. This emphasis upon centralisation might have been expected to induce widespread conservative sentiments, which, by mythologising an imaginary golden age of Durham independence based upon the might of the prince-bishops, could stimulate opposition to contemporary developments. Such sentiments were rare. Though present in 1536 they did not permeate the thinking of the 1569 rebels. They are implicit in the

1. On the leases enjoyed by Lively who was Neile's secretary see PRO: SP 16/124/82; DCL: Raine MS 58 ff. 17v-18. He also leased the corpes of the Arminian prebendary, Augustine Lindsell. DPD/PK: Chapter Act Book 1619-38 f. 8. Layton was a servant of Bishop Morton. He received a lease from his master of the controversial Weardale tenements which had been the subject of Neile's dispute with the customary tenants there. DUL: Mickleton & Spearman MS 91/13. Cressett received from Morton a beneficial lease for three lives of lands in Heighington. The parliamentary surveyors estimated that these were worth £32 per annum above the annual rent. This estimate was moderate in comparison with Cosin's belief that the land was worth £200 per annum. SS 183 p. 67; DCL: Sharp MS 167 p. 13.

Rites of Durham written in 1593 and can be discerned more clearly in Hegg's Legend of St. Cuthbert which was published in 1626 and in the various antiquarian works which were projected in the late sixteenth and early seventeenth centuries.¹ Contemporary reactions to the palatinate were concerned much more with its practical manifestation of the limited power and influence which it possessed. Palatinate influence was subjected to two main constraints: the legal framework within which it operated and the fluctuating interpretation of the limits of that framework. Within these constraints there was scope for opposed reactions from, on the one hand, those who welcomed the limited local determination of local affairs because they were able to perceive the benefits which this could bring, and, on the other hand, from those who were concerned at the possibility or actuality of abuse of the powers concentrated within the hands of the lord of the palatinate. Such reactions were determined largely by self-interest. The possibility of attaining palatinate office or the successful pursuit of litigation which might otherwise have involved the expense of a suit in one of the royal courts were powerful inducements to favour the maintenance of at least a semblance of the palatine privileges. The difficulty in securing justice in matters directly affecting episcopal interest was a similarly powerful stimulant to the contrary. The preponderance of reactions

1. The Rites of Durham have been published in SS 107. The background to the work of Hegg and the other early Durham antiquaries is discussed below pp. 702-4.

based upon self-interest is in itself a powerful reminder that the principles underlying the maintenance of palatine privileges were no longer of much account. That does not mean, of course, that the privileges themselves were negligible. They were even enhanced by certain developments in the seventeenth century; by the association of the bishop with the lord lieutenancy of the county, though governmental action in the late 1630s clearly demonstrated that only lip-service was paid to the theory underpinning this policy,¹ and by the privileged status which the bishop was accorded under the arrangements formulated for discharging the duties laid down in the Book of Orders. As a result of such developments, the power and influence of the bishops should have increased. This, however, had little to do with traditional palatine privileges which were tolerated if they provided no threat to the government or if the Crown suffered no significant financial loss by their preservation. Such a negative modus vivendi was no satisfactory foundation for the confident affirmation of local distinctiveness. Indeed, it primarily reflected the want of an alternative local source of influence upon which the Crown could rely. In the strictest sense of the word, the palatinate of Durham was a palatinate in name only.

1. See below pp. 263-9.

CHAPTER FOUR

COUNTY DURHAM AND THE COUNCIL OF THE NORTH

"If they find any malefactor of great wealth, cause the extremity of law to be publicly executed against him for example's sake, yet so that the common people do not violently redress themselves but wait the redress of law." (Instructions of the Queen to the Earl of Huntingdon, 1574. CSP Dom. Add. 1566-79 p. 465.)

"It is true I thought myself very hardly dealt withal that I was so little respected in this place, which had been most fit to be respected, that proclamations were sent down to the bishopric a day before any came to me." (Thomas, Lord Burghley to Sir Robert Cecil, April 4, 1603. HMC: Salisbury xv p. 31.)

'The King's Council established in the north parts', more familiarly referred to as the Council of the North, has, despite the loss of its records, attracted the attention of many historians. The standard history of the institution is now dated, and considerable scope exists for revision.¹ It is no part of the purpose of this chapter to attempt any such revision. The main concern will be the effect of the Council of the North upon the conduct of public life in county Durham during the period under consideration. However, in order to pursue this aim satisfactorily, it will be necessary briefly to consider the most salient features of the Council's composition, organisation, function and powers and to examine how these affected its relationship with the counties under its control and how in particular its relationship with county Durham differed from its relationship with Yorkshire, the centre and always the most important part of its jurisdiction.

The origins of the Council of the North as a centrally imposed form of local administration lay in the private council which had been responsible for the oversight of the

1. The standard history of the Council is R. R. Reid Council in the North. See also F. W. Brooks The Council of the North (Historical Association, revised edition London, 1966). On the legal aspects of the Council's work see J. S. Cockburn 'The Northern Assize Circuit' NH iii (1968) pp. 123-5 where the judge who was removed from the northern circuit for claiming that the Council in session was not a court of record is incorrectly identified, and W. J. Jones Elizabethan Court of Chancery pp. 351-61. On the work of the Council's greatest president see M. C. Cross The Puritan Earl: the Life of Henry Hastings, third Earl of Huntingdon (London, 1966) Ch. 5.

northern estates of the future Richard III. This private council acquired additionally a legal jurisdiction. Although its power was not maintained the idea was revived after the suppression of the Pilgrimage of Grace. Conciliar administration was envisaged as the ideal means of subjugating the troublesome northern region. The Council's jurisdiction was extended outside Yorkshire to embrace the counties of Durham, Northumberland, Cumberland and Westmorland and the corporations of York, Hull and Newcastle which were administratively distinct from the counties in which they were situated.¹ The Council of the North as established in 1537 remained a feature of English government for over a century until falling foul of the members of the Long Parliament in 1641. The Council's first president was a bishop of Durham, Cuthbert Tunstall, and three other clergymen, Archbishops Holgate, Young and Hutton, held the office with conspicuous lack of success.² The appointment to the office of a northern temporal peer was an expedient avoided by the cautious Queen Elizabeth after the death of the Earl of Shrewsbury in 1560 for it meant that the president was unlikely to be a party to any of the north's factional disputes. James I, however, reverted to the

1. Reid Council in the North pp. 60-4, 147-52.

2. Brooks Council of the North p.18. Hutton filled the office unsuccessfully from 1596 to 1599 but never received a commission for the presidency. Ibid. p. 17. On Hutton as President see HMC: Salisbury ix p. 317.

practice of choosing northern peers although his appointees, Sheffield and Scrope, were not members of the north's leading peerage families and were thus subject to easy manipulation by those families. Sir Thomas Gargrave, vice-president of the Council for thirty-four years from 1545, provided the essential local backing for the outside presidents Sussex and Huntingdon, as well as supplying an impressive degree of administrative continuity. Gargrave played a significant role in the suppression of the 1569 rebellion. Professor Loades suggests that this was through his position as a royal official, contrasting this with the impotence of the Council's reaction to events. Nevertheless, it should be remembered that Gargrave's local influence was almost wholly derived from the power of his office, which suggests that conciliar impotence should not be over-stressed.¹ Administrative continuity was in addition provided by the Secretary who was also a sworn member of the Council and whose office supported an extensive staff of lawyers and bureaucrats.² Lawyers likewise proliferated among the sworn members of the Council. In 1537 three common lawyers and three civil lawyers were specifically nominated.³

1. Brooks Council of the North p. 19; D. M. Loades Politics and the Nation, 1450-1660 (London, 1973) p. 271. On Gargrave's influence see CSE Dom. Add. 1566-79 p. 60.

2. Brooks Council of the North p. 19.

3. Reid Council in the North p. 149.

The position of the lawyers on the Council soon became institutionalised, for after 1568 at least four common lawyers were bound to continual attendance and had board and lodging in the President's residence, thereby emphasising the increasingly professional nature of the Council.¹ The emphasis placed on the membership of the Council of such lawyers, who, incidentally, were usually placed on the commissions of peace of the northern counties, diminished the influence of the northern landed gentry upon the Council, and also presumably contributed to any distrust which such gentlemen may have conceived towards the institution.² Those members of the landed gentry who provided the nucleus of the county commissions of the peace tended to be thinly represented on the Council of the North, membership of which was restricted largely to magnates, either of the peerage or of those great families ranked just below the peerage such as the Bowes of Streatlam, and lawyers. Thus, the commission issued to members of the Council in 1564 included only two Durham

1. Brooks Council of the North p. 18. The instructions issued by the Queen in 1574 to Huntingdon in order to regulate the conduct of the Council stressed that the number of councillors bound to continual attendance be limited on the grounds of economy, a concern implicit throughout the instructions. CSP Dom. Add. 1566-79 p. 463.
2. One particularly marked indicator of the reduction of the influence of the Council of the North as an administrative institution in the counties of its jurisdiction outside Yorkshire, was the reduction in the number of the council's professional members named in Durham commissions of the peace. By 1617 only one, Sir John Gibson, remained. PRO: C66/2147.

landed gentlemen, Sir George Bowes and Sir George Conyers.¹ Ten years later Durham gentry membership was even more severely restricted, for only Sir George Bowes and his younger brother Robert came into this category.² This imbalance was still apparent when membership was reconstituted in 1583. Fourteen members had been appointed by the Privy Council. These included the bishop and dean. Huntingdon made ten further recommendations for inclusion, of whom only two were Durham men, his supporters William and Robert Bowes.³

As the Council became increasingly dependent upon the work of lawyers based in York, so was the work of the Council necessarily undertaken in that city. It had been originally laid down that the Council should hold quarterly sessions at York, Newcastle, Durham and Hull.⁴ Gradually, however, the number of sessions held away from York declined. Durham had lost its sessions by 1566.⁵ One can infer from information given by the Earl of

1. Durham was also represented by the bishop and the dean and by two temporal peers, Lumley who usually resided on his southern estates and Eure whose Yorkshire interests were assuming increasing importance. The youthful Earl of Westmorland was not included. CPR 1563-6 pp. 123-4.
2. CSP Dom. Add. 1566-79 p. 463. Lumley had also been dropped by this time.
3. PRO: SP 15/28/7. Robert Bowes's other commitments would have left him little time to partake actively in the Council's business.
4. Reid Council in the North p. 154.
5. Brooks Council of the North p. 20.

Sussex that by 1568 the Council had been a static institution for the past three or four years, for in that length of time there had been no sittings on the borders, even though Newcastle and Carlisle had been the last remaining peripheral venues for the Council's deliberations. This may have owed much to the lack of zeal of Archbishop Young under whom the policy of holding fixed sessions in one centre became conciliar practice.¹ The Council therefore became physically more remote from county Durham and the other more northerly parts of its jurisdiction. This had advantages for Durham ratepayers who did not have to subscribe regular payments for the expensive entertainment of the Lord President, his officials and camp-followers.² A proposed visit to Newcastle in 1597 caused consternation.³ Nevertheless, the effects of remoteness should not be over-emphasised. York was still easily accessible. There were grounds for arguing that, at least in the sixteenth century, the Council enjoyed favour among litigants of lower social standing who, given the comparative lack of influence of Durham men on the Council, may have enjoyed better prospects of fair treatment than might have been obtained

1. CSP Dom. Add. 1566-79 p. 60.

2. An indication of the costs which would have been incurred had the Council remained peripatetic was given in 1592 when the cost to the Dean and Chapter of Durham of entertaining Huntingdon and his entourage exceeded £35. DPD/PK: Miscellaneous Charter 3238.

3. Brooks Council of the North p. 20.

in the courts of the palatinate.¹

The main functions of the Council of the North were twofold: the operation of a court of law with extensive rights in its jurisdiction and the more general administration of the lands of that jurisdiction. These two functions cannot be examined in isolation from one another for the administrative authority of the Council derived from the legal powers it had been granted.² Nevertheless a certain contrast can be discerned in the performance of the two basic functions. The legal powers of the Council in their narrowest sense, did not significantly vary during the period under consideration. On the other hand there appear to have been considerable variations in the degree of administrative authority exercised by the Council during this same period. Thus, during the incumbency of such active Lord Presidents as Huntingdon and Wentworth, whose policies enjoyed the enthusiastic support of the central government or who themselves enthusiastically pursued policies laid down by the government, the authority of the Council was pressed to its limits. In contrast, weak officers such as

1. See, for example, DPD/PK: York Book ff. 32-3. When faced with these allegations of partiality the standard response of the Privy Council was to refer the case to the discretion of the Lord President of the Council of the North. APC 1571-5 p. 337. In 1596 the Council of the North used the partiality of the Durham Chancery court as an excuse for interfering with its processes, alleging that the Durham court demanded extreme penalties and forfeitures and that cases were conducted against equity and good conscience. PRO: SP 12/259/100.
3. See, for example, Reid Council in the North pp. 185-6.

the second Lord Burghley found themselves unable to press forcefully the Council's authority in areas outside Yorkshire.¹ It should be noted that in various parts of the north the authority of the Council could conflict with other authorities, with the remaining palatinate powers in Durham or with the wardens of the marches, for example.² Therefore, the relative effectiveness of the Council of ten depended upon the relationship which it enjoyed with those authorities which were occasionally disinclined to co-operate.³ This was further complicated by the reluctance of the government to concentrate the various county lieutenancies in the hands of the current Lord President. He was invariably the lord lieutenant of Yorkshire. That he did not invariably hold other northern lieutenancies obviously limited the effective power which the lord president could wield.⁴ Thus, not only was it possible for the level of conciliar power imposed on the north to vary from time to time, it was also possible for it to vary between different areas at the same time.

1. He had no commission in lieutenancy matters outside Yorkshire. CSPD 1598-1601 p. 322. On his more general impotence see HMC: Salisbury xv p. 31.

2. See below pp. 164-5 and Reid Council in the North pp. 163-5, 177-8.

3. There was considerable rivalry, for example, between Huntingdon as Lord President and Lord Hunsdon. Hunsdon, a cousin of the queen who had served as Warden of the East March and Governor of Berwick, refused to become militarily subordinate to Huntingdon in 1587. Cross Puritan Earl p. 214.

4. Huntingdon, was for example, the only Lord President of the Council of the North, apart from Tunstall, simultaneously to hold the lieutenancy of Durham.

The legal powers of the Council were carefully set out in 1537. It was awarded a commission to hear and determine treasons, murders and felonies. Similarly, it was given such powers in respect of civil actions between parties.¹ The extent of the Council's exercise of its jurisdiction in matters of common law felonies has been masked by the loss of its court records. Clearly, the Council's powers duplicated those of assizes held within its jurisdiction. It has been argued, on the basis of reports of Council sittings, that in the sixteenth century at least there was an amicable relationship between councillors and assize judges on circuit, implying thereby a cautious attitude by the Council to its criminal jurisdiction.² Subsequent disputes between assize judges and the Council do not all suggest conflict over the extent of criminal jurisdiction. The dispute between the fractious Serjeant Yelverton and the ineffectual Lord Burghley concerned matters of personal precedence, not of criminal jurisdiction. A similar dispute arose in 1614.³ The dispute in 1633 caused by Judge Davenport's assertion at the assizes held in Durham that the Council in session did not constitute a court of record had much more fundamental legal ramifications, for not only was it delivered during a period in which Coke's espousal of the supremacy of common law

1. Reid Council in the North p. 149.

2. Cockburn 'Northern Assize Circuit' pp. 123-4.

3. Ibid. pp. 124-5.

held considerable sway, it also coincided with a period in which the role of the judges of assizes in helping to control and order the localities had received a renewed emphasis.¹ Absence of adequate evidence precludes a significant discussion of the differences which occurred between Council and judges in county Durham. Occasionally, the assizes were treated with some deference. Thus, specific arrangements were made for the rebel Hussey to be tried at Durham assizes rather than at York.² When Huntingdon visited the assizes at Durham in 1592 he was keen to point out that he was there by the invitation of the judges in order to help resolve the problem of a border incursion.³ Huntingdon was also present at the assizes two years later for the trials of the seminary priests John Bost and John Ingram and of George Swallowwell who was charged with treasonably alleging that the Queen could not be head of the Church and with converting a person to the Roman Catholic faith. According to the eye-witness report of Father Holtby, Huntingdon took no part in the brief trial of Bost, though he did intervene at the passing of sentence, making further allegations

1. On Coke's attitude to the Council of the North see Loades Politics and the Nation p. 335. On the role of the assize judges in local administration see, for example, Barnes Somerset pp. 180-1
2. CSP Dom. Add. 1566-79 pp. 305-6.
3. BL: Harleian MS 6995 no. 76. The business upon which Huntingdon was consulted did not concern Catholic recusancy. The seminary priests, Joseph Lambton and Edward Waterson, were arraigned at Newcastle, not Durham. Cf. M.C. Cross 'The Third Earl of Huntingdon and Trials of Catholics in the North' Rec. Hist. viii (1965) p. 141.

of treason against the priest. He intervened directly in the trial of Ingram, although he was politely rebuked by Judge Beaumont for his pains. He also commented sadly upon Swallowwell's sudden affirmation of Catholic faith when its revocation would probably have brought his acquittal. In none of these interventions did Huntingdon attempt significantly to impose his will on judicial proceedings. Although he was entitled to sit with the judges of assize, his tasks had been effectively completed with the examination of Bost and Ingram.¹ The evidence is limited, but it appears that the lord president enjoyed a reasonably amicable relationship with the judges of assize. It should be emphasised, however, that during Huntingdon's presidency there were few grounds for any conflict, although such conflicts did arise, in a particularly petty, trivial manner after his death. It also seems likely that, despite Durham's own peculiar system of assizes, it was not considered by Huntingdon to differ in any significant respect from other parts of his jurisdiction.

There is considerably greater evidence with which to assess the Council's exercise of its equitable jurisdiction, many incidental references to the Council's handling of such cases having survived. The Council did not possess an exclusive jurisdiction, and acknowledged

1. Troubles of our Catholic Forefathers Third series ed. J. Morris (London, 1877) pp. 198-208.

its limitations in this respect. The most important of these was that it would not adjudicate in cases involving freehold except when agreed by both parties in a dispute or in cases when a replevin, by which a person whose goods had been distrained regained them on condition that he became bound to test the matter in a court, was issued. Furthermore, in response to pressure from lawyers based in the courts at Westminster it became established that only persons resident within the bounds of the Council's jurisdiction might pursue litigation at York.¹ The equitable jurisdiction exercised by the Council resembled that of the Court of Chancery.² The latter, however, did attempt to defend itself against northern encroachment, although the

1. Jones Elizabethan Court of Chancery pp. 356. A corollary of this restriction was that the Council of the North was unable effectively to oversee the performance of its decrees on persons resident outside its jurisdiction. Thus a Surrey gentleman, John Awbrey of Camberwell, "a very lewde and evill disposed person" who possessed a royal commission to search out concealed lands, attempted in 1585 to destroy the chapel of ease at Wolviston in the parish of **Billingham** on the grounds of concealment. This rigorous interpretation of his brief, which hardly fitted in well with the often expressed wish of those in authority to improve religious provision in this "dark corner", was naturally opposed by the local inhabitants, two of whom sought to prevent the chapel's destruction by becoming bound to Awbrey with the eventual intention of proving that the chapel had never been concealed. They very quickly obtained a judgment against Awbrey who was ordered to cancel the obligation, but the latter, having removed again to the safe confines of Camberwell, not only refused to do so but also commenced suit against the distressed parishioners at common law, in which for purely geographical reasons he was likely to be well placed. DPD/FK: Misc. Ch. 2592.

2. Reid Council in the North p. 189.

relationship between the two courts was amicable enough. The Chancery was unlikely to transfer a northern case to the Council on the latter's initiative, although it might take the Council's officers into account when appointing commissioners. On the other hand, there was a realisation that Chancery bills concerning proceedings already begun in the north were unlikely to be strongly based in equity.¹ If the Council was prepared to heed the preeminence of Chancery, so did it expect to exert superiority over the Chancery Court of the County Palatine of Durham. Such superiority was implicit in the position of the bishop as a subordinate member of the Council whose president headed a commission of oyer and terminer for the five counties in his jurisdiction and who headed Durham commissions of Gaol Delivery, a position not secured by the bishops until the episcopate of Richard Neile.² The Council of the North had become recognised quickly as the superior jurisdiction, Lapsley arguing that much of the responsibility for this change rested with the servile attitude of Bishop Tunstall to the demands of Henry VIII.³

1. Jones Elizabethan Court of Chancery pp. 356-7.
2. PRO: C 181/1 and 2 passim. The President invariably headed the commission until Sheffield was superseded by Somerset during the latter's brief ascendancy in county Durham. In the first year of his episcopate Neile was named after Lord Keeper Bacon, Lord President Sheffield and the Earl of Cumberland. PRO: C 181/2 ff. 210, 311.
3. In the evidence which Lapsley cites, however, Tunstall merely reflected a conventional contemporary attitude to monarchical authority. Lapsley County Palatine pp. 262-3.

The relationship between the two jurisdictions was never actually quite so simple, although, on the other hand, it was not as fraught as Professor Jones suggests in his contention that "for years there were disputes over jurisdiction".¹ Significant jurisdictional disputes were much more spasmodic. An early burst of disputes, coinciding paradoxically with the period during which Bishop Tunstall served as President of the Council, indicated, if the evidence is to be believed, that the Council was anxious to display its primacy by the issue of injunctions staying proceedings in the Durham Chancery.² Once the Council's effective primacy was established there was little need to continue actions of this sort, especially as during most of the succeeding half-century the institutions of the Palatinate were at rather a low ebb. For much of this period the Durham see was in the hands of weak bishops whose freedom of action was further circumscribed by financial problems resulting from royal confiscation of a substantial proportion of episcopal revenue.³ Indeed, the primacy of the York equitable jurisdiction is emphasised by the request of

1. W.J. Jones 'Palatine Performance' p. 194. He has rightly recognised, however, that the most important dispute became entangled with one of the intermittent controversies between York and Durham over ecclesiastical jurisdiction. The best account of this is Marcombe Dean and Chapter Ch. 5 passim.
2. PRO: SP 12/259/100. These actions were recalled sixty years later to support a conciliar polemic. It is possible therefore that the evidence may have been deliberately manufactured to provide a suitable precedent.
3. See above pp. 74-5, 78.

Robert Meynell, chancellor of the County Palatine, to Lord Treasurer Winchester to stay a suit at York which the former claimed should have been heard at Durham.¹ The reaction against the legal powers of the Council at York did not depend upon a theoretical justification of Durham rights and privileges, but stemmed from the handling by the northern authorities of a series of interrelated disputes.² Huntingdon and members of the Council were involved in these disputes in a variety of ways: as a court of law, as a body as nominated arbiters, and as individually appointed special commissioners. This may have helped induce the comment that interference from York had made the exercise of justice in the Durham Chancery impossible.³ This is clearly a partial viewpoint. It did not require interference from the President or members of his Council to deflect the Durham Chancery from the strict paths of equitable virtue, for the structure of the court, in which officers of the bishop were often enabled to give judgment in his own cause or in the cause of individuals and institutions with which he had close associations, gave ample opportunity for

1. CSP For. 1559-60 p. 445.

2. These were the dispute between the Dean and Chapter and their tenants, the controversy over the validity of the orders of Dean Whittingham and the dispute between the Dean and the Chapter of Durham and the archbishop of York over the exercise of ecclesiastical jurisdiction in Durham sede vacante.

3. Cited by Jones 'Palatine Performance' p. 194.

this.¹ It might be possible to argue that in these circumstances the rival jurisdiction at York provided the system with a necessary check, which is what angered the Dean and Chapter so much because their position in any Durham Chancery suit was weakened by the existence of the check. The short-term interests of the bishops would have been served if the county had been removed from conciliar jurisdiction. It has been argued that an attempt to effect such a removal was made in 1580.² However, the evidence on this point is unclear, and the terms of Huntingdon's letter which suggest this possibility are not categorical.³ Even if Huntingdon had due grounds for his fear, there was little likelihood that any such plan could have been effected. The government still relied heavily on the Council for the effectiveness of northern administration.⁴ The Privy Council's use of the Council of the North as an intermediary was at its peak. County Durham was proving far too troublesome to be left to the devices of the sycophantic Barnes.

The comparative impotence of the Durham Chancery in relation to the court of the Council at York was not

1. See above p. 95 and below pp. 734-5.

2. Reid Council in the North p. 321.

3. BL: Harleian MS 6992 no. 66.

4. Its utility had been demonstrated by the suppression of the 1569 rebellion, a regional problem which required a regional, not a county, solution.

destined long to survive the death of Huntingdon in 1595, for there was a marked change in the relationship between the two courts. This was not solely a consequence of the President's demise. Cracks in the conciliar edifice were beginning to appear before this date. The Chancery Court in London was becoming more assertive,¹ therefore it was natural that the Durham Chancery should have attempted to emulate its more eminent counterpart. Bishop Matthew, for all his faults, appears to have made a worthwhile attempt to streamline the Durham administration. A more assertive and better organised Chancery fitted in with such plans. In contrast to its previous impotence the Durham Chancery frightened the acting President, Archbishop Hutton, by attempting to turn the Council's old tactics to its own advantage. The Durham Chancery directed injunctions to plaintiffs at York commanding them to stay their suits. Similar objections to those once made against the Durham Chancery were trotted out against the Council.² The Durham arguments found some favour at court, presumably because they fitted in with Cecil's designs, and in the instructions issued to the second Lord Burghley in 1599 the distinctiveness of the Durham jurisdiction was recognised,

1. Jones 'Palatine Performance' p. 194.

2. PRO: SP 12/259/100.

much to the new president's disgust.¹ After this date the two jurisdictions appear to have reached a modus vivendi, although there was a tendency for the Council, having lost much of its effective executive authority to remain on the defensive. In 1610 moves were afoot to subvert the jurisdiction of the Council of the Marches and Wales over the four English counties in its ambit. It had been claimed in Parliament that inhabitants there were denied their fundamental right of recourse to common law on account of technical difficulties in obtaining writs of prohibition transferring cases from the Council to a court at Westminster.² At that time Ludlow Castle was occupied by Ralph, Lord Eure, a Yorkshire peer with strong Durham connections and he seems to have been worried as much about the implications of this development for the Council of the North as for his own Council.³

1. It had been advocated in a memorandum that the new president should have a commission of lieutenancy extending to Durham and the outlying parts of his jurisdiction. This was not granted. In addition the relationship of the bishop to the Council became analogous to that of the wardens of the marches. CSPD 1598-1601 pp. 272, 322; HMC: Salisbury xv pp. 31-2; Reid Council in the North pp. 321-2.
2. R. Ashton The English Civil War: Conservatism and Revolution, 1603-49 (London, 1978) p. 62. In 1629 the King complained that prohibitions issuing out of the common law courts at Westminster were preventing the course of justice at York. CSPD 1628-9 p. 585. By this time the principal dispute lay between equity and common law, not between rival equity jurisdictions which were perhaps more conscious of what they had in common than what divided them.
3. CSPD 1603-10 p. 649.

For litigants from county Durham the equitable jurisdiction of the Council of the North possessed several benefits. It was not subject to the partial influence of the bishop whose courts often heard cases directly involving his own interests. Council hearings at York were much more accessible and less expensive than treks to the dilatory and formalistic Court of Chancery at Westminster. A wide variety of specific Durham cases appears to have been heard at York. Some had been instituted there; others had originated in the Chancery court of the County Palatine. However, some of the most important cases heard at York involving Durham matters were referred to the Council by the Privy Council in London. Lapsley argued that such a procedure was a natural consequence of the relationship between the two institutions, regarding the Council at York as a direct offshoot of the Privy Council.¹ The powers of the northern Council rested on royal commission not on delegation by the Privy Council and its jurisdiction derived from commissions of the peace and oyer and terminer. Nevertheless it was generally subordinated to the dictates of the Privy Council.² The chronological pattern of cases referred by the Privy Council to the Council of the North is interesting. The absence of most of the Privy Council registers compiled in the early years of the reign of Queen Elizabeth do not permit confident general-

1. Lapsley believed that "the Council of the North took its sanctions from the political and legal authority of the privy council" as part of the Tudor policy of subjecting peripheral areas to the direct control of monarch and Privy Council. Lapsley County Palatine p. 261.

2. Tudor Constitution ed. Elton p. 197.

isations about this period. It does, however, appear that the adoption of the policy of referral coincided with the appointment of the Earl of Huntingdon to the presidency. In 1574 and 1575 he became involved in the complicated dispute between the Dean and Chapter of Durham and many of its tenants which culminated in the famous decree of 1577 which regularised landlord-tenant relationships on the Chapter's estates. The greatest concentration of referrals can be found towards the end of that decade. There followed a gradual decline in the practice which was paradoxically revived during a period of comparative conciliar impotence coinciding with Archbishop Hutton's temporary occupation of the presidency. The policy was continued, apparently with less frequency, during Sheffield's tenure of the office.¹ The Privy Council was, of course, particularly prone to delegate matters in the sensitive area of northern tenurial relationships in a region so recently afflicted with rebellion. The Council of the North, operating at York and largely comprising northerners who would more readily appreciate the full ramifications of unconsidered decisions in these matters, was a much more satisfactory body to reach this decision than a Privy Council always ready to display its collective ignorance of northern affairs. This was clearly exhibited in the decree of 1577.² The decree was the culmination of a series of disputes between the Dean and Chapter and many of their tenants.³ The tenants,

1. APC passim.

2. For the text of the decree see SS 82 pp. xxxvii-xl.

3. For the details of the dispute see Marcombe Dean and Chapter pp. 146-56.

fearing that they would be unable to obtain justice in a court held under the auspices of the patron and relative of some of their opponents took their case for redress to the Privy Council. The Privy Council's initial response was merely to write to Huntingdon with details of the tenants' supplication.¹ Although their Lordships' next move in the affair was to instruct Huntingdon to punish openly the tenants' ringleader, Rowland Seamer, such an attitude did not long prevail.² Much of the credit for this appears to lie with Huntingdon and the Council of the North. The Privy Council had been content to rest on its earlier antagonistic laurels towards the tenants who were daring to challenge their superiors. However, Huntingdon and his predecessor both testified on the tenants' behalf in a particular respect calculated especially to elicit a stock response from the government. The Dean and Chapter's alleged oppression threatened to disrupt border defence. Accordingly, it was necessary for them to modify their position. Although it was Huntingdon who was mainly responsible for bringing this side of the problem to bear upon the Privy Council, it was nevertheless the latter who laid down the broad basis of the proposed settlement. It was left to Huntingdon and his officials to work out the solution in detail in such a way that both parties to the dispute would be mollified.³

1. APC 1571-5 p. 318.

2. Ibid. p. 337.

3. Ibid. 1575-7 pp. 140-2, 169. Huntingdon was not immediately able to effect a solution and was twice reminded of this by the Privy Council. Ibid. pp. 291-2, 313.

This pattern,^{with} the Privy Council laying down the broad guidelines of policy and the Council of the North working out the detail, was a common feature, and clearly delineates the nature of the relationship between them. Thus, in 1575 the Privy Council wrote to the Lord President instructing him to ensure that the Dean and Chapter confirmed the lease of Sacriston Heugh held by a veteran of the Berwick garrison, Leonard Temperley.¹ Similarly, the Privy Council intervened in a dispute between John Conyers of Sockburn, an influential figure in the south-east of the county, and the brethren of Sherburn Hospital, a charitable institution situated near Durham City with lands and livings scattered over much of the county. On this occasion, the Privy Council attempted openly to interfere with equitable processes on grounds of the expediency of public policy. Accordingly, Huntingdon was to show the brethren of Sherburn "all lawfull favour therin, and for that the povertie of the House is such as it cannot beare the charges of the Common Lawe, that therefore his Lordship would call the said Coniers before him, and uppon the hearinge of the matter betwene them to take such order therin as shall seme agreeable with lawe and justice."² This order was dated 1579. The Privy Council was still activated by similar considerations thirty-five years later, for in 1614 they requested Lord Sheffield to take account of the petition of one Francis Woodrowe who complained of hard

1. Ibid. 1571-5 p. 395.

2. Ibid. 1578-80 pp. 82-3.

dealing by Sir William Blakiston, a Roman Catholic gentleman of declining fortune. Woodrowe's estate was decayed and he was "not able to prosecute on a chargeable course of law." Therefore, Blakiston, "dwelling in those northe partes within the precinctes of (Sheffield's) authority and jurisdiction" should be sent for so that Woodrowe could "procure such satisfaction as belongeth to justice."¹

Such instructions issued by the Privy Council quite clearly demanded interference with the judicial processes controlled by the President. Other Privy Council interventions were concerned with the more general bolstering of the Council of the North's authority in matters which were not narrowly judicial, such as the enforcement of statutes and the adjudication or interpretation of disputes not necessarily heard by the Council in its capacity as a court of law.² The reconstituted Council of the North was conceived in 1537 as an instrument to subjugate the north and bring it into line with the rest of the country after a rebellion. Following the subjugation of the next northern rebellion a generation later in 1569 possible disaffection was envisaged by the government

1. Ibid. 1613-4 p. 424.

2. The former is exemplified by the Privy Council's instruction to Huntingdon to assist Bishop Barnes's attempt to root out "certen masse priestes and other personnes outlawed and condemned for Highe Treason" who had fled into the border region. The latter is indicated by a Privy Council order of January 1578 requesting Huntingdon "to signifie unto their Lordships the state of the controversie, with his opinion, that theruppon it maye be furder proceeded in as the case shall require." (The controversy was between Margaret Bone and Ralph Lever, not as indicated in the printed version of the Privy Council Register.) Ibid. 1577-8 pp. 79-80, 151.

mainly in religious terms. It is therefore appropriate to begin a consideration of the Council of the North's administrative role with an examination of its utility in the suppression of Durham Catholicism. It has been argued that Roman Catholics in neighbouring Northumberland were seldom troubled during the presidency of the Earl of Huntingdon. This may in general be justified, although the force of the argument is somewhat diminished by the examples which Dr. Watts affords to the contrary.¹ Nevertheless, it is certainly true that the suppression of Catholicism in county Durham, involving co-operation between Lord President and diocesan who always wielded stronger control in the southern half of his diocese, was conducted rather more effectively, though never with the facility and thoroughness demanded by national government. Occasionally, the Council and the ecclesiastical authorities clashed over the execution of policy against recusants, even though unanimity regarding the principles underpinning the policy was maintained. Thus, in 1596, barely two months after the death of Huntingdon, Bishop Matthew wrote to Burghley to complain of the ham-fisted intrusion of two professional members of the Council, the secretary John Ferne and Humphrey Purefoy, into Durham recusancy enforcement, thereby spoiling the bishop's deep-laid plot to capture the influential Tyneside recusant,

1. Watts Northumberland pp. 79-80.

Robert Hodgson of Hebburn.¹ Immediately after the accession of James I, however, the unanimity of purpose in policy against Roman Catholics was frustrated by the King's well-publicised tolerance towards them. Short-lived though this policy was, it had northern repercussions with the appointment to the Council of "some notoriously know to affect popery", a policy much resented and feared by godly men in the north.² By this time the comparative attitudes of Council and bishop to Catholicism had changed. Under the "quiet and pacific government" of Hutton, both as President and Archbishop, there had been "defection from religion to popery", in contrast to the continued intransigence of Matthew and James in Durham.³ The two bishops were largely able to implement their policies without interference from York as the council's administrative competence declined under the unassertive

1. HMC: Salisbury vi p. 62. Cf. the contention that on this occasion Matthew "required the direct intervention of the Council". James Family, Lineage and Civil Society p. 158. Matthew may have had to confess that "as diocesan I cannot reach to the height to enquire effectively into persons of that quality". The main reason for this was a defect in the High Commission which prevented him from serving because he was named in the Commission only in his capacity as dean. In fact, Matthew's attitude to the Council was almost the opposite of that suggested by Mr. James. As he sarcastically remarked to Burghley, "it might like you to require them of York to make the Bishop here privy to such their intentions from time to time, to prevent such scaring and scaling of those fellows, which otherwise must needs unawares ensue, by inadvised crossing of other's travails". HMC: Salisbury vi p. 63.

2. Ibid. xv p. 283.

3. Ibid. xviii pp. 21-2.

leadership of successive weak presidents, and it was not until the presidency of Wentworth that the Council sought actively to interfere in religious matters in Durham, much to the disgust of Bishop Morton. This interference was indirect. It sprang from the powers accorded to the northern recusancy commission, one of two such organisations founded to bring some sort of order to the disparate anti-Catholic agencies. The southern commission may never have been effective. Neither Professor Barnes nor Mr. Fletcher appears to have considered its operation in their respective counties. What gave the northern commission its force was its association with the newly revived Council of the North under the energetic leadership of Wentworth. Wentworth was concerned to maximise the effectiveness of the commission as a means of obtaining revenues from compounding Catholics and consequently he regarded the various financial powers of the ecclesiastical authorities in this regard as a threat. Catholics who had compounded should have been spared further vexation. Instead, Bishop Morton "perpetually vexeth them for clandestine marriages, christenings, burials, and such like, which albeit they are not exempted from these ecclesiastical censures, yet it is not altogether so reasonable to be pursued thus hotly in the very face of the commission to hinder the compounders, but much rather to be for the present foreborn; and if at all to be put in execution, then to be prosecuted after all the compositions are made, and the work settled."¹

1. Strafforde's Letters and Despatches ed. Knowler p. 267.

Wentworth continued with a vituperative personal attack on the bishop inspired by the latter's defence of his episcopal and palatine rights and privileges. The effectiveness of the recusancy commission for the north appears to have been determined by its links with the Council. It met in the King's Manor at York, the headquarters of the Council of the North, and shared many of its officers with the Council.¹ Consequently, public response to the one body tended to be governed by assumptions made about the other.

One modern commentator on the work of the Council of the North has noted that "under pressure from the government the Council tended to emphasise now one, now another, of its administrative duties, but it was fairly consistent in one, the general supervision of the justices of the peace."² The first part of this statement implies the acceptance of the view that the Council was a responsive and not an innovative body and that the policies which it attempted to enforce were not distinguished by any constant set of priorities. The second part of the statement may be more contentious. Certainly, in its earlier days the Council had little compunction about adding to the traditional tasks of justice of the peace. In 1568, for example, when peripatetic preaching was devised as a means of inducing conformity to the established church, justices of the peace were enjoined not only to receive, assist and accompany preachers, but also to

1. CRS liii pp. 297, 309.

2. Brooks Council of the North p. 22.

procure them a sufficient and orderly audience.¹ Four years later the Council drew up articles for the effective supervision of justices in the conduct of their duties.² However, there is a world of difference between issuing articles for supervision and the effectiveness exercise of such supervision. The instructions issued by the queen to the Earl of Huntingdon shortly after his appointment to the presidency assumed that the Council itself would exercise many of the functions traditionally performed by the justices of the peace.³ In these circumstances it is remarkable that there should have been so little conflict between the rival jurisdictions. Ironically, the first serious manifestation of such trouble occurred in that part of the Council's jurisdiction over which its level of control was usually considered strongest, for in 1595 the justices of the North Riding refused to accept a supersedeas issued in a case pending before them.⁴ In contrast, the Durham justices do not seem to have been unduly discomfited by the actions of the Council. This does not mean of course,

1. CSP Dom. Add. 1566-79 p. 65. In view of the religious sympathies of some of the area's justices, this may have proved a counter-productive request.
2. Ibid. pp. 435-6. The articles probably had little more effect than to remind the justices of the duties and powers which they were perfectly well aware that they possessed.
3. Ibid. pp. 462-5. The most potentially disruptive clause was that which enjoined the Council annually, or more often if necessary, to call the J.P.s of the counties in its jurisdiction before them so that they might know the state of the counties and what needed reform. J.P.s could be fined or summoned before Star Chamber for failure to comply.
4. Reid Council in the North p. 336.

that the justices never clashed with the Council. Perhaps emboldened by the actions of their North Riding colleagues a few months earlier, Bishop Matthew and twelve other Durham J.P.s wrote to Burghley in March 1596 to complain about the charge of ten horsemen levied upon the county by the Council of the North for service on the border. This may not have seemed to onerous an imposition, but the correspondents were keen to point out that not only was it unprecedented, it also went against the promise of the "late Lord lieutenant" (i.e. Huntingdon) to ease the burden of the county because of its contribution in other matters.¹

1. FMC: Salisbury vi p. 92. This is an interesting document for a variety of reasons. Firstly, Matthew abandoned his usual practice of writing to Burghley privately and instead involved virtually the entire active membership of the bench. By so doing he presumably wished to give Burghley the impression that the plea was directed on behalf of the whole county, not of a particular individual or group. Secondly, it sheds some light on how contemporaries regarded Huntingdon in his respective offices of Lord President of the Council of the North and Lord Lieutenant. It has been suggested that "although it has been stated that Huntingdon's duties in the preparation for defence arose from his commission as Lord Lieutenant and not from his office as Lord President, it seems that contemporaries failed to make this distinction". Brooks Council of the North p. 26. This letter casts some admittedly ambiguous doubts on the matter. Matthew wrote about the Council's insistence upon the levy, but considered Huntingdon's offer for alleviation to have been made as Lord Lieutenant not as Lord President. Thirdly, it illustrates the local attitude towards the county's traditional burden of service on the border. What caused the problem was the Council's levy. Eighty men were to serve on the Middle March during the winter. Ten of them were to come from Durham, the rest from Yorkshire. This may appear to be a fair reflection of the relative populations of the two counties. What rankled with Matthew, however, was that Durham men were obliged, either by custom or by tenancy agreement, to serve on the borders during an emergency. Yorkshiremen were not so bound. Durham was therefore considered to be doubly burdened.

The Council was opposed in this matter because it attempted to disregard a time-honoured tradition and privilege of the inhabitants of County Durham. However, the apparent rarity with which the Council encountered such opposition suggests that its members were cautious in imposing conciliar rights in those parts of its jurisdiction where its effective authority was circumscribed. Moreover, the Council itself came to suffer from lack of backing by the central government after the death of the Earl of Huntingdon. In 1603 the second Lord Burghley, who inherited little of his father's ability, complained bitterly to his half-brother that the prestige of his office had been demeaned by the practices of central government. This was reflected in the lack of respect which he was accorded locally. Proclamations had been sent to Durham before they had been sent to him. Letters of direction from the Privy Council had joined the sheriff and justices with him whereas hitherto the President exercised his own powers of deputation to under-officers.¹ As long as the central government continued to act directly through local agencies in county Durham, the effective administrative influence of the Council of the North would be limited. This limitation was, it has been argued, the responsibility both of Burghley and his successors and of the policies of Sir Robert Cecil.² Cecil's responsibility is not really substantiated,

1. HMC: Salisbury xv p. 31.

2. Reid Council in the North pp. 237-8.

except insofar as he was associated with the appointments of Thomas, Lord Burghley and Lord Sheffield to the presidency. Nevertheless, the general tenor of the evidence is unmistakable. The Council "lost its executive character almost entirely".¹ It should, however, be borne in mind that its legal powers occasionally involved the passing of what were in effect political judgements. Thus coal-owning opponents of Ship Money in County Durham used legal action before the Council of the North as a means of delaying payment.² This was an ironic action if one accepts the traditional notion of the revival of the Council's administrative powers under Wentworth. Continuous interference with the actions of local government demanded, it has been argued, a restoration in the effectiveness of the Council as a governmental body.³ This effectiveness was largely restricted to Yorkshire and Wentworth was allowed to extend the traditional powers of the Council in order to settle old local scores.⁴ The Council of the North played no significant part in the preparations for the defence of Durham against the anticipated invasion of the

1. Reid Council in the North p. 239.

2. PRO: SP 16/398/18.

3. Reid Council in the North p. 405.

4. See in particular the pursuit of Sir Thomas Gower who was arrested by the Council's serjeant-at-arms in Holborn in 1632. The legality of this arrest was confirmed by the Attorney-General. It was suggested that there were Tudor precedents for this action. Ibid. pp. 416, 424-5. The ease with which John Awbrey escaped justice would suggest that these were rare. See above p. 159 n. 1.

Scots. Administrative involvement in Durham affairs in the 1630s was restricted to a request to the sheriff to assist the mayor of Newcastle to suppress the riot in the town in 1633.¹ The Council attempted to play an active role in the punishment of the participants in that riot.² The Council of the North fell for a variety of reasons. It attracted the antagonism of common lawyers who resented its equitable jurisdiction. It suffered from the general revulsion felt by the political nation towards the policies of Charles I and his ministers. It was inextricably identified with the forceful and dictatorial policies of Wentworth, even though after 1633 the results of his personal association with the Council were negligible.³ County Durham bore significantly only on the first of these.⁴ Neither Wentworth's antagonisms nor the attitude towards him of such Durham enemies as

1. Howell Newcastle p. 54. The sheriff would not have owed any responsibility to the Council. In addition he may have been disinclined to assist the Council for personal reasons given the enmity which existed between Wentworth and his Yorkshire kinsmen Henry Bellasis and Lord Fauconberg.

2. Ibid. p. 59. The Council had a strong tradition of involvement in the affairs of Newcastle. In 1596 the Council had refused to allow Nicholas Tempest to serve as sheriff on account of his wife's recusancy. BL: Lansdowne MS 81 no. 41. It had become involved in the conflict between the town's "inner ring" and outsiders. PRO: SP 12/263/72. A decree of the Council was used to establish the criteria by which burgesses were to seek admission to the Company of Hostmen. SS 105 pp. 24-6.

3. Reid Council in the North pp. 426-7.

4. See above pp. 159-60.

Sir Henry Vane and Sir Henry Anderson had any material influence on the conduct of affairs in county Durham.¹ Durham men may have experienced fears about the potential powers of interference which the Council possessed, but as these had lain dormant despite the presence of a weak bishop, the fears were probably groundless. They may well have come to share the opinion of the Yorkshire grand jury which in 1654 advocated "that Courts of Judicature may be settled in this great county, it having been under consideration, and a great progress therein made formerly in Parliament, upon the petitions of the people in these parts, for the preventing of excessive expenses, and other inconveniences in law-suits, occasioned by the remoteness of this county from the city of London."² The Council of the North had uses which the politicians and lawyers responsible for its abolition seemingly never considered.

1. Vane's main interest was in national affairs, His role in Durham politics was relatively insignificant before the Civil War, his main local concern being the development of his recently acquired estates. Anderson had disposed of his Durham interests though he sat in the Long Parliament as an anti-Strafford M.P. for Newcastle. Howell Newcastle p. 126 and n.6.
2. Quoted by Reid Council in the North pp. 450-1.

CHAPTER FIVE
THE LIEUTENANCY

"And we humblie beseech your Lordshipp not to impute the tardy returne thereof to any negligence or slackness in the performance of our dutye in that place and office which your Lordshipp hath comitted to our trust and execucon and indede what by our owne occacons, inforceing as much from home and our remote habitacons ech from other, together with the unseasonablenes of the time & weather, wee neither did not could so soone meete about the perfectinge of this certificate as we our selves desired."

(Sir George Selby to Bishop Neile, 12 January 1620.

DUL: Mickleton & Spearman MS 2 f. 296)

The office of lord lieutenant was a Tudor innovation, designed primarily to take responsibility for the military preparedness and defence and to maintain security within a particular county or group of counties. During the Tudor period the lieutenancy was essentially an ad hoc appointment, theoretically enabling the holder of the office to deal with a particular emergency, real or imagined. Only gradually did the lieutenancy develop institutional permanency. The purpose of this chapter is to identify and assess those who held the office of lord lieutenant of the county of Durham up to the outbreak of the Civil War, to examine the functions and organization of the Durham lieutenancy, to investigate its relationship with the other institutions of local government and to determine the level of success or failure which the lieutenancy achieved during the period under consideration.

Richard Neile was translated from the see of Lincoln to the bishopric of Durham early in the summer of 1617. By the middle of autumn he had also received the commission of the lieutenancy of the county of Durham. This initiated an arrangement which lasted until the Civil War and which was revived in the person of John Cosin after the Restoration.¹

1. The Dean and Chapter of Durham had written to Neile on June 6th, informing him that they had received the king's conge d'elire to elect him. DPD/PK: FDM/Loose Papers/Box 12/11 June, 1617. An undated commission of lieutenancy was recorded in the state papers. CSPD 1611-8 p. 497. The relevant patent was issued on November 3rd, and was accordingly noted by Miss Scott Thomson who incorrectly gave Neile's erstwhile see as Oxford. G. Scott Thomson 'The Bishops of Durham in the office of Lord Lieutenant in the Seventeenth Century.' EHR xl (1925) p. 351. Mr. Forster appears to predate the commencement

Such continuity had been absent from previous grants of the office. The first recorded holder of the office in county Durham was also a bishop, the Henrician lawyer Cuthbert Tunstall who secured it in the aftermath of the Pilgrimage of Grace.¹ Tunstall's eventual successor in the Durham lieutenancy was the county's leading nobleman, the youthful Henry Neville, fifth Earl of Westmorland, a somewhat ironic appointment by the radical administration of the protectorate of the Duke of Northumberland, in view of the conservatism with which the Nevilles were associated.² Certainly, Westmorland's assumption of the lieutenancy did his prospects no harm after the accession of Queen Mary. The Neville supremacy did not survive the queen's death and for several years the lieutenancy was vacant, being revived in 1565 in the form of the lieutenant-generalship of the counties of Northumberland, Cumberland, Westmorland and the bishopric of Durham awarded to Francis Russell, second Earl of Bedford.

of the practice, and also regularises what was effectively an expedient. G.C.F. Forster 'The English Local Government' in The Reign of James VI and I ed. A.G.R. Smith (London, 1973) p. 197.

1. Tunstall combined this office with the Presidency of the Council of the North. See Reid Council in the North pp. 151-3.
2. Reid 'Political Influence of the North Parts' in Tudor Studies Presented to A.F. Pollard ed. R.W. Seton-Watson (London, 1924) p. 215.

Despite the high-sounding nature of the title, it conferred little more on the recipient than the means of substantiating the power and influence which he enjoyed as Governor of Berwick and Warden of the East March, and was more closely related to the mounting of a vigorous cross-border campaign than to internal Durham politics.¹ This appointment was short-lived, and it is significant that the institution of the lieutenancy was not utilised by the government in its efforts to combat the direst internal emergency which the county faced during the second half of the sixteenth century.² Bedford's successor in the lieutenancy was the Earl of Huntingdon who, like Bishop Tunstall, combined the office with the Presidency of the Council of the North. Miss Scott Thomson argued that it was not until after the death of Bishop Barnes in 1587 that Huntingdon received a

1. CSP. Dom. Add. 1547-65 p. 570. The Queen had written to the Earl of Shrewsbury informing him that this appointment had taken into consideration "how troublesome the realm of Scotland now is". Ibid. p. 569. Bedford was instructed by the Privy Council to raise 400 men in Durham for his expedition, an instruction which did not meet with an entirely favourable response within the county. G. Scott Thomson Lords Lieutenant in the Sixteenth Century (London, 1923) p. 54. The levy was used to man a substantial raid into Berwickshire.
2. The rebellion of 1569 was suppressed largely by the efforts of the Earl of Sussex, Lord President of the Council of the North, and Sir George Bowes who was empowered to operate martial law, but whose original authority derived from the powers of the Council of which he was the most powerful Durham member. CSP. Dom. Add. 1566-79 pp. 103-4.

commission of lieutenancy including county Durham.¹ The evidence from which this argument is derived is somewhat unsatisfactory, being merely a printed list of holders of the office.² Dr. Cross's researches appear to indicate that Huntingdon's assumption of the powers of the lieutenancy considerably predated Barnes's death, even though he did not secure the office at the time of his original appointment to the presidency. Instead, Huntingdon, because of the Privy Council's increasing tendency to attempt to govern the north through the Council established at York, acquired the de facto power long before his position was recognised by the issue of a formal commission.³ By May 1573 Huntingdon was a muster commissioner throughout Yorkshire, and in practice his powers extended to the rest of his council's jurisdiction. By the end of the decade, Dr. Cross argues, he had "definite powers to direct military affairs outside Yorkshire".⁴ His official commission of lieutenancy was issued in 1580 although its geographical determination has not survived, and six years later his commission was renewed with definite inclusion of all of the areas under

1. Scott Thomson 'Bishops of Durham' p. 353. Miss Scott Thomson's statement implied the existence of a considerably greater degree of power and influence in the status of Barnes as lord of the palatinate than can be supported either by the evidence or her previous comments on the matter.
2. HMC: Fifteenth Report (Foljambe MSS) p. 25.
3. Cross Puritan Earl p. 197; Brooks Council of the North p. 25.
4. Cross Puritan Earl pp. 197-8. Apart from offering to levy troops in Durham in 1573, Huntingdon does not appear to have interfered much in military matters in Durham before 1580.

the jurisdiction of the Council of the North. This commission was in force until Huntingdon's death in 1595 and the office, it is argued, remained administratively distinct from the presidency.¹ From 1580, Dr. Cross has argued, the lord lieutenancy became permanently annexed to the presidency. It should be stressed that this arrangement was discontinued in Durham after Huntingdon's death. No subsequent Lord President of the Council of the North was destined to hold the lieutenancy of county Durham. Indeed, no subsequent president ever invoked this office as a means of interfering in the county's military affairs.² With the appointment of Huntingdon's successor in the lieutenancy the Crown reversed its policy of nominating noblemen who held office in the north but who were unconnected with the great aristocratic families of the region. A complete break with previous Elizabethan practices was avoided in the commission of lieutenancy awarded in 1603 to the Earl of Cumberland, for like Bedford his jurisdiction comprised the counties of Durham, Northumberland, Cumberland and Westmorland.³ Over seven years had elapsed between

1. Ibid. pp. 207-8, 300 n.15. Cf. the suggestion that Huntingdon's contemporaries failed to discern the distinction between his duties as Lord Lieutenant and his duties as Lord President. Brooks Council of the North p. 26. If the distinction were clear, then the issue of the commission of lieutenancy marked a complete break from the indistinctiveness of civil and military functions implied in Dr. Cross's argument about the development of Huntingdon's power and influence in the early years of his presidency.

2. Between the death of Huntingdon and Wentworth's appointment to the presidency the administrative influence of the Council outside Yorkshire was limited, and this was reflected in the increasing independence from all but national control which Durham enjoyed in the early seventeenth century.

3. DUL: Mickleton & Spearman MS 2 f. 250.

Huntingdon's death and Cumberland's assumption of the lieutenancy, but it should not be thought that the latter's appointment, made only three months after the accession of James I, represented a new departure in the conception of the nature of the office. Rather, it proved to be a short-term expedient designed to help solve a particular problem, the filling of the vacuum of authority in the far north created by the dissolution of the wardenry system on the accession of James I. This vacuum had been characteristically exploited by the border clans who were unwilling to see their traditional way of life ended by the union of the crowns in the person of a monarch whose avowed intention was to remove the border and all its vestiges. Opinions of the effectiveness and influence of Cumberland vary.¹ Suffice it to say that his lieutenancy was ended by premature death in 1605 and that his influence in county Durham was negligible. The county had not been affected by the troubles with precipitated Cumberland's appointment. Furthermore, Bishop Matthew, with his shrewd combination of the ostentatious display of energy in the attempted solution of local

1. The borderers' last fling occurred in what became known as the 'busy week' from March 27th until April 7th. They stole or destroyed goods worth an estimated £10,600. The destruction, largely the work of the Grahams, was confined to Cumberland. R.T. Spence 'The Pacification of the Cumberland Borders, 1593-1628' NH xiii (1977) pp. 91-2; Watts Northumberland pp. 135-6. According to Dr. Watts, Cumberland was poorly regarded at Court and was disliked by Cecil. Ibid. p. 136. Cf. the contention that he was both highly regarded by the King and an intimate of Cecil. Spence 'Pacification' p. 96.

problems and utter obsequiousness in his dealings with prominent members of the government, had ensured the restoration of government trust in episcopal authority on a scale unknown since the heyday of Cuthbert Tunstall, and this obviously restricted the scope for interference of a nobleman whose main influence and principal problems were concentrated across the Pennines.

After the death of Cumberland there was no immediate attempt to establish a county lieutenancy on a more permanent basis, and both Bishop Matthew and Bishop James coped adequately with the military burdens which had been thrust upon them.¹ It was ironic therefore that a new lord lieutenant should have been appointed so soon after the Privy Council had praised effusively Bishop James's diligence in these affairs.² The Earl of Somerset's nomination in February 1615 to the Durham lieutenancy has been construed as a snub to Bishop James, and this was certainly the reaction of the bishop himself.³ It seems unlikely that this was ever a major consideration behind Somerset's appointment, even allowing for the poor

1. There was no attempt to appoint another lieutenant for almost ten years. The loss of many of the Privy Council records for the first decade of the seventeenth century has reduced the availability of material concerning Matthew's supervision of military matters. The evidence cited by Mr. James to indicate his conduct of such affairs is not convincing. James Family, Lineage and Civil Society p. 155 n5. On Bishop James's role in such matters see, for example, APC 1613-4 pp. 119-20.
2. On December 6th, 1613 the Privy Council wrote to the bishop commending his "care and dutifull affectyon unto his Majestie's service". A month later the bishop's propositions regarding the county's armour were "so behovefull for his Majestie's service, as wee cannot but give them our approbacion.". Ibid. pp. 291, 319.
3. CSPD 1611-8 p. 272; James Family, Lineage and Civil Society p. 152; PRO: SP 14/80/8.

relationship between bishop and king.¹ The bishop's sensibilities were not a valid consideration in the machinations at court which precipitated the award of the lieutenancy. Mr. James has argued that these events represented an attempt to "revive the power of the Neville connection in the bishopric" on Somerset's behalf and that furthermore "the mere memory of the role vacated by the fallen earl of Westmorland, sustained by the continued existence of the Neville inheritance, now in the hands of the Crown, proffered to the great men in the King's immediate circle a recurring temptation to fill the place formerly occupied by the head of this family as leader of the anti-Church interest in the bishopric".² This argument implies far-sighted motivation of a kind not normally associated with the myopic factionalism of the Jacobean court, and Mr. James offers no real evidence to justify these claims. Inferences drawn from dubious circumstantial evidence hardly justify so fundamental an argument. The barony of Brancepeth had been conferred

1. The poor relationship between bishop and monarch was heightened by the former's failure to control adequately the tiresome Arbella Stuart when she was placed in his custody. Most seriously perhaps, James was unable to keep Arbella on the allowance which was offered him. PRO: SP 14/63/92. Another possible cause of friction between bishop and king was the refusal of the former's brother, the eminent civil lawyer Dr. Francis James, to concur with the King's desire that the marriage between the Earl and Countess of Essex should be annulled to enable the latter to marry Somerset. P.A. Welsby George Abbot; the Unwanted Archbishop, 1562-1633 (London, 1962) pp. 69-70.

2. James Family, Lineage and Civil Society pp. 151-2.

upon the favourite simultaneously with his raising to the earldom of Somerset. As he was in the process of purchasing the lordship of Brancepeth, and given the Jacobean regime's tendency to reward its benefactors with titles, it can be seen that there was nothing particularly unusual in this grant.¹ Somerset was certainly a close connection of the Howards and he became a willing tool of their machinations. However, the crucial point of his appointment to the lieutenancy was that it did not take place until February 1615 when his influence at court was already beginning to wane, and after the opposing faction had introduced the monarch to the fresher charms of a young Leicestershire squire named George Villiers.² In these circumstances it is more likely that the award of the lieutenancy was not, as has been assumed, a means of increasing Somerset's power, but a means of reducing it by inducing him to remove from court to undertake the role and reside on his recently acquired northern estates. This hypothesis is strengthened if one accepts the contention that the earl

1. Somerset paid over £40,000 for the lordships of Barnard Castle, Brancepeth and Raby. Sharp Memorials p. 415. At about thirty-eight years purchase, this was a sum considerably in excess of the market value of the properties. Somerset paid in instalments, the largest of which appears to have been £11,920 subscribed in November 1613. DPD/PK: Miscellaneous Charters 7167;
2. Villiers was introduced to the king during the latter's summer progress in 1614. Although Villiers did not receive a court appointment until April 1615, James had already begun to turn against Somerset in resentment at his increasing arrogance and disrespect.

intended to play an active role in county affairs.¹ If, on the other hand, he had no such intention, the national significance of the appointment was limited. It could have done little to enhance his influence at court, and given the permanence which was now associated with the institution of lieutenancy elsewhere the appointment did nothing more than acknowledge the pre-eminence of one who had become the county's leading lay landowner.² The evidence supporting the notion that Somerset desired to play an active role in the county may be rather tenuous. Mr. James has argued that the attendance of recusant gentry from Durham upon Somerset at the St. George's day feast of 1615 supports this. It seems equally likely, however, that the initiative on this occasion came from the recusant gentry themselves.³ Except among these

1. James Family, Lineage and Civil Society pp. 151-2.

2. In this context it is significant that Somerset's commission of lieutenancy was confined to county Durham. No attempt was made to extend it to other northern counties where he had no landed interests, in marked contrast to the commission exercised by his predecessor.

3. There are several discrepancies between the calendared version of this document and the original. The evidence comprises a letter from Bishop James to John Packer, one of Somerset's attendants. (This in itself demonstrates how far the bishop's stock had fallen.) The calendared version omits the rumours, reported by the bishop, that his liberties were to be seized. It also confuses the identity of the recusants present. The wording regarding the attendance of Sir John Claxton is ambiguous. His family was definitely represented. Thomas Blakiston, not his father Sir William, was there. He may have obtained his baronetcy, secured on May 27th, 1615, through this connection with Somerset. The recusant gentry may have looked to Somerset more for

recusants Somerset did not achieve immediate popularity in Durham. He was inextricably linked with a court whose reputation was declining. Some of the responsibility for this decline was his, and his involvement in the most notorious sex scandal of recent years had become public knowledge. The unpopularity of his origins added to his disadvantages. Not only was he a Scotsman, he was also a borderer and a member of the Kerrs of Ferniehurst, formerly a prominent clan in the Scottish east and middle marches. This background was hardly conducive to his securing support among the members of Bishop James's gerontocratic administration who would have retained vivid memories of the depredations of the period of border warfare. It was rumoured, however, that the former border commissioner Clement Colmore, chancellor of the diocese and rector of Brancepeth, behaved obsequiously towards Somerset during his brief ascendancy.¹ Furthermore, the attitude of Somerset and his officers to the newly acquired estates came under close and unfavourably scrutiny. Although the evidence for this came from hostile sources like Bishop James and Henry Sanderson, who had lost the

the alleviation of their economic worries, rather than with the hope of obtaining religious advantages. Sir John Claxton was prominent among the officers of the earl who had hoped to make a quick killing from their new opportunities, and had long had his designs on the old Neville estates. PRO: SP 14/80/128.

Cf. CSPD 1611-8 p. 291.

BL: Lansdowns MS 902 f. 39; PRO: SP 14/83/26;

HMC: Salisbury xxxi p. 132.

1. DCL: Sharp MS 49 ff. 246-9.

office which he had long exercised at Brancepeth, the claim that there was much local relief among the common people at Somerset's downfall was probably justified, if perhaps slightly exaggerated.¹ Somerset's effective power as lord lieutenant of county Durham lasted only nine months until his political career was ended through his wife's involvement and his implication in the murder of his old friend, Sir Thomas Overbury. Brancepeth and Raby once again reverted to the Crown and in April 1616 Bishop James was able to regain his self-esteem when the Durham copy of the Privy Council's standard letter to lords lieutenants about the perfecting of the militia was addressed to him according to a formula which the bishop himself had advocated three years earlier.²

The death of Bishop James and his replacement by Richard Neile marked a fundamental shift in the lieutenancy arrangements for county Durham. There can be little doubt that the granting of the lieutenancy commission to Neile by James I was a personal gesture by the king to a prelate whom he held in particularly high esteem, and there is no evidence to suggest that this act of the king was intended to provide a precedent. Nevertheless, both Howson and Morton, though patently unfitted for the task, succeeded to the office.³ What had begun as an expedient

1. Sanderson had been Constable of Brancepeth Castle. CSPD 1603-10 p. 59; PRO: SP 14/82/119; SP 14/83/26 ii.
2. APC 1615-6 pp. 516-9; 1613-4 p. 120.
3. Scott Thomson 'Bishops of Durham' p. 355.

to reward a faithful and valued servant had become institutionalised, perhaps partly out of an increased regard for the remaining palatine privileges but mainly because of the lack of a realistic alternative. The increasing military demands of the government and the consequent bureaucratisation of the lieutenancy's functions demanded the regular presence of a lieutenant in a county which was so remote geographically from the seat of government. The lack of a resident peer necessitated the utilisation of the bishop.

With the establishment under Neile of the lieutenancy as a permanent institution it becomes possible to consider a worthwhile examination of its functions and organisation, an examination facilitated by the survival of some of Bishop Neile's lieutenancy papers, but hindered by the absence of the papers collected by his deputies upon whom much of the routine administration was devolved.¹ The principal task of the lieutenancy was the maintenance of a force of sufficient ability to defend the shire when threatened. The main instrument of this desire was the creation of a trained militia, backed by the assistance of hitherto untrained forces whose condition was to be enhanced. From this sprang various subsidiary functions like the impressment when necessity demanded of potential

1. See for example DUL: Mickleton & Spearman MS 2, 31. Cf. the use made of the papers of deputy lieutenants in Lancashire. D.P. Carter 'The "Exact Militia" in Lancashire, 1625-1640' NH xi (1976 for 1975) pp. 87-106.

soldiers and sailors usually extracted from the lowest ranks of society and their conduct to specified destinations supported by pay subscribed by the county on the promise, usually unfulfilled, of restitution by the Exchequer.¹ Because the office of lord lieutenant derived from the royal prerogative it also attracted involuntarily obligations deriving from this which had nothing to do with military matters. These often inspired opposition and dissent,² though in Durham the lieutenants and their officers seem to have avoided much of the opprobrium. Professor Barnes has noted how deputy lieutenants had been involved in the rating of Privy Seal loans in Somerset in 1625 and 1626.³ There is some evidence of such involvement in Durham. In a letter to Neile largely concerned with normal lieutenancy matters, Sir John Calverley and Sir William Bellasis complained that "the charge ... is very high considering the great poverty of the countrey" and that "some other hath had a hande in it, that hath had little consideracon and lesse knowledge of the state of the countrey".⁴ On this occasion the Privy Council was prepared to heed local protests, and it issued a revised list of assessments.⁵ Durham evidence

1. In 1626, however, Neile was paid £19-13s 4d for the press and conduct of 50 footmen from Durham to Liverpool for service in Ireland. HMC: 4th Report (House of Lords) p. 6.

2. Ashton English Civil War p. 150.

3. Barnes Somerset pp. 161-2.

4. DUL: Mickleton & Spearman MS 2 f. 387.

5. APC 1625-6 pp. 453-6. Cf. Somerset, where the deputy lieutenants set the level of loans on the basis of assessments provided by the justices of the peace. Barnes Somerset p. 162.

of the operation of the forced loan is scanty and there is no indication of lieutenancy involvement.¹ The enforcement of the recusancy laws was another area in which the interference of the lieutenancy was justified only with difficulty. Controversy over this issue was less likely in Durham than any other county, for after 1617 the lord lieutenant was also the ordinary who was also the customary chairman of the quarter sessions when resident within the diocese. Given this unique combination of offices it was easy for Neile and his successors to avoid imputations of lieutenancy interference in matters outside its concern.

Such opposition as there was in county Durham to the lieutenancy was therefore largely concentrated on its more orthodox functions, the most important of which was the development of a satisfactory county militia. The occasional nature of the sixteenth century lieutenancy had done little to provide a sound basis for this development. Organisational weaknesses were emphasised by the destruction of the Nevilles, hitherto the largest single supplier of adequately armed forces in the county, and later the union of the Crowns of England and Scotland not only appeared to diminish the strategic need for border defence, it also, as James VI and I thought, necessarily negated the practice by which beneficial tenures were

1. Cf. the involvement of the deputy lieutenants in forced loan procedures in Sussex. Fletcher Sussex pp. 195-6.

offered in return for the guarantee of military service on the borders.¹ On the other hand, the repeal in 1604 of the act of 1558 regulating arms assessment eased the search of muster defaulters for pretexts to avoid participation, even though the Musters Act of 1558 remained in force.² In the absence of a permanent lieutenant the county's military affairs were supervised by muster commissioners, usually the bishop assisted by several senior gentry.³ In the circumstances it is hardly surprising that the condition of the forces was unsatisfactory. In 1569, for example, over 60% of the men mustered on behalf of the county were completely bereft of armour and weapons, a figure rendered even more significant by the knowledge that this muster predated the rebellion, for the Neville retainers provided a considerable proportion of the best equipped men. Thus 37 out of 44 properly armed light horsemen came from Brancepeth and Raby.⁴ By 1580 the proportion of unfurnished men had

1. PRO: SP 15/32/83 i.

2. On these and other militia acts see A. Hassell Smith 'Militia Rates and Militia Statutes, 1558-1603' in The English Commonwealth ed. Clark, Smith & Tyacke pp. 94-107.

3. The 1569 musters were exceptional in that they were supervised by the bishop, two temporal peers, the Earl of Westmorland and Lord Eure, and Sir George and Robert Bowes. PRO: SP 12/51/14. Westmorland was, of course, attainted shortly afterwards. Eure retained an interest in the military affairs of Durham, but he was the last temporal peer to do so before 1640. CSP. Dom. Add. 1580-1625 pp. 119-20. The 1577 muster certificate provides an exceptionally marked contrast with 1569. Bishop Barnes was assisted by Thomas Calverley and Thomas Layton who were both essentially palatinate officers rather than landed gentlemen. Ibid. 1566-79 p. 520.

4. PRO: SP 12/51/14.

decreased slightly to 56%, and as there had been a significant increase in the numbers mustering it might be argued that this represented a praiseworthy effort by the commissioners. However, the condition of those armed was pitiful. Archers and billmen vastly outnumbered the other categories of armed men and as many as 252 men possessed arrows without bows and 303 bows without arrows. Only 49 firearms were recorded.¹ It is impossible to compare these figures with those of the misdescribed general muster of 1584 which referred to a force specifically levied for border service under Lord Eure by permission of the bishop, a wording which indicates that the bishops still enjoyed some theoretical authority in military affairs.² The first example in the reign of Elizabeth of a full general muster in county Durham undertaken by a lord lieutenant took place in 1588 in order to prepare the county's defences against the threat of the Armada which, conveniently from the point of view of legalistic arguments concerning the relative rights and privileges of bishop and lieutenant, invaded while the see was vacant.³ The emergency of 1588 involved the

1. PRO: SP 12/142/34. Cf. the government's stated desire in 1569 to increase the number of arguebusiers. CSP Dom. Add. 1566-79 p. 78.

2. Ibid. 1580-1625 pp. 126, 119-20.

3. DUL: Mickleton & Spearman MS 2 f. 250. Cf. DPD/PK: York Book f. 54v. This is a copy by Dean Matthew of a summary of the total number of men able to serve in the county assembled at Newcastle. Huntingdon was not present. The muster appears to have been taken under the auspices of Sir Henry Lee, the Queen's Champion, although by what authority is not clear.

county in substantial expenditure to improve armour and weaponry. No objections appear to have been made about this expenditure which was partly raised by Privy Seal loans.¹ Apart from occasional bickering about status, rights and privileges the government's military demands excited remarkably little opposition until 1596 when the whole legal basis of such operations was challenged.²

Although a permanent lieutenancy in county Durham was not established until 1617, it is possible to discern a more systematic approach to the county's military affairs in operation for several years before this. This was established as a conscious aspect of government policy, for the chief motive for the county's military preparedness had expired with the pacification of the borders. Despite the lack of evidence, for the Privy Council registers for the years between 1604 and 1613 were destroyed and most of Bishop James's papers as commissioner of musters are no longer extant, it appears that this change of policy took place in 1608.³ The justification for the change was not novel. The county, no longer being obliged to

1. On August 13th it was ordered that Huntingdon receive £6,000 from the Exchequer to be used in various parts of the north. Some of this was disbursed on corslets and pikes for Durham, 200 of the former at £1 10s. 0d each and 200 of the latter at 3s 4d each. DUL: Mickleton & Spearman MS 2 ff. 253, 258. The Durham Privy Seals raised only £875 out of a national contribution of £74,762. Scott Thomson Lords Lieutenant p. 123. For the Durham contributors see R. Surtees Durham p. lxxxi. On the pitiful and elusive state of the county's existing stock of arms in 1588 see CBP 1560-94 p. 325.

2. See below p. 399.

3. DUL: Cosin MS Letter Book 1/6.

contribute to the defence of the borders, should muster its forces in a manner similar to that of other counties. This reasoning had been utilised in the previous year to justify the county's contribution towards the charge of 200 men who were to be impressed in Cumberland and Northumberland, the operation of which owed much to the government's wide interpretation of its powers which were no longer rigidly defined by statute.¹ The agents of impressment were the Earls of Dunbar and Cumberland, joint lieutenants of Northumberland, Cumberland and Westmorland. Early in 1608 their powers were extended by the government's order to raise an extra 35 men from Durham as well as the counties under their jurisdiction.² Durham had been exempted from providing men for the first levy because "it was upon further consideracon thought fittest to take the persons of those men out of Northumberland & Cumberland, where loose people doe most abounde". However, the King himself explained to Bishop James, "seeing that they were now delivered from a greate part of the trouble & charge of being Borderers, which was the cause why in like levyes they were heretofore spared" and that they enjoyed "the like benefitt & freedome as the other two of Northumberland & Cumberland doe", they therefore

1. On the government's possible motives for repeal of the legislation governing militia obligations see Ashton English Civil War pp. 54-5.
2. CSPD 1603-10 pp. 388, 401. Although Dunbar and Cumberland were joint lieutenants there was no doubt that the dour Scot was the dominant influence. Watts Northumberland p. 152.

"shoulde be partenors with them in the charge".¹ There is no indication that such charges, almost unprecedented though they may have been,² excited much dissent, and Bishop James, despite the encroachment on what he may have considered his own jurisdiction, was fulsome in his justification of the policy. He described how Cumberland and Dunbar diverted condemned felons from the gallows to the press. He denied that there were any grounds for complaint in the operation of the press, implying that the unwilling recruits were drawn from the lowest ranks of society. This may explain the lack of opposition. The business had "redounded much to his Majesty's honour and the peace of themselves and the adjoining counties. I doubt not it will in short time civilise us to be as orderly and obedient as any other parts of the kingdom."³

This episode may be regarded as the last fling of the older, more flexible attitude to the lieutenancy and militia. By the following year the regular pattern of Privy Council orders demanding regular mustering,

1. DUL: Mickleton & Spearman MS 2 f. 250.
2. Levies from Durham had been used virtually exclusively on border service. There was, however, one Elizabethan precedent of bishopric men being levied for service in Ireland, although their position contrasted markedly with the criminals and vagrants pressed in 1607 and 1608. In 1601 the Privy Council had ordered that "choice be specially made of Northren men, because they are best skilled both to serve on horsebacke and do also knowe best howe to use their horses well". Three such men were to be supplied by Durham. APC 1600-1 p.313.
3. HMC: Salisbury xix pp. 377-8. James seems to have meant that the rest of the area under the jurisdiction of Cumberland and Dunbar would receive the benefits of civilisation as well as county Durham.

improvements and reports seems to have been established. Between 1608 and 1613 the evidence is patchy. However, in 1608 the government laid down the county's new obligations explicitly, ordaining that as the charges "might seeme overburthensom ... if it should be made sodainlie and all at once" the order should serve as a start "to that which is to be more perfectlie done hereafter". The Privy Council attempted to ease the burden by stressing that account was to be taken of "them as may be fitt to be ordered and disposed into troopes and bandes of horse and ffoote", a qualification which, added to their earlier premise, gave the bishop and his fellow commissioners considerable scope for evasion and remissness in the service.¹ In October the bishop was able to report to Salisbury that the orders had been carried out, though it is difficult to see how this could have been possible in the comparatively short time available. It seems more likely that the bishop was telling the ministers what they themselves wanted to believe.² Bishop James admitted a more realistic judgment of the condition of the county's armour in 1612,³ and in the following year gave a full account of the trained forces. The county had formerly been expected to provide

1. DUL: Cosin MS Letter Book 1/6.

2. PRO: SP 14/37/5.

3. CSPD 1611-8 p. 178. Mr. Forster's claim that the lieutenantcy officers of Durham were loath to act in 1612 ignores the fact that such officers were non-existent in the county at that time. Forster 'The English Local Community' p. 199.

800 men, half trained and half untrained. However, the men would suffer through the necessity to use obsolete arms which had been bought "after the late rebellion & '88 & worse kepte". The bishop was prepared to make constructive suggestions to help rectify this defect. He advocated an increase of 50% in the proportion of men using firearms. Presumably he was not averse to the county meeting the necessary additional expenditure this would incur. The bishop also advocated the replacement of 100 of the untrained forces by the same number of light horsemen, 50 of whom he hoped would be raised by the gentry and alergy.¹ These propositions were well received by the Privy Council which hoped that "the country were provided of such armour and weapon, as were substantiall and sufficient". If the gentlemen and others were prepared to furnish themselves as the bishop suggested "though it be an occasion of some present charge to the country, yet they will finde it heerafter better husbandry to take that course then to be alwayes troubled with repayring that which is decayed and naught".² This typically bland exchange masked a state of affairs considerably worse than was suggested in the bishop's reports.³ Furthermore, it may be assumed that conditions did not

1. PRO: SP 14/75/1. In 1608 the county's armour had been simply that which was fit for border service.
HMC: Salisbury xx p. 281.

2. APC 1613-4 p. 319.

3. DUL: Mickleton & Spearman MS 2 f. 304.

improve during the brief lieutenancy of the Earl of Somerset, even though the county did witness the unusual sight of a general muster of all able men held at Spennymoor. Somerset himself never made the journey north and his only known deputy was John Calverley, a man regarded by the biased Henry Sanderson as being totally unfit for the task. It was presumably Calverley who was responsible for the organisation of the muster, and the evidence provided by his work under Neile suggests that he was more capable than Sanderson would allow.¹ The general muster, however, can have proved little more than that the county's potential forces were ill-equipped and badly armed, and evidence showing how the county responded to the Privy Council's standard demands in 1616 is lacking.² It would be unfair to criticise the bishop too strongly for these inadequacies. Military ability was hardly a criterion for inclusion within the Jacobean hierarchy; in contrast, the great nobles who monopolised the rest of the country's lieutenancies were, theoretically, bred to arms. Bishop Neile, through hard work and administrative competence, was able to surmount these difficulties, but his case was clearly exceptional.³ Furthermore, James was beset by a series of difficulties. These were partly personal. He was well over sixty when raised to the see and the problem of age was compounded

1. Ibid. f. 252; PRO: SP 14/83/26.

2. APC 1615-6 pp. 516-9.

3. See below pp. 205-23.

by poor health.¹ He also tended to surround himself with advisers of the same generation. His relationship with his monarch was poor and he became especially isolated after the fall of his patron, the Earl of Salisbury. Some of his difficulties were a consequence of the proclaimed disappearance of the border. The ending of border warfare had changed the pattern of military demands and obligations. There was no tenurial obligation to muster on behalf of the new service which was based entirely on prerogative. The county's arms were defective, obsolete or non-existent. The bishop did take steps to attempt to improve matters. He made several suggestions for improvement which received the approbation of the Privy Council, and it was hardly the bishop's fault that his expedient of appointing a muster master should have proved so disastrous.² This appointment showed that Bishop James was at least conscious of the need to take positive action.

Nevertheless, it is clear that there was considerable scope for improvement when Bishop Neile received his lieutenancy commission. Neile's administrative ability was utilised by the Privy Council in its attempt to ensure that the county was able to perfect its militia, and his appointment as lieutenant gave this process, begun under

1. CSPD 1611-8 p. 113.

2. On the dispute concerning the county's muster master see below pp. 243-54. It should be noted that Francis James did not maintain his father's tradition of conscientious discharge of military obligations. DUL: Mickleton & Spearman MS 31/2.

Bishop James as muster commissioner, extra impetus. The details of Neile's work as lord lieutenant have been presented without much interpretative comment.¹ Neile may have had initial doubts about his competence in lieutenancy affairs for he solicited advice, significantly^{not} from a local source, but from the Yorkshire landowner and soldier, Sir Thomas Fairfax who was able succinctly to describe and explain the current orthodoxies.² Bishop Neile's inexperience in such matters necessarily placed a large responsibility on the deputy lieutenants who were drawn from the ranks of the most exalted members of county society.³ Neile appointed two deputies for each of the county's four wards, a division of officers which, given the disparities of size and population among the wards, was not conducive to the efficient conduct of

1. F.J.W. Harding 'Defence and Security Measures in the County Palatine of Durham' DUJ (1955) pp. 75-83, 110-8.

2. DUL: Mickleton & Spearman MS 2 f. 257.

3. Cf. the situation in Somerset where the increasing withdrawal of the lieutenant from active participation in county government not only heightened the general position and authority of the deputy lieutenants, but also exalted the influence of one deputy so that "the real lord lieutenant would emerge from among his deputies". Barnes Somerset pp. 103-5. Bishop Neile, Howson and Morton may not have possessed any military expertise; they never, however, dissociated themselves from the general conduct of local government. Consequently, no single deputy appears to have exercised any undue influence over the others. It should perhaps also be noted that Professor Barnes's "chief deputy" was a peer.

lieutenancy business.¹ This system also indicates that Mr. Harding's assumption about the number of deputies was incorrect.² The full complement was not, however, maintained. For George Conyers of Sockburn, one of the deputies for Stockton Ward, very quickly dropped out of the service, prompted by the unfortunate combination of apparent insolvency and his wife's recusancy.³ Sir Talbot Bowes ceased to play an active part in Darlington Ward, although whether by inclination or removal is not clear.⁴ The difficulties in this ward were compounded by the lack of enthusiasm of the muster captain, Sir George Tonge of Denton.⁵ Stockton Ward was left without a deputy when

1. PRO: SP 14/112/46. Darlington was by far the largest of the four wards, and the upland character of much of its terrain made the conduct of lieutenancy business there more difficult. In Chester Ward the deputies encountered difficulties attributable to rapid changes in the size and distribution of population. See also Appendix
2. Harding 'Defence and Security Measures' p. 81.
3. His last recorded involvement in lieutenancy business took place on March 30th, 1619. By 1623 he was even absent from the view of the light horsemen, in which he should have participated. DUL: Mickleton & Spearman MS 2 ff. 275, 342. His wife had appeared on Bishop James's recusant schedule in 1613. PRO: SP 14/75/1 i. Between 1613 and 1615 he was involved in land sales, in 1616 he was forced to defend a debt action for the trivial sum of £3 4s Od, and in 1625 he was exempted by Neile from the terms of the Privy Seal loan. R. Surtees Durham iii p. 68; PRO: DURH 2/15/12; SP 16/7/65.
4. Bowes may have been removed because of his disastrous oversight of a muster in 1620, but he was also in financial difficulties and this may explain his absence from the deputy lieutenant's duties. He was also a Member of Parliament. DUL: Mickleton & Spearman MS 2 f. 323; PRO: SP 16/7/65; CJ i p. 539.
5. See below pp. 238-9.

Sir Ralph Conyers was removed because of his wife's recusancy. Neile clearly hoped that the absence of the energetic Conyers would be temporary. Conyers was "to abstaine from doing any thinge as a deputie leivetenant till it shall please God that his wife may be reclaymed and brought to Church". The bishop was forced to entreat the other deputies by their "paines and diligence" to "supply the want of Sir Ralfe Coniers assistance in these publique & necessary servics".¹ Death also weakened the lieutenancy. Sir George Selby was not replaced in 1625.² Sir Henry Anderson's efficacy was reduced by the wide-spread nature of his landed interests and by his membership of the House of Commons.³ Therefore, towards the end of Neile's lieutenancy the bulk of the routine tasks of administration had fallen by default upon Sir John Calverley and Sir William Bellasis, the strain upon the latter being increased by his appointment to the shrievalty in 1625.

1. DUL: Mickleton & Spearman MS 2 f. 379. Shortly before his removal, Conyers had been one of the justices of the peace authorised to disarm recusants under the terms of a Privy Council order of October 4th, 1625; in other words, he had to disarm himself. His response to this ludicrous situation was to send a servant to Durham with his arms "all put in a sacke." APC 1625-6 pp. 188-9; DUL: Mickleton & Spearman MS 2 ff. 363, 373. It may be significant that Neile did not utilise the deputy lieutenants as such to fulfil the order, even though it had been directed to him as lord lieutenant and was therefore presumably regarded as a prerogative matter.
2. Selby, like his son-in-law Bellasis, served simultaneously as deputy lieutenant and high sheriff.
3. Anderson had interests in Newcastle and Yorkshire as well as in Durham.

Although the second half of the 1620s brought the nation into a series of foreign conflicts, thereby increasing the burden on the deputy lieutenants, it seems that Bellasis and Calverley were able to cope with the increased pressure and decreased support because lieutenancy procedures had been formalised. There was no internal conflict such as that provided by the activities of the muster master, Thomas Hodson, and the main problems faced were those caused by the imposition of innovatory offices by the central government.¹

The powers of the deputy lieutenants had derived originally from the person of Bishop Neile who possessed the necessary authority to grant deputations, an authority implied by the Secretary of State, Sir George Calvert, in 1623 when requesting the names of the deputies to enable the power of deputation to reside in the king.² The nomination of deputies by the Crown was a short-lived phenomenon, and Charles I, perhaps surprisingly in view of his centralising tendencies, quickly restored the power to the lords lieutenant themselves. As lords lieutenant tended by definition to be influential at court and could therefore still be relied upon to ensure the appointment of their own favoured nominees, it can be seen that James I's innovation could have had little impact upon the personnel of the deputy lieutenancy. His son's abandonment of the policy was uncharacteristically sensible, and there

1. See below pp. 258-9.

2. DUL: Mickleton & Spearman MS 2 f. 339.

is no evidence to suggest that the change had any impact in county Durham.¹ Although the derivation of the powers of the deputy lieutenants was clear there was some disagreement among the Durham deputies about the extent of those powers. There was concern among the deputies, perhaps prompted by qualms about the nature of the office resulting from their work as justices of the peace. Thus Sir George Frevile wrote to Neile in 1619 about the "principall doubt rested in the examinacon of our power given unto us by our deputations". Frevile felt that the creation from scratch of trained bands within the county might necessitate the use of powers which they did not possess. "If we have exceded our commission, yet we hoope your lordship will give a good interpretacon, being done in an earnest affecon for the furtherance of his Majesties service".² These doubts were not resolved, for on April 27th 1620 five deputies, Anderson, Bellasis, Bowes, Calverley and Sir Ralph Conyers wrote to the bishop informing him that they had proceded no further in viewing and mustering "in regard of some defects we conceive to be in our deputations whereof we formerlie acquainted your Lordship".³ The matter was complicated when, on the following day, Conyers wrote privately to Neile claiming that this was merely a pretext for inaction, and that he disagreed with their attitude in spite of his

1. Ibid. f. 351.

2. Ibid. f. 277.

3. Ibid. f. 309

having signed the joint declaration. This was because, Conyers explained, "in the matter of supplie I had a number of able men presented me, and for takinge musters Sir George Conyers and I had often before done the like upon your Lordshipps directions by vertue of the said deputation". He would have proceded had his partner still been "in Contry", but "in his absence I thought not fitt to proceed, partlie for avoyding there emulation". He concluded the business part of the letter by offering further excuses for having conjoined with his fellows in their remissness.¹

This document raises several questions concerning the motivation, enthusiasm, competence and rivalries of the deputy lieutenants, but these can be more properly answered in this chapter's conclusion. It also illustrates the most important functions fulfilled by the deputy lieutenants, the mustering, viewing and training of the county's forces. The county's trained forces were divided between the foot and horse. In the early days of his lieutenancy Neile discovered that "there had never beene any trayned bands in the Countie".² His discovery was supported by Sir George Frevile who blandly, and somewhat ironically in view of his attitude during the muster master dispute, confirmed the omission.³ Clearly, therefore, Bishop James's good intentions had never been properly effected. The

1. Ibid. f. 310.

2. PRO: SP 14/112/46.

3. DUL: Mickleton & Spearman MS 2 f. 277.

trained foot bands provided the backbone of any county's militia, and this was recognised in the members' exemption from impressment for service overseas. Theoretically the members of the trained foot bands should have been easily distinguishable from the mass of a county's able men, for they were supposedly recruited from among the substantial yeomanry and skilled craftsmen. Sometimes deputy lieutenants took this into account when recruiting members. Thus Sir Ralph and Sir George Conyers told Neile that "least the petty constables should abuse us in presenting silly fellows and for their habitacon ubiquitaries, we gave in charge they should for everie¹ comon armour present 3 able men betwixt the age of 20 & 40 out of which we made choyce of the best; and have we thinke a band of lustie tall fellowes."¹ The force was to comprise those, mainly minor gentry and substantial yeomen, who were to provide private arms at their own cost to be carried either by themselves or by a nominee, and those who were nominated by the petty constables to carry the arms which were to be borne at parochial expense. According to Fairfax, the former charge was to be "imposed upon freholders or other men of abeleties". They were to be armed with pikes and muskets, but "they be not so usually traned as those of the comon bycause the latter is to be imploied upon all servyses foreine and domestick and the privat ar to secure the contrey in the absence of thother".² The advice which

1. Ibid. f. 275.

2. Ibid. f. 257.

Neile had solicited from Fairfax proved invaluable in enabling the bishop to formulate a policy in response to the Privy Council order of April 25th, 1618. The minute of the standard letter sent to all counties appears quite mild.¹ However, the copy which Neile received of the order specifically referring to Durham was much more explicit and critical. The council had sent many directives about the training of forces in Durham and was consequently shocked at the level of defects certified. Consequently, Neile was authorised to "cause a generall vewe to be taken of all the fforces", an order which Neile, cautioned by Fairfax as to its impracticality, was able to avoid. The lieutenant was further ordered to make a perfect enrolment of the numbers of trained and untrained forces. He succeeded with the former; the latter was impossible without the undertaking of a general muster. The trained bands were to be made "perfect and compleate" by the appointment of adequate officers and men to replace those who were dead or removed, a strange request in view of the previous absence of trained bands from the county. Specific instructions were given for the provision of serviceable arms.² In the long and honourable tradition of reaction to Privy Council orders most of these requests were politely ignored. Neile and his deputies did, however, begin their daunting task of perfecting the hitherto non-existent trained bands. In the first flush of enthusiasm the deputies of three of

1. APC 1617-9 pp. 118-9.

2. DUL: Mickleton & Spearman MS 2 f. 255.

the four wards were able to produce full details of their views of the private and common armour, while the deputies of Darlington Ward were able to furnish a detailed abstract. The results were unpromising. In Stockton Ward only 147 out of 241 appointed to appear satisfied even the low standards set by the deputies. The needs of the common arms were divided between corslets, each one providing a pike, sword, girdle and breastplate, and muskets, each complete soldier bearing a musket and rest, sword, bandoleer and murrion. Only four parishes, Hart, Bishop Middleham, Dinsdale and Sockburn, were able to provide completely for their corslets. Sockburn was the resident parish of one of the deputies, Sir George Conyers, while the populous parish of Sedgefield, in which lived the other deputy, Sir Ralph Conyers, was able to produce as many complete corslets as the previous four parishes combined. Grindon was able to provide pikes for each of its common corslets. The response in the rest of the ward varied from poor to abysmal, and even as comparatively wealthy a parish as Norton lacked pikes and swords for each of its common corslets. Only Hart and that parcel of the parish of Haughton Le Skerne in Stockton Ward were able to provide completely furnished musketeers, although there were few parishes which could not provide at least one musket, no matter how defective or archaic. Dinsdale, Grindon, Hurworth-on-Tees and Greatham came into this category. The parishes of Bishopton and Great Stainton made financial contributions to supply their defects. A similarly depressing catalogue emerges from those who

were expected to provide their own arms for the trained bands. Only 39 out of 145 persons in the ward charged to bear private armour were able to display complete equipment. Seven, one of whom was absent, had paid to supply their defects, while a further 25 had absented themselves altogether.¹ An even higher proportion had absented themselves in Chester Ward. Precise comparison with Stockton Ward is impossible, for the deputy lieutenant in Chester Ward, Sir John Calverley, did not list the defects in as great detail as his counterparts. According to Calverley, the numbers displaying "good" equipment, which may not of course have been synonymous with complete equipment, totalled 10 out of 49 common muskets, 24 out of 73 private muskets and 17 out of 44 private corslets. The proportion of "good" common corslets was apparently quite high; only the chapelry of Esh was defective, which suggests that Calverley's standards may not have been particularly exacting.² The report of the deputy lieutenants of Easington Ward, Sir Henry Anderson and the youthful Sir William Bellasis, indicates that the condition of the forces there was similar to that of the forces in Chester Ward. Only one parish, Hart or that part of the parish which lay within the ward, failed to provide its

1. Ibid. ff. 258-61.

2. Ibid. ff. 261A-4. There was a large incidence of Roman Catholics among the absentees from those designated to provide private arms. The most prominent of these were Dorothy Constable of Biddick, George Fairhair of Ford, Thomas Forcer of Harbour House, Elizabeth Hedley of Lintz, John Hodgson of the Manor House, Lanchester and Michael Johnson of Twizell. For their Catholicism see for example PRO: SP 12/224/8 i; SP 14/75/1 i; DCL: Sharp MS 110 pp. 7-10.

designated common corslet. However, the deputies provided even less information than Calverley had provided for Chester b. failing to indicate the level of defects in the common arms, and by giving insufficient details of the private arms. No attempt was made to assess the adequacy of the arms provided, although the deputies did specify where defects were due to death or poverty. The proportion of serviceable muskets was much lower even than in Chester Ward, 12 out of 49 common muskets and 17 out of 53 private muskets having been displayed.¹ In both wards therefore the likelihood of discovering muskets in private hands was considerably greater than that of finding the weapons subscribed by the parish. The detailed abstract produced by Sir Talbot Bowes and Sir George Trevile of the arms designated for provision in Darlington Ward makes clear the premises from which the arms assessments were derived. The origins of the common arms requirements dated back before the 1569 rebellion to a period when the ward's force was based largely on the numerical strength of the Neville retainers to such an extent that the common charge on towns formerly in the possession of the Earls of Westmorland "hath never bene layde". Presumably because of reluctance to create a new and probably unpopular precedent the deputies did not see fit to attempt to raise missing common arms from the rest of the ward. The condition of the common corslets was again deemed satisfactory by the deputies. One corslet in the parish of St. Andrew, Auckland was defective, but "some pikes which could not

1. DUL: Mickleton & Spearman MS 2 ff. 265-8.

convenientlie be brought by reason of the great wynde" did not appear to give the deputies cause for concern. This suggests that their general attitude was too casual and sanguine. The common muskets were as usual grossly defective,¹ although the private muskets were displayed in greater profusion than in the other wards. The explanation of this strangely satisfactory performance was discovered in policies pursued during the brief lieutenancy of the Earl of Somerset. The deputies had computed that the proportionate charge of private muskets on the ward should have been 87, "notwithstandinge they that had the last deputation of leiuennancye charged a greater number to supplie such defects as might happen by death or removinge of there dwellinge". The previous deputies were being implicitly criticised for pursuing a policy which, though strategically justified, was considered to have introduced an unsatisfactory precedent by overburdening proportionately the ward's freeholders. In other words, the needs of the ward overrode those of the county.² The Privy Council's response was predictable. "Unserviceable armes ... have ben too frequently shewed and tollerated upon the musters in that county".³ Thus chastened, the lord lieutenant and his deputies set out to improve the condition of the militia. There followed a series of reports from the deputies to Weile detailing

1. Ibid. f. 269. The parishes of Heighington, Stanhope and Merrington had subscribed money to Bishop James to remedy their defects.

2. Ibid. ff. 269-70. The ward had been requested to raise 119 common muskets.

3. Ibid. f. 272.

the results of their increased activity. The Darlington Ward deputies claimed to report a considerable improvement in the provision of common muskets. In October 1618 the ward had been able to provide a mere 13 although payment had been made to secure 16 more. Five months later 17 more muskets had been provided with finance forthcoming to add 5 to the 16 already paid for. Undertakings had been made in respect of 25 of the 34 muskets which were still considered defective. At first glance these figures appear to represent a considerable improvement. The paper improvement may more accurately resemble a plea of justification by the deputies than an accurate assessment of the state of arms. The deputies had made one significant stride; the names of those who had the burdensome duty of carrying the common arms had been properly noted.¹ There had also been a steady improvement in the provision of private corslets. Only 13 out of 58 were still defective, absent or "undertaken." The comparatively satisfactory supply of private muskets was improved still further. The deputies claimed that 96 out of an increased assessment of 121 had been properly displayed. This improvement was secured despite the deputies' opposition to the lord lieutenant's demand that the ward provide 119 common muskets, a clear example of the ability of the recently arrived outsider, Neile, to distance himself from his subordinates' disputes concerning the comparative obligations of the various areas within the county.² A similarly impressive improvement

1. Ibid. ff. 273-272a.

2. Ibid. ff. 272b-d. By September 1619 a further improvement had been reported.

had been recorded in Easington Ward by the autumn of 1619. The number of displayed common muskets rose from 12 to 30 and of displayed private muskets from 17 to 56. It is difficult to credit the especially marked increase in the number of private muskets, and it seems unlikely that the minor gentlemen and yeomen of Easington Ward could have been struck by such a collective desire to contribute to the efficiency of an onerous service, especially as the senior gentry of the ward could muster only four of the stipulated ten light horsemen between them, and two of those were supplied by the deputies themselves.¹ Bellasis, acting alone at this view, again failed to assess the quality of the arms displayed, but did show some initiative in submitting a list of men of ability to bear private arms who had not hitherto been assessed to do so. The list indicated that some men of local prominence had managed previously to escape such obligations. These included, for example, John Heath of Kepier and John Conyers of Horden. Bellasis also ensured that he included influential members of the professional establishment of Durham City. Largely dependent as they were on episcopal patronage, they would have been disinclined to gainsay Neile's wishes

1. Ibid. f. 274. Much of the credit for this improvement must be attributed not to the régime of Bishop Neile, but to that of his predecessor, under whom much of the money was collected for the purchase of common arms, some of which was bought in May 1619. It should be stressed, however, that Neile made a personal contribution towards the purchase. Ibid. f. 278.

in this matter. Bellasis also included a Durham innkeeper on this list, a clear indication of the profitability of that occupation.¹ Selby and Calverley, as perhaps befitted their greater experience of military matters, produced a much more informative report of the condition of the trained forces in Chester Ward. This revealed that there were extensive deficiencies among the displayed weapons, and there is no reason to suspect that these weaknesses were confined to Chester Ward.² Nevertheless, the general tenor of the evidence suggests that gradual improvements were taking place. The trained forces were meeting regularly twice per year, in March and October. The number of absolute defectors was decreasing. New weapons had been provided, thereby reducing dependence on obsolete and defective arms. The wards also began the practice of simultaneous training in order that inter-ward borrowing of arms could be thwarted.³ However, the basis of these improvements was fragile. Training, as opposed to the social distractions which accompanied its completion, was

1. Ibid. ff. 279-82.

2. Ibid. ff. 283-6. Similar insufficiencies were revealed in Stockton Ward. Ibid. ff. 287-91. On occasion little blame could be imputed against the defector. Thus in the case of Michael Johnson of Twizell it was ordered that as "a recusant the cor[slet] was formerly seised and he is to provide a new". Ibid. f. 283.

3. Ibid. f. 275. The temptation to borrow arms must have been particularly compelling to the parishioners of St. Oswald's, for its area was divided between three of the county's four wards, while the nearest tip of the fourth ward was situated conveniently near in the parish of Bishop Middleham.

regarded as a burden.¹ The service was hindered by organisational disputes.² Defects could never be completely eradicated. Outright refusals to partake in the service were comparatively rare. Much more common were those who were able either to certify their disability or who complained that they were overburdened. Such complainants were often treated leniently, either by being released completely from the service or by being joined with others so that they could share the necessary expense of service. This policy created as many problems as it solved. If the level of trained forces were maintained, upon which the government of course insisted, then such concessions could only be made at the expense of others who must necessarily have been drawn into the service.³ Problems with persistent offenders continued. The parish of St. Oswald in Durham City claimed that it was unable to fulfil its quota of common arms unless church lands in the parish were included among the lands rated to provide them.⁴ The parish of St. Andrew, Auckland, despite several undertakings, remained reluctant to supply its common muskets.⁵ Eventually the deputies were forced

1. See for example Ibid. ff. 323, 337. The advantages of membership of the trained forces had become more apparent by the mid-1620s when the nation was once again involved in foreign entanglements. Members of the trained bands were not liable for impressment on overseas service. Ibid. f. 349.

2. See below pp. 243 ff.

3. DJL: Mickleton & Spearman MS f. 294.

4. Ibid. f. 321. The bulk of the church lands so complained of comprised the corpes of the first, second and eleventh stalls of the Cathedral, the possessors of which were rated subsequently under the provisions for clergy arms.

5. Ibid. f. 320.

to deal summarily with offenders. "Such as wee founde absent from the Musters or haveing had often former warneinge came still unfurnished, and such also as departed before they were trayned (all being warned to stay) wee sent out warrants for them to come before us att Durham, & some of them, whome we founde most faulty, for example sake wee comitt to the gaole."¹ After the early years of Neile's lieutenancy the complete series of muster rolls ends. Other evidence indicates that training was maintained, although the results were limited. Thus in 1625 Neile reported that the county, in response to governmental promptings, had managed to increase its footmen to 1,000 and to double the horsemen to 100. However, the footmen were "through my deputie lieutenants indulgence not soe compleately furnished as they ought to be". Furthermore, no money was available to furnish them adequately.² In the following year Neile's vague response to the government's more searching requirements, inspired both by an aggressive foreign policy and the personal objective of the new monarch, compared markedly with his earlier firmness in dealing with the requirements of a policy which had been both less coherent and less thorough. The foot bands were "reasonable well experienced in the exercise of their armes". The arms themselves were

1. Ibid. f. 337.

2. PRO: SP 16/8/48. Most of the available evidence for the last three years of the reign of James I deals with the training of the light horse. See below Neile was not sufficiently displeased with the performance of his deputies to displace any of them voluntarily.

"reasonably compleat", although some common corslets
"heretofore allowed of at musters are not as is required
according to the moderne fashion".¹ He did not repeat
his earlier barb against his deputies whose difficulties,
he must have realised, were hardly of their own making.
As long as Neile was in control the deputies would continue
to work with reasonable diligence despite the extra effort
enforced by the coincidental increase in obligations and
decrease in personnel.

The momentum of militia organisation was soon lost
after Neile's translation to Winchester, and neither Howson
nor Morton did anything to regain it. Neither bishop was
as well fitted as Neile to pursue the tasks of lieutenancy.
Both were essentially academic figures with few claims to
administrative competence. Furthermore, they lacked
Neile's courtly contacts and influence, and they were both
too old to be expected to take an active part in the service.²
Without the driving force of Neile exhorting his lieuten-
ants to improve the service the system collapsed. Howson
appears to have made little attempt to prevent this, for
in October 1634 the Privy Council complained that the county
had not submitted a muster certificate for the previous
three years, although to be fair to the two bishops it
should be noted that 21 other lords lieutenant had been

1. PRO: SP 16/34/80. Drafts of this appear in DUL:
Mickleton & Spearman MSS 2 f. 401; 31 ff. 6-7.

2. Howson and Morton were 71 and 68 respectively when they
received their commissions of lieutenancy.

guilty of the same omission.¹ This complaint evoked no response from Bishop Morton. Six months later he received a severe rebuke from the Council in the form of a letter which was partly the standard set of training instructions and partly a complaint against the lax conduct of the service. Morton was ordered to take "severe & stricte accompt" of his deputies who had displayed "conivance & remisnes of late yeares". They demanded that muster rolls be sent up after each muster and that the trained forces be instructed by the muster master, which the county did not possess, and the other officers. They also required that as many untrained men as possible be assimilated into the trained forces. They were to be suitably exercised and armed.² The purpose of these reinforced orders may have been disingenuous; to inculcate a feeling of non-existent peril in order to encourage the payment of Ship Money contributions.³ Certainly, the demands were unrealistic. Recent service had been so badly conducted that there was no scope for the implementation of additional burdens. The Privy Council did not offer suggestions on how to raise the money for the additional expenditure which would have been incurred. To his credit, Morton did attempt to act upon the orders he had received. All able men between the ages of 16 and 60 were to be enrolled

1. PRO: PC 2/44 p. 181.

2. DUL: Mickleton & Spearman MS 9 (part one) pp. 114-5. The accusation of connivance and remissness was not laid solely against the Durham deputies. The identical criticism was levied against the deputies of all counties in a standard Council letter to each lord lieutenant. See, for example, Barnes Somerset p. 267.

3. Ibid.

so that sufficient men could be levied in an emergency. There is an extant certificate of what purported to be the number of able men in one of the divisions of Easington Ward. In fact, every parish of the ward is represented save only Castle Eden and that small part of Hart which lay in Easington Ward. As the view was taken before Morton himself on Chester Moor, it is reasonable to assume that the able men of Chester Ward also assembled there without the record of their appearance having survived. It is possible that the other wards assembled at the traditional location, Spennymoor.¹ However, the system was never able to recover from the laxity of its administration in the years after 1628. In 1635 the councillors declared that they "cannot but marvell" at the absence of muster rolls.² In 1638 they were "not findings efforts answerable to our expectation".³ The hard work of Neile and his officers had been set at naught, thereby effectively rendering their actions as insignificant as an expensive game of playing at soldiers. The futility of these efforts was emphasised by the disastrous performance of the Durham trained bands when they faced their moment of crisis.⁴

The other two components of the county's trained forces can be discussed much more briefly. The trained horsemen constituted only a small proportion of the county's

1. DUL: Mickleton & Spearman MS 2 f. 434.

2. Ibid. f. 433.

3. Ibid. 9 (part one) p. 109.

4. See below pp. 263-82.

trained bands. In theory, the horse company should have represented both the social and military elite of the militia. This rarely proved to be the case. In Sussex, for example, the horse bands were generally defective in 1616, and after 1622 the deputies gave up the unequal task of rectifying the faults. Similarly, in Somerset the quality of the horse bands left much to be desired.¹ The members of this force were the military descendants of medieval knights. Social exclusivity was supposedly the keynote of membership, although there was also in the northern counties a tradition of mounted service undertaken on the borders by less exalted members of society. Bishop James had intended to exploit this tradition when he advocated the conversion from untrained enrolled men to light horsemen of 100 men who were considered quite distinct from the 50 horsemen theoretically provided by the gentry and clergy.² Like so many of the bishop's good intentions, this scheme had no positive results, and Bishop Neile's thoughts on the status and function of the mounted militia were entirely in accordance with orthodox southern thinking. The lord lieutenant's attention had been drawn to the non-existent horse band by the Privy Council's standard order of April 1618. No action was taken immediately, and it took an almost identical recapitulation by the council in February 1619 to secure a reaction. This national order complained in typical style that "whereas the numbers of

1. Fletcher Sussex p. 185; Barnes Somerset pp. 251-2.

2. PRO: SP 15/75/1; AIC 1613-4 p. 291.

horse are through connivency and neglect for the most parte defective both in armes and servicable horses, it is high tyme at length after so many admonicions, that care be taken that the troopes of horse in that county be filled up and made compleate with all provisions and furniture appertayning".¹ This order was communicated to the deputies who responded by including assessments of the condition of the light horsemen in their reports. The earliest response came from the deputy lieutenants of Stockton Ward, but, given the short interval which had elapsed since their receipt of the Privy Council order, it was hardly surprising that those appointed for the service were "for the most altogether unfurnished". Those who had appeared, and the deputies do not appear to have revealed how many did so, had "promissed with all possible speede to furnish themselves compleetlie".² The following autumn's view of the county's trained forces gave a much clearer account of the unsatisfactory condition of the horse bands. Eleven men were charged with the supply of light horses in Darlington Ward. Five appeared to have been satisfactorily furnished, two undertook speedily to provide the necessary furniture, one recusant had had his arms seized by Bishop James while a tear in the document prevents the revelation of the response of two of the remainder. As one of them, Sir John Calverley, was a deputy lieutenant in Chester

1. Ibid. 1617-9 pp. 118-9, 364. Neile's originals of these orders are preserved in DUL: Mickleton & Spearman MS 2 ff. 255, 272.

2. Ibid. f. 275.

Ward, he may not have taken kindly to this charge in Darlington Ward. John Willey of Houghton le Side absented himself with some justification. He was a mere parochial gentleman who had been assessed in the same company as deputy lieutenants and justices of the peace.¹ Unfortunately, only the names and not the performances of those charged in Chester Ward have been recorded. Both deputies, Sir George Selvy and Sir John Calverley managed to exclude themselves from the list which otherwise was fairly predictable.² Six out of ten men charged with the service in Stockton Ward were able to comply with requirements, but this was a slightly flattering state of affairs as the six included both deputies. There were three absentees. The other horseman displayed defective equipment.³ Only four out of ten gentlemen assessed to supply furnished light horsemen in Easington Ward displayed their arms, and two of the four were deputies.⁴ There was therefore a total of 43 gentlemen assessed to contribute to this service. Of these 15 appear to have been satisfactorily furnished and there were eleven outright defectors. Bishop Neile could have taken little comfort from these figures. His deputies had been unable to fill the apparently modest quota of 50 horsemen which had been set, and even the

1. Ibid. f. 272d.

2. Six Newcastle coal-owners, Sir Nicholas Tempest, Sir Thomas Riddell, Ambrose Dudley, Robert Hodgson, Thomas Liddell and Ralph Cole appeared on the list. They were accompanied by Sir Timothy Whittingham, son of a former dean of Durham, the recusants Sir John Claxton and Sir William Wray and three other members of old county families, Sir John Hedworth, Sir William Blakiston of Gibside and Henry Hilton. Ibid. f. 286.

3. Ibid. f. 291.

4. Ibid. f. 280.

smaller number nominated included persons of significantly lower status than the majority of the horsemen. Recusants comprised a substantial proportion of those assessed for the service; their enthusiasm for militia service was never particularly marked, and their compulsory disarmament after 1625 created organisational difficulties. Few men apart from the deputies appear to have been properly furnished. Proper furnishing incurred private expenditure which in a time of peace may not have seemed a significant priority. The increase in the number of horsemen created obvious difficulties. New recruits could only realistically have been drawn from the ranks of the lesser gentry; in other words from those who had been enjoined to invest in the private arms which were necessary to support the foot bands. It also necessarily involved the expense of private service being spread further down the social scale than was perhaps envisaged when the original numbers were set.

These problems had to be faced when it was decided to increase the complement of the county's horse bands from 50 to 100.¹ The results were particularly unedifying and rather predictable. After three years of a theoretical complement of 100 the state of the foot bands was even worse than it had been in 1619. Those instructed to appear totalled 53, 9 of whom were clergymen nominated under the separate instructions regarding their service. The residue of 44 laymen represented an increase of only 1 from the nominations made in 1618 and 1619, although this figure

1. Ibid. f. 305.

does not reveal the ease with which the deputies themselves managed to avoid making their own individual contributions to the service. Four of the deputies and the father of a fifth had been assessed to contribute to the service at the earlier date. Their possibly justified omission of their own contributions in 1623 meant that there had been an effective increase in the number of laymen contributing to the service of 6. This may in itself reflect a creditable effort on the part of the deputies, but it was hardly a satisfactory basis on which to pursue the intention of doubling the number of trained horsemen, especially as the response of those gentlemen expected to contribute was so dismal. No fewer than 28 of the 44 charged with the service failed to appear; 4 of the remaining 16 appeared with defective arms. Among the absentees were former deputies Sir George Conyers and Sir Talbot Bowes, Sir Timothy Whittingham, subsequently appointed Provost Marshal, James Lawson, muster captain of Stockton Ward and several other pillars of the county's administrative establishment.¹ Commenting on the certified defects, the deputies moaned that "most of them that were charged with horse & furniture were absent or defective, notwithstandinge the Sheriffe did signifie that there was perticular notice given them". They also suggested that the ward captains be exempted from the service, a suggestion made at the captains' behest which, if granted, would have been hardly conducive to the good conduct of the service. The deputies concluded their description of these matters by lamenting their own

1. Ibid. f. 342.

impotence. "It doth much greive us that notwithstanding your Lordships often directions and our paines taken therein we cannot give your Lordship no [sic] better satisfaction for whether it arise out of the poverty of the Countrie, or the neglecte of them that are charged, theise businesses do declayne de malo in peine.¹ In the light of this performance it is impossible to accept Weile's claim in 1625 that the number of horsemen exceeded 100. He did admit, however, that most of the light horses were unfurnished and that the furnishings were unobtainable in the county. He hoped that the light horses would be satisfactorily furnished by the next musters, a pious hope with virtually no prospect of fulfilment.² In view of these inflated claims it was perhaps fortunate for all concerned with the Durham lieutenancy that the King abandoned his proposed examination of the Durham light horse at York in 1628.³ Performances within the county were dismal enough without the additional burden of mustering out of the county. In these circumstances it was hardly surprising that the horse bands were completely incapable of adequate performance during the emergency at the end of the following decade. In December 1638 the King himself demanded of Bishop Morton that the number of horsemen be raised from 70 to 100. Clergy and absentee landlords were not to be exempted from the service.⁴ The qualifications for service in the horse bands were carefully defined by the Privy

1. Ibid. f. 343.

2. PRO: SP 16/8/48.

3. AFC 1627-8 pp. 227-9, 347.

4. DUL: Mickleton & Spearman MS 2 f. 451.

Council. Those possessing lands of a clear annual value of £200 or more were to provide a light horse and the possession of lands with a clear annual value of £300 or more necessitated the provision of a light horse and a lance, though what useful function such a weapon could supply is open to some doubt. The Privy Council emphasized an earlier order against the granting of exemptions. "The sparing of some persons doth open a gapp to excuses and backwardness in others, to the weakening both of Horse and foot."¹ In these demands the council showed itself to be completely out of touch with provincial realities and sympathies, and the appointment of a courtier, Sir Thomas Morton, to take effective charge of the county's forces ensured that a series of reports concerning the inadequacies of the Durham horse bands was returned to the government. Morton's first complaint was that the horses used in the service were too small. They were not strong enough to support cuirassiers, and because it had been decided to convert them to use by carabineers they were not properly furnished.² Ten days later Morton revealed, almost in passing, that the King's previously expressed desire to have the county's horse bands increased in numbers from 70 to 100, was based on a false premise of the existing strength of the horse. The horsemen totalled 60 and Sir Thomas Morton could envisage little likelihood of an increase because of the unavailability of suitable arms.³ Bishop Morton confirmed his namesake's assessment of the strength of the

1. Ibid. f. 452.

2. CSPD. 1638-9 p. 325.

3. Ibid. p. 370.

horse bands in a letter to the Privy Council seeking augmentation of his authority if persons of high degree refused to attend, bring in their horses and arms or pay their cesses.

The more substantial members of the clerical hierarchy were expected to contribute to this service.¹ In view of the amount and distribution of wealth and income among the clergy it was appropriate for the Privy Council to expect them to contribute to the service. The process of levying arms on the clergy differed from the system applied to the laity. The Privy Council sent its instructions to the metropolitan who passed on the general obligation to each of the bishops in his archdiocese. The individual diocesan then rated his clergymen through his ordinary jurisdiction. The rated clergymen were then responsible to the lord lieutenant for their subsequent performance.² In Durham after 1617 the diocesan and the lord lieutenant were identical. The bishop not only rated the clergy as their ordinary, he also received the certificates of their performance as lord lieutenant.³ There is a possibility that Neile, with his reputation for munificence towards the clergymen in his charge, may at first have had misgivings about the process to the extent that he was unwilling to impose the obligation. Thus, one of his deputies, Sir

1. See, for example, APC 1617-9 pp. 118-9; DUL Mickleton & Spearman MS 2 f. 255. The intention to rate the clergy for the service had been part of Bishop James' unrealised plans for the service. PRO: SP 14/75/1.
2. See, for example, the copies of Privy Council orders to Archbishop Matthew of 1620 and 1621. DUL: Mickleton & Spearman MS 2 ff. 312, 315.
3. This was noted by Scott Thomson 'Bishops of Durham' p. 357 and by L.O.J. Boynton The Elizabethan Militia, 1558-1638 (London, 1967) p. 174.

George Frevile, explained that they had "not medled" with the arms of the clergy "bycause of your lordshipps former restraint". The nature of Neile's "restraint" is not clear and Frevile made no further allusions to the matter. There is no indication that a clerical contribution to the service, either in cash or by the furnishing of others was envisaged at this stage.¹ The first indication that Neile was prepared to reconsider this apparent reluctance to rate the clergy for the service came in February 1620. The deputy lieutenants for Chester Ward had ordered the high constables of the ward to return the names of those of "the best abelity" in order to improve the private sector of the service. The only extant return is that made by John Hall for that division of the ward which comprised two parishes in Durham City, the large parish of Chester-le-S\$reet and its chapelries of Tanfield and Lamesley. Among those of ability noted by Hall were the prebendary Peter Smart and the farmer of the corpes land at Houghall.² It seems likely that this was one of a series of such surveys which the deputies had demanded of the high constables, and the result was that nine of the county's clergymen were rated to contribute to the service. There is no suggestion that Neile, once he accepted the necessity of the imposition, fixed the assessments in order to ensure that the clerical

1. DUL: Mickleton & Spearman MS 2 f. 277. On Neile's generosity to his clergymen see A.W. Foster 'The Function of a Bishop: the Career of Richard Neile, 1562-1640' in O'Day and Heal Continuity and Change p. 43.

2. DUL: Mickleton & Spearman MS 2 ff. 300-1.

contribution was underrated. Given the financial criteria for service in the horse bands laid down in 1638 by the Privy Council, it can be seen that Neile's ratings were fair. Nine clergymen were requested to contribute in 1623. The Dean of Durham, Richard Hunt, and six of his prebendaries, Gabriel Clarke who was also Archdeacon of Durham, Peter Smart, Marmaduke Blakiston, Daniel Birkhead, Ferdinand Morecroft and William James were joined by Henry Ewbank, who had resigned his prebendal stall in favour of his son-in-law James, and Anthony Maxton, a Scotsman who held the substantial livings of Wolsingham and Middleton-in-Teesdale. Six prebendaries were not required to contribute to the service. Two of them, John Cradock, former Archdeacon of Northumberland, and John Robson, rector of Morpeth, may have been nominated by Neile to contribute to the service in Northumberland. Two others, Robert Newell and George Morecroft, were essentially non-residents with extensive ecclesiastical interests elsewhere. They might conceivably have been rated in the counties where their main interests lay. The remaining two prebendaries, Augustine Lindsell and Francis Burgoyne, were perhaps more fortunate to escape. However, Lindsell had only recently secured a parochial living in the county and he may have been excused on those grounds. Francis Burgoyne held a Yorkshire living in addition to his Durham interests, and may have been required to contribute there.¹ The

1. Newell had held canonries at Lichfield and Westminster, the archdeaconry of Buckingham in the diocese of Lincoln, the treasurership of Chichester and had also been subdean of Lincoln. He was Neile's half-brother. P. Mussett Deans and Canons of Durham, 1541-1900 (Durham, 1974)p. 12.

response of the Durham clergymen to the demands placed upon them was rather better than that of the county's gentry to the equivalent charge. Four of the nine, Birkhead, Blakiston, Morecroft and Clarke appear to have managed to fulfil their obligations; this proportion was considerably higher than that managed by the gentry. Two appeared without arms while the dean supplied a lance which was otherwise unfurnished. The only absentees were Smart and Maxton.¹ It seems likely that the favourable response of the clergy to the service owed much to the influence of Neile on those within his circle to which the absentees, Smart and Maxton, did not belong.² Under the less forceful diocesans, Howson and Morton, such influence was absent, and, although evidence is lacking, it would be reasonable to assume that by 1638 the clergy's contribution to the trained horse was as weak as that of the laity.

In view of the inadequate condition of the county's trained forces it may seem invidious that much more energy

Morecroft possessed a living in Oxfordshire. PRO: SP 14/88/94. Lindsell succeeded to the rectory of Houghton-le-Spring, probably after the contributors had been nominated. DPD/SR:DR I/V p. 54. Burgoyne was also rector of Spofforth in Yorkshire. SS 52 p. 73n.

1. DUL: Mickleton & Spearman MS 2 f. 342.
2. Smart was a Calvinist protégé of Bishop James. See below p. 496. Maxton had been presented to Middleton-in-Teesdale by the Prince of Wales in 1619 and had to wait until 1633 to attain his prebendal stall. There is no evidence that he was connected with Neile's circle during his episcopate, although he was later connected with John Cosin during the episcopate of Bishop Morton.

was expended in considering the structure of the officers than the state of the service. Neile had begun with a simple chain of command comprising two deputies and one muster captain in each ward, supplemented by such under-officers as the deputies and captains may have appointed. We have seen how quickly the numerical strength of the deputies was dissipated.¹ The muster captains also gave the lord lieutenant some cause for concern. This office was the highest unpaid rank in the service, save only for the deputies, and was usually filled by men of assured gentry status. For those who already held office as justices of the peace, a trained band captaincy might have appeared an onerous and expensive burden. Those of slightly lesser status may have seen the captaincy as an ideal means of enhancing their local reputation and standing with the county's governors. Mr. Fletcher has noted that in Sussex few justices were willing to take on the burden and that the office was filled largely by parochial gentry.² There were considerable contrasts between the two counties. Sussex required far more men to undertake the service. The evidence may be distorted by the paucity of Durham men needed to undertake the service; the four nominated were hardly a significant statistical sample. The most important of the four, and the one most reluctant to accept the

1. See above pp. 206-8. Ward captains had been used in the service before Neile became lieutenant. PRO: SP 14/90/44.

2. Fletcher Sussex p. 177. Excepting the reluctance of J. Ps., Mr. Fletcher did not discover evidence of the widespread disinclination to serve in the office which Dr. Boynton had found. Boynton Elizabethan Militia pp. 283-7.

office, was Sir George Tonge of Denton. He was the second member of his family to secure magisterial status in Durham, serving on the commission of the peace with apparent diligence for over twenty years.¹ His enthusiasm did not embrace militia matters, although his earliest response was presumably favourable for he acted as muster captain in 1618.² Two years later he had become less enamoured of his position. In August 1620 he managed jointly with the deputy Sir Talbot Bowes to destroy the day's training by attempting to postpone it on the pretext that they had not been directly authorised by the bishop to conduct the operation, his misgivings having been voiced within the earshot of many of the bandsmen.³ Less than a month later he was trying to wriggle clear of the service completely, a desire with which Neile was "much displeased" despite Tonge's recent unfortunate contribution to the service's slackness. Tonge's plea began with the disingenuous claim that he was sorry to think Neile considered he was unwilling to undertake his majesty's service. He would "never be wanteinge to shew my readines in doeinge him service in what I am able". Tonge admitted that Neile had the power to enforce his acceptance of the office. However, the basis of his objection was that Neile himself should have appointed his under-officers in order that "the charge ... should have

1. Tonge appeared in the commission of the peace in 1617. PRO: C 66/2147d. He served until his death in 1640. Between 1617 and 1640 he attended almost 70% of the Quarter Sessions. DRO: QS/OB/1-3 passim.

2. DUL: Mickleton & Spearman MS 2 f. 270.

3. Ibid. f. 323.

lien upon the Countrey". He had only undertaken the charge through his respect for Neile, and bolstered this claim with the excuse that he "intended sometimes to live forth of the country for some respects which doth much concerne me" and therefore feared Neile's displeasure at his necessary absence.¹ Neile showed his concern by replying immediately to this in a skilful and conciliatory manner, incidentally indicating that Tonge's colleagues in the service were prepared to shoulder the financial burden themselves. "Other captaynes doinge it at their owne charge, I thought you woold doe as they did". Tonge had been left the choice of the under-officers through Neile's "good respect of your selfe". The bishop claimed that the office would "rather honor than disparrage you in your contrye". He also attempted to shame Tonge by reference to his own private disbursements in aid of the service. Demanding a definite decision by Tonge, Neile emphasised that acceptance would be held as a personal kindness and that a refusal would not necessarily incur his displeasure if he was quickly informed.² It was no surprise that Tonge was shamed into acceptance, although he was shrewd enough to include a reminder of his assiduity as a justice in his letter of compliance.³ James Lawson, the muster captain in Stockton Ward, may have used his service in that office as a means of helping to secure a place on the commission of the peace. He was described as "an able

1. Ibid. f. 330.

2. Ibid. f. 331.

3. Ibid. f. 332. Tonge also complained of his troubles at the hands of the sheriff, Sir George Selby. As Selby was also a deputy lieutenant, this hardly augured well for the conduct of the service within the county.

gent for estate & person & of good understanding" by the Stockton Ward deputies with whom he shared Roman Catholic connections. He had only been second choice for the office which he obtained through the reluctance to serve of Ralph Fetherstonhaugh, who proved not averse subsequently to the offer of a deputy lieutenancy. Lawson's inclusion in the commission of the peace shortly afterwards may therefore have owed much to his ready acquiescence in the burdens of the captaincy.¹ Sir George Bowes of Biddick, the captain in Easington Ward, was never included in the commission of the peace for the county despite possessing a name which was synonymous with the highest traditions of county service. Financial embarrassment is an obvious explanation for this. The expense of the captaincy can hardly have aided his economic condition.² Thomas Tempest, muster captain in Chester Ward, had most to gain from holding the office which conferred administrative respectability upon a family which had been regarded with suspicion because of its recusant connections. Tempest received the appointment during the life of his father, but was unable to secure further advancement until after the latter's death in 1626.³ The task

1. Ibid. ff. 275, 7. Lawson was removed from his captaincy because of his wife's recusancy which was probably enough also to explain his removal from the commission of the peace. Ibid. f. 379. He was the brother-in-law of Sir George Conyers who had recommended him for the office. R. Surtees Durham iii p. 248. Lawson had become a J.P. in 1620 and served for almost six years. PRO: C 181/3 f. 9.

2. Bowes's financial problems are discussed below p. 656.

3. Tempest became a justice of the peace in 1627, attending his first Quarter Session in October of that year, when he also appeared in the commission for gaol delivery. DRO: QS/OB/1 p. 305; PRO: C 181/3 f. 224.

of the muster captain was quite simple; to undertake the training of the bands in his ward without public expense.¹ The lord lieutenant's gratitude for this was expressed in an implicit offer of assistance, perhaps amounting to bribery. Neile offered to compensate the captains "by any kinde office you shall have occasion to use me in".² Despite this incentive and the opportunities for advancement which it implied, the muster captaincy remained a weak link in the militia's organisation, due partly to the financial obligations placed on the captains and partly to pressures imposed on them because of their comparative lack of numbers. Before 1625 there had been only one captain for every 200 trained footmen. The printed instructions sent out by the Privy Council to each county had recommended that there should be at least one captain to every 100 men, or, at the outside, one to every 150. The higher ratios hitherto in force in Durham had put pressure on all the captains, none more so than Tonge who had the largest single force to deal with in Darlington Ward.³ Consequently, it was decided to appoint an additional captain for each ward.⁴ John Calverley, son of the deputy lieutenant, was appointed in Chester Ward, presumably at the behest of his

1. DUL: Mickleton & Spearman MS 2 f. 305.

2. Ibid. f. 307.

3. Ibid. f. 367.

4. Ibid. f. 364. These appointments were additions to the existing service. Cf. James Family, Lineage and Civil Society p. 164. To cite these as evidence that "the Church influence also increasingly predominated in the offices of the lieutenantcy" because all those appointed were "of Church families" is a misleading over-generalisation.

father. Toby Blakiston, son of the ubiquitous prebendary Marmaduke, may also have owed his appointment to parental influence. Liddley Wren, son of a deceased justice of the peace, was appointed to serve in Darlington Ward, but was unable to convert the acceptance of the captaincy into the conferring of more influential offices until much later.¹ William Bowes, nominated for the office in Easington Ward, was the "one capten (who) cannot well performe the service".² His unwillingness to serve can doubtless be attributed to financial insecurity. To his "deficiencies" and frequent absences he appended the moral judgment that "it is never the part of an honest man to take in hand anye thing of which he is not sure to have means to discharge himself".³ With the appointment of these four young men Neile and his deputies undoubtedly hoped to reinvigorate the administration of the musters, especially in view of Neile's reluctance to accept the imposition of the Low Country sergeants,⁴ and an attempt appears to have been made to cover up their inexperience

1. Wren, unlike his father, did not become a justice of the peace. He was Constable of Durham Castle and a commissioner of sewers. BL: Lansdowne MS 902 f. 28; PRO: C 181/5 p. 219. His most influential moment came in 1641 when he was one of the commissioners on behalf of the county who treated with the Scots during the occupation. DCL: Hunter MS 7/6.
2. DUL: Mickleton & Spearman MS 2 f. 364.
3. Ibid. f. 384. William Bowes was probably the son of Ralph Bowes of Barnes in the parish of Bishopwearmouth, formerly a J.P. and the son of Robert Bowes, the ambassador to Scotland. PRO: C 181/1 pp. 42-3. If this identification is correct, then William Bowes failed to act upon his own guiding principle. The particulars of his sequestered estate indicate both a substantial landed income and substantial debts. SS 111 p. 126.
4. See below pp. 258-60.

by the appointment of other officers. A marginal note appended to a Privy Council order recorded the appointment of three additional officers in Chester Ward, one of whom was the experienced soldier, Henry Hilton. Similar appointments were presumably made also in the other three wards.¹ With the muster captains Neile never satisfactorily resolved the dilemma of either imposing the burden on those reluctant or unable to accept its financial imposition or of charging the costs on the county as a whole. Both courses would have proved unpopular, and the lesson of the county's muster master dispute would have cautioned the bishop against the latter expedient. The lack of information of the captains' activities after 1626 might indeed suggest that the problem was solved by ignoring the office. The professionals may have found it an unnecessary interference. With the disintegration of the service after 1628 it ceased to matter.

The most far-reaching problem with which Neile and his deputies had to deal concerning their under-officers was brought about by the activities of the county's muster master, Thomas Hodson. In theory, the muster master was the "lynch-pin of the lieutenancy in the matter of military training". He was supposed to provide the professional expertise in a service both provided by and supervised by amateurs.² The government remained convinced of the need

1. DUL: Mickleton & Spearman MS 2 f. 367. On the activities of Hilton see below pp. 256-7

2. Ashton English Civil War pp. 53, 55.

for the office which was regularly stressed in communications to the localities.¹ Some muster masters, however, completely failed to justify the confidence placed in them.² Thomas Hodson certainly came into this category. He claimed to have been initiated into the practice of arms by Sir William Read and "valiant old L. Willughby".³ The former had been Captain of Holy Island.⁴ The latter was presumably Peregrine Bertie, Lord Willoughby d'Eresby who for a short time was Governor of Berwick-upon-Tweed and Warden of the East March.⁵ Hodson's military experience seems therefore to have resulted from border service. This assumption is strengthened by what appears to have been a connection with the Earl of Dunbar, for whose sake Hodson was allegedly first employed by Bishop James.⁶ James may have had little choice but to employ Hodson as muster master for, if one is to believe his petition, he was

1. See, for example, DUL: Mickleton & Spearman MS 2 f. 435 where the existence of the muster master is implied in the Privy Council's order.
2. This seems to have particularly true in the case of Josias Kirton who held the office in Wiltshire in the first decade of the seventeenth century. The Earl of Hertford's Lieutenantcy Papers, 1603-12 ed. W.P.D. Murphy, Wiltshire Record Society, xxiii (1969) passim.
3. DUL: Mickleton & Spearman MS 2 f. 302.
4. Read, a son of Lady Gresham by her first marriage, had inherited lands in Seaton Carew and Stranton. R. Surtees Durham iii p. 121. Dr. Watts considers him "dissolute". Watts Northumberland p. 88.
5. Ibid. pp. 123-5.
6. CSPD 1611-8 p. 114.

recommended by King James and the Privy Council.¹ The relevant Privy Council order has not survived, but Hodson's employment dated from 1612, the year in which the government first attempted to reorganise and regularise militia procedure, and was presumably a product of that policy. Hodson's position in the county was, he claimed, formalised by "a willing & genrall consent by open Act of Session" which set down his fee.² Because of the disappearance of the appropriate sessions orders it is no longer possible to verify this claim. However, there does exist a copy of an order from the Gaol Delivery session of March 28th, 1617 in which a fee of 2d. in the pound was agreed to be levied on his behalf.³ This obviously failed to secure widespread approbation, for in the following year Sir John Calverley and Sir George Selby issued a warrant to John Hall, one of the high constables of Chester Ward, to collect the arrears in his division of Hodson's fee.

It was against this background that one of the deputy lieutenants, Sir Henry Anderson, sought to question the legality of Hodson's office and the means used to finance

1. PRO: SP 14/108/62. A copy of this can be found in DUL: Mickleton & Spearman MS 2 f. 303. Hodson had been appointed by Bishop James in his capacity as a commissioner of musters, not as lord lieutenant, a title which he never held. Cf. the understandable implication in Ashton English Civil War p. 56.
2. PRO: SP 14/108/62.
3. PRO: SP 14/92/144. The order was signed by Bishop James, Sir George Frevile and Judge Hutton and subscribed by ten others, including Sir John Calverley who was later to become one of Hodson's opponents.
4. PRO: SP 14/103/50.

it, thereby precipitating what has been described as "a minor constitutional wrangle".¹ Anderson, who possessed an "active spirit", was probably the most sophisticated political animal among the Durham gentry.² He had been educated at Gray's Inn.³ His family background neatly combined mercantile, gentle and clerical strains, and he had been one of the members of Parliament for Newcastle in the 'Addled' parliament of 1614.⁴ Hodson was not impressed by Anderson's ability: he considered him "a paultry fellow" and "a simple dunce", descriptions which perhaps more accurately may be applied to the muster master himself.⁵ Unfortunately, the only extant evidence of the nature of Anderson's complaint was that provided by Hodson himself. Its reliability therefore may be questioned. Anderson's first objection was that the continuance of the office of muster master was unlawful because it did not have statutory authority. This raises fundamental legal questions of the sort which lie outside the scope of this study. However, it may perhaps be suggested that the office could have been exercised without statutory authority provided that its exercise did not in itself infringe statutory provisions. The whole of the service suffered from lack

1. Boynton Elizabethan Militia p. 227.

2. PRO: SP 14/88/94.

3. R. Welford Men of Mark 'Twixt Tyne and Tweed (London, 1895) i p. 74.

4. He was descended on his father's side from a long line of Newcastle merchants, on his mother's side from a prominent Northumbrian gentry family and married the daughter of an East Riding clergyman. R. Surtees Durham i p. 122; Watts Northumberland p. 186. He played an active role in the short-lived 1614 parliament. CJ i pp. 458, 463, 482, 484, 502.

5. DUL: Mickleton & Spearman MS 2 f. 304.

of statutory confirmation, and an attempt to provide this in 1624 failed because it was thought "not good to strengthen the power of the Lieutenants by any such laws"¹ By implication, Anderson's argument questioned the legality not only of the muster master but also that of the whole institution of the lieutenancy and its modus operandi, an argument which may seem slightly odd coming as it allegedly did from an active deputy lieutenant. The second objection might have had more force had it not been pressed so strongly. It is possible that Hodson exaggerated the force of Anderson's argument in order to give greater credence to his own case. Anderson, it was alleged, had claimed that the issue of a warrant for payment of the muster master's fee represented a direct praemunire. Quite how this conclusion was arrived at is not immediately apparent, for in contrast to the problems in Somerset and Wiltshire in the previous decade the rate for the muster master's entertainment was not levied solely on the dubious statutory authority of the lord lieutenant.² The warrant complained of, issued by Calverley and Selby in Chester Ward, did not involve the collection of a fee due to Hodson as muster master under Neile. It referred to the arrears which were due for his exercise of the office under Bishop James as muster commissioner. His fee had not rested on

1. Quoted by Ashton English Civil War p. 56.

2. Earl of Hertford's Lieutenancy Book ed. Murphy p. 29. In Somerset and Wiltshire the King had instructed that the allowance should not be burdensome on the inhabitants. Ibid. p. 26.

arbitrary or prerogative authority. It derived from an order drawn up at a session of gaol delivery by Bishop James, Sir George Frevile and Judge Hutton and subscribed by ten other commissioners, all of whom were also justices of the peace.¹ To have denied the Durham J.Ps. the right to set a levy which did not infringe any statute represented in effect an attack on the independence of the local magistracy which, in view of Anderson's generally independent outlook, may have seemed out of character.² Bishop Neile, anxious to avoid constitutional controversy, was content to let it be known that the offending warrant had been issued without his knowledge. He also attempted to explain Hodson's behaviour. The muster master had "some ill conceipt" in making it appear that Anderson was questioning the royal prerogative, to which Anderson's

1. PRO: SP 14/90/144. The subscribers comprised a typical cross-section of the magistracy. They included three of Neile's subsequent deputy lieutenants, two of whom represented ancient county families, three clergymen, one senior official of the palatinate, two other county gentlemen, one the member of an ancient family and the other a comparative newcomer, and one gentleman from the detached part of the palatinate situated in north Northumberland who was paying a rare visit to the sessions. It should be noted that the method of raising the muster master's entertainment was fairer in Durham than that adopted in Somerset and Wiltshire. In Durham it was intended that the money be raised by the levying of a county rate of 2d. in the pound. In Somerset and Wiltshire the money was raised by a levy on the members of the trained bands.
2. See PRO: SP 14/108/62 for the full details of Hodson's version of Anderson's attack upon him.

attitude was at least ambiguous, if not hypocritical.¹

Neile was far more concerned with Hodson's inadequacy and the expense involved in his upkeep than with questions of the legitimacy of his office. The importance of the office was never doubted in professional military circles, although there were those who questioned its contemporary effectiveness.² Neile's earliest military adviser, Sir Thomas Fairfax, was perhaps a typical supporter of the traditional orthodoxy. He stressed that the muster master was particularly important if the captains were not particularly able. Neile should "take special care that a verey diligent man be had for that purpose" to teach the use of arms and to show the members of the bands how to order themselves "in rankes and files".³ Neile quickly realised that Hodson failed to match the requirements suggested by Fairfax, despite the attempt of four of the eight deputy lieutenants, Sir Talbot Bowes, Sir George Conyers, Sir Ralph Conyers and Sir George Frevile, to persuade him that not only was the office of muster master necessary but also that Hodson was well fitted to exercise the office.⁴

1. PRO: SP 14/112/46. As the tasks, if not the office of muster master, were to be undertaken subsequently by a nominee of Anderson's, it seems possible that the whole controversy may have been concocted in order merely to get rid of Hodson.
2. C.L. Hamilton (ed.) 'The Muster Master by Gervase Markham' Camden Miscellany xxvi Camden Society 4th series xiv (1975) pp. 57-61.
3. DUL: Mickleton & Spearman MS 2 f. 257.
4. PRO: SP 14/108/63 i. Three of the deputies, Bowes, Sir Ralph Conyers and Frevile had a vested interest in Hodson's continuation in the office as they had supported the cess of 2d. in the pound levied in 1617 for his fee.

Neile decided that the services of the muster master were unnecessary on the grounds that each ward had two deputy lieutenants who fulfilled some of the muster master's tasks and a captain who undertook the training of the soldiers without charge to the county.¹ At this stage Neile still appears to have been prepared to reach an accommodation with Hodson. At the autumn muster of 1619 the deputy lieutenants reported that Hodson "refused to undertake the labor of instructinge the trayned soldiers how to manage their armes, whereupon it was resolved that we shuld otherwise have no use of him as Muster Mr for that the deputy leiftenents doe undertake the carefull vewe of the armes & the involvement of the traned bandes".² Hodson had not been paid for two years and had presumably never received the arrears outstanding from 1617. He was forced to petition Neile in the hope of receiving some

Calverley had supported this levy and, along with Selby, had issued the warrant for the collection of arrears, but neither of them supported this initiative. The deputies had divided along ward lines. The Darlington and Stockton deputies supporting Hodson and the Chester and Easington deputies opposing him.

1. PRO: SP 14/112/46. (Draft in DUL: Mickleton & Spearman MS 2 ff. 304-5). Neile was forced very quickly to modify this triumphant exercise in the virtues of amateurism and good housekeeping. See below pp. 255-6. The lord lieutenant alleged that Hodson's fees amounted to £50 or £60 per annum. Allowing for defalcations, the product of a twopenny rate according to the 1615 Book of Rates was just over £59. DCL: Hunter MS 22/1. Neile used this payment for Hodson as an excuse to justify the county's reluctance to subscribe willingly to the charge for purveyance. PRO: SP 14/112/46.
2. DUL: Mickleton & Spearman MS 2 f. 292.

relief from his indigency. Hodson claimed to have exercised the office of muster master for nine years, the last two under Neile's commission, "without any just tax of discerning observers" and with "best diligence" in his power, to which Neile responded tartly that "I had the pay perhaps, but finde not the service. My answer to his petition is no such Commission". Hodson then made the preposterous claim that he had disbursed over £1,000 in attending to the service. Moreover, he had given "no offence to the Countrey" and was ready to do his best for the service, valuing his nine years of labour more highly than the money which he had lost. Unfortunately for Hodson, Neile was unable to discern any value in the services which had been rendered, but also maintained that he was still willing to accommodate Hodson, if he were willing to perform the service "without the charge of a standing pay upon the contrey", even if this incurred "some extraordinary charge" to himself.¹ The affair temporarily passed out of Neile's hands when Hodson, considering himself thwarted by the bishop, sought redress from the Privy Council changing his argument by implicitly accusing Anderson of constitutional impropriety and by alleging that Sir Richard Hutton, Chancellor of the County Palatine, had supported him by claiming that the royal prerogative was "of the highest transcendent nature, then the best man of the bench, ought to meddle with".² The reliability of this claim may be

1. DUL: Mickleton & Spearman MS f. 302.

2. PRO: SP 14/108/62.

doubted, and Neile was unaware that such a question had been discussed by Hutton and Anderson.¹ Perhaps with the aim of encouraging the Privy Council to take a major decision itself, Neile suggested that Hodson was indirectly responsible for Durham's tardy response to purveyance demands. The Council failed to rise to this particular bait and simply referred the matter back to the bishop who had the sole "ordering and disposing" of the office by virtue of his commission of lieutenancy.² Neile once again decided upon a course of moderation. He annotated his copy of the Privy Council order to the effect that although he had never acknowledged Hodson's right to hold the office of muster master and despite the latter's behaviour to Anderson which was considered "so distatefill [sic] to the Country", he would pay him out of his own purse if Hodson were to undertake the training of the foot bands.³ Hodson remained dissatisfied with this offer of a compromise, and, following the appointment of Anderson's nominee, Edward Diggins, to supervise training though without the title of muster master, he foolishly took matters into his own hands by disturbing training in Darlington Ward.⁴ Perhaps because of this, although there is no definite evidence, Hodson was taken into custody on the orders of the Privy Council.⁵ During his short period of

1. DUL: Mickleton & Spearman MS f. 304.

2. APC 1619-21 p. 146.

3. DUL: Mickleton & Spearman MS f. 306.

4. Ibid. f. 323.

5. APC 1619-21 p. 381.

imprisonment Hodson addressed an emotional petition to the King. This petition, which appears to betray evidence of mental instability, humbly acknowledged Hodson's "madness in gyving offence" to the King. He attributed his offences solely to the "unjust cruelltie" of Bishop Neile whose actions had been responsible for the deaths of three of his sons "who would have prooved brave sparks in your service" had they not perished through penury and neglect. The condition of the rest of his family and his present necessities had driven him into a "frenzie", the last word being written in a larger and bolder version of his hand. He made certain specific allegations against the bishop. He had "dishonourable snapt a warrant of evidence" from Hodson. He had "shamefullie denied his owne hande". He had been responsible for the stopping of his fee "contrarie to the contract of the countrey: they being willing to pay it, and it concerning him nothing in honour or profitt". This accusation was clearly contradicted by the issue of Calverley and Selby's warrant. Hodson claimed further that he had performed the King's service "according to the countries covenant, as fullie as anie other muster maister", an allegation which reveals far more about the capabilities of muster masters in general than it does of the conscientiousness of Hodson in particular. He ended with a biblical allusion. "I am none of those false Gibeonites that beguiled Josua, but a true Gibeonite that have come a far journey for justice, my bread being mouled, my shoes and cloths tatter'd and torne,

and my money spent".¹ This emotional outburst may have moved the Council to show some pity. Hodson was released on June 27th, 1621.² He continued to interfere with the service. In January 1624 three deputy lieutenants reported that they had heard nothing as yet of Captain Hodson, but that when he arrived they would deal with him as Neile had directed.³ There was an interesting postscript to the muster master controversy. In response to a Privy Council order of December 1629 Bishop Howson replied that he had been informed by the deputy lieutenants that there had never been a muster master in the county except for Hodson who had intruded himself when there was no lieutenant, had not been admitted by Neile and had proved to be "a needless burthen to the Country" which, being so poor, could not raise the allowance. Howson went on to claim implausibly that the existing officers were well able to do the job themselves and that a new officer would be very distasteful to the country. Once again local officials were able to frustrate the government's aspirations towards the perfecting of the militia.⁴

1. DUL: Mickleton & Spearman MS 2 f. 319.

2. AFC 1619-21 p. 392.

3. DUL: Mickleton & Spearman MS 2 f. 343. The sources do not reveal whether Hodson arrived and, if so, what action was taken to deal with him. However, later in that year the justices of the peace did authorise the collection of the arrears owing to Hodson for 1617-8.
DRO: QS/OB/1 p. 214.

4. PRO: SP 16/162/1. The Privy Council order had enjoined lords lieutenant to order muster masters to perform their duties diligently. In some counties the council was concerned that muster masters had not performed their requisite duties and had not been paid, thereby

Neile's response to Hodson's military deficiencies was to employ unofficially experienced soldiers who were prepared to undertake the muster master's tasks without enjoying the muster master's title or official status. The first such appointee was Edward Diggens, an obscure protege of Sir Henry Anderson. Diggens offered to work with each company of the footbands, teaching both "the readie true and gracefull use of their arms" and martial discipline. For this work he desired £24 per annum paid quarterly and guaranteed by patent. He also, perhaps a shade impertinently, if justifiably, requested that no one was to be appointed with him unless in a subordinate capacity "for I have found by experience how hard a matter it is, for two (though they may be both sufficient) to argue in judgment & method in an employment of this nature". He also suggested arrangements which might be made to acquaint the bands with the nature of his authority, while also recommending that the captains' choice of lieutenants should not in any way discharge him of his duty. This may have seemed a presumptuous offer by Diggens, "a man whome your Lordship never saw".¹ Nevertheless, Neile accepted many of his recommendations, thereby suggesting that

implying that the office had caused widespread discontent which was not confined to those few counties which had had well publicised disputes. Each muster master was to be "a practick souldier and expert in the warres abroad" and was to be displaced if he were unable to undertake those duties laid down by the Council.
AFC 1629-30 pp. 213-4.

1. DUL: Mickleton & Spearman MS 2 f. 308.

Anderson's influence on the lieutenancy at this time was quite marked. He did not accede to Diggens' demand for £24 per annum. Instead he paid him £20 per annum, a third of the remuneration demanded by Hodson. He does not appear to have regularised Diggens' appointment by the issue of a patent. The payment was a private contribution by Neile, rather than a fee emanating from the possession of a palatine or episcopal office.¹ Diggens appears to have performed the duties during 1620 and 1621, and his work was commended by four of the deputy lieutenants in the latter year.² Unless the deputies were trying deliberately to mislead Neile, it seems that Diggens was considerably more successful than Hodson, with whom he had an altercation at a muster for Darlington Ward in 1620.³ However, his appointment proved to be a temporary expedient, and he disappeared from the service as suddenly as he had arrived.

In 1625, in response to the government's more rigorous approach to the service which characterised the first years of the reign of Charles I, Neile placed the service in the hands of two veteran soldiers who were well known in the county, Joseph Warde of Bishop Middleham, a younger brother of the eminent Cambridge academic Samuel Warde,

1. Ibid. ff. 331, 338. Diggens's warrant authorised him to advise upon the "sufficiencie of the armes", their sorting and the repair of defects and to assist each captain in the training and exercising of his bands in "the moderne forme of martial discipline (especiallie the playne & easie demonstracons and practice of the postures appertayning to the musquette & pike".

Ibid. f. 324.

2. Ibid. f. 337.

3. Ibid. f. 323.

and Henry Hilton of South Shields, a younger son of Sir William Hilton of Hylton. The former had been recommended by the deputy lieutenants of Stockton Ward in 1619 as a man who had "bestowed many yeares in service under the states". He was offering his "best service for trayninge for reasonable allowance", an offer which was not accepted.¹ Hilton, who was rather older than his colleague, had apparently served Prince Maurice of Nassau in his successful campaign against the Spanish in the Netherlands during the 1590s.² He had not displayed much initial enthusiasm for muster duty in county Durham, for he had absented himself from the muster of 1618.³ However, the value of his military service had been recognised in one quarter before he became a trained band officer. In 1621 the Dean and Chapter of Durham abated £30 of a fine of £130 levied on a twenty-one year lease of Shields Heugh, "in respect that he is a souldyer and hath done service to his prince and countrey".⁴ Neile turned to Hilton and Warde for help in October 1625, enjoining the former to general employment in the service and authorising the latter specifically to

1. Warde was the youngest of six sons of a minor gentleman from Teesdale. The family had prospered in a small way through investment in church property. R. Surtees Durham iii pp. 9, 13. Hilton also had an ecclesiastical connection. He was the father of Nathaniel Hilton, vicar of Billingshurst in Sussex, who, according to Mr. Fletcher, was a member of a "close-knit group of Puritan ministers" during and after the Civil War. Ibid. ii p. 29; Fletcher Sussex p. 106; DUL: Mickleton & Spearman MS 2 f. 275.

2. R. Surtees Durham ii p. 29n.

3. DUL: Mickleton & Spearman MS 2 f. 262.

4. DPD/PK: Chapter Act Book, 1619-38 f. 5.

exercise authority in Stockton Ward.¹ Neile's initiative predated the arrival in the county of the Privy Council's own nominees, Henry Crosby and Robert Watson, two of the officers on leave from the Netherlands who were expected to conduct intensive training in each English county.² The imposition of outside officers on the county was hardly conducive to the popularity of the service. It could be construed as an attack on the independence of the lord lieutenant and more particularly on his deputies who were more likely to be sensitive to local prejudices. It was hardly surprising that Neile should have been concerned with the possible reaction of his newly appointed officers to the encroachment of strangers in the form of the Low Country sergeants. Three days after the Privy Council order recommending Crosby and Watson, Neile wrote to his deputies to warn them of his misgivings. He would leave an assessment of their capabilities to the deputies "though I may doubt they will not prove more able than our owen heertofore by us chosen". He was also concerned that Hilton and Warde would "not thinke our fulfillinge of the Lordships comandement in imployinge these men for a tyme (meant) any impeachment of their reputations". Their agreement with Hilton and Warde was to be honoured. In contrast, Neile enjoined the deputies to regard the Low Country sergeants as well recommended by the Privy Council and "of better worth then their outside maketh

1. DUL: Mickleton & Spearman MS 2 ff. 358-9

2. APC 1625-6 pp. 321-3.

shew of".¹ According to Sir William Bellasis and Sir John Calverley, Crosby and Watson had taken "great paynes" in the exercise of the trained bands. This may have been true, although the phrase had become an overworked cliché in the lieutenancy service and may not have meant much. Crosby was especially commended because his assessment of the local horses coincided with the deputies' traditional conception of the form which the local cavalry should ideally take. Whatever the true worth of the Low Country sergeants, Neile was justified in his fear that they might prove incompatible with Hilton and Warde. The deputies wished "they had showed themselves more forward than they have yet done in the advancement of his Majesties service in joyninge with those two men sent downe into the countrie". The deputies' letter concluded with a postscript concerning the payment of £30 due to Hilton and Warde. The money was to be raised by a levy. Therefore, in contrast to Diggins, their fees were the subject of an official rate on the county rather than a private payment out of Neile's pocket. They lacked only the title of muster masters. They enjoyed the substance of the office, both in tasks undertaken and in method of payment.² Crucially, they also enjoyed the support of Neile who commended them in his

1. DUL: Mickleton & Spearman MS 2 f. 378. In contrast with the doubts expressed by Neile, the Low Country sergeants were considered by Professor Barnes to have been successful in Somerset. Barnes Somerset pp. 249-50. Mr. Fletcher's assessment of their effectiveness in Sussex was rather more cautious. They "must surely have done some good", although the impact was admittedly "hard to judge". Fletcher Sussex pp. 183-4.

2. DUL: Mickleton & Spearman MS2 f. 386. The deputies advocated that the levy for Hilton and Warde should be joined with that for the entertainment of the Low

certificate to the Privy Council in 1626.¹ It seems unlikely that Hilton and Warde, well qualified though they were in terms both of experience and of local connection, had any significant effect on the Durham trained bands. There is no evidence that their employment was continued after Neile's translation to Winchester, and the tenor of Howson's letter to the Privy Council in 1630 with its vague reference to the assistance of "some experienced souldiers" implies that their service had ended with Neile's departure.² Their two years of service would not have been long enough for them significantly to alleviate the almost intractable problem of the inadequate condition of the trained bands.

The lieutenancy in county Durham managed to avoid much of the opprobrium directed against the service in other counties, especially with regard to its subsidiary functions. This was partly due to apathy on the part of Howson and Morton, whose attitude was soon communicated to their deputies. It was partly due also to geographical accident; the county was able to avoid the nastiness associated with billeting in the southern counties during

Country sergeants. This implies that the raising of levies for the muster masters entertainment was no longer a controversial and a convenient way of disguising the cost of the work of the sergeants. Cf. Somerset where the contribution of the trained bandsmen to their charges was considered extortionate by Hugh Pyne. Barnes Somerset pp. 262-3

1. PRO: SP 16/34/80.
2. PRO: SP 16/162/1.

the troubled late 1620s when the nation found itself involved in conflict with its European neighbours.¹ The county's untypical institutional development gave scope to the fudging of differing official responsibilities held by the same person. Neile managed to avoid possible controversies by inclining towards the county's financial interest in matters where adherence to the actions necessary to fulfil the demands of an expensive government policy based on the authority of the royal prerogative would have involved unpopular and allegedly arbitrary actions. Such actions by Neile would surprise those who continue to regard the bishop as a slavish and sycophantic adherent of an increasingly autocratic government. He also managed to avoid trouble in his enforced appointment of a Provost Marshal, an officer whose activities had been known to create discontent among justices of the peace.² This discontent was hardly likely to have been assuaged by the terms of reference of the office recommended by the Privy Council. The Provost Marshal, an "honest and discreet" man, was to apprehend and punish vagrants, idle persons and rumour mongers "in tymes of suspicons or trouble" or those who "by way of fact commit insolencies or outrages, or minister the occasion by their loose examples or unlawfull combinacons, whence their may arise much disadvantage to his Majesties service & quiett of the people!"³

1. Ashton English Civil War pp. 60-1

2. L.O.J. Boynton 'The Tudor Provost-Marshal'
EHR lxxvii (1962) 437-55.

3. DUL: Mickleton & Spearman MS 2 f. 398.

The active pursuit of such malefactors would normally have been regarded more appropriately as the preserve of the justices of the peace. Neile not only appointed a J.P. to the post in Durham, he appointed the justice who was most closely associated with that strand of theological thinking to which he himself was opposed, Sir Timothy Whittingham of Holmside.¹ Whittingham was the son of the radical Calvinist Dean Whittingham. He had been actively involved in local government in Yorkshire where he had assiduously aided the militantly anti-Catholic justice, Sir Stephen Proctor.²

The comparative stability based partly on the county's isolation from some of those controversies which dogged the lieutenancy in other parts of the country was abruptly ended with the deterioration in Anglo-Scottish relations towards the end of the 1630s. For the first time since the union of the crowns in 1603 the county faced a serious and direct external threat, but, unfortunately from the point of view of the lord lieutenant and his officers, this threat emanated from a source regarded with considerable sympathy by the politically sophisticated. The combination of political opposition to an increasingly isolated government and the usual discontents voiced when membership of the trained bands involved something more than the irregular chore of playing at soldiers clearly

1. PRO: SP 16/34/80.

2. G.C.F. Forster 'Faction and County Government in Early Stuart Yorkshire' NH xi (1976 for 1975) pp. 72-3.

indicated the inadequacy of the lieutenancy as a means both of raising reasonably competent troops for defensive purposes and of keeping among such troops as were raised a level of discipline and order conducive to military cohesion. The imposition by Charles I and Archbishop Laud of a new Prayer Book upon the Scots in 1637 had induced their Scottish opponents to draw up a Covenant obliging them to resist the innovatory meddlings of the archbishop. The King's reaction was to make plans to suppress the refractory subjects of his northern kingdom, but, because he made little attempt to build up support within Scotland, he was necessarily obliged to rely on forces raised in England. The King was beginning to arm his forces openly by July 1638.¹ The earliest sign of his belligerent policy in county Durham came in September 1638 with a Privy Council order to Bishop Morton to give orders to his deputies for the mustering of the trained bands "upon any occasion" to draw near and reinforce the town of Newcastle.² Drawing near to Newcastle could not reasonably have incurred the opposition of the members of the trained bands, as long as they were not required to cross the county boundary. Once the county boundary was traversed, the customary basis of trained band service, that the bands operated within the county in its defence, was breached, thus providing opponents of the service with an ideal pretext on which to

1. D. Stevenson The Scottish Revolution, 1637-44: The Triumph of the Covenanters (Newton Abbot, 1973) p. 99.

2. CSPD 1638-9 p. 15.

found their case. The government also placed Bishop Morton under pressure by demanding an increase, especially in the number of trained horsemen, a difficulty which the bishop felt able to resolve only by charging those resident elsewhere but having lands in the county, unaware perhaps of an earlier council decision which would have made its enforcement more difficult.¹ The most significant indication that the King and Council had an ulterior motive in demanding a sudden improvement in the county's trained forces came with the appointment of Sir Thomas Morton, a Gentleman of the Privy Chamber, whose "advice and direction" were to be followed in the arming, training and exercising of the trained bands.² Morton's appointment was not restricted to Durham, but applied generally in the northern counties. Responsibility was delegated in Lancashire to one Captain Thelwall, and in Northumberland and Newcastle the veteran soldier Sir Jacob Astley assumed effective control. Morton's orders, however, quite clearly indicate that Durham was expected to be his main sphere of

1. PRO: SP 16/402/60. The Privy Council recommended that all landholders should be charged, including those who were not resident. It gave the income qualifications for the provision of light horses and lances, respectively £200 and £300 per annum. DUL: Mickleton & Spearman MS 2 ff. 451-2. However, in 1625 the Privy Council had ordered the exemption of William Warmouth, a prominent and wealthy Newcastle merchant, from "a new charge of armes lately imposed upon him by reason of certaine landes whereof he is possessed within the county of Durham" on the grounds that he was not resident, had let out all his lands and was charged with arms "to his abillitie" in Newcastle.
APC 1625-6 p. 242.

2. DUL: Mickleton & Spearman MS 2 f. 451; CSPD 1638-9 p. 166.

influence. Most of his orders applied equally to all of the northern counties, but in Durham his relationship with the lord lieutenant was specifically defined. He was to request the bishop to call the deputy lieutenants to him for the appointment of fit days and places to hold musters, he was to negotiate for the increase of the county's band from 1,000 to 1,500 men, and he was to ensure that the deputies in their capacity as colonels of the trained bands ordered their captains to organise the provision of adequate transport and food supplies by the militia men. Furthermore, Durham was to be Morton's "chiefest place of residence", presumably because the county was accounted the weakest link in the fragile chain of northern defences. His more general duties included the supply, if necessary, of able officers out of "his list", whether his own or supplied by the government is not clear, the organisation of supplies for the army, the consideration of how the army was to be quartered, the encouragement of local gunsmiths where they existed and the notice of voluntary offers to assist the service.¹ Two months later in February 1639 the King requested Bishop Morton to confer a specific Durham appointment on Sir Thomas in a move which seems to have been conceived as a means of shifting some of the financial burden from the Crown to the county. Sir Thomas's proposed appointment as Colonel of Foot in the county would not have increased his already considerable

1. Carter 'Exact Militia in Lancashire' p. 89; Howell Newcastle p. 100; CSPD 1638-9 pp. 179-80.

powers in Durham. The powers he was to be granted were already comprehended within his existing commission. The significant difference was that any officers he created in this capacity were to be paid by the county when working within the county, although payment was still to be the King's responsibility when they were ordered to serve outside Durham.¹ This was likely to create enough controversy, but Sir Thomas's immediate reaction to this order threatened even greater problems. He proposed that a Yorkshireman, Sir Charles Vavasour, be appointed to a colonelcy in Durham.² The response of the deputy lieutenants to this snub was immediate and predictable. Sir William Darcy, whose sensitivity in this matter may have been the more marked because he was a comparative newcomer to Durham, complained on behalf of the county to the Privy Council of the expense which would have been incurred, for in addition to Morton himself the King had nominated one Captain Gibson as sergeant-major of the trained bands. In contrast, Darcy "did press very earnestly, that as well those officers as all others might have been chosen out of the gentry in that county, as alleaged was the course held in other countyes in those northerne parts". However, the King himself had

1. DUL: Mickleton & Spearman MS 2 f. 457; PRO: SP 16/412/93.
2. PRO: SP 16/413/53. Sir Thomas Morton probably anticipated opposition within the county to this appointment, for he did stress that Vavasour was prepared to undertake the service without expectation of payment until the day of action. Vavasour presumably figured on Morton's aforementioned list.

remembered that the bishop was a suitor for his namesake. The Privy Council, anxious to avoid disaffection among the officers, sweetened the bitterness of the implicit rebuke of Morton by agreeing that officers appointed by the Crown would be paid by the Crown.¹

The Privy Council's opinion of the Durham officers can hardly have been enhanced by the reports which were sent back to the court. Sir Thomas Morton informed the Secretary of State, Sir Francis Windebank, that although the deputy lieutenants were very forward in the service, they were unable to effect any improvement in the numbers of the trained forces, a weakness due largely to the paucity of under officers to conduct the training.² Less than a month later on February 21st, 1639, Morton was beginning to reconsider his previous assessment of the deputies. They had earlier been so forward that he considered it improbable that they should now dissemble in their reluctance to admit the county's liability to raise the money necessary to pay for the extra officers required. The condition of the bands was weakened still further by the distraction stimulated by a rumour that some of the captains were to be displaced.³

With the disagreements between Sir Thomas Morton and the local officers it was hardly surprising that the condition of the bands suffered to an extent which

1. DUL: Mickleton & Spearman MS 2 f. 468.

2. CSPD 1638-9 p. 370.

3. PRO: SP 16/413/54.

emphasised the foolishness of Charles I's reliance on the bands as the backbone of his potential invading force. This foolishness was exemplified by the government's attempt to keep secret the reason for the increased military activity, indicating thereby not only an awareness that there existed considerable local sympathy for the cause of the Covenanters, but also a degree of naivete in expecting that this secrecy could have been maintained.¹ The bands were in their usual chaotic state. Despite the rather dubious claim that the bands had been increased to what was considered to be their full complement of 1,000 horse and 100 foot,² there is little evidence to suggest that a satisfactory level of membership of the trained bands existed. Only a month before the full complement was announced Bishop Morton had admitted that the respective numbers of horse and foot were 800 and 60.³ Furthermore, they were inadequately armed. Sir Thomas Morton lamented that in both Durham and Yorkshire it was impossible either to buy or repair arms.⁴ The government was in fact resigned to accept the consequent defects, Sir Edward Nicholas noting in the margin of one of Sir Thomas Morton's reports that they "must take such arms as they are".⁵ The only available horses were too small to

1. CSPD 1638-9 p. 370.

2. DUL: Mickleton & Spearman MS 2 f. 458.

3. Ibid. f. 456.

4. CSPD 1638-9 p. 311.

5. Ibid. p. 325.

support cuirassiers.¹ Despite all the evidence to the contrary, the Privy Council felt able on February 16th, 1639 to indulge in a typical piece of collective delusion by thanking Bishop Morton for the "very good accounte" which they had received of the King's service.² The truth was that Sir Thomas Morton was experiencing much trouble in his attempt to put the Durham trained bands into any sort of order.³

It was against this background that members of the Durham trained bands came to undertake military service. The original pretext for their involvement was the need to relieve Newcastle, although this was intended to conceal a wider utilisation which the members of the bands would not have found acceptable. As Astley noted in a letter to Windebank, the Durham trained bands should be ready to march "but so to prepare them as no bruit or noise be made of it, but that in case of any sudden invasion Sir Thomas [Morton] may proceed at once to the relief of Newcastle".⁴ Instead of proceeding only as far as Newcastle, the trained bands, or more accurately those members of the trained

1. Ibid. Most of the horsemen's pistols were also useless. Ibid. p. 434.

2. DUL: Mickleton & Spearman MS 2 f. 255.

3. CSPD 1638-9 p. 593. To be fair to Sir Thomas Morton, he had effected some improvements. The trained bands, which were "in much disorder before", had been improved and established into a regiment with officers "of which they never had any before". Ibid. p. 434. Sir Thomas did not explain how he had recruited and trained suitable officers "of which they never had any before" who would be adequate for the task in only twelve months. Cf. Ibid. p. 370

4. Ibid. p. 353.

bands unlucky enough to be levied for the service, were employed to garrison Berwick as part of a plan which envisaged the use of the town as a base from which to launch a landed invasion of Scotland in concert with a naval invasion of the Firth of Forth led by the Marquis of Hamilton.¹ It was intended that the trained band members be supplemented by the levy of 5,000 men, presumably from the able though untrained masses, in Durham and Yorkshire, though what use such a motley company could perform is not entirely clear.² In the unlikely event of such a levy having been successfully effected the only probable result would have been widespread discontent in the Berwick area caused by the 'invasion' of such a rabble which the border town could not possibly have accommodated. The inhabitants of Berwick had been unable or unwilling to sustain the billeting of even the small number of men it had initially to absorb. The accommodation provided for the members of Sir Thomas Morton's regiment was "ill", and smallpox was prevalent.³ With illness and discontent rife among the English troops who numbered only about half of those levied and with Hamilton's failure to provide a successful diversion, Charles, misled by reports of the strength and cohesion of the covenanters' army, decided to agree to a Scottish offer of negotiations which culminated in the signing of the Treaty of Berwick.⁴

1. CSPD 1639 p. 40; Stevenson Scottish Revolution p. 141.

2. CSPD 1639 p. 243.

3. Ibid. p. 282.

4. Stevenson Scottish Revolution pp. 145, 151.

The end of the so-called 'First Bishops' War' did not result in a complete disbandment of the forces which had been levied for it. It is probable that Charles never envisaged the Treaty of Berwick as signifying a lasting peace, and that once he had satisfactory financial backing his campaign would be renewed. This backing was largely forthcoming in the form of loans from the customs farmers and was used to recruit an inadequate and disreputable army to supplement the efforts of local levies. Following the precedent created during the preparations for the earlier 'war', members of the trained bands had been used to garrison Berwick. On Christmas Day 1639 Windebank wrote to Bishop Morton informing him that the king had commanded that 500 footmen, out of the trained bands of Durham and Northumberland, 300 of them from Durham, should be sent to reinforce the border town. Three days later Windebank again wrote to the bishop, this time emphasizing that the levy was to be regarded as a matter of urgency, "the least delay being very dangerous". The service, Windebank argued, could suffer irreparably if extraordinary diligence were not used.¹ There seemed to be no particular strategic reason to account for this almost panic-stricken request, although the king may have been concerned at the Scottish parliament's failure to disperse after having been prorogued.² Whatever the reason for the order, there were few possible courses of royal

1. CSPD 1639-40 pp. 177, 184.

2. Stevenson Scottish Revolution p. 178.

action more likely to create discontent than the calling out of the trained bands to serve outside the county during the middle of a northern winter. Resentment would, however, have been eased because the county was not liable to pay for the upkeep of the men.¹ The members of the trained bands were to encounter the usual troubles. As usual the arms were defective, even though the men themselves were reasonably good.² The local welcome was rather less than ecstatic. On January 8th the hard-pressed governor of Berwick, Sir Michael Ernie, reported to Windebank that he would have "much trouble to lodge these 500 men by reason of the perverseness of the townsmen, who are willing to do the King no more service than they are forced to do, notwithstanding we spend all we have amongst them to their great advantage."³ Furthermore, the Arminian rector of Whitburn, Thomas Triplet alleged that George Lilburne and his servant, George Stevenson, had attempted to create disaffection towards the service. Stevenson had asked one John Morrell, a literate Sunderland joiner and member of the trained band, why he was to undertake active service. Soldiers, claimed Stevenson, spent their time in the wicked courses of drinking and swearing. He advised Morrell

1. CSPD 1639-40 p. 292. The paymaster of the Berwick garrison had been ordered by Windebank to go to Newcastle to advance money to the force.

2. Ibid. p. 338. The bishop was quick to claim credit for his self-styled diligence in the discharge of the service, and he solicited a representation of this diligence to the King, presumably as a counterpoise against the frequent rebukes directed against him for his earlier remissness. Ibid. p. 317.

3. Ibid. p. 313.

instead to continue to follow his good trade.¹ The trained bands' release from their wearisome tour of duty came near the end of March in a manner which was to encourage further opposition. Ernie had received the necessary orders to effect their discharge by March 18th.² Six days later the paymaster of Berwick, George Payler, addressed a memorandum to the Council of War enquiring whether they should be allowed conduct money at their dismissal. Payler's memorandum clearly implied that the conduct money would be payable out of the funds, nationally raised, which he controlled in the border town. Payler was authorised to pay three or five days' conduct money at his discretion.³ Payler presumably settled for the smaller amount which would not have covered adequately the journey time which would have been taken by the members of the Durham bands, the nearest point of the county proper being about 65 miles distant from Berwick. Ernie reported that the troops were in a mutinous condition when they left Berwick. He had given the captains the order to pay the men their due, and followed this with a threat to the bandsmen to "cut them in pieces", whereupon they departed forthwith.⁴

Those members of three companies of the Durham trained bands who had spent three frustrating and acrimonious months in Berwick had not, it is clearly implied by the

1. This was the substance of Stevenson's actions according to Morrell's subsequent deposition. PRO: SP 16/449/29 i. Cf. Lilburne's declared attitude that he had once "corrected" a servant who had refused to serve in the trained bands. SS 111 p. 276.

2. CSPD 1639-40. p. 556.

3. Ibid. p. 576.

4. Ibid. 1640 p. 75.

speed of their recruitment, felt too many reservations about their initial recruitment. Their successors did not view the prospect of recruitment with such equanimity. Their prospects of engaging in battle against an enemy regarded with tolerance by many of them had increased. There was no longer any ambiguity in the king's intentions. At the beginning of March Sir William Bellasis had reported back to the county that the preparations for war were increasing.¹ These plans were delayed by the king's abject failure to reach agreement with the Short Parliament, but Charles' failed to heed the lesson that to wage war against the Scots would involve the sort of financial commitments that would render nugatory his attempt to sustain economic independence. Nevertheless, he continued with his bellicose plans. His border force was actually weakened, for the soldiers who replaced the three companies of trained bands were recruited not from the bands but from the untrained men of the county. Bellasis frustrated the attempt to levy 100 of them from out of the 300 at Berwick. This would have created a distraction in the trained bands.² Bellasis reported that the pressed men had arrived at Berwick at the beginning of April, before similarly levied forces from Northumberland and Cumberland.³ One should not infer from this that the force was raised with ease and without opposition. George Lilburne, having opposed the use of the trained bands outside the county, also denied

1. PRO: SP 16/447/84 vi.

2. PRO: SP 16/449/23.

3. PRO: SP 16/450/34.

the obligation to subscribe coat and conduct money to the pressed men, as well as attempting to persuade others to do the same.¹ Resentment was also occasioned by the plan of Viscount Conway, the hapless commander of the English forces to have 1,000 draught horses quartered in county Durham at local expense prior to the proposed invasion.² Bellasis observed laconically that some tried to avoid the service involved.³ These policies had been conceived when the royal intention had been to invade Scotland, and an equally significant aspect of this was an attempt to improve the quantity and quality of the trained forces. In view of both the recent troubles at Berwick and the general ineffectiveness of the bands, this may have seemed a particularly forlorn policy. However, it received some impetus from the personal involvement of Sir Henry Vane the elder. The Secretary of State, now the most important lay landowner in county Durham, was at this stage still an enthusiastic proponent of government policy, and he ensured that his younger sons, William and George, received captaincies in order to further the service. The former reported a predictably unfavourable response from the persons of quality whom he was attempting to recruit into his troop.⁴ The latter, apparently recruiting from nearer the area of Vane influence in the south of the county, was

1. PRO: SP 16/458/19 i.

2. CSPD 1640 p. 81.

3. Ibid. p. 485.

4. Ibid. 1639-40 p. 545.

more successful and was able to muster a complete troop before the deputy lieutenants in April 1640.¹ In July the troop was sent north upon receipt of a panic report that the Scots, now recognised locally if not nationally to be the more likely to launch an offensive, would be at Newcastle during the following week.²

The irony of the Scottish invasion was that, though it came much later than had been anticipated locally, it still managed to take unawares the king, his advisers and most of his commanders. The measures taken to defend Berwick had been rendered superfluous by the decision of the Scots to cross the border upstream at Cornhill.³ The incapacity of the institution of the lieutenancy and its associated offices to respond to such an emergency was predictable in view both of its inherent weaknesses and the particular unpopularity of a government policy which not even the threat of invasion, with all the uncertainties which that implied, could assuage. The trained bands had, theoretically, been ready to march at 24 hours' notice for ten weeks.⁴ The extended period during which the invasion was anticipated ensured that the maximum degree of hysteria

1. Ibid. 1640 p. 57. This implies that the power of large landlords to raise their tenants in armed service had not altogether disappeared.

2. Ibid. p. 435.

3. Ibid. p. 614. Sir Jacob Astley had appreciated a week earlier on August 13th that the Scots would not besiege Berwick. Ibid. p. 581.

4. DUL: Mickleton & Spearman MS 2 f. 472. This order had been given before the morale of those members of the militia who had served in the Berwick garrison had had much chance of recovering.

prevailed in the county.¹ In these circumstances, the initial response of the militia was unexpectedly compliant. It was correctly anticipated that the Scots would attempt to cross the Tyne at the ford which linked Newburn in Northumberland with Stella in the parish of Ryton on the Durham side of the river in order to approach nearby Newcastle from its most vulnerable point, the south end of the Tyne Bridge. Conway managed to raise a force, comprising in large measure the Durham trained bands, to defend the ford, assisted allegedly by 2,000 local men who were to help with the setting up of adequate defences.² According to Vane, writing to Windebank from the comparative safety of York, these 2,000 men had been raised at their own charge to assist the bands.³ However, he seems here to have confused an order with fact, perhaps deliberately, for he would have been able to cite such assiduity as a consequence of the increased influence of himself and his family in county Durham. The miserable performance of

1. On August 20th Bellasis reported a widespread readiness to abandon the county. CSPD 1640 p. 611.
2. Ibid. p. 628. According to Vane, who was not an eye-witness, the English force at Newburn comprised largely those members of the militia who had been mustered originally to defend Newcastle. Ibid. 1640 p. 645.
3. On August 25th Vane, writing in York, informed Windebank of the raising of the extra 2,000 men. Ibid. p. 630. However, Sir Jacob Astley had only on the previous day told Conway that he and Bellasis had ordered the involvement of the additional 2,000. Ibid. p. 628. It is difficult to see either how the order could have been complied with so quickly or how the information on that point could have been supplied to a third party ninety miles distant within 24 hours.

the English 'army' at the battle of Newburn provides a fitting epitaph to over 20 years of intermittent effort to improve the condition of the county's militia. In its one serious test it was found wanting.

The nature of the relationship between the Durham lieutenancy, especially after 1617 when the office of lord lieutenant devolved upon the bishop and lord of the palatinate, and the other institutions of local government was hardly typical of either early modern England as a whole or of individual counties. Sheriffs appointed by the bishop for life were unlikely to quarrel openly with deputy lieutenants similarly appointed, especially when there was a coincidence of identity. Sir George Selby, Sir William Bellasis and Sir William Darcy, who between them held the shrievalty from 1608 until the outbreak of the Civil War, all served as deputy lieutenants.¹ The justices of the peace seem not to have evinced any significant dissatisfaction with the operation of the permanent lieutenancy after 1617, and there is no indication from the Quarter Sessions records of any disputes between the two.²

1. Cf. Somerset where two deputy lieutenants, Sir Robert Phelps and Sir Charles Berkeley, were intimately connected with the opposition to Ship Money. Barnes Somerset pp. 214-5
2. Cf. the dispute between Robert Tailboys and Bishop Matthew in 1596. Tailboys, a justice of the peace and the bishop's attorney-general under Barnes and Hutton, had publicly questioned the right of the bishop and the J.Ps. to assemble armed forces and to levy money for their furniture for border service, claiming that they had no statutory authority to do so. The nature of border service was customary rather than statutory, and the reason for Tailboys's intervention was personal rather than political.

Anderson's alleged complaint about the legality of the muster master's rate was made by a deputy lieutenant and should be seen as a questioning from within of the service's organisation on a point on which his opinion was at least partly shared by the lord lieutenant himself. The high constables, a recent innovation in a county which had not enjoyed the widespread form of hundredal organisation, appear to have been used with more success than was apparent, for example, in their involvement in the distribution of Ship Money liabilities or in the collection of the composition money for purveyance.¹

It remains to assess the relationship between the bishops' tenure of the office of lord lieutenant and the residue of palatine feeling. Although the appointment of Neile as lord lieutenant was a personal reward and had nothing whatever to do with any conception which James I may have had of the unique status which had characterised the holders of the see of St. Cuthbert, it may perhaps be argued that Charles I was so influenced when he awarded patents of lieutenancy to Howson and Morton. There is no evidence to support Miss Scott Thomson's contention that "Bishop Neile's military duties were in no way different

1. According to Sir George Selby the high constables have "better meanes to know" whom to assess to provide private arms. His judgment was confirmed by John Hall's full list of those considered to be qualified to contribute in his division of Chester Ward. DUL: Mickleton & Spearman MS 2 ff. 296, 300-1. On the other hand, there was slackness in the collection of the composition for purveyance. Ibid. f. 304.

from those of his predecessors".¹ In fact there were important differences. After 1603 military service in Durham and the other far northern counties was no longer based on the need to maintain border service, a state of affairs emphasised by the government's determination to establish military service there on the same basis as in other counties.² She failed to take into account the dismemberment of palatine privileges which had received token recognition by the bishops' de facto position as the leading muster commissioner in the county, a position which the Crown no longer recognised following the appointment of the Earl of Somerset to the lord lieutenancy in 1615. Finally, she ignored the decline of the administrative influence of the Council of the North outside Yorkshire after the death of the Earl of Huntingdon. Huntingdon's effective military authority in county Durham predated his actual assumption of the county's lieutenancy.³

It is ironic therefore that Lapsley, in his discussion of the decline of the military authority of the bishops, saw the king's appointment of Sir Thomas Morton to his northern military office as an abrogation of Bishop Morton's traditional rights as lord of the palatinate rather than as the necessary royal limitation of a royal patent of lieutenancy, the holder of which was unfitted to exercise military power in an emergency.⁴ Miss Scott Thomson argued

1. Scott Thomson 'Bishops of Durham' p. 354.

2. See above pp. 199-200.

3. See above pp. 184-6.

4. Lapsley County Palatine pp. 309-10.

that in this instance the bishop and his deputies still superintended the military organisation while their local knowledge still remained invaluable.¹ Her argument was strengthened by the bishop's reluctance to accept an order to grant deputations to the Northumberland deputy lieutenants to pursue duties in those detached part of county Durham, Northhamshire, Islandshire and Bedlingtonshire, which lay geographically within Northumberland.² Although Bishop Morton may have had good grounds for this example of opposition to royal power, it is clear from the terms of Sir Thomas Morton's original appointment, the terms of reference of his duties and the peremptory manner in which the bishop was instructed to appoint Sir Thomas as colonel of the county's foot, that the substance of military power no longer lay with the bishop.³

The additional powers which the king had felt obliged to accord Sir Thomas Morton in face of the Scottish threat served to indicate that the office of lord lieutenant, always weakened by its lack of statutory authority, was ill served by being bestowed on clerics who, whatever their other virtues, were particularly unfitted to fulfil its necessary functions in an emergency. Although the expedient of appointing bishops may have exempted the county from

1. Scott Thomson 'Bishops of Durham' p. 359.

2. CSPD 1639-40 pp. 312, 362. Morton's ground for opposing this order was that he had already deputed two Northumbrian justices of the peace to fulfil the tasks. As one of them, Sir John Clavering, was a Northumberland deputy anyway it may be possible to make too much of this opposition.

3. CSPD 1638-9 pp. 166, 179-80, 1640 p. 371.

disputes which otherwise may have affected the smooth operation of some of the lieutenancy's subsidiary functions, it did nothing to improve the quality of the county's militia, the main responsibility of the office. Under an able and energetic administrator like Neile some of the cracks were papered over; they soon reappeared under his less enthusiastic successors who were temperamentally unsuited to the office and who were unable to secure an effective response from their deputies. The effectiveness of the lieutenancy must be judged ultimately on the condition of the militia. Judgment was passed at a ford across the river Tyne on August 28th 1640.¹

1. What was perhaps more remarkable than the result of the battle of Newburn was the reluctance of the normally perspicacious Charles II to take heed of the lesson. Instead he appointed John Cosin to the lieutenancy after the Restoration.

CHAPTER SIX

THE SHRIEVALTY

"Yet notwithstanding if the Bishop of Durham or his sheriffe shoulde be compelled to passe a foreine account of the same would be an insupportable charge unto them, and would not onely infringe a necessary liberty of that sea, but discourage all men to take upon them the said office of sheriffe of that county, and so by consequence that office woulde fall, the bishop having no meanes to compell any to take the said office upon them."

(PRO: PC 2/45 p. 257.)

Despite the Act of Parliament of 1536 which reduced their powers and circumscribed their liberties, the bishops of Durham retained the right to appoint the High Sheriff of the County Palatine. The Crown exercised the right under only two sets of circumstances. The first was merely a technicality. The ending of an episcopate in which the last sheriff had been appointed during the bishop's pleasure automatically involved the ending of the shrievalty. In such cases the Crown appears to have reappointed the existing sheriff.¹ The second circumstance existed when the vacancy in the see coincided with a non-technical vacancy in the shrievalty, a circumstance which appertained in 1576 after the death of Bishop Pilkington and in 1587 after the death of Bishop Barnes.² For the rest of the period between 1558 and 1642 the shrievalty comprised one part of the bishops' still extensive patronage. There were other contrasts with the rest of the country. Unlike the annual ritual elsewhere of the pricking of sheriffs, the sheriff of Durham was appointed for life or during the pleasure of the appointer.³ If the circumstances surrounding the selection and appointment of Sir William Bellasis of Morton in 1625 are typical, the shrievalty was offered by the bishop to his nominee with none of the compulsion that was accorded the recipients of

1. See, for example, CSPD 1628-9 p. 31.

2. See below pp. 287-8.

3. There is one possibility, Robert Tempest, of a sheriff appointed during pleasure being removed because of his conduct of his office. See below p. 287 for the probable explanation of Robert Bowes' relinquishing of the office. Sir John Conyers of Sockburn died shortly after leaving office. He may have been allowed to retire on grounds of health.

the office in other counties.¹ As the sheriff of Durham was appointed by the bishop, so he was in most respects responsible to the bishop.² In other words, he was essentially a local officer with local responsibilities. In this chapter I propose to discuss the role of the sheriff as an episcopal officer, the specific functions of the Durham sheriffs and the tasks more generally associated with the office, the use and importance of the shrieval under-officers, the relationship of the sheriff with other local officials, and the success or otherwise of Bellasis's attempt to undertake the most important task which faced all sheriffs during the second half of the 1630s, the collection of Ship Money.

The history of the shrievalty during the early part of the period is shrouded in mystery. References to the sheriffs are few and scattered, but most of them were collected by the late C.H. Hunter Blair.³ Robert Tempest of Holmside, subsequently a prominent rebel, held the office during the third year of the reign of Elizabeth.⁴ He had been a justice of the peace in 1559.⁵ This was a strange appointment for he had "substantially filled" the shrievalty during Tunstall's episcopate, and the Duke of Norfolk had earlier recommended that he be continued in the office.

1. DUL: Mickleton & Spearman MS 2 f. 352.

2. See below p. 299.

3. C.H. Hunter Blair 'The Sheriffs of the County of Durham' AA fourth series xxii (1944) pp. 22-82. His accompanying comments must, however, be treated with great caution.

4. DUL: Mickleton & Spearman MS 2 f. 54.

5. PRO: SP 12/2/17.

He certainly assumed the office, but was not to find favour with Bishop Pilkington who suspected that he would not take the oath of supremacy.¹ Tempest did not hold the shrievalty for very long; his conservative Catholicism can hardly have endeared him to the radically Calvinist bishop, James Pilkington, whose will he was to oppose by refusing to contribute to a new county rate levied for the upkeep of the Tyne bridge linking Newcastle and Gateshead.² Apart from the Earl of Westmorland himself, Tempest was probably the most important member of the Durham magistracy to find himself out of favour in the 1560s. His landholdings were extensive and the geographical range of his contacts was much wider than is usually associated with the conservative senior gentry of the far north of England in the mid sixteenth century.³ Tempest's successor, Robert Bowes, also came from the highest ranks of the county's magistracy. Otherwise they had little in common. Like his elder brother Sir George, Robert Bowes had quickly accommodated himself with the new Protestant establishment. He was a member of the quorum in the commission of the peace of 1562, a commissioner of musters and a member of the Council of the North. As sheriff

1. CSP For: 1559-60 pp. 444, 290, 379; 1561-2 p. 225.
2. PRO: E 134/23 & 24 Elizabeth/Michaelmas 17. He was joined in this refusal by another subsequent rebel, William Smith.
3. On his landholdings see PRO: E 164/38 ff. 202-7. In addition to his freehold possessions he also held two lucrative episcopal leaseholds, Wolsingham Park and Coundon Grange. PRO: SP 15/17/33 iii. On Tempest and his family's marriage connections outside the county see R. Surtees Durham ii pp. 326-7.

he played a prominent part in the suppression of the 1569 rebellion, though this may have owed more to his closeness to Sir George Bowes and his loyalty to the Elizabethan government than to any residual powers implied in his office.¹ Bowes held the office of sheriff for thirteen years until 1575 when, presumably, he was allowed to resign because of his other commitments in the public service. He was succeeded by his elder brother who was appointed by the queen after the death of Bishop Pilkington "for this yeare ... untill the election of an other in his place shalbe maide".² Bowes was presumably accorded the office because he was not only the Durham magistrate best known to the Queen, but was also trusted both by Burghley and the Earl of Huntingdon. Bowes died in 1580, but it is unlikely that he held the office for all of the four years after his appointment in 1576. His appointment bears the mark of expediency; perhaps it was no more than a monarchical admission of ignorance of the identity of the regime's most trustworthy northern supporters.³ In

1. CPR 1560-3 pp. 444-5; PRO: SP 12/51/14; CSP Dom. Add. 1566-79 p. 463. The leadership of the opposition to the rebels in county Durham had been assumed by his brother, whose actions were to be confirmed by the granting of powers to enforce martial law.

Several months after the rebellion the government displayed surprising ignorance of local conditions in the north. An order made in the queen's name was directed to the specified sheriff of Yorkshire, but the sheriff of Durham remained unnamed. This was somewhat ironic as the order was in favour of another member of the Bowes family. Ibid. p. 307.

2. PRO: DURH 3/83.

3. Admittedly, there was in the aftermath of the rebellion a dearth of suitable socially qualified loyalists in the county, although the queen's locally resident officers did tend to exaggerate the nature of the problem. See for example CSP Dom. Add. 1566-79 p. 226. On Sir George Bowes's own qualities see, for example, Ibid. p. 424.

the years after 1576 the identity of the sheriffs is unclear. Hunter Blair suggested that Sir William Hilton of Hylton held the office during 1576, but this seems unlikely. He was, however, a gede vacante appointee in 1587.¹ This confirmed an already existing episcopal appointment.² Hunter Blair's other candidate for the shrievalty in 1576 was one John Conyers esquire, an alleged member of the Coatham Conyers branch of that widespread family.³ This is not a convincing identification, and there appears to have been some confusion with John Conyers of Sockburn who held the office from 1594 to 1608. The unidentified George Conyers who, Hunter Blair alleged, held the office in 1592 and 1593 is a similarly unlikely figure. Again there is a likelihood that the George Conyers referred to was merely a case of mistaken identity.⁴ These identification problems do not exclude the certainty that the sheriff of Durham was invariably chosen from among the leading members of local society. This pattern was maintained after the appointment of John Conyers of Sockburn in 1594. Conyers and his two

1. Hunter Blair 'Sheriffs' p. 49. Cf. DCL: Randall MS 5 p. 149.
2. CBP 1560-94 p. 276.
3. Hunter Blair 'Sheriffs' p. 50. The likelihood of a John Conyers of Coatham Conyers obtaining the shrievalty at this time was extremely unlikely. Of the three slender possibilities, one was a fifth son and younger brother of a rebel, another had removed to London and the third was living in Lincolnshire. R. Surtees Durham iii p. 219. If this John Conyers has been correctly named, then the most likely identity is John Conyers of Butterwick, younger brother of another rebel, Ralph Conyers of Layton, and father of the future deputy lieutenant Sir Ralph Conyers of Layton. Ibid. p. 37.
4. Hunter Blair 'Sheriffs' p. 50. This seems particularly unlikely since John Conyers also held the shrievalty during 1590-1. DPD/SR: CC 195714.

successors provided a considerable degree of administrative stability, for they served a combined total of 47 years in the office of sheriff. Conyers was associated with the widespread attempts to suppress Roman Catholic observances during his shrievalty. His assiduity in this matter may paradoxically have been strengthened by his Catholic background and connections.¹ His successor, Sir George Selby of Whitehouse may have been a church papist. It could perhaps be argued that his assumption of the shrievalty represented a break with traditional Durham practices for Selby was a comparative newcomer to the ranks of the county gentry and was indeed still strongly concerned with civic policies in Newcastle. Nevertheless, he had quickly been assimilated into county society, and the clearest indication of that was the marriage connections he was able to achieve through his six daughters. One of them married Selby's successor, Sir William Bellasis of Morton, the still comparatively young and energetic justice of the peace and deputy lieutenant. Although Bellasis was under no compulsion

1. He was, for example, involved in the apprehension of Lady Katherine Grey, a daughter of the Earl of Westmorland, in 1598. BL: Lansdowne MS 87 No. 16. Several of his children made Catholic marriages. His son George married a Bulmer, his daughter Jane's recusancy was responsible for the loss of her husband's muster captaincy and place on the bench, his daughter Catherine married the Kentish Catholic, Sir William Kennett of Coxhoe and another daughter, Elizabeth was a persistent recusant. R. Surtees Durham iii p. 248; DUL: Mickleton & Spearman MS 2 f. 379; PRO: SP 14/75/1 1; SP 14/88/94; DCL: Sharp MS 110 pp. 4, 13. On the other hand, another daughter had married a "staunch Protestant", although her second husband was later convicted of recusancy, this was allegedly due to the influence of his third wife. Watts Northumberland p. 83.

to accept the office, and it is necessary to bear in mind that Bishop Neile was skilled in the application of more subtle pressures, it seems likely that his acceptance was based on a favourable impression of the benefits which had accrued to his father-in-law. He himself was succeeded by a man who, although a comparative newcomer, had swiftly assumed the trappings of county influence, Sir William Darcy of Witton. Darcy, like Bellasis and Selby was a deputy lieutenant, and his appointment clearly confirms that, as far as the shrievalty was concerned, the bishops restricted their choice of appointees to that small nucleus of gentlemen who comprised the county's magistracy. All of the confirmed appointees had served as justices of the peace. With the establishment of a lieutenancy system within the county, the sheriffs came to be drawn from an even narrower social group, the deputy lieutenants.¹

We have seen that in contrast to other counties the sheriff of Durham was appointed by the bishop rather than by the Crown and for life or during pleasure rather than for one year.² It appears reasonable to infer further that the

1. Bellasis and Darcy were deputy lieutenants at the time of their appointments to the shrievalty. Selby was already sheriff when a permanent lieutenancy was instituted in the county. See above p. 194.
2. From 1646 to 1659 the sheriffs of Durham were appointed on the same basis as in other counties. Apart from Timothy Whittingham of Holmside who served in 1657 and 1658 no sheriff served for longer than one year. The earliest appointments continued the tradition of the Durham shrievalty, being restricted to members of the magisterial class. Sir George Vane was appointed to oversee the family's local interests in 1646. He was succeeded by Sir Richard Bellasis of Ludworth who succeeded to a post his father filled for sixteen years.

prestige accorded the sheriff in county Durham was greater than that accorded sheriffs in other counties. For example, Professor Barnes has argued that in Somerset the shrievalty was a disagreeable office never sought by gentlemen of established status, which left little scope for initiative and possessed only a shadow of its former glory.¹ In a similar vein Mr. Fletcher has suggested that the decline in the prestige of the office was itself responsible in part for the appointment of sheriffs of lesser status. The sheriff, "a mere servant of the magistracy", was more likely to be inexperienced in public affairs than to have served as a justice of the peace.² In Kent it has been suggested that in the reign of Elizabeth the appeal of the shrievalty "was more a comment on that almost indiscriminate hunt for local honour which so excited sixteenth-century society than a true reflection of the sheriff's administrative importance".³ Whether or not these comments are justified, it is at least arguable that recent historians have persistently underrated the importance of the office, especially in view of its

The sheriff appointed in 1648, Clement Fulthorpe of Tunstall, was the son of a pre-Civil War justice of the peace. Most of Fulthorpe's successors were men of hitherto non-magisterial families who had done well out of the war. There were exceptions. Rowland Place of Dinsdale was a member of a magisterial family. Francis Wren was a member of a collateral branch of such a family. The sheriffs who served from 1647 to 1659 are listed in R. Surttes Durham i. p. civ.

1. Barnes Somerset pp. 124-36.
2. Fletcher Sussex pp. 142-3
3. P.A. Clark English Provincial Society from the Reformation to the Revolution: Religion, Politics and Society in Kent, 1500-1640 (Hassocks, 1977) p. 113.

electoral implications.¹ It may therefore appear paradoxical to argue that the prestige and influence of the sheriff of Durham, who in the period under consideration had no electoral responsibilities or influence, was greater than that of the sheriffs of other counties. However, it should be noted that the bishop was unable to exert any compulsion on those whom he considered potential candidates for the office, and there is no extant evidence of a refusal to serve.² In the best documented appointment, that of Sir William Bellasis, Neile had first attempted to persuade Bellasis to serve through the mediation of John Cradock and Hugh Wright who had presumably been attending the bishop while Neile was in London. Neile had then met Bellasis by chance "on the high way in a great shower of rayne" which precluded further

1. Cf., for example, Calendar of the Wynn of Gwydir Papers ed. J. Ballinger (Cardiff, 1926) p. 232; E. Farnham 'The Somerset Election of 1614' EHR xlvii (1931) pp. 579-99. On the other advantages enjoyed by sheriffs with particular reference to a neighbouring county see Watts Northumberland p. 64. One of the sheriffs so involved did on a later occasion successfully attempt to vacate the office. HMC: Twelfth Report (Coke MSS) Appendix I p. 379. This particular sheriff, Sir Henry Anderson, had good grounds for being removed from the office. He did not possess any significant landed property in Northumberland. He had not been unduly bothered by this deficiency during his previous incumbency.
2. On the inability of the bishop to compel acceptance of the shrievalty by his chosen candidate see the 1635 petition of Bishop Morton to the Privy Council regarding the inequity of the sheriff of Durham having to account for Ship Money at the Exchequer. This was conveniently summarised by Thomas Gill, an eighteenth century Chancellor of the County Palatine of Durham in an annotation to J. Spearman An Enquiry into the Ancient and Present State of the County Palatine of Durham (Edinburgh, 1729). Gill's copy of this work is now the property of the Dean and Chapter of Durham where it forms part of DCL: Allan MS 17.

satisfactory discussion. The bishop promised Bellasis that he "would not put it upon yow against your owne will". He had in fact no power to do so. The bishop stressed that an appointment had to be made before the assizes which were due to meet at the end of July or beginning of August. It was then May 17th.¹ Bellasis presumably experienced some indecision for he still appeared at the Quarter Session of July 13th as a justice of the peace, from the exercise of which office he would of course have been disqualified on acceptance of the shrievalty.² Neile was not present at that session and was presumably still in London. He could not therefore exert any personal pressure on Bellasis who nevertheless accepted the honour, thereby maintaining a family tradition, the previous sheriff having been his father-in-law. Bellasis would therefore have been well aware of any hidden pitfalls which acceptance of the office might bring. This was not the first of such family connections with the shrievalty. It is at least possible that more than one member of the Conyers held the office in the later stages of the sixteenth century. Sir George Bowes effectively succeeded his brother.³ Furthermore, in Durham at least the military status of the office continued to be implicitly recognised. The sheriff had been a commissioner of musters. This commission operated in Durham with the bishop as primus inter pares in recognition of the continued existence of

1. DUL: Mickleton & Spearman MS 2 f. 352.

2. DRO: QS/OB/1 p. 228.

3. See above p. 287.

some of his temporal powers. However, Bishop James had insisted that Privy Council instructions to him in his military capacity be addressed in addition to the sheriff.¹ From the county's late acquisition of a permanent lieutenancy in 1617 until the Civil War the sheriff was always a deputy lieutenant.² Such loss of military authority as the sheriffs suffered had little intrinsically to do with the decline of the office. It was a concomitant of the end of the county's commitment to provide armed service on the borders in which the sheriff was extensively involved.³ The Durham shrievalty had other advantages not enjoyed by sheriffs of other shires. The continuity of service allowed the sheriff of Durham to strengthen his hold on the shrieval bureaucracy, although, in contrast with other counties, the gift of the office of under-sheriff did not form part of the sheriff's own patronage. It also meant that there was a much greater likelihood of the sheriff's personal

1. APC 1613-4 pp. 119-20. The Privy Council had not done so originally "forasmuch as your lordship hath the appointing of the High Sheriffe of that county, and doe consequently containe the power of the Sheriffe in yourselfe". However, they agreed to include the sheriff for the bishop's "better satisfaccion".
2. See above pp. 207-8.
3. On the authority which the sheriffs had enjoyed in border service see DCL: Hunter MS 22/5. ("The Reports and Saings of Sundry Aged Persons Touchinge the Customarie Service of Thinhabitants of the Countie of Durisme, and as They Have Seene It Used in Their Tymes".)

involvement in the affairs of the shrievalty.¹ The sheriff of Durham was not bound by the requirement incumbent upon other sheriffs to reside continuously in the county which could only be left with the benefit of a royal licence. Sir George Selby made full use of this advantage during his shrievalty, serving two terms as mayor of Newcastle in 1611 and 1622 and being elected member of parliament for Northumberland in 1614. Selby was unseated following a petition to the House of Commons. This complained firstly of sharp practice by the sheriff of Northumberland, that secondly Selby was ineligible because of his possession of the Durham shrievalty and thirdly that he was ineligible because he had neither land nor freehold in the shire. The House dealt peremptorily with this final claim which was "not thought fit to be examined, for that the electors' fault not the Sheriffs". The sheriff of Northumberland was to be sent for to answer for his conduct of the election. Selby failed to answer the constitutional point about his election, claiming rather lamely that he had been discharged from the shrievalty before the election, and it was left to Sir Edwin Sandys to note the distinction between the sheriff of Durham

1. The office of the under-sheriff lay in the gift of the bishop. Durham therefore was able to avoid the statutory requirement, often ignored, that under-sheriffs did not serve two or more successive terms. It seems unlikely that a bishop of Durham would have appointed as under-sheriff any candidate disapproved of by the sheriff. In other counties it was usual for the under-sheriff to undertake the bulk of the administrative tasks. T.E. Hartley 'Under Sheriffs and Bailiffs in Some English Shrievalties, c. 1580-c. 1625' BIHR xlvii (1974) p. 164.

and the sheriffs of other counties.¹ A further indication of the heightened status of the sheriff of Durham was the manner in which Bellasis was joined in Quarter Sessions orders relating to extra-sessional work with justices of the peace without any hint of his filling only a subordinate role.²

Many of the functions generally associated with the shrievalty were performed by the sheriff of Durham. The empanelling of juries was undertaken in the normal fashion. The sheriff therefore had the same scope for 'packing' juries as his counterparts elsewhere.³ The sheriff was also responsible for the entertainment of the judges of assize, a task which in 1625 governed Bishop Neile's desire to make

1. CJ i p. 458. The historian of the 'Addled' Parliament was perhaps understandably unable to disentangle the web of Selbys involved in the business. Sir George Selby was a kinsman by marriage though not by birth of the family of the same name which had been prominent in Northumbrian and border affairs for over a generation and of which the errant sheriff of Northumberland, Sir Ralph Selby of Weetwood, was a member. He was a brother-in-law of Sir George who was succeeded in the seat, for what it was worth at such a late stage of this abortive parliament, by his own brother, Sir William Selby of Shortflatt and Bolam in Northumberland. This Sir William, like his brother, was a prominent Tyneside coal-owner. Cf. T.L. Moir The Addled Parliament of 1614 (Oxford, 1958) pp. 37-8. See the pedigree in Watts Northumberland pp. 262-3.
2. See for example DRO: QB/OB/2 pp. 114, 132, 284, 324.
3. On many occasions, however, greater concern had to be shown in actually empanelling juries of the appropriate size. The few remaining pieces of evidence covering the period before the first extant volume of Quarter Sessions, orders indicate a substantial level of absenteeism from service on both grand and trial juries, particularly the latter. In 1598-9 there were 65 refusals to serve on trial juries. The following year's figure was 71. A substantial proportion of refusers were Roman Catholics or church papists like Nicholas Tempest of Stella, William Blakiston of Blakiston and Robert Hodgson of Hebburn. DPD/SR: CC 221646 ff. 4v-7r, 221647 ff. 6v-8.

a rapid appointment.¹ As the assize judges visited Durham annually instead of the more usual biannual circuits undertaken elsewhere, the burden on the Durham sheriffs was considerably less onerous. The sheriff was of course also responsible for the oversight of the execution of sentences upon the bodies of the felonious victims of the assize judges' wrath; his minions undertook the administration of society's revenge against less culpable malcontents by whipping and branding, an aspect of the job which undoubtedly appealed to the unsavoury characters who existed in the lower ranks of the shrieval administration.² From the scraps of information which survive it is possible to deduce that the sheriff's tourn and the county court survived. Professor Barnes has argued that in Somerset the tourn, emasculated by statutory restrictions, had "quietly expired" by 1625.³ The court still survived in Durham at that date, for an order made at the Quarter Session held on April 26th, 1625 enjoined Bellasis to permit a constable within the lordship of Chopwell for the better execution of service there at his next tourn.⁴ A few scattered records of the tourn still exist, mainly in the form of estreats. It would be unwise to over-generalise on the evidence of these scraps. Estreats levied at the tourns of 1586 appear to indicate

1. DUL: Mickleton & Spearman MS 2 f. 352.

2. See, for example, M.J. Ingram 'Communities and Courts: Law and Disorder in Early Seventeenth Century Wiltshire' in Crime in England, 1550-1800 ed. J.S. Cockburn (London, 1977) pp. 124-5

3. Barnes Somerset pp. 127-8.

4. DRO: QS/OB/1 p. 257.

considerable activity, although the offences committed included non-appearance.¹ The slight evidence from 1606 suggests a reduction in shrieval authority, for the inability to collect fines levied for assaults was admitted.² By the 1620s the sheriff and his officers were still securing a small income from perquisites derived from the tourns which operated twice yearly in each area. The divisions were based on wards, although for shrieval purposes Darlington Ward was permanently divided and Chester Ward at least temporarily so. Durham City was a distinct shrieval district.³ The county court, which in other shires had the additional importance of providing the base for the conduct of county elections, survived in Durham despite the local disadvantage of strong competition from the local equity courts of the palatinate and the Council of the North, the county court being restricted to cases involving debts or damages of less than £2.⁴ Despite these disadvantages the county court survived to provide the sheriff and his officers with a substantial proportion of their perquisites.⁵

In certain respects, the organisation of the functions, duties and powers of the sheriffs of Durham differed substantially from their counterparts elsewhere. Some of these distinctions undoubtedly detracted from shrieval influence.

1. DPD/SR: CC 221678.

2. Ibid. CC 221650. This tourn was held at Bishop Auckland. The location of the tourn in Stockton Ward appears to have been Sadberge. Ibid. CC 221612.

3. Ibid. CC 220232.

4. Barnes Somerset p. 128.

5. DPD/SR. CC 220232.

For example, the county gaoler like the under-sheriff was appointed by episcopal patent.¹ On the other hand, the attractiveness of the office, which carried with it an annual fee of £10 and a later pension of the identical amount, was augmented by the financial arrangements which, until rendered inadequate by the institutionalisation of Ship Money procedures, governed the sheriff's financial obligations.² One of the fundamental shrieval duties elsewhere was the collection of traditional royal revenues and their payment into the Exchequer.³ This task was avoided by the sheriffs of Durham. Before 1635, writs out of the Court of Exchequer were directed to the bishop, or to the chancellor of the county palatine in the event of a vacancy in the see. The writs were returned by the bishop, or by his chancellor when appropriate. The sheriff, as the bishop's officer, accounted directly with the bishop.⁴

Perhaps the clearest evidence of the importance of the high sheriff of Durham was his ex officio place on the high commission of the northern province, a privilege not enjoyed by the sheriffs of the other northern counties.⁵ Whether the sheriff took an active role in high commission matters is unlikely, for lay participation in its work became

1. See, for example, BL: Lansdowne MS 902 f. 10; R. Surtees Durham iv (part two) p. 161.

2. BL: Lansdowne MS 902 f. 29.

3. Barnes Somerset p. 126.

4. PRO: SP 16/302/6; PC 2/45 pp. 256-7. See below pp. 317-8.

5. See, for example, HMC: Salisbury xv pp. 394-5.

steadily less important.¹ There were other reasons for shrieval involvement in religious affairs, although an echo of shrieval concern with high commission matters came in 1628 when Bellasis and Dean Hunt were requested by the Attorney-General to investigate the veracity of what was claimed by John Cosin to have been a slanderous allegation against him.² However, Conyers' actions in 1598 may have drawn some of their justification from his powers as a high commissioner.³ Selby attended once as a high commissioner between 1614 and 1617. The commission's principal local concern at the time was the suppression of recusancy which the commissioners attempted to combat, without much success, by the use of the shrieval officers rather than by any officers who may have been attached to the commission.⁴ This provided the main focus for shrieval involvement with Catholicism in county Durham at this time, for the sheriff was not responsible for the accounting of recusancy fines which were enrolled in the Exchequer in conjunction with

1. The percentage of lay members on the northern High Commission rose from 54 in 1561 to 67 in 1585, falling to 58 in 1596 and as low as 24 in 1627. P. Tyler 'The Significance of the Ecclesiastical Commission at York' NH ii (1967) p. 40. In the diocesan High Commission at Durham active lay participation was negligible by the seventeenth century. Between October 1614 and May 1617 only five laymen, Sir Timothy Whittingham, Sir Charles Wren, Sir George Frevile, Sir George Selby and Edward Talbot, a professional member of the Council of the North, attended. Selby and Talbot each made only one appearance, Frevile two, Whittingham three and Wren eight. Lay attendances represented only 13 per cent of the total. DPD/PK: Commission for Ecclesiastical Causes in the Province of York, 1614-7. After 1625 the only laymen to attend were the diocesan chancellors William Easdall and Thomas Burwell. SS 34 pp. 269-73.

2. SS 34 p. 199.

3. BL: Lansdowne MS 87 No.16.

4. DPD/PK: Commission for Ecclesiastical Causes in the Province of York, 1614-7 ff. 15r, 21r-2r.

those of Yorkshire. Selby refused to account directly in 1615.¹ By the end of the following decade, official attitudes towards the profits which could be obtained from the containment of recusancy had altered, and with it the role of the sheriff in recusancy matters. The policy pursued under the inspiration of Wentworth as President of the Council of the North involved the process of wealthier Roman Catholics compounding with a recusancy commission. This policy was applied throughout the jurisdiction of the council, including Durham, whose sheriff was forced to abrogate his traditional responsibility to the bishop alone by partaking actively in the process. In 1629 Bellasis ordered the bailiffs of the four wards as well as the bailiff of the lordship of Brancepeth to secure the appearance of various named recusants before the council at York. Bellasis may not have been too keen to pursue this innovative task. The surviving evidence of this operation displays little of the conscientiousness that was usually characteristic of his conduct of public affairs. Some of the errors in his schedule appear to have been too obvious to have been unintentional. The notorious recusant, Sir John Claxton, had his residence misdescribed, while the Roman Catholic stronghold of Hebburn was represented not by its Hodgson owners but by a non-existent Nicholas Tempest. Christopher Hildyard of Fulforth,

1. On Selbys reluctance to account see DUL: Mickleton & Spearman MS 55 p. 329.

presented for recusancy at the previous year's assizes, did not apparently exist.¹

Most of the routine tasks of the shrieval administration were carried out by the under-officers. Consequently a high degree of co-operation was required between the sheriff and his officers, the most important of whom was the under-sheriff. The under-sheriff in other counties was, technically at least, not supposed to serve different sheriffs in successive years. Despite this intended restriction the under-sheriff usually assumed control of shrieval matters, and many of them developed an expertise based on considerable experience of the office.² Dr. Hartley has argued that one of the principal qualities necessary for holders of the office was an "intimate knowledge of the people and lands in the area" and that the apparent willingness of men to return to the office suggested that it was financially worthwhile.³ In Somerset in the 1630s most of the under-sheriffs were attornies, and Francis Raworth,

1. DPD/SR: CC 221308. Cf. DCL: Sharp MS 110 p. 4. On the conduct of this business in Yorkshire see J.C.H. Aveling Northern Catholics: the Catholic Recusants of the North Riding of Yorkshire (London, 1966) pp. 225-32.

2. See, for example, Barnes Somerset pp. 136-7; Hartley 'Under-sheriffs' pp. 164-5. Cf. the attitude of Sir Thomas Wentworth who, in his enforced year of office, made a characteristically clean break with recent practice by appointing his own servants to serve as under-sheriffs, a policy which may have given him greater control over his officers but which was hardly conducive to the efficient conduct of the service. The Earl of Strafforde's Letters and Dispatches ed. W. Knowler i (London, 1739) p. 32.

3. Hartley 'Under-sheriffs' pp. 166, 170, 173-5.

under-sheriff in Kent in 1599, was prominent enough in legal circles there to become town clerk of Dover.¹ Durham supported a considerable legal establishment dependent largely upon episcopal patronage. Few appear to have been attracted to the office of under-sheriff, the most prominent exception being John Richardson, an ambitious lawyer from the city of Durham who used the post to further his career.² The two longest-serving under-sheriffs of Durham during the period under consideration were Robert Robson and Timothy Comyn. The best source of biographical information about the former is a Consistory Court deposition which he made in 1625. This revealed that Robson had been born at West Murton in the parish of Sedgely. Robson had claimed untruthfully that he owned the rather unpromising land at West Marton.³ However, it is clear that the family background was one of assured, if minor, gentry status. Rather unusually for a family of such status, Robson's mother came from a Bedfordshire family. His brother Simon was a cleric who eventually secured the deanery of Bristol. Robson himself married into a Cumbrian family.⁴ He was under-sheriff at least as early as 1590 when he was in his early thirties, and appears to have served throughout the shrievalty of

1. Clark English Provincial Society p. 114.

2. PRO: E 134/43 Elizabeth/Easter 25.

3. West Murton was "a place most barren heath & waist ground and rather a hurt then a benefitt to the occupier". DPD/SR: DR/V11 (1625 Bainbridge v Blakiston). The Robsons did not own the land but leased it from the Claxtons of Old Park. R. Surtees Durham iii p. 56.

4. Ibid. p. 57.

Conyers and Selby.¹ His tenure of the office was at times controversial. It was alleged in a Star Chamber suit that he had been bribed to empanel a biased jury in a case which formed part of a long-standing feud in Northhamshire.² In October 1617 he was fined £100 at Quarter Sessions for his contempt and neglect in failing to execute a warrant for summoning the high constables to take their oaths.³ Despite these inadequacies he was highly enough regarded to have been employed as under-sheriff by no fewer than four bishops. Robson was never really a member of the inner group of episcopal officers. His nephew, Timothy Comyn who succeeded him in the under-shrievalty certainly comes into this category. A member of a family intimately connected with the Durham episcopal administration, Comyn had become Mayor of Durham in 1620 following the improvement in relations between civic and episcopal authorities after the death of Bishop James.⁴ As an episcopal officer Comyn had managed neatly to bridge the gap between Bishops James and Neile. Neile retained him as auditor after the former's death in 1617.⁵

1. DPD/SR: CC 195714; DUL: Mickleton & Spearman MS 2 f. 54. Cf. DCL: Randall MS 5 p. 145 which mistakenly attributes to him the shrievalty itself.
2. PRO: STAC 8/224/21.
3. DRO: QS /OBA p. 39.
4. R. Surtees Durham iv (part two) p. 18. Although there is no evidence to substantiate the point, it may be reasonable to infer that Neile may have been instrumental in Comyn's obtaining of the mayoralty.
5. DCL: Hunter MS 10A/22; Raine MS 41/19; DUL: Mickleton & Spearman MS 2 ff. 55, 74; PRO: DURH 5/9/29.

The duties of the under-sheriff were augmented from 1635 when the under-sheriff became technically accountable for the payment of the county's Ship Money.¹ Although Comyn may not have relished the increased work-load, there can be no doubt that the influence of his office was increased thereby, and his death in March 1640 had a detrimental effect on the conduct of the service.² The appointment of Comyn's successor, William Collingwood, marked a return to the old tradition of appointing an under-sheriff from among the ranks of the landed gentry rather than from among the ranks of the professional bureaucracy.³ A member of a well-known family with Roman Catholic connections, Collingwood had risen from the humble office of bailiff of Stockton to become prominent among the supporters of Bishop Morton in the period immediately preceding the outbreak of the Civil War.⁴

1. See below pp. 317-20.

2. PRO: SP 16/450/34. A considerable delay ensued before a successor could be appointed.

3. Cf. DCL: Randall MS 5 p. 148 where he appears as sheriff.

4. Collingwood was a grandson of the slippery Northumbrian conservative, Sir Cuthbert Collingwood of Eslington. His father, Robert Collingwood of Hetton le Hill, was a conformist who conveniently held the farm of the lands of his recusant brother George. Despite his religious beliefs George seems to have led the return of the family to administrative responsibility, becoming a commissioner of sewers in 1638. He certainly enjoyed the confidence of Bishop Morton who seems to have regarded the entire family with favour. George Collingwood was also, perhaps rather dubiously, accused of having a close association with John Cosin. R. Surtees Durham i p. 7; DPD/PK: Misc. Charter 7167; PRO: SP 14/75/1 i; C 181/5 p. 219; Rare Tracts ed. M.A. Richardson iii ('The Humble Petition of John Salvin, Gent.').

There is comparatively little evidence on which to base a thorough examination of the effectiveness of the office of under-sheriff of county Durham. Despite the high regard in which he appears to have been held, Robson appears not to have been particularly efficient in financial matters. Bishop James complained in 1615 to the under-sheriff, solicitor and escheator about the failure of the bailiffs to perfect their account, thereby implying that Robson was at least partially responsible for tolerating this remissness.¹ In 1622 Bishop Neile complained to Comyn about Robson's failure to account with him, although the latter may have been distracted by a difference of opinion with Hugh Wright over greenwax accounts.² Comyn's main weakness appears to have been an unwillingness or inability to execute his office against religious offenders. For example, in 1626 he had been unable to apprehend the recusant gentleman, Sir Robert Hodgson of Hebburn, although he was able to arrest a stranger whom he happened to encounter in the process.³ In 1632 he was regarded as being extremely reluctant to take action against Peter Smart. He "will not com willyngly to (Smart), but yf he see (him) he must needes do his office".⁴ There is little evidence to illustrate Collingwood's tenure

1. DCL: Hunter MS 10A/22.

2. R. Surtees Durham iv (part two) p. 157.

3. DUL: Mickleton & Spearman MS 2 f. 389-90.

4. DCL: Hunter MS 11/45.

of the office.¹

The activities of the sheriff's bailiffs are rather better documented. In Durham the office of sheriff's bailiff was the only piece of patronage resting in the hands of the sheriff himself, although there was at least one occasion when a bishop coveted this piece of patronage for himself.² The role of the sheriff's bailiff in Durham was roughly the same as that of similar officers in other counties, although there were some differences in the powers of those who held authority over them. The bailiffs performed the routine tasks of shrieval administration by executing warrants and collecting fees, both tasks which hardly endeared the sheriff's bailiffs to the general public. One slight difference between their operation in Durham and elsewhere was that the Durham bailiffs were not subject solely to their superiors in the shrieval administration, the under-sheriff and the high sheriff. They were also directly responsible to the bishop in certain matters of financial accountability. Although this may seem slightly anomalous in view of the bishop's lack of control over the

1. Collingwood's main contribution to the public service in the county during the period of his under-shrievalty was to serve as one of the commissioners appointed by Bishop Morton to treat with his tenants when the latter were proving particularly refractory. DPD/SR. CC 221209. Although Collingwood was a man of impeccable lineage, he does not appear to have been particularly wealthy. His delinquency fine was fixed at £28 in regard of two closes at Moorsley in the parish of Houghton-le-Spring. SS 111 p. 172.
2. Bishop James, bemoaning many years inefficiency in such matters, threatened in 1615 to prevail with the sheriff to dismiss his set of errant bailiffs with the implication that their successors should be appointed with his approbation. DCL: Hunter MS 10A/22.

appointment of bailiffs, it is possible to regard it as evidence of a logical ordering of the administration as the bishop did have ultimate control over his sheriff and under-sheriff. There are several examples of attempted direct control of bailiffs' activities by the bishops. These were not always successful. Bishop James had particular trouble in this respect.¹ However, most of these particular examples of the exercise of episcopal authority over the bailiffs were comparatively trivial. Most of them emanated from direct appeals and petitions made by humble men who were fearful of being unjustly or repeatedly amerced when in fact their cases had been properly settled.² The lack of sufficient evidence precludes a systematic investigation of this matter. Some evidence from the episcopacy of Bishop Morton may suggest that a considerable effort was made then to improve the efficiency of the bailiffs' operation as part of a more general attempt to strengthen the see's financial condition. In January 1636 the bailiffs were ordered to perfect their accounts of estreats in less than a month. Later in that same month the bishop set up a commission to examine the bailiffs' accounts and "to examine what finable writts,

1. For an example of a direct order from Bishop James to a sheriff's bailiff see DPD/SR: CC.221612 Cf. DCL: Hunter MS 10A/22. James's troubles in this respect were paralleled by his inability to secure perfect accounts of rental income from his own bailiffs. DPD/SR: CC 221329 (Miscellaneous papers, Bishop James to Francis Lascelles, January 4th, 1613)
2. See for example Ibid. 221164, 221691, 221612. (These are taken from a collection of miscellaneous documents appertaining to the accounts of the officers of the bishops of Durham.)

justiciers & fines upon contempt" had been made. The commissioners were authorised to take appropriate proceedings. This may appear to have been a rather odd course of action for Morton to take. A more orthodox policy would have seen the matter placed solely in the hands of the sheriff himself. Bellasis may not, however, have been too discomfited by the matter. He was one of the commissioners, and given his Ship Money responsibilities he may have been glad of the assistance provided by his colleagues.¹

The likelihood of this initiative achieving any success was remote. The shrieval bureaucracy was being sorely tried by the Ship Money experiment. The bailiffs were set in their ways of inefficiency. Shortly after the issue of the warrant the bailiffs were each fined £1 for their negligence in failing to attend Quarter Sessions.² An earlier attempt to divide Chester Ward into two divisions for shrieval purposes seems to have been short-lived.³ There were in fact six long-standing sheriff's bailiwicks, two in Darlington Ward, one each in the other three wards and one for Durham City.⁴

1. Ibid. 2213⁴. (Abstracts of episcopal warrants, 1635-7).

2. DRO: QS/OB/2 p. 288.

3. DPD/SR: CC 220232 indicates a division of Chester Ward in 1622. The evidence for the western division of the ward is truncated. The lack of other suggestions of a division would appear to indicate the temporary nature of the arrangement.

4. See, for example, the arrangements made for the herald's visitation of 1615. R. Surtees Durham i pp. cliii-clv. The sheriff's bailiff of the city of Durham, Robert Harrison, incurred the displeasure of Bellasis who signified his intention of replacing him shortly after his appointment to the shrievalty. PRO: DURH 2/24/14.

Furthermore, the bailiffs of liberties were ordered by act of parliament to give attendance upon the high sheriff and his bailiffs at courts of Gaol Delivery.¹ By 1629 the scope of this attendance had been extended. In that year William Conyers, the bailiff of the liberty of Brancepeth, was required by Bellasis to serve process on six recusants to appear before the Council of the North, an order with which Conyers complied.²

Conyers, a member of a respectable gentry family, hardly came into the same category as such a disreputable thug as Robert Maltby, the most notorious of the sheriff's bailiffs of county Durham during the period under consideration. His death in suspicious circumstances in 1618 was a fitting end to a career dominated by a series of actions in which he abused his position.³ In 1599 he had arrested one Robert Dunne of Burn Hall in a violent manner "to the utmost disgracing and injurie of your oratour that he could devise" in the most public place possible, Durham market place. Dunne paid up what was allegedly owed towards the erection and maintenance of the house of correction despite the fact that Maltby in his ignorance had mistaken Burn Hall for Broom Hall where the owner had already paid up.⁴ On several occasions he was accused of illegally pocketing monies he was empowered to collect in his official capacity.⁵ Another

1. SR iii p. 556.

2. DPD/SR: CC 221308.

3. PRO: DURH 3/144.

4. PRO: DURH 17/1/1.

5. See, for example, PRO: DURH 2/9/79.

offence was to convert to his own use goods which had been distrained by the authority of his office.¹ He was also accused of failing to deliver goods for which he had been paid in advance.² A possibly less reliable imputation made against Maltby was that of his alleged enmity against Percival Harbottle of Ravensworth. As Harbottle was a notorious common barrator whose anti-social behaviour was widely recognised his outburst can perhaps be treated with some scepticism. Nevertheless, it is clear that Maltby was an undesirable force to be reckoned with throughout the ward and not just in his home town of Gateshead.³ He must clearly have enjoyed the confidence of his near neighbour and superior officer, Sir George Selby, despite the fact that, as Professor Barnes as shown, the high sheriff could be civilly liable for acts committed by the bailiffs in the course of their duties.⁴

The actions of bailiffs such as Maltby obviously contributed greatly to the decline in prestige which may have been experienced by the shrievalty as an institution. However, the greatest determinant of this process was the sheriff's intimate involvement in the rating and collection of Ship Money. Nevertheless, it would be wrong to infer that

1. PRO: DURH 2/5/64.

2. PRO: DURH 2/9/37.

3. Harbottle had been a defendant in a minor land dispute with a neighbour which had gone to Star Chamber, he was a muster absentee in 1620 and in 1602 he was indicted for attacking another person's cart. PRO: DURH 2/1/20; STAC 8/159/22; DUL: Mickleton & Spearman MS 2 f. 322; DRO: QS/I/1/5.

4. Barnes Somerset p. 131 n. 19.

Opposition to the payment of Ship Money was necessarily a consistently common feature of taxpayers' attitudes either in county Durham or elsewhere. A precedent for the imposition of Ship Money on the maritime counties of England and Wales had been established as recently as 1626. The official excuse for this expedient was a projected invasion by the king of Spain. Durham county was ordered to provide and man one pinnace costing according to the computation of Secretary of State, Sir John Coke, £102 16s.¹ The order was sent initially to Bishop Neile in his capacity as lord lieutenant. Neile in turn recommended the service to Bellasis and Sir John Calverley in his usual conciliatory manner, pointing out that "this service will seeme strange & chargable to the contrye" but wishing "that may be done cheerfully, which we must doe of necessitie". The method of raising the levy was to be considered at a special meeting of the justices of the peace convened for the purpose.² The justices appear to have misunderstood the import of the order, believing that the charge of £103 represented an alternative in view of their failure to locate a suitable craft in ports in which "the tradeinge and negotiacons ... are soe little and their povertie soe great" when in fact the £103 included a component for the hire of a suitable vessel.³ In contrast, the important port of Newcastle was expected to provide two large ships,

1. APC 1626 pp. 55-6; DUL: Mickleton & Spearman MS 2 ff. 395, 395a.

2. Ibid. f. 396.

3. Ibid. f. 403.

but the mayor evidently expected a contribution from the county which it was not prepared to subscribe because of its poverty.¹ A potential dispute was avoided by a quick compromise offered by the Privy Council less than a month after the original charge was made. Instead of providing a small craft on its own, the county was joined with neighbouring Northumberland to supply one third of the cost of the two large ships levied upon Newcastle.² In this instance the Privy Council seems not to have invoked the office of the high sheriff in the collection of Ship Money which was to be raised as the individual counties saw fit, presumably on the same basis as other more regular charges.

The collection and accounting of Ship Money was the single most important task fulfilled by the high sheriffs of the counties of England and Wales from 1634 in the case of the maritime counties and 1635 in the case of the others. Ship Money, perhaps slightly unfairly, has come to be regarded as a constitutional issue of the greatest significance. Recent historiographical emphasis has been placed more on its considerable success in contemporary terms as a fiscal expedient. A recent commentator has denied that the innovatory nature of the form of assessment, a lump sum placed on each county and constituent borough within the county to be divided on the initiative respectively of the sheriff and the civic authorities, was a significant cause of opposition, arguing that until the unpopular Scottish conflict the tax, or perhaps more accurately

1. Ibid.

2. APC 1626 pp. 149-50.

the rate, enjoyed the advantages of a popular purpose, the equipping of a fleet to combat piratical activities, and favourable economic conditions for its payment.¹ He has further argued that the influence of the celebrated Hampden case in stimulating opposition to the tax has been exaggerated.² Additionally, there was no need for opposition to the imposition of Ship Money to be restricted to matters of constitutional principle. More normal criteria for opposition to fiscal expediency could apply. Ship Money was criticised on the grounds that the burden of its distribution was inequitable both in geographical terms, that a particular area was overrated in comparison with other areas, and in social terms, that particular persons or groups were overrated in comparison with similar persons or groups of similar or greater wealth. Opposition on these grounds could be channelled in the traditional manner, by petition or exploitation of patronage links and contacts, without questioning the traditional social order.³

1. J.P. Kenyon Stuart England (London, 1973) pp. 111-2
2. Ibid. His hypothesis is strengthened if one considers that the opposition to the tax grew in inverse proportion to the assessments dependent upon the much smaller demands set out in the writ of 1638 when the amount intended to be raised nationally was lowered from £196,400 to £69,750 with a corresponding reduction in Durham from £2,00 to £700. M.D. Gordon 'The Collection of Ship Money in the Reign of Charles I' TRHS third series iv (1910) pp. 154, 157. This vast reduction implies that the government no longer envisaged Ship Money as a permanent feature of fiscal policy, but was forced to let it appear so by the need to finance an expensive and unpopular war against the Scots which had already affected detrimentally Ship Money yields. In other words, the failure to gather in satisfactorily the money assessed in the 1638 writs not only necessitated higher future assessments but also increased the probability of a greater shortfall.
3. See Ashton English Civil War pp. 63-6

"For six years the office of sheriff would receive unwanted emphasis."¹ Professor Barnes has thus described the impact of the imposition of the collection and payment of Ship Money on the five sheriffs of Somerset who held the office during the six vital years from 1634 to 1640. In the case of the counties of Sussex and Surrey, the government, anticipating the likely consequences of the increase shrieval burden, ended the traditional arrangement by which they shared a sheriff who served both counties jointly.² In these circumstances it is necessary to re-emphasise that the burden of Ship Money responsibilities in county Durham fell on one man, Sir William Bellasis, a further anomaly in whose position was the traditional refusal of the sheriffs of Durham to account with the Exchequer. The first Ship Money writ of the period of Charles I's personal rule was issued in October 1634 and directed only at the maritime counties of England and Wales. There was nothing illegal or even immoral about the issue of this writ. There was no hint that this was more than a temporary expedient. Furthermore, there were good grounds for accepting the government's interpretation of the likelihood of the fishing fleet falling into piratical hands.³ Durham county was not rated separately for the purposes of the writ, being joined with Yorkshire and Northumberland to subscribe £6,615.⁴ As well as the sheriffs of the three counties the writ was directed to the civic authorities of

1. Barnes Somerset p. 125.

2. Fletcher Sussex p. 142.

3. See, for example, Barnes Somerset p. 205.

4. Gordon 'Collection of Ship Money' p. 155.

Berwick upon Tweed, the port of Blyth which was not a borough and Newcastle upon Tyne within Northumberland, Durham City, Harlepool, Sunderland and Stockton within Durham county and Bridlington, Guisborough, Scarborough and Whitby in Yorkshire, the misplaced Lancashire coastal village of Cockerham and "all towns and maritime places" between Berwick and Bridlington to provide and arm a ship of 300 tons.¹ Despite early difficulties, based on expedient temporizing rather than matters of principle, the whole amount was subscribed.² The writ of 1635 extended the scope of Ship Money to the whole nation. Counties were rated separately and the amounts to be subscribed by individual boroughs were specified. Under both the 1635 and 1636 writs Durham was assessed to provide £2,000. The full amount for each year was collected.³ The 1637 writ was the first to attract persistent opposition and outright refusal to pay. £430 (21.5 per cent) of the assessment was uncollected.⁴ It is impossible to determine the degree of success or failure of the reduced assessment of £700 set out in the writ of 1638. None of this was accounted for in the Exchequer.⁵ This was not, however, necessarily a symptom of a complete refusal to subscribe by the county's taxpayers. It may seem strange, for example, that no money was apparently paid in under the terms of the writ of 1638 for a county subscription of £700,

1. CSPD 1634-5 p. 242.

2. Gordon 'Collection of Ship Money' p. 155.

3. Gordon 'Collection of Ship Money' p. 157.

4. Ibid. See also below pp. 336-7

5. Gordon 'Collection of Ship Money' p. 157.

whereas in the following year 78 percent of the assessment of £2,000 was subscribed, despite the government's insistence that the proceeds from that year be sent to Berwick to help pay for the upkeep of the garrison there.¹ This clearly contradicted the official justification for the issue of the writ and was an open invitation to potential opponents to refuse to pay the demand.² That few such refusals were recorded suggests that, at least in terms of county Durham, Professor Kenyon's explanation of the chronology of Ship Money opposition is inadequate. The absence of any hectoring communications from the Privy Council to Bellasis or any letters of excuse in the other direction suggests that money must have been subscribed for the 1633 writ in the normal manner and was presumably used for purposes of border defence without passing through the Exchequer.³

The direct issue of writs for the collection and accounting of Ship Money to the sheriff of Durham breached a fundamental principle of that officer's modus operandi; that he was not directly responsible for the receipt and return of writs which could only be passed through the bishop or, in the event

1. Ibid. p. 157; CSPD 1640 p. 368.

2. Technically, the money subscribed for Ship Money was intended to prepare and furnish ships of certain specified berths. This was, of course, a convenient fiction explicitly admitted by the government in its order regarding the disbursement of the money collected in Durham.

3. Kenyon Stuart England pp. 111-2. Bellasis's creditable effort in collecting such a high proportion of the assessment set down in the 1639 writ is magnified by the immense local unpopularity of the government's Scottish policy and the financial strains this placed on the county.

of a vacancy in the see, the chancellor of the county palatine. This breach induced the vigorous opposition of Bishop Morton, a persistent defender of the liberties and privileges of his see. The bishop was concerned at the implications of an order of the Court of Exchequer of May 1635 which placed the onus on the sheriff of Durham to show why he should not account directly with them on the same basis as his counterparts in the other two counties palatine, Lancashire and Cheshire.¹ The bishop petitioned against this on the usual grounds; that they enjoyed a county palatine or iura regalia which included the appointment of the sheriff, that writs and precepts out of the Westminster court were directed only to the bishop, and that these were returned by him except during vacancies. The new burden would impose an "insupportable charge" on future sheriffs and the order was an infringement of the "most necessary liberty of that sea". [sic]² Fortunately for the sheriff, the Privy Council referred the matter to four senior judges including that resolute upholder of the rights of the palatinate, Sir Richard Hutton. This committee recommended a compromise between the traditional rights of the palatinate and the needs of the state which proved acceptable to a meeting of the Privy Council on November 18th, 1635. The composition of the attenders at that particular meeting suggested that Morton's complaint would be dealt with sympathetically. He enjoyed a close and cordial relationship with Sir John Coke, the Secretary of

1. PRO: SP 16/302/6.

2. BL: Lansdowne MS 902 f. 292.

State.¹ He was also likely to enjoy the support of Archbishop Neile, a former bishop of Durham who was well acquainted with the arguments of the case. Archbishop Laud, with his highly developed sense of ecclesiastical dignity, was unlikely to oppose Morton vigorously, although to make quite sure the bishop of Durham enlisted the help of Neile, hoping that he would be able to ensure the support of Laud.² The Privy Council accepted the premises of Morton's argument although a modification of the traditional procedure was necessary to facilitate accountability under the new conditions imposed by the issue of Ship Money writs. Henceforth, "the Bishop of Durham or his under sheriffe his deputy" were to account annually before "his Majesty's Auditor of that County, who for his Majesty's better service herein shall have the schedules of such things as concerne his Majesty delivered upon him by the Clerks and officers of his Majesty's Court of Exchequer, and the said Auditor shall retourne the same into the Offices out of which they did issue". A commission was to be awarded to the auditor to take the oath as the under-sheriff's deputy and the bishop was to pay "such ffees as are due for the passing of a ministerial account and not otherwyse".³ This compromise did not prove to be entirely satisfactory at first. It was not, of course, concerned with the persistent strain suffered by the sheriff who was indefinitely committed to the task of collecting Ship Money.

1. HMC: Twelfth Report (Coke MSS) ii pp. 84, 259.

2. DUL: Mickleton & Spearman MS 20/26.

3. PRO: PC 2/45 pp. 256-7.

In fact, Bellasis was later to complain that this imposition of additional duties upon the under-sheriff was detrimental to his own position because of the government's consequently greater readiness to deal harshly with the high sheriff.¹ The under-sheriff now had the physical duty of accounting with the auditor in London. In June 1637 the Privy Council instructed the Barons of the Exchequer to ensure that the terms of the November 1635 order were enforced.² The under-sheriff, Timothy Comyn, was, however, too ill to travel to London to undertake the necessary arrangements.³ Nevertheless, despite initial problems, the compromise formulated in November 1635 proved the foundation for subsequent Durham accounting with the Exchequer. The system did not lapse with the demise of Ship Money.⁴

This compromise had been necessitated by the problems involved with the original writ of 1634 directed only to the maritime counties. The possibility of opposing this writ on matters of principle was remote, and the whole amount levied was paid in by March 1636.⁵ However, it should not be thought that the money was collected without difficulty, for there were the usual quarrels about comparative assessments which were especially marked under the terms of this writ because it was issued to the three north-eastern counties jointly without specifying each area's particular contribution. There

1. PRO: SP 16/450/34.

2. DUL: Mickleton & Spearman MS 2 f. 446.

3. Ibid. f. 447.

4. DCL: Allan MS 17 i p. 4. (Gill's comments on Spearman Enquiry)

5. PRO: PC 2/46 p. 236.

were two fundamental problems. The more difficult of these to resolve was the proportion of the assessment to be borne by the port of Newcastle upon Tyne and whether all the members of the port and areas under its sphere of influence should contribute to its assessment. Even more fundamental, however, was the necessity to define more clearly the full extent of the geographical area which was subjected to the authority of the writ. The initial inclination of those charged with the assessment and collection of the money to be levied under the terms of the writ of 1634 had been to interpret their responsibilities narrowly. Because of a "misinterpretation of the said writt, which yow doubt extendeth no farther then to the places particulerly named therein", the sheriffs had "forborne to assesse and leavie monyes ... of divers maritime townes and of others that live neere unto the sea coast and river of Tyne, whereby an overweightle burthen may lye upon the towne of Newcastle and the other places named in the writt". Consequently, "all the townes and villages seated upon or neere the sea coast, or river of Tyne, or other navigable rivers betweene Barwick and Bridlington, and the owners of the lands therein, shalbe contributors to the said charge".¹

This instruction was vague enough to give county sheriffs a considerable degree of flexibility in extending the scope of assessments, but did not solve the problem of the relative contributions of Newcastle and the rest of the three counties. The earliest extant complaint of the mayor and burgesses of

1. PRO: PC 2/44 p. 321.

the town appears to date from December 1634. They claimed that they had originally offered to bear one quarter of the full charge of the writ, a sum which would have amounted to £1,653 15s. However, they alleged that the other parties would not extend the assessment to all other coastal places, confining themselves to the places named in the writ and labouring to undervalue their own contributions and placing thereby a disproportionately high charge upon the town of Newcastle. This, the mayor and burgesses argued, was unfair, for, although the town had enriched itself through the coal industry, many of those who had the "chief benefit" of that trade lived in London and elsewhere, a somewhat misleading claim given the rigidity of the town's control of the industry. The mayor and burgesses begged the Privy Council to issue instructions to the three high sheriffs which would avoid the overcharging of the town.¹ There was no denial of the legality of the charge of Ship Money in this initial complaint which was formulated purely in the terms traditionally associated with petitions against allegedly disproportionate assessments of charges whose legality was not disputed. The Privy Council, as usual impressed by the last argument which it heard, ordered that "all those that reape benefitt by the trade and are owners of colleries [sic] or traders in coles, or otherwise in that port, though they dwell not in the towne of Newcastle, as also all the townes and villages borderinge on the river of Tyne so farre as it is navigable, and the inhabitants therein are to contribute

1. CSPD 1634-5 p. 374.

towards this service with those of the said towne, and their contribucon to be accompted parte of the rate of the said towne of Newcastle in ease thereof". The order was completed with advice to the sheriffs on how to deal with any who were "obstinate or refractory".¹

The main opposition to this came not from the expected source of the coal-owners but from Bishop Morton who scathingly attacked the burgesses of the largest and most important town in his diocese. They had once again secured an abatement of their liabilities at the expense of the rest of the area's inhabitants. "The sages of Newcastle have soe advanced the matter of exoneration of themselves, and burdeninge their neighbours, that they are become odious that way."² What was especially troubling the bishop was the possibility, eventually realised, that the terms of Ship Money writs might be extended to ecclesiastical properties and livings. Furthermore, he could hardly have been pleased with the implicit insult contained in the Privy Council order of January 11th, 1635 that his own officer, the sheriff, should be enjoined to assist the burgesses of Newcastle in their attempt to increase the burden of taxation upon, among others, the inhabitants of county Durham. Within four months the burgesses of Newcastle were again petitioning for relief, so it seems likely that the bishop was able to exert enough influence over Bellasis to persuade him to thwart the terms of the Privy Council order. On this second occasion the mayor and burgesses alleged that they were expected to

1. PRO: PC 2/44 p. 321.

2. DUL: Mickleton & Spearman MS 2 f. 431.

subscribe over half of the entire assessment. They modified the thrust of their campaign, focusing not on the absent wealth of those nominally engaged in the coal trade but on the wealth of neighbouring "inhabitants of the said maritime places (who) have lands and estates of farr greater vallowes than theirs", an assertion containing little truth given the extent to which Newcastle merchants or their descendants dominated the local land market. The mayor and burgesses concluded their tale of woe by giving details of the excessive assessments which they had been forced to impose on individual inhabitants, some of whom had to pay £80 or £100. The Privy Council responded to this by agreeing to treat future defaulters with favour, an undertaking which must have helped encourage Newcastle opposition to the second and subsequent writs.¹

Given the nature of such conflicts which were a natural consequence of the imprecision of the terms of the original writ, it was rather ungracious of the Privy Council to complain about the slowness of the response of northern tax and ratepayers to the 1634 assessment. Furthermore, they had prescribed a ridiculous timetable for the completion of the task. The original writ had been issued on October 20th, 1634. On December 3rd they considered that the time limit had expired. Sheriffs and magistrates were ordered to give an account of their proceedings within twenty days.

Magistrates who had neglected the service would lose the privilege of setting rates within their area. This task

1. PRO: PC 2/44 p. 629.

would be fulfilled in default by the sheriffs.¹ Such insensitivity and lack of realism was hardly likely to endear the Privy Council to those on whom it relied for the operation of its policies. It is therefore remarkable that the 1634 Ship Money writ should have proved so successful both in the north-east and in the rest of the country as a means of raising revenue. On April 2nd, 1635 the Privy Council wrote to the sheriffs of Durham, Northumberland and Yorkshire, complaining of their "greate neglect" in the service.² An assessment upon the city of Durham dated April 23rd for £223 to be paid before May 2nd indicates that Bellasis had taken this last threat seriously.³ On May 5th the threat was repeated in stronger though probably unenforceable terms. The Council was in "no way satisfied" with the sheriffs' offer to account by midsummer. The money was to be subscribed with all possible speed and the sheriffs would answer to the contrary at their "uttermost perills".⁴ After the failure of these persistent blandishments the Privy Council maintained a fairly discreet silence rewarded when the entire amount levied was subscribed by March 1636.

The writ of 1635 which levied Ship Money differed in several respects from its precursor. It applied to the whole of England and Wales, not merely to the maritime counties. Specific amounts were levied on each county. Durham, therefore,

1. PRO: PC 2/44 pp. 261-3.

2. Ibid. p. 512. £5,000 out of the assessment of £6,615 had been accounted for by this date.

3. DCL: Hunter MS 22/11.

4. PRO: PC 2/44 p. 554.

no longer had to account jointly with Northumberland and Yorkshire. Part of each county's specific assessment was levied on boroughs within the county. Durham city was the only borough in the county so affected. Under the writ of 1635 it had to subscribe £150 of the £2,000 levied on the county. Coastal places no longer had to sustain specific burdens merely because of geographical accident. The chief beneficiary in county Durham from this change in the relative burden of assessment was the decrepit port of Hartlepool.¹ In comparative terms the levy imposed on county Durham was hardly onerous. Among English counties only Cumberland and Westmorland, tiny Rutland and Monmouth were expected to subscribe less.² Bellasis did not experience much difficulty in extracting what was due under this writ. The whole sum levied was collected.³ The collection was presumably undertaken rapidly for in June 1636 Durham was not among the thirty-four English and Welsh counties to which the Privy Council directed letters of reminder about the levying and paying of Ship Money.⁴ In contrast, with Somerset, the issue

1. DCL: Hunter MS 22/12; Gordon 'Collection of Ship Money' p. 157. On the condition of Hartlepool see above p. 23.

2. PRO: PC 2/45 p. 77.

3. Gordon 'Collection of Ship Money' p. 157. The possible repercussions of Bishop Morton's opposition to the extension of ratings to include ecclesiastical properties did not materialise. DUL: Mickleton & Spearman MS 2 f. 431. Assessments were made in January 1636 of the annual value of rectories, vicarages and impropriations as the basis for rating. The total raised thereby was £152 18s. 2d. on an average rating of 5¼d. in the pound. DCL: Hunter MS 22/4.

4. PRO: PC 2/46 pp. 280-1.

of the 1635 writ does not seem to have excited any controversy based on the principle of the legality or morality of the tax itself.¹ Mr. James has suggested that the success in collecting the money may have owed much to the assistance of "the old oppositionist", Sir Henry Anderson, a claim which not only misinterprets Anderson's own position, but also implies the existence at this date of a coherent opposition without whose approbation government policy could not be enforced.² The only significant problem to affect the collection of Ship Money in county Durham levied under the writ of 1635 concerned the rating of mining interests. Again the county became involved in a conflict with the mercantile interest of the town of Newcastle. Under the altered arrangements in force under the terms of the 1635 writ the town was required to make a specific contribution of £1,100 to Northumberland's total liability of £3,000.³ Using the precedent of the 1634 writ, the mayor and sheriff of Newcastle attempted to meet their substantial obligation

1. Barnes Somerset p. 206. The Somerset arrears on the 1635 writ amounted to only 12 per cent of the total levied. Much of this can be attributed to a combination of hundredal disputes about the comparative burden of rates and the incompetence and corrupt practices of the sheriff Henry Hodges. Only one man, William Strode of Barrington Court, appears to have opposed the tax in principle. Perhaps Professor Barnes has overstated his case? Ibid. Ch. VIII.
2. James Family, Lineage and Civil Society pp. 172-3. That Anderson had personal grievances against Bishop James and the Dean and Chapter and was also a prominent anti-Straffordian in the Long Parliament does not necessarily imply persistent opposition. His influence in county Durham had anyway declined.
3. Gordon 'Collection of Ship Money' p. 157. The county had originally been given the daunting task of raising £5,000.

by contriving to assess several persons resident in county Durham for their coal mines within the county. On this occasion the injured parties paid up, but they did secure a declaration from the Privy Council that this would not prejudice their future rights in the matter. The terms of both the complaint and the reply already implied an acceptance of the permanence of Ship Money demands.¹ Indeed, the quiescence with which the petitioners accepted the injustice which they had suffered boded well for the success of the tax from the government's point of view.²

This comfortable situation was not, however, destined to continue for long. The whole of the 1636 levy was subscribed, although Bellasis and his officers were faced with greater difficulties than in the two previous years.³ The sheriff was bedevilled by rating difficulties. In Durham City Bellasis had for two years to contend with the machinations of a mayor whose financial reputation was extremely dubious. The problems associated with the rating of coal mines had been deferred, not solved. As yet, however, there was no outright opposition on principle to the levying of Ship Money. The total amount demanded under the writ of 1636, £2,000, was identical with the sum levied in the

1. PRO: SP 16/317/37.

2. Durham had been one of several counties actually to collect a surplus. See Gordon 'Collection of Ship Money' p. 152. On the 1635 writ the county's gross contribution had been £2,104 13s. 8d. DCL: Hunter MS 22/4.

3. Gordon 'Collection of Ship Money' p. 157; PRO: SP 16/366/18.

previous year, but "the colamines and Gateside" were specifically included under the terms of the Durham writ in order to forestall the predatory inclinations of the mayor and sheriff of Newcastle.¹ Despite the continuation of the previous year's innovation regarding the rating of rectories, vicarages and impropriations for the service, Bellasis was still faced with problems caused by allegedly inequitable rating. Complaints on this ground could admittedly have been made in a selfish or frivolous spirit as a means of reducing individual burdens. However, there was a fundamental weakness in the rating system which both Bellasis and Bishop Morton recognised. On the one hand, the Privy Council technically allowed the sheriff a considerable degree of discretion in making his ratings. On the other hand, they were unwilling or unable to supply him with the necessary powers to do so adequately.² Bellasis therefore found himself obliged to operate within a conservative and familiar framework by using the county's Book of Rates as the basis for his assessments in order that the process of levying and collecting Ship Money differed as little as possible from that associated with traditional local rates. This may have eased the process of assessment. It certainly increased the likelihood of co-operation from the county's magnates who tended to be favoured by the rating system, the burden of which

1. PRO: PC 2/46 p. 396.

2. DCL: Hunter MS 22/17 ('A Particular Note of Parsonages, Vicaridges, Tythes, Improplati [ons] [sic] as They Were Taxed Towards 2,000 li to the Ship, 1636'). On the general attitude of the Privy Council see Barnes Somerset p. 209.

was inclined to fall more heavily on less favoured landholders. Furthermore, the Book of Rates was out of date. Though subjected to some revision in 1615, it was largely an Elizabethan product. Although Bellasis was aware of the inequitable distribution of Ship Money liabilities, he lacked the necessary power to do anything about it. The Privy Council's reaction to his explanation of the problem, though helpful, was not really conducive to an immediate rectification of the abuse. The bishop should call together the sheriff and justices of the peace of the county who, with the help of Judge Hutton if necessary, should set equal and indifferent rates throughout the county. As the lay justices were among those who stood to lose most by such an arrangement, and as the clerical justices may also have been this as a convenient way of reducing their liabilities, it was obvious that little could be gained thereby.¹

The Book of Rates was not the sole determinant of Ship Money assessments which were supplemented by the ratings imposed upon those without significant landed property who possessed sufficient personal as opposed to real estates and upon clerics and impropiators. The former were defined as persons "having noe land or butt litle, and yett beside a good personall stock either in goods or other comodities wherewith ... they doe trade" and who did not contribute to common charges "in any equality" in order that "the comon publick charge of the countie by all faire meanes may bee

1. PRO: SP 16/347/59. The bishop finally ordered the justices of the peace to perfect the Book of Rates in March 1640. By then the reform was too late. PRO: SP 16/449/23.

asmuch eased as is possible".¹ A total of 93 persons were so assessed from the county's ten divisions. There were considerable local differences in the number of assessments, reflecting the degree of assiduity of the high constables who were responsible for particular ratings rather than indicating significant differences in the degree of local economic activity. Thus, Thomas Hull of Ousterley nominated 20 persons from his western division of Chester Ward and Richard Cornforth nominated 17 from his division of Darlington Ward. In contrast, George Clarke of Lumley could only find two suitable candidates in his division of Chester Ward, and in another division of Darlington Ward no one was nominated, a clear indication of both the effects which diligent high constables could have on the service and of the detrimental influence, from the sheriff's point of view, of the use of high constables who were excessively indulgent to their own particular local interests. The assessed personal estates of those rated ranged from as low as £25 in two cases to a maximum of £500. Five persons were rated at this figure. The most common rating was £100, which suggests that the high constables had not applied a particularly rigorous set of criteria in reaching their assessments. The average assessment was £142. In almost every case the liability was set at two-thirds of 1 per cent or 13s 4d per £100 of assessed personal estate, a form of rating which obviously discriminated against those at the bottom of the scale. The anomalies probably resulted from arithmetical errors by the

1. DCL: Hunter MS 22/15.

high constables. Taking into account these anomalies, the total raised by these assessments was just under £88. This represented about 4.75 per cent of the £1,850 levied upon that part of the county whose ratings were the responsibility of the sheriff. The occupations of most of those assessed in this matter were not revealed in the document, although maltsters were specified. A few members of the gentry were included in this category and assessed on personal rather than real estates. Among these were Rebecca Salvin, a well-known Roman Catholic matriarch and Ralph Eure of Bishop Middleham, while assessments, presumably based on estimates of business profits, were made on behalf of the farmers of the ballast shore at Monkwearmouth, the lessees of the mill at Shadforth and the occupiers of the coal mines at Spennymoor and Tudhoe. These last brought in the trivial amount of £1.

There was, however, no systematic attempt to raise contributions from the stocks and personal estates of those with small interests. Neither did the apparently indolent George Clarke of Lumley make an attempt to rate the powerful coal mining interests in his division. This should not necessarily be construed as evidence of lack of sympathy with Ship Money on principle, for he did recommend four comparatively unimportant mining enterprises for assessment, although the amount levied on these was not recorded. In contrast, the coal-owners of Tyneside were expected to make a substantial contribution. Twenty Tyneside colliery enterprises ranging in estimated annual value from £200 to £4,500 were required to pay £1 13s 4d for each £100, the total liability being

£262 10s.¹ These estimates of the value of collieries were obviously crude and over-simplified. Nevertheless, the coal-owners avoided the obvious temptation of concentrating their complaints on the grounds of inequitable assessments. The first complaint concerned the grievance held by six coal-owners, five from the Tyne and one from the Wear whose participation in this exercise was somewhat disingenuous, that having been taxed on their freeholds they could not therefore be further assessed for their mines within those freeholds.² The solidarity exhibited on that occasion by the six petitioners did not last long. By April 30th 1637 Thomas Hull, the high constable, was able to report to Bellasis that Thomas Liddell was now willing to pay. Another prominent coal-owner, Robert Anderson, was closely associated with the opposition to Ship Money. However, Bellasis's problems were eased by the acceptance by the Grand Lessees of their liability to pay Ship Money on their mines which formed by far the most significant part of the coal-owners' contribution to the tax. Their acceptance of their liability to pay was not matched by a willingness actually to do so.³ Consequently, by August Bellasis was forced to report to Sir Edward Nicholas that the coal-owners owed most of the £300 which was still

1. DCL: Hunter MS 22/17.

2. PRO: SP 16/341/48. The five coal-owners from Tyneside were Sir William Blakiston of Gibside, here making common ground with his Hostman rivals, Thomas Liddell, Sir Thomas Riddell, Sir William Selby and Sir Thomas Tempest. They were joined by the Wear valley landowner, Sir William Lambton, whose mines appear to have escaped rating. It should be noted that none of the petitioners was a subsequent parliamentarian. Three, Lambton, Liddell and Riddell became avid royalists. The heirs of Blakiston and Tempest were similarly inclined.

3. PRO: SP 16/354/137.

uncollected.¹ The official response of the civic authorities of Newcastle-upon Tyne was slightly different. Their main concern was the town's own specific liability of £700 which, they claimed, was to be largely subscribed by those whose principal means lay in the counties of Durham and Northumberland and who had been assessed accordingly in those counties. This, it was argued, affected their ability to subscribe to the town's liabilities. An added difficulty was the plague which came to be put forward as the main reason for the town's inability to defray its liabilities.² There was, therefore, no opposition in principle to the imposition of Ship Money on the coal-owners. The Privy Council had attempted to solve the problem arising from the earlier writs by insisting specifically that mining interests in county Durham be included within the scope of the county's assessments despite the connection of most of the prominent mine-owners with the town of Newcastle. The town's own liability had been reduced from £1,100 to £700 under the writ of 1636.³ Bellasis in fact recommended precisely the opposite course of action, arguing that the levies on the counties of Durham and Northumberland should be abated and the mines assessed with Newcastle, a policy which Bellasis knew would be unpopular with his fellow landowners in county Durham who might be faced with higher individual liabilities. He therefore requested that his advice be kept secret for the sake of his local reputation, although his concern proved

1. PRO: SP 16/366/18.

2. CSPD 1637 p. 505; 1637-8 p. 334.

3. PRO: PC 2/46 p. 396; Gordon 'Collection of Ship Money' p. 157.

unnecessary because the government did not act upon it. The sheriff was, in fact, forced reluctantly to take stronger action against the coal-owning defaulters.¹ This was a singularly futile business. The only appropriate way to take suitable action against the defaulters was to distraint their coal, but because of the monopoly which the Hostmen of the port of Newcastle had upon the sale of coal by shipment, Bellasis was unable to attract suitable buyers to realise the value of the goods distrained. Furthermore, Bellasis and his officers lacked the power and resources even to make their distraint physically effective. He was forced to resort to the desperate and unpromising expedient of begging the Privy Council to write to the mayor of Newcastle ordering him not to allow the coal-owners to sell their distrained coal until the assessments were paid.² The coal-owners persisted in treating the shrievalty with the utmost contempt, safe in the knowledge that the Privy Council would be disinclined to take any serious action against them. They simply removed the keels and the coal which they contained from the distraint imposed by Bellasis into the safety of the port of Newcastle where they were safely outside the sheriff's jurisdiction. Bellasis correctly perceived that the only weak link in the opposition was the role of the keelmen. He therefore implored the Privy Council to order the mayor to assist his officers in arresting the keelmen. If there were no keelmen the coal could not be removed from the vulnerable south bank of the Tyne to the safety of

1. PRO: SP 16/366/18.

2. PRO: SP 16/398/18.

Newcastle. However, he was naive to assume that the mayor would willingly have acquiesced in an action so obviously detrimental to the welfare of the town and its leading citizens.¹ As it happened, the mayor was never put to the test. The Council refused to act upon the sheriff's request.² In the face of the powerlessness of Bellasis, it is odd that the coal-owners should have decided to pay up. The sheriff was able to collect the whole of the amount levied under the writ of 1636.³ In contrast, Bellasis was still trying in 1640 to collect money levied upon the coal-owners under the terms of the writ of 1637. No one would or could buy the coal he had distrained.⁴ This was hardly surprising in view both of the difficulties alluded to above and of the depression in which the mining industry was finding itself.⁵

Bellasis's impotence in relation to the coal-owners was matched by a similar inability to exert any authority in Ship Money affairs over the mayor of the city of Durham. Under the terms of the writs of 1635 to 1637 the city was expected to provide £150 per annum in each year, an average of slightly less than one shilling per person.⁶ The process of assessment within the city differed from that which

1. PRO: SP 16/400/117.

2. PRO: SP 16/452/83.

3. Gordon 'Collection of Ship Money' p. 157.

4. PRO: SP 16/449/23.

5. On the depression in the mining industry see, for example, PRO: SP 16/408/57.

6. Miss Gordon appears to have been incorrect in suggesting that only £100 was levied on the city in 1635. 'Collection of Ship Money' p. 157. Cf. DCL: Hunter MS 22/12. On the population of Durham City see above p. 41.

operated in the rest of the county. The mayor and aldermen were issued the writs direct from the Crown, not through the sheriff.¹ The mayor himself was responsible for the distribution of assessments within the city, and the sheriff had no authority for interfering with them. However, the principal weakness of the sheriff's position was that, despite his lack of authority in ratings, he had the actual accounting responsibility. This would not have been significant if an individual mayor fulfilled his task conscientiously. No criticism appears to have been directed at Ralph Allanson, mayor of the city for one year from October 1635, in this respect. His task was, however, comparatively easy, given the size of the assessment with which he had to cope; under the previous writ £223 was extracted from the city and suburbs.² Allanson, who was closely connected by marriage with some of the county's leading ecclesiastical dignitaries, appears to have approached his task with assiduity. The collection of £203 9s. 8d. was authorised, the largest contributions to which were to be extracted from the borough of Elvet, a residential area to the north-east of the city across the river from the peninsula, and the parish of St. Nicholas, the hub of what passed for the city's commercial and corporate life. These were to provide subscriptions respectively of over £42 and over £45. In contrast, the smart residential areas around the North and South Bailey which housed the most influential members of the county's professional elite were expected to provide only £24 13s.

1. DCL: Hunter MS 22/12.

2. DCL: Hunter MS 22/11.

between them, 12.1 per cent of the city's total levy. Despite, or perhaps because of this under-assessment of the Baileys, no significant complaints were directed against Allanson.¹ His successor, John Heighington, who served for two years from October 1636, was less successful in avoiding criticism of his actions over Ship Money.² He succeeded in invoking the wrath of both Bishop Morton and Sir William Bellasis. The former complained bitterly to the Privy Council. The mayor was supposed to rate for the service men who had "gainfull trades, great stockes of money" or substantial personal estates.³ Morton interpreted this as an instruction to assess the citizens with an equality, or presumably equity, so that the service was not disgraced or the poor oppressed with possibly detrimental effects on public order. However, Heighington had made a disproportionate cess which had fallen heavily on those least able to bear the burden. Morton was anxious to stress that this was not the consequence of the imposition of Ship Money, merely of Heighington's inequitable interpretation of his instructions. He had failed to follow the agreed procedure of resting his assessments on the evidence provided by the constables who would have reported on the basis of advice proffered by "the most discreet & sufficient men" of the parish. This neglect had, according to Morton,

1. DCL: Hunter MS 22/6. The total assessment given in the text of the document is incorrect.
2. Heighington's conduct of other financial responsibilities as mayor also gave rise to considerable disquiet.
3. DCL: Hunter MS 22/12.

caused the greatest clamour he had heard of, an exaggerated interpretation in view of the lack of supportive evidence of unduly widespread urban discontent. The bishop was nevertheless correct in arguing for the adoption of measures to prevent the outbreak of serious trouble. His proposed solution was, however, almost as likely to provoke discontent as the inequity it was designed to extirpate. Although much of the assessment had been collected, Morton argued that a completely new cess be made according to the instructions he had outlined.¹ In 1640 Bellasis, annoyed at being called upon to supply the whole of the deficit from 1637, complained that at least £100 of the £430 owed had been the responsibility of Heighington. The mayor, he argued, should be compelled to account for the deficit, a plea which met with no success. Heighington's immunity from any action designed to force him to discharge his Ship Money responsibilities clearly indicates a fundamental weakness in the ordering of the service.

A more successful financial expedient employed to raise Ship Money was the rating of Church property. When first envisaged, this policy had been regarded with scorn by Bishop Morton.² Nevertheless, it soon came to be regarded as an essential part of the policy. The process of rating was the same as that adopted for the rating of those individuals who had been assessed on the alleged value of their personal estates. It ensured not only that wealthy vicars and rectors should contribute, but also that the

1. PRO: SP 16/385/22.

2. DUL: Mickleton & Spearman MS 2 f. 431.

owners of impropriations should be assessed. Furthermore, clergymen whose livings were small were to be taxed on their personal estates if those were large enough to justify such an action.¹ This policy had been introduced under the terms of the 1635 writ. In January 1636 the high constables presented the annual value of rectories, vicarages and impropriations which was used as the basis for ratings. These were expected to subscribe approximately 9.5 per cent of the £1,850 levied upon the county, excluding Durham City. £78 of the £176 was to be supplied by the incumbents of 25 rectories, the largest contributions being those of the rector of Sedgefield, £9, and the rectors of Easington and Houghton-le-Spring, each £7. In contrast, the rector of Edmondbyers was to pay 7s. 6d. The county's vicars were expected to subscribe £24. Nearly £41 was to be raised from the proceeds of the great tithes of their parishes. There was no significant correlation between presented annual values and rating assessments, although most assessments were in the region of $2\frac{1}{4}\%$ of the estimated annual value.² In the following year the amount demanded from the rectors had been reduced to £71 10s., perhaps as a result of Bellasis's awareness of Bishop Morton's feelings on the matter. No fewer than fourteen rectors had their liabilities reduced. The poorest of the county's rectors, the incumbent of Edmondbyers, had his assessment increased, even though there had been no change in the presented annual value of his living. All of the other increases involved parishes in the south-east

1. DCL: Hunter MS 22/15.

2. DCL: Hunter MS 22/4.

of the county in Stockton Ward, four of them being the result of the efforts of John Burdon, a high constable whose attitude to the service was subsequently to incur the wrath of the sheriff. Four of the seven increases were in parishes where the estimates of annual value had been raised. Similarly, the contributions demanded from other sections of the Durham church were generally lower, although there were a small number of increases. The overall decrease, from 9.5 per cent to 8.4 per cent of the total which Bellasis was responsible for assessing, was, however, hardly significant enough to assuage Morton's wounded feelings.¹

The writ of 1637 was the first which Bellasis proved unable to satisfy in its entirety. Much of the responsibility for this lay with the civic authorities in Durham who failed to supply more than a third of the city's assessment. In the rest of the county Bellasis was able to collect over 82 per cent of the outstanding amount, a creditable performance in comparison with the shortfall in neighbouring Northumberland of 42.9 per cent.² None of the 1638 assessment of £700 passed through the Exchequer, possibly for reasons alluded to above.³ By 1639, however, Bellasis had managed to maintain

1. DCL: Hunter MS 22/17.

2. Gordon 'Collection of Ship Money' p. 157.

3. See above p. 317.

Although there is no evidence of government concern at the situation in county Durham, there is at least a possibility that the county's taxpayers may have acted upon the impetus which may have developed from the judgment of the area's most influential jurist, Sir Richard Hutton, in the Hampden case. The judgment of the Chancellor of the County Palatine "gravely damaged the king's case in the eyes of the public". C.S.F. Russell The Crisis of Parliaments: English History, 1509-1660 (Oxford, 1971) p. 322.

the effectiveness of Ship Money machinery in county Durham. Durham did not join the national 'tax strike'. In the nation as a whole, 79.3 per cent of the entire assessment remained uncollected. Yet in Durham 78 per cent of the assessment of £2,000 was collected, the whole of the revenue being directed eventually to the needs of border defence.¹

In such circumstances it is necessary to examine why the tax should have been so successful in county Durham when the level of its collection in most of the country was, from the government's point of view, so disastrous. Much of the responsibility for its success must be attributed to the efforts of the sheriff. No other sheriff was faced with the responsibility of the collection of Ship Money for each year of its existence. Furthermore, Bellasis combined the shrievalty with a deputy lieutenancy, an office which he had to exercise when the county was under direct military threat. He could not have foreseen the additional responsibilities when he agreed, after some hesitation, to accept the shrievalty in 1625. His sense of duty, reflected in his earlier assiduity as a justice of the peace,² was such that he does not appear to have attempted to relinquish the office despite his implicit misgivings about the policy which he

1. The total due nationally from the writ of 1639 was £210,400 on which the deficit was £166,983 4s. 11d. In Durham £1,560 out of the total demand of £2,000 was raised. Gordon 'Collection of Ship Money' p. 157. The £1,560 raised was ordered to be directed towards the payment of the garrison at Berwick in June 1640. CSPD 1640 p. 368.

2. Between 1617 and 1625 he attended 29 out of a possible 38 quarter sessions. DRO: QS/OB/1 passim.

was expected to enforce.¹ The office was costly to him both in the financial sense and in the time which he was forced to devote to it. He also had to suffer the rebukes of an ungrateful government, and there seems little doubt that the combination of his various responsibilities hastened his death in 1641.² Bellasis was conscious, however, of the weakness of his own position. He was acute enough to recognise that if he was perceived merely as the willing tool of government policy his influence in the county would have been destroyed. He therefore had to be seen to maintain at least a quasi-independent standpoint and to offer the county's taxpayers some suitable justification for their contributions. He fulfilled the latter by stressing that a favourable reaction to Ship Money demands would be more conducive to governmental acceptance of the persistent demand for parliamentary representation than outright opposition.³ This was not merely shrewd subterfuge. Bellasis had been a supporter of the move to secure parliamentary representation in 1620 and 1621 when his name appeared among the county's petitioners. Along with Sir William Darcy he had been entreated to solicit the business by the gentlemen and freeholders of the county, and his desire in this respect was

1. See, for example, his comments to Secretary Windebank in March 1640 that Durham was considered locally to be the first in all charges, most of them higher than elsewhere. Whether or not this was true, and there is every reason to believe that it was not, is not important. What was more important was that this was felt to be so. PRO: SP 16/449/23. On his essential fair-mindedness see, for example, PRO: SP 16/347/59.
2. DCL: Hunter MS 22/17; PRO: SP 16/400/117; 16/450/34.
3. PRO: SP 16/449/23.

firmly in accord with the wishes of Bishop Morton.¹ The former was exemplified by his reluctance to take punitive action against his former business colleague and Ship Money opponent George Lilburne, much to the disgust of the egregious and zealous self-appointed local defender of the interests of church and state, Thomas Triplet.²

Bellasis was aided by the inability of the opponents of Ship Money in county Durham to obtain legal redress. They did not attempt to pursue their cases in the Court of Exchequer, the only court qualified to pass judgment on the principle of the matter. Instead, they sought redress in the local courts, both in equity and at common law in respectively the courts of the Council of the North at York and the Court of Pleas at Durham. The records of these courts have not survived. Therefore it is impossible to discern exactly the nature of the actions undertaken. However, it is reasonable to assume that the substance of the cases referred to technical aspects of the local administration of the tax. In a letter, concerned with refusals to pay the assessments levied presumably under the writ of 1637, Bellasis reported that those opponents of Ship Money who had proffered suits before the equitable jurisdiction of the Council of the North had gained nothing thereby saving the delay. At Durham Judge Berkeley had wrought "soe good effect" that Bellasis hoped many defaulters would pay up.³ His hopes were largely realised.

1. R. Surtees Durham iv (part two) p. 158; PRO: SP 16/449/23; DUL: Mickleton & Spearman MS 9 (part one) p. 266.

2. PRO: SP 16/444/29.

3. PRO: SP 16/398/18.

The fragmentary nature of the opposition to Ship Money in county Durham also aided Bellasis. Widespread opposition in Durham city was confined to the mayoralty of John Heighington. The occasional tribulations suffered by Bellasis and his colleagues in remote Islandshire were largely the result of specific local considerations which were not especially applicable to the main bulk of the county.¹ The most prominent defaulters were implacable business rivals, members of the coal-owning fraternities of both Tyneside and Wearside. Opposition to Ship Money among the Tyneside coal-owners can best be seen within the context of the persistent and often successful refusal of Newcastle merchants to fulfil their national tax obligations while not opposing the principle of the imposition of such obligations. On Wearside the situation was rather different. One should not automatically assume that, on the basis of the careers during the 1640 and 1650s of George Lilburne and his more famous nephew, the former necessarily exhibited oppositionist tendencies in the pre-war period had, for example co-operated with Bishop Neile in his campaign to extinguish the local influence of Neile's opponent, John Richardson, a former justice of the peace.² Furthermore, much of the vague and imprecise evidence of George Lilburne's opposition to Ship Money can be found in his own justification of his actions, formulated to refute a case brought against him by

1. CSPD 1636-7 p. 453; 1640 p. 297. Under the assessments made to supply the money demanded under the writ of 1635 the three detached parts of county Durham situated geographically in Northumberland, Northhamshire, Islandshire and Bedlingtonshire, were expected to subscribe respectively £55, £65 and £20. DCL: Hunter MS 22/4.

2. DPD/SR: CC 220750.

the Durham county committee. As this was an attempt to frame him, some exaggeration of his role as an early opponent of Ship Money was pardonable. In 1651 he claimed to have been "deeply engaged against the tyrannical power of the late King in point of ship-money, suffered much and was several times in prison". On that occasion he did not mention, as he had done in the previous year, that he had been imprisoned twice and that his opposition to religious innovations was considered more heinous by the authorities.¹ Bellasis did not concern himself unduly with Lilburne's opposition to Ship Money. Indeed, were it not for the outpourings of Triplet whose attitude to Lilburne verged on the paranoid, we would have had no local corroboration of such opposition. Significantly, there is no evidence of Bellasis having attempted to distrain Lilburne's goods until June 1640.²

What appears to have been Bellasis's greatest cause for local concern was the role of the high constables in the collection of Ship Money. In county Durham proper collection was organised not on the lines of the traditional bureaucratic machinery of the shrievalty but upon the assessment of the extent of personal estates estimated by each high constable in his division. Each was also responsible for

1. SS 111 pp. 275-80; PRO: SP 16/447/87. In Durham there was no rigid correlation between opposition to Ship Money and religious tendencies. Few religious viewpoints were unrepresented among the Tyneside coal-owners who opposed the tax. Among the principle families in Islandshire were the Roman Catholic Haggerstons of Haggerston. It is not possible, because of lack of evidence, to attempt a thorough examination of the relationship, if any, between religious affiliations and attitudes to non-parliamentary taxation.

2. PRO: SP 16/444/29; 16/447/27.

collection within his own division. The weakness of this organisation was that the high constables were responsible essentially not to the sheriff but to the justices of the peace, by whom they were appointed and for whom most of their tasks were performed.¹ Thus, when John Burdon, one of the high constables of Stockton Ward, failed to appear to pay in money he had collected Bellasis was forced to seek redress by sending him up to appear before the Privy Council. On that occasion the cumbersome threat sufficed, for Burdon was responsible for collection under the 1636 writ which was eventually subscribed in its entirety.² Burdon was not the only high constable to fail to discharge his duties satisfactorily from the government's point of view. In October 1638, under pressure from the Privy Council which had rebuked him for his backwardness in collection of the money levied under the 1637 writ, Bellasis complained that the high constables had not performed their collecting duties satisfactorily.³ In May 1640 he had once more to threaten to bind the high constables to appear before the Privy Council for their continued failure to collect money due under the 1637 writ. Rather than carrying out the threat he wrote to Sir Edward Nicholas seeking his advice on how to deal with the problem, largely because he recognised the difficulties faced by the high constables. They could not realistically hope to collect Ship Money from members of the trained bands who had twice recently been forced to serve

1. See below pp. 419-11

2. PRO: SP 16/362/8; 16/366/18.

3. PRO: SP 16/400/117.

outside the county. Furthermore, some of those assessed in 1637 had died by 1640.¹ Such weaknesses did not, however, fundamentally affect the utility of Ship Money as a fiscal expedient in county Durham.²

In view both of the difficulties inherent in the collection of all exactions in early modern England in general and county Durham in particular³ and of the national unpopularity specifically attached to Ship Money itself, the comparative success of the expedient in Durham reflects great credit on the sheriff. It also leads one to infer that the seemingly obsolete structure of local government in the county palatine remained competent to deal with the unusual pressures placed upon it, provided that its administrative personnel was of sufficient ability. In Durham the local appointment of a respected local figure on a permanent basis ensured administrative continuity, and, paradoxically, a greater likelihood of the achievement of governmental aims which Bellasis largely secured without damage to his reputation and prestige. The lesson was, however, lost upon a government fundamentally attracted to a policy of more rigid centralization.

1. PRO: SP 16/452/83.
2. Cf. for example, the subsidy of 1624, the produce of which in county Durham amounted merely to £286 17s. 8d. PRO: E 179/106/14. Ship Money contributions paled into insignificance when set against the exactions demanded by the Scots during their period of occupation.
3. See, for example, the comment of Bishop Morton that he "would be glad to give soe many pounds (of his rental) for many pence". He claimed that most arrearages in Durham were "impossible to to [sic] be gott." DUL: Mickleton & Spearman MS 2 f. 440. In 1612, for example, the collectors of the aid for the marriage of Princess Elizabeth had been able to raise only 73 per cent of the amount demanded from the county. PRO: E 179/106/13.

CHAPTER SEVEN

THE JUSTICES OF THE PEACE

"It is ordered by his Majesty's justices abovementioned that Richard Stele of Piercebridge & William Dixon of Ramsha, appointed the last sessions to be two of the high constables in Darnton Warde, and Thomas Arrowsmith of Gateside, appointed then one of the high constables in Chester Warde, for divers materiall reasons made knowne unto his Majesty's justices wherewith they were satisfied, shalbe discharged of taking upon them the execucon of the said office, and that warrant shalbe awarded to the sheriff to sumon Raphe Cole in the place of Thomas Arrowsmith, Peter Carter of Pearcebrigg in the place of Richard Stele and William Blackett the younger of Woodcroft in the place of William Dixon, to appeare before his Majesty's justices at Durham the xxvii th of July instant to take their oath for the execucon of the said office."

(DRO: QS/OB/1 p. 138, July 11th, 1621).

"They shall take skilfull workemen with them to view and consider of the decayes therof & to certifiye the same within a fortnight, and if the bridge doe appeare to be a contrey bridge, then the repare therof to be made presently against the charge of the contrey, if a parish bridge at the charge of the parish."

(Ibid. p. 326, July 9th, 1628).

Historians are invariably the prisoners of the evidence which they have at their disposal. In no aspect of the history of county Durham in the sixteenth and seventeenth centuries is this limitation more apparent than in a consideration of the county's magistracy. The evidence for the latter part of the chosen period is ample: there is a complete series of the order books of the county's quarter sessions from 1616 to 1644, while abundant files of indictments, though with lacunae, are extant from the 1590s. On the other hand, evidence for the earlier part of the period is restricted to occasional gleanings from the public records which by their nature often tend to emphasise the unusual and the untypical. Consequently, any conclusions drawn from evidence relating to the earlier history of the Durham magistracy in this period are put forward tentatively. In this chapter I shall be concerned initially with an examination of the nature of the office of justice of the peace in county Durham and of those who filled it. This will be followed by an examination of the relationship between the Durham justices of the peace and the other officers with whose jurisdictions they came into contact.

Despite the peculiarities of the administrative system of county Durham the nature of the office of justice of the peace in the county did not differ significantly from that elsewhere in the realm, although within the standard administrative framework the Durham J.Ps., like all magistrates, evolved their own modes of practice in response to local requirements. The fundamental concern of the justices of

the peace was the local enforcement of their statutory powers. In the typical manner of early modern government this involved the exercise of both judicial and administrative authority which were, as usual, inextricably intertwined and which could be exercised both within and without the general sessions of the peace held quarterly in the sessions hall in Durham City. The trial and punishment of the more heinous felonies were usually reserved for higher authority. This still left much criminal work for the justices to deal with. Their most common criminal responsibilities concerned the numerous cases of larceny, both of the grand and petty variety, the riots and affrays which were considered such an affront to the good ordering of society and the rudimentary enforcement of the existing economic and social legislation, the efficacy of which enforcement was often determined by the effectiveness of the dubious activities of paid informers whom the justices tended to regard with some distaste. They were intermittently concerned with the control of Roman Catholic recusancy. Furthermore, the justices attempted with varying degrees of success to supervise the activities of their subordinate officials without whose effective co-operation good order could not be maintained and the financial obligations of the county could not be discharged.

Commissions of the peace for county Durham were issued regularly during the period under consideration. The responsibility for the appointment of J.Ps. lay with the lord keeper who was enjoined to nominate suitable men owning lands to the value of £20 per annum, though "for want of sufficient men having lands of that value, learned in the Law,

and of good governaunce" he had the discretion to put into the commission "other discrete persons learned in the Lawe, though they had not landes to that value".¹ Though the lord keeper possessed the power of nomination, his actual influence in this matter must necessarily have been circumscribed. Obviously, his knowledge of and influence in respective shires varied, and in the absence of direct connections reliable information was likely to be particularly slender with regard to the more remote counties. In such circumstances, the lord keeper became particularly susceptible to the pressures exerted by fellow members of the government who sought to bolster their own positions at court by ensuring that their own nominees were safely promoted to positions of responsibility in the provinces. Influence over county Durham appointments might be additionally exerted by those officers who, at any rate initially, could be considered to stand apart from local factional disputes. Presidents of the Council of the North such as Huntingdon and Wentworth and marcher wardens such as Hunsdon came into this category as also did such bishops with wider influence as Tobias Matthew and Richard Neile. However, it should be stressed that the bishops themselves after 1536 had no power to appoint Durham J.Ps., although this does not necessarily presuppose that episcopal opinion was disregarded. Nevertheless, in view of the misconceptions which still pervade some writings on this matter, the exact position embodied in the act of 1536 should be emphasised. Justices could be created only by letters patent under the Great Seal.

1. W. Lambarde Eirenarcha: or of the Office of Justices of Peace (London, 1581) p. 31.

The powers of justices in the palatine liberties were to be the same as those enjoyed elsewhere. The only judicial privilege enjoyed by the bishop was the guarantee, along with his temporal chancellor, of a place on the county bench.¹ There were several examples of magisterial office exercised by men who were clearly regarded with disfavour by the bishops. Robert Tailboys continued to serve as a justice under commissions issued after his vituperative attack on Bishop Matthew in 1596.² John Richardson, a persistent opponent of Bishop Neile, appears to have returned to active work as a J.P. in January 1627.³ Sir Henry Anderson, whose apparent distaste for Bishop James appears to have stemmed from the latter's period as dean, served throughout his episcopate.⁴

The size of the commissions of the peace for county Durham varied according to a pattern which has by now become familiar. The working part of the bench was small at the outset of the reign of Queen Elizabeth, there was a substantial increase in numbers as that reign progressed and this trend continued markedly during the Jacobean era. However, greater

1. SR iii pp. 555-8. Cf. K. Emsley & C.M. Fraser 'The Justices of the Peace for the County Palatine of Durham and Sadberge' Justice of the Peace and Local Government Review cxxxv (1971) I p. 84.

2. PRO: C 66/1468; C 181/1 pp. 42-3, 111.

3. DRO: QS/OB/1 p. 276. Richardson had been on the way to a return to favour in the previous winter by the useful expedient of developing a close link with the lord keeper's secretary. DUL: Mickleton & Spearman MS 2 f. 385.

4. Cosin had claimed that Anderson hated Bishop James, but the feeling may not have been mutual. Cosin, in addition, could have had no personal knowledge of the matter. For Anderson's grievance against the Dean and Chapter see HMC: Salisbury xviii p. 141.

numbers did not necessarily denote greater efficiency and there was an attempt in 1625 to reduce the bloated size of the commission, although this proved ultimately unsuccessful. Over the whole of the period under consideration the working part of the bench more than doubled its size. The first commission issued immediately after the accession of Queen Elizabeth shows signs of haste in its compilation as well as governmental ignorance of conditions in Durham. This was perhaps understandable. The previous commission had expired with the death of Queen Mary. Therefore some haste in issuing a new commission in the name of Queen Elizabeth was necessary. From the point of view of the new administration, this commission was unsatisfactory. As legally required it included the Catholic bishop Tunstall. In accordance with recent practice it included the Catholic dean, Thomas Robertson. One nominated justice, Richard Bowes, appears already to have died. Four others, including the aged Tunstall who was soon to be deprived for refusing to take the oath of supremacy, died within a year of the issue of this commission. Despite the troubles of Bishop Tunstall, conservative adherents of the old religion dominated the commission which contained also a nucleus of members of the ancient gentry families of the county whose subsequent representation on the county's commissions of the peace was rather more spasmodic.¹

1. BL: Lansdowne MS 1218. Among the nominated J.Ps. was the prominent Yorkshire conservative and future rebel, Richard Norton. He was one of four Yorkshire gentlemen named in the commission. Among his fellow J.Ps. were the future

A sede vacante list of 21 Durham J.Ps., sixteen of whom can fairly be described as regularly resident within the county and thus as potentially active magistrates, was issued shortly afterwards. The only differences with the previous commission were the absence of the clerics Tunstall and Robertson and the inclusion of Sir Ralph Hedworth of Harraton who may have been omitted from the earlier commission in error.¹ The commission upon which this list of justices was based was soon rendered inadequate by the deaths of several of the magistrates. However, the commission eventually issued to replace it did not meet with the approval of Robert Meynell, the conservative lawyer who immediately prior to the episcopate of Pilkington was the most influential member of the local magistracy. He complained of the omission whether deliberate or accidental, of four prominent conservatives, William Brackenbury, William Claxton, Richard

rebels Robert Tempest and John Swinburne. Cuthbert Conyers, Richard Hebburn, Gerard Salvin and Thomas Trollope were all members of families which subsequently became involved in the rebellion. Ralph Dalton of Bishop Auckland was a relative of a Catholic prebendary of Durham. Thomas Blakiston of Blakiston and William Claxton of Wynyard were both members of families which embodied the conservative traditions of the old Durham gentry. Claxton never served as a J.P. after the rebellion. No Blakiston was to serve for fifteen years and indeed the most prominent politician from that family was the cleric Marmaduke.

1. PRO: SP 12/2/17. Although this purported to be a list of resident J.Ps., five of the justices, Sir Henry Percy, Richard Bowes, William Bellasis, Richard Norton and Michael Wandisford enjoyed closer links with Yorkshire although the last was an associate of Meynell. Hedworth, omitted from the first commission of the reign, was one of the county's handful of knights and had been appointed justice for gaol delivery in 1559 along with Sir Thomas Hilton, Sir George Conyers, Robert Tempest, Richard Hebburn and Ralph Dalton. CSPD 1547-80 p. 122.

Hebburn and John Swinburne and their apparent replacement by Robert and John Conyers whom he described as "men unknown".¹ It is possible to share Meynell's perturbation at the inclusion of these apparently obscure men. As neither of them appeared in the 1562 commission it may seem reasonable to infer that their naming in the commission stemmed from the carelessness and ignorance of central government. The membership of that commission strongly suggests that the omissions of which Meynell complained had been deliberately intended by the government. Brackenbury had been restored. The others, all Neville associates, were absent along ironically with Meynell himself. Meynell, whose contacts with the government were with the Marquis of Winchester rather than with the newly influential Cecil or Leicester, had been strongly criticised in a series of letters by the new bishop, James Pilkington, who queried both his character and his loyalty.² Despite the loss of Meynell and his associates, conservatives were still represented in the 1562 commission. Gerard Salvin, William Smith and Edward Parkinson, all members of the Neville connection, were named. However, their appearance was more than outweighed by the massive strides which the radicals and their associates had made. In the first indication of what was to become an increasingly common feature of Durham commissions, Pilkington was joined by Dean Skinner and Robert Swift, the chancellor of the diocese, each of whom combined legal experience with holy

1. CSP For. 1559-60 p. 445.

2. CPR 1560-3 pp. 444-5. For Pilkington's criticisms of Meynell see CSPD 1547-80 p. 188; CSP For. 1561-2 p. 225.

orders. Serjeant Fleetwood also appeared in the commission although his effective role as Pilkington's London representative precluded his serving actively as a J.P. Sir George Bowes and his younger brother Robert were the chief gentry supporters of the new régime to appear in the 1562 Durham commission.¹ The religious opinions of some of the justices cannot be accurately determined. It seems reasonable to assume that J.Ps. in this category may have retained a conservative and Catholic affiliation. Such men as John Blakiston and his brother-in-law Francis Bainbridge managed to avoid involvement in the 1569 rebellion.² They may have been among that large group of Elizabethans who, despite external pressures, were able to reconcile Catholic tendencies with loyalty to the Crown.

In 1564 the Privy Council's instruction to bishops to report upon the religious affiliation^{of} J.Ps. within their dioceses enabled Pilkington to comment in extenso on his fellow Durham justices. The legal basis of Pilkington's relationship with the Durham justices differed from that enjoyed by other diocesans. Unfortunately, however, Pilkington's legal and political relationship with the justices did not inspire comments of great perspicacity. It is important not to read events of 1569 back into the circumstances of 1564. Nevertheless, it appears strange that the Earl of Westmorland should have been commended by Pilkington, whereas the bishop's own diocesan chancellor failed to qualify for such an accolade,

1. CPR 1560-3 pp. 444-5.

2. Blakiston's younger brother Marmaduke joined the rebellion. On the other hand, Bainbridge's property was spoiled in the rebellion. BL: Harleian MS 6991 no. 33.

receiving only the neutral assessment that he lived quietly and obeyed the laws. Pilkington in fact appears to have underestimated both the positive commitment and the antipathy towards the Elizabethan regime felt by various justices. Only five J.Ps. in addition to Westmorland received Pilkington's commendation.¹ They were hardly representative of the J.Ps. as a whole. Pilkington was much more sanguine than his Northumberland informants, the Earl of Bedford and Sir John Forster, about the attitude of the bulk of the justices, a category which comprehended such unlikely bedfellows as Robert Swift, William Hilton and Christopher Chaytor on the one hand and the later rebels Tempest and Smith on the other. The same neutral comment was applied to as prominent a Roman Catholic as Gerard Salvin. Edward Parkinson also escaped censure. John Swinburne, one of the most militantly Catholic of the subsequent rebels, had been restored to the bench but even he escaped censure. Pilkington did remark that Swinburne "kept a preist to say him masse butt he has paid his fyne for it", but this reads as much like an excuse as a criticism.² The moderate tone of the entire communication is puzzling, especially given some of Pilkington's earlier strictures on the magistracy, and it was not an accurate reflection of local relationships, for within a year Tempest and Smith

1. The five were the county's other resident peer, Lord Eure, Dean Whittingham, Sir George Bowes who was the county's most influential determinedly Protestant layman, and Pilkington's legal associates, Thomas Calverley and Thomas Layton.

2. 'A Collection of Original Letters from the Bishops to the Privy Council, 1564' ed. M. Bateson Camden Miscellany ix (1895) pp. 66-7.

led the opposition to Pilkington's attempt to levy a rate for the repair of the bridge linking Newcastle and Gateshead.¹

The rebellion left the county's magistracy in a sorry state. Although certain J.Ps. were involved in the post-rebellion suppression of dissidence, they did not do so as justices. Indeed, the use of martial law could be justified by the absence of sufficient justices able to administer matters in the orthodox manner. By the beginning of February 1570 Hunsdon was reporting with characteristic though perhaps pardonable exaggeration that the county was denuded of all gentlemen, the context suggesting that he was equating gentlemen with justices of the peace, save only for William Hilton.² In contrast, Sir George and Robert Bowes did stress the "good towardness" of J.Ps. and gentlemen to advance the government's service, but in the circumstances it was difficult for these intentions to be rendered effective.³ One of the consequences of the rebellion was an immediate decrease in the number of justices. A comparison of the justices serving in 1564 and 1574 is instructive. Three justices, Sir George Conyers, Robert Lawson and Edward Parkinson, died before the rebellion. Westmorland, Tempest, Swinburne and Smith were all in the forefront of the rebellion, while Gerard Salvin, who died shortly afterwards, was implicated. In the latter year there was therefore only a small nucleus of working J.Ps. in the county. There was no widespread purge of conservative

1. PRO: E 134/23-24 Elizabeth/Michaelmas 17.

2. CSP Dom. Add. 1566-79 p. 226.

3. Ibid. p. 229.

justices after the rebellion. Even if that course of action had been felt desirable by the government, the immediate shortage of possible recruits to the bench ensured that the respectable conservatives like Blakiston and Bainbridge kept their places.¹ Among the new justices with conservative associations were John Conyers, John Hedworth and Henry Lawson.² The trend towards greater clerical involvement in the commission was reinforced by the appointment of the bishop's younger brother, Leonard Pilkington, rector of Whitburn and prebendary of Durham. Despite the small number of suitable candidates for the commission, the government was circumspect in its appointments. There had been no immediate place on the bench for the new lord of Kesper, John Heath, though he was promoted to the bench during the year in question.³

The number of working J.Ps. named in this commission was small. If one excludes the two national dignitaries, the assize judges, the vice-president of the Council of the North, the Durham landowner Lord Eure who was by this time principally resident in Yorkshire and Pilkington's London agent William Fleetwood, one is left with a working bench of

1. BL: Egerton MS 2345 f. 59.

2. Conyers was temporarily detached from the conservative background of his family by his marriage to a daughter of Sir George Bowes. R. Surtees Durham iii p. 248. His children had extensive recusant connections. See, for example, PRO: SP 14/75/1 i; 14/88/94. The will of John Hedworth's step-mother revealed extensive Neville connections. Hedworth himself ensured that his half-brothers were catered for in his extensive entail. R. Surtees Durham ii pp. 184-5. Lawson was connected by marriage with such rebels as the Swinhoes and Ralph Conyers of Layton. Ibid. iii p. 264.

3. PRO: SP 12/96 p. 132.

sixteen. This figure included four clergymen, the bishop, dean, diocesan chancellor and Leonard Pilkington, three men whose position derived primarily from their tenure of palatine or episcopal office even though two of them at least were in the process of building up landed estates within the county on the basis of their profits from office, and only nine men who can be considered primarily as county gentlemen.¹ This was a fair reflection of the state of Durham society in the years following the rebellion. Not only did the rebellion denude the ranks of the gentry, but the slow and piecemeal grants of the lands consequently forfeited to the Crown ensured that the resulting power vacuum was not filled.

The next decade witnessed a substantial rise in the number of Durham justices. The commission of 1583 named forty-three justices.² The size of the commission had thus almost doubled in nine years. Some of this increase can be attributed to the greater participation of the gentry in the commission. The East Anglian outsider John Heath was by this time playing a full role in the county's administrative affairs.³ Some of the recipients of the Crown's post-rebellion generosity were also named. In certain cases this was a pointless exercise. Sir Henry Gate, the new owner of

1. BL: Egerton MS 2345 f. 59. The two officers who had been building up landed estates in the vicinity of Durham were Thomas Calverley and Christopher Chaytor. Thomas Layton's landed connections lay in Yorkshire.
2. BL: Lansdowne MS 737 ff. 178-9.
3. See, for example, PRO: C 3/254/18; DPD/PK: Chapter Act Book, 1578-83 p. 125; DCL: Additional MS (Alehouse and criminal recognizances).

the former Percy estate at Beamish never deserted his Yorkshire property. His interest in Durham seems not to have been profound.¹ On the other hand, George Frevile was destined to play a significant role in the county's affairs.² A long-standing county family once closely connected with the Catholic hierarchy in the locality, the Huttons of Hunwick, was introduced to the commission in the person of Anthony Hutton.³ However, the chief explanation for the substantial increase in the number of justices on the Durham commission must lie with the expanded role enjoyed by the Council of the North during the presidency of the Earl of Huntingdon, and by the response to this offered by Lord Hunsdon and his followers. Six professional members of the Council appeared in the commission.⁴ All were members of the quorum and enjoyed higher places in the commission than all but four of the regularly resident gentry justices. Clearly, the direct influence on Durham affairs of officials, whose conditions of holding office effectively bound them to

1. Gate was a fortunate beneficiary of the events of the rebellion, successfully conveying to the government an impression of much greater activity than was justified by his passive role. For his services he was rewarded inter alia with the Beamish estate and the nearby Tempest possession of Holmside in 1573. CPR 1572-5 p. 84. He was later held responsible, through his non-residence, for the decay of Holmside. PRO: SP 15/28/80; SP 15/32/83 i.
2. Frevile had been Clerk of Ordnance to the Earl of Sussex. He became a long-serving J.P. and also held a number of Crown appointments in the county, most notably at Brancepeth and Raby.
3. Foster Durham Visitation Pedigrees p. 183
4. The six in order of precedence were Lawrence Meeres, Ralph Rokeby, Ranulph Hurleston, Humphrey Purefoy, Lawrence Blundeston and Henry Cheke.

continual residence in York, was limited.¹ Their appearance in the commission was presumably designed to reinforce Huntingdon's position in the county, although the cordiality of the latter's relationship with the leading figures of the bishopric ensured that there was no need to put into effect this implicit threat. A counterpoise was provided by the presence of two of Hunsdon's associates in border administration, Sir Henry Widdrington and Sir John Selby, in the commission. In addition to their factional importance, there was a legitimate justification for their presence there as they were well placed to supplement their border authority with the exercise of the authority of the justice's office in Northamptonshire.

The most significant feature of this commission was its unwieldiness. A comparatively small proportion of the nominated justices could have actively exercised the office in Northamptonshire. The forty-three J.Ps. included two national dignitaries, two regional notables in Huntingdon and Hunsdon, the assize judges, one absentee peer, eight non-resident lawyers, three officials resident in Northumberland, a Yorkshire landowner and a diplomat. The twenty-three remaining justices included five clergymen,² three professional members, the Crown's receiver in the county and fourteen members of the county's gentry, only one of whom enjoyed

1. Meeres and Rokeby had been among the councillors bound to continual attendance in the instructions issued in 1574. CSP Dom. Add. 1566-79 p. 463.

2. The five clergymen were Bishop Barnes, two of his allies, Thomas Burton and Clement Colmore, Dean Matthew and Leonard Pilkington. BL: Lansdowne MS 737 ff. 178-9.

the dignity of knighthood.¹ The size of the working bench approached the inflated proportions more normally associated with the latter years of the reign of James I. Unfortunately, the scattered nature of the evidence precludes an adequate assessment of the quality of the Durham bench during the mid-Elizabethan period. The Privy Council rarely attempted at this time to exercise direct supervision over the Durham justices in the exercise of their duties although they were occasionally prepared to call before them J.Ps. who had erred in other matters.² Direct supervision of the J.Ps. was left to the Council of the North, then at the peak of its short-lived prestige.³ There was no immediate reduction in the phalanx of professional members of the Council of the North serving as Durham J.Ps. following the death of Huntingdon. Six such men were named in the commission of 1597.⁴ Allowing for the persistent absence on ambassadorial duties of Robert Bowes, the number of resident J.Ps. had

1. The paucity of knights in this commission reflected Queen Elizabeth's parsimony in the matter of their creation. Stone Crisis of the Aristocracy pp. 71-4.
2. In 1589, for example, Thomas Calverley was threatened with being forced to appear before the Council for his conduct of a Durham Chancery suit. APC 1589-90 p. 188.
3. The revised instructions to the Council of the North in 1574, as well as giving the Council jurisdiction in matters which also came within the compass of J.Ps. in the counties within the Council's compass, empowered it to call the J.Ps. before it to enquire into the state of the counties, to fine or otherwise punish the J.Ps. or to order them to appear before Star Chamber. CSP Dom. Add. 1566-79 p. 465.
4. The six Council of the North lawyers who owed their place on the commission to their conciliar office were Humphrey Purefoy, Edward Stanhope, William Cardinall, Charles Hales, John Ferne and John Gibson. PRO: C 66/1468.

been reduced slightly to twenty. As an administratively efficient bishop enjoying court favour, Matthew was obviously a key figure. Among the clergymen he was supported by the assiduous and conscientious, if hardly inspired, figure of Dean James and two other clergymen. Lawyers were well represented. Apart from Thomas Calverley, who as Chancellor of the County Palatine enjoyed ex officio membership of the commission, the working bench included the experienced Robert Tailboys, by now under a dark cloud, Henry Dethick, Master of Greatham Hospital, a hard-working newcomer to the bench,¹ and Cuthbert Pepper, Calverley's successor as chancellor. The most exalted gentry member of the commission was George Scrope of Langley, a member of a Yorkshire peerage family. Scrope's influence in Durham long preceded the appointment of Emanuel, Lord Scrope to the presidency of the Council of the North. Unfortunately, Scrope's contribution to the affairs of County Durham has not been particularly well documented, although he appears to have been a conscientious attender at Quarter Sessions. It is not clear whether Scrope shared the religious predilections of his kinsman. Certainly, there is no indication that he was regarded as a potential ally by Catholics in the county. Catholic sympathisers on the commission were by now conspicuous by their absence.² Justices such as Sir William and Robert

1. Dethick, chancellor of the diocese of Carlisle and a former Official to the Dean and Chapter of Durham, was involved, for example, in the apprehension of Robert Holtby in 1611. PRO: SP 14/47/106; DPD/PK: Register 4 f. 21; CSPD 1611-8 p. 54.

2. Lord Scrope consistently showed favour to Catholics during his presidency of the Council of the North. Reid Council in the North pp. 388-9.

Bowes, both nephews of John Knox, John Heath and George Frevile can all be placed in the category of committed Protestant J.Ps.¹ Thomas Hilton, John Fetherstonhaugh, Richard Bellasis and Henry Anderson can probably be placed in this category with reasonable confidence. Among resident gentry J.Ps. only Anthony Hutton may possibly have been sympathetic towards Roman Catholicism. By this late stage of the reign of Elizabeth it can be fairly stated that the ministers of the Crown had at last been able to procure a working bench in Durham which reflected their preoccupations. Slightly more compact than it had been previously, its base among the county's wealthier families remained fairly narrow. The Bowes and Hilton families had been invariably represented in commissions of the peace throughout the reign. Otherwise, the indigenous gentry stock of the county was fairly slenderly represented. If one excludes Robert Tailboys, whose background was as much professional as landed, only four of the justices named in 1597, John Hedworth, Richard Bellasis, Anthony Hutton and John Fetherstonhaugh, really come into this category. The bench was already beginning to display signs of the clerical-legal composition which so enraged certain critics in later decades.²

1. R. Surtees Durham iv (part one) pp. 107, 110. There is no reason to assume that Heath's religious opinions differed significantly from those held by his father who had been responsible for the endowment of the Grammar School at Houghton-le-Spring so closely associated with Bernard Gilpin. Frevile, a deputy lieutenant in the early years of the episcopate of Bishop Neile, married the receptive daughter of a formidably Calvinist matriarch.

2. See below pp. 372-5.

By the end of the reign of Elizabeth, a slight change in the nature of the bench can be discerned. Officials of the Council of the North continued to be represented in force in the commission. There was professional stiffening in the persons of George Lightfoot and John Barnes, legal associates of Lord Eure, and Robert Cooper. Strong clerical representation was maintained with Emanuel Barnes joining and Thomas Burton rejoining the bishop, dean and diocesan chancellor.¹ Following the strengthening in the privileges of the mayor of Durham, it was presumably considered that the ex officio appointment of the mayor to the bench was now appropriate. However, the most significant development in membership of the commission was the broadening of the gentry membership. Admittedly the Bowes influence, with three justices, remained strong, but this increase reflected the dispersal and eventually fragmentary decline of family interests rather than any increase in influence. There were several gentry additions to the bench of varying significance. Thomas Riddell joined Henry Anderson in the representation of Newcastle mercantile interests. Unlike Anderson, Riddell had strong Roman Catholic connections, and in this sense his appointment may have represented a considerable break with recent traditions.² Thomas Millot of White Hill near Chester-le-Street, a rather inactive J.P. with Roman Catholic

1. PRO: C 181/1 pp. 42-3. On Lightfoot see Watts Northumberland p. 115. Barnes was a son of Bishop Barnes, and was held in high regard by Bishop James. HMC: Salisbury xxi p. 140.

2. Riddell's wife was a recusant and he himself was alleged to have abetted her recusancy. PRO: SP 14/75/1 i; SP 14/88/94.

connections for nearly twenty years until his death in 1620, was a somewhat anomalous choice.¹ There was no recent tradition of service in the family whose connection with White Hill went back at least as far as the time of Bishop Hatfield.² Millot appears to have become a J.P. quite late in life and was not followed on to the bench by his grandson. The eccentric Robert Brandling, representing mercantile interests opposed to those of the inner group of Newcastle Hostmen, was also appointed. Though he reached the bench at the relatively early age of 27, he was not destined to play a lengthy role in Durham affairs. He retained his landed and economic interests on the south bank of the Tyne, but he became more concerned with his Northumbrian properties and was elected M.P. for Morpeth. He was dropped from the Durham commission after about seven years of service, but he was later to exert an incidental influence on county affairs with his appointment to membership of the Commons' committee set up to consider the arguments concerning the proposed granting of parliamentary representation to the county. He twice served as sheriff of his adopted county, but he was never a justice of the peace there.³ The other new gentry

1. His grandson and heir married the daughter of a recusant neighbour, Sir William Wray of Beamish. R. Surtees Durham ii p. 153. The couple's names appear on a recusant schedule compiled by Bishop James in 1613. PRO: SP 14/75/1 i. See also R. Surtees Durham ii p. 146.

2. Ibid. p. 153.

3. Evidence of Brandling's landed and business interests on the south bank of the Tyne are given in R. Surtees Durham ii p. 86 and PRO: SP 14/120/79. In 1621 he served on a committee considering parliamentary representation for Durham which also included Sir Henry Anderson, Sir Thomas Riddell and Sir Henry Widdrington. CJ i p. 539. On his career in Northumberland see Watts Northumberland pp. 61, 64; CSPD 1629-31 pp. 394, 482; SS 34 pp. 53-68.

appointments to the commission were more straightforward. Henry Tonge of Denton and Charles Wren of Binchester were both middling squires whose political fortunes had advanced in response to the destruction of Neville influence in their areas.¹

The first year of the reign of King James witnessed no significant alterations in the names of the working J.Ps. in Durham. Charles Wren was dropped although he was to return to the bench within a short time.² In addition, the prominent Roman Catholic Sir Bertram Bulmer served in this year, although his appointment was merely an aberration and did not betoken a significant improvement in the lot of Roman Catholics despite the fear of some of the more earnest Protestants of the period of a Catholic revival under the supposedly benevolent auspices of the son of Mary Queen of Scots.³ The reasons for the reduction by six in the size of the following year's commission had comparatively little to do with the affairs of the county. The errant Robert Tailboys had died in prison. Bulmer's magisterial influence was short-lived. Eight justices were removed from the non-working part of the bench. One of the assize judges was replaced. The Careys withdrew from border administration and political activity in Northumberland. Accordingly, there

1. For details of the Tonge and Wren families see below pp. 606-7, 638, 647-8, 662.

2. PRO: C 181/1 p. 111. Wren had been restored by 1606.
PRO: C 181/2 f. 16.

3. PRO: C 181/1 p. 111. On King James's early attitude to Roman Catholics see D.H. Willson King James VI and I (London, 1956) pp. 217-8. On the attempt by Roman Catholics to secure a measure of toleration see J. Bossy The English Catholic Community, 1570-1850 (London, 1976) p. 38.

was no need for their membership of the Durham bench to continue. Sir William Selby was sheriff of Northumberland in that year and was thus in no position to exercise his commission in North Durham. There was a thinning in the number of legal members of the Council of the North represented on the commission.¹ The two new members were an assize judge making his first appearance on the northern circuit and, more significantly, Lord Home, the chief enforcer of royal policy in the far north in the early years of the king's reign.²

The reduction in the size of the bench which was evident in 1604 was not to prove typical of the new reign as a whole. The general tendency throughout the country was for commissions of the peace to expand and only in 1617 and 1618 was the Durham commission temporarily reduced to under forty members.³ By 1606 the numbers were again rising although most of the new justices came into such non-active categories as legal members of the Council of the North and Northumbrian gentlemen. The clergy provided two additional members. The new archdeacon of Durham, William Morton, had been appointed, and from 1606 until the outbreak of the Civil War the archdeacon of Durham invariably received the commission, thus strengthening significantly the clerical influence on the bench. Henry Ewbank, a prebendary of Durham

1. PRO: C 181/1 p. 183; Watts Northumberland pp. 134-5.

2. On Home's influence on northern affairs see Watts Northumberland pp. 138-9, 152-6.

3. PRO: C 66/2147; C 181/2 ff. 317-8.

and former chaplain to the new Archbishop of York, Tobias Matthew, was not only made a justice but was included in the quorum.¹ Clerical influence was increased in the following year. Apart from changes to the northern circuit's assize judge, the only alteration in the composition of the commission of the peace in 1607 from that of the previous year was the replacement of a senior, though impecunious, member of the county's gentry, Sir William Bowes, by a leading member of the local clerical establishment, Francis Bunny.² The following year's commission named forty-eight justices for County Durham, a large number for a county of middling size, although the removal of the supernumer^{ar}ies reveals a bench of more normal proportions. The working bench numbered twenty-eight justices. The bishop was supported by five other clergymen. Three prominent palatinate offices were included although only one, Robert Cooper, was a regularly resident J.P. In addition to Cooper and the Chancellor of the County Palatine, Sir Cuthbert Pepper, the legal profession was represented by his aged predecessor, Thomas Calverley, as well as such familiar figures as Henry Dethick, George Lightfoot and John Barnes. The royal receiver, John Lyons, was a new addition to the bench. He was joined by several new justices from the ranks of the county's gentry. The additions of Sir George Selby, subsequently a long-serving sheriff, and the hard-working John Calverley who thereby joined his father on the bench,

1. Ibid. f. 16.

2. Ibid. f. 44.

were especially significant. Another new J.P., Christopher Place of Dinsdale, became a fairly regular attender at Quarter Sessions. Henry Hilton of Hylton, though a member of a family with a long tradition of service to the county, was of little use as a justice owing to his frequent and increasingly lengthy absences in London and Sussex. By 1614 the numbers on the commission had declined.¹ This decline can be attributed largely to the failure to replace lay justices who had died or who were otherwise ineligible. The number of clerical justices was unaltered although there were changes in personnel. Bishop James's proteges Marmaduke Blakiston and Ferdinand Morecroft replaced Emanuel Barnes who had recently died and Henry Ewbank who was temporarily removed.

With the reduction both in the number of gentry J.Ps. and in the size of the commission of the whole, the proportion of clerical justices was increased. This may have helped to prompt Sir Henry Anderson's attack in the short-lived parliament of 1614 on the clergymen who, he claimed, ruled the county in which he resided. However, the focus of Anderson's attack was much wider than any possible abuses committed in their official capacity by clerical J.Ps.² Such attacks had become more explicit by

1. PRO: C 181/2 ff. 64, 211.

2. CJ i p. 482. According to the report in the Commons' Journal, which represents, of course, only a skeletal rendition of the actual proceedings, the grievances which Anderson specified were the proportion of landed possessions owned by the Church, the great livings which were "left without able teachers" leading directly to a high proportion of recusants, pluralism and the lack of an adequate preaching ministry. Criticism of the clergy as J.Ps. is implied in the phrase "for so

1621. Anderson, as one of Neile's deputy lieutenants, was perhaps understandably more reluctant to participate in an attack on clerical governors, and the initiative in this matter was seized by members without Durham connections. The parliamentary context of the attack was a proposal that clergymen be prohibited from acting as justices of the peace. Proponents of this measure were fortified by the intelligence supplied by Sir Dudley Digges that the Durham commission comprised twelve laymen and thirteen clergymen and their associates.¹ There is one obvious and fundamental difficulty involved in testing the veracity of this allegation. Identifying clergymen is simple. Similarly, it is a reasonably straightforward task identifying those justices who were entirely dependent upon association with the clerical hierarchy within the county for their ability to fulfil the justice's role. However, there remains a minority of justices who, while clearly benefiting from their clerical associations, would have been considered sufficiently well qualified by birth or social position to exercise the office

much take charge of the businesses of the country". Such criticisms were also made more explicitly by Sir John Sammes and Sir George Moore. It is misleading to suggest that this indicates that there was in 1614 a complaint that the clergy and their associates were in a majority on the commission. Cf. Hill Economic Problems of the Church p. 222.

1. Digges's speech was variously reported by the writers of the parliamentary diaries and journals. Sir Thomas Barrington seems to have misunderstood what was said. One anonymous diary referred to "13 of the clergy and their appendants", while another referred to "13 cleargie men, either ministers or officers unto them." Commons' Debates, 1621 ed. Notestein, Relf and Simpson ii p. 334; iii p. 113; v. p. 125.

by even the most conservative of the Crown's social critics. Would Sir Charles Wren, for example, have been defined by Digges as an "appendant" of the clergy?

The tradition of appointing clerical justices of the peace in county Durham was long-standing. Before 1536 the privilege of appointing local J.Ps. lay with the bishop. After 1536, although the bishop lost the privilege of appointment, his membership of the bench was statutorily guaranteed.¹ The bishop did not find himself the sole clerical member of the bench. During the reign of Elizabeth he was invariably joined by the dean and chancellor of the diocese, offices which were usually, though not invariably, held by clergymen.² From 1606 these officials were joined on the bench by the archdeacon. The number of clerical justices rose during the reign of Elizabeth. In 1562 there were three, the bishop, dean and spiritual chancellor. In the last twenty years of the reign the number was more normally five. Furthermore, by 1602 three of the nine justices of the quorum were clergymen while a further two were closely connected with the hierarchy, Thomas Calverley as temporal chancellor and Henry Dethick as chancellor of the diocese of Carlisle, as a former official of the Dean and Chapter and as Master of Greatham Hospital.³ By 1614

1. SR iii pp. 555-8.

2. During Elizabeth's reign one layman, Thomas Wilson, was appointed Dean of Durham. His tenure of the office was short. In contrast, Sir Adam Newton held the deanery for fourteen years during the reign of James I. The three diocesan chancellors to hold office during the reign of Elizabeth, Robert Swift, Thomas Burton and Clement Colmore, were all in orders. Towards the end of our period this tradition was ended with the appointments of laymen William Easdall and Thomas Burwell to the chancellorship.

3. PRO: C 181/1 pp. 42-3.

there had been a slight increase in the number of clerical justices. Only William Morton was not a member of the quorum. Of the members of this commission, twenty-one can fairly be described as regularly resident, and among these there were thirteen members of the quorum. Clerical justices were therefore still in a minority at this time.¹

Matters changed suddenly and substantially during the episcopate of Richard Neile. In 1617 during the vacancy in the see following the death of Bishop James the clerical justices on the Durham bench numbered five.² By the following year the number had jumped to eight. As yet, the doctrinal preoccupations of Neile and his circle may not have been too apparent to the Durham gentry. Outright Arminians were in a minority among the clerical justices in 1618. Colmore, Morton and Ewbank were orthodox old-fashioned episcopalian Calvinists. Cradock, Blakiston and Burgoyne, though they were all apparently to adopt Arminianism, had come to prominence before Neile's translation. Only the newcomer, Daniel Birkhead, appears genuinely to have shared Neile's convictions.³ The commission of 1620, upon which the parliamentary objections to the composition of the Durham bench was presumably based, demonstrated clearly the clerical base which had prompted such criticism. Equally

1. PRO: C 181/2 f. 211.

2. PRO: C 66/2147.

3. PRO: C 181/2 ff. 317-8. There are indications of Birkhead's relationship with members of Neile's circle in SS 52 pp. 21, 30.

clearly, however, it demonstrated that the criticisms had been exaggerated. Excluding national dignitaries and those justices who were not regularly resident in the county, we are left with a working bench of twenty-seven J.Ps. Nine of these were clergymen.¹ The commission also included eight knights who could be considered potentially active. Some of them had church connections in the form of church leaseholds. The possession of such leaseholds should not be taken to imply that the gentlemen concerned were necessarily dependent upon the favour of a church interest. Anderson, for example, had eagerly demonstrated his independence of Bishop James. Sir Timothy Whittingham was the son of a former dean of Durham, but in no sense can his social position be said to have depended upon the favour of a church which, it should be remembered, had conspired to destroy his father's career forty years previously. Sir Talbot Bowes, Sir George Tonge and Sir Ralph Conyers were all independent county gentlemen. They all participated in some degree in the lieutenancy service under Bishop Neile, although this service reflects their social position rather than any degree of subservience to the bishop as an individual or to the church as an institution. It may be possible to tie the other three knights more closely to the church, although it is difficult to see how any of them can legitimately be considered to have been mere "appendants" of the church.

1. PRO: C 181/3 f. 9. The nine clergymen were the bishop himself, the new dean Richard Hunt, diocesan chancellor Cradock, archdeacon Morton and five prebendaries of Durham, Daniel Birkhead, Francis Burgoyne, Marmaduke Blakiston, Henry Ewbank and Ferdinand Morecroft.

Sir Charles Wren's position is perhaps the most arguable. Wren himself came from a fairly humble background, his ancestors having been possessors of Neville leaseholds. Wren appears to have done well out of the break-up of the Neville estate and also advanced in episcopal service as Constable of Durham. As the nominee of Bishop James he had, perhaps rather surprisingly, secured the stewardship of Brancepeth lordship in a three-way struggle with Henry Sanderson, who was closely associated with Archbishop Matthew, and Sir George Frevile. Wren's link with the church was a personal association with Bishop James, and there is no reason to assume that this necessarily involved a continuation of the relationship with Bishop Neile. His son received two appointments from Neile but never became a justice of the peace.¹ Sir John Calverley was the son of a temporal chancellor of Durham. He enjoyed close links with several successive bishops, but his appointment as custos rotulorum during the vacancy in the see in 1617 strongly suggests he enjoyed his local prestige independently of the need to seek ecclesiastical patronage.² Sir William Bellasis, who enjoyed great benefit from his possession of the lease of the episcopal grange at Morton, was subsequently appointed to the county's shrievalty by Bishop Neile. Bellasis clearly enjoyed the bishop's confidence, though it would be inaccurate to describe him merely as an upholder of the

1. On Wren see DUL: Mickleton & Spearman MS 2 f. 21. For the offices enjoyed by Lindley Wren see PRO: SP 16/124/82; DUL: Mickleton & Spearman MS 2 f. 364.

2. PRO: C 66/2147.

episcopal interest, Bellasis was a member of a distinguished family with interests in both Durham and Yorkshire. His appointment in 1614 to the bench at the early age of 21 suggests that his personal prestige preceded episcopal advancement, rather than having been stimulated by such advancement. Among the untitled members of the bench, only Robert Cooper and William Smith, the two leading lawyers of the palatinate, were demonstrably dependants of the church interest. John Richardson, closely associated in the past with Bishop James and in the future with Bishops Howson and Morton, was out of favour with Bishop Neile and certainly could not be associated with any church interest during Neile's episcopate. Indeed, the opposite was the case, for on at least two occasions Richardson attempted to bring national embarrassment to his bishop.¹ Thomas Emerson's place on the bench was a throw-back to the days of influence of his old patron, the Earl of Somerset. Emerson did not attend a meeting of the Quarter Sessions after his patron's fall.² Of the other five gentry members of the commission, two had Roman Catholic connections, one, Ralph Fetherstonhaugh, was peripherally connected with the local

1. Richardson was responsible for the information upon which M.Ps. based their investigation of the allegedly corrupt practices of John Cradock, Commons' Debates, 1621 ed. Notestein, Relf & Simpson iii p. 261. In 1626 his information led to the commencement of an Exchequer suit against the bishop and some of his officers for allegedly detaining some of the temporalities of the see which were gathered during the vacancy. DPD/SR: CC 221341. He also stirred up a suit against Neile and George Lilburne the alleged appropriation of old chantry lands in Sunderland. Ibid. CC 220750.

2. DRO: QS/OB/1. passim.

church hierarchy and the other two had no such connections.¹ It would appear that this cursory examination of the 1620 commission of the peace for county Durham does not substantiate the allegation made in the House of Commons by Sir Dudley Digges. A clerical representation of nine was not only large, it was also unprecedented. With the addition of such definite dependants as Cooper and Smith one reaches a minimum figure of eleven upholders of the clerical interest on the bench. However, the addition of any further justices to this list is clearly problematical. Wren may perhaps be added. The local influence of the other justices did not in the final analysis rest upon their church connections.

The immediate response of the government to the criticisms offered in 1621 was perverse. Sir George Calvert informed the House that "not every parson or viccar should be a justice, but doctors of divinity and some other of the graver sorte".² This did nothing to allay the criticisms of those who were perturbed by the high proportion of clerical justices in Durham, for there could be no gainsaying their eminence. However, circumstances which the government had the means though not apparently the will to control ensured that the proportion of clerical justices actually rose in 1621. The number of clerical justices remained unchanged

1. The Fetherstonhaughs had traditionally been the bishop's bailiffs of Stanhope. James Family, Lineage and Civil Society p. 164 n3. More importantly Fetherstonhaugh became a deputy lieutenant. DUL: Mickleton & Spearman MS 2 ff. 338-9. He appointed the two local rectors, Ferdinand Morecroft of Stanhope and Anthony Maxton of Wolsingham, as the supervisors of his will. SS 142 p. 271.

2. Commons' Debates, 1621 ed. Notestein, Relf & Simpson iv p. 283.

although there was one change in personnel, the new Arminian archdeacon of Durham, Gabriel Clarke, a man firmly within Neile's own inner circle of divines, replacing his late Calvinist predecessor. The proportion of clerical justices had nevertheless increased, for no effort was made to replace two gentry justices who had died, Sir Charles Wren and Thomas Millot, and another justice, John Richardson who was presumably removed at the behest of Neile.¹ Furthermore, six of the thirteen resident justices of the quorum were clergymen.² By 1625 there had been a further reduction in the number of resident gentry J.Ps., although as two of the three to have gone were the inactive Thomas Emerson and the palatinate lawyer Robert Cooper these changes may not have been particularly significant.³ After Neile's translation to Winchester the degree of clerical influence on the commission of the peace declined. In 1630 seven clergymen appeared on the commission, but the influence of two of these, Dean Hunt and Augustine Lindsell, was circumscribed by the frequency of their absences.⁴ William Easdall, not himself

1. PRO: C 181/3 f. 36.

2. The six were Bishop Neile, Dean Hunt, John Cradock, Daniel Birkhead, Francis Burgoyne and Ferdinand Morecroft. Ibid. There seems to be no obvious reason why the last three of these should have been favoured with quorum places while Blakiston, Clarke and Ewbank were not.

3. Mr. James has exaggerated slightly the clerical influence in the 1625 commission by claiming that clergymen filled nine of the fifteen places on the quorum. James Family, Lineage and Civil Society p. 163. The twelve quorum places were equally divided between clergymen and laymen PRO: C 66/2367. Clerical J.Ps. outnumbered their lay colleagues at three of the sessions in 1626. DRO: QS/OB/1 pp. 251, 259, 268.

4. PRO: C 66/2527.

a clergymen, was, because of his interests outside the diocese, a less assiduous justice in Durham than his predecessor John Cradock.¹ By this time the clergy supplied only four of the twelve resident members of the quorum. Furthermore, there had been a significant infusion of new gentry blood on to the commission. The new gentry recruits represented a variety of interests. Sir Thomas Tempest and Thomas Liddell possessed mercantile as well as landed interests. Two new justices from the south-east of the county were appointed. Both were members of old county families which had not previously been represented in the commission. One, Sir John Conyers, was a thrusting and ambitious new baronet who was to emerge as a leading figure in the county's administration. The other, Christopher Fulthorpe, an assiduous though apparently less assertive justice, was connected by marriage with the defunct Calvinist ecclesiastical establishment in the county.² Echoes of that were also revived by the appointment as a J.P. of Francis James, the son of Bishop James. Neither of these appointments can be interpreted as attempts to revive a system of clientage based upon church connections and dependence. The other new lay justices were the Durham City enemies Hugh Wright and John Richardson. Both had experience of the bench. Richardson had been recalled after several years in the

1. Easdall attended only two sessions in Durham.
DRO: QS/OB/1 p. 351; QS/OB/2 p. 28.

2. He had married a daughter of Clement Colmore, chancellor of the diocese for over thirty years. To complete the connection, Fulthorpe's sister had married Colmore's son Thomas. R. Surtees Durham iii p. 127.

wilderness during the middle part of Neile's episcopate. Wright had served on several occasions as an ex officio justice in his capacity as mayor of Durham.¹

Ironically, in view of the Arminian associations of the majority of the clerical justices in the 1620s, there was an increase once again in their numbers, this time under the aegis of the Calvinist bishop, Thomas Morton. In 1638 nine of the twenty-four resident justices were clergymen. In addition, the commission included the chancellor of the diocese, Thomas Burwell. Nevertheless, the circumstances of the late 1630s were not strictly analogous with those of the early and mid 1620s. Dean Hunt's persistent ill-health had rendered him administratively insignificant. He had not attended a meeting of the Quarter Sessions since 1635.² John Cosin's main interests lay outside the diocese.³ On the other hand, justices such as Anthony Maxton, Joseph Naylor, Ferdinand Morecroft and John Robson, who were essentially local figures and not theologians who aspired to national prominence, attended meetings of Quarter Sessions frequently and presumably were active in other aspects of justices' work without exciting the antipathy which had been extended to some of their predecessors.

1. Richardson returned to the bench following a gap of six years, having spent some of the intervening period cultivating a connection with the Lord Keeper. Wright had been appointed the first mayor of Durham in 1601 and served in that office and as an ex officio on a further three occasions before becoming the first civic dignitary from Durham to be appointed a Durham J.P. in his own right. No other Durham mayor was similarly honoured during our period.
2. PRO: SP 16/405; DRO: QS/OB/2 passim.
3. Cosin had become Master of Peterhouse, Cambridge in 1635. Five years later he was appointed Dean of Peterborough.

The existence of the clerical justices of the peace of county Durham has attracted the attention of several historians. Mr. James's account, while it makes some important points, is marred by several inaccuracies. Most importantly, he has underestimated the significance of the clerical justices in the years before Neile's episcopate. On several occasions, for example, he has underestimated the number of clerics named in particular commissions.¹ His definition, in this and other contexts, of what constitutes the 'church interest' is open to question.² More serious questions must be asked, however, of another piece of recent work on the subject.³ This purports to examine the strength of the clerical justices in the light of the charge made in the House of Commons in 1621. Yet it confusingly confines itself to the discussion of evidence encompassing only the years 1626 to 1630. Unfortunately, this article contains many misjudgments and misunderstandings.⁴ It is necessary

1. There were four, not three, clerical justices on the commissions of 1583 and 1597. BL: Lansdowne MS 737 ff. 178-9; PRO: C 66/1468. Cf. James Family, Lineage and Civil Society p. 163 and n. 4.
2. See below pp. 637-40.
3. K. Emsley & C.M. Fraser 'The Clerical Justices of the Peace in the North-east, 1626-30' AA fifth series ii (1974) pp. 189-99.
4. The nature of the liber pacis and the role of the bishop are misunderstood. The lord lieutenant of Northumberland did not select the justices there. Too much significance is read into Neile's work as a high commissioner, a natural aspect of the role of any diocesan at this time, and in Star Chamber, which followed naturally from his role as a privy councillor. Archbishop Matthew of York featured in the Northumberland commission because this was a statutory requirement framed originally in view of that archbishopric's peculiar jurisdiction in Hexhamshire, not because of his long association with

at this stage to put the role of clerical J.Ps. into perspective. It has been suggested by a commentator whose definition of clerical justices is rather dubious that they constituted some 9% of the total number of J.Ps. in 1608 rising to 23% in 1626.¹ If one accepts the approximate validity of this figure in national terms, then it is obvious that the proportion of clerical J.Ps. in Durham, sometimes over one third of the working bench and one fifth of the commission as a whole, was substantial. Nevertheless, it would be unwise merely to cite this as evidence of gross insensitivity on the part of the government to local feelings. It could be argued, for example, that the balance between lay and clerical justices in Durham fairly reflected

the north. There is no mystery in Matthew's exclusion from the Durham commission after 1606. The only occasions on which archbishops of York featured in Durham commissions came if they coincidentally held the office of President of the Council of the North. The implication that canons of Durham were entitled to serve as justices is incorrect. By no means every prebendary served as a justice. There were also clerical justices like Lawrence Hinton and Hamlet Marshall who had received their commissions despite their lack of possession of either a canonry or a major diocesan office. In addition, there are certain points of interpretation on which I disagree with Dr. Fraser and Mr. Emsley. For example, I would dispute their interpretation of the extent to which Ferdinand Morecroft can be accounted a member of Neile's inner circle. Richardson and Cradock did not have a common employer in the 1620s; Richardson had lost his offices. The Cradock described by Dr. Levack was not the John Cradock who was active in Durham circles during this period.

1. J.H. Gleason The Justices of the Peace in England, 1358-1640; a Later Eirenarcha (Oxford, 1969) p. 49. Cf. J.P. Kenyon Stuart England (London, 1978) p. 27. who has mistakenly asserted that clerical J.Ps were not appointed to the commission of the peace until half-way through the reign of James I and were not appointed in significant numbers until after 1660.

the distribution of landed resources in the county. It might have proved difficult finding satisfactory alternative candidates for the magistrates' bench from among the county's laity. The number of senior gentry in Durham was comparatively small. By the third decade of the seventeenth century some of the families which had been traditionally involved in the county's administration were experiencing financial difficulties.¹ Some of the county's senior gentry were regarded as unsuitable for service as J.Ps. because of their inclination towards Roman Catholicism.² There was an undoubted reluctance to employ men like George Lilburne and George Grey who had prospered through the development of their Wearside business interests. Such reluctance can surely be imputed to suspicions of the political and religious leanings of these men.³ Only a few gentlemen of reputable family, appropriate wealth and generally conformable religious attitudes appear to have been passed over. Sir William Lambton of Lambton is an obvious example. Even he was named in a couple of commissions, but he failed to turn up at any Quarter Sessions during the period of his commission and he

1. Among the ancient county families no longer represented on the commission were such financially embarrassed families as the Hedworths and Brackenburies. The Bowes representation was maintained through Sir Talbot, although after 1625 he concentrated on his North Riding interests.
2. J.Ps. with Catholic inclinations had, of course, been appointed during the period, but such J.Ps., Sir Ralph Conyers, Sir Thomas Riddell and James Lawson, were removed in 1625.
3. In the light of this it is perhaps strange that Bishop Morton should have incorporated Sunderland and that the mayor of Sunderland, usually either Lilburne himself or a man under his influence, should have been accorded an ex officio place on the county's commission of the peace.

was quickly dropped.¹ Some possible candidates may not have been considered because they were parvenues like the wealthy Coles and Byerleys. This criterion was obviously not applied to humbly-born Arminian clergymen. Finally, to suggest that the appointment of clerical J.Ps. was encouraged because it was felt that they would more readily acquiesce in the enforcement of the demands of central government is simplistic. In county Durham it might have been expected that the clerical justices would have given their first loyalty to their bishop who was always, of course, the most important justice in the county, as custos rotulorum, as chairman, when present, of the Quarter Sessions and in view of his residual palatine powers. The actual circumstances may never have been quite so simple. Few of the Durham clerical justices were mere sycophantic ciphers. They did not automatically agree with their superiors.² However, the blandness of Quarter Sessions orders usually fails to reveal what disagreements may have lain behind justices' decisions on administrative matters. It may be misleading to suggest that the Crown favoured the introduction of clerical J.Ps. because they were considered more reliable than their lay counterparts. It was possible, in fact, for clerical J.Ps. to be more independently minded, for their prestige and standing within a community did not fundamentally depend upon their membership of the commission of the peace. Generally speaking, however, it is difficult to specify cases in which

1. PRO: C 66/2147; C 181/2 ff. 317-8.

2. Lindsell, for example, enjoyed a stormy relationship with Bishop Howson. See below pp. 543-5

the criticism of clerical J.Ps. can be attributed to their particular condition. Marmaduke Blakiston, for example, was asked "if he were gott of a hound", but as this observation was prompted merely by the clergyman's remark that his abuser was drunk, it would be unwise to impute any anti-clerical motivation. Blakiston, as a wealthy member of a Durham gentry family, enjoyed the most exalted social status of any of the clerical justices who served in Durham during Neile's episcopate, and on this occasion his dignity was protected by a bench, containing a majority of laymen, which committed the author of the insult to gaol.¹ The other specific examples of verbal abuse against justices were directed against laymen, although admittedly two of them were employed in the service of the palatinate.²

The most serious allegations of misconduct made against a Durham clerical justice were of a kind which could only have been directed against a clerical justice. They were, however, levied against the J.P. as an individual, not as a representative of a type. The J.P. thus complained about was John Cradock, the unprepossessing chancellor of the diocese. Cradock had secured that office after a long period

1. DRO: QS/OB/1 p. 327.

2. George Grey, then of Lumley but later of Southwick, allegedly insulted Sir Thomas Riddell and William Smith in 1625. The allegation and expressions used were certainly colourful. Smith alas may have been typical of many justices both in Durham and elsewhere, sitting "prating on the bench (so that) no man can gett right for him." Ibid. p. 236. Later in 1641 some unspecified words were uttered against Sir Thomas Swinburne. The perpetrator of this was committed to gaol until he could find sureties for his good behaviour. DRO: QS/OB/3 p. 8.

of service in the diocese. A Yorkshireman, he had been presented to the living of Gainford in the south of the county by Trinity College, Cambridge in 1594 and received his first diocesan promotion from Bishop Matthew who made him archdeacon of Northumberland in 1604.¹ In this office he became associated along with Sir Henry Anderson, sheriff of the county in 1615, with the anti-Catholic and anti-Howard faction.² In 1619 he was selected by Neile to replace Clement Colmore as diocesan chancellor. It is significant that Neile, in making his appointment for this important and sensitive office, went outside his own immediate circle of promising young Arminian clergymen to choose a man associated with the old Calvinist hierarchy within the diocese. Cradock himself had no qualms about this, and quickly began helping both to enforce the new order and to line his own pockets. As he was also both a justice of the peace and a high commissioner this was no difficult task, and the complaint against him was derived from his alleged confounding of the different jurisdictions which he was able to exercise. Matters came to a head in the parliament of 1621, thanks to information which had been provided by John Richardson.³ The matter was raised in the Commons by the Somerset magnate Sir Robert Phelips. Among various allegations of corrupt practice, bribery and peculation, one in particular stands out. It concerned the administration of the estate of the late rector of Whickham, John Allenson who died in November 1619

1. J. & J.A. Venn Alumni Cantabrigienses (Cambridge, 1922-54) i p. 411; Mussett Deans and Canons of Durham p. 44.

2. Watts Northumberland pp. 186-7.

3. Commons' Debates, 1621 ed. Notestein, Relf & Simpson iii p. 261.

leaving a substantial estate including £530 in ready money.¹ Allenson named as his executor Cuthbert Hawdon of Durham, but Cradock in his capacity as diocesan chancellor refused to grant letters of administration to Hawdon and instead granted letters of sequestration to four men, two clergymen and two of his own servants, or his sons, depending on the report. Furthermore, he accused Hawdon of attempting to deny him entry into the rectory and in his capacity as a J.P. retaliated by committing the executor to gaol for forcible entry. Hawdon was fined £50, the fine being assessed by Cradock himself "with the consent of the justices".² Unfortunately, it is impossible to verify some of the details of the incident. The indictments for the years 1619-1621 have not survived. There appears to be no extant record of Allenson's will, which may suggest that no will existed or that Cradock appropriated it. On the other hand, it may merely be a coincidence. Nevertheless, there is evidence that the justices themselves had been uneasy about the whole business long before it reached the ears of the House of Commons. In January 1620 the justices, including Cradock, ordered that the record against Hawdon, the sentence

1. Several accounts of the House of Commons' consideration of the matter have been printed. All of them betray a lack of familiarity with the subject. There are several differences between the accounts. The names of those persons involved in the matter are usually rendered only approximately. What appears to be the fullest and most accurate account was that made by Sir Thomas Barrington. *Ibid.* pp. 260-3. The inventory of the goods of John Allenson is in DPD/SR: Probate Inventory of John Allenson, 1620.
2. Commons' Debates, 1621 ed. Notestein, Relf & Simpson iii pp. 261-2, iv pp. 347-8. Furthermore, Cradock as justice procured the issuing of a warrant against the constables of Whickham for their neglect in failing to apprehend two of Hawdon's relatives. DRO: QS/OB/1 p. 97B.

imposed upon him and a copy of his plea be sent to Judge Hutton and that if the judge recommended that Hawdon should be discharged or the matter referred to the assize judges they would abide by the recommendation.¹ It would appear that this initiative did not result in compromise, for the resulting Commons' attack on Cradock was particularly vituperative. He was in effect accused of stealing money from the estate of the deceased, of being bribed to allow the release of Hawdon from prison and of various other corrupt offences so "that the generall report of the opinion of thos partes is that he caryes so high of corruption and oppression that scarce any can excede him in ill".² One repercussion of this incident may have been the precipitation of the removal of John Richardson from the commission of the peace as the instigator of allegations which embarrassed both the bishop and the government.³ Though this may not have been Richardson's intention, the matter became bound up with a more general attack on the nature and practice of church courts. In particular, Phelps made an allegation about the oppressions of the "exorbitant" ecclesiastical

1. DRO: QS/OB/1 p. 99.

2. Commons' Debates, 1621 ed. Notestein, Relf & Simpson iii pp. 260-2. The phrase "as cunning as a crafty Cradock" remained current in county Durham long after the man who inspired the phrase had been forgotten. DCL: Longstaffe MS (8vo) 14. ('Gatherings for a Garland of Bishoprick Blossoms, and Notes from Northumbria').

3. Richardson was removed from the bench with the issue of the next commission in the autumn of 1621, although the allegations against Cradock may not have been the sole reason for his removal. PRO: C 181/3 f. 36.

courts in Durham.¹ Parliament's investigation of this matter appears to have been thwarted by the sudden and unexpected dissolution of December 1621. Cradock was therefore saved and he was able to continue his Durham activities unabated. His enemy Richardson sought revenge in a Star Chamber action.² There seems to be at least some truth in the allegations made against Cradock, though it seems unlikely that Richardson, hardly himself an upholder of absolute rectitude in public affairs, was motivated significantly by a desire to root out corruption. The matter was exploited simply as a means of embarrassing a local enemy. As such it almost worked.³

Assessment of the effectiveness of justices of the peace is a practice fraught with difficulties. The image of the inefficient and incompetent justice, epitomised by Shakespeare's feeble-minded Justice Shallow, became almost a commonplace. Dr. Morrill has commented upon a "self-consciously conservative and hopelessly inefficient system of local government."⁴ Many justices "are not moved with the

1. Commons' Debates, 1621 ed. Notestein, Relf & Simpson iii p. 383. In addition Cradock was accused of having bought the office of Registrar of the Consistory Court for his son Richard for £500.
2. Cradock's sons were prosecuted inter alia for allegedly assaulting Richardson's servant. SS 34 pp. 82-3.
3. It should, of course, be remembered that concern about clerical J.Ps. in general and the activities of John Cradock in particular preceded such marked indications of increased clerical influence in government as Laud's influence in the Privy Council his use of Star Chamber to maintain his own brand of ecclesiastical orthodoxy and the appointment of Bishop Juxen to the Lord Treasurership.
4. J.S. Morrill 'English Local Government in the Early Modern Period' Archives xiii (1977) p. 41.

same zeal and conscience that other men are, (and) make it a conscience to possess public places and only to attend private things".¹ Monarchs often had a very low opinion of the men who held their commissions of the peace. Under Henry VII justices were theoretically compelled to cause a proclamation which emphasised their shortcomings to be read at Quarter Sessions.² James I complained of justices who "go seldom to the king's service but when it is to help some of their kindred or alliance; so as when they come it is to help their friends or hurt their enemies, making justice to serve for a shadow to faction, and tumultuating the country".³ Furthermore, there is often an inclination to impute significance which is not really warranted to magisterial actions which are merely normal responses to particular problems.⁴ Ultimately, assessments of J.Ps' performances will be conditioned by the interpretation which is placed upon the nature and powers of their office. It is clearly

1. Quoted by T.C. Curtis 'Quarter Sessions Appearances and their Background: a Seventeenth Century Regional Study' in Crime in England, 1550-1800 ed. J.S. Cockburn (London, 1977) p. 148.
2. The Tudor Constitution: Documents and Commentary ed. G.R. Elton (Cambridge, 1960) pp. 462-5.
3. Quoted by Forster 'Faction and County Government in Early Stuart Yorkshire' p. 70.
4. Cf. J.D. Walter & K.E. Wrightson 'Dearth and the Social Order in Early Modern England' PP lxxi (1976) p. 40 and n56. The Durham justices' response to dearth, prompted at least in part by the concerns of the Privy Council, was the standard one of attempting to maintain the supply of grain by suppressing maltsters and alehouses. There was nothing novel in such a policy.

anachronistic to judge the efforts of J.Ps by criteria which are more appropriate to the evaluation of public performance in the modern bureaucratic state. The criteria should therefore be modified to take account of the limitations under which the justices were obliged to operate. Justices therefore should not be taken to task for their inability to operate a system whose fundamental weaknesses can be largely explained by their lack of a coercive force with which to enforce their administrative orders.

The fundamental duty of the justices of the peace was to maintain order. This task was defined in characteristically vigorous terms by Sir Thomas Smith. "The justices of the peace be those in whom at this time for the repression of robbers, thieves and vagabonds, of privy complots and conspiracies, of riots and violences, and all other misdemeanours in the commonwealth the prince putteth his special trust".¹ The justices of Durham did not, of course, enjoy an exclusive jurisdiction in such matters. They had to contend with the complementary jurisdiction of the Council of the North. In 1568, for example, the justices in Durham and the other counties within the council's jurisdiction were required to certify the state of the county with a note indicating the disorders for the suppression of which they required the assistance of president and council, effectively an invitation to minimise reporting of disorders in order to avoid conciliar interference. In addition, the Council rather sinisterly, sought confirmation from "discreet

1. Smith De Republica Anglorum p. 86.

gentlemen" who were to institute secret inquiries to examine whether justice was executed according to the law.¹ Such a request typified the muddled thinking of the Council. Councillors appeared to aspire towards the exertion of closer control over justices. Yet who, apart from the justices themselves, would have been "discreet" enough effectively to conduct such inquiries? Given such confusions on the part of the Council it is perhaps understandable that the central government was anxious to override the Council in its conduct of the suppression of the rebellion which began exactly a year later. In the aftermath of the rebellion and with the appointment of the more systematic Earl of Huntingdon to the presidency of the Council the Durham justices were subjected to the authority of the Council acting in effect as the northern arm of conciliar administration. The Council laid upon the justices resident within its jurisdiction various tasks which in part comprised their normal tasks and in part comprised measures specifically designed to prevent another outbreak of events such as those of the autumn of 1569.² That no such outbreak occurred, however, had little to do with the enforcement of such measures, but was more closely connected with the successful avoidance of the creation of a focus for local discontent which existed independently of the Crown. The justices themselves had

1. CSP Dom. Add. 1566-79 p. 65.

2. Ibid. pp. 435-6. Vagabonds and rogues were to be punished quickly and severely in order to prevent the spreading of false and seditious rumours and the sending of messages from exiled rebels. Conferences of suspected persons, defined as former rebels who had not yet received their pardons, were to be prevented.

virtually ceased to function in any significant institutional sense during the course of the rebellion. The rebellion was effectively suppressed in Durham by Sir George Bowes with his selectively rigorous employment of the martial law powers with which he had been endowed.¹ Justices of the peace as such played no part in the rebellion's suppression, and Bowes was assisted chiefly by his younger brother Robert who was sheriff of the County Palatine. In February 1570 the brothers informed the Earl of Sussex of the favour of local J.Ps., towards the levying of forces within the county in order to confront the rising of Leonard Dacre in Cumberland. However, even in this letter the Bowes were unable to conceal references to those "in whom there was no lack of consideration of their duties" who had nevertheless discovered the counter-attraction of business, social and political interests in London. George and Robert Bowes were well aware of the implications for local politics and order of this desertion of the county by many of its natural leaders, the absence "being mistaken by the people, made much murmur amongst them, whereby their return is thought the more requisite".² There was, surprisingly perhaps, no attempt by leading gentlemen outside the associates of Sir George Bowes to exert any influence within the county. Natural leadership was assumed by a combination of Sir George and his associates and the leading members of the church hierarchy and given the

1. Bowes had been appointed provost marshal to "exequite the martiall lawe" by the Earl of Sussex on December 15th, 1569. Sharp Memorials p. 99n.

2. CSP Dom. Add. 1566-79 p. 229.

cordiality of relationships between each of these groups and the reformed Council of the North under Huntingdon, local government experienced few serious qualms in the 1570s.¹

Evidence relating to the effectiveness or otherwise of the Durham justices for the remainder of the sixteenth century is almost completely lacking. Such evidence as does exist is concerned largely with the imposition of the demands of national government which were applied equally to each shire. These do not necessarily therefore tell us much about circumstances within Durham itself.² Furthermore, many, if not most, of the routine tasks of the justices were undertaken in the extra-sessional work which looms so large in Lambarde's discussion of the tasks of the office.³ The paucity of the documentation precludes any significant discussion of the effectiveness of this aspect of the work of the justices in sixteenth century Durham. Some evidence

1. Among the associates of Bowes was Thomas Calverley who was also Chancellor of the County Palatine and thus a key figure in local administration. Calverley had been a prominent supporter of Bowes during the rebellion, had mustered forces loyal to the Crown in Chester Ward, brought those forces to Barnard Castle and spent the major part of the rebellion ensuring the continuing loyalty of Newcastle. Ibid. p. 213; PRO: E 134/7 James I/Michaelmas 40. The unanimity between Council, church hierarchy and the leading members of the laity was rather short-lived. The death of Bishop Pilkington and his replacement by Richard Barnes and at York the translation of Archbishop Grindal and his replacement by Edwin Sandys broke the radical hold on the two principal northern dioceses, ensuring that on certain matters, such as the attack on Dean Whittingham, the ecclesiastical hierarchy and Huntingdon found themselves on separate sides. It was small wonder, therefore that Huntingdon sought to maintain the Bowes connection. Robert Bowes was reportedly "much feathered of the President's wing". CSP Dom. Add. 1580-1625 p. 17.

2. See, for example, APC 1575-7 p. 49; 1592 pp. 253-6.

3. Lambarde Eirenarcha pp. 80-282.

has chanced to survive. There are, for example, scraps of evidence relating to extra-sessional licensing of alehouses although these hardly provide a valid basis for generalisations concerning the nature of magisterial activity.¹ It is possible, however, that during the last quarter of the sixteenth century the influence of the Council of the North under Huntingdon followed by Bishop Matthew's confident assertion of his episcopal rights, combined with the tendency of central government to subject sensitive issues to the scrutiny of specially appointed commissioners, contrived to limit the effective authority of J.Ps. acting in their magisterial capacity.² There was even a tendency to use alternatives to J.Ps. as enforcement officers. The justices, for example, enjoyed statutory powers with which to enforce the laws against Roman Catholic recusants.³ In addition these were backed up by orders and instructions from the Privy Council.⁴ Nevertheless, a network of alternative officers was set up by the ecclesiastical authorities to deal with

1. DCL: Additional MS (Cupboard V). The alehouse recognizances preserved by chance in these documents were issued in 1584 by a pair of justices, John Heath and Richard Bellasis, operating on an extra-sessional basis in Easington Ward in accordance with the terms of the Edwardian statute which imposed the duty on the justices.
2. On the use of special commissions during the period see Tudor Constitution ed. Elton pp. 452-3. One of the most significant such commissions to operate in Durham during the late sixteenth century was that which inquired into the decay of tillage in the county and which reported in 1596. PRO: SP 12/257/80.
3. SR iv pp. 657-8. (23 Elizabeth c. 1).
4. CSPD 1591-4 p. 300.

the problem.¹ The theoretical tasks of the justices should have been eased by 1590. Lambarde's handbook on justices' practices was by that time widely available.² In that year the obsolete traditional wording of the commission of the peace was revised at last in belated response to changed conditions.³ This should have streamlined practice. However, the events of the time suggest that the Durham justices experienced great difficulties in coping with the demands placed upon them. The agrarian, economic and epidemic disasters of the 1590s were catastrophic.⁴ Tales of woe and fatalistic moralising by Dean James and Bishop Matthew were much in evidence.⁵ Serious judicial activity may have been less apparent.⁶ It would be unwise, however, to indulge in dogmatic castigation of the failure of justices' actions in the period since so little direct evidence is available. Other counties, more favourably placed than Durham, also experienced great administrative difficulties during this period of widespread discontent and it must be stressed that in Durham this discontent was not transformed into disorder.⁷ Nevertheless, the justices do appear to have exhibited

1. In particular, Matthew, first as dean and later as bishop, set up an elaborate system of partially successful agents and searchers to identify and apprehend practising Catholics of both clergy and laity.
2. Eirenarcha was twice reprinted within two years after its publication and was issued in a new edition in 1588.
3. Tudor Constitution ed. Elton pp. 453-4.
4. See above pp. 47-53 and below pp. 749-53.
5. PRO: SP 12/262/10, 11; HMC: Seventh Report (Molyneaux Papers) p. 657.
6. See above p. 47.
7. The much wealthier counties of Norfolk Oxfordshire and Somerset all experienced serious disorder during this time of dearth.

administrative dilatoriness.¹ Yet despite their apparent inertia in the late sixteenth century the system survived, largely because in county Durham terms it represented a coincidence of interests between the Earl of Huntingdon as President of the Council of the North, Hutton and Matthew as leaders of the episcopal interest, and members of the Bowes family who comprised the most influential members of the lay community. The greatest challenge to this system was provided by the machinations of Lord Eure and his Durham associate Robert Tailboys. Tailboys attempted to disrupt the service by publicly questioning the right of the Durham justices to assemble forces and levy money for border service in August 1596 according to the terms of a Privy Council order. There was a certain contradiction in Tailboys' standpoint. On the one hand, he argued that justices could not tax unless they were specifically authorised to do so by statute. On the other hand, he claimed that in this instance it was treasonable for the bishop and other justices to make such an assessment, but that the Queen herself could.² The Privy Council reacted vigorously to Tailboys' "undiscreete presumption" which, at least in part, queried the royal prerogative and explicitly denied the Council's own powers.³ Matthew himself was anxious to exploit the case which "touched with great contempt on (his) estimation in this place",

1. This was particularly marked in respect of the repair of bridges and the proposed erection of a house of correction. See below pp. 414-6.

2. HMC: Salisbury vi pp. 411-2.

3. APC 1596-7 pp. 138-9.

though in a letter to Burghley he typically stressed that the "greater misdemeanour" was towards the latter's authority. Matthew reported also Tailboys' boast that "some noblemen & magistrates" in that place (i.e. Eure) would "help to ease him of his heavy burden".¹ The boast was justified for Eure wrote to his old patron, Burghley, on Tailboys' behalf. He claimed not to be excusing Tailboys' conduct, but he did offer an explanation of remarkable lameness.² Tailboys himself seems to have kept one step ahead of Matthew. While the latter in Durham was castigating him for his obstinacy, Tailboys, his mind concentrated by confinement, admitted his faults before the Council. He made a "solempne promyse and protestacion to have more advised regard to his carriage hereafter". The councillors "do conceive he will by his good endeavors hereafter seek to efface his former errors". Matthew was to "remytt" his displeasure and was to use Tailboys "in suche sorte as his forwardnes in the occaysons of her Majesty's service shall seme to deserve".³ The episode is a remarkable testimony to the power of patronage, to the collective naivety of the Privy Council and to the lack of suitably credible alternative officers to Tailboys in Durham.

1. CSPD 1595-7 p. 281.

2. Tailboys was a man of "manie good partes" but was "drowned with one oversight of layte committed to his good lord the lord of Durham, not willfully or contemptiously, but which cannot be denied, overtaken as souldiors be sometimes, the myd hower of that day overpast, (he) did worthelie offend his lord". CBP 1595-1603 p. 193.

3. Ibid. p. 206; APC 1596-7 pp. 318-9.

Much more abundant evidence exists for an assessment of the operation of the Durham J.Ps. in the first forty years of the seventeenth century. By the beginning of the century there had been a de facto separation of administrative powers between York and Durham.¹ This resulted in the justices becoming more directly answerable to the Privy Council in London than to the Council of the North in York. With less competition from complementary jurisdictions the administration of county Durham became more orthodox, although the county retained some of its distinct administrative peculiarities. There is little to be gained from an exhaustive examination of the minutiae of the evidence of the local administration of the justices of the peace. Enough standard accounts of this exist without adding to their number.² However, it will be necessary to consider the nature and effectiveness of the authority wielded by the Durham justices.

Operational effectiveness in Durham should have been aided by certain considerations. Except in emergency, the general sessions of the peace were held in the city of Durham itself. This was obviously the simplest possible arrangement and avoided circumstances which in certain counties ensured that particular sessions were dominated by locally influential individuals or factions or which effectively restricted certain justices to attendance at only one session each year to the detriment of efficient county-wide

1. See above pp. 164-5.

2. See especially Barnes Somerset pp. 40-97; Fletcher Sussex pp. 127-74. The accounts by Mr. Emsley and Dr. Fraser are unreliable.

administration.¹ Durham itself was advantageously situated as a sessions town. Geographically it lay almost in the centre of the county and was by contemporary standards readily accessible for most of the year from all parts of the county, although obviously justices resident in the neighbourhood of the city were better enabled to attend regularly.² Continuity was also assisted by prevailing arrangements for the chairing of sessions. The bishop, if present, presided. In his absence it was customary for the dean to preside. The gentlemen of the county tended to preside only in the absence of both clerics. Given the attendance records of Bishop James and Bishop Morton and of Dean Hunt before his health broke, such opportunities were necessarily limited and were most marked between the death of Bishop James and the start of Dean Hunt's activities as a justice.³ Such limitations tended to reduce both the scope for and the influence of

1. In the North Riding of Yorkshire, for example, the particularism of J.Ps. from Richmondshire detrimentally affected a wide range of county business. Forster 'North Riding Justices and their Sessions' pp. 110-1.
2. Sir John Calverley's remarkable attendance record was undoubtedly facilitated by his residence at nearby Littleburn. Those clerical justices who were also prebendaries and hence at least partially resident in Durham also benefited thereby, as did those lawyers who were also resident in the city.
3. In the sixteen sessions from July 1617 to April 1621 the chair was held by a layman on thirteen occasions and by landed gentlemen as opposed to professionals on eleven out of the thirteen occasions. The gentry chairmen were Sir John Calverley, Sir Henry Anderson, Sir George Frevile and Sir Timothy Whittingham. DRO: QS/OB/1 passim.

factional disputes among the Durham gentry J.Ps. This does not mean that such disputes did not exist.¹ However, both their local and national significance was limited.² In addition, the factional significance of the principal modification which Mr. James discovered to his notion of "single-faction rule" has been misinterpreted.³

Such considerations might lead to the inference that magisterial performance in Durham during the early seventeenth century, comparatively unburdened as it was by factional problems, was worthily effective and efficient. This does not seem to have been the case. There is evidence to suggest that the magistrates' performance was to a large extent governed by their relationship with the professional officials without whose co-operation the magistracy could not have functioned. The most important such official in Durham, as elsewhere, was the clerk of the peace. There were several holders of this office in Durham during the first four decades of the seventeenth century. The most influential was George Martin who received his patent for the office from Bishop James in 1613 and was confirmed in the office in the usual manner by the Dean and Chapter in

1. There were, for example, disputes involving John Richardson and his enemies John Cradock and Hugh Wright.
2. There was nothing in Durham which could compare with the Phelips-Poulett battle for supremacy in Somerset or the Wentworth-Savile dispute in Yorkshire.
3. Mr. James's argument is founded on the assumption that Bishop Neile, assisted by members of the so-called 'church interest' was intent on blocking the move to bring parliamentary representation to the county. James Family, Lineage and Civil Society pp. 164-7. No evidence exists to support this view.

the following year.¹ Martin himself was a Durham man who was closely connected by marriage with the influential family of Heath of Kepier and whose choice of god-parents for his numerous brood reveal links with the upper levels of the county's gentry as well as with the local clerical and municipal establishments.² Martin had begun his official career as deputy to the eccentric and rather corrupt John Barnes in both of the latter's clerkships, of the peace and of the Durham Chancery, and succeeded Barnes as clerk of the peace after the latter's death.³ In this office Martin instituted a significant reorganisation. When he became clerk of the peace no table of fees existed and Martin devised a table, based on the usual, though obviously not customary charges which he submitted to the assize judges and Chancellor Hutton for approval.⁴ As well as his legal offices and practice, in which he advised the family of Peter Smart without this appearing to have a noticeably detrimental effect on his career, he also held several other posts in county administration in which he acquitted himself diligently.⁵ It was therefore small wonder that "Mr. James

1. DPD/PK: Register 8 ff. 375-6.

2. R. Surtees Durham iv (part two) p. 149; The Parish Registers of St. Oswald's Durham, 1538-1751 ed. A.W. Headlam (Durham, 1891) pp. 55 ff.

3. DPD/SR: Will of John Barnes, 1613.

4. DCL: Raine MS 123 f. 153v.

5. Susanna Smart and her son-in-law had "entertained" Martin to be their attorney. DCL: Hunter MS 11/45. Martin had been involved in the disarming of recusants in 1625. He was a commissioner of sewers for the River Wear. He performed administrative tasks on behalf of the justices outside his role as clerk of the peace. In 1634, along with two J.Ps., he was requested to survey the decay of the house of correction and to arrange for its repair. DUL: Mickleton & Spearman MS 2 ff. 363, 219; DRO: QS/OB/2 p. 149.

Watson did say in open court that he had rather have Mr. Martyn on his syde than all the justices of the peace on the bench."¹ To an extent this may have been an outsider's natural reaction to the influence enjoyed by the professional adviser to a group of amateurs. Even so, this compliment to the clerk of the peace must be accounted a condemnation of the role and accomplishments of the J.Ps.

Magisterial ineffectiveness is implicit in the relationship between the justices and the high constables. At any one time the county should have enjoyed the services of ten such officers.² The high constables tended to be drawn from the ranks of the respectable minor gentry, a social category containing many men who might have been expected to have been willing to suffer the inconvenience involved in holding the office in exchange for the status which the office conferred on them as minor cogs in the administrative machinery. Many of the high constables had served on the county's grand jury and it was not unknown for service on the latter to coincide

1. Ibid. p. 48A.

2. In employing the term 'high constable' I am following local usage. In Cheshire, for example, such officers were known as 'head constables'. Morrill Cheshire Grand Jury pp. 59-60. The division of labour among the high constables was straightforward. Durham was split into four wards of which two, Chester and Darlington, were for administrative purposes sub-divided into three divisions. The two smaller wards, Easington and Stockton, were sub-divided into two divisions. Each division was served by a high constable, although in the early days of the system's operation confusion was occasioned by the apparent nomination of four constables for the three divisions of Darlington Ward. The additional high constable dropped out after a year in office. DRO: QS/OB/1 pp. 33, 37, 41, 63, 69.

with the holding of office as high constable.¹ Nevertheless, the office proved to be unpopular in county Durham. It was not part of the county's traditional administrative framework, having been introduced as late as 1617 in what may have been an attempt by Bishop Neile to bring the administration of the county into line with that which appertained elsewhere.² The introduction of the system was, however, botched in a manner which reflects little credit on the competence of any of those involved. Neile himself sent a message to the justices assembled in the Quarter Sessions of October 1617 that the swearing of the high constables could be delayed until the following meeting in January.³ This message failed to take into account the apparently peremptory nature of an assize order made in the summer that the justices were to swear in the high constables at the autumn sessions on pain of the penalty of £20, a consequence of which the justices had been unaware when they neglected to swear in those potential high constables who had appeared.⁴ The nominated

1. The leading grand jurymen and the high constables were drawn from much the same rank of society. For an instance of a high constable serving on the grand jury see Ibid. p. 90.
2. Dr. Quintrell has informed me that the earliest high constables he has traced in Lancashire were appointed in 1600. In the West Riding of Yorkshire they were introduced in the 1570s.
3. DUL: Cosin MS, Letter Book 1/12.
4. A warrant was to be issued for the bringing in of the nominated high constables. The justices were "induced to do this bycause the originall warrant not being shoed the first day of the sessions when most of the high constables summoned to appeare did personally make appearance and yet were not sworne but deferred till the

constables presumably departed from the session. A warrant was therefore issued by the justices to the sheriff to bring in the gentlemen who were supposed to have been sworn so that the procedure could be completed at an adjourned session. This arrangement was pushed through by five of the justices, all knights and most of them experienced in county administration, and opposed by four of the others, including the hard-working veteran Sir George Frevile and three other J.Ps. of rather lesser status, the lawyer Robert Cooper, Christopher Place and archdeacon Morton. The justices, worried about the possible penalty, then swore in one token constable, John King, a locally resident gentleman who was prominent in the lower echelons of public service in the county. Curiously, the list of high constables in the warrant issued to the sheriff was not identical to the list of high constables originally chosen and differed again from the actual high constables who were eventually sworn.¹ At the adjourned session the high constables failed to appear and the justices

sessions, but now the order made the last assises being shoed, it plainly appered by it that the justices were to give them there oath upon penalty of xx li. att these sessions, which the justices were not willing to incur, and they did conceive that if the justices did not appoint & swear the said high constables att this tyme by vertue of the said order, they had no warrant or order to do the same att any tyme hereafter". DRO: QS/OB/1 p. 37.

1. Ibid. p. 33, 37, 39-41. The five J.Ps. whose procedural will prevailed were Sir Henry Anderson, Sir Timothy Whittingham, Sir John Calverley, Sir William Bellasis and Sir Ralph Conyers.

"found themselves not well used because the (warrant) was not executed", venting their spleen on the negligent under-sheriff who was fined £100.¹ At the deferred adjournment a change in the personnel of the high constables was made. Three of the officers actually turned up in order to be sworn in.² This still left the justices short of a full complement of high constables, although, fortunately for the magistrates, this unsatisfactory state of affairs, was resolved in January.³ The service seems never to have recovered from this inauspicious beginning. The imposition of the office may originally have been resented as a novelty in a county which, lacking a formal hundredal organisation, had coped, however inadequately, without high constables in the past. Subsequent recruitment proved to be difficult, and the justices were forced to allow existing high constables to nominate their own successors which, depending on the attitude of possible recruits, could have served ideally as a means of helping to settle local scores or of enabling those who were socially ambitious to achieve office, however minor or unpleasant that office might have turned out to be.⁴ On the other hand, it may simply reflect ignorance on the part of the justices of the identities of men in the appropriate social category who were available for the service.⁵

1. Ibid. p. 39.

2. Ibid. p. 40.

3. Ibid. p. 41.

4. Ibid. pp. 182B, 221: QS/OB/2 p. 44B. This anticipated by over quarter of a century the "surprising development" in Cheshire by which outgoing head constables nominated potential successors. Morrill Cheshire Grand Jury p. 59

5. This suggestion has been made by Dr. Quintrell in the light of similar evidence in Lancashire.

Three of the nominated successors to the first active group of Durham high constables were reluctant to serve, and the bench, implicitly accepting its collective impotence, found it necessary to discharge them.¹ The system continued to cause problems. The high constables provided one of the issues discussed at a special extra-session meeting in February 1623, the records of which have not survived.² Recently nominated high constables failed to turn up at sessions in order to be sworn in.³ Their tasks were often burdensome. They were, for example, assigned to collect the county's purveyance composition.⁴ They were employed in a more general capacity on the collection of the standard county rates.⁵ Under the admittedly temporary pressure caused by adherence to the precepts laid down in the Book of Orders of 1631, the high constables were enjoined to attend the J.Ps. in their respective divisions at their monthly meetings.⁶ Each high constable was expected to exercise supervision over the petty constables resident within his division, an onerous task given the notorious

1. DRO: QS/OB/1 p. 138.

2. Ibid. p. 175.

3. See, for example, Ibid. p. 133.

4. DRO: QS/OB/2 p. 43B. Purveyance was one of the liabilities newly imposed upon the county during the episcopate of Bishop Neile. See below pp. 831-2.

5. DRO: QS/OB/1, 2 passim. Before the introduction of high constables, collectors had been employed on a divisional basis to collect county rates. DRO: QS/OB/1 pp. 1-2.

6. DRO: QS/OB/2 p. 72.

inefficiency of those minor officers.¹ More troublesome still were the financial responsibilities which the high constables undertook on behalf of the justices.² From this stemmed their involvement in the assessment and collection of Ship Money.³ The sheriff lacked the necessary power to coerce the high constables to perform this task efficiently and enthusiastically. In view of this shrieval weakness it is perhaps not surprising that the period of Ship Money collection coincided with a rate attempt by the justices to discipline high constables for negligence and non-attendance.⁴ Despite or because of the opportunity which the high constable might enjoy of manipulating Ship Money ratings on behalf of himself and friends, this task met with local opposition. The nature of the high constables' responsibilities was ambiguous. Though technically chosen and sworn in by,

1. Ibid. The high constables were to present "such defaults as the Petty Constables doe comitt & doe not performe belonging to their office". Two years later an interesting aspect of the comparative social positions of high and petty constables was revealed when John Shipperdson of Bishopwearmouth, having previously served as a high constable, claimed exemption from the office of petty constable. The puzzled justices referred the matter to the assize judges. Ibid. p. 144. Shipperdson, although I am not aware of any Lancashire connections, may have heard of an order made by the assize judges there in the previous year, 1633, that all high constables in the county should be exempt for life from serving in the office of parish constable. I owe this information to Dr. B.W. Quintrell.

2. The high constables became responsible for the collection of the statutory county rates levied, for example, for the upkeep of the house of correction and county bridges.

3. See above pp. 346-7.

4. DR0: QS/OB/2 p. 226.

1626 and confirmed
by JPs at the shrieval
table

and responsible to, the justices both at Quarter Sessions and in extra-session work, they were also employed at the lower level of administration in the prerogative service of the lieutenancy and it is in this service that they appear to have operated most effectively. Their local knowledge was exploited by the deputy lieutenants in the rating of those charged with the provision of private armour.¹ They were given authority for selecting those who were unfortunate enough to be newly joined in the provision of private armour with persons whose liabilities had been eased because of their weakened financial position.² Tasks such as these suggest that one should not undervalue the contribution which the high constables made to the county's administration during the period. Certainly, the office was potentially influential as far as the lieutenancy service was concerned. However, it must be re-emphasised that in those aspects of their duties in which they were responsible directly to the J.Ps., their performance seems largely to have been perfunctory and the quality of the supervision exercised over them was decidedly limited.

Not only were the Durham justices impeded by their lack of effective control over the high constables, they were also hindered by the rudimentary nature of the justices' internal divisional organisation, or lack of it. The surviving evidence does not readily lend itself to an examination of

1. According to Sir George Selby the high constables "have better means" to know those most fit to be charged.
DUL: Mickleton & Spearman MS 2 f. 296.

2. Ibid. f. 333.

this problem. The justices divided themselves in order to deal with alehouse licensing.¹ However, there seems to have been nothing to correspond with the system enjoined by the Privy Council on the counties in 1587 and again in 1605.² The introduction of high constables in 1617 implies recognition of some form of divisional responsibility,³ while the wards were used as the basis of a survey of the county's bridges in 1621.⁴ In 1626 a divisional system was introduced in order to enable the justices deal with Catholic recusancy.⁵ Such scattered references do not suggest the existence of regular petty sessions courts of the type established in several southern and midland counties in the late sixteenth and early seventeenth centuries.⁶ The first explicit reference among the Quarter Sessions orders to divisional meetings is dated July 1631.⁷ Although the wording of this order does not rule out the possibility that such a divisional meeting was a well-established practice, the

1. See above p. 397.

2. Barnes Somerset p. 82; Fletcher Sussex p. 137.

3. See above p. 405.

4. The justices in each ward were to survey the decayed bridges, make the appropriate presentments at the following session and devise suitable arrangements for raising the money according to statute. DRO: QS/OB/1 pp. 138-9. A cess of fourpence in the pound was imposed. Ibid. p. 150.

5. Ibid. p. 252.

6. In Norfolk and Wiltshire such sessions had been established before the end of the reign of Elizabeth. The counties which set up petty sessions in response to the 1605 order included Essex, Hampshire, Warwickshire and Worcestershire. Fletcher Sussex p. 137.

7. Three men from the Sedgefield area were ordered to "appeare att the next meting for Stockton Warde & to pay there fines their". DRO: QS/OB/2 p. 47A.

absence of alternative evidence implies that divisional meetings were introduced as a result of the impact of the issue of the Book of Orders of January 1631.¹ By July 1632 it was clear that the justices were holding monthly meetings which the high constables were required to attend.² In October 1632 a rating dispute at Satley was referred to the next divisional meeting at Chester-le-Street,³ Over the succeeding two years several references to divisional meetings were made in sessions orders,⁴ The impetus for this appears to have been rather short-lived, for the references soon began to peter out. It may not have been wise for the government to have been so sensitive about offending local sensibilities in modifying the overall administrative framework to cope with palatinate status.⁵

1. With the introduction of the Book of Orders the Privy Council made a gesture towards the maintenance of Durham's palatinate status by placing the supervision of the book's instructions in the hands of the bishop and the temporal chancellor. A similar gesture was made towards Cheshire. APC 1630-1 pp. 215-7.
2. DRO: QS/OB/2 p. 72.
3. Ibid. p. 79.
4. The Chester Ward meetings were held at Chester-le-Street, the Darlington Ward meetings at Bishop Auckland and the Stockton Ward meetings at Sedgefield. There is no indication in the Order Books of the location of the Easington Ward meetings.
5. There was a practical reason for removing Durham from the responsibility of the northern circuit assize judges who received the reports demanded from the other northern counties. Durham had assizes only once a year, in contrast with the practice ^{almost} everywhere else.

Perhaps the tasks at which the Durham justices proved to be most dilatory were the supervision of the county's bridges and the fulfilment of the statutory obligation to establish a house of correction. The condition of the county's bridges seems never to have been satisfactory despite the almost interminable series of presentments at sessions. A grand jury presentment during Matthew's episcopate brought attention to the state of Elvet and Framwellgate bridges in Durham city. Matters were desperate "for that one syde of a great pillor of Elvet Bridge (standing in the water) is verie licklie to shoot out and fall in verie short time".¹ Clearly, the condition of bridges had been allowed to deteriorate until it was almost too late. The 1615 list of county bridges in maximo decasu is salutary, for only eleven of the bridges whose upkeep was the responsibility of the county appear to have been in decent repair. Of these, only Sunderland Bridge over the Wear near Croxdale and the bridges over the Tees at Barnard Castle and Eggleston were of first importance.²

The justices proved slow to fulfil their statutory duty to ensure the provision of a house of correction as set out in an act of 1576. The reason for the slowness of this response may have been an initial reluctance by the justices

1. PRO: DUH 17/1/1 (no. 11). Between 1565 and 1596 six levies were laid upon the county for repair of bridges. These brought in, or were intended to bring in, a total of £1331 14s. 6d. Five levies referred to specific bridges. Three of these were for the Durham half of the bridge over the Tyne between Newcastle and Gateshead. CBP 1595-1603 p. 220.

2. DUL: Mickleton & Spearman MS 8 pp. 59-62.

to impose the necessary extra charge upon the county. In 1581 the justices, prompted by Bishop Barnes, took the initiative and sought to divert funds, normally distributed to the poor by the dean in accordance with the statutes of the Cathedral, towards the erection of a house of correction. This might have eased the pressure on the county's rate-payers, but it was vigorously opposed by the Chapter, the deanery being vacant, since it could have proved a dangerous precedent which would operate to the discredit of the Cathedral.¹ Little progress was made. By the end of the century the house of correction had still not been erected, though in 1585 and 1599 county rates were levied for its erection and maintenance.² The house of correction had been established by the opening date of the first extant Quarter Sessions order book for the county in 1616, for four of the justices at the April session of that year were instructed to consider a convenient way for the raising of the master of the house of correction's stipend.³ The mastership may have appeared to be a post worth acquiring, for the master, William Atcheson, was succeeded by his son who was originally appointed on probation and later had his appointment confirmed on condition that his mother received £5 per annum out of his stipend.⁴ The county found it difficult

1. DPD/PK: York Book f. 64.

2. CBP 1595-1603 p. 220; PRO: DURH 17/1/1 (no. 12).

3. DRO: QS/OB/1 p. 5. Cf. the date for its erection given in R. Surtees Durham iv (part two) p. 56.

4. DRO: QS/OB/2 pp. 44A, 69.

to raise the necessary money on behalf of the master. In 1633 he petitioned the justices for payment of his arrears. The justices resignedly declared that the money should be paid to him "as sone as monie can conveniently be gotten".¹ If the master was short of money, then little hope could be held out that the condition of the inmates would be tolerable. By 1634 matters had deteriorated further and a cess was imposed for its repair.² As far as the 1631 Book of Orders was concerned, the house of correction was inappropriately sited. Ideally, it should have been erected next to the gaol. The house of correction had been built at the end of Elvet Bridge, some distance from the gaol which was situated, as an imposing reminder of the faded glories of the palatinate, in the castle at Durham. The gaoler was appointed by episcopal patent and was technically answerable to the bishop as a palatinate officer.³ Effectively, however, the gaoler was also answerable to the justices. In 1621 he was ordered to report to the clerk of the peace before releasing prisoners who had been bailed.⁴ In 1630 the succeeding gaoler was fined for his neglect in allowing a prisoner to escape.⁵

1. Ibid. p. 115.

2. In addition, two justices and the clerk of the peace were requested to survey the house's decay and to oversee the disbursement of the money collected for its repair.
Ibid. pp. 148-9.

3. Nicholas Hodgson had been appointed to the keepership of Durham Gaol by Bishop James. His appointment was confirmed in 1613 by the Dean and Chapter. PRO: DURH 2/24/127; DPD/PK: Register 8 f. 334.

4. DRO: QS/OB/1 p. 124.

5. DRO: QS/OB/2 p. 6.

Magisterial limitations, which were clearly demonstrated in the justices' policy with regard to the house of correction, were similarly emphasised by the need to resort to the rather dubious activities of common law informers in order to aid the enforcement of legislation which tested and found wanting the regular but unpaid agents of local administration. The use of such informers did not meet with complete approval. In 1638, for example, an informer named Ralph Wilson was pilloried and "dishabled from being any more an informer" following his indictment for extortion.¹ The role of such informers was long-standing, and, as the above quotation implies, their work had become institutionalised. The most noteworthy individual informer in Durham was Hugh Porter. In April 1619 he was responsible for the presentation of ten informations, six for salmon poaching, three for conversion of arable land into pasture and one for the engrossing of thirty stones of butter.² These latter offences were typical of the economic and social infringements of both law and contemporary morality against which the authorities could more often fulminate than act. Therefore, especially in times of dearth, the informers, no matter how distasteful their craft might appear, actually performed a useful social function.³

1. Ibid. p. 261.

2. DRO: QS/OP/1 p. 16. For other examples of Porter's work see DRO: QS/OB/1 pp. 80, 82-3, 117.

3. Their function was guaranteed in legislation which granted them a share in the fines imposed upon the offenders against whom they had informed. See, for example, SR iv (part two) p. 896.

The informers played an important role in ensuring that the ramshackle edifice of county administration did not collapse, for they helped ensure that the magistrates could fulfil at least a proportion of their statutory obligations regarding the economic organisation of society. The duties and powers of the magistrates had tended to grow as Elizabethan and early Stuart governments attempted to effect social amelioration by the use of legislation, though often without considering whether the objectives enshrined in such legislation were realisable or the methods to be employed were feasible. The preamble to the Statute of Artificers of 1563 acknowledged the limitations in these respects of previous legislation in this field but did nothing to come to grips with the problem. J.Ps. were expected to set wage rates and to enforce the rates which were set, but the Durham justices at least seem not to have been concerned to grapple with this unrealistic obligation.¹ Licensing of alehouses was another area in which magisterial supervision was never likely to comply with the strictest requirements of the law. The Durham justices occasionally suppressed disorderly houses.² An effort was made during a time of dearth to restrict the activities of maltsters, brewers and alehouse keepers in order to ensure that adequate supplies of barley reached the markets.³ However, the limitations of magisterial power were clear and unlicensed tippling houses remained a

1. Ibid. pp. 414-22.

2. See, for example, DRO: QS/OB/1 pp. 148, 152, 159; QS/OB/2 p. 227.

3. DRO: QS/OB/1 pp. 173-5.

problem, especially in those areas remote from effective magisterial authority. Even so, the J.Ps. themselves seem to have been unusually lenient in the granting of licenses and were thus presumably unworried about the prospects of an outbreak of alehouse sedition.¹ A potentially greater threat to social stability was provided by the perennial problem of vagrancy. The incidence of vagrancy varied. It was obviously greater at times of economic stress and in areas close to the main channels of communication, which in Durham effectively meant the Great North Road. The Durham justices did not deviate from the norm of magisterial behaviour in this regard. Statutory floggings, spells in the house of correction and the attempted expulsion from the county of outsiders without visible means of support were the usual sanctions employed, with much the same degree of helplessness which appertained elsewhere.² Occasionally, the justices themselves were moved to admit the ineffectiveness of the sanctions at their disposal. In 1619, for example, one Cuthbert Purvis was to be sent into Northumberland where "he must stay bycause it is his desire to stay there", an

1. The number of licenses held in the county in proportion to its population seems to have been very high. In 1577, according to one set of figures, 521 licenses were held in Durham; no fewer than 491 were of alehouses as opposed to inns or taverns. H.A. Monckton A History of English Ale and Beer (London, 1966) p. 101. Cf. H. Hall Society in the Elizabethan Age (London, 1888) p. 163. If we assume both that these figures for licenses and the population estimate given above for 1580 are correct, then Durham contained at that time about one licensed premise for about every 85 persons. See above pp. 37-9.

2. DRO: QS/OB/1-3 passim.

order which was hardly likely to endear the Durham justices to their colleagues north of the Tyne.¹ Later the justices were driven to offer to abate a defendant's fine if he would leave the county before the next session.² On a more positive note, the magistrates exercised an important function in the supervision of the public relief of the impotent poor. There were two apparent peaks in magisterial attitudes to the relief of the poor. The first of these occurred in July 1629 when it was ordered at very short notice that ministers, churchwardens and overseers of the poor in each parish were to give in an account of their poor stocks.³ The fact that the justices wished to have the accounts from each parish given in and checked within nine days seems to suggest that they were worried about the possible reaction of the assize judges who were due shortly in Durham on their annual

1. DRO: QS/OB/1 p. 89. Inter-county relations between the benches of Durham and Northumberland seem to have been relatively untroubled. However, the relations between the Durham J.Ps. and their North Riding colleagues was sometimes less than cordial. A recurring source of bickering was the controversy over the relative contributions of the counties to the upkeep and repair of Yarm Bridge, then the lowest bridging point of the Tees. In 1624 the county's bench had, probably with Neile's prompting, been quick to deny any responsibility during one of the purges regarding bridge repair. *Ibid.* p. 194; DUL: Mickleton & Spearman MS 2 f. 343. After lying dormant for some time the issue was revived, and was pressed as far as King's Bench which decreed that the counties should share responsibility equally for the bridge's upkeep. Each county was to provide £100, a substantial sum to be provided out of the money raised in the normal way for repair of bridges. Unfortunately for the Durham rate-payers, the county almost immediately had to find an additional sum of £55 for the same purpose. DCL: Randall MS 3 pp. 312-3 (interleaved); DRO: QS/OB/2 p. 238.

2. DRO: QS/OB/1 p. 327.

3. *Ibid.* pp. 360-1.

visit.¹ This frenzied activity may have been counter-productive. It cost the churchwardens and overseers of Gateshead 5s. 4d. to comply with the justices' request.² During a difficult year this money could have been better spent elsewhere. There is nothing in the Quarter Sessions orders to suggest that the exercise had been worthwhile, although it might have had a galvanising effect at the parochial level. The second peak was reached shortly afterwards following the issue of the Book of Orders in January 1631. One of the main concerns of the book was its emphasis on poor relief.³ There was no immediate sign of its impact in the April 1631 session. However, the following session was characterised by a hitherto rather muted concern for poor relief. Those who had failed to contribute to the poor rate in the parish of St. Oswald were ordered peremptorily to subscribe before the following Sunday.⁴ A warrant was issued against the churchwardens and overseers of neighboring St. Margaret's for their failure to contribute according to the terms of a former order to the upkeep of a woman in the

1. A proclamation was issued on May 17th 1629 for the due execution of the laws for setting the poor to work. The judges were to inquire into the execution of the provisions of the proclamation. This information was supplied by Dr. Quintrell.
2. GPL: St. Mary's Vestry, Minute Book, 1625-78 f. 22.
3. This explains the treatment of the 1631 Book of Orders in E.M. Leonard The Early History of English Poor Relief (Cambridge, 1900) pp. 158-9.
4. DRO: QS/OB/2 pp. 52A

house of correction.¹ Occasionally, the justices had to exercise their supervisory functions in more fundamental matters. Thus, a complaint in 1623 from Thomas Liddell of Ravensworth that he should pay his poor rate for his ownership of Lamesley prebend in Lamesley chapelry rather than in the parish of Chester-le-Street was upheld.² Four years later proceedings were instituted against Richard Lilburne of Thicket for stealing the poor rate schedule of his parish of Auckland St. Andrew from the churchwardens and overseers.³ Presumably Lilburne was reacting in typically direct fashion against what he considered an unfair poor relief burden.⁴ While the parochial structure was, theoretically at any rate,⁵ intended to deal with the regular sources and examples

1. Ibid. p. 44B.

2. DRO: QS/OB/1 p. 179.

3. Ibid. p. 289.

4. Another example of Lilburne's directness and stubbornness was his insistence on the right to a trial by battle in a land dispute. PRO: PC2/46 pp. 449-50; BL: Additional MS 27380 ff. 51-2; DUL: Mickleton & Spearman MS 52 ff. 23-4.

5. The public relief provided by each parish for its own poor was, of course, supplemented by institutional and private charity. In a throwback to the pre-reformation system in which the Church found itself the principal provider of poor relief, the Dean and Chapter was statutorily obliged to distribute £66 13s. 4d. per annum to the poor in its lands and parishes. SS 143 pp. 170-3. The most significant piece of private charity was provided in the will of Henry Smith. In the spirit of the 1576 act, Smith left his coal mines and the residue of his estate to the city of Durham in order "that some good trade may be devised for the settinge of youth and other idle persons worke". SS 38 p. 333. Smith's gesture epitomised the chance nature of such bequests, for the wealth was only available because Smith had disinherited his daughter and heiress, his "graceless Grace", on account of her conversion to Roman Catholicism. For accounts of Smith's charity see Hutchinson Durham ii pp. 56-60; R. Surtees Durham iv (part two) pp. 26-9. Despite mismanagement of the charity's affairs, it managed to do much good work, especially in the binding of apprentices See DRO: City of Durham Records MB/Du/163.

of indigence, the justices exercised the power to levy county rates, which were particularly important in dealing with such emergencies as the relief of areas affected by the outbreak of infectious diseases. Problems could be caused, however, by the levying of rates on particular groups of parishes for the alleviation of social distress in specific areas, for this ran counter to the received notion that relief should be organised on either a parochial or a county basis.¹ Given the nature of the supervisory function exercised by the J.Ps., it was understandable that relations between them and the parishes should not always have been entirely cordial. Nevertheless, under the circumstances the Durham justices appear to have exercised their powers with a competence which they did not always display in their more narrowly political actions. In the final analysis, of course, they could not be held responsible for difficulties arising from the oversight of problems inherent both in a primitive economy and in an unsophisticated administrative system over which they could exercise only the most rudimentary of controls.

1. It might have been this consideration which led the justices to vacate an order imposing a cess for the relief of the infected upon Chester Ward only despite their statutory right to do so. DRO: QS/OB/2 p. 236.