

THE UNIVERSITY OF HULL

THE ORIGINS AND TRANSFORMATION OF  
THE NONJUROR SCHISM, 1670-1715;

ILLUSTRATED BY SPECIAL REFERENCE  
TO THE CAREER, WRITINGS AND ACTIVITIES  
OF DR. GEORGE HICKES, 1642-1715.

being a Thesis submitted for the Degree of  
DOCTOR OF PHILOSOPHY  
in the University of Hull

by

The Revd. Guy Martin YOULD, M.A., B.D.(Oxon.)

October 1979

SUMMARY OF THESIS

SUBMITTED FOR Ph.D. DEGREE

BY

G.M. YOULD

ON

THE ORIGINS AND TRANSFORMATION

OF THE NONJUROR SCHISM, 1670-1715;

ILLUSTRATED BY SPECIAL REFERENCE

TO THE CAREER, WRITINGS AND ACTIVITIES

OF DR. GEORGE HICKES, 1642-1715.

## SHORT SUMMARY OF PH.D. THESIS

THE ORIGINS AND TRANSFORMATION OF THE NONJUROR SCHISM, 1670-1715;  
ILLUSTRATED BY SPECIAL REFERENCE TO THE CAREER, WRITINGS AND  
ACTIVITIES OF DR. GEORGE HICKES, 1642-1715.      G. Martin YOULD

This thesis intends to show how some of the Laudian high church and high Tory clergy of the Restorian era were impelled to reject the Glorious Revolution of 1688 and its consequences for the church because of their close association with the anti-Exclusion policies of the crown in the later years of Charles II. Passive obedience, non-resistance and hereditary divine right were political theories based on scripture, the early church, the sufferings of the early martyrs and of Christ himself. The clergy, as a special class of educated professionals, could advance themselves significantly in their calling by preaching and writing in favour of the currently favourable political ideology of the later Stuarts. Fortified by the glorious deaths of King Charles the Martyr and Archbishop Laud, passive obedience and non-resistance were regarded as vital moral precepts of the Christian faith. The sufferings of the Church of England and its faithful confessors during the Great Rebellion had made anglicanism a martyr faith, passionately held. In this golden age of anglican patristic scholarship, the works of Ignatius of Antioch and Cyprian re-emphasized the conviction that episcopacy was of divine right and an essential part of Christ's church. Political opposition or religious nonconformity were alike considered as sinful and perverse.

For the Church of England the double blows of James II's ungrateful treachery and the Revolution itself were shattering shocks. The minority of bishops and clergy who refused the new oaths and accepted deprivation regarded their removal as being as invalid as the deposition of James II. The consecration of Tillotson and the other Revolution 'intruders' caused the nonjuror bishops to go beyond the intended precedents of the Interregnum and to consecrate new bishops in secret. A great controversy was begun by the ousted nonjurors using high sacramental theology, eucharistic doctrine, the apostolic succession of bishops and priests, and the essential independence of the church from the state. The whole relationship of church and state since Henry VIII and Elizabeth was thus radically called in question, and the nonjurors developed a powerful attack on the complying 'Revolution church' more revolutionary than the Revolution itself.

The career of George Hickes ideally illustrates the rise of a late restoration divine who strongly supported Charles II. He achieved eminence just before James II attacked the Anglican church's monopoly, defended the church strongly against the king's aggression and took an uncompromising stand against the Revolution settlement in church and state. A clandestine bishop and rigid high churchman of a logically hard, ruthless and consistent mind, Hickes outstandingly represented the nonjurors' position in ecclesiastical matters as well as Jacobitism. He finally opposed Henry Dodwell's return to the established church in 1710 and established his own leadership of the diehard rump of nonjurors and secured further episcopal consecrations to ensure the continuance of the nonjuror schism.

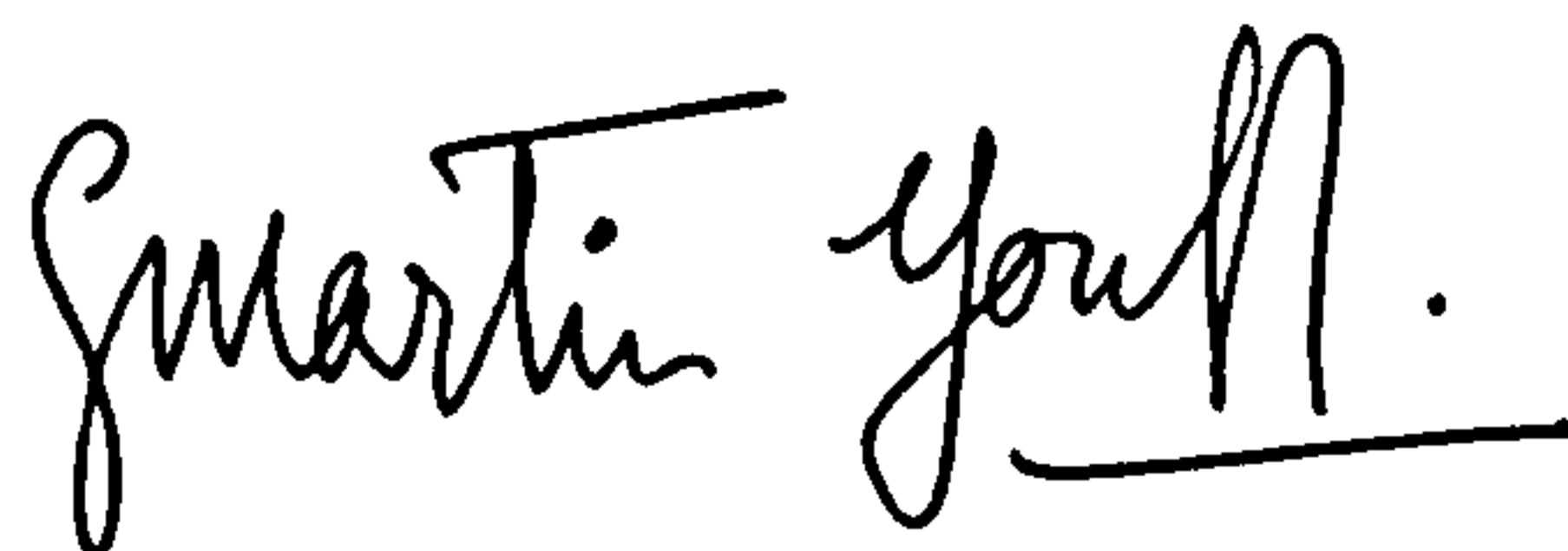


## PREFATORY NOTE

This dissertation contains material in part based on and derived from the writer's Oxford University Bachelor of Divinity thesis of 1968, now deposited in the Bodleian Library. Manuscript and printed sources used for the Oxford B.D. thesis have been again drawn on extensively in this dissertation (as well as other sources).

In each chapter of this dissertation some material from the B.D. thesis has been incorporated, particularly those parts relating directly to Dr. George Hickes's career and controversies. Such passages are here used to illustrate the thesis that the origins and reasons for the transformation of the Nonjuror schism are to be found in the Church of England's inheritance from proto-Caroline Laudian and Interregnum anglicanism and in sixteenth and seventeenth century ideas of law and legitimacy.

Signed:

A handwritten signature in cursive script, reading "Guy Martin Yould". The signature is written in dark ink and is positioned to the right of the word "Signed:". The signature is written in a fluid, connected style with a long horizontal stroke at the end.

(Guy Martin Yould)

## ABBREVIATIONS

Add. MSS.	Additional Manuscripts.
B.M.	British Museum. <i>British library /</i>
Bodl.	Bodleian Library, Oxford.
C.S.P.D.	Calendar of State Papers, Domestic.
College Papers	Papers of the Scottish Episcopal College in the 'Jolly Kist', Edinburgh Theological College.
G.R.	'The Genuine Remains of the Late Pious and Learned George Hickes, D.D., and Suffragen Bishop of Thetford'. Hilkiah Bedford's MS copybook of Hickes's works in the possession of the family of the late Robert Walmsley, Esq.
G.M. Yould, <u>Hickes</u>	Oxford B.D. Thesis, 1968, on <u>The Career and Writings of Dr. George Hickes, Nonjuror (1642-1715)</u> ; Bodleian Library.

## TABLE OF CONTENTS

		<u>Page No.</u>
CHAPTER I:	Introduction: The Making of a Loyalist	1
CHAPTER II:	Early Political Involvement: Lauderdale's Chaplain	21
CHAPTER III:	Political Divinity: A Royalist Divine	62
CHAPTER IV:	The Dean of Worcester and Defence of the Crown	110
CHAPTER V:	The Revolution - The State Point	164
CHAPTER VI:	The Church Point: The Deprivations and the Schism	208
CHAPTER VII:	The Schism Consolidated: The Apostolic Succession and Holy Orders in the Nonjuror Controversy, 1689-1715	270
CHAPTER VIII:	The Eucharist in the Nonjuror Controversy in England, 1707-1715	316
CHAPTER IX:	Desertions and Divisions: Dogmatism and Dissensions	346
CHAPTER X:	Conclusion: Final Years: Loyalty Irreconcilable	395

	<u>Page No.</u>
BIBLIOGRAPHY:	
A. Manuscript Sources	430
B. Hicke's Published Work	431
C. Other Works Edited or Published by Hicke	436
D. Contemporary Printed Works	436
E. Later Publications	445
F. Articles	450



## CHAPTER I

INTRODUCTIONTHE MAKING OF A LOYALIST

That the church of England survived the period of more than fifteen years of its eclipse and outlawry from 1645 until 1660, is remarkable indeed. Despite so many clergy meekly complying with the parliamentary ordinances abolishing the Book of Common Prayer and episcopacy, despite so many clergy making an easy compliance with the Commonwealth by taking the Engagement on Dr. Robert Sanderson's moderate principles and so keeping their benefices,<sup>1</sup> despite the intrusion of presbyterians and independents into anglican pulpits and parsonages and the eviction of those parish priests whose religious or political principles identified them as supporters of church and king, the church of England was ultimately re-established in 1662, bishops, liturgy, cathedrals, archdeacons, deans and chapters and all. The work of the so-called 'Laudian' group of high churchmen led by Dr. Gilbert Sheldon and Henry Hammond saw to it that a strong and widespread underground church network was kept in being. Ordinations were often performed privately by the dispossessed bishops. Towards the end of the 1650's, negotiations were set on foot with Charles II's court-in-exile to prepare for some kind of episcopal consecrations in secret to prevent the anglican episcopal

---

1 R. Sanderson, Works (ed. W. Jacobson), V, pp.20-36, 'The Case of the Engagement'.

succession from dying out.<sup>1</sup> The appearance of a decided cleavage of opinion within the anglicanism of the 1650's is apparent and it was the high church divine-right men of Gilbert Sheldon's party who fought and plotted hard to keep the anglican church in being even after the martyrdom of Archbishop Laud in 1645 and that of King Charles I in 1649. Victor D. Sutch has written that Sheldon's influence on seventeenth century England was as much as that of John Pym. 'As Pym could be considered the instrument which destroyed the social and religious system that was old England, so Sheldon was the instrument which restored that part of it which again entered English life and thought.'<sup>2</sup>

It might seem therefore that the restoration of the monarchy and the church of England in 1660 and 1662 simply brought back the pre-Civil War and pre-Long Parliament situation. But this is not so. The old Henrician and Elizabethan national church, governed by the purely clerical Convocations of Canterbury and York under their metropolitans' presidency and the crown's supremacy, had gone for ever. What R.G. Usher called 'The Reconstruction of the English Church' that took place under Archbishop Bancroft, including the passing of the 1604 Canons by the Convocations alone and the promulgating of those canons by the authority of the crown alone, did not go unchallenged by the house of Commons. Archbishop Laud, that mitred arch-bureaucrat, also made the church's authority over the laity more

---

1 R.S. Bosher, The Making of the Restoration Settlement (1957); J.W. Packer, The Transformation of Anglicanism, 1643-1660, with special reference to Henry Hammond (1969); V.D. Sutch, Gilbert Sheldon, Architect of Anglican Survival (1973).

2 V.D. Sutch, op. cit., p.175.

effective, through the High Commission, oaths ex officio mero, the ecclesiastical courts and also his metropolitical visitation. Even Laud, however, needed Charles I's explicit authority and permission for the Convocation of 1640 to sit beyond the dissolution of parliament to make its famous canons, including very definite and clear pronouncements on the divine right of kings and the essential episcopal nature of church government in the 'etcetera' oath. The canons of 1640 were explicitly nullified by the restoration parliament, however. The oath ex officio mero and the High Commission were not restored.

Despite Gilbert Sheldon's triumph, it was not the old Henrician or the Elizabethan anglican church which was restored as a body immune from parliamentary control, as it had been in the days when Elizabeth could by orders to the Speaker prevent the Commons discussing the church or even imprison offending puritan members who pushed for further 'godly reformation'. The restoration church was a parliamentary church dependent on statute for its powers and prerogatives and also for its members' monopoly of political power. Though Bishop Sheldon and Lord Chancellor Clarendon did not know it, their restoration church settlement was to last for barely twenty-five years. Sheldon fought hard in parliament to protect and buttress the church with the penal laws of the Clarendon Code. In 1672 and 1673 it was even necessary to defend the church from the King himself, when Charles II attempted his Declaration of Indulgence. Practical politics in both houses had replaced the lofty conception of a great and untouchable divine society, embodied indeed in a great united national institutional church. Indeed, after Henry VIII had himself laid greedy hands on so much of the church's



monastic wealth and landed property, using the powers of parliament and statute to achieve his ends, there was little to prevent the Edwardian regents, Somerset and Northumberland, plundering episcopal or cathedral property too. It is doubtful if these precedents of legalized anti-clericalism and despoliation of the church could ever have been expunged. With the house of commons on the offensive against James I and Charles I, the church had stood together with the monarchy, and both fell headlong together in the disasters of the Great Rebellion. The restoration settlement in church and state was too imprecise, too conservative and left far too many questions open and unanswered. Too many issues were still unresolved. The church of England under Charles II was in reality a parliamentary, legally established body. To defend its position, it was necessary for Sheldon and his associates to preserve its monopoly by strong actions in parliament. When the crown, the succession and the church's position came under attack from Shaftesbury's Exclusion campaign in the later 1670's, the church was drawn ~~back~~ to the support of the monarchy. The divine right of hereditary monarchy and the divine rights of apostolic succession of the bishops were seen as going hand in hand. The reforged alliance of church and king that overcame all opposition in the Oxford parliament and the Royal Commission for Ecclesiastical Promotions appeared permanent and very strong.<sup>1</sup> But still it was basically an alliance of necessity, of political convenience. Unsettled

---

1 See R.A. Beddard, The Commission for Ecclesiastical Promotions, 1681-84: An Instrument of Tory Reaction, in The Historical Journal, X, i, (1967), pp.11-40.



by James II's attacks on both church and constitution, the bulk of the high churchmen deserted the crown and connived at James's deposition. The Glorious Revolution of 1688 and 1689 embarrassed the churchmen, as (however dimly) they perceived that it represented a parliamentary triumph over crown and church. Both Dutch William as king and the Toleration Act as law undermining the restoration's anglican exclusiveness, were standing denials of divine right in the house of Stuart or the anglican hierarchy. The ruthless eviction of a faithful and saintly primate and the deprivation of other bishops and clergy for no offence save that of refusing new oaths which they felt would imperil their consciences, was a regrettable act of political unwisdom. The ousted prelates and clerics were loyalist divine right men in both church and state. Their deprivations made them seem confessors and martyrs for a cause, like the clergy who suffered under Cromwell and the Commonwealth. But it was for refusal of a political oath which violated their own conservative political theories (no matter how scripturally formulated) that the nonjurors were, in the final analysis, deprived. That Archbishop Sancroft and his colleagues among the deprived fathers should have regarded the events of 1688 and 1689 as modelled on the terrible precedents of 1645 and 1649, is understandable. Sancroft and the others were men who had been deprived themselves in the 1650's, and represented the Laudian school of Sheldon and Hammond rather than the moderate guarded compliance of Sanderson. For the nonjurors, the precedents of the 1640's had come to pass again in the Glorious Revolution. But in endeavouring to keep their own rigid views alive and to maintain their church's apostolate

unspotted from any taint of compliance with profane lay force, Sancroft, Lloyd of Norwich and George Hickes set their faces resolutely against the currents of their times and excluded themselves for ever from the mainstream of English life. With the triumph of laity and parliament over church and king, the final birth of the modern omnicompetent state came about, bound only by political expediency and freed from the shackles of a religious or political morality expounded by the clergy.

George Hickes was born on 20 June 1642, the year in which the English Civil War began. In January 1642 Charles I had attempted to arrest the five members, and Archbishop Laud had been in the Tower for a twelvemonth. Hickes was the fourth child and second son of William and Elizabeth Hickes of Moorhouse or Newsham Hall, a substantial farm in the township of Newsham, near Thirsk, in the parish of Kirby Wiske in the North Riding of Yorkshire. The family was armigerous, of the lesser gentry and William Hickes held the lease of 'the great impropriate tithing of Thirsk' from the see of York, and so 'had an estate sufficient to maintain hospitality above his rank, and yet give a very good education to seven children'.<sup>1</sup>

John Hickes, the eldest son, nine years older than George, was sent to Trinity College, Dublin. This was a stronghold of Calvinist puritanism during the period of the Commonwealth, and John Hickes became a presbyterian minister at Saltash in Cornwall in 1657. Elizabeth Hickes, George's mother, was daughter of the Reverend George Kaye (or Key), rector of Topcliffe, and her brother William was curate of Stokesley in 1640. He later

---

1 Bodleian, MS Eng. Misc. e.4, fol.1.



became a Baptist, and was rebaptized in July 1653, but held Stokesley parish until 1660, when Thomas Pennyman the ejected royalist rector was restored.<sup>1</sup>

George Hickes was sent to school first at Thirsk, then Danby Wiske and finally to Northallerton under one Thomas Smelt. Smelt was a devoted and brilliant schoolmaster and an ardent royalist, and instilled his political convictions forcefully into his pupils. Hickes's father supported the parliamentary cause, his maternal uncle was an Anabaptist preacher and his elder brother a presbyterian, so the young George Hickes was educated in a direction quite opposite to family influences. Among Hickes's schoolfellows were John Radcliffe, later the great royal physician and benefactor of Oxford University, and John Kettlewell, later, with Hickes, a Yorkshire fellow of Lincoln college and also a nonjuror. Memories of George Hickes's schooldays in the 1640's and 1650's and the strong influence on him of his royalist schoolmaster remained with him for life. Hickes later related stories of a Fifth Monarchy man preaching ecstatically in a village near Helmsley, a Cromwellian officer denouncing the Anglican church and its 'dead ordinations' in Northallerton church and Quaker women causing a commotion by their enthusiastic field preaching and excitable praying aloud. He also witnessed a presbyterian ordination at this time.<sup>2</sup>

George Hickes was briefly sent at sixteen to his brother John at Saltash in Cornwall to be apprenticed in Plymouth. His

---

1 A.G. Matthews (ed.), Calamy Revised (Oxford, 1934), p.303.

2 F. Lee, Life of John Kettlewell (1718), pp.11-15; and R. Laurence, Lay Baptism Invalid (2nd edition, 1710), Hickes's 'Letter to the Author', not paginated.

brother realized that he was too promising a scholar for a career in trade, and sent him to St. John's College, Oxford, where he was entered as a batteller in April 1659. Despite the strong puritan regime still in the ascendant at the university, Hickes discovered the works of Bishop Joseph Hall,<sup>1</sup> who defended episcopacy against Pym and the Long Parliament, and also Howell's Dodona's Grove, an allegorical account of the Great Rebellion under the types of trees and flowers, and

he was thereby so thoroughly convinced of the errors of his education, that he grew weary of the university and had left it in all likelihood if the Restoration had not prevented it.<sup>2</sup>

The Restoration of Charles II was achieved in May 1660, and by October that year Bishop Brian Duppa, assisted by four other Laudian bishops from before the Civil War, consecrated five new anglican bishops in Westminster Abbey. The Anglican episcopate was thus secured and by 1662 the Church of England was re-established by law, about a thousand non-conforming clergy were ejected and the Clarendon Code was on the statute book. The new laws created a national church whose members alone were the only persons capable of political power or public office, and also created a separate body of various nonconforming dissenters with a double grievance, religious and political, excluded from any position in church or state.

The young George Hickes was thus a budding Cavalier loyalist at the highly impressionable age of eighteen when the restoration

---

1 J. Hall, Episcopacy by Divine Right (1639), A Humble Remonstrance to the High Court of Parliament (1641), A Defence of the Humble Remonstrance against Smectymnuus (1641), and An Answer to Smectymnuus (1641). See T.F. Kinloch, The Life and Work of Bp Joseph Hall (1951), pp.152-159.

2 Bodl., MS Eng. Misc. e.4, fol.4.



took place. To be in Oxford, the loyal university and Charles I's Civil War capital, was to witness the ejection of the puritan fellows and heads of houses intruded during the Commonwealth by Prynne and the parliamentary Visitors. The Bodleian Library manuscript life of Hickes, in the hand of Hilkiah Bedford, his literary executor, records the young Hickes's joy at seeing the restoration of the ejected royalist fellows and heads who had been displaced in the later 1640's.<sup>1</sup> In 1660 Hickes migrated from St. John's to Magdalen college as servitor and amanuensis to Dr. Henry Yerbury, a royalist restored fellow, who had been a Cavalier exile on the continent, studying chemistry and medicine at Padua. Hickes studied logic from Smiglecius and Stahlius' Axioms, geography and the latin classics. He took his B.A. degree on 24 February 1662/3, and then followed Yerbury to Magdalen Hall. Yerbury had quarrelled violently with Dr. Pierce, the president of Magdalen, and their dispute went before the bishop of Winchester as Visitor and to the Privy Council before it was resolved.<sup>2</sup> At Magdalen Hall, Hickes came under the influence of the principal Dr. Hyde, who was a close relative of Lord Chancellor Clarendon, who was also Chancellor of the university. Dr. Hyde made Hickes tutor to two young men of his own family, and this privilege was resented by some of his seniors. Such tutorships were eagerly sought after by dons to give them patrons in the

---

1 Bodl., MS Eng. Misc. e.4.<sup>f.4r</sup> The MS Life is in Bedford's hand, but is clearly unfinished. Several detached sheets are in Bodl., MS Eng. Hist. b.2, ff.52-59, and continue Bedford's account up to the clandestine episcopal consecrations of February 1694.

2 J.R. Bloxham, Magdalen College Register, i, 45, 46; ii, cxxxiv, 343; v, 86, 163, 176-195, 244, 246 and 262. H.A. Wilson, College Histories: Magdalen (1899), 180-182.

powerful and influential families whose sons they taught.<sup>2</sup> After a year at Magdalen Hall, Hickes was elected to a Yorkshire fellowship at Lincoln college. Dr. Paul Hood, the aged rector of Lincoln college, had held office since 1621 and held his position throughout the Commonwealth and Protectorate, but owing to his infirmity effective control of the college lay with Nathaniel Crewe, the energetic sub-rector. At Hickes's election on 23 May 1664, it was stipulated that the new fellow should have no benefit from his position for six months. This period he spent on a prolonged visit to his parents in Yorkshire.

Hickes convinced his father of his errors during the Great Rebellion, when William Hickes had opposed the royalist cause, and made

a solemn resolution to make an atonement for his father's sin by doing the utmost in his power through the whole course of his life to further the Royal cause and that of the church, which had been so disserved by his father, and he earnestly begged of God the assistance to enable him to perform that pious resolution.<sup>2</sup>

Hickes also resolved to pray every 30 January during his father's life, that the guilt of rebellion might not be laid to William Hickes's charge. In the son's eyes, resistance was not merely a political offence or mere opposition, but grave sin contrary to the gospel, which had led to King Charles I's martyrdom. Hickes's need to atone for his father's sin, his education and achievements in Oxford, combined with native Yorkshire tenacity to produce this fixed resolve. Hickes's views were largely

---

1 Bodl., MS Eng. Misc. e.4, fol.5.

2 Bodl., MS Eng. Misc. e.4, fol.5.



typical of his generation. A nation weary of military rule, <sup>chaos</sup> ~~chaos~~ in matters of faith and afraid of anarchy after Oliver Cromwell's death, had returned to its traditional constitution in church and state. The memories of 1649 and Cromwell had burnt deeply into Englishmen's minds. The restoration settlement in church and state alike was fenced with penal laws against sectarian turbulence. The fashionable political theory, therefore, became passive obedience and non-resistance.

The character, then, of a Cavalier or Restoration divine lay not so much in the rigidity of his theology, as in the extravagance of his political principles. In 1660 it seemed that the only political theory that could save the order of society from a regicide republic or religious anarchy was belief in the hereditary Divine Right of kings and in passive obedience to their commands.<sup>1</sup>

Returning to Oxford late in 1664, Hickes took up his fellowship at Lincoln college and the duties of academic life. He proceeded to an M.A. on 8 December 1665, and the following year Nathaniel Crewe appointed him tutor and lecturer in logic. In 1667 he was also lecturer in philosophy and 'ruler of the choir' at All Saints' church, which with the nearby parish of St. Michael-at-the-North Gate, was annexed to Lincoln college. The rector and fellows of Lincoln appointed curates or chaplains to the two parish churches. Hickes was ordained deacon on 10 June 1666 and priest on 23 December in the same year by Dr. Walter Blandford, Bishop of Oxford and also Warden of Wadham College.<sup>2</sup>

---

1 G.V. Bennett, White Kennett, Bishop of Peterborough (1957), p.1.

2 Bod., MS Eng. Misc. e.4, fol.5. Lincoln College Library, Notebooks of Andrew Clark, V, not paginated.

In 1668 Dr. Paul Hood died and Nathaniel Crewe became rector of Lincoln College. Though he only held office for four years and was often absent at court as clerk of the closet to Charles II, Crewe had already been virtual head of the college for several years. He was also rector of Witney and dean of Chichester, but made considerable improvements in the college's finances and discipline, and also had instituted a twice weekly Greek lectureship. Hickes held this post in 1669.<sup>1</sup> Crewe became bishop of Oxford in 1671 on Blandford's translation to Worcester. He was a great favourite of James, duke of York, who secured his translation to the wealthy see of Durham in 1674. Hickes remained as college tutor, teaching and disciplining undergraduates, and was for some time in Crewe's favour. But after the new rector of Lincoln became bishop of Oxford he grew more imperious, and a sharp disagreement occurred between rector and fellows over a fellowship election. This could have been the election of Fitzherbert Adams in October 1672, only two days before Crewe's resignation as rector. 'Crewe dismissed two of his chaplains for opposing him in the matter, Thomas Pargiter, a Lincoln College man, and George Hickes.'<sup>2</sup> It does not seem clear what C.E. Whiting's sources were for this statement, nor is it clear if Hickes was Bishop Crewe's episcopal chaplain or perhaps still chaplain at one of Lincoln college's parishes. But Crewe removed

---

1 C.E. Whiting, Nathaniel, Lord Crewe (1940), pp.28, 29. Lincoln College Register, fol.133b; Order for a Greek lecture, 6 May 1664. Also, Notebooks of Andrew Clark, Linc. Coll. Library, V (not paginated); vi, fol.39.

2 C.E. Whiting, op. cit., pp.35 et seq. Bodl., MS Eng. Misc. e.4, fol.7.



him and accused him of ingratitude. At his departure from the college, Bishop Crewe informed the fellows that he desired them to elect Thomas Marshall as his successor. Marshall was a fellow of Lincoln since 1669 and a former pupil of Francis Junius, the learned student of the ancient northern tongues. He was elected in accordance with Crewe's wishes.<sup>1</sup> Marshall was already a close friend of Hickes's, whose own study of the old northern tongues dated from this time. Hickes held various college offices under the new rector, and his former schoolfriend, John Radcliffe (now also a fellow) was lecturer in logic in 1671 and 1672. In 1673, however, Hickes had a severe breakdown in health, consumption and a high fever. He was advised by physicians to leave off intensive academic work for a year. Foreign travel was recommended.

An important offer now presented itself. One of Hickes's former pupils at Lincoln college, Sir George Wheler, who desired to travel abroad, came to see Hickes with the request that he accompany him on an extended tour on the continent of Europe.<sup>2</sup> Wheler offered to pay all Hickes's expenses, and the eighteen month tour of France and Switzerland which followed was to have a vital influence on Hickes's development. It introduced him to continental protestantism at first hand and enabled him to come to a firm judgement about those churches from personal experience. He became convinced of the absolute necessity of

---

1 Linc. Coll. Register (1672), ff.1766, 1777-1786. Marshall was elected on 19 October 1672 and installed by Dr. John Fell, Dean of Christ Church, acting as proxy for the Visitor.

2 Bodl., MS Eng. Misc. e.4, fol.7.

episcopacy as an essential part of the constitution of the catholic church of Christ, and regarded both the French Huguenot and Swiss Calvinist churches as lacking a valid and regular ministry.

Having been granted a long leave of absence by his college, Sir George Wheler and Hickes left England in October 1673, arriving in Paris in November. Princess Mary of Modena was in the city on her way to England to marry James, duke of York. Hickes's own account of his winter in Paris survives to supplement the manuscript life in the Bodleian.<sup>1</sup> He called on Henri Justel, secretary to Louis XIV, who was a huguenot. Hickes met Pere Symon of the Oratory at Justel's and they spoke of the English polyglot bible and theological and patristic work at Oxford, including Dr. John Fell's edition of Cyprian. On a second visit, Justel was alone and spoke of England 'and of that party ... not well affected to the Crown'. Hickes began to call regularly, and through Justel met Algernon Sidney, an exile in Paris for fifteen years, and the young John Hampden. Sidney had been a member of Cromwell's high court of justice which tried Charles I, and Hampden was grandson of the Hampden of the shipmoney case and the son of Oliver Cromwell's chancellor of the exchequer. Hickes did not relish these meetings, as Hampden was a Lincoln college man and knew Hickes's royalist convictions.

Wheler and Hickes joined Lord Robert Digby and his tutor, John Younger, also doing the Grand Tour, and made for the south

---

1 Bodl., MS Eng. Hist. b.2, ff.194, 195; Hickes to Archibald Campbell, 27 August 1709; and MS Eng. Misc. e.4, ff.7, 7a and 8; Also Gen. Dictionary Historical and Critical (1738), vi, 159, a letter of Hickes to Dr. Thomas Turner, 13 May 1707.

of France. They went to Blois in February 1674 and Montpellier in June. Hickes also visited the Huguenot seminary at Saumur. He did receive the sacrament from the Huguenots at Charenton and again at Blois, 'but', he wrote later,

when I came to Montpellier, I declined the Sacrament, though I went to the Temple, having by reading and conferring about the mission of the French Protestant ministers altered my opinion; I should have said my Irenicum opinion, for I had no other than Irenicum principles when I went into France, having not so much read St. Ignatius' Epistles, or any other Father.<sup>1</sup>

Hickes here reveals his vital change of mind on church principles from those advocated in Stillingfleet's Irenicum (1659), which opposed non-conformity, advocated a broad national church, but regarded forms of church government as inessential and to be fixed by particular churches or nations. As a student of his own generation, educated in the great century of Anglican scholarship from James I through the two Charleses, Hickes would certainly have been aware of the work of Archbishop Ussher and Bishop John Pearson in vindicating the genuineness of the letters of Ignatius of Antioch and also of Dr. John Fell's work on the writings of St. Cyprian. These two most 'high church' episcopalian fathers of the early church contributed a great deal to Hickes's divine right opinions on episcopacy. If Ignatius, a contemporary of the apostle John, had so left his church in Antioch and so found the church in Asia Minor in the earliest years of the second century, then on historical grounds it would appear that monarchical episcopacy was the settled government of Christ's church by the

---

<sup>1</sup> Hickes to Dr. Thomas Turner, 13 May 1707, loc. cit.



year 100 A.D., and was left as such by the apostles themselves. Pearson's Vindiciae Epistolarum S. Ignatii had only appeared in 1672, but Ussher's work on the subject had come out in 1644 and that of Voss in 1646. These authorities established the genuineness of the Ignatian epistles beyond doubt and thus gave to the anglican appeal to history and the early fathers (as the best and earliest interpreters of scripture) a considerably added weight. Hickes said in his letter to Thomas Turner of 13 May 1707 that he had not read Ignatius when he 'went into France'. He then refused the sacrament from the Huguenots at Montpellier after twice earlier receiving Holy Communion with them. The presumption appears to be, therefore, that Hickes may well have read Ignatius during the tour in France and so reached the conclusion that episcopacy was an indispensable necessity to the catholic church of Christ.

Hickes and Wheler continued their tour to the south of France, to Nimes, Marseilles, Toulon and Grenoble, after which they returned to Lyons. Hickes noted many Huguenot temples in ruins or converted to secular uses. At Lyons, tutor and pupil parted company, Wheler to go on over the Alps to Italy and Greece, but Hickes to return to England after a short visit to Switzerland. At Geneva, Hickes was introduced to Turretini, the Antistes or Superintendent minister, who conversed very freely and readily with the anglican priest, 'till he declined receiving the sacrament from him, to which he was invited by him, as he afterwards suspected, for a test'. Turretini thereafter received Hickes 'with great coldness and reserve', and told him '... that he

imputed his declining to receive the sacrament from his hands, to his questioning the validity of their mission, which he had known some English gentlemen do'.<sup>1</sup> Years later, Hickes stated in his letter to Thomas Turner that he assumed that the Swiss pastor's reference to Englishmen who questioned their orders meant the first earl of Clarendon's refusal to receive the Holy Communion from the Huguenots. During his exile in Rouen, the fallen Chancellor attended Huguenots' worship and sermons, but would not receive the sacrament from them. He had never condemned their ordinations as invalid, but also he had never expressed any opinion in their favour, and his refusal of Holy Communion was interpreted by the Huguenots as unfavourable to them. Hickes's own opinion of non-episcopal orders was now fixed. They were invalid, and his previous reception of the sacrament at Charenton was 'an error'.<sup>2</sup>

Hickes's views on prebysterical ordination remained fixed. He refused to allow the usual plea of unavoidable necessity at the reformation made by the continental protestants. Though some contemporary Anglicans did regard continental protestant ministries favourably, and certainly in a better light than English dissenters, Hickes's view was rigidly condemnatory. To Dr. Thomas Smith, his fellow nonjuror, Hickes wrote condemning Smith's apparent

---

1 Bodl., MS Eng. Misc. e.4, fol.7a.

2 Gen. Dictionary Historical and Critical (1738), vi, 139; Hickes to Turner, 13 May 1707. For Clarendon's conduct at Rouen, see Anon. The Divine Right of Episcopacy Asserted (1708). Preface by G. Hickes, pp.xiv-xix, quoting a letter from Clarendon to his son Henry, the second earl, and supplied by him to Hickes.



approval of Bishop John Cosin's having communicated with the Huguenots at Charenton during his exile in the 1650's. The other Anglican royalist clergy then in France,

Drs Steward, Morley, Martin, Crowder, etc., ... never would communicate at Charenton, and refused to do so upon principle, which no charity can oblige any man to give up ... Now there can be no true, tho' there may be mistaken charity for persons against principles ... You (Smith) excuse their want of episcopal orders from the difficulties they were under, and so favour their false plea of necessity. For all their pretended necessity consisted in this, that they could not be allowed Bishops, but must have suffered persecution if they had been an episcopal reformation. But this pretence wants proof, and were it true they ought to have suffered for the divine institution, and expected the blessing and protection of God in adhering to it. They might have had bishops from England, or episcopal ordination at the Reformation. They might have had them and so continued them from Herman, ArchBishop of Cologne. They might have had them from the Greek or Russian churches. They ought to have had them from any part of the Christian world.<sup>1</sup>

Hickes's view of the necessity of episcopal ordination thus remained consistent, and the prejudice against presbyteral ordinations conceived on this continental tour remained fixed until his death.

Hickes spent a month in Geneva and then returned to Paris just before Christmas 1674. He again met Henri Justel, who now confided to Hickes king Louis XIV's intention to revoke the edict of Nantes, and hinted at a plot being hatched in Holland against the house of Stuart in England. Justel said he knew 'how many inveterate enemies the King and monarchy of England had in Holland', and that Hickes was young enough to see this 'secret design ... to extirpate

---

<sup>1</sup> Bodl., MS Smith 50, fol.125. Hickes to Smith, 1 June 1704.



the royal family' come to pass.<sup>1</sup> Finally, the French king's secretary gave into Hickes's custody the manuscript of his father's great work on the canons of the ancient church, with instructions to deliver it into the safe keeping of Oxford university.<sup>2</sup> Hickes finally left Paris in March 1675 to return home. Staying briefly in London, he then returned to Oxford, 'and at the Act following answered the doctors for his Bachelor of Divinity degree', taking the degree on 14 May 1675.<sup>3</sup>

Returning to Lincoln college, Hickes was able to use his influence on behalf of John Kettlewell at a fellowship election on 28 July 1675. Kettlewell was Hickes's former schoolfellow and had been at St. Edmund Hall since 1670, as servitor to Dr. Thomas Tully, principal of the Hall. Thomas Smelt had recommended Kettlewell to Hickes's care, and Hickes was able to get his young protégé elected to Dr. John Radcliffe's vacant fellowship. Radcliffe vacated his fellowship owing to his having turned his studies to medicine and being unwilling to take holy orders, as the College statutes required. Radcliffe had left the college, but had obtained promises in advance from several fellows to vote for his brother to fill the vacancy. Hickes protested to Marshall, the rector, against such lobbying in advance, arguing that votes should be given freely on the merits of the individual candidates alone.<sup>4</sup>

---

1 Bodl., MS Eng. Hist. b.2, ff.194, 195; Hickes to Archibald Campbell, 27 August 1709.

2 Christopher Justel, Huguenot divine, historian and canonist. His Codex Canonum Ecclesiae Universalis was published at Paris in 1610, reprinted in 1661, and won international repute and acclaim.

3 Bodl., MS Eng. Misc. e.4, fol.8.

4 F. Lee, Life of John Kettlewell (1718), pp.21, 32-35.

In 1676 Hickes was elected sub-rector of Lincoln college, in which post he established a strong reputation for meticulous observance of the statutes and the enforcement of strict discipline. Kettlewell became lecturer in logic in the same year. W.D. Macray asserts in the Dictionary of National Biography that Hickes was rector of St. Ebbe's parish at this time. This appears to be a mistake. Neither the Oxford diocesan registers nor parochial records bear this out. Lincoln college owned some property in St. Ebbe's parish, but the college was not patron of the living nor would Hickes appear ever to have been rector.<sup>1</sup>

Hickes had now been in Oxford university for seventeen years and a fellow of Lincoln for twelve. So far his career had not been more noteworthy than that of dozens of other loyalist academic clergy. But his overseas tour, his devoted regime of study and college work won him notice which was soon to translate him from the narrow corridors of academic life to the wider and more demanding sphere of Stuart domestic politics. For this change his education and experience had fitted him well. Henceforth his skill and his pen would be employed in defence of royal policy and in defence of the church. As an ardent supporter of the divine rights of both church and king, Hickes's feet were now set on the rungs of the ladder of preferment which was to lead him to a position of great responsibility in the church.

---

1 W.D. Macray, D.N.B., ix, 801 ff; Article of Geo. Hickes. Macray seems to have taken his assurance that Hickes held St. Ebbe's from Biographia Britannica, Vol. VI, pt.ii (Supplement, 1766), p.94.

## CHAPTER II

EARLY POLITICAL INVOLVEMENT:LAUDERDALE'S CHAPLAIN

Early in 1676 George Hickes received a letter from Dr. William Jane, chaplain to Henry Compton, bishop of London. The letter invited Hickes to consider an appointment as domestic chaplain to the duke of Lauderdale, Charles II's viceroy in Scotland. It is possible that Hickes had been noticed by Compton during his brief tenure of the see of Oxford in 1674 and 1675, but more probably the hand of Dr. John Fell is to be detected in this offer of preferment. Fell had been dean of Christ Church since the Restoration and became bishop of Oxford in 1675. He was a patristic scholar of great eminence, the editor of the great Oxford edition of the works of St. Cyprian, and a great benefactor of his college and university. He was a prominent cavalier loyalist who used his influence as head of the largest Oxford college to further the careers and studies of dependable loyal clergy. As a principal founder of the University Press, Fell was able to publish the works of loyalist divines and exercised a dominant influence in restoration Oxford for twenty-five years, affecting the development and careers of so many clergy of the period. It is very possible that Bishop Fell was able to recommend Hickes to Lauderdale as a suitable confidential chaplain, and the manuscript life of Hickes clearly shows that Lauderdale had



asked the bishop of London to obtain Hicke's services for him.<sup>1</sup>

Hicke was cautious at receiving this tempting offer of preferment. He had heard of Lauderdale's reputation as a drunkard and debauchee, and was very uneasy. He applied for an interview with Bishop Fell, who received him favourably and assured him that the reports concerning the duke were malicious lies proceeding from his political enemies. The bishop encouraged Hicke to accept the offered position, assuring him that he would be in a position to do good for the churches of England and Scotland.<sup>2</sup> Fell's encouragement led Hicke to accept the offer, and accordingly he waited upon the duke of Lauderdale in August 1676. He was granted a year's leave of absence by his college and was warmly welcomed into the duke's household at Ham. After Hicke had been with the duke only a short time, Lauderdale was visited by Dr. Nathaniel Crewe, now bishop of Durham, who attempted to discuss Hicke's appointment. The duke simply replied, 'I am very glad, my lord, he is now my chaplain.' Crewe had objected to Hicke's opposition to his will as Rector of Lincoln college, particularly over college elections, when Hicke as an energetic and conscientious sub-rector had at times refused to do the bidding of his often absentee Rector. Lauderdale had been informed of Crewe's dislike of Hicke and firmly refused to

---

1 Bodleian, MS Eng. Misc. e.4, ff.8, 9.

2 Ibid., fo.9. Lauderdale Papers, ed. O. Airy (Camden Soc., 1885), iii, 235-9. Richard Baxter wrote to Lauderdale, circa 1672, about reports of his 'drunkenness' and 'sensuality', strongly implying that Lauderdale was too close a crony of Charles II and assisted in his vices.

discuss the appointment or Hickes's character. The duke sent for his chaplain when Crewe had left to inform him of what had passed.<sup>1</sup>

John Maitland, second earl and first duke of Lauderdale, was sixty years old in 1676, a prominent member of Charles II's administration and sole secretary of state for Scotland. He was a privy councillor of both kingdoms, a senior peer of both realms and a knight of the Garter. He was rightly regarded as the prime architect and instrument of authoritarian Stuart rule in Scotland, ~~as~~ as one of the few remaining ministers of the Cabal ministry was one of the great political survivors of the reign of Charles II. The duke was High Commissioner to the sessions of the Scottish parliament, and had triumphed so far over all personal and political opposition in both England and Scotland and seemed at the height of his career.<sup>2</sup> The young Lord Maitland had been a Covenanter, a lay elder of the kirk after the abolition of the Scottish Jacobean episcopate in 1638, and a delegate to the Westminster ~~A~~Assembly of Divines, along with the earl of Cassilis and Sir Archibald Johnstone of Warriston. Maitland and the first earl of Lauderdale, his father, had taken a leading part in the St. Andrews General Assembly of the kirk in 1642, which sent an agreement to the Long Parliament in London opposing episcopacy and wanting a common confession of faith and directory of worship.<sup>3</sup> John Maitland had also been a Scottish

---

1 Bodl., MS Eng. Misc., e.4, fo.10.

2 M. Lee, The Cabal (1965), chap.2, esp. pp.28-69.

3 W.C. Mackenzie, John Maitland, Duke of Lauderdale (1923), pp. 37-44.

Commissioner for negotiating with the victorious English parliament over its payment for Scottish military services in England during the Civil War, and had joined in the Scottish protest that the commissioners were at Newcastle to negotiate with the English about their army's due payment, and not empowered to discuss the disposal of the captive king Charles I. The Scots commissioners insisted that they could not be party to discussions concerning the king's person and opposed the one-sided English wish to dispose of Charles I, without proper consideration of him as king of Scots also. Lauderdale had again been in England in April 1647 as a Scottish commissioner to help the English Presbyterians in parliament to persuade Charles I to agree to the Newcastle programme, so endeavouring to steal a march on the Independents and the army. Maitland had then insisted on being empowered to agree to a temporary establishment only of presbyterianism in England and not to insist on the king's taking the Covenant. Lauderdale and the earl of Dunfermline had next seen Charles I at Holmby House and then protested at his forcible removal by the army, and afterwards seen him again at Newmarket and finally at Carisbrooke castle.<sup>1</sup> After Charles I's execution, Lauderdale had been sent to negotiate with the young Charles II in exile, after becoming a leader of the Engagers, that party of Scottish lords who attempted at last to bring Scotland to support the defeated Charles I. He had also been one of those who had been most instrumental in bringing Charles II to Scotland. Lauderdale

---

1 W.C. Mackenzie, op. cit., pp.96-105.



fought for the king at the battle of Worcester. He was captured and imprisoned by Cromwell for nine years. Released from prison, the earl was sent over to meet Charles II in Holland in 1660 and at the Restoration was at once made secretary of state for Scotland and privy councillor for both kingdoms.

Lauderdale's policy in Scotland had been to achieve and hold supreme political power in that kingdom, as secretary of state for twenty years and High Commissioner for twelve. His religious policy must be seen as an important aspect of his general policy of facilitating and keeping his own ascendancy in the Stuarts' ancient kingdom. That the church and religion were major contentious issues is obvious. In attempting to achieve some accommodation between dissident Presbyterian and established Episcopalian, the duke was clearly hoping for political as well as ecclesiastical success. The contemporary authorities seem to regard Lauderdale as the brutal enforcer of a rigidly episcopalian policy, as another persecutor of the Covenanters like the earl of Middleton, as a political opportunist simply using his power to control the church and compel all dissenters to conform. This is too simple. Lauderdale had inherited the situation created by Middleton's wholesale ejection of ministers who had neglected or refused to take out episcopal institution or collation to their kirks after the restoration of episcopacy, which had created such a bitter hatred of crown and bishops alike in the outed Ministers and their supporters. Even moderate Presbyterians were outraged by Middleton's excesses, and separate meetings for worship had begun before 1665. Lauderdale also curbed Archbishop Sharp's power and removed him from political eminence, and Sharp was a known advocate of the coercion of

religious dissent. Lauderdale's conciliatory religious policy at the opening of his period of supreme power was at least an honest attempt at solving the problems he had inherited by gentler means than military repression, and in the first four or five years some modest advances were made by the earl of Tweeddale and Archbishop Robert Leighton, as the Commissioner's subordinates. However, when it appeared that any permanent reconciliation might involve a parliamentary change in the constitution of the Scottish church, a diminution of the powers of the bishops or even a General Assembly, Lauderdale was not willing to go further. By the end of 1672 and 1673 his political position in England was under attack, reducing his freedom of action and tying him to policies of which the English bishops and Church Tories would support. A policy of prerogative Indulgences, temporarily suspending portions of ecclesiastical law by royal prerogative and privy council warrant, was what Lauderdale envisaged, using the powers vested in him by the 1669 Scottish Supremacy Act (the 'Assertory Act'). This act empowered the Crown to

... settle, enact and emit such constitutions, acts and orders concerning the administration of the external government of the Church, and the persons employed in the same, and concerning all ecclesiastical meetings and matters proposed and determined therein.

The duke clearly hoped to widen the base of political support for the Crown and for himself by prerogative action and pacify the malcontent Covenanters, but also to keep the matter out of parliament so that opposition would have no chance. The modest success of the first Indulgence and the partial success of Tweeddale and Leighton gave genuine grounds to hope that the



second Indulgence of 1672 might have been widely acceptable. Having humbled Archbishop Sharp, the primate, and secured the passing of the Assertory Act, Lauderdale had obtained practical control over major areas of church policy. A programme of concessions to the dissenting Presbyterians might well have been successful. That it was not, was not entirely the duke's fault. His subordinates and agents took too much upon themselves and appeared to be trying to force his hand; the Covenanters and other outed ministers were themselves demanding too much; and, with the collapse of the Cabal ministry, Lauderdale's own political support in England and Scotland became critically dependent on episcopal interests north and south of the Border. Lauderdale was the great political survivor of the reign of Charles II. The Commissioner's power depended on his ability to change or reverse policies on which he had earlier appeared to have set his heart, and to discard subordinates who seemed to be developing ideas of their own. Ecclesiastical policy was therefore subordinated to the duke's own political needs, and the policy of accommodation was abandoned when it became clear that to continue would threaten the Commissioner's power rather than advance it.

Lauderdale had originally opposed the re-establishment of episcopacy in Scotland at the Restoration as needlessly divisive, when the new government and monarchy needed peace and quiet to become fully accepted. Overruled by Middleton, Rothes and the Scottish Cavaliers, and by the intervention of Clarendon and the English Churchmen,<sup>1</sup> Lauderdale had waited until Middleton's

---

<sup>1</sup> W.C. Mackenzie, op. cit., pp.223-228.



repressive policies failed and secured his rival's disgrace. A second failure of military repression came when Rothes and Archbishop Sharp provoked the Pentland Rising of 1666. Once this was crushed, Lauderdale was able to get Rothes removed from the High Commissionership and Sharp from the presidency of the Council. Rothes was given the vacant Chancellorship, to prevent Sharp retaining any great office of state, and also consoled with a dukedom.<sup>1</sup> Rothes' presence as a figurehead and stabilising force was necessary to Lauderdale, who had shared Rothes' nine years imprisonment under Cromwell after the battle of Worcester. Lauderdale, as secretary of state, had to spend long periods in London as a privy councillor for both kingdoms, and also needed Rothes' support against Archbishop Sharp in Scotland. Sharp's own links with Archbishop Sheldon gave him strong influence at court. Lauderdale's disbanding of Middleton's army had been a popular move and, as an attempt to conciliate Presbyterian opinion, was a shrewd endeavour. Sharp, apparently in disgrace in 1667 and 1668, was still able to damage Lauderdale's credit at court through the Archbishop of Canterbury.<sup>2</sup> Sheldon apparently complained to the king that Lauderdale was out to undermine episcopacy in Scotland. That the young Maitland had been a delegate to the Westminster Assembly and a Scottish Commissioner in England, sent to negotiate with the victorious parliament in 1647 and 1648, had no doubt been dredged up by Sharp to use against the duke.

---

1 O. Airy (ed.), Lauderdale Papers (Camden Society, 1884, 1885), I, 199. Rothes to Lauderdale, 14 July 1664, and Note (a). Lauderdale Papers hereafter referred to as L.P.

2 Yester Papers (Tweeddale MSS), Box 5, F.5. Lauderdale to Sheldon, 2 September 1667.

Lauderdale soon controlled the Scottish church by forcing through the Assertory Act in 1669. In November 1669 the draft bill was before the Lords of the Articles. Lauderdale wrote on 2 November to Sir Robert Moray that Sharp ... "took the alarm wondrous hasty, and said wild things to E. Tweeddale that all King Henry VIII's ten years work was now to be done in three days, and that four lines in this act were more comprehensive than a hundred and odd sheets of H. VIII". Sharp had, however, been well "towsled" by Tweeddale, the Earl of Kincardine and the Duke of Hamilton. The act passed, received from Lauderdale the royal assent, and as the Commissioner wrote to the king on 16 November,

... "The first (act) makes you Sovereign in the Church. You may now dispose of bishops and ministers, and remove and transplant them as you please, (which I doubt you cannot do in England). In a word, this church, nor no meeting nor ecclesiastick person in it, can ever trouble you unless you please."<sup>1</sup>

Lauderdale thus prevented Sharp becoming a Wolsey, and himself became a Thomas Cromwell to Charles II's Henry VIII.

The divisions in the Scottish church between Episcopalian and Presbyterian after the Restoration go back to the schism within Presbyterianism itself at the time of Charles I's final defeat and imprisonment. Lauderdale then was a leader of the Engagers, those Scottish lords who attempted to bring Scotland to support Charles I, visited him at Carisbrooke and after his execution supported the young Charles II in 1650 and 1651.

---

<sup>1</sup> L.P., II, 143-5, 151-4, Lauderdale to Charles II, 22 October 1669, and Lauderdale to Sir Robt. Moray, 2 November 1669. Also W.C. Mackenzie, op. cit., p.285, and W. Stephen, History of the Scottish Church (1896), pp.362-64. Also see L.P., II, 163, 164, Lauderdale to Charles II, 16 November 1669.



This "Resolutioner" party supported Charles II, but the "Remonstrant" or Protester party objected to Charles II's taking of the Covenants, both National and Solemn League and Covenant, as insincere, and stood by the General Assembly decision of 1648 repudiating the Engagers' moderation and seeking to exclude from office and excommunicate the Engagers and their supporters. The twenty-odd Remonstrant ministers of 1650, protesting against the repeal of the Act of Classes, formed a rigid and fanatical party. In February 1657 both Resolutioners and Remonstrants argued their case bitterly before Oliver Cromwell in London, with James Sharp (the future Archbishop of St. Andrews) representing the moderate Resolutioner position.<sup>1</sup> The Remonstrant party already had a serious grievance against Charles II, Lauderdale and Sharp, all "un-Covenanted perjured traitors", before the extra Covenant-violation of a restored episcopacy was added to their catalogue of iniquity. This already rankling dispute had seriously poisoned the atmosphere of the western shires, in the diocese of Glasgow, long before episcopacy and Middleton's wholesale ejection of noncompliant ministers made matters worse in 1662 and 1663. Any discussion of Lauderdale's religious policy and the failure of conciliation must be set into this difficult and confusing background. Most Resolutioners accepted episcopacy in 1662, but a significant minority did not.

Using Tweeddale and Bishop Robert Leighton of Dunblane as his instruments in Scotland, Lauderdale had proceeded with the first Indulgence of June 1669. This had been planned a year

---

1 Scottish Hist. Soc., Consultations of the Ministers of Edinburgh, ed. W. Stephen, I (1921), II (1930), 3rd Series I, xii-xv, 357-362; II, 5-19.



earlier, but postponed because of James Mitchell's attempt on Archbishop Sharp's life in July 1668. The Indulgence, as an act of royal prerogative, offered to reinstate in their parishes with full stipend those ministers who would accept collation from the bishops and offered reduced stipends to those who would not accept episcopal authority, but would accept collation from the Crown. Indulged ministers must take the declaration against the Covenant, and, outwardly at least, submit to episcopal jurisdiction. About forty of the 'outed' ministers accepted this offer, which was opposed by both Scottish archbishops as undermining episcopal authority.<sup>1</sup> Archbishop Alexander Burnet of Glasgow and his Synod, representing the district most disturbed by the illegal activities of the deposed ministers, sent a strongly worded remonstrance to the Scottish privy council. Archbishop Sharp also preached a strong sermon before the Convention of Estates in Edinburgh in October 1669, condemning three usurpers of ecclesiastical supremacy, the pope, the presbyterians and also the crown, and strongly asserting episcopal authority in church affairs. Lauderdale retaliated by forcing the Assertory Act through the Lords of the Articles and Parliament, and demanded the resignation of Archbishop Burnet of Glasgow on humiliating terms. Charles II declared angrily that there was nothing to choose between episcopalian and presbyterian remonstrants.<sup>2</sup>

Lauderdale's ruthless use of his royal supremacy was not a lasting success. Both Episcopalians and Presbyterians were against

---

1 W. Stephen, History of the Scottish Church (Edinburgh, 1896), ii, 362-364.

2 L.P., ii, Appendix, lxiv-lxvii; 166-167, Charles II to Lauderdale, 2 December 1669; and Appendix, lxix.

it. W.C. Mackenzie writes,

'In effect the Indulgence was a censure of the Scottish bishops; and they were deliberately ignored. This policy necessarily made serious inroads on their policy. It was framed for that end, and they knew it. They knew, too, who was its author ... Of the two archbishops, Glasgow acted less ignobly in this crisis than St. Andrews. Sharp quibbled but acquiesced; Burnet remonstrated and resigned, after the Act of Supremacy had been passed.<sup>1</sup>

Lauderdale continued his policy by passing the severe 'Clanking Act' against coventi<sup>el</sup>ses in 1670, imposing fines, confiscations and even death for those who attended illegal conventicles. In 1672 another act forbade the outed ministers to ordain. At the same time, Robert Leighton, bishop of Dunblane, was translated to Glasgow. Aided by Dr. Gilbert Burnet, then professor of divinity at Glasgow, and other moderate episcopalians, Leighton began a policy of negotiations with the outed ministers, under the supervision of Tweeddale and Lauderdale. Archbishop Sharp opposed this, writing to Lauderdale in 1672 that Leighton's plans for turning bishops into perpetual moderators left 'nothing of the authority of a bishop but the insignificant title'.<sup>2</sup> Lauderdale himself was in fact losing patience with both Leighton and the Covenanters as early as 1 October 1670, when he wrote to Tweeddale, in an ominous tone,

'The ravings of the dissenters please me ... little ... they think themselves mighty considerable also by their embassies from Fife to the West ... I... shall find them in a modester frame before I be disposed into a consent to make further use of the King's intended favour. Nay, I must be satisfied

---

1 W.C. Mackenzie, John Maitland, Duke of Lauderdale (1923), p.282. Also W.B. Gardner, 'The Later Years of John Maitland, second earl and first duke of Lauderdale', Journal of Modern History, xx (1948), 113-122.

2 L.P., iii, 75, 76.



also that my Lord of Dunblane will hold, ere I  
consent to such a leap ... I am not so easily led  
by the nose by friends nor by those about me.<sup>1</sup>

Episcopal opposition and Presbyterian intransigence eventually led to the collapse of Leighton's overtures. Lauderdale could not risk a head on clash with the Scottish bishops, whose links with Archbishop Sheldon in London had already threatened his security in the king's confidence at the time of Burnet of Glasgow's resignation. Burnet had then complained to Sheldon that he suspected

'what hath been done to introduce some dissatisfied brethren contrary to law and without the privity or consent of the Bishops.'

Burnet added that he suspected the lack of strong coercive action by the Scottish council was a 'design ... to let all run into disorder and confusion, and then impute these disorders to our (the bishops') maladministration'.<sup>2</sup> Lauderdale himself was suspicious of designing prelates, and was not prepared for any of Leighton's proposed concessions to be enacted into law, changing the Scottish church's constitution and risking a major confrontation in both Scotland and England. A policy of prerogative indulgences was all he was prepared to grant. A second Indulgence in the autumn of 1672 was only a limited success, coupled as it was with a renewal of the 'Clanking Act' and the ban on Presbyterian ordinations. When Archbishop Leighton insisted on resigning in 1673, only being held in office for one more year by Charles II's direct intervention, when Lauderdale quarrelled with Tweeddale in the winter of 1673-74, and when Gilbert Burnet and Leighton's other

---

1 National Library of Scotland, MS 2070, fol.168.

2 L.P., II, Appx. A, lxii-lxiv. Burnet to Sheldon, 11 August 1668.



disciples Charteris and Nairne had refused bishoprics because nothing definite was being done to further Leighton's proposals, Lauderdale decided to abandon further concessions. The collapse of the English Indulgence in 1673 and the king's being forced to accept the Test Act, resulting in the fall of the Cabal ministry, meant that Lauderdale had to look to his own political survival, by alliance with the English bishops and Church Tories under Danby and by reconciliation with the episcopal interest in Scotland.

The final blow to Lauderdale's more conciliatory religious policies, determining him to abandon any last hope of conciliation, came in 1674, largely due to the ever meddlesome Gilbert Burnet's trying to revive the attempts to resolve the differences with the presbyterians by means of a National Synod of the Scottish Church. Leighton lent his support to the scheme, and Gilbert Burnet was busy both in Glasgow and Edinburgh trying to get both diocesan synods to pass formal motions demanding a National Synod or General Assembly of the whole church. Bishop Ramsay of Dunblane, another ardent disciple of Leighton, lent his support to the campaign. The presbytery of Glasgow wrote to the presbytery of Edinburgh, and both these presbyteries raised the matter in their diocesan Synods. Sir William Sharp, the primate's brother, wrote to Lauderdale on 7 May 1674 saying that addresses from the two synods were read and discussed at <sup>the</sup> ~~at~~ privy council the previous day, giving the Duke of Hamilton opportunity to demand that the troubles in the church be reported direct to the king.<sup>1</sup> Further investigation by Lauderdale obtained clear

---

<sup>1</sup> L.P. III, 42, 43.

evidence from John Paterson, Dean of Edinburgh, and Bishop Young of Edinburgh that Gilbert Burnet and Bishop Ramsay of Dunblane had "expostulated" with Bishop Young because he had objected to the motion for a national synod.<sup>1</sup> Lauderdale acted with firmness and speed. A special Royal Commission was issued to Archbishop Sharp to investigate Bishop Ramsay's activities. He was suspended, and a translation to the remote diocese of the Isles was ordered, though soon cancelled on Ramsay's penitent submission. Turner, Cant and Robertson, the Edinburgh clergy who had busily promoted the synod scheme, were examined before the council, suspended from preaching and silenced. Bishop Ramsay wrote to Lauderdale in October 1675 begging for the lifting of his suspension after fifteen months under discipline.<sup>2</sup> Leighton's letter of 16 June 1674 regretted the need to renew "coercions and civil restraints" on religious dissenters, also regretting that "churchmen ... do nothing in their own proper way", and in two later letters to Lauderdale on 20 and 25 June, Leighton, as the now retiring Archbishop of Glasgow, tried to put a favourable construction on the national synod campaign. "The genius of this church lies much towards synods and assemblies since the reformation." Lauderdale's letter of 18 June to Leighton shrewdly asked if the presbyterian dissidents would recognise an episcopal national synod as a true General Assembly, and pointed out the tyranny of the Assembly of 1638 which had abolished the first reformed episcopate. "But a burned child

---

<sup>1</sup> B.M., Add. MSS 23, 136, ff.153, 155. Paterson to Lauderdale, 18 June and Young to Lauderdale, 20 June 1674.

<sup>2</sup> B.M. Add. MSS 23, 137, f.86. L.P. III, 46, ~~141~~. J. Paterson to Lauderdale, 4 June 1674.

dreads the fire", and Lauderdale's concurrence in a request for a national synod was firmly refused. The Commissioner agreed that he had been in favour of moderation and further Indulgence in the recent past, "but the late mad practices have cooled me", until the Privy Council had quelled disorder in the established church and disobedience by conventiclers outside it.<sup>1</sup>

Archbishop Sharp had written to Lauderdale on 13 May 1674 after his own diocesan synod, complaining that "some gentlemen of estates, Justices of the Peace and captains of militia and their families" were now absenting themselves from church and attending conventicles.<sup>2</sup> The primate wrote again on 30 July saying that he had been at a Council meeting at Holyrood where a letter from Charles II was presented commanding a strict execution of laws against conventicles and religious disorder. The Scottish Council had reported to Lauderdale on 2 July that orders to all sheriffs and magistrates and militia officers had been sent out, and that the horseguards and militia regiments were being made ready.<sup>3</sup> Sharp had held his own meeting on 10 July at St. Andrews of eight bishops and twenty presbyters, and reported this to Lauderdale on 12 July. As an act of grace to all who were defaulters in paying fines for religious offences or wanted for having attended conventicles, a general pardon was issued - providing all those defaulting gave themselves up to justice. If they did not do so, they were to be intercommuned or 'put to the horn' as outlaws. Lauderdale had now to follow

---

1 L.P. III, 50-59.

2 Nat. Library of Scotland, MS 2512, fo.157.

3 B.M., Add. MSS 23, 136, fo.169.



a policy dictated by his political need to depend on both Scottish and English episcopal support. Whereas in 1667 and 1668 he had humiliated Sharp, now the primate's continual carping complaints and demands for firm action by the civil authority had to be heeded to preserve Lauderdale's personal ascendancy in Scotland. At the end of 1674, when Leighton retired from Glasgow into private life in England, Lauderdale restored Alexander Burnet to the vacant see. On 7 September 1674 the Duchess of Lauderdale, now deep in her husband's confidence, wrote to Sharp referring to the new appointment, which was approved on that day by Charles II.

"I hope my Lord Archbishop of Glasgow is resolved to come up. I beseech your grace to hasten him ... Your grace knows better than I can tell it how necessary his coming is. I hope it will be the last occasion the Church and my Lord will have to engage friends in that nature: and as your grace did begin the work, so is none fit to end it as my Lord of Glasgow.<sup>1</sup>

It is a very reasonable conjecture that the Duchess refers to the ending of the conciliation policy, as Sharp had "begun the work" of establishing episcopacy so Alexander Burnet is the most reliable instrument to end it. Another interpretation could be that as Sharp had been obliged to take some responsibility for the "work" of Indulgence and conciliation, so Burnet, the known rigorist, would be a fitting instrument to end it, as his reappointment would make clear. The Duchess's statement that she hopes it is "the last occasion" when friends will have to employed "in that nature", cryptic though it is, must refer to Leighton's removal. The change of occupant of the see of

---

<sup>1</sup> J. Dowden (ed.), Thirty-Four Letters written to James Sharp, Abp. of St. Andrews, by the Duke and Duchess of Lauderdale (1893), pp.279, 280.

Glasgow was a significant move, and shows clearly how Lauderdale was now dependent on the episcopate for support. Henceforth the policy of coercion was to be enforced with increasing rigidity.

English episcopal support was also necessary for Lauderdale. Charles Leslie the Non-juror states in his Case of the Regale and the Pontificat that Archbishop Sheldon and the English bishops strongly objected to Burnet's removal from Glasgow by royal command, and "considering how far such precedents might extend, interposed with their full might, nor did they leave till they had the Archbishop restored".<sup>1</sup> This clearly shows how dependent the duke had become on English church-Tory support and how he had to conciliate episcopal opinion after 1674.

Lauderdale received a letter from Rothes and the Scottish Council in July 1674 pointing out the difficulty in forcing those suspected or arrested on information of frequenting conventicles to make statements on oath which might incriminate themselves. The Lord Advocate was now to be instructed to prosecute those who were accused of attending conventicles. The Advocate was to "call before the council such persons as are informed to have been at field conventicles to give their oaths thereupon", and the king's authority was sought that refusers should "be holden as confest".<sup>2</sup> In 1675 the council declared many outed ministers, persons accused of frequenting conventicles and other suspects to be fugitives from justice and therefore outlawed, issued letters of intercommuning against them, planted garrisons in important towns in the west, and ordered militia regiments to

---

<sup>1</sup> C. Leslie, Theological Works (1721), I, p.678.

<sup>2</sup> B.M., Add. MS 28, 747, f.14. Rothes to Lauderdale, 2 July 1674.

patrol and search out conventicles and arrest suspected persons. Bishops and diocesan synods were commanded to enquire into all non-parochial clergy, such as schoolmasters, private chaplains and tutors to gentlemen's sons, to see that they were duly licensed and conformable and attending their local presbyteries. Certain indulged ministers were to be prosecuted for violating the restrictions placed on them when they accepted the indulgences, by invading other men's parishes and officiating and preaching at conventicles. The king was requested to renew the 'Clanking Act' and other repressive legislation for another three years.<sup>1</sup> Another severe proclamation against conventicles was issued on 1 March 1676 commanding the laws to be put in vigorous execution. Heritors and land owners were to be fined a whole year's rent for conventicles taking place on their property. A further strong proclamation of 2 August 1677 renewed the Acts of Council and Proclamations of 1674, also reviving the practice of imposing bonds to keep the peace on all suspected persons, binding landlords for their tenants' good behaviour and requiring them to turn off tenants who attended conventicles.<sup>2</sup>

In 1677 Lauderdale was speaking of a "Third Indulgence" and trying to open new negotiations with moderate presbyterians. Lauderdale and Archbishop Burnet dined at Lambeth with Archbishop ~~Saneroff~~ <sup>Sheldon</sup> in the summer, and they put to the English primate and bishops the suggestion of the Duchess of Hamilton that concessions might again be given to some outed ministers in return for their abandoning conventicles and being willing to accept confinement

---

<sup>1</sup> Ibid., f.16. Scottish Council to Lauderdale, 15 July 1674.

<sup>2</sup> Wodrow, II, 318, 319, 366, 367.



and a limited ministry in one parish. The Duke of Hamilton, Lauderdale's great political opponent in Scotland, managed to see the king, but according to Alexander Burnet, had not asked for an enlargement of the existing Indulgence, but only said he approved it. Letters to Sir James Turner from Alexander Burnet and Hamilton tell differing versions of the story.<sup>1</sup> Hamilton himself had told the Archbishop of Glasgow in a letter of 20 January 1676/7 that he was not in favour of enlarging the Indulgence or allowing Presbyterian ordinations (this was a particularly strong grievance of the outed ministers).<sup>2</sup> Lauderdale had no desire to see Hamilton posing as patron of the presbyterians, but had no wish to enlarge an indulgence without firm guarantees of good behaviour from the dissidents. So the "third indulgence" plan was dropped on advice from the English and Scottish bishops.

In July 1677 the duke set out from London once more for Edinburgh as Lord High Commissioner for the Kingdom of Scotland, accompanied by a princely retinue which included George Hicke as his new domestic chaplain. An extensive correspondence between Hicke and two correspondents in England survives, giving a graphic account of Lauderdale's residence in Edinburgh and the main acts of state in 1677 and 1678.<sup>3</sup> Hicke's correspondents were Dr. Simon Patrick, prebendary of Westminster and rector of

---

1 W.C. Mackenzie, John Maitland, Duke of Lauderdale (1923), pp.397, 398, quoting Bannatyne Club, pp.259-262.

2 Hist. MSS Commission, XI Report, Part VI, Suppl. (1932). Hamilton MSS, p.91.

3 B.M., MS Lansdowne 988, ff.142-164. Bodl., MS Smith 50, ff.65-92; Bodl., MS Eng. Hist. b.2, fol.105. Partly printed in H.M.C., 13th Report, Portland, II, 37-51, and H. Ellis, Original Letters (second series) (1827), iv, 40-56.

St. Paul's, Covent Garden, and Dr. Thomas Smith, chaplain to Sir Joseph Williamson, secretary of state to Charles II. Through Patrick, Hickes's news could be communicated to Bishop Compton of London and the English bishops. Through Smith, Hickes's news could be transmitted straight to the court and the king. The new chaplain had thus become a vital link between Lauderdale and his supporters in England, during his absence in Scotland. Having been under attack from the whigs in the English House of Commons, Lauderdale had to cover his rear, and reliable channels of communication to his English supporters were vital.

On 22 July 1677, Hickes reported to Thomas Smith that Lauderdale had been met in a truly royal style by the earls of Argyll and Balcarres at Wetherby in Yorkshire, and then 'five miles south of Durham' by the marquis of Athol with other lords, over two hundred mounted gentlemen and trumpeters. At Newcastle the cavalcade was over eight hundred strong and at Berwick over fifteen hundred strong, including three marquises and over thirty earls, viscounts and barons. At Lauderdale's country house at Leddington, twelve miles from Edinburgh, the two Scottish archbishops and other prelates waited on the duke, and the procession which entered the Scottish capital consisted of forty-nine coaches.<sup>1</sup> Hickes was kindly received by the Scottish primate, and much to his confusion was presented by the duke himself to the Scottish officers of state, bishops and nobility. Archbishop Sharp said 'that he did not doubt, but that he would be helpful to him and his brethren in all their designs for the good of the church'. Hickes was able, by his influence with

---

<sup>1</sup> Bodl., MS Smith 50, fol.65.

the duchess, to hinder 'Mr. Murray, a great presbyterian minister, and nearly related to the duchess of Lauderdale', from seeing the duke about a possible extension of the Indulgence.<sup>1</sup> Archbishop Sharp also obtained the award of a St. Andrews doctorate of divinity honoris causa for Hickes, who tried to refuse the honour and was finally urged to accept it by the duke himself. Lauderdale 'really showed himself displeased that I made so much difficulty at it'. Hickes said to Sharp that he was unable to maintain a doctor's dignity, 'which was more considerable in England than in Scotland, and therefore it was not the custom among us to take that degree till we were well preferred'. Sharp replied that to accept the degree would oblige Lauderdale to provide generously for his chaplain on his return to London. Hickes related the incident at length to his London friends, probably to remind them of his services to Lauderdale and to drop a hint that some English preferment might be acceptable to him.<sup>2</sup> Hickes told Smith that he had also written to Bishop Compton of London with this news. The degree itself was conferred by Archbishop Sharp, as university chancellor, at a solemn congregation at St. Andrews on 13 September 1677, in the presence of the duke and a great gathering of clergy and nobility.

During the autumn and early winter of 1677 Lauderdale had preparations begun for a much stronger policy of coercion of religious dissent in the western Lowland shires. A formidable military expedition was planned into the disaffected areas, where

---

1 Bodl., MS Eng. Misc. e.4, fol.11.

2 Bodl., MS Smith 50, ff.69076, Hickes to Smith, 9 October and 29 October 1677; H.M.C. Portland, ii, 37, same to same, 23 October 1677.



conforming clergy had been assaulted and where large illegal field conventicles were becoming frequent. Such a military operation also offered the chance of dealing with the duke of Hamilton, the greatest landowner in the west, and would compel the local lairds and gentry, as sheriffs and justices of the peace, to help enforce the policy of coercing religious dissent. Many of the western gentry (in the country where the Duke of Hamilton was the greatest magnate) were openly refusing to do their duty as sheriffs and magistrates. Lauderdale therefore resolved on a strong show of force. Conventicles were now getting large, their numbers exceeding 1,000 at a time. Arms were being carried to protect them from patrolling troops. "Rendezvouses of rebellion" was Lauderdale's name for these illegal field meetings. Seriously alarmed by non-cooperation from the western gentry, Lauderdale and the Scottish Council ordered the Earls of Glencairn and Dundonald and Lord Ross to convene meetings of the sheriffs, gentry and heritors of Ayr and Renfrew to demand that they take the bond and act as the Council's police against their own tenants. On 3 November the meeting replied to Lauderdale from Irvine that it was not in the power of local gentry to stop conventicles, and demanded a complete toleration for the Presbyterians, or at least an enlarged indulgence. Lauderdale had not expected any help from the western gentry, as he wrote to Danby in London on 8 November 1677, "not that we expected much from them", but the Irvine meeting was held "to try their pulse and render them inexcusable".<sup>1</sup>

---

<sup>1</sup> L.P. III, 89, 90. R. Wodrow, History of the Sufferings of the Church of Scotland (1829, 1830) II, 376-399.

Plans to bring down a large force of Highland irregulars and militia were already well in hand, as Lauderdale's letter to Danby proves. Charles II approved the scheme in a formal letter to the Council on 11 December. Osmund Airy's suggestion that the whole Highland Host scheme was planned by Sharp and the bishops is certainly not proven. The famous Bishops' Memorandum recommending the actions which ought to be taken by the highland army is dated 21 December 1677, and as Sharp, Burnet and Paterson of Edinburgh were the only prelates on the Scottish council, a small minority against a majority of lay lords and officials who were all Lauderdale's creatures, the likelihood is that the bishops merely suggested or advised the course of action rather than dictated it, once the main decision to use troops had been made by the Duke himself. Lacking a standing army, the militia of the highlands was the only military force available, except the royal guards. Lauderdale was quite capable of conceiving and executing the scheme himself without episcopal direction. His letter to Danby is quite clear:

"In the meantime they do not rise in arms in the west. (They are) perfectly fifth monarchy men, and no judgement can be made upon the ground of reason what they may attempt; and therefore all preparations possible are to be made in case they rise, for this game is not to be played by halves. We must take the opportunity to crush them."<sup>1</sup>

These are the vigorous and decisive tones of Lauderdale, Viceroy of Scotland, not the gloomy complaints of Alexander Burnet or the whinings and self-satisfied "I told you so" of Sharp.

---

<sup>1</sup> Ibid.

As early as 23 October 1677 Hickes wrote to Smith that the whigs in Scotland had deliberately spread a rumour that Lauderdale intended another Indulgence to set the bishops against the duke, and to encourage rebellio<sup>u</sup>as conventicles when the expected clemency was not forthcoming.

These people most abound in the west about Glasgow, Ayr, etc., and upon their first motion several thousand highlanders will be brought down upon them to cut them off, and quarter in their country. The Castle at Stirling is also reinforced, and upon notice of their first stirring, proclamation will be issued out to warn all heritors that hold lands of the Crown, as the greatest part of this nation doth, to repair to the king's host at Edinburgh upon pain of high treason.<sup>1</sup>

On 27 November Hickes wrote again to Smith, almost gleefully, that 'as for insurrections or preparations for them, there hath been none; and if they should rise (which I wish) they would soon be cut off; but because of the factious nobility here, it was thought safe to have foreign forces ready'. This last reference is probably to an Irish force under Lord Granard which Lauderdale has asked Danby to collect on the shores of Ulster. The Scottish Council met in sessions of unusual secrecy in December and on 21 December the Scottish bishops presented their memorandum of suggestions to the duke, recommending the disarming of the disaffected shires, the planting of garrisons, the pulling down of illegal meeting houses, the levying of fines and the enforcement of a severe bond on all lairds and heritors, binding them as responsible for the religious conformity of their tenants.<sup>2</sup> Hickes wrote confidently to his London friends in

---

<sup>1</sup> H.M.C., Portland, II, 37.

<sup>2</sup> L.P., iii, 95-98.



January of the march of the highland army, forwarding to Smith the formal act of the Privy Council authorizing the punitive enterprise. Hickes noted that 'the loyal Lords' who sent contingents of highlanders as part of the host included the Marquis of Athol and the earls of Argyll, Caithness, Perth, Strathmore and Murray. Hickes was absolutely convinced that the use of force was necessary.

There was no other way left to correct their insolence, and bring them to a sober sense of their duty; and now they see they must be chastized for their impudence, they are mad against the patriots of the faction who made believe they could protect them; and they on the other hand know not what to say, but cry out against arbitrary government, and tell the people they will go to the king and remonstrate to H.M. that there is no need to proceed to this rigour and extremity, and withal beseech H.M. to recall these forces by his royal order ... It is said Duke Hamilton is one that intends to go ...<sup>1</sup>

Lauderdale's use of the Highland Host was irresistible.

The use of the tribal and feudal clan levies of the highland magnates against the more settled and civilized lowlanders did, however, arouse much bitter resentment. The Privy Council committee which travelled with the forces enforced the bond on all landowners, obliging them to evict and apprehend all tenants who attended conventicles or refused to attend their parish kirks and also obliged them to try to arrest all outed ministers who preached at illegal field or house conventicles. Lauderdale and the Council also decided upon a show of strength in Edinburgh, and brought to trial James Mitchell, the young Covenanting preacher who had attempted to assassinate James Sharp, the primate, in 1668. Mitchell had escaped abroad, but later returned to Scotland and

---

1 Bodl., MS Smith 50, ff.81, 82, Hickes to Smith, 19 January 1677/78. H.M.C. Portland, ii, 44, 45, Hickes to Patrick, 3 January and 24 January 1677/78.

was recognized and arrested in 1674. He had been interrogated by the Council and apparently promised his life if he confessed his guilt. Archbishop Sharp himself promised to do what he could to save the prisoner from death. Mitchell had signed a full confession, and was imprisoned in the Bass.<sup>1</sup> Hickes was present at the trial in January 1678, and came in for some unpleasant treatment at the hands of presbyterian sympathizers among the rabble, being spat upon and pelted because of his black cassock and gown, by which some spectators thought him a Scottish conforming minister. Hickes's letter to Simon Patrick of 10 January 1677/78 gives a vivid description of the trial.<sup>2</sup> Lauderdale, according to Hickes's own admission, ordered the trial himself and also ordered his chaplain to prepare a lengthy pamphlet giving the full details of the trial and execution of Mitchell, which was sent to Patrick to be published in London to justify the duke's Scottish policies.

Hickes's anonymous Ravallac Redivivus (1678), dated 5 March 1677/78, presented a vigorous and trenchant account of Mitchell's murderous designs, the trial and a good defence of the Scottish Council's policy. Annexed to the tract was an account of the

---

1 Register of the Privy Council of Scotland (3rd Series), 1673-6, ed. P. Hume Brown, iv, 152. The Act of Council of 12 March 1674 shows that Mitchell was given a promise of his life. He attempted to escape in 1676, however, and at his trial in January 1678 further charges were added of his complicity in the Pentland Rising of 1666. See W.C. Mackenzie, John Maitland, Dk of Lauderdale (1923), pp.421-8; A. Lang, Sir George Mackenzie (1909), pp.140-145; and R. Wodrow, Hist. of the Sufferings of the Church of Scotland (1721), i, 510 et. seq.

2 H. Ellis, Original Letters (Second Series), (1827), iv, 47-51.

trial of Major Weir, another Covenanting fanatic with a great popular following and reputation for his supposed sanctity and gifts of extempore prayer and preaching. Weir had helped to harbour Mitchell, and had been executed on clearly proven charges of incest, bestiality and witchcraft. In this pamphlet, Hickes revealed himself as a powerful and skilful political pamphleteer, stressing the anarchy and open defiance of the law in the western shires, the presence of large armed bands of religious extremists at large unlawful gatherings, the intimidation of conforming clergy and the lack of co-operation of many local gentry and magnates. Hickes justified the imposition of the bond by asserting the peculiar and absolute feudal authority of Scottish landowners over their tenantry, so different from English custom, and the traditional practice of the Scottish crown in making heritors and lairds responsible for their vassals' conduct. Those peers and gentry who refused the bond were to be fined two years' rents as security for good behaviour.<sup>1</sup>

Lauderdale's opponents represented the Mitchell case as a deliberate breach of faith on the Commissioner's part, and the incident does bear all the signs of a deliberately staged political prosecution. Hickes stated that he would confine himself to matters of proven fact, and stated that Archbishop Sharp had got a good view of his assailant's face when he was shot at in 1668. The bishop at Orkney had then received the three pistol bullets in his arm. When arrested in 1674, Mitchell had again taken rooms in Edinburgh only a few doors from Sharp's lodgings and was found with loaded pistols in his possession. Hickes denied

---

1 Ravallac Redivivus (1678), pp.48-50.



that the Council had promised Mitchell his life, asserting that his 1674 confession was freely made. One fact difficult to explain away was that Mitchell had repudiated his confession at his first trial in 1674, and the then Lord Advocate Sir George Nesbit had been unable to proceed with the prosecution. Sir George Mackenzie, now Lord Advocate, had now been ordered to prosecute again by the whole council. Sir George Lockhart had been appointed defence council and had 'strenuously defended' the prisoner.<sup>1</sup> The first day of the trial was taken up with legal arguments on three key points, which might have prevented the case being heard. Was Mitchell's confession made judicially or extra-judicially (Was the Council merely interrogating the prisoner to obtain evidence, or was it acting as a judicial tribunal and actually trying the case)? The court ruled that the confession was ~~an~~ extra-judicial and, being witnessed by several Councillors, was admissible in evidence. Was the confession made in hope of pardon, and if so should it exculpate the prisoner? The court ruled that it should not. Did the act for securing the persons of privy councillors apply in this case? The court ruled that it did, and although the primate himself had refused to prosecute Mitchell in causa sanguinis, the government was right to invoke the act in this case, as Sharp was a councillor.

Hickes repeated in detail the evidence against Mitchell from his own lips. His gaoler testified that he had said 'it was not done in cold blood, for the blood of the Saints (the Pentland rebels) was still reeking at the Cross in Edinburgh'. The Bishop

---

1 Ibid., pp.6, 7.

of Galloway visited Mitchell in the Tolbooth and Mitchell told him 'that he did it because he apprehended him (Sharp) to be an enemy to the people of God'. The defence had called as witnesses the duke of Rothes, Lord Chancellor, Lord Halton and Lauderdale himself, and all denied on oath that Mitchell had been promised a pardon in return for his confession. Archbishop Sharp was called and had freely admitted that he had promised Mitchell privately that he would 'endeavour to save him from public justice, if he would confess the fact'.<sup>1</sup> While at some pains to demonstrate the fairness of the hearing, Hickes did not add that Mitchell had been questioned under torture, though this was common Scottish practice at the period, nor did he mention that the defence had asked for the privy council's registers to be produced and that Lauderdale, pleading crown privilege, had refused to do so.<sup>2</sup>

Hickes next proceeded to examine the causes of the Scottish religious troubles which he maintained were rooted in the 'implacability' of the dissidents, who used their grievances as an excuse for violence and justified murder by divine inspiration. The Presbyterians needed a good knowledge of church history, he argued.

All the late troubles upon the account of episcopacy are chiefly to be ascribed to the shameful ignorance of protestant divines in ecclesiastical history; who looking back into the history of religion no farther than the time of the Reformation, and some of them not so far, did either hate episcopacy as an usurpation or else looked upon it as a meer

---

1 Ravaiillac Redivivus, pp.9, 10.

2 R. Wodrow, History of the Sufferings of the Church of Scotland (1721), i, 510 et seq.

human constitution, and so could not have that particular veneration for it that was due to an apostolical ordinance so visibly founded in the scriptures, and which was the sole and invariable government of God's universal church for above 1500 years.

Hickes continued acidly:

That comprehensive genius Mr. Calvin wanted nothing but this to make him as orthodox and consummate a divine as ever was in the church of God. For had he been but half as well versed in the more primitive ecclesiastical writers as he was in St. Augustine, he had never coined the notion of a lay-elder, defended the horrible decree (reprobation), or have been exposed for so many absurdities by the meek Cassander's pen.<sup>1</sup>

In Ravallac Redivivus Hickes printed, from Mitchell's own papers, the criminal's justification of his murderous attempt. Mitchell had taken the Covenants in 1656 and regarded them on a parallel with the Mosaic covenant. The dissident Covenanters were seen as God's chosen people oppressed for the truth of the gospel. Christian rulers must obey the gospel, and if they fostered idolatry (episcopacy) they ought to be resisted. The ruler received his authority in trust from the people, who could act to remove him so as not to partake in his iniquity. Mitchell quoted Deuteronomy chapter 13, verses 6-9, as his authority for resisting one who would entice Israel from the pure worship of Jehovah into idolatry. Bishops were idol-priests, who ought to be extirpated. In a Postscript Mitchell had applied his principles to restoration Scotland:

If the magistrate being in power shall overturn the Covenant-work of God ... (and) ... do by Acts Rescissory rescind all acts of lawful parliaments, committee of states, etc., wherein were contained or comprehended any mutual bond, obligation,

---

1 Ravallac Redividus (1678), pp.13, 14.



covenant or contract betwixt the prince and people, ... it necessarily followed to be the duty of such people ... to take up arms in defence of their lives, laws, religion and liberties ... that they may not be left in such an intolerable bondage, as they would not be accounted guilty of bringing God's wrath upon the whole land.<sup>1</sup>

These, said Hickes, were the very principles of the Great Rebellion in England and Scotland, the subversive doctrines which had murdered Charles I. The Covenanters' meetings in the western shires and their armed conventicles were 'rendezvouses of rebellion'. The local gentry were unable to act against such large and threatening armed groups. 'Our conventicle preachers ride about with guards like petty princes, and thier followers more like soldiers than Christians come armed by thousands into the field'.<sup>2</sup> The central government therefore had to act forcibly over the heads of local magnates and sheriffs to prevent a dangerous revolt.<sup>3</sup>

Hickes's justification of the Highland Host was persuasive and reasonable, but some of Lauderdale's opponents in the west were still bold enough to refuse the bond. The duke of Hamilton and the earl of Cassilis and others flatly refused to be bound, and the Council, advised by Sir George Mackenzie, then issued writs of Lawburrows against them. This was a very severe Scottish law process at the king's suit, requiring a crushing bond to keep the peace, refusal or breach of which would render the offender an

---

1 Ibid., pp.20-27, 30-32.

2 Ibid., pp.43-46.

3 Ibid., pp.47-51.

outlaw and his goods forfeit. Traditionally it had been used in Scotland by the crown against troublesome and persistent highland clan feuds, but its use in the more settled lowlands was seen as unusually severe.<sup>1</sup> Hamilton, Cassilis, General Drummond and other malcontents left Scotland for London in March 1678 to see Charles II. This was in defiance of a severe proclamation of 3 January forbidding any Scottish magnate to leave the realm without the High Commissioner's personal leave. Hamilton had been summoned by Lauderdale to attend the muster at Stirling in January, as sheriff of Lanark, and had failed to appear. A writ of lawburrows was issued against him in March, and his weapons and horses had been seized.<sup>2</sup> The contumacious departure of the kingdom's premier duke, nearly related to the royal family, occasioned Lauderdale much anxiety, especially as Hamilton's cause was soon taken up at Whitehall by the duke of Monmouth, the earl of Shaftesbury and the English whigs. Hickes's letters to Patrick took on a more urgent note of anxiety. 'If his Majesty be persuaded to hearken to them, and so much as check the Council and stop their proceedings, farewell church and the royal authority for ever in this land.'<sup>3</sup>

Lauderdale sent the earl of Moray, Sir James Foulis of Collington (a leading judge) and Sir George Mackenzie to London to defend his conduct. He also sent Archbishop Alexander Burnet of Glasgow and George Hickes a few days later to secure his support

---

1 Sir Geo. Mackenzie, Institutions of the Laws of Scotland (6th ed., Edinburgh, 1723), p.279; A. Lang, Sir George Mackenzie (1909), p.152 et seq.

2 H.M.C., 11th Report, Part VI, Hamilton MSS, p.156, and Supplement, p.92.

3 H.M.C., Portland, ii, 49, 50. Hickes to Patrick, 23 March 1677/78.

from the English bishops. Burnet reported to the duke that he and Hickes had dined with Bishop Compton at Fulham and waited on Sancroft, the new archbishop of Canterbury, who was 'very apprehensive' of dangers to the Scottish church if Lauderdale's severe policies were countermanded. Compton's support was sure, wrote Burnet. 'My Lord of London is firm as a rock.'<sup>1</sup> Archbishop Burnet also reported that he and Lord Maynard had waited upon the Duke of York, who had said that the king must exert his authority. As late as 8 June 1678 Burnet wrote to Lauderdale that 'we are kept somewhat in the dark' and did not know if 'the discontented noblemen' were achieving anything, but he and Moray had again visited Danby, who had said that the discontented lords would not agree to grant more than 'one month's cess' at the forthcoming session of the Scottish parliament.<sup>2</sup> Lauderdale was seriously disturbed about possible action against him in the English house of commons. Moray had reported on 23 April that Charles II was actually considering holding a session of the Scottish council in London to review affairs, but that he and Archbishop Burnet had represented to Charles what a crushing blow this would be to the policy already proceeding in Scotland. The king 'was stumbled at what was said, and told us this was the only proper expedient he could fall on to quiet the house of Commons!'. Danby had further explained that the king must be able to show he had at least investigated the state of recent affairs in Scotland, to defend himself from criticism.

---

1 L.P. III, Appx., 243, 244. Burnet to Lauderdale, 27 and 30 April 1678.

2 Nat. Library of Scotland, MS 2512, ff.207 and 212. Burnet to Lauderdale, 25 April and 8 June 1678.



Moray added that the English bishops of London, Ely and Salisbury and Archbishop Sancroft were still firm in supporting Lauderdale's policy of coercion.<sup>1</sup> The king was persistently badgered by the duke of Monmouth with stories that 'D. Hamilton says his whole estate is undone with free quarter. That his whole horses, mares and bread in his park is taken away, and not a horse left to carry his Duchess anywhere'. The king, Moray continued, 'is also very desirous you give an account that there is no quartering (of troops) but what is paid for, and that there be no forces after this week but such as do pay for their quarters'. Charles was 'clamoured upon and pinched by the talk of Commons' resolutions' against Lauderdale's proceedings.<sup>2</sup> The Scottish malcontents were finally admitted to see the king by Monmouth's agency, and the English Commons launched a savage attack on Lauderdale. An address to the crown to dismiss the High Commissioner was defeated by only two votes on 8 May 1678. The king finally received Hamilton and the others, but told them he regarded their complaints as 'stories spoken at random', adding that 'nothing (could) be received against his Council except it was signed', and since the complainers refused to do this Charles dismissed them abruptly without allowing them to kiss his hand.<sup>3</sup> The king finally wrote privately to Lauderdale on 14 June 1678 countermanding any further enforcement of the bonds, bidding the duke receive Hamilton again to inform him that he and his fellow complainants were pardoned for leaving Scotland against the proclamation. The duke was 'much

---

1 L.P. III, 117-119.

2 L.P. III, 120-122; Moray to Lauderdale, 25 April 1678.

3 H.M.C., Hamilton MSS, Supplement, pp.95-98. Hamilton's account of the interview with Charles II and his petition of April 1678. L.P. III, 149. Moray, Foulis and Mackenzie to Lauderdale, 25 May 1678.

affected' by the king's orders in the letter and insisted it had been written by Danby and Hamilton to disgrace him, though the missive was in Charles II's own hand. Lauderdale was most despondent, Hickes recorded later, and ordered the letter to be encased in lead and buried with him as a mark of royal ingratitude.<sup>1</sup>

Archbishop Burnet and Hickes returned to Edinburgh in early June, and Lauderdale summoned a Convention of Estates in Edinburgh to obtain a supply of £24,000 a year for five years to support a small standing army of one regiment of foot, three troops of horse and three companies of dragoons. With the militia already created, of over 20,000 men, the new force would secure the government and avoid future use of the cumbrous feudal procedure of summoning the sheriffs, lords and chieftains with their retainers, which had been used for the Highland Host. The highland army itself was now dispersed, doubtless returning home with much unauthorised plunder and loot. For six months coercion and military force had ruled the western shires of Scotland. When the parliament met in Edinburgh on 4 July 1678, Hamilton's opposition was ineffective, the supply was voted and the session dissolved after only twenty-six days. Hickes observed to Simon Patrick that out of one hundred and eighty members, thirty-two was the highest number ever to vote against Lauderdale's proposals. The loyal and compliant Scottish parliament was favourably compared by Hickes with the turbulence and opposition in the English house of commons.<sup>2</sup>

---

1 Bodl., MS Eng. Hist. b.2, fol.72; MS Eng. Misc. e.4, ff.11, 12.

2 H.M.C., Portland, ii, 50, 51. Hickes to Patrick, 31 (sic) June and 13 July 1678.

Returning to London once the Scottish Convention of Estates was over, Hickes continued as Lauderdale's chaplain at the duke's residence at Ham. The duke had been much impressed with Ravaillac Redivivus and Hickes hinted to Patrick that it had been published at the king's wish to defend and justify Lauderdale's coercive policies.<sup>1</sup> The chaplain had been rewarded with a splendid gift of L'Abbe's and Cossart's Concilia in eighteen volumes by Archbishop Sharp, as well as honoured with the St. Andrews doctorate. He had acquitted himself ably as a vital link in Lauderdale's chain of political support, and during his visit to London during the crisis of April and May 1678 had been brought to the notice of Archbishop Sancroft, while confirming his reputation for discretion and ability in the eyes of Bishop Compton of London. Hickes's high conception of the church combined with fervent loyalty to the house of Stuart had given him a strong bias against the fanatical Covenanters, whose principles he regarded as dangerously subversive in church and state. Lauderdale's personal regard for his chaplain was warm and close. An important link had been Lauderdale's own great store of scholarship, learned in the Tower during his imprisonment in the 1650's, and Hickes had learned Hebrew to equal his patron's command of the learned languages. Hickes had Lauderdale's vast libraries at Edinburgh and Ham at his disposal.

The Highland Host episode had, however, seriously undermined Lauderdale's political position. He was not again to be High

---

1 Bodl., MS Eng. Misc. e.4, fol.11. H.M.C., Portland, ii, 50, Hickes to Patrick, 4 April 1678.



Commissioner, while the depredations of the highland irregulars had left a legacy of hatred in the western shires. The Bothwell Brig rebellion of 1679, ironically put down by the very duke of Monmouth who had so patronised Lauderdale's opponents at court in 1678, was directly incited by the failure of Lauderdale's military coercion policy, which had been at once too savagely repressive and yet not crushing enough or sufficiently thorough. The murder of Archbishop Sharp and the Bothwell Brig rising marked the final bankruptcy of Lauderdale's policies, though he still continued as secretary of state until 1680.

Hickes produced another political pamphlet on Scottish affairs in January 1680: The Spirit of Popery speaking out of the mouths of Phanatical Protestants. This was another strong defence of Stuart policy in Scotland, the 'phanatical protestants' of the title being John Kid and John King, two outlawed presbyterian ministers executed for complicity in the Bothwell Brig rebellion. The pamphlet was addressed to the English nonconformists. By animadversions on the last speeches of the two condemned rebels, Hickes set out to explode the myth of religious persecution in Scotland. It was for rebellion, not religion, that the Covenanters were punished. Taking a leaf from Titus Oates's book, Hickes wrote

You (nonconformists) know very well that the first discoverer of the horrid Popish Plot hath declared to all the world that Jesuits were sent into Scotland about the same time that they began to field conventicle, to encourage them to rebel and disturb the ministry of the Duke of Lauderdale.

If after proof of rebellions in Scotland and the revelation of the rebels' subversive doctrines, 'you shall own our Covenanting Hildebrandists, who would set their feet on the necks of Christian princes, you must excuse us if we say that you yourselves are such'. Defending the restoration of episcopacy against the Covenanters, Hickes asserted that the doctrines of the Solemn League and Covenant were still held by the Scottish fanatics.

As if a conspiracy against the apostolical government of the church universal for above 1500 years (for so the Covenant deserves to be called) could justify ... or sanctify an insurrection of subjects against their sovereign (which the defence of the Christian name cannot justify by the gospel), and by consequence make the legal finings, imprisonments and transportation of incorrigible rebels persecution, and their execution by axes and halters martyrdom ...

... 'The great trick of the kirk-preachers hath always been to parallel the Solemn League and Covenant with the Mosaical covenant', and by consequence to imply that as Israel was bound as a theocracy, politically and ecclesiastically, under the law of Sinai, so Scotland (and England too) must be bound by the principles of the Great Rebellion, which had destroyed both crown and bishops in both realms.<sup>1</sup> John Kid's speech at his execution had attacked prelacy and the royal ecclesiastical supremacy as a sinful usurpation over the gospel. His preaching and conventicles were, he said, pleasing to God. Hickes commented:

If weekly meetings of thousands of armed men in the fields, if weekly meetings of armed men formed into troops and companies to be ready on all occasions ... to fight against the King, for the

---

<sup>1</sup> The Spirit of Popery (1680), Preface, pp.2, 7, 10, 11.

King in Zion, were rendezvouses of rebellion,  
then your field preachers were rebels.

Persecution was not the name to be applied to the legal suppression of armed rebellion against crown and church. When presbytery was established, had it not overthrown and persecuted the Scottish bishops in 1638, and then excommunicated them all? Mary, Queen of Scots, her son James VI, Charles I and Charles II in 1650 and 1651, had all been persecuted by presbyterians. The denial of the gospel precepts of passive obedience and intransigent insistence on the right of rebellion or resistance was a grievous sin in the Covenanters. Welsh, the fanatic leader, had called the bond to keep the peace 'a renouncing of their baptism and making a covenant with the devil more express and worse than that of witches'. John Dickson, another Conventicle preacher, said that those who took the bond 'had committed a greater sin than that against the Holy Ghost, and were already in hell'. This was said at a conventicle on 26 May 1678.<sup>1</sup> The conventiclers' claims to be ministers of the gospel were false. Those ordained only by presbyters, in opposition to lawful bishops, and ordained by notorious schismatics too, could have no claim to a valid or lawful Christian ministry. Hickes set down a large catena of patristic citations including Ignatius, Hegesippus, Irenaeus, Tertullian, Clement of Alexandria, Origen and Cyprian, to prove how agreeable to scripture and the primitive church episcopacy was, and how far presbyterianism had departed from true Christianity.<sup>2</sup>

---

1 Ibid., pp.43-45.

2 The Spirit of Popery (1680), pp.36-41.



Hickes also related in pathetic detail the account of Archbishop Sharp's brutal murder on Magus Moor in May 1679, pointing out that the murderers had also taken part in the Bothwell Brig rebellion and had gloried in their crime. As Cardinal Beaton's murderers said they were sent by God to kill him, so Knox and Goodman had justified the assassination, and Buchanan had taught it was lawful to kill an apostate ruler. This Covenanting doctrine of the 'heroical impulse', like Ehud killing Eglon, or slaughter by immediate inspiration of the Holy Spirit, could justify any crime or rebellion.<sup>1</sup>

Hickes's political apprenticeship was finished and his reputation made by his two big pamphlets in defence of Lauderdale's Scottish policies. Henceforth his feet were planted on the rungs of the ladder of preferment, up which his political services to the house of Stuart enabled him to climb until the last king of that royal house was deposed in 1688.

---

1 Ibid., pp.55-65, 66 and 69.

## CHAPTER III

POLITICAL DIVINITY - A ROYALIST DIVINE

The later seventeenth century in England was a silver rather than a golden age of monarchical political theory. There had been a time in the sixteenth century when Henry VIII or Elizabeth in her splendour had personified the imperial ruler described so trenchantly in Thomas Cromwell's celebrated preamble to the Supremacy Act. At that time Archbishop Cranmer had in the Anglican liturgy and homilies pioneered the English doctrine of divine right monarchy, insisting on the concomitant beliefs of passive obedience and non-resistance. The king was God's vicegerent and representative. Rebellion or opposition became sin deserving damnation hereafter as well as punishment in this life. James I in his ponderously learned works and Bishop Lancelot Andrewes in his tortuous controversies with Cardinal Bellarmine brought monarchical theory to its fullest flower. It was left to Charles I, Laud and Stafford to apply these doctrines in practice in an age already changing, and all three fell victim to the violent reaction their policies provoked. The highflown Jacobean and Henrician theories proved in practice disastrous to church and crown alike in a time when practical politics were beginning to be recognised as more important than dogma.

The failure of Oliver Cromwell to establish any stable and acceptable form of government, except that based on naked military force, brought about a massive reaction. Complete disillusion with Cromwell's pitiful successor and the army grandees evoked

a vigorous desire to return to the rule of law, the older and safer ways and the traditional constitutional arrangements. But once the initial enthusiasm of the restoration had abated, the restored monarch was faced with the practical business of governing and so the Crown began to cast around for ways to make its theoretical supremacy real in practice. The king began to seek for support other than that of the Church and Tory-Cavalier interest, to seek an effective freedom of action without having to depend on any powerful faction in the nation. The scandal of the secret treaty of Dover and the stretching of the prerogative into a wide suspending power of indefinable extent in the Declaration of Indulgence unsettled the Tory cavaliers and their support for the monarch wavered. These events and also the lack of a protestant heir and the fear of the Duke of York's Roman Catholicism provoked another reaction, this time against the crown. Shaftesbury's whiggism led to the violence of the Exclusion campaign. The clear demand to place the succession to the crown in Parliament's power, appearing to make the crown and its wearer mere creatures of the legislature and Charles II's conservative refusal to be so limited, led to a severe constitutional conflict, exacerbated by Titus Oates' fabled Popish Plot, popular hysteria and a witchhunt against the catholics. But Shaftesbury overreached himself. His attacks on the Crown appeared to undermine the whole fabric of the Restoration settlement and to threaten new civil wars. Monmouth's foolish parading as a new Perkin Warbeck caused alarm. The traditional church and king alliance was driven together again, as both church and crown refused to countenance revolutionary changes with unknown consequences and clung to the Restoration settlement.



A brief new silver age of monarchist writings and sermons was inaugurated. The crown turned again to the clergy as its truest supporters and used them in a propaganda campaign against the Whigs and the excluders. A renewed emphasis on divine right commenced and passive obedience and non-resistance began<sup>n</sup> again in the early 1680's the rallying cry of royalists and churchmen. But England in the last twenty years of the seventeenth century was no longer the more faithful and still innocent place it had been before the horrors of the Civil War, where religious zeal and political dogmatism might flourish. Such theory no longer found such a ready appeal. The divinity that hedg'd a king had been destroyed by the ruthless iconoclasm of successful rebellion, and the nation had only returned to its traditional constitution in sheer weariness after twenty years of strife and uncertainty. The great doctrinal systems of Hooker in theology or James I in politics were out of fashion. Old securities and dogmatisms had been challenged and found wanting. If the Cromwellian experiment in government had failed, perhaps the Restoration experiment might fail too. What then? It was also an age of speculation and experiment. The Royal Society, the beginnings of empirical thinking, the age of Newton in mathematics, physics and astronomy, the philosophy of Locke, the new optimistic Latitudinarian theology of Tillotson or the Cambridge Platonists - all these were marks of a new era, the age of reason. The Churchmen supporting the monarchy now had a king who was a notorious libertine and debauchee, a sardonic figure determined to preserve the rights and liberties of the crown intact, but who could in a crisis display a shrewd political sense and courage. Charles II had none of the personal sanctity and

dedication to inflexible high principle and little of the glamour of attractive courage in adversity which made his father seem so appealing after his martyr death. Churchmen who supported the Crown in the 1680's did so now because they supported the law and the Restoration settlement which guaranteed the church's supremacy, just as it guaranteed the crown's. Cowell's Interpreter and Mainwaring's sermons with their high flown theorizing were no more. They were succeeded by a more realistic and truly Tory insistence on the law and constitution in church and state. While the older scriptural and scholastic arguments based on authorities still figured in the defence of the monarchy, the emphasis was gradually shifting. Filmer's Patriarcha advocated a high monarchist doctrine based not on biblical texts, but on a theory supposedly derived from nature, the natural authority of a father over his children.

Yet into this newer rational and empirical age there was carried a powerful groundswell of faith and a strong conservative determination to cling to traditional institutions and values. Divine right was still advocated. Passive obedience and non-resistance were everywhere taught as "the doctrine of the Cross". The whole cult of King Charles the Martyr had its religious as well as its political side. Anglicanism had become a genuine martyr faith in the horrors of the civil war and its aftermath of puritan persecution. Thousands of laity and hundreds of clergy had in fact and in practice suffered for conscience sake for church and king, losing parishes, lands and possessions, many facing exile. Many of the clergy ejected, despoiled or deprived during the Great Rebellion were in the 1670's and 1680's in positions of authority in the Restoration church. Archbishops

Sheldon and Sancroft had both been deprived ~~and exiled~~ under Cromwell. To such men the increasingly secular tone of politics and the court were to be deprecated strongly. But there were to be no more great episcopal politicians like Laud after the Restoration. Sheldon and Sancroft and George Morley, Bishop of Winchester, never enjoyed regular membership of the inner circles of political power, although their episcopal votes in the Lords were still valuable and even decisive, as the Exclusion debates in the Upper House of Parliament were to prove. It seemed that after the fall of Clarendon, a serious and conscientious Anglican churchman, that the cynicism of Charles II had permeated the fabric of the nation, political and moral. The men of the Cabal, the free-thinking of Shaftesbury, the rationalism of Halifax, the amoral opportunism of Danby, all these men had a more pragmatic approach to politics, openly seeking to enjoy personal power or party interest. This seemed to dethrone the older theory of the unity of church and state and to undermine the crucial Restoration idea of the inviolability of the Anglican Church's monopoly of political office, which seemed part of the very warp and woof of the state, guaranteed by the almost miraculous and providential nature of the Restoration itself. To speak of 'the party' or 'the faction' came naturally to Anglican cavalier churchmen, to mean thereby not merely those who differed somewhat in their religious or political ideas from the accepted norms, but those who held subversive and revolutionary notions, dangerous to church and crown. Religious or political dissent to the Tory churchman was morally and spiritually evil and degenerate. Political or conscientious religious opposition to the established church or the crown was easily seen as deserving condemnation by all right-thinking men, as it was condemned by God in scripture.



Clear-sighted Whigs and realistic Tories knew, however, that the concrete shape of the laws and constitution were determined by decisions and actions in Parliament, which had sanctioned the Restoration settlement in church and state. Monarchy and church no longer derived their sanction simply from divine law, but rather from positive laws enacted by a human sovereign authority. Tory and Whig alike agreed that England was a limited monarchy, in which the King's power was regulated and limited in its exercise by law. Where dispute arose was over the precise limits of royal prerogative and parliamentary authority. Were there certain areas of the constitution which were beyond the competence of a parliament, such as the essential hereditary descent of the crown? Was law simply declaratory, in the sense that the Militia Act declared that control of the armed forces was inherently in the King and not in Parliament's power, or in that the laws declared that James VI and I or Charles II had succeeded to the crown and the full exercise of sovereignty by inherent birthright and lawful descent as the nearest hereditary heir? Did this law simply declare what were essential and immutable principles inherent in the nature of the English body politic, only needing to be spelled out precisely when controverted by rebellion? Or was the crown-in-parliament an absolute and omniscient sovereign, capable of making and altering its own rules of procedure without regard to divine or moral sanction or traditional rules of inheritance and fixing, extending or retrenching its own authority in all areas of politics, as reason of state and national exigency demanded? The Whigs gradually tended towards a doctrine of thoroughgoing parliamentary omniscience. The Tories and churchmen still clung to the

older and now no longer universally accepted belief in a divine law and authority behind the idea of sovereignty and government itself, seeing sovereignty in St. Paul's terms or in the terms of Cranmer's Prayer for the Church Militant here in Earth, 'that they (the King's Council) may truly and indifferently minister justice, to the punishment of wickedness and vice, and to the maintenance of God's true religion and virtue'. The older view, being a descendant of Marsiglio of Padua's Defensor Pacis and Luther's Godly Prince, canonized by Archbishop Cranmer in the liturgy and homilies, was elaborated in opposition to the high medieval view of papal supremacy. Earthly rulers were images of God himself '... that the princes themselves, in authority, power, wisdom, providence and righteousness in government of people and countries committed to their charge, should resemble his heavenly governance'.<sup>1</sup> The churchmen and Tories of the early 1680's saw sovereignty as a divine institution ordained by God to check sin and evil among men. 'He is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain; he is the servant of God to execute his wrath upon the wrongdoer.' So wrote the apostle St. Paul in the Epistle to the Romans, chapter 13. 'Therefore you must be subject, not only to avoid God's wrath, but also for conscience sake.' The Anglican Homily Against Disobedience and Wilful Rebellion saw "the grand captain and father of all rebels" as Lucifer himself tempting Adam and Eve to transgression. Rebellion and resistance, in the seventeenth century sense of armed resistance, were devilish

---

1 Certain Sermons or Homilies Appointed to be read in Churches in the Time of Queen Elizabeth of Famous Memory (1864). Homily against Disobedience and Wilful Rebellion, Part I, p.591.

disobedience to God, needing the sufferings and the obedient self-sacrifice of Jesus Christ to repair the damage. Rebellion and disobedience became 'both the first and greatest and very root of all other sins, and the first and principal cause both of all worldly and bodily miseries, sorrows, diseases, sicknesses and deaths', and 'the very cause of death and damnation eternal also'.<sup>1</sup> The Great Rebellion, the killing of a king and an archbishop, and all these calamities, were the great proof of the truth of these doctrines to many later seventeenth century Englishmen. So the Tory clung to the older view of divine right and the moral-disciplinary, judicial view of law and sovereignty based on God's laws, and regarded the more pragmatic Whig with his more utilitarian views of law and politics as holding views dangerously atheistic and morally reprehensible. Whig doctrines were thought to be like the shocking theories of the cynical Machiavelli or the immoral notions of Hobbes' Leviathan (which had been condemned by many Cromwellians as well as royalists as subversive of all religion and morality).

In a sense English politics in the reign of Charles II were becoming more civilized. Clarendon, somewhat like Thomas Cromwell, Thomas Cranmer or Reginald Pole, presided over a great change in the religious and political establishment in England. This time the change was that which brought about the definitive version of anglicanism. He was the last great Lord Chancellor, an undisputed first minister in the tradition of Wolsey, Burleigh, and Strafford. But unlike other architects in English religious

---

1 Op. cit., p.589.



change and great ministers of State, he was not attainted or beheaded when he fell, but permitted to retire into exile. Charles II saved Clarendon, Danby and his brother James from the fury of the political factions and prevented impeachment becoming again an effective feature of political life, as it had been under James I or Charles I. Despite the violence of factional strife during the Popish Plot or the Rye House Plot trials, politics were becoming more flexible and less rigid. Charles II knew when to make a soft answer and a tactical gracious retreat, as he did by revoking the Declaration of Indulgence in 1673 or offering to placate the Exclusioners with generous concessions involving serious limitations on the crown's ecclesiastical patronage and other powers or remodelling the Privy Council in 1679 to include leading members of the opposition. In a sense, the hard lessons of the Civil War were being learned in political practice. Too great rigidity and obstinacy in clinging to dogma in politics and refusal to give way on matters of high doctrinal principle in affairs of state had led to conflict in 1641 and 1642. The restored monarch made concessions and yet also protected fallen ministers from their enemies. The Revolution of 1688 witnessed the English triumph of undogmatic practical expediency over obsolescent unyielding dogmatism, the victory of political realism and opportunism over fixed and rigid principles outdated by the progress of events. Divine right of kings gave way to parliamentary monarchy at the Revolution. Ideology was sacrificed to prevent bloodshed and new civil wars. Charles II exiled Clarendon and so indicated that the days of great aristocratic ministers of state who could disregard a parliament

were over. Twenty years later James II was exiled, indicating that a king himself could no longer expect to survive as a ruler if he disregarded the will and interests of the great majority of the nation. But fallen statesman and fallen monarch were not executed. Nor was the severe rigour of the later Elizabethan or Jacobean High Commission against puritans or Jesuits used against the remaining supporters of the Stuart divine right theories. There were to be no more martyrs like Charles I or Laud. Only sad exile remained for fallen politicians after the Restoration or the Revolution. It was only the greatest, Clarendon, Shaftesbury or James II, who actually fled abroad. Exclusion from any form of political power and virtual exile in their own land remained for religious dissenters after the Restoration and the Clarendon Code. The same kind of exclusion and domestic exile was applied to those whose principles refused to allow them to accept the Revolution of 1688 and its consequences. After 1660 and especially after 1688, pliability was enthroned and strict principle was out.

George Hickes's early career as the chaplain to the Duke of Lauderdale in Scotland and the author of important political tracts defending the Duke's policies fitted him admirably for the role of supporting the crown's attempt to recover control of the city of London. Hickes's first political pamphlet<sup>1</sup> had dealt with the issue of the proposed exclusion of James, Duke of York, from the crown, along with the dissenters' agitation against the penal laws and proposals for a bill of comprehension

---

1 A Letter from Beyond the Seas to One of the Chief Ministers of the Nonconforming Party (1674).

to unite moderate dissent with the established church. The Restoration settlement re-established church and king alike. Hickes had stigmatised exclusion as a doctrine of popish origin. Succession to the crown was governed by the English law of inheritance. No peer or gentleman, not even Shaftesbury, would bar his own son from succeeding to his title and property if he turned papist. To exclude the heir to the throne was 'a truly Romish proposal'. It was the same as the papal doctrine that excommunicate or heretic princes should be deposed and that subjects were absolved from their allegiance and should rebel. It was the very teaching of Regnans in Excelsis. It was also the detestable doctrine of Scottish presbyterians like Buchanan who taught that 'temporal rights depend upon saintship and grace'. If a papist could not succeed to the throne, then logically no papist should succeed to any land, title or property. Hickes held up the example of the Duke of Guise in France, who under a specious plea of zeal for the Roman Catholic religion had rebelled against his catholic king to attempt to exclude the protestant Henry of Navarre from the succession. There was a shocking similarity between the principles of the Catholic League and those of the Solemn League and Covenant.<sup>1</sup> Rebellious factions in the state often used the false excuse of religion to cloak the sin of resistance to lawful government and royal authority.

Hickes continued by taking the usual anglican line that the Dissenters' complaints of persecution were false. 'No man is

---

1 Op. cit., pp.1-11. The original edition of 1674 was reprinted in 1684. A copy of the first edition is preserved in the Bodleian with annotations for the second edition in Hickes's own hand, Bodl. Rawl. 4to.99. See also Bodl., MS Eng. Misc. e.4, ff.29, 30.



persecuted but either for immediate matters of divine worship, which concern the first table; or with respect to matters of morality, or a good life, which concern the second.' In England the Dissenters were not obliged to worship a false god and were not punished for serving the true god. Their liberty of worship was restricted because they unreasonably refused to conform to the national church, which they could not prove guilty of any fault or heresy. Nonconformists were in fact guaranteed liberty of worship in their own homes and families, with up to five others present. Englishmen, wrote Hickes, considered the nonconformists to be those who began the Great Rebellion, destroyed the English church and killed the king. Seen in this light, the penalties of the Clarendon Code 'will rather seem to be your just deserts as factious subjects' than religious persecution.<sup>1</sup> Hickes continued by comparing the condition of French Huguenots, which he saw for himself on his tour of France with Sir George Wheler in 1673 and 1674. They were a real persecuted minority in a corrupt and popish nation, but remained loyal subjects under the most severe persecution. Claude, the great Huguenot divine, had said

That he wondered how the Presbyterians in England could rend the peace of the church for such little indifferent matters; and that if he were in England, he would be of the episcopal party, and heartily submit himself to the discipline and government of the Church of England.<sup>2</sup>

As for the possibility of any scheme of comprehension, Hickes asserted that the Dissenters had no unity among themselves save

---

1 Op. cit., pp.12-15.

2 Op. cit., p.15. See E. Carpenter, The Protestant Bishop (1956) pp.71, 72, for Claude's letter to Bishop Henry Compton of London, 1680.

in their opposition to the Church of England. Though proper authority might be willing to alter or omit some disputed ceremonies, 'unless this alteration would surely and infallibly produce this effect (real church unity), it had far better be let alone'.<sup>1</sup> Before the 1672 Declaration of Indulgence, the Dissenters had opposed the Restoration settlement in church and state alike, and had decried any royal authority in matters of religion. Since the Declaration they now affected great loyalty, and the sudden change was highly suspicious. The Indulgence was 'at first hammered out by a popish lord (Clifford), who was the patron and idol of the presbyterians', and was intended not for liberty of conscience, but 'for the ruin of the church of England'.<sup>2</sup>

Hickes's opposition to dissent and the Declaration of Indulgence in this early pamphlet are noteworthy. It mirrors well the anglican church's support for the Restoration settlement in church and state as the untouchable and sacrosanct foundation of the great alliance of church and crown. Loyalist Cavalier churchmen felt in 1672 and 1673 that the crown was being turned against them by their popish and dissenting enemies. There was considerable embarrassment and unwillingness to blame the king himself for this attack on the anglicans' privileged position, but churchmen were prepared to fight for their legally established rights. Sheldon as Bishop of London in December 1662, after the kings' attempted Declaration of Indulgence, told Charles II that he was taking 'liberty to throw down the laws of the land at your

---

1 Bodl., Rawl. 4to.99, p.22. Hickes's MS notes for the second edition. ←

2 Ibid., p.22.

pleasure! and inviting 'God's heavy wrath and indignation'.<sup>1</sup>

The bishops and churchmen united with Shaftesbury and all groups in the Commons to enforce the Test Act on the king in 1673.

Churchmen were by no means subservient or slavish supporters of the crown as their Whig opponents often contended, and were prepared to oppose the king openly in matters where the church's inviolability was concerned, as Sancroft and the other bishops did in their petition against Jaems II's Declaration of Indulgence of 1688. It is essential to see that anglican churchmen's support for the crown was not simply doctrinaire royalism or because they favoured absolutism, but because they wished to retain their legal privileges and authority under the law and regarded their dissenting religious opponents as subversive of all lawful authority. The church's re-establishment and legal status were as much part of the Restoration settlement as the restoration of the monarchy itself.

After 1678 the king was under severe pressure. The Popish Plot, the Exclusion campaigns in Parliament, and the Court's defeat in the City of London elections of 1680 had thrown the crown on to the defensive, and Charles needed the support of the Church of England more than ever. The faithful two dozen episcopal votes in the Lords were crucial in the rejection of the Exclusion bills in 1680 and at the Oxford parliament in 1681. The crown also had to reconquer the City of London, Shaftesbury's great popular power base. This in part could be done by the careful use of ecclesiastical patronage. George Hickes after his return from Scotland had already attracted notice by his two

---

1 K. Feiling, A History of the Tory Party, 1640-1714, p.127.



big pamphlets in defence of Lauderdale's Scottish policies, Ravaiillac Redivivus (1678) and The Spirit of Popery Speaking out of the Mouth of Fanatical Protestants (1680). Living at Ham, Lauderdale's house outside London, Hickes had continued his work as chaplain and political secretary to the Duke. But in September 1679 he had married Mrs. Frances Marshall, widow of John Marshall of London. Marriage necessitated finding a good benefice and setting up house, leaving behind the dependant status of domestic chaplain to Lauderdale. The Duke wrote from Ham to Archbishop Sancroft on 5 August 1680 requesting the parish of All Hallows, Barking-by-the-Tower for Hickes, on the death of Dr. Layfield its previous vicar. Sancroft had apparently already promised the benefice to Hickes, at Lauderdale's suggestion, and now the Duke claimed fulfilment of the primate's promise.<sup>1</sup> At Lauderdale's request, Hickes had already received a prebendal stall at Worcester Cathedral in March 1680<sup>2</sup> and also became a chaplain in ordinary to the king in December 1681. In the summer of 1680 Hickes also made a farewell appearance in Oxford, presumably on his return from his installation at Worcester, where he preached the Encaenia or Act sermon before the University on 11 July 1680. This was the first of his big set-piece pulpit orations attacking religious dissent as subversive of all established authority, and marked him out as a royalist divine who had now arrived.

The Act sermon, published as The Spirit of Enthusiasm

---

1 Bod., MS Tanner 37, fo. 113; Lambeth Palace Library, Act Book, IV, 111.

2 C.S.P.D., Ser.1679-80. Warrant dated Newmarket, 19 March 1680. Hickes was collated to the eighth stall and installed in June 1680.

Exorcis'd in London in 1683, was an elaborate exposition of the classical anglican appeal to scripture, the fathers, reason and tradition, against sectarian claims to immediate inspiration and miraculous gifts of irresistible grace. Hickes attacked enthusiasts in religion as fanatics who

'have raised such absurd and exorbitant doctrins as are utterly inconsistent, not only with the use and authority of the Scriptures, but the tradition of the universal church, the orders of the ministry and the study of divinity, and by consequence render the Christian religion, which consists of such sober and rational doctrines, the most wild, uncertain and unintelligible institution that ever was in the world.'<sup>1</sup>

Claims to charismata were totally unnecessary in the fully developed state of the church, though miracles, inspired prophesy, healings and glossolalia may have been useful in the earliest apostolic church. Hickes insisted that ordinary gifts and graces of the spirit, available to all Christians, working moral virtues in the human heart, were of more use and value than extraordinary gifts. Hickes severely pointed out that in the Acts of the Apostles the gift of tongues appeared to be that of intelligible languages for the practical purpose of preaching the faith to foreigners in their own languages.<sup>2</sup> The epistles to Timothy and Titus clearly pointed out the handing on of the apostles' authority of government and discipline to early bishops, themselves empowered to ordain clergy and discipline the flock. The spiritual power of discipline exercised by St. Peter in his judgement on Ananias and Sapphira in the Acts of the Apostles chapter 5 was now regularly handed on to bishops governing a spiritual body politic. Hickes further attacked the theory of Papal Infallibility and the making of

---

1 Op. cit., pp.1, 2.

2 Op. cit., p.22 (Acts, 2, vv.5-11).

miracles and visions into official notes of sanctity in the Roman Catholic church. To regard the Pope as infallible was to depend on "this enthusiastic principle of immediate inspiration". If such immediate inspiration became the rule, then every christian ought to claim it as well as one, and the certainty of the gospel rule of faith would be destroyed and every Christian could be his own pope at his own whim. Such immediate inspiration overthrew the scriptures, episcopal authority and all learning and discipline. There was no need for enthusiastic revelations and outbursts of praise where regular ordered liturgies now existed in the church. Episcopal authority and holy orders were of divine institution in the church, and human learning was far more important to support the Christian faith than inspired utterance. An acquired knowledge of divinity was absolutely necessary to defend the faith. St. Paul's basic gift of Christian charity was paramount. Prophecy, glossalalia or inspired knowledge would pass away, said St. Paul.<sup>1</sup> Only charity would never end. Hickes pointed out that speaking with tongues of men or angels was useless noise without essential Christian charity, and attacked the Covenanters' doctrine of the "heroical impulse" or inspired assassination and the Quakers who rejected all liturgy and regarded even the Lord's prayer as superstitious. Such destructive enthusiasm led only to endless schism. The church should put down enthusiasm by a severe application of episcopal authority. The church could only be supported by its regular ministry, sound learning and the universities to train and teach its future

---

1 I Corinthians 13, vv.8, 9.



clergy.<sup>1</sup> Hickes thus presented a strongly authoritarian view of the church. Christ had now weaned the fully developed church away from extraordinary spiritual phenomena and given a power of spiritual authority to the apostles and their successors the bishops. An authoritarian view of church and episcopate thus paralleled Hickes's view of monarchical authority.

Hickes became vicar of All Hallows, Barking, in August 1680. He was soon regarded as a dangerous enemy by the Whiggish elements in city politics. He preached before the Lord Mayor on 6 February 1681 a strong sermon entitled Peculium Dei: A discourse about the Jews as the Peculiar People of God attacking the over-literal application of Old Testament precedents to Christian practice. The Jewish Law was fulfilled in Christ and detailed Mosaic laws no longer applied to christians. It was 'vain and foolish for any other nation ... to pretend to be so chosen and adopted by God' as the Jews had been before Christ. It was equally foolish for any christians to claim to be bound by the political or civil laws of the Jews, or to turn New Testament teaching on the kingdom of heaven into a new Israelite theocracy in England or Scotland. Scottish Covenanters or mad Munster Anabaptists or the Colony of Massachusetts all had tried to establish Old Testament Mosaic states. Those who sought to apply such literal Jewish laws to the present day should remember that to obey the Law demanded complete obedience in every detail, not a highly selective use of the pentateuch. It was also incorrect to demand a precise biblical warrant for any and every ecclesiastical

---

1 The Spirit of Enthusiasm Exorcised (1683), passim.

ceremony. God had left proper human authority to determine such things. Old Testament inspired assassination such as that of Eglon by Ehud, or Samuel rejecting Saul, choosing David, and hewing Agag in pieces, each had a particular divine warrant - but this gave no general rule to Christians, who must rather be bound by the Saviour's patient obedience and suffering. The murder of Henry IV of France or Charles I in England or Archbishop Sharp in Scotland had all been justified by their perpetrators following Old Testament examples. Christ had now ended the Old Jewish particularity and the need for precise obedience to the whole law, except that purely moral. If Calvinists and English puritans said they wished to reform the church further according to the precise ceremonies commanded in scripture only, would they call the Lord's Supper the Passover, forbid Sunday as the Lord's Day and revert to a Saturday Sabbath, and forbid creeds, infant baptism, baptismal or confirmation promises, and prayers before and after the administering of the sacraments? All these customs had been ordained by lawful human authority. If these observances were lawful as most Protestants agreed, then human church authority was lawful and right in sanctioning rites or ceremonies not specifically prescribed in scripture. But for Papists to call Old Testament examples of the killing of Israel's enemies a precedent or command for the massacre of St. Bartholomew's eve, or English puritans or Scottish Covenanters to make God the author of their crimes of killing a king or an archbishop - this was unwarrantable and dangerous to all established authority. A second printed sermon in 1681, The True Notion of Persecution Stated, took up the theme of Hickes's Letter from Beyond the Seas denying the right of resistance to

lawful authority, refusing to allow the British non-conformists' complaint of persecution and denying their claimed right of rebellion against state religious policy. How could Scottish Covenanters risen in arms complain of religious persecution? What true cause did they suffer for? Surely not for their erroneous notion of the parity of ministers or their objections to the surplice, a thing not sinful in itself. 'It hath ever been the inviolable practice of all good Christians to suffer or fly, and never to resist.' As well as explaining the Huguenots' true persecution in France by the state and by a corrupt popish religion, which actively commanded idolatry in its worship, Hickes flatly denied that English dissenters were persecuted. The Huguenots "have no quarrel at the (French) Church because it is episcopal, but because it is Popish". To suffer for the name of Christ was one thing. To resist lawful authority on a matter not directly connected with state prohibition of true worship or state enforcement of something clearly against God's will, was a very different matter. To be punished for mere contentiousness about matters indifferent was simply resisting the lawful sovereign power and being justly disciplined for it. The New Testament made it quite clear that no Christian might be said to suffer persecution if convicted as a thief or murderer. This was simply legal punishment for crimes. The New Testament references to persecution all dealt with suffering patiently for the faith itself, for belief in and worship of Christ and obedience to his precepts. Hickes thus supported the penal laws against dissenters in England and denied the notion of resistance. This was the standard seventeenth century anglican view. Non-episcopal protestant churches in



Europe might be able to plead historical necessity for the lack of episcopate, and certainly a protestant church persecuted by the state would have the full sympathy of the church of England. Dissenters at home were quite another thing, however. In rebellion against the lawful church and its episcopal government and also the supporters of those who overthrew crown and church in the Civil War, dissenters were a dangerous and subversive force to be restrained and curbed.

Hickes's attacks on the dissenters from his pulpit in the city, at that time dominated by Shaftesbury's Whigs, attracted the prompt attention of 'the faction', who made an effort to embarrass or even remove him, or at least involve him in expensive litigation. London, Westminster and Middlesex were Shaftesbury's strongholds. In June 1680 Shaftesbury and others had actually presented the Duke of York before the Middlesex Grand Jury as a popish recusant and the Duchess of Portsmouth as a common prostitute. Though overruled, these attempts to embarrass the king and court were most troublesome. That Hickes also was chosen as a target for whiggish assault is an indication that he was thought a serious menace by the Whig groups in the city.

All Hallows, Barking, was a wealthy and prominent city parish. Dr. Edward Layfield, Hickes's predecessor, had been a nephew of Archbishop Laud and in February 1643 was declared 'a delinquent' by parliament, deprived of the living and pronounced incapable of ever again holding preferment in the church of England. Layfield had refused to leave without a trial and parliament's officers had entered the church while he was officiating at divine service, forcibly removing him. He had been obliged to ride to prison in a surplice with the prayerbook hung round his neck.<sup>1</sup> Layfield

---

<sup>1</sup> J. Durham, The Parish Church of All Hallows by the Tower of London (1967), p.15.

had also been complained of as a ritualist to the house of Commons in 1640, and the church wardens and Vestry petitioned the house denying the complaints against him.<sup>1</sup> The petition included a denial that the communion table had been placed at the east end by Layfield's command and railed in. This had been done before his time by order of the bishop of London to the churchwardens. The placing of carved wooden figures of angels behind the altar was also denied to be Layfield's work. This history is necessary to understand the attack on Hickes.

The manuscript life of Hickes states that in March 1681 the two churchwardens, Edmund Sherman, 'a broken Turkey merchant', and Henry Hunter, informed Hickes that one Whittaker, a parishioner, had laid a charge of Idolatry against the Vicar, the Churchwardens and the Lecturer, Jonathan Sanders, and that they, the churchwardens, had already been to plead guilty at the London sessions at the Old Bailey. The charge was that the accused had persistently bowed to an image of St. Michael the archangel set over the altar in the church. It appeared that Mr. Sheriff Bethel, a prominent dissenter and city Whig faction leader, had put up the churchwardens and Whittaker to lay charges to embarrass Hickes and attempt to silence him. The churchwardens had removed the image and taken it to the Old Bailey where they paraded it before a curious crowd, and intended to offer it as evidence. Sherman deliberately delayed to inform Hickes of the charge until he and Hunter had been to plead guilty, hoping thereby to compromise his vicar and inhibit any defence. However, Walter Kettilby, a publisher and bookseller who was a

---

1 All Hallows church, Vestry Book (1629-1669), pp.25, 26. A copy of the petition endorsed a true copy by G. Hickes, 10 April 1683. Layfield was Archdeacon of Essex and prebendary of Harleston in St. Paul's Cathedral.

close friend of Hickes's, was able to procure a copy of the charge and discover that 'the faction' were using the case to ridicule him. All of 'the party' had arranged to be in court, including Henry Cary<sup>e</sup>, Whig journalist, of the Observer. Hickes accordingly did not appear the next day, but went on a later court day to the Easter sessions to answer the charge, supported by a train of the chief men of the parish. He pleaded not guilty and was respectfully heard. The case was adjourned, and at a second hearing, despite a strong plea from Sheriff Slingsby Bethel, the case was dismissed. Sir Job Charleton, the judge, and Sir George Treby, the Recorder, stated that the case was only cognisable in the ecclesiastical court and rebuked the prosecution for wasting the court's time with a frivolous indictment. Hickes had called a meeting of the Vestry after evensong on Sunday 13 March 1681 to discuss the case. Sherman refused to appear, and Hickes complained to the meeting of his churchwarden's conduct. Sherman was censured by the meeting, and appeared defiantly after its close and burnt several fragments of the unfortunate 'idol', now smashed, on the fire in the vestry room. At the succeeding Easter Vestry on 7 April 1681, Sherman was not re-elected as churchwarden. A meeting of the Vestry on 24 April demanded that Sherman pay £50 to Henry Hunter (who had been re-elected) which had been received for repairs to the church. A paper of Sherman's was also read out and strongly objected to by the meeting which resolved it to be 'rude, scurrilous and slanderous, and (it) hath many falsities and slanderous misrepresentations', ... 'a slanderous libel on the Dr and tends to the dishonour of the church of England'. Sherman published two strong pamphlets, to which Jonathan Sanders, the curate and Lecturer, replied. Hickes himself produced a



laconic and satirical single sheet anonymously. Sherman's Birth and Burning of the Image called St. Michael (1681) could not deny Sanders' charges that he knew beforehand the Whigs who were on the Grand Jury. Hickes's own Narrative of a Strange and Sudden Apparition of an Archangel at the Old Bayly on Monday 7 March 1680 (English Style), between the Hours of Three and Five made clear the fact that Sherman was a regular foreman of the Grand Jury and in a position to know or influence the makeup of the Jury. Hickes also referred to the previous prosecutions of Dr. Layfield, his predecessor. The two parts of Sherman's Birth and Burning of the Image called St. Michael contained vague accusations of popery, objections to bowing to the altar, a new organ erected in 1675, a new crimson altar-frontal embroidered in gold and also that the 'second service', the ante-communion, was now being said at the holy table, instead of in the reading pew or clergy stalls as formerly. Sherman's two sixteen page parts to this pamphlet were mere invective against Hickes and Sanders (was the Lecturer bowing to the new altar frontal or a 'Portugall matt' also given by the frontal's donor?) - but was extremely well produced, excellently printed and widely circulated. It appears that Sherman was reasonably well placed in the city of London Whig hierarchy, and was certainly a principal mover in the attempt to silence Hickes.<sup>1</sup>

As incumbent of a key city living, Hickes appears to have played some practical part in city politics. While there is no evidence of his direct influence or activity in city elections,

---

1 Bodl. MS Eng. Misc. e.4, ff.15-17; J. Sanders, A New Narrative of a Fiery Apparition and The Sham Indictment Quashed (1681). G. Hickes & E. Sherman, op. cit.; and All Hallows Church, Vestry Book (1669-1748), pp.115-126.

an important memorandum in the papers of Sir Leoline Jenkins, secretary of state from 1680 to 1684, indicates his direct interest in the qualifications for public or civic office. The paper in Hickes's unmistakable hand is probably dated sometime in 1681 or 1682, before the crucial city elections of midsummer 1682 when the court recovered control of the city government. Hickes's memorandum attacked occasional conformity for the purpose of qualifying for public office, pointing out that Richard Baxter and Dr. Owen distinguished between 'total and partial, constant and occasional communion ... from when it comes to pass that to qualify themselves for offices, they will receive the Holy Sacrament at the church in the morn, and go in the afternoon to conventicles ... From these practices it is plain that the receiving of the Sacrament and coming to church on special occasions for legal qualifications is no true sign of loyalty or unfeigned love to the Church of England ...' Hickes suggested a new certificate, to be granted by incumbent and churchwardens to all candidates for public or civic office, to replace that prescribed under the Test Act, certifying that the candidate 'liveth in full, constant and (to the best of our knowlege) in the sole communion of the Church of England' ... 'Such a certificat will exclude all but true and hearty church men from his majesty's service', remarked Hickes, also adding that unlicensed schoolmasters and private academies should be controlled more rigidly, and

'... also that his majesty would be pleased to get a list of all the rich and loyal merchants in London, who are not free of the city, such as Sir John Matthews, etc., (there are very many of such) and oblige them to take the freedom of the city (which the fanaticall never fail to do) that they may bear office therein.'<sup>1</sup>

---

1 P.R.O., S.P.29/421, ff.320, 321, quoted in Oxford D.Phil. thesis by Dr. R.A. Beddard, William Sancroft as Archbishop of Canterbury, 1677-91, Bodl. MS D.Phil., d.3906.

It may reasonably be assumed that Hickes was acting as some sort of royalist election agent in his area of the city, if these instructions are to be interpreted as advice to secretary of state Jenkins in his work of building up the court interest in London against Shaftesbury. Hickes's proposed 'Certificate of Total Conformity' would not only prevent dissenters from qualifying for office, but would also prevent the use of the sacrament of Holy Communion as a test, to which many devout churchmen objected.

Hickes was certainly aware of the riotous election of Sheriffs in May 1682. The Lord Mayor, Sir John Moore (advised by the court and the Attorney General) revived an ancient custom whereby he drank the health of Dudley North, the brother of Lord Keeper North, and so nominated him as Sheriff. The Whigs resisted, a riotous election ensued, in which both parties claimed their candidates elected and appealed to the Privy Council. Pilkington and Shute, the retiring Sheriffs, Alderman Cornish and Slingsby Bethel, a former sheriff, were all tried for riot and heavily fined. The former Lord Mayor, Sir Patience Ward, was tried for perjury but fled to Holland.<sup>1</sup> Hickes wrote to Thomas Comber, Precentor of York Minster, on 15 July 1682,

'... here are horrid pamphlets come out every day, and the monarchy struggles with a commonwealth, especially in the election of the Sheriffs, which is so intricate, perplexed and uncertain, that I cannot give you a relation of it. I wish I were anywhere but in this town till the government gets more strength. We must do our duty strenuously.'<sup>2</sup>

Hickes continued to do his duty strenuously in London for the royal cause. In his advice to secretary Jenkins on freemen of

---

1 D. Ogg, England in the Reign of Charles II (1963), ii, 634-9.

2 C.E. Whiting (ed.), Autobiographies and Letters of Thomas Comber, Surtees Society (1946, 1947), ii, 54-56.



the city and certificates of total conformity, Hickes seized on two key issues at the time when the crown and court were beginning to recover control of the city corporation and dispute power with Shaftesbury's Whigs. Only those who had taken the freedom of the city could hold office, and if 'the fanatical never fail to do so' it was an obvious but necessary point for the court party to follow the Whigs' lead, as Hickes's memorandum suggested, while the proposed new certificate would have stopped occasional conformity completely, thus removing dissenters' political influence and pleasing the church at a stroke. This proposal was impracticable in 1683, as it would have needed an amendment to the Test Act only possible in parliament. But the suggestion remained open to be acted on later, if needed. If, as David Ogg remarks,<sup>in</sup> the elections for sheriff in London the disqualification of some Whig liverymen who had not taken the oath might have been crucial to the Tory candidates' disputed majority, then clearly the qualifications of voters and office holders was a vital matter that the court and government were looking into with some effect.<sup>1</sup>

Hickes's defence of the royal cause was carried over into the sphere of pulpit oratory and published works, as well as practical advice of those in power as a royal agent in the city. That the Vicar of All Hallows, Barking, should be chosen for several big set piece expositions of the fashionable court political divinity of the day is indicative that he was regarded as a reliable and trustworthy royalist divine. As his addresses were delivered in London in the face of 'the faction' in its great centre of power, they caused some considerable controversy in which Hickes was

---

1 D. Ogg, op.cit., ii, 637, and note (i), quoting R.R. Sharpe, London and the Kingdom, ii, 479.

directly challenged by Samuel Johnson, chaplain to ~~Lord~~ William, Lord Russell, to justify the hereditary succession to the crown in the face of the probable accession of the Duke of York. Hickes elaborated a strong defence of the crown and its powers, hereditary succession and the need to maintain the restoration settlement and the laws protecting the church. At the same time as developing the familiar texts in favour of the crown and forbidding rebellion, Hickes also placed a strong emphasis on the English constitution and law, stressing the crown's powers and authority in traditional common law and insisting on the king's legal authority in the constitution as guaranteed by restoration laws. On 30 January 1682 Hickes preached the King Charles the Martyr sermon at St. Mary-le-Bow before the Lord Mayor of London, Sir John Moore. This occasion always provided an excuse for crying up the monarchy and attacking the dissenters, but on this occasion the preacher delivered a formidable discourse justifying passive obedience and non-resistance and attacking some classic anti-monarchical principles. As well as insisting on New Testament texts in favour of obedience to civil government, Hickes upheld the sufferings of Christ himself as an example to all Christians, reminding his hearers of the text 'My kingdom is not of this world'. Christ had commanded St. Peter to sheathe his sword when he was arrested, and permitted no violence or resistance. Patristic authorities from Ignatius of Antioch to Polycarp of Smyrna to the apologist Athenagoras and Tertullian were mentioned. Hickes's greatest precedent, however, was the massacre of the Theban legion under St. Maurice at Agaunum. St. Maurice was reported by the church historian Eucherius to have reminded his troops of their faith and that they could not

oppose their emperor. The legion would obey in all things, except idolatry, and therefore peacefully suffered decimation without resistance. After Constantine's conversion to Christianity, Hickes continued, the church had peace until the reign of Julian the Apostate, 'who began to persecute again, when the Empire and Army, now in a manner wholly Christian, adhered to their former principles and withstood him no otherwise, as Nazianzen tells us, than with prayers and tears'.

'To resist authority under the specious pretence of defending themselves and their religion; to enter into leagues, Covenants and associations against the Emperor and the Empire; to fight him from field to field, ... to hale him from one prison to another, then to arraign him of high treason against his own subjects and so cut off his head, were things not more inconsistent with the notion of monarchical government and the express doctrines of the Gospel, than with the passive obedience of the Christians in those happy and glorious times.'<sup>1</sup>

Hickes took forty propositions from 'anti-monarchical' writers, including elective monarchy, that kings were accountable to the people and could be deposed or killed, and set them down in detail. Ideas of contractual sovereignty were quoted and condemned. All these ideas came from authorities whose works were published or reprinted during the Great Rebellion, from Knox and Buchanan to Rutherford's Lex Rex and the anonymous Tenure of Kings and Magistrates of 1649. Milton's preface to Eikonoclastes had insisted that Charles I had a fair trial and was justly condemned.<sup>2</sup> All these opinions had in fact been expressed during the Civil War years by professing Christians, contrary to the clear teaching of the New Testament. Hickes

---

<sup>1</sup> G. Hickes, A Sermon on 30th January 1681/2, at Bow Church before the Lord Mayor (1682), pp.14-16.

<sup>2</sup> Op. cit., pp.20-23.



also showed how Mary, Queen of Scots and James VI in his ministry<sup>ority</sup> and early reign in Scotland had been opposed and humiliated by the presbyterians. 'Doleman's', or Parsons the Jesuit's book, Title to the Crown, written originally to support Regna<sup>us</sup> in Excelsis and advocating the deposition of Elizabeth I had been republished in Charles I's later years to justify his execution.

Hickes brought his attack right up to date by attacking the dissenting protestants of his own time.

'And from the men of these principles it is that we have had within these three last years so many impious and treasonable books printed to defame against Passive Obedience; to prove this not to be an hereditary, but rather an elective monarchy and that the king is the Trustee of the poeple; that he is one of the three estates; that his office in the intervals of Parliaments is wholly ministerial to put the laws in execution; that his prerogative in all the branches of it is rather the ruin than the support of government; that Acts of Parliament were at first brought unto him, as the Speaker and Lord Mayor are now presented unto him, merely out of respect and honour; and that Parliaments should sit till all grievances are redressed ... that is as long as they please.'<sup>1</sup>

Hickes attacked recent Whiggish books, which sought to attack the Crown, the church of England and the Universities - simply for sticking to the word of God and passive obedience as gospel doctrine. Rebellion and resistance caused by evil protestants was the danger now, as it had been during the Civil War.

'As there was never so much need to warn the people against the papists, so there was never greater need to warn them against these Popish protestants who have brought an indelible scandal upon the Protestant Religion by this great abomination (killing Charles I).'<sup>2</sup>

Two more important sermons follow in 1682, The Moral Shekinah or a Discourse of God's Glory, on 11 June, and A

---

1 Op. cit., pp.28-29.

2 Op. cit., pp.30, 31.

Discourse of the Sovereign Power before the Honourable Artillery Company in November. Papal deposing power was attacked and the Henrician Supremacy Act asserted to prove kingly authority. The papal urging of deposition and rebellion against sovereigns who would not submit to papal power was as calculated to destroy all monarchy as the doctrine that episcopacy was a usurpation over the church was likely to destroy all church institutions. Kings needed the power of the Sword to repress evil and to defend the whole nation. Justinian's laws stated that the king's majesty 'must be fortified with laws as well as arms, and the latter were essential to enforce the laws'. Restoration laws clearly vested the control of the armed forces in the king. As for anti-monarchical views, a few simple questions exposed their inconsistency. When was the claimed original contract and what embodied its legal form? If the people were sovereign, who had political rights? Men alone, or only heads of families? But what of the rights of women or servants? Was a simple numerical majority always right? Surely there were times when a minority could represent the true opinion?<sup>1</sup> But English kings were not tyrants,

'... for as the learned Chancellor Fortescue wrote long ago, it is the happiness of the English to live in a realm where the Regal or Despotic is under the Civil power; and where the king cannot change the laws without the consent of his subjects, nor charge them with impositions against their wills, because he governeth his people not only by Regal, but also by political power.'<sup>2</sup>

This last point, that the crown in government was itself limited by law in the exercise of government, was crucial to Hickes's

---

1 A Discourse of the Sovereign Power, passim.

2 The Moral Sheckinah, p.30.

defence of the monarchy. The supporters of Shaftesbury and the Exclusion Bill made much of parliamentary authority and the absolute rights of the two houses in all matters of state and all spheres of government. For them there was nothing, not even the monarchy itself, beyond parliament's power. Absolute sovereignty was vested in parliament. The Worcester lawyer John Somers, later William III's Lord Chancellor, published his Brief History of the Succession in 1681,<sup>1</sup> anonymously, giving an historical survey of English monarchs since the Norman Conquest and noting such historical precedents as favoured the idea of elective monarchy. The 'election' of Stephen instead of the hereditary heiress Matilda, the parliamentary deposition of Edward II and Richard II and the parliamentary title of their successors, Parliamentary recognition of the Yorkist claim to the throne, Henry VIII's statute enabling him to dispose the succession by will and even the statute recognizing James VI of Scotland as king of England were all strong evidence that parliaments had in fact effectively disposed of the Crown and regulated the succession.

'It hath been the constant opinion of all ages that the Parliament of England had an unquestioned power to limit, restrain and qualify the succession as they pleased, and that in all ages they have put their power into practice.'<sup>2</sup>

Somers contended that rigid adherence to hereditary theories of kingship, divine right ideas of a monarch's power or patriarchal ideas of sovereignty were dangerous to the liberty and property of the subject and encouraged an irresponsible tyranny in the king. A true divine right could not be bound by human law, but there was

---

1 A Brief History of the Succession, collected out of the Records, and the Most Authentick Historians. Written for the Satisfaction of the Earl of H.

2 Ibid., pp.14, 15.



no divine right about the English constitution. Civil government in a general sense could indeed be said to be of divine origin, but the precise form of it in any country was a matter of historical origin and human contrivance.<sup>1</sup> Hickes had attacked Somers' anonymous book in his King Charles the Martyr sermon, as 'impious and treasonable'. To remove divine sanction from monarchy was to deny scripture to the royalist churchmen.<sup>2</sup>

It was essential for the cavalier churchmen to show that the crown itself was bound by law and that the succession to the crown was governed by the English law of inheritance. It was also necessary to show that parliament itself was limited by its dependence on the crown and that there were fundamental laws beyond its competence. Divine law was immutable. Human positive law could be revoked or amended. Hickes's Discourse of the Sovereign Power pointed out forcibly that the Old Testament showed Nebuchadnezzar and Belshazzar, pagan kings of Babylon, as God's viceregents to punish and correct the erring people of Israel. The prophet Isaiah went one better than Daniel, however, and referred to Cyrus of Persia, another pagan ruler, as God's 'anointed' and the 'Shepherd' of his people.

'Yea, kings are petty Gods, who govern men on earth as Michael and Gabriel do govern their angels in heaven, by immediate delegation from God. Their sovereignty is an image of his sovereignty, their majesty of his majesty.'<sup>3</sup>

Hickes's strong statements drew an equally strong answer. His references to the Theban legion and St. Maurice and also to

---

1 Ibid., pp.15, 16.

2 G. Hickes, A Sermon on 30th January, 1681/2 (1682), p.29.

3 G. Hickes, A Discourse of the Sovereign Power (1682), p.7.

the Christians' patience under Julian the Apostate drew a stinging retort from Samuel Johnson, chaplain to Lord William Russell. Johnson's Julian the Apostate appeared in 1682 in answer to Hickes's sermons, and a thinly disguised attack on the Duke of York, asserting that the christians in the late Roman Empire by no means submitted passively to the apostate emperor, but reproached and opposed him, prayed for his downfall and consigned him to perdition. Johnson's main contention was that Julian persecuted the christians contrary to the laws, meaning the edicts in favour of the church made by Constantine and his successors, and implying that a popish successor to Charles II would do the same. Johnson also alleged that the oaths of allegiance and supremacy in England were 'Protestant oaths' and that those who took them were sworn to keep popery out of England.<sup>1</sup> Denial of the power of parliament to exclude an heir amounted to a denial of sovereignty. A popish successor would seek to prosecute his protestant subjects contrary to law. However, 'there is no authority on earth above the law, much less against it', and if the officers of a popish ruler sought to persecute his protestant subjects then, as in the celebrated precedent of the pursuivant of the High Commission killed by a prisoner resisting arrest, they might be resisted with impunity.<sup>2</sup> Passive obedience and non-resistance were exorbitant even under an anglican ruler, but with a popish successor in view 'now it is become a murdering piece'. For anglicans with a religion established by law, it could not be said that passive obedience was essential. 'For surely it is not of the essence of the Gospel to be a suffering religion? That is an evil circumstance which

---

1 Julian the Apostate, Preface, pp.22, 23.

2 Op. cit., Preface, pp.ix, x, and p.84.



~~which~~ attends it only in bad times'. Hickes's 'prayers and tears' and the passive non-resistance of the Thebean legion were 'unseasonable prescriptions', only proper for an age when the law of the land was against Christianity.<sup>1</sup>

According to the manuscript life of Hickes, Archbishop Sancroft chose Hickes to answer Johnson. Julian the Apostate presented a very reasonable case, with its appeal to existing laws establishing the Church of England and holding up the spectre of a new Marian persecution. Hickes was already known at Lambeth Palace, as he had already been employed at the primate's request to correct and revise Thomas Comber's Animadversions in answer to Gilbert Burnets' History of the Rights of Princes in disposing of Ecclesiastical Benefices and Church Lands (1682). In July and August 1682 Hickes wrote to Comber that he was at work on his answer to Johnson.<sup>2</sup> Other answers also appeared,<sup>3</sup> but Hickes's Jovian (1683) was the most solid and thorough, combining a minute and precise knowledge of the historical and patristic sources with devastating criticism of Johnson's arguments and an appeal to English constitutional law and precedent. Hickes showed clearly that a comparison between the English royal succession and that in the fourth century Roman Empire was untenable. Rome was an absolute monarchy and the mere will of its ruler was law. Emperors succeeded by military or senatorial election, by violent coup d'etat, by

---

1 Op. cit., passim, especially Chapter ix, pp.65-98.

2 C.E. Whiting (ed.), Autobiography and Letters of Thomas Comber (Surtees Soc., 1946, 1947), pp.54-56, 63-67. Hickes to Comber 15 July and 17 August 1682.

3 Ibid., p.65, note 1. Other answers included T. Long, A Vindication of the Primitive Christians against the Calumnies of a Book entituled the Life of Julian; J. Bennett, Constantius the Apostate; Henry Dodwell, The Triumph of Christianity, or the Life of Cl. Fl. Julian the Apostate (1683).



adoption under the Roman legal fiction, under the will of a predecessor or even by purchase. The Roman Empire had no law of primogeniture and hereditary succession.

'... There was no such thing as Entail, nor any notion of it, among the Romans.... (The) ... limited way of hereditary succession into one line is wholly grounded upon the Feudal laws, which had nothing in common at all with the old Roman Civil laws.'

English succession law derived from Germanic origins by way of the Normans.

Now this way of entailing estates, and of limited and lineal succession unto them was never in practice among the Romans ... every man being left at his liberty by the civil law to sell the inheritance of his ancestors, or to divide it among his children by his last will and testament ... nay to pass by or disinherit any or all of his children.

Johnson's basic error was

'... to go about to prove that it (the Roman empire) descended upon Constantine, Constantius and Julian in the same limited way of succession that this imperial crown descends upon the next heir in a lineal order according to proximity of blood.'

The very expressions 'heir', 'inheritance' and 'hereditary' in Roman law meant a testamentary heir by will of a predecessor.<sup>1</sup>

In an historical survey of Roman history from Julius Caesar to Julian, Hickes demonstrated clearly 'that the succession to the imperial throne was elective, casual, uncertain and arbitrary'.

In the English monarchy,

'... the nature of Birthright and inheritance, which is not founded on the statutes, but upon the original custom and constitution of the English government, makes it debatable whether an act of Exclusion would be valid or invalid.'

It was one thing to be for the succession according to law, quite another to favour a popish successor. English succession law

---

1 Jovian, Preface (not paginated).

governed succession to the crown, and was a fundamental law prior to any parliament-made statute.<sup>1</sup> In his Harmony of Divinity and Law, in a Discourse about not Resisting Sovereign Princes (1684), written in answer to Algernon Sidney's dying speech, Hickes continued to make the point that English succession to the crown was beyond parliamentary control, and that Exclusion was impossible. The oath of allegiance which included a promise to bind oneself to the king's heirs and successors must mean heirs in the English Common Law sense. Quoting Coke, Glanvil and Bracton, and Dr. J. Cowell's Institutiones Iuris Anglicani, Hickes again urged that

'... by the Common Law he only is heir which succeedeth by Right of Blood, and therefore if in the foresaid oaths the word Heir be taken in the common or Common Law sense, no man who took those oaths could without violation of them promote or consent to the Exclusion of the Common Law heir to the Crown.'<sup>2</sup>

To the argument that the Exclusion bill had been passed in three successive houses of Commons, Hickes retorted that Johnson, by still advocating Exclusion, challenged the house of Lords, the Parliament of Scotland, the universities, one Secretary of State (Sir Leoline Jenkins) and all those who had sent in loyal addresses, as well as the crown itself. The king had issued a declaration that he was confirmed in his opinion against Exclusion by the Lords' rejection of it. 'They thought <sup>t</sup> it disagreeable to the great Lex Legum or great standing law of this inheritable kingdom, that nothing is to be consented to in Parliament which tends to the disherison of the crown.'

'... This is the great rule by which all acts of parliament are to be framed, and if any of 'em transgress it they are as null

---

1 Jovian, p.78.

2 Harmony of Divinity and Law, Preface (unpaginated).



and void from the beginning as marriage with a person that hath a natural Impediment.' An act to abolish the monarchy, to give the crown to a foreigner or forbid subjects to serve the king would be void. The Scottish parliament in 1681 spoke of 'the fundamental and unalterable laws of this realm' and said the crown was 'transmitted and devolved by Lineal Succession according to proximity of blood.'<sup>1</sup>

Hickes maintained that the essential legislative power was wholly in the king, and that parliaments owed their being to him. Looking into the historical origins of parliaments, Hickes maintained that laws were originally made by the crown granting a petition from the commons, after the king had sought the advice of his Lords. The great English maxim of government was 'Rex est Principium, Caput et Finis Parliamenti'. The act of 12 Charles II cap. 30 declared that 'by the undoubted and fundamental laws of this kingdom' neither Lords, Commons nor people have any coercive power over the king. The Militia Act, 13 Charles II cap. 6, declared that the power of the sword was solely in the king and that neither house of parliament could levy war against the crown, on any pretence. Parliament had also clearly passed the non-resisting test. Were the two houses serious when they made this act? 'Behold the Doctrine of Non-Resistance, in its full amplitude, the very doctrine of the Bowstring declared by Act of Parliament!'<sup>2</sup> The statute of Praemunire, 16 Richard II cap. 5, stated categorically that the English crown has no superior but God. Henry VIII's famous supremacy act bore this out. 'The

---

1 Jovian, pp.39-41, 45-50, 54-59.

2 Jovian, pp.218-220, p.237.



King as supreme head, doth Adjourn, Prorogue, and Dissolve  
Parliament as seemeth good to his Royal Wisdom.'

... If the Parliament have their being from the king,  
and after they are in being have their-times of sitting  
determined by his Majesty, it must needs follow that  
they have no share in the Sovereignty, because of the  
three co-partners in the Supreme Power, it is impossible  
that two should owe their being, and while they are in  
being depend so entirely on their acting upon the third.

Only the king enacted laws. The two houses petition and assent  
and advise.

It is his royal will, his Le veult, that gives life and  
being and the force and formality of a law, to that  
which was before but a dead letter of Petition or Advice  
... The office of the two Houses is only to consult and  
prepare matter for the royal stamp ... Wherefore the  
Legislative power, or power which makes Bills and Petitions  
Law, is solely and formally in the king, though he is  
limited in the exercise of it and tied up from using it,  
except when his Lords and Commons consent.

Taken 'largely and improperly' the two houses do share in judging,  
considering and requesting what is to be decided and prepare what  
is to be enacted. 'This ministerial sort of legislative power ...  
the two houses have', but 'strictly and properly' ... 'the power  
of Sanction ... that commanding ordaining power which gives life  
and being to a law' is in the crown alone and is 'incommunicable'.<sup>1</sup>

In Jovian, Hickes drew from English constitutional history  
and legal precedent a distinction between 'Laws which declare and  
ascertain the rights of the Sovereign, and those which secure the  
rights of the subject'. There were certain fundamental 'Imperial  
laws' essential to the concept of sovereignty which were superior  
to the 'political laws' of crown and parliament.

There are certain essential rights of sovereignty or  
supremacy which equally belong to all kinds of sovereigns  
of all sorts, as to have sense belongs to all sorts of

---

<sup>1</sup> Harmony of Divinity and Law, p.24, 35-37, 44, 45, 48-50.

animals, and which, without destroying the very notion of a sovereign, you cannot abstract from him, no more than roundness from a circle or sphere.

These fundamental 'Imperial laws' were different in kind that those which gave or conceded rights to subjects. A sovereign must be unaccountable, not subject to any coercion and possessing legislative power. The kings of England were all these, yet human positive law might limit or regulate the exercise of sovereignty.

So a king whose imperial power is limited by human constitutions in the exercise of it, is nevertheless as complete a sovereign and hath the sovereign power as fully and entirely in himself, as he who is at liberty to exercise his authority as he will. To be arbitrary is no more of the essence of an imperial sovereign, than to be free in the course of its waters of the essence of a fountain; but as a fountain of an aqueduct, for example, is as perfect in its kind and generally more beneficial to mankind than a free flowing spring; so limited sovereigns are as perfect and essential sovereigns as the purely arbitrary and despotic and generally more beneficial and salutary to the world.<sup>1</sup>

Though the king was sovereign, it was still possible to exercise a form of 'Civil Resistance' in the courts, by bringing an action for redress against royal officers. 'English subjects have ever enjoyed the happy privilege to seek remedy against their princes in their own courts.'<sup>2</sup> Hickes further alleged that

"Whosoever acts contrary to the law in this realm to the prejudice of any other person must be subject to make reparation by law; against which the King himself can protect no man, so long as the courts of Justice are kept open; so that there can be no tyranny in England but the utmost tyranny; nor any persecution, but the most exorbitant and illegal persecution, which must presuppose that justice is obstructed, the laws and lawyers silenced, the courts of Judicature shut up, and that the king governs altogether by arbitrary power and the sword."<sup>3</sup>

---

1 Jovian, pp.200, 209, 210.

2 Harmony of Divinity and Law, pp.43, 44.

3 Jovian, p.272.



George Hickes thus set forth a high monarchical doctrine, but emphasized that there were fundamental laws of God and nature and morality behind the human positive law of kings and parliaments. When he insisted that a king had no superior but God, he certainly did face the possibility that a king could turn tyrant or govern ill. The king was responsible to God and would give account of his actions. Subjects must not assist or obey the king if he commanded them to do evil. Here passive obedience must come in. Quoting Bracton's remark that the barons might 'put a bridle on the king' if he governed ill, Hickes explained this as a

'directive and persuasive power alone, which their counsels ... ought to have with him to prevail with him not to act by an arbitrary, and unbridled power, but to take the bridle of the Law on him ...'

This was a moral and persuasive power of the Lords as hereditary counsellors to the king. Had not the two houses obliged Charles II to revoke his declaration of Indulgence by their entreaties and advice? Parliament 'by representing to his Majesty the mischievous consequences of such a lawless toleration, prevailed with his Majesty to revoke his proclamation, and take on him the bridle of the Law again!'.<sup>1</sup> The implication in all Hickes's royalist political writings and sermons in the early 1680's was that the crown itself was clearly limited by law, as subjects were, and that the laws of the land reflected and declared deeper and more fundamental divine and moral laws which were immutable. If the crown itself descended by primogeniture and proximity of blood, this succession law itself was a fundamental law. Any

---

<sup>1</sup> Harmony of Divinity and Law, pp.40-42.



attempt to change this law by a human parliament would therefore be against a fundamental law, and not merely contrary to English succession law, but arbitrary and assuming an absolute omniscience and sovereignty which a parliament, as a dependent body, could not have. By limiting the powers of parliament and by limiting the powers of the crown to those stated by law, Hickes was stating an older doctrine than that favoured by the Whigs. By claiming a divine sanction for fundamental laws and by claiming parts of English law to be outside parliament's control, Hickes was echoing Sir Edward Coke's claim of seventy years before that the law, the received Common Law, could judge the validity and authority of acts of parliament, a view which agreed just as ill with high notions of absolute monarchical sovereignty as with views of parliamentary omniscience. In a sense, however, the fundamental law view represented an older medieval idea of law, as did the notion that the crown descended like a piece of property in one family. If the Whigs could assert theories of sovereignty, so could the royalist divines, appealing to common law and constitutional precedent. Hickes did not go as far as Laurence Womack, another royalist divine, who was archdeacon of Surrey and, in 1683, bishop of St. David's, who remarked that parliament's having a hand in legislation was like the beggar's hand in my almsgiving. Womack insisted that parliament's right to be consulted was purely of grace, by the crown's voluntary concession as a limit on its prerogative, and 'what is an act of grace in the prince cannot be an act of power in the subject'. Womack referred to the formula of royal assent to prove that the law was the king's will, enacted permanently against any merely arbitrary caprice or whim. The

law thus became the king's 'deliberate and fixed will' against a mere personal and transient will. It was nonsense, said Womack, to set the law against the crown. Quoting Coke, he urged that 'if the breath of the king's nostrils is necessary to give them (Laws) life, it is a little irrational to suppose they could thence derive a lawful power to destroy the author of their life'.<sup>1</sup> Womack appeared to minimize the authority of parliaments, whereas Hickes was prepared to admit that the king's authority was 'limited as to the exercise of (legislative) power, which may be confined to the Bills and Writings prepared by others'.<sup>2</sup> Hickes clearly admitted that English kings 'are limited in the exercise of their legislative power, not being able to make or repeal laws without the consent of the three estates'.<sup>3</sup> Hickes pointed out a crucial difference of approach between himself and Samuel Johnson in their approach to the whole question of Exclusion, sovereignty and the succession. It was one thing to be for the legal succession to the throne; quite another to be for a popish successor. As for passive obedience and non-resistance,

'There never was greater examples of passive obedience than in the short reign of Julian, whose Christian subjects and soldiers tho' far more numerous than in any age before them, not only patiently endured many grievous miseries, but, what was the most provoking and grievous of all miseries, they daily heard and saw themselves, their religion and their blessed Saviour most blasphemously scoured and reviled.'<sup>4</sup>

---

1 L. Womack, A Short Way to a Lasting Settlement, in a letter to Fanaticus Ignoramus (1683), pp.10, 11, 24-26.

2 Jovian, p.202.

3 Jovian, pp.245, 246.

4 Op. cit., p.176.



The reign of Julian was itself a great testimony in favour of passive obedience. The Roman army and empire were more than half Christian in Julian's reign, and yet obeyed him and the troops marched to the Persian war at his command. Hickes further showed that Johnson's statement that Julian's death was probably at christian hands was untrue. Did not the pagan Ammianus Marcellinus, who actually was on Julian's Persian expedition, say the fatal Javelin came from a Persian soldier? So did the pagan Entropius. Christian historians writing later, Socrates, Sozomen and Theodoret, simply said the Emperor's killer was unknown. This was the best evidence available in the ancient historians. Ammianus' evidence as that of a fellow campaigner and almost an eyewitness of Julian's end must prevail over later rhapsodizing about deliverance from a tyrant. Festus Rufus, Philostorgius, Callistus the poet, all stated that the killer was unknown, though perhaps was a christian. Libanius, Julian's own tutor, thought the killer might have been a Christian, and the christian historian Sozomen who certainly extenuated the act, only said that the killer was unknown, but understood his motives if he was a roman. Christians were the largest group in the late Roman Empire, and could no doubt have raised a most successful rebellion against the Apostate. That they did not do so was a triumphant testimony to the truth of passive obedience under a tyrant's role.<sup>1</sup>

Hickes's use of the notion of 'imperial laws' was attacked by Samuel Johnson as 'prerogative law'. To limit the crown by

---

<sup>1</sup> Jovian, pp.154-156, 165-167.



'unalterable Norman entail' would restrict the crown's powers unreasonably by placing some things beyond the control of king or parliament. As for an exclusion bill making the crown elective, this was false. An emergency measure resorted to in one case need not be a precedent for the future. English law knew no such 'imperial laws'. Common law and statute law were known clearly, but these 'imperial laws' were a general notion which Chancellor Fortescue had got out of Thomas Aquinas' De Regimine Principium. Of course Johnson agreed that England was a limited monarchy, and the law limited and defined the king's prerogative. Anything beyond the known law had no authority. 'For it is nonsense to say that boundless power can be limited in the exercise of it.' The king's power was laid down by the law, and he had no power beyond it. To Hickes's question, 'will he (Johnson) make the law the complete and adequate rule to walk by?', Johnson replied with a clear affirmative, providing the competence of crown and parliament to make any necessary new laws or dispense with or alter old ones was admitted. Johnson thus appears to contend for the omniscience of crown and parliament and statute law, which could not be limited by any arguments based on medieval ideas of fundamental law.<sup>1</sup> A touch of Ockham's razor was thus applied by Johnson to Hickes's 'imperial laws', which the whiggish divine hints strongly were only logical properties of sovereignty considered in the abstract, rather than concrete realities in English law. Johnson's Julian's Arts to Undermine Christianity,

---

1 S. Johnson, Julian's Arts to Undermine Christianity (1689) written in 1683 but not published until after the Revolution, pp.162, 170-172, 181-183, 213.

containing his reply to Hickes, was not however published until 1689, when the decisive events of the Revolution had overthrown the strict hereditary principle more thoroughly than any whig clerical pamphleteer.

Several personal matters affecting Hickes at this period throw further light on his character and status as a prominent royalist divine. At the time of his leaving Lauderdale's service to go to Barking, Hickes had become privy to information that Robert Spencer, Earl of Sunderland and Secretary of State, was meeting the 'Faction' lords, including Russell and Essex and Shaftesbury, at Shaftesbury's house - Thanet House in Aldergate Street. Dr. John Tillotson, then Dean of Canterbury, also attended these gatherings. Hickes came to know of Sunderland's attendance at these meetings and informed Lauderdale, who duly reported the matter to the king. Sunderland was soon dismissed, before the Oxford parliament.<sup>1</sup> Hickes was also obliged to prosecute William Ritherdon, parish clerk of All Hallows, for neglect of duties before the London Consistory court. Ritherdon was another of the whig faction in the city of London, and attempts were made by Thomas Firmin, a leading dissenter, to influence Bishop Compton by telling him that Hickes's prosecution of the clerk was revenge for the archangel affair. The matter clearly caused considerable stir in the parish. Hickes reported to the Vestry on 14 May 1682 that he was beginning a prosecution of Ritherdon. In July at meetings on 9 and 16 a certificate of the doctor's worth, esteem and behaviour was drawn up and signed by seventeen prominent parishioners, who caused it to be sent to the bishop of

---

1 Bodl., MS Eng. Misc. e.4, fo.35.



London. In October 1682 Sherman, the former churchwarden, asked the Vestry to accept Ritherdon's penitent submission, but the meeting refused and ordered Hickes to proceed with the prosecution. The consistory court revoked Ritherdon's licence. Later Ritherdon was used as a guide by the Privy Council messengers who tried to arrest Hickes in 1691.<sup>1</sup> During the preaching of the 30 January sermon in 1682 Hickes was actually threatened by a group of 'gentlemen of the faction, standing in the middle aisle', who 'were heard to curse and threaten the Dr. as he preached'. Some loyalist gentlemen offered Hickes their service to conduct him home. Also the Lord Mayor, Sir Patience Ward, opposed the printing of the sermon in the court of aldermen. Ward resented Hickes's attacks on the dissenters and attribution to them of revolutionary principles.<sup>2</sup> While still at All Hallows Hickes was sent for by Lord Keeper North, later Lord Chancellor Guilford, at the king's command, and set to work on the parliament rolls in the Tower of London to look into the power and work of the bishops in the house of Lords,

for that the bishops for want of more knowledge in that matter had been since the Reformation the worst memebers of Parliament in the House of Lords, and of least influence, whereas before that time they used to be the best and had great sway there.<sup>3</sup>

Hickes continued to work on the parliament rolls until the death of Charles II, when the accession of James II convinced him that he could not hope for preferment from the papist king, whose

---

1 Bod., MS Eng. Misc. e.4, fo.17. All Hallows, Barking, Vestry Book, 1669-1748, pp.136-140.

2 Bodl., MS Eng. Misc. e.4, ff.33, 34.

3 Op. cit., fo.21.



religion he had attacked in 'Jovian'. In a similar fashion, Stillingfleet was employed by Charles II to defend the bishops' rights in parliament in cases of impeachment when Danby was in the Tower after 1678.

George Hickes is thus seen to have been a valuable instrument in the hands of the government in its attempts to recover control of the capital after 1680, and particularly in the crucial year of 1682. His able advocacy of high royalist doctrines in the face of the whig faction was courageous and opened a frontal attack on the opposition in their heartland of support. As a controversialist and royalist political pulpit divine, Hickes had few equals. His high Tory principles were soon recognized and rewarded, and the way seemed open for his advance to higher circles in the church.

## CHAPTER IV

THE DEAN OF WORCESTER AND DEFENCE OF THE CHURCH

The reign of William III has often been seen as a period when whig and latitudinarian bishops were regularly appointed to the bench for political reasons in an attempt to prefer only those who would approve and accept the Revolution of 1688. This impression has been effectively corrected in recent years.<sup>1</sup> In actual fact, the reign of William III for its ecclesiastical appointments was no 'worse' than that of Charles II and certainly far 'better' than that of James II. It is simply erroneous to suggest that the church of England had more control over its affairs or that ecclesiastical appointments were somehow 'better' in the reign of Charles II than in the succeeding reigns until Queen Anne. It is rather truer to remember that it was Archbishop Sheldon and Lord Chancellor Clarendon who in 1664 agreed that the clergy should be taxed by parliament and pay subsidies at the same rate as the laity, instead of paying larger and more regular amounts granted by their own order in Convocation. The need for a regular sitting Convocation thus lapsed, and the clerical representative body was not called again to do business until the abortive session of 1689. After that fiasco it did not meet again until <sup>1701,</sup> ~~Queen Anne's reign,~~<sup>2</sup> The church of England thus lost one effective voice in the legislative authority and more and more came to be represented by the bishops alone in the Lords,

---

1 G.V. Bennett, 'King William III and the Episcopate' in G.V. Bennett & J.D. Walsh (ed.), Essays in Modern English Church History in Memory of Norman Sykes (1966), pp.104-131.

2 N. Sykes, From Sheldon to Secker: Aspects of English Church History, 1660-1768 (1959), Chapter II, and especially pp.42-45.

or else by what influence the primate and more influential prelates could bring to bear at court. The crown began to depend more and more on the bishops' two dozen votes in the Lords, as exemplified so clearly in the Lords' votes rejecting <sup>the</sup> ~~the successive~~ Exclusion bill<sup>1</sup>. No wonder Lord Keeper North had set George Hickes to work on the parliament rolls to look for useful constitutional precedents to boost the spiritual peers' parliamentary authority, as Stillingfleet had been set to defend the bishops' right to sit and vote in impeachments at the time of Danby's arraignment.<sup>1</sup>

With both Sheldon and Sancroft as primates, the high churchmen who accepted jure divino monarchy and episcopacy were in the highest office in the church. But the archbishop's influence over crown patronage was always limited, and conflicting interests at court often had prevented the elevation of Cavalier high churchmen until the Whig challenge to the crown and the succession compelled Charles II to abandon ideas of emancipating himself from factions. After the declaration of indulgence was cancelled in 1673, the severe threat to the crown posed by Danby's fall and the Exclusion campaign drove the king back to the divine right Anglicans for help and salvation. The church and king alliance of the 1630's and the early restoration years was reforged. Dr. R.A. Beddard has shown how the king rewarded the cavalier churchmen's loyalty and support by placing the entire and extensive ecclesiastical patronage of the crown in the hands of a commission dominated by Sancroft and Compton of London, to

---

1 Bodl., Eng. Mis. e.4, ff.20, 21.



enable divine right 'Laudian' clergy to be promoted and advanced to positions where their energies could be used not only to benefit the church but also on behalf of the crown in the provinces.<sup>1</sup>

It was the deliberate open use of the crown's ecclesiastical patronage on behalf of this powerful group of clerical Tory loyalists, who valued the co-operation of the crown with the church and whose principles regarded the church as every bit as divinely ordained as the monarchy, that marked the difficult later years of Charles II's reign. In an age of strong and violent party conflict, the crown had to collaborate with that great faction in the state which would support and defend the king and the succession of the Duke of York. The crown thus conceded a vital area of its patronage at this period to its necessary political supporters. Once James II was on the throne and had triumphed over the rebellions of Monmouth and Argyle, the new king's declared policy of trying to repeal the sacramental tests directly challenged the anglican monopoly of political power. It was not surprising that when the crown's policies changed, that the new king should seek to promote churchmen whose opinions were in agreement with his new policies, hence the appointment of the liberal Parker to Oxford, Timothy Hall as his successor and Cartwright to Chester. Thus it was Charles II and James II themselves who set the pattern of political promotions in the church, before the Revolution of 1688. William III's accession only meant that a similar policy must be followed when the primate and so many other prominent churchmen, who had been important

---

1 R.A. Beddard, 'The Commission for Ecclesiastical Promotions, 1681-84: An Instrument of Tory Reaction', in The Historical Journal, X, i (1967), 11-40.

beneficiaries of the later years of Charles II, refused to take the new oaths. Strict divine right men in church or state had more scrupulous consciences than others whose principles were more pragmatic and who thought more in terms of expediency than strict invariable practice and principle. Bishops and clergy, by their theological training and priestly calling, were men of principle first and foremost. Those clerics promoted in the later years of Charles II were so often those whose passive obedience doctrines drove them first into passive non-compliance with James II's attacks on the universities and penal laws, culminating in the massive refusal of active obedience to the declaration of Indulgence of 1688 and the seven Bishops' petition, and finally into a further passive non-compliance with the Revolution settlement and the oaths of allegiance to William and Mary. It was rigidity of doctrine and strictness of divine right principle that caused the promotion of royalist clergy in the first place in the period of Tory reaction. It was a confusion of the divine right of apostolic succession and the episcopate on the one hand with that of the monarchy on the other that led George Hickes and others into positions of ecclesiastical eminence between 1680 and 1685, and then threw them into opposition in 1687 and the summer of 1688, and also in the key months after February 1689. The favourable coincidence of both state and ecclesiastical policy of 1680-85 was shattered first by James II in 1687 and 1688 and then more abruptly by the Revolution. It was the fatal confusion of divine right of kings with that of the church and its bishops which led to the nonjurors' refusal to comply with the new oaths of 1689, and this was the same spirit of non-compliance shown to James II when he attempted to attack the Church of England's



privileged position of 1687 and 1688. Passive obedience and non-resistance were doctrines advocating non-violent opposition to the secular power, by means which the later twentieth century might call passive resistance. We might more correctly speak of passive disobedience to illegal or immoral government policies. Certainly the divine right high churchmen were prepared to oppose illegal royal interventions in strictly ecclesiastical affairs by peaceful and constitutional means. The refusal of Sancroft and his suffragans to distribute the declaration of Indulgence, and the later concurrence of eight other bishops with the original petition, is absolutely consistent with the refusal of the oaths to William and Mary. Passive obedience was never the slavish and servile doctrine which the whig controversialists maintained, but was in fact a principle of political opposition. Any opposition must be only be peaceful and lawful and non-violent methods. Non-compliance with sinful or illegal commands was the only way a christian could keep a clear conscience, rather than become a partaker in other mens' sins. Violent resistance was always unjustifiable, and Gregory Nazianzen's prayers and tears were indeed the only remedy. What else was the Seven Bishops' petition but a pleading request? What else was the refusal of the 1689 oaths but an attempt to avoid perjury - a non-compliance with an authority which apparently sought to ensnare christian men's consciences into contradictory oaths involving duty contrary to one's already pledged fealty?

· 'The bishops who effectually resisted King James in the time of his power were the very same men who stood by him in his adversity, suffering for the first imprisonment, and for the second the loss of all their worldly goods and prospects. And, so far from there being any inconsistency between their conduct on the one occasion and on the other, it was the very same principle which actuated them on both,



and exactly the same moral courage and supreme reverence for conscience on both which enabled them to carry that principle into action.<sup>1</sup>

Men whose opinion that their own priestly and episcopal office was itself by divine right were absolutely obliged to set an example of constancy and consistency. When the action involved distributing a declaration dangerous to the church, the bishop as guardian of the flock and chief shepherd of his diocese must decline. When the action involved the taking an oath of allegiance dangerous to conscience and involving certain duties to new rulers inconsistent with the old faith already pledged, a bishop, a clergyman or a lay christian must also decline. Passive obedience and non-resistance were doctrines that demanded a heroic courage, of a Cranmer facing the stake or a Laud going to the block. Sancroft and his colleagues opposed James II with the same resolution as they later opposed the Revolution of 1688. That their political divinity led them to confound practical politics with moral principle is understandable and only natural. Their refusal to compromise their standards is evidence of courage and high principle, but also of their priestly unworldliness and adherence to dogma in an age of hard political controversy. If it was unlawful and contrary to divine right to exclude the heir to the throne or depose a king, then it was also contrary to the divine nature of the church for the state to coerce it or to impose sinful obligations on its members. Non-compliance must be the answer in both cases.

In the later years of Charles II all the crown's extensive ecclesiastical patronage was exercised by a special commission.

---

1 J.H. Overton, The Nonjurors (1902), p.25.

This body was empowered to present nominations to all vacant bishoprics, deaneries and other dignities and benefices in the crown's gift. Archbishop Sancroft, Bishop Compton of London, Halifax, Laurence Hyde, Lord Radnor and Sir Edward Seymour were the members of this commission, which was a vital engine in the crown and court policy of promoting loyalist clergy to places of influence to support the succession of the Duke of York. Dr. R.A. Beddard has shown clearly how the commission was used as part of a deliberate policy of strengthening the royal cause by promoting only clergy of proven royalist convictions and especially those of 'Yorkist' opinions.<sup>1</sup> Now that crown and church were working closely together, it was crucial to the king's succession policy to ensure that important ecclesiastical benefices were held by loyal men of political reliability. A deanery was second only to a bishopric in importance and in ecclesiastical influence. As itself an office carrying considerable local political importance in the cathedral cities, as the major corporate towns in the shires, a deanery could be of enormous influence in local politics on the choice of members for a house of commons. As president of a large ecclesiastical corporation, a dean and his chapter themselves wielded extensive ecclesiastical patronage and were also local landlords of considerable influence, administering the leases of the manors and estates that formed the endowment of the cathedral church and its prebends. A dean was the major member of his chapter, receiving the largest share of income but also being tied to the longest period of residence in the year and bearing the greatest responsibility. Hickes's

---

1 R.A. Beddard, 'The Commission for Ecclesiastical Promotions, 1681-84: An Instrument of Tory Reaction', in The Historical Journal, X, i (1967), 11-40.



appointment to the deanery of Worcester may be seen as typical of those made by the Commission for Ecclesiastical Promotions.

In August 1683 George Hickes's course of duty as a royal chaplain caused him to attend the king and court to Winchester. During this time Hickes was invited to Farnham Castle to meet Bishop George Morley of Winchester, who had been impressed by his Jovian and wished to congratulate him on it. Morley was one of the last of the old guard of Restoration bishops, a former member of the Great Tew circle of the 1630's, a royalist exile of the 1650's, a close confidant and coadjutor of Lord Chancellor Clarendon at the time of the re-establishment of the church of England at the Restoration. Morley had been with Gilbert Sheldon and John Earle, a member of Clarendon's committee to control the crown's and the chancellor's ecclesiastical patronage in the crucial months of 1660 and 1661 to 'ensure the appointment of clergy whose loyalty and orthodoxy could be guaranteed'.<sup>1</sup> This committee had the task of sifting petitions and requests for preferment in the days when Clarendon was re-establishing control within the church and before the Act of Uniformity. Morley was also briefly bishop of Worcester from 1660½ to 1662 before his translation to Winchester. The bishop was able to ask Hickes for details of the suicide in the Tower of Arthur Capel, Earl of Essex, one of the exclusionists of 1678-81 and one of the 'Council of Six' whig leaders arrested with Lord William Russell for supposed involvement in the Rye House plot. Essex had cut his throat with a razor on 13 July 1683, the first day of Russell's

---

1 R.S. Bosher, The Making of the Restoration Settlement (1951), p.159. Cf. also I.M. Green, The Re-establishment of the Church of England, p.53.



trial for treason. Hickes was living in the first house in Tower Street, on Tower Hill, and knew Major Hawley, one of Essex's gaolers, as a parishioner. Hawley had invited Hickes to view the body in Essex's former lodgings in the Tower. Bishop Morley related to Hickes that he had been chaplain to Lord Capel, Essex's father, who had occupied the same lodgings in the Tower in ~~1650~~ 1649 and ~~1651~~ before his execution as a royalist under Cromwell. Essex as a boy had visited his father before his execution in the very rooms in which he later killed himself. The 'anti-monarchical party' gave out that Essex had been murdered by agents of the Duke of York, but investigation by a Committee of the Lords in the Convention of 1689 put an end to all such suspicion.<sup>1</sup> Bishop Morley praised Hickes's Jovian and indicated a strong interest in his career, which may mean that Morley had played some part in suggesting Hickes's name for consideration by the commission.

The commission for ecclesiastical promotions had not been quite unanimously in Hickes's favour. Although he was already known to Bishop Henry Compton of London and to Archbishop Sancroft, and though all the other commissioners but one were in his favour, Halifax 'opposed it to the utmost, having been underhand set against him (Hickes) by Dr. Tillotson and Dr. Burnet, by whom his Lordship had been always too much influenced.'<sup>2</sup> Halifax had insisted, as the price of his eventual consent to Hickes's nomination to Worcester, that he must give up his other preferments,

---

1 Bodl. MS Eng. Misc. e.4, ff.18a, 19a; and MS Eng. Hist. b.4, ff.145, 146. Hickes to Archibald Campbell, 4 July 1710.

2 Bodl. MS Eng. Misc. e.4, ff.19, 20.

and particularly All Hallows, Barking, 'which was done with design to get him out of London, where for about two years he had had a greater interest than Tillotson himself'.<sup>1</sup> When the patent conferring the deanery came before Charles II for signature, Henry Hyde, second earl of Clarendon, was at the king's elbow. He did not then know Hickes, but reading over the document remarked to the king that 'by this clause the Commissioners take from the Doctor more than they give him'. To which the King answered, "I think so too".

Hereupon his patent for the Deanery passed the seals without taking any notice of the conditional clause, which so much exasperated the Earl of Halifax, that he complained of it with some warmth to the ArchBp, who only made him this answer, "My fiat, My Lord, is not required for the passing of the king's broad seal".<sup>2</sup>

Hickes accordingly accepted the deanery of Worcester, retaining All Hallows, Barking, in commendam. Writing from Winchester to Sancroft on 11 September 1683, Hickes hoped that Sancroft would agree to his retaining All Hallows until he recovered the cost of his removal to Worcester, which he estimated at £200.<sup>3</sup>

Arriving in Worcester on Saturday, 13 October, Hickes was installed as Dean in the cathedral on the same day. [Presumably] knowing Sancroft's dislike of excessive pluralism, he promised Sancroft that the cathedral would not suffer from long absences on his part and also promised to quit All Hallows as soon as his affairs would permit. He then proposed to undertake a fortnight's visitation to various cathedral estates and manors in the Worcester

---

1 Bodl., MS Eng. Misc. e.4, ff.19, 20.

2 Ibid. Compare MS Tanner 32, fo.168, Hickes to Sancroft, 5 November 1684.

3 Bodl., MS Tanner 34, fo.132.



area on a formal 'progress' ... 'to keep court'.<sup>1</sup> On his return the new dean inspected the chapter books and visited such of the cathedral clergy as were in residence. It soon became apparent that the state of Worcester cathedral was not such as to commend itself to an exacting and meticulous superior. Signs of neglect and slackness were painfully evident, and Hicke was soon resolved to prove himself a zealous and efficient dean. Though he divided his time between London and Worcester until 1686, Hicke's presence was soon made effective and a policy of Straffordian thoroughness was begun.

Worcester cathedral had been refounded with a secular chapter by Henry VIII's charter of 24 January 1542, after the suppression of the former priory of St. Mary in 1540. The chapter included ten major prebends in the gift of the crown, one of these annexed to the Lady Margaret professorship at Oxford by letters patent of Charles I in July 1628. Such noteworthy Caroline divines as Joseph Hall, William Juxon and Roger Mainwaring had been deans before the civil war, and William Thomas became dean in November 1665. Thomas was educated at St. John's College, Oxford, under Juxon. He had been a royalist sufferer during the Commonwealth, being ejected from his fellowship of Jesus college and his Welsh parish. Restored in 1660, Thomas became chaplain to James, Duke of York, in 1661, dean of Worcester in 1665 and bishop of St. David's in 1678, holding the deanery in commendam. Bishop Thomas was much beloved in south Wales owing to his knowledge of Welsh. On his translation to Worcester he vacated the deanery.

---

1 MS. Tanner 34, fo.183. Hicke to Sancroft, 15 October 1683.



His devotion to the crown and to James II personally were to have a great influence on Hickes in the years ahead.

Among the prebendaries was Barnabas Oley, formerly president of Clare College, Cambridge, from which he had been ejected in 1644. Through Sheldon's influence he was presented to the third stall at Worcester in 1660, and restored to his parish of Great Granden, Huntingdonshire. He had been tutor to Bishop Peter Gunning and the editor of the works of George Herbert. He had also been a close friend of Nicholas Ferrar of Little Gidding. Hickes referred to him as 'the senior prebendary of venerable memory', who had restored the weekly celebration of holy communion in the cathedral. Oley did much to restore the fabric of the cathedral and the choral services at the Restoration, and bequeathed £200 for the restoration of the quire and Lady Chapel at his death in 1686.<sup>1</sup>

William Hopkins, occupant of the first stall, was Hickes's great friend and confidant since they first knew each other in 1678 when Hickes was Lauderdale's chaplain at Ham House and Hopkins was vicar of Mortlake.<sup>2</sup> As a very regular resident in Worcester, Hopkins was a man of great tact and was chosen by the dean to arbitrate in a difficult dispute between the chapter and a prominent tenant who was in arrears with his annual lot of corn. Hopkins had settled the dispute amicably without recourse to law. He had been chaplain to the English ambassador in Stockholm in 1671 and become a great student of the Scandinavian languages. As chapter librarian he was custodian of a great collection of

---

1 On Bishop Thomas and the prebendaries of Worcester, see D.N.B. and John le Neve, Fasti Ecclesiae Anglicanae (Oxford, 1854). Vol.iii. On Oley, G. Hickes (ed.), Seventeen Sermons of the Revd. Dr. William Hopkins (1708), Preface.

2 G. Hickes, Seventeen Sermons of ... William Hopkins, Preface.

manuscripts, charters and books. A chapter minute of 23 June 1687 allowed Hopkins his expenses 'in a journey to Oxford to look after some MSS belonging to this church'. He was probably looking for some of Worcester cathedral's anglosaxon charters, borrowed by Lord Hatton before the Civil War. Hatton had kept the manuscripts when the cathedral foundation was dissolved by the house of commons in 1649, and had presented the charters to the Bodleian Library. Hopkin's mission was not successful, as the charters remain among the Hatton manuscripts in the Bodleian collections.<sup>1</sup> Hopkins obviously shared in Hicke's studies of the ancient northern languages during this period.

The cathedral statutes required twenty-one days regular residence from each prebendary each year. This was difficult to enforce. Dr. Joseph Crowther, for example, had resided for longer than the prescribed period in 1681 and had been granted a year's absence in 1682. Dr. John Hall, the Lady Margaret professor (and later Bishop of Bristol in 1691), obviously preferred Oxford to Worcester and refused to fulfil his regular residence. In 1688 Hicke complained of him to the bishop. Dr. John Hough, later President of Magdalen and bishop successively of Oxford, Lichfield and Worcester, also preferred his Oxford fellowship to his prebend. He was deprived of a quarter's stipend by the dean and chapter on 25 November 1687 as a penalty for non-residence. Among the other prebendaries, John Conant was old and blind, George Benson was also dean of Hereford, and Edward Reynolds was archdeacon of Norfolk and also had a parish

---

1 Worcester Cathedral, Chapter Book (1660-1700), fol.143, and I. Atkins & N. Ker, Catalogus Lib. Manuscriptorum Bibl. Wigorniensis (1944), Introduction, pp.14-17, 24-26.



near Northampton. Ralph Battel had a parish in Hereford. Jephcot, Hickes's successor in the eighth stall, and Hare also had their benefices in plurality, as did John Cartwright and Jonathon Blagrove who succeeded to prebends later in 1688 and 1689. It was two years before the dean, invoking the bishop's authority as Visitor, was able to get a new by-law approved to reinforce the older residence rules of 1671. The new by-law prescribed four months or one hundred and twenty days residence for the dean and two clear months for prebendaries, of whom at least two were to be in residence at one time. Residence was to be fixed at the Advent chapter each year, at which all prebendaries were to be present. The Margaret professor was to be allowed to fix his residence in the Oxford vacations.<sup>1</sup>

The cathedral minor canons also presented serious irregularities. As early as 17 November 1683, only a month after his installation, Hickes wrote to Sancroft reporting his minor canons' excessive pluralities. Since a prebend or minor canonry was a sinecure position, all minor canons could hold one benefice each and this was permitted by the cathedral statutes. As Sayer, the senior minor canon, was one of the royal chaplains, he had two parishes, the court chaplaincy providing the excuse for his plurality. On Hickes showing him the cathedral statute Sayer offered to resign Old Radnor, more than twenty-five miles from Worcester, the dean promising to present his clerical son, who already cared for the parish as curate and resided there. Lee and Smith also had two parishes each, but appear to have resigned the extra ones

---

1 J. Le Neve, Fasti. Worcester Cathedral, Chapter Book (1660-1700), ff.136, 145; and Treasurer's Books, ii (No.Axxvii), fo.3. ~~Bodl.~~, MS Ballard 12, fol.177, Hickes to Charlett, 9 March 1709/10.



at the dean's wish. Henry Panting, the remaining minor canon, presented a serious problem. As well as his cathedral post, he was vicar of both St. Martin's and St. Swithun's, two Worcester city livings. He was also chaplain to Bishop Thomas, and had recently received the further living of Upton on Severn from the bishop. Confronted by Hickes with his incompatible pluralities, Panting pleaded a royal letter of dispensation enabling him to hold his existing benefices and seemed surprised that Hickes urged him to resign the minor canonry, although offering him a further year's benefit of it. When Hopkins was sent to Panting for his answer to the dean's request, he told the prebendary that he could get another royal letter of dispensation requiring the chapter to set aside the residence statute's limitation on benefices in this case. The case was correctly taken to the bishop for his solution. He concluded that Panting's Worcester parishes 'were under sequestration and officiat only by license pro tempore', and consequently not benefices in the legal sense. Hickes disagreed, and wrote to Archbishop Sancroft requesting his intervention. Panting, who obviously had influence at court, managed to obtain a new royal letter of dispensation, dated 1 December 1683, but before it reached Worcester Hickes had summoned the minor canons together and pronounced Panting's place void. Hickes also wrote to Sir Leoline Jenkins, Secretary of State, to try to prevent the issue of a royal letter of dispensation. Panting, however, produced his letter at a chapter on 5 January 1683/4. Hickes having returned to London, Hopkins as sub-dean ordered that the royal letter be kept until the dean's next appearance, to be further considered.<sup>1</sup>

---

<sup>1</sup> Bodl., MS Eng. Hist. d.1, ff.113-116; MS Rawl. C.983, ff.63, 64; MS Rawl. C.739, fo.7, Hickes to Sancroft, 17 November 1683.

Archbishop Sancroft took up the case at court. Secretary Jenkins had obviously been spoken to several times by the primate before he wrote to Bishop Thomas on 29 March 1684 that Sancroft did not wish Thomas

to encourage Mr. Panting in making use of his Majesty's letter parte altera inaudita, or in opposing his superior, ... the Dean having proceeded in forma juris (tho' it may be erroneously as to the method and wrongfully as to the merits of Mr. Panting's case); yet having pronounced a judicial sentence, the legal and proper remedy is by way of appeal from Mr. Dean, and it is a disrespect to the King's letter to use it for inverting the law of the church, which never entered His Majesty's thoughts, his aim having always been to keep the known laws in their proper channel and the jurisdiction of the church inviolable.<sup>1</sup>

Sancroft wrote to Bishop Thomas on 8 April, who replied on 12 April that Panting was ready to submit entirely to Sancroft's judgement. At last another royal letter was issued, dated 14 April 1684, revoking Panting's dispensation, and at a chapter at the cathedral on 9 June Hickes, armed with the primate's full approval and the secretary of state's revocation of the original dispensation, finally pronounced Panting's minor canonry vacant.<sup>2</sup> Panting remained the bishop's chaplain, and exchanged St. Swithun's, Worcester, for the living of Upton on Severn, continuing to hold St. Martin's in plurality. With two good livings of over £250 a year each, he was very nearly as well preferred as Hickes. Despite his defeat, Panting remained on good terms with the dean, and in 1690 followed the example of Bishop Thomas and Hickes in suffering deprivation as a nonjuror, refusing the oaths to William and Mary.

---

1 C.S.P.D., 29 March 1684, p.347.

2 C.S.P.D. (October 1683-April 1684), pp.127 and 382. Bodl., MS Rawl. C.739, fol.46a, Thomas to Sancroft, 12 April 1684. Worcester Cathedral Chapter Book, ff.127, 128.



Hickes's resistance to the royal dispensation in this case is noteworthy as it clearly shows his attitude to the church and to the crown. The church should enjoy its legally guaranteed immunities and particular jurisdictions without state interference. The cathedral statutes must be upheld, and both he as dean and all cathedral functionaries were sworn to uphold those statutes. To attempt to subvert these laws by an exercise of a dubious royal intervention, in the form of a letter under the signet and not a formal dispensation (for which in any case there was no legal sanction) threatened to upset the whole fabric of church law. As the fellows of Magdalen were to resist James II and the Ecclesiastical Commission, and the seven bishops were to resist the declaration of Indulgence, so Hickes was determined to preserve the inviolability of his church. Though nominated by the crown himself, it was nevertheless his duty to guard the cathedral from unwarrantable and capricious uses of royal authority. After King James II's accession to the throne, much concern was expressed over royal nominations to the episcopate. Bishop Thomas's advanced age and bad health made Hickes most uneasy in case on his death an unworthy nomination should be made to Worcester. Hickes summoned all available prebendaries to the deanery and told them

that in case the king upon their good bishop's death should recommend any such unworthy person to their choice, he would rescribere regi, humbly to beseech His Majesty to nominate another person, because he could not in conscience call a Chapter to choose such an one.

Bearing in mind that the Henrician appointment of Bishops Act applied the savage penalties of praemunire to a dean and chapter refusing to elect the crown's nominee within the required period,



Hickes further promised the prebendaries to 'take all the danger of it upon himself' and said 'that he would call no Chapter, but was ready to suffer the utmost penalty of the law, rather than have any hand in choosing an unworthy person to that see'.<sup>1</sup>

Writing later to Arthur Charlett, Hickes continued to express mistrust at the crown's appointment of bishops, commenting on the appointment of Samuel Parker to Oxford, 'As for the B(ishop) of whom you say you know not what to think of him, it is plain he is resolved to sacrifice (all) to his ambition'.<sup>2</sup> On Parker's death in 1688, Hickes wrote to Charlett of the appointment of Timothy Hall, an obscure Bachelor of Arts of Pembroke college, to the see of Oxford,

I am under no small disturbance to think of your new Bishop, which puts me in mind of what a popish told a protestant peer some years ago, that they would ruin our church by making our bishops.<sup>3</sup>

Hickes also expressed his support for the fellows of Magdalen in their struggle with James II and the Ecclesiastical Commission, lamenting the royal nomination of Massey to the deanery of Christ Church and welcoming the election of Dr. Hough as president of Magdalen, though expressing his fear that they would be called to account. Hickes wrote,

I hope the President and fellows of Magdalen will maintain their rights, as far as they can in law, and that some good accident will happen to satisfy his majesty that they have done nothing out of disaffection to him, but to maintain their just civil rights.<sup>4</sup>

---

1 Bodl., MS Eng. Misc. e.4, ff.22, 23.

2 Bodl., MS Ballard 12, fo.27, Hickes to Charlett, 14 May 1687.

3 Ibid., fo.36, Hickes to Charlett, 28 July 1688.

4 Ibid., ff.23, 25, 27, 29, Hickes to Charlett, 9 April 1687, 4 May 1687, 14 May 1687, 9 June 1687.

Hickes remarked,

Nonresistance is always a duty and non-compliance very often is. I was not surpris'd at the news about Magd(alen), but much troubled at it; so much the more as a man loves and honors and prays for any person (James II), so much the more is he troubled and grieved at his aberrations.

'Grief, not discontent' was what Hickes and many loyal anglicans felt at James II's policies towards the church of England.<sup>1</sup>

This seemed to be the situation for which the doctrines of passive obedience and non-resistance were made. No armed resistance to the crown was possible, but what Hickes in Jovian had called 'civil resistance' within the law, what we might call passive resistance in modern terms was permissible, and non-compliance with the king's illegal or unjust commands became a duty. Hickes's attitude here is typical of that of many Tory churchmen who no doubt resented the king's attacks on the church and its legally guaranteed privileges, and could not in conscience obey a wicked or unjust royal command. Passive obedience required that active obedience must not be given to illegal commands, and in such cases passive obedience, passive non-compliance, must be the attitude of subjects towards the king. Petitions and legal claims of right under the established law were clearly possible. Hickes's attitude, both over a possibly unsuitable episcopal appointment at Worcester and over the Magdalen affair, mirrors that of contemporary churchmen, and his action in the case of Henry Panting's incompatible commendam was identical in spirit with that of Sancroft and the seven bishops' petition. The conservative Tory churchmen's attitude was one of Ius suum cuique, to each his own rights, and

---

1 Ibid., fo.25.



that the crown's unjust actions, as in the declaration of Indulgence of 1672, James II's attempts on the two universities, or the Indulgence of 1687 and 1688, must be opposed by all legal means, non-compliance and refusal of active co-operation in illegal policies. If the crown persisted in these 'aberrations', as Hickes called them, then the necessity of suffering for conscience sake, obeying God rather than man, must be invoked, and in this extremity the final duty of suffering, prayers and tears must be invoked, never violent resistance. To those who believed in the divine character of the church, the apostolic descent of the church of England and its episcopate and orders, it was vitally necessary to resist the crown's illegal and arbitrary ecclesiastical policies, whether of a Charles II or a James II, to protect the inviolability of the church, its own jurisdictions, immunities and possessions from lay spoliation or secular control.

As an ecclesiastical superior himself, Hickes as dean was concerned with many other matters of cathedral discipline and good order. At his first general Chapter on 25 November 1683 it was necessary to forbid members of the foundation to walk about the cathedral during services, to prohibit prebendaries, minor canons and others from leaving the choir after a choral service but before the sermon, and to insist that cassocks must be worn beneath surplices. The deputy sacrist was reprimanded as 'he hath often officiated at the Holy Communion and not communicated himself, to the great offence of devout religious persons'. A series of fines were established for breaches of these rules and statutes. The statutes were to be read out to the entire foundation twice a year. Dr. Crowther, who had not resided for over a year, was to forfeit a year's stipend and warned to repair his house. Richard



Pritchard, the porter at the great gate, was twice admonished for allowing disorderly drinking and rowdiness in his lodgings.

Rowland Dennis, a minor canon, was suspended for a year for abusing the Lord Lieutenant, though absolved four months later on his submission. The precentor and sacrist were strictly forbidden to appoint deputies without the dean's prior approval. Roger Fosbrooke, a lay clerk, was threatened with dismissal if he did not 'quit his employment as one of the town Waits'. Another lay clerk, Richard Brown, was admonished for his loose life and for striking a king's scholar in the cloisters.<sup>1</sup>

The school at Worcester, consisting of the forty king's scholars of the Henry VIII charter, also came in for Hickes's superintending care. Thomas Roberts, the usher at the school, succeeded Henry Panting at St. Swithun's, Worcester, and became a minor canon in 1687. His successor as usher was William Cox, elected on 25 November 1686. The dean also accused John Wright, the master of the school, of 'notorious negligence' and 'plain disobedience' to the Dean and Chapter's instructions. On 23 June 1688 it was formally enacted that in future the schoolmaster should never grant a whole day for play-time, no play-time at all on Fridays, nor any play-time in a week which contained a holy day. Hickes also purchased a terrestrial globe for the school on 2 May 1687, and also copies of Holyoak's Dictionary, Horne's Geography and Ferarius' Lexicon. The dean also attempted to connect the school with Magdalen Hall at Oxford, through Dr. Levet its principal. It was proposed that the principal or two regent

---

1 Worcester Cathedral Chapter Book (1660-1700), ff.123-126, 133-146.

masters should come to Worcester each year in the summer to select several boys for Magdalen Hall by open examination. This plan was frustrated by the Revolution and Hickes's deprivation.<sup>1</sup>

Hickes himself did not make a fortune out of his deanery, indeed in his first year he made a financial loss. Archbishop Sancroft wrote in early November 1684 reminding him of his promise to resign All Hallows, Barking. The dean replied with a piteous letter on 5 November protesting that he had only so far, after one year, received £253/10s and expected only another £60 at the Advent audit, whereas he had been obliged to borrow £200 to cover the cost of removal from London and not begun to repay this. He had seriously underestimated the costs of repairs to the deanery house. He had also had to lease a house on Tower Hill for fifteen years, as All Hallows had no vicarage, and was liable for the remainder of this. Together with the £70 a year from his wife, the dean protested that he could barely keep up the hospitality and local almsgiving expected from the cathedral dean in a provincial city, and also maintain the proper state of a household of seven or eight servants, three horses and a carriage. Worcester's deanery was not a wealthy one, indeed the deanery alone would ruin him.<sup>2</sup>

Pleading with Sancroft to allow him to retain All Hallows a little longer, Hickes now embarked on a campaign to find another benefice nearer to Worcester to hold in commendam. He had already solicited Sancroft's intervention for nomination by the Commissioners

---

1 Worcester Cathedral Chapter Book, ff.126, 146. G. Hickes(ed.), Seventeen Sermons of Dr. Wm. Hopkins (1708), Preface. See also Victoria County History of Worcestershire, iv, 488, 489.

2 Bodl., MS Tanner 32, fol.168.

to the crown living of Presteigne in Radnorshire.<sup>1</sup> He had also indicated to Arthur Charlett, at that time a junior fellow of Trinity, that he would be very interested in becoming Rector of Lincoln College, having heard that his old friend Thomas Marshall was dangerously ill. In the ensuing election at Lincoln, not even Bishop Fell's intervention on Hickes's behalf could avail. Dr. John Radcliffe was still influential at his old college, and he was able to engineer a majority for Dr. Fitzherbert Adams at the election on 2 May 1685, by nine votes to Hickes's three. Anthony Wood reported that 'Radcliffe represented him (Hickes) to be a turbulent man, and that if he should be their rector they should never be quiet'. The fellows of Lincoln wanted 'a governor they could govern' ... 'This is like the fanatical party setting up the Duke of Monmouth to be king and to make him "a king of clouts".'<sup>2</sup> Hickes finally obtained from Bishop Thomas the local Worcestershire living of Alvechurch. He was instituted on 24 June 1686, and resigned All Hallows on 26 June. In his letter to Sancroft, Hickes complained of Gatford, his lecturer at All Hallows, who had in Hickes's absence baptized several children privately contrary to Hickes's orders and practice and also had celebrated a clandestine marriage in the parish.<sup>3</sup> While he held All Hallows and the deanery, Hickes apparently spent Christmas and the winter in London, going up to Worcester for a long spell in the spring and summer, always being in Worcester for the Advent

---

1 Ibid., ff.74, 75. Hickes to Sancroft, 30 June and 2 July 1684.

2 Bodl., MS Ballard 12, fol.6. Hickes to Charlett, 24 Jan 1684/5; and Thos. Hearne, Collections (Ox. Hist. Soc.), i, 322; and A. Clark (ed.), The Life and Times of Anthony Wood (Ox. Hist. Soc.), iii (1894), 142.

3 Worcs. County Record Office, Episcopal Register (1660-1722), fol.41. Bodl., MS Tanner 30, fol.65, Hickes to Sancroft, 26 June 1686.



audit and General chapter, though possibly returning to London briefly in the autumn.

On the death of Dr. William Gulston, bishop of Bristol on 4 April 1684, Hickes's name was suggested for this position by Henry Somerset, the duke of Beaufort. Beaufort was president of the council of Wales and the Marches, Lord Lieutenant of Gloucester, Hereford, Monmouth and Britsol, a privy councillor and a noted opponent of exclusion and supporter of the Duke of York. Charles II said that he would not offer Hickes this diocese, the poorest in England, unless he kept his deanery also. Hickes 'earnestly begged to be excused', however. Perhaps the offer of the poorest bishopric along with a poor deanery was not attractive, but with Beaufort as his patron, his interest with the primate and Lord Keeper North, his London patron, Hickes could certainly hope for greater things in future.<sup>1</sup> Sancroft had in fact put forward Thomas Long, prebendary of Exeter, for the see of Bristol, though he also had refused. The vacant see was given to John Lake, translated from Sodor and Man (again translated to Chichester a year later).<sup>2</sup>

The accession of James II in February 1685 was sudden and unexpected. Charles II was only fifty-four years old, and it had seemed he might rule for some years. James, however, came to the throne with the firm and reasonably confident approval of the church of England. No doubt his religion was a serious flaw, but to local Tory gentry and loyalist Anglican clergy who had opposed Exclusion and stuck to the succession according to

---

1 Bodl., MS Eng. Misc. e.4, fol.21.

2 R.A. Beddard, 'The Commission for Ecclesiastical Promotions, 1681-84', in The Historical Journal, X, i (1967), pp.24, 25, 32, 33.

the law, James II appeared trustworthy. His declaration to his first privy council, that he would support and protect the church of England, was widely accepted as the word of a king. Had not James as High Commissioner in Scotland in succession to Lauderdale firmly upheld the episcopal church? Bishop Paterson of Edinburgh had praised his firmness and thanked him for his staunch support.<sup>1</sup> Hickes himself had affirmed James's protection of the Scottish church and defended their bishops' gratitude to him in Jovian.<sup>2</sup> The church of England might almost have believed that the new king was under a very great obligation to it for its support of his accession over many years. Hickes was one of James's honorary chaplains at his coronation and was present in Westminster Abbey to witness the rite.<sup>3</sup> James's coronation followed the usual solemnities, except that the Holy Communion was omitted from the service.

Within three months of James's accession, the duke of Monmouth landed at Lyme Regis to begin his brief but hopeless rebellion. After his defeat at Sedgemoor on 6 July 1685, the defeated rebels were mercilessly dealt with by Lord Chief Justice Jeffries in the bloody assize. The dean of Worcester was placed in a difficult personal predicament in that his elder brother, John Hickes, the dissenting minister, had joined the rebel army and after the defeat been apprehended in the house of dame Alice Lisle near Ellingham in Hampshire. John Hickes, his fellow fugitive Richard

---

1 Bodl., MS Tanner 35, fol.211. Paterson to Sancroft, 7 March 1683. See R.A. Beddard, William Sancroft as Archbishop of Canterbury (1965), Bodl., MS D.Phil. d.3906, pp.25-32.

2 Jovian, p.123.

3 Bodl., MS Ballard 12, fol.9. Hickes to Charlett, 14 April 1685.

Nelthorpe and Alice Lisle herself were tried before Jeffreys and condemned to death.<sup>1</sup> The dean had realised that his brother might impulsively join the rebels and had striven to get him arrested by the Lieutenancy as a precaution. John Oldmixon's History of England during the Reigns of the House of Stuart states that 'Hickes the quondam dean being spoken to in his brother's behalf said he would not speak for a fanatic, though he had been chaplain to one of the greatest fanatics in the world, the duke of Lauderdale.'<sup>2</sup> This statement is simply false. John Tutchin's Western Martyrology, or Bloody Assizes, written by John Hickes's own son-in-law, himself imprisoned for his own part in the rebellion, records John Hickes's final speech and letters from prison to his family.<sup>3</sup> The condemned man wrote to his nephew on 5 October 1685

I wrote last Saturday sevensnight to my brother George, but whether he is at London or at Worcester I know not; I wrote to desire him to petition the king that some favour might be showed me.

To his wife, John Hickes wrote, ...'Monday last my brother George went to London to try what could be done for me; what the success will be, I know not.' But the dean's visit to London was hopeless, as John Hickes himself wrote that James II would show him no mercy, as he had been accused at his trial of being responsible for influencing Monmouth to assume the title of king. Jeffreys had made great play with this. John Hickes in his dying speech commended his wife to God's keeping, 'to defend her from the

---

1 G.W. Keeton, Lord Chancellor Jeffreys and the Stuart Cause (1965), pp.313-320.

2 Op. cit. (1730), i, 706.

3 Op. cit. (5th edition, 1705), pp.190-203.



violence and oppression of men, particularly from a most inhumane and unnatural brother; but no wonder if he will lay violent hands on his sister's estate, that hath so often laid them on his own father.'<sup>1</sup> This 'unnatural brother' does not appear to refer to the dean, but to a brother of John Hickes's second wife, with whom there was some family dispute over inheritance or property. George Hickes had not communicated with his brother for many years, and John's own testimony bears out that the dean did go up to London on his behalf. A curious letter to Hickes written in later years, signed 'Sam. Reconcilable', dated 21 January (approximately 1700) says, 'I never thought (nor no man else I knew) Mr. Hickes intended you by the Unkind Brother'. The writer had met, he says, with 'Mr. Lobb', who said 'To my certain knowledge Dr. Hickes did what he could to save his brother's life.'<sup>2</sup> John Hickes was executed at Glastonbury on 8 October 1685, still maintaining he had believed Monmouth was legitimate, but stating that he now abhorred rebellion and repented of his crimes. The dean wrote to Robert Eyre, chaplain to Bishop Ken of Bath and Wells (in whose diocese the revolt had wreaked havoc, and who had generously ministered to the prisoners after the defeat), asking for details of his brother's end and if he had desired or received the last sacraments from the church of England. The dean attributed his brother's end to his 'false notions and principles in matters relating to church discipline and government', entreating Bishop Ken to allow John's

---

1 Ibid., pp.194, 200-202.

2 Bodl., MS Eng. Hist. b.2, fol.246.

burial in Glastonbury churchyard and expressing great concern for his brother's children.<sup>1</sup>

As James II's reign continued and the first flush of enthusiasm wore off, it became increasingly evident that his promises to support and defend the church were not as firm as had been hoped. Hickes's growing concern over Magdalen college and James' episcopal appointments has already been noted. As early as November 1685, the dean was noting the impending opening of James's parliament's second session. He wrote to Arthur Charlett, 'let me have another letter from you after the sitting down of the parliament, which I hope will not rescind the parliamentary test. But as for the Habeas Corpus act, I love the Crown so well, I wish that as it formerly was.' Hickes soon added, 'If our senators preserve our Test Laws, they will preserve our religion, and I am much comforted to see so many motives believe they will. I wish some men of known loyalty, and free from all suspicion of discontent, would speak with decency', instead of such heat. Hickes also was anxious to know of the fate of Bishop Compton of London, who had spoken out in the lords against James's retention of roman catholic officers in the forces, contrary to the Test Act.<sup>2</sup> On 31 December 1686 Hickes wrote from Worcester to Dr. Thomas Turner, President of Corpus Christi College, Oxford, again enquiring about Bishop Compton and also reporting a rumour that 'one of the two brothers declares he is dissatisfied and desires a conference, and that

---

1 English Historical Review, October 1887, pp.752, 753. E.H. Plumptre, Thomas Ken (1889), i, 226, 227.

2 MS Ballard 12, ff.13, 15. Hickes to Charlett, 4 November and 15 November 1685.

he must declare further or retire ... I should be glad to hear from you that there is no such thing, and that the person whom you know who I mean, as I believe, in all likelihood will not forsake our church.'<sup>1</sup> The 'two brothers' in question were Henry and Laurence Hyde, earls of Clarendon and Rochester, the brothers-in-law of King James II and sons of the great Lord Chancellor. 'As the almost official lay exponents of Anglicanism, these two men, while still in high office, served to give some confirmation to James's declarations that he would support the church!'.<sup>2</sup> Both brothers were put under some pressure by James II to change their faith, and Rochester went as far as to serve for a time on the Ecclesiastical Commission. Both brothers were dismissed, however, Clarendon from the Irish *Lieutenancy* and Rochester from the Treasury, when they refused to countenance James's policy of seeking to abolish the test acts. Hickes thus anxiously watched the progress of events in James's reign. In April 1687 the dean wrote to Charlett again from Worcester, remarking that he did not 'fear the constancy of the Chamberlain (Godolphin)', 'though in these trying times men must be prepared to be surprized every day'. It was a shame, he wrote, that men in power should desert the church, thinking presumably of Sunderland,<sup>3</sup> who was converted to Roman Catholicism at the king's insistence. We must, wrote Hickes, 'live up to our principles, both in doing and suffering, and neither transgress our duty to

---

1 Bodl., MS Rawlinson Letters 91, fol.42.

2 David Ogg, England in the Reigns of James II and William III, (Oxford, 1969), p.162.

3 MS Ballard 12, fol.23, 9 April 1687.



God nor the king.'<sup>1</sup> In 1687 the king began to court the protestant dissenters assiduously, claiming that the sovereign was entitled to the services of all his subjects, irrespective of creed. The declaration of Indulgence in April 1687 suspended all penal laws in religion and the provisions of the Test Act and the oaths of allegiance and supremacy. The king thus claimed a wide suspending power, obviously seeking to give Roman catholics political power as well as protestant dissenters. Loyal addresses were assiduously called for from the shires, to thank the king for his indulgence. Hickes assured Charlett that there would be no loyal address from Worcester or its clergy. He was distressed that Bishop Parker of Oxford was promoting an address in that city and diocese, and that some clergy appeared to have signed it for the sake of preferment and attracting attention at court. Hickes wrote,

'Should the generality of the clergy do so (sign the address), what should we say to our brave confessors among the laity, or to the princes of our own religion, if any one of them by God's providence should succeed to the Crown?'

Hickes was also very anxious that so many Tory anglican gentry were now being dismissed from the lieutenancy and the magistrate's bench. What was happening in the city of London? Would the whiggish Sir John Shorter and Sir Patience Ward be restored to the bench? 'It is enough to disturb the ashes of my two dead friends my Lord Keeper (North, lord Guilford) and Sir L. Jenkins, under whom I once so diligently and effectually served the late king, in reforming the City from the power of such men.'<sup>1</sup> On

---

1 Ibid., fol.25, Hickes to Charlett, 4 May 1687.

*Ibid* / 2 MS Ballard 12, fol.27. Hickes to Charlett, 14 May 1687

9 June 1687, Hickes was cautioning Charlett to be cautious what he wrote to him, thinking he might be spied on, and saying 'the Post Master's wife here is a most virulent and malicious enemy to us here'.<sup>1</sup>

In a provincial city like Worcester, the established church was open to attack from the Roman Catholics, who now opened a public chapel in Fordgate street. Mass was said in public and a Jesuit preached openly on transubstantiation. Papist gentry from the Welsh borders came into the city, and open invitations were sent to both Anglicans and Dissenters to come to hear Father Jenks' sermons, which were delivered on several Sundays in the summer of 1687.<sup>2</sup> Hickes noted also that extreme protestant secretarians were also beginning to be active, 'the Muggletonians having newly revived here!'.<sup>3</sup> In December a Worcester gentleman, a new but secret convert to popery, asked to see St. Mary's chapel in the cathedral one Sunday morning, just as the cathedral's choral morning prayer began. When the sexton opened the door, a group of papists entered the chapel 'and made their devotions at St. Osmund's (sic) shrine there, it being St. Osmund's day'. The group of papists had locked themselves in the chapel during their devotions, and then left the cathedral with the general congregation after Mattins, so escaping detection, until later a rumour was spread that the mass had been said in the cathedral.<sup>4</sup>

---

1 Ibid., fol.28.

2 Bodl., MS Rawl. Letters 91, ff.42, 50. Hickes to Thos. Turner, 31 December 1686 and 20 June 1687. MS Ballard 12, fol.25, Hickes to Charlett, 4 May 1687.

3 Ibid.

4 Bodl., MS Eng. Misc. e.4, fol.23. The MS has St. Osmund instead of St. Oswald of Worcester, builder of the present Cathedral, died 992.



Hickes had also been attacked publicly from the cathedral pulpit at the Assize service in 1687. The new Roman Catholic High Sheriff, Sir Walter Blunt, put up 'a vile profligate clergyman' to preach the Assize Sermon before the Judges. Daniel Kenrick, the preacher, appears to have been a former minor canon dismissed on 14 August 1683, just before Hickes's appointment as dean, who had been guilty of gross dereliction of duty and an absence of over seven months.<sup>1</sup> Kenrick was also liable to severe ecclesiastical censure, having married his deceased wife's sister, within the prohibited degrees. The sermon was an attack on Hickes's book Jovian, especially what the dean had said in it against popery. Presumably Kenrick attacked Hickes's strictures on the king's own religion as unsuitable and intolerant in the new charitable era of Indulgence and prerogative tolerance. Hickes was away from Worcester at the time of this diatribe, and Bishop Thomas was ill. The bishop was given an immediate full report of the sermon. He wrote to the dean condemning the 'villainous libel', 'impudence' and 'public scurrilous invective' of the preacher, saying that the attack on the dean aroused 'the general indignation of his auditors'. The bishop added that neither of the Judges had had the good manners to rebuke the preacher, and that Mr. Justice Holloway had invited Kenrick to dinner and specially recommended him to Judge Allibone's notice and favour.<sup>2</sup> Sir Richard Allibone was, in any case, a Roman Catholic appointed to the bench by royal dispensation.

---

1 Worcester Cathedral Chapter Book (1660-1700), fol.123.

2 Worcs. County Record Office, 899:209. B.A. 1834. Thomas to Hickes, 7 April (1687).



Holloway had been a judge at the Rye House Plot trials and was later one of the judges in the Seven Bishops' case, and was a typical example of the judicial pliability of the later Stuart judiciary. Sheriff Blunt wished Kenrick to preach again at the Assizes in 1688, but the dean wrote to Charlett on 30 July 1688 that Bishop Thomas had forbidden it. Blunt had told the bishop he had told Sunderland, the secretary of state, that he had chosen Kenrick as preacher, but the bishop was adamant, telling Blunt that he would prosecute Kenrick in the consistory court for incest and perjury for his technical bigamy if it didn't look like revenge for the 1687 outrage. The Worcester papists said that a royal mandate would come down overruling the bishops' veto of Kenrick.<sup>1</sup>

No doubt the Worcester Roman Catholics were encouraged in their activities by the king himself, who made an extensive progress into the Midland and western shires in the summer of 1687. James was received with demonstrations of loyalty and Hickes read an address of welcome. The king was entertained by the bishop at the palace, which Thomas had rebuilt at his own cost. James II remarked that it was as grand as Whitehall, and his conduct was tactless and overbearing. He refused to allow the bishop to say grace at his own table, insisting that his Jesuit chaplain did so. Earlier in the same royal progress a similar incident took place when Bishop Robert Frampton entertained the king and court at Gloucester. The mayor and corporation of Worcester were offended by the king wishing them

---

1 Bod., MS Ballard 12, fol.38.

to attend mass with him in the popish chapel, and the king was annoyed at their refusal. Hicke noted on 17 December 1687 that Worcester still had its good loyal Mayor - presumably the corporation had not been replaced by <sup>ia</sup>pl~~ai~~nt royal nominees, although the sheriff had been.<sup>1</sup>

James II's ecclesiastical policies provoked increasing disquiet during 1687, when the king also turned out large numbers of justices and sheriffs and lieutenants, replacing them with papists and those known to favour toleration and indulgence. Attempts to coerce the church with the ecclesiastical commission, the attacks on the universities, and the calamitous episcopal appointments such as Parker<sup>and</sup> ~~and~~ Hall to Oxford and Watson to Llandaff, caused the church to lose confidence in the king. Those very 'Yorkists' and anti-Exclusioners of the days of 1678-81 now became a kind of royalist opposition, monarchist and conservatively Tory and anglican in principles, but now no longer in favour of James II in practice. The largest faction of safely loyal supporters in the realm, church and cavaliers alike, had been alienated by an ungrateful monarch who owed his very crown to true church of England loyalty, but now so foolishly encouraged the church's dissenting and papist enemies. For the first time since the Indulgence of 1672 the church was on the defensive. It was clearly in the crown's power, fortified with the penalties of praemunire, to use its extensive church patronage to appoint pliable men, like Parker of Oxford who had written against the

---

1 MS Ballard 12, fol.30, Hicke to Charlett, 17 December 1687.

Test Act and was notoriously in favour of toleration. If loyalist high churchmen could be appointed by Charles II's commission on preferments in the early 1680's, then those whose ecclesiastical and political views favoured James II could be appointed now. The clergy resented James's episcopal appointments, and there was a general realization that the church could be reduced to obsequiousness by a deliberate use of crown patronage and the dispensing power.

The anxiety expressed by Hicke over the possibility of an unsuitable royal nominee for the see of Worcester in the event of Bishop Thomas's death and the dean's expressed willingness to defy such an appointment became serious early in 1688 when the bishop again became dangerously ill. 'I am very apprehensive of the event', wrote Hicke to Charlett on 26 January 1687/8.<sup>1</sup> The bishop recovered, however, and in May and June 1688 he and his dean were united in their opposition to the second declaration of Indulgence. This document was issued on 27 April 1688, and prefaced by a clear royal mandate ordering the bishops to cause it to be read in every church. This could not be circumvented like its predecessor in 1687, as it was required to be read publicly on two successive Sundays. The first declaration had been issued in April 1687 with the consent of four pliable court bishops, Parker of Oxford, Cartwright of Chester, Crewe of Durham and Sprat of Rochester. Even among these time-servers, Crewe and Sprat had insisted on the document being watered down before they could sign it. On 23 May 1688 Hicke wrote to Charlett,

---

1 MS Ballard 12, fol.31.



My Lord Bp and all the clergy I have talked with are very sensible of their duty and resolved on the practice of it.

The king's declaration and royal mandate,

'... will neither both of them, nor both together, be able to make us alter our resolutions of adhering to our duty against all pains and peril whatsoever. We and our predecessors have been preaching up the case (of passive obedience and non-resistance) for above 100 years, and I hope we shall not now be less than our own doctrine. If we should, we shall fall unpitied and despised both by God and good men. ... I think I have as much courage and heart as a man can have that hath such a stake to lose ...'<sup>1</sup>

Bishop Thomas retained the packet containing the declaration in his possession, and informed Archbishop Sancroft that he refused to distribute it in the diocese. Thomas wrote to Sancroft's chaplain on 3 June 1688 saying that following the example of the Primate's petition to the king with the other bishops, he could not in conscience distribute the declaration to his clergy.

'It is a piercing, wounding affliction to me to incur his Majesty's displeasure, to be misinterpreted guilty of the least degree of disloyalty or ingratitude ... I apprehend it a duty incumbent upon me, indispensably strict, to be a screen to my clergy, to endeavour to secure them from sins and perils, not to lay trains for either by recommending the publication of that to their parishioners wherein my own judgement is abundantly dissatisfied and theirs also. I resolve by God's gracious assistance to suffer the greatest temporal evil of distress rather than teach or promote the least spiritual evil of guilt.'<sup>2</sup>

Hickes wrote to his friend, Thomas Comber, on 9 June 1688, explaining that he could not meet him in Nottingham as had been hoped,

---

1 MS Ballard 12, ff.33, 34.

2 J.H. Overton, The Nonjurors (1902), p.76, quoting Gutch's Collectanea Curiosa, i, 332.

the third that detains me is the obligation I am particularly under to be assisting our bishop if he should be called up for not distributing the Declaration, as it is probable he will be within fourteen days; and if that shall be, I shall not be wanting when I should be most serviceable to him ... In the neighbouring dioceses of Oxford, Lichfield and Hereford, where the Declarations were distributed, I cannot hear of above four or five ministers in each diocese that read them. Not one was read in Oxford town or university, (and) but one in Hereford town, and all the people went out of the church.<sup>1</sup>

Hickes added that he was certain 'that neither the Pope, nor any popish council, nor the College of Sorbonne, would give it under their hands that an unbounded toleration is agreeable to the doctrine of unity in the Gospel and the writings of the fathers, or the Constitution of the Catholick church.'<sup>2</sup>

Hickes's resolve to stand by his bishop illustrates Bishop Thomas's strong influence on his dean, who was most impressed and inspired by the aged prelate's resolve to act as 'a screen' to his clergy. Thomas believed it to be his divinely given pastoral duty, an integral part of his episcopal duty, to protect his flock from sin or from misguided obedience to a sinful command. In a clear conflict of moral duties divine precept was to be followed, not erroneous human caprice. Thomas's courageous and deliberate action in taking the full responsibility on himself shows the firm conscientious conviction of a man to whom principles mattered more than the prince's pleasure.

While the anglican bishops and dignitaries who had been in positions of power under the period of Tory reaction in the

---

1 C.E. Whiting, Autobiographies and Letters of Thomas Comber, (Surtees Society, 1946, 1947), ii, 159, 160.

2 Ibid.



later years of Charles II lived in political eclipse in the reign of James II, they might well have become simply a discontented and bitter opposition group. Their conservative royalist principles in politics forbade them to criticize the crown directly, but in the field of theological controversy their attacks on the new king's popish religion were unceasing and formidable. Edward Stillingfleet, the dean of St. Paul's, had organized a series of meetings at his deanery in 1682 to get together a group of scholarly clergy to produce a series of learned theological tracts, solidly written but persuasive in tone and free from all controversial violence or condemnation. These tracts came out in the form of a collection of 'Cases' of conscientious difference between anglicans and protestant dissenters on such issues as kneeling at holy communion, the sign of the cross in baptism, 'indifferent things' (such as the surplice and priestly vesture and the use of a set liturgy) and the fact that the church of England (with its deliberate retention of episcopacy and episcopal ordination) bore many strong resemblances to the Roman Catholic church on some key matters. These 'cases' were apparently begun by Stillingfleet at the instigation of Archbishop Sancroft and Bishop Compton of London, and intended to satisfy dissenters on the questions that divided protestants from each other. Hickes had produced The Case of Infant Baptism, in Five Questions in 1683 as part of this controversy. Stillingfleet's contributors had launched a formidable and scholarly attack on the nonconformists on the theological front, as the royal Commission on Ecclesiastical Promotions had on the ecclesiastical front, both these being



the church's counterpart to the government's campaign of Quo Warrantos against the parliamentary boroughs and the political trials of Lord William Russell and Algernon Sidney.

After James II's accession, the presses in London were opened to a flood of Roman Catholic propaganda. Such Roman Catholic works as Bossuet's famous Exposition of the Doctrine of the Catholic Church in Matters of Controversy,<sup>1</sup> a solid, attractive, reasonable and moderate work of a popular nature printed in 1685, were produced under royal protection and became a disturbing challenge to anglicanism. Stillingfleet seems to have acted again as organiser and co-ordinator of an anglican pamphlet counterblast, organizing a formidable series of controversial works justifying the anglican reformation and attacking the roman church's doctrines and practices, the Council of Trent and the counter-reformation. From 1685, this considerable and highly organized series of anglican tracts ranged from sensational histories of the Gunpowder Plot or the massacre of St. Bartholomew's eve to heavyweight treatises of serious theology. Gilbert Burnet remarked,

'... the persons who both managed and directed this controversial war were chiefly Tillotson, Stillingfleet, Tennison and Patrick. Next them were Sherlock, Williams, Claggett, Gee, Aldrich, Atterbury, Whitby, Hooper and above all Wake, who having been long in France, chaplain to the lord Preston, brought over with him many curious discoveries, that were both useful and surprising.... They examined all the points of popery with a solidity of judgement, a clearness of arguing, a depth of learning, and a vivacity of writing, far beyond anything that had before that time appeared in their own language.'<sup>2</sup>

---

1 N. Sykes, William Wake, Archbishop of Canterbury (1957), I, 17-31.

2 History of His Own Time, (Oxford, 1833), iii, 104.

Burnet's fulsome praise apart, it does indeed seem true that this anglican defence of the church of England's position and criticism of that of the church of Rome was powerful and effective. It was not simply a mere ephemeral and polemical pamphlet war, but based on all the solid patristic and historical learning of the Caroline divines. The studies of Pearson on the epistles of Ignatius of Antioch, Fell's work on Cyrilian and the whole weight of seventeenth century anglicanism with its appeal not simply to scripture, but to early church councils, history and practice, were brought to bear on the controversy. Although such Elizabethan works as Jewel's Apology of the Church of England were republished, the main controversial weight came from the mature and settled Anglicanism of the Restoration, built upon that of the Laudians. The young William Wake answered Bossuet with his Exposition of the Doctrine of the Church of England in the Several Articles proposed by M. de Meaux, Bishop of Condom in his Exposition of the Doctrine of the Catholic Church (1686). Stillingfleet wrote on the Council of Trent and Transubstantiation. Gilbert Burnet's History of the Reformation was in print and its author also produced his Vindication of the Ordinations of the Church of England, drawing largely on the Gallican scholars Morin, Martene and Mabillon. Stillingfleet also published an anonymous answer to Charles II's 'Strongbox Papers' which James II had printed and widely circulated.<sup>1</sup> These and many other controversial tracts presented the classic seventeenth century high church position,

---

1 (E. Stillingfleet), An Answer to Some Papers lately printed, concerning the Authority of the Catholick Church in Matters of Faith, and the Reformation of the Church of England (1686).



maintaining that the church of England was a true part of the catholic church, representing a scriptural and patristic though non-papal form of catholicism having all the essentials of catholicity and through its apostolic succession maintaining a living contact with the early church.

George Hickes contributed two important and solid contributions to the anglican anti-roman campaign, Speculum Beatae Virginis: A discourse of the due Praise and Honour of the Virgin Mary in 1686, and An Apologetical Vindication of the Church of England in 1687. The former work bore the imprimatur of the bishop of London's censor librorum and the latter that of Archbishop Sancroft's censor, John Battely. Both books originated in sermons preached by Hickes at All Hallows, Barking, early in 1686 before the dean resigned the parish. The Apologetical Vindication was also preached at St. Dunstan's in the West, where Hickes was preaching for Dr. Sherlock the Sunday after the printed version of Charles II's strongbox papers had appeared. Hickes's sermon obviously attracted notice at court, as the dean was soon commanded to attend upon the king's pleasure for a personal interview at Whitehall. He was straightaway conducted into the king's presence by Francis Turner, the bishop of Ely, and then taken by king James II into his closet

where the dean, expecting some severe reproof from his Majesty, carried with him several popish pamphlets to produce for his vindication; but his Majesty only telling him that he had been informed that the dean called king Charles's papers, printed by H.M.'s order, a scandalous libel and other reproachful expressions, he reply'd that he hoped his Majesty would not believe him capable of so treating anything that came from his



Majesty's hands. Upon which the king immediately reply'd he did not believe it, saying, 'Mr. Dean, perhaps you preached against these papers because you did not believe ~~them~~ to be my brothers; but to convince you that they are ... I will show you the originals written and interlined with his own hand, to which you are no stranger.

Hickes examined the offered papers and admitted that they were in Charles II's own handwriting. King James, then, apparently hurt at what he considered a reflection on his own integrity, said that as he had promised to protect the clergy of the church of England, so he trusted they would be loyal to him.<sup>1</sup> James II followed this procedure of 'closetting' several other divines who attacked Roman Catholicism, hoping to overawe the controversial preachers and writers by his presence and personal disapproval, proceeding to more extreme measures against Dr. John Sharp and Bishop Compton when the pulpit and pamphlet war showed no signs of abating.

Speculum Beatae Virginis was intended to give its readers a true account of the extent of Roman Catholic devotion to and veneration of the Virgin Mary, so they might judge whether the papists, as they claimed, 'do no more than pray to the Saints in heaven, as they do to their brethren upon earth, to pray for them in the Name and Mediation of Jesus Christ'. To prevent any possible misunderstanding or misrepresentation, Hickes printed extensive quotations from Roman Catholic offices, hymns, prayers, anthems and other devotions to Mary. He quoted in his preface a Te Deum Laudamus, rewritten in honour of the Virgin.

---

1 Bodl., MS Eng. Misc. e.4, ff.40, 41.

We praise thee, O Mary; we acknowledge thee to be  
     the Lady.  
 All the earth doth worship thee, the Mother of the  
     Everlasting God ...  
 ... The Holy Church throughout all the world doth  
     acknowledge thee  
 The Mother of an Infinite Majesty,  
 Thine honourable, true and only Son,  
 Conceived by the Holy Ghost the Comforter.  
  
     Thou art the Queen of Glory, O Mary;  
 Thou art the true mother of the Son of the Everlasting  
     Father ...  
 ... We believe that thou shalt come, with Thy Son, the Judge.  
 ... O Lady, save thy people, and bless thy Son's inheritance ...  
 ... O Lady, let thy mercy lighten upon us, as our trust is  
     in thee.<sup>1</sup>

Hickes asserted that the archangel's salutation to Mary was not  
 unique in scripture, but was used to other holy persons. Jael,  
 wife of Heber the Kenite, was said to be 'most blessed among women'  
 for her gruesome slaughter of Sisera.<sup>2</sup> Noah and Abraham and  
 other Old Testament worthies were said to be 'highly favourable'  
 or 'full of Grace'. Was not Elizabeth 'filled with the Holy  
 Spirit' and was not John the Baptist 'full of grace from his  
 Mother's womb'? Hickes used the familiar verse from St. Matthew's  
 gospel, 'Whosoever will do the will of my Father, the same is my  
 brother and sister and mother!'.<sup>3</sup> Here Jesus is prepared to call  
 any truly obedient and faithful believer a member of his family,  
 close to him. St. Stephen was said to be full of faith and of  
 the Holy Ghost. Mary, however, was actually a very holy person.  
 The Holy Spirit would not enter a sinful soul or body.

'Nay, God the Father, who was to prepare a body for  
 his eternal Son, as it is written, 'a Body shalt thou  
 prepare me', would not form it of the substance of a  
 sinful woman. But his own essential holiness, as well

---

1 Speculum Beatae Virginis (2nd ed., 1686), n.p.

2 Judges 5:24.

3 St. Matthew, 12:50.



as the mysterious decency of the dispensation would prompt him to form it of the substance of one that, like the king's daughter in the psalm, was all glorious within, and a pure and spotless virgin both in body and mind.'

Mary was indeed 'a Vessel of honour, in whom the Spirit of God did dwell, and whose very body was the Temple of the Holy Ghost' ...

'... Nay to be chosen for the Mother of God was the greatest honour and favour- that ever God conferred upon any human creature. None of the special honours and favours that he did to any of the saints before or since are equivalent to the honour of being Mother of God.'

Mary 'was, as it were' Spouse of God, co-parent with him of the wonderful Immanuel who was God and Man'.<sup>1</sup> Hickes insisted that her outstanding faith and holiness and unique status deserve to be honoured and commemorated among Christians, but 'we must not let our respect for her commence into worship, nor romance her into a deity'.

... We must not treat her, upon the account of her singular relation to Immanuel, as if she were an Infinite Majesty or as if her graces were indeed divine attributes ...

... We ought not to pay such homage and veneration to her under the Character of Queen, as is only due to the king of heaven; but we must keep our respects to her person and memory within due bounds and limits.<sup>2</sup>

The limits of reasonable respect and veneration for Mary's virtues were passed and transgressed in so much Roman Catholic devotion. To pray to Mary to loose the bonds of sin, to obtain forgiveness for men, to obtain blessings from her Son, was to 'make her a collateral Mediatrix with Christ'. The examples quoted by Hickes were a clear cumulative case. 'You see they pray unto her as unto an Author and Donor of spiritual blessings, and remind her

---

1 G. Hickes, Speculum B.V.M., pp.6, 7.

2 Op. cit., p.10.



of her power and influence over her son'. The tradition of the bodily assumption 'is framed to answer our Lord's Ascension'. There was no ground in scripture for such titles as 'Queen of heaven' or 'Mother of Grace'. None of the early fathers into the fifth century ever used such titles, though they might praise Mary's virginity. None of the early fathers allowed any divine honours, worship of or prayer to Mary. Proskunesis and latria were for God alone. Passing from the early church to the middle ages, Hickes quoted Marian passages from the works of St. Bernard, Bonaventure, Anselm and Archbishop Peckham. Anselm had said, "more present relief is sometimes found by commemorating the name of Mary, than by calling on Our Lord Jesus her son."<sup>1</sup> Epiphanius had said, 'Let no man worship Mary. This mystery is due to no man nor woman, ... let Mary be honoured, and our Lord be worshipped'. St. Ambrose wrote, 'Maria erat templum Dei, non Deus templi, et ideo ille solus adorandus qui operabatur in templo'. Hickes blamed Nestorius, bishop of Constantinople, for refusing the legitimate title of Theotokos for Mary, so leading to an excess of devotion and adoration far beyond the title permitted by the Council of Ephesus.<sup>2</sup> Hickes asked pointedly if Bossuet's statement that Roman Catholics only pray to Mary and the saints to request them to pray for us to God was really true. How could official liturgical prayers asking God to grant a prayer 'through the merits of the blessed and glorious Virgin' be understood as a mere ora pro nobis? 'We now have a Mother of Mercy as well as a Father, a mediatrix as well as a Mediator, a Queen as well as a King of heaven.'

---

1 Op. cit., pp.19-38, passim.

2 Op. cit., pp.36, 37.

Even the perpetual virginity of Mary could be allowed as an ancient tradition, and Christians could imitate her example and praise her virtue and thank God for her example. Anglicans should 'admire her singular purity and holiness, though we cannot admit her innocence'.<sup>1</sup> Hickes thus took a moderate line in allowing Mary's exemplary virtue and holiness to be respected, but condemned any attempts to turn her into a divinity. The dean thus stood squarely in the line of Bishops Joseph Hall, Thomas Ken, John Cosin, Jeremy Taylor, Lancelot Andrewes, of John Donne, Traherne, Henry Vaughan, Ben Jonson, Nathanael Eaton, and Anthony Stafford, author of The Female Glory (1635), as advocating great respect and reverence for the Blessed Virgin, but never permitting divine honour. Thus Hickes authentically represented an important line of devotional tradition in seventeenth century Anglicanism, prepared to discuss openly and advocate forms of Marian devotion, in the moderate sense of thanking God for her example and holiness, in a tradition running from the metaphysical poets to the deuterocarolines.<sup>2</sup>

Hickes's Apologetical Vindication of the Church of England was published anonymously in 1687, as were very many of the anglican controversial pamphlets of the reign of James II, but was clearly licensed by Sancroft's censor on 1 March 1686. The dean's preface stated that Roman Catholic controversialists were asking where was the English church among so many schisms and sects in Britain.

---

1 Op. cit., pp.39-42.

2 See John Barnes (ed.), All Generations Shall Call Me Blessed; Fifteen Devotions of our Lady, from Anglican Writers of the XVII Century (1973).



'Ever since the Dissenters left the Church of England and formed themselves into separate churches, the Roman Catholics have not been wanting to take advantage from her sad misfortune, to expose her at home and abroad, as a church that amidst so many monstrous sects, and so many opposite communions, can have no right to the glorious title of catholic, nothing answerable to the idea of a church, nor any pretensions to the promises of Christ.'

Hickes would, in contrast, proceed to show that all churches are and have been, sadly, subject to schisms or division; that schism itself was no necessary argument against the truth or catholicity of a church; and that bare unity alone was not necessarily a sound argument for the truth of a church's faith. Even the New Testament had examples of schism and solemn warnings about deceivers and divisions. Among the apostolic churches and in the whole patristic period numerous schisms existed. Ignatius, Clement of Rome, Justin Martyr, Tertullian, all mention heretics and schismatics. Irenaeus wrote against heretics. Clement of Alexandria in Stromateis, Book VII, 'reckons up in one page about a dozen sorts (of heretic), ... which I think sound as ill as Presbyterians, Anabaptists and Quakers'. Quoting from Cyprian, Hickes referred to the Novatianist schism in Rome.

'Novatus ... getting himself ordained Bishop in a sinister manner, he drove many under that pretence from the church, and then there was bishop against bishop, church against church, and altar against altar, even at Rome itself. Neither Cartwright, nor Travers, nor any other Presbyter of the Church of England did ever do her as much mischief as Novatus did the Church of Rome. The schism which he raised lasted two hundred years ...'<sup>1</sup>

Pursuing a relentless historical course, Hickes surveyed papal history from the troubles over the election of Damasus and Ursinus

---

1 G. Hickes, Apologetical Vindication of the Church of England, (1687), pp.18, 19.



in the late fourth century down through the middle ages to the great schism of 1378, to the Councils of Pisa (which actually left Christendom with three popes) and Constance.

'Schisms have rent the union, if not interrupted the line of succession in one catholic church, and brought it to such a sad condition that the secular authority has been fair to determine of two or three popes, which was rightfully elected and which not. Thus in the reign of Richard II the parliament of England did declare ... that Urban VI, and not his antagonist Clement, was duly chosen Pope.'

If the papists called the church of England a parliamentary church, 'only because our laws confirm and establish the sanctions of the Church of England, as the Imperial laws and edicts formerly did the decrees of general councils', then the England of the later 1370's had a parliamentary pope in the statute 2 and 3 Richard II, cap.6. There was no need to criticize the need for royal intervention in the anglican church.

'Whosoever will take pains to run over but with a cursory eye the Novels of Justinian, the Nomocanons, the Basilicks, and Capitularia of the old French and the laws of our ancient Saxon kings, will find that our religious princes since the Reformation have intermeddled no more with the affairs of the church than Christian princes formerly did.'<sup>1</sup>

All these secular rulers and their interventions in the affairs of the church were endeavouring to enact and confirm ecclesiastical laws, not by making church law but rather establishing and confirming and enforcing christian values and standards and church structures.

All churches had been subject to schism, and schism itself was not necessarily an argument against the truth of doctrine.

---

1 Op. cit., pp.31-33.

A body might lose a diseased arm and yet survive, and be healthier for so doing. Neither St. Paul nor Clement of Rome unchurched the Corinthians for their divisions, though they both lamented and opposed those divisions. Mere size and numbers alone could never guarantee orthodoxy. If popish controversialists thought the English church in error because of the sects that had split off from her, then Rome herself was schismatic because of the Lutherans, Calvinists and others who left her at the Reformation. The essential point must be the cause of schism. Could it always be said that the blameworthy parties split off and the good remained behind? Or could not the corruption of the parent body really be the cause of division? The Anglican reformers and their Elizabethan successors had proved that the causes of separation were Rome's corruptions, which had necessitated a separation. A mere a posteriori argument from the existence of schism was simply invalid. It was absolutely necessary to establish the causes of schism in every case to discover where the guilt might lie.<sup>1</sup> As far as unity was concerned, mere unanimity was not enough. What mattered was the things in which a church was united, true doctrine, worship and discipline. Even Aaron worshipping the golden calf was leading a united church! Causes of unity could themselves be culpable, such as unthinking adherence to a body openly professing false doctrine<sup>or</sup> fear of the Inquisition. Unity by fear and compulsion was not unknown.

The worst Fraternities have sometimes the firmest union; as we of this nation very well remember the time when those of the Great Rebellion boasted that God had united the hearts of his people in his cause as one man.<sup>2</sup>

---

1 Op. cit., pp.33-44.



Rome had enough of its own divisions, Molinists and Jansenists, Jesuits and Dominicans, Scotists and Thomists. The papists also imposed divisive terms of communion, especially transsubstantiation which was contrary to tradition, to the senses and good philosophy, to scripture and the belief of the early church. This doctrine and papal supremacy, for example, were causes of division. The anglican church imposed no such divisive terms of communion, save what was scriptural and primitive. In the face of papal tyranny Hickes asserted,

'Let the Spaniards and Italians have but the free use of the scriptures, ... and if upon the free use of the Bible and the preaching of such men as Cyprian and Savonarola, and allowance to their bishops to act according to the powers of their Apostolical function, there do not arise a sudden and mighty episcopal reformation in both those kingdoms,'

he would give up the controversy. Episcopal reformation was clearly possible. Hermann von Wied had proved it at Cologne.

'Nay, posterity knows very well how far the Spanish bishops in the Council of Trent maintained the divine right of episcopacy, in spite of the legates, and that bishops derived their authority immediately from Jesus Christ and not through the Pople.'<sup>1</sup>

The popish bishops were under spiritual duress to comply with a corrupt church and usurped papal supremacy. So Plato for fear of Socrates' fate, continued in polytheism when he knew there was but one god. But bishops were colleagues in the church; like fellows in a college. If a full free general council of the whole church could assemble, exempt from papal control,

then let us see if the Pope shall not be told in both ears, that the Church Universal is a great college and that the government of it is aristocratical; that the Episcopate is one, but that it is divided among all

---

1 Op. cit., p.50.



bishops, whereof every one hath his share; that the Apostles received equal power and authority from the same Master; that the other Bishops receive their authority no more from the successor of St. Peter than he from them, but that all receive it alike from Christ.<sup>1</sup>

Hickes thus defended the anglican church as a free collegial and episcopal church, asserting that it had more perfect union in itself than Rome with its internal controversies and parties. If a church had a pure unity, the devil became its particular enemy. A corrupt church Satan would leave severely alone! It was not the possession of vernacular scriptures that caused schism or heresy, 'but careless or negligent reading of them'. Neither the free use of scripture, nor general councils, the holiness and learning of the clergy, nor Rome's boasted principle of infallibility, were sufficient to prevent schism. Trent had not been a free general council, but only represented part of the western church and was under papal dominence. Ignatius of Antioch had said that nothing must be done in opposition to the bishop. The terrible Donatist and Arian schisms had rent the church in the fourth century setting bishop against bishop. But fundamentally schism was a sin because it transgressed the divine law which God had made to govern his church. The schism of bishops from bishops was one sort of schism, that between Rome and the English church. The schism of dissenters from the Church of England was another sort of schism. The church of England condemned its Roman adversary on certain particular and definite points in dispute. The dissenters, though they pleaded tender conscience, were prepared to practice occasional conformity with the church, and

---

1 Op. cit., p.57.

could not condemn the church as guilty of any culpable schism.<sup>1</sup>

The anglican church, therefore, in Hickea's view, was a free episcopal church on primitive apostolic and patristic lines, free from papal supremacy and able to govern itself, guaranteed and protected by secular laws which established and upheld its essential catholic constitution. This episcopal and collegial constitution (of a very Ignatian and Cyprianic variety) was inherent in the church itself, having come down from Christ through the apostles and their episcopal successors by devolution. Being of divine right it was essential to the Church's very being, and though the state or secular prince might interfere in church affairs for the church's own good in times of controversy or ecclesiastical corruption, the christian state only supported the church and gave legal force and sanction to its canons and rules of faith. The only final trial of true doctrine was by the test of scripture, the fathers and ancient councils. The Church of England was a great bulwark against schism. During the Great Rebellion when for fifteen and more years the church was proscribed, how many sects and schisms had proliferated under Cromwell's rule. Since the church's re-establishment at the Restoration, schism had again been checked with the church's machinery of discipline once again in action.<sup>2</sup>

Implicit in Hickea's conclusion was the view that the secular power should enforce and guarantee the anglican church's position. That the prince and secular laws could in fact persecute, manipulate or dominate the church had not, when this treatise was written in

---

1 Op. cit., pp.65-67, 80-94.

2 Op. cit., pp.77, 86.



1686, fully been driven home to the anglican clergy. James II's policies towards the anglican church establishment were soon to prove unmistakably that the legal establishment of the church could in the wrong hands be an embarrassment and even a hazard to its life, and that a policy of serious opposition to the king was now essential to preserve the church's rights and legal privileges. By an ironic coincidence it was the very ecclesiastical policy of the last five years of Charles II, the years of the commission on preferments promoting only those men of suitable political views to high station in the church, that opened the door to James II's similar attempt to promote those who favoured indulgence, toleration and the abrogation of the Test Act. The very political manipulation of church appointments that brought Hickes to the deanery of Worcester, Dennis Granville to Durham, bishop Francis Turner to Ely, William Thomas to Worcester and John Lake to Bristol and finally Chichester, was soon paralleled in the appointment of Parker to Oxford and Cartwright to Chester. Charles II's attempts to use the church for political ends at the end of his reign in support of the legitimate hereditary succession, led to the promotion of a particular cavalier-Tory group of clergy who were also convinced high churchmen to whom the divine right of episcopacy mattered as much as that of the crown. When James II threw over the Tories to attempt his fatal policy of prerogative toleration to attack the anglican church's exclusive legal privileges, the church-cavalier clergy found themselves in a serious conflict of allegiance which led them to oppose James when he, following his brother's precedent, used royal patronage to appoint compliant ecclesiastics. Driven into political opposition for their church's sake, the high tory clergy were powerless at the Revolution as they



were paralysed by a serious conflict of loyalties. The beneficiaries of crown patronage under the ageing Charles II, they were first driven to a passive non-compliance by the ecclesiastical policies of James II and then again by the events of the Revolution and the substitution of William of Orange for his father-in-law. The non-compliance element essential in a passive obedience crisis meant that those who refused to accept the Revolution settlement would force the new regime to do what both Charles and James had done, to promote clergy favourable to the new political turn of events. This time it would be an action comparable with Edward VI, Mary I or Elizabeth, far more drastic than that of the last two male Stuarts, involving the deprivations of non-complying bishops and dignitaries instead of simply replacing those who died or were promoted. The unfortunate political circumstances of Charles II's last years that led to the great advancement of men of high church and high monarchical principles opened the door wide to a new kind of royal manipulation of church patronage for political ends and to rapid changes of political direction that inevitably led to non-compliance by those who professed passive obedience seriously, as a doctrine of the Christianity that glorified faithful suffering and a fixed constancy until death, in an age of change and revolution. In an age of change constancy becomes rigidity. In a revolution the convinced and staunch supporter of the old regime is ejected and regarded as a potential reactionary traitor, while the pliable and less conscientious trimmer soon adapts to new ways.

## CHAPTER V

THE REVOLUTION - THE STATE POINT

The Church of England's attachment to the doctrine of the divine right of kings in the seventeenth century and the church's own formulations of that doctrine, presented critical difficulties for loyal anglicans in 1688 and 1689. The passionate reassertion of the doctrine at the Restoration and again in the final years of Charles II created grave difficulties for churchmen in the reign of James II, and after 1686 it had become increasingly difficult to make the doctrine fit the facts. Because the restoration settlement had left so much undefined in the field of constitutional theory, the resolution of the argument as to what were the limits of royal power and prerogative was postponed until the Glorious Revolution. The church-tory party had been in decline after Clarendon's fall, resurgent under Danby, again in decline after his fall, victorious in the latter years of Charles II and again in eclipse when James II had turned against them in 1686, ungratefully casting off those faithful servants who had prevented his exclusion and attacking the church and universities. The nature of the Glorious Revolution was that a solution of the constitutional conflicts was imposed by successful invasion, an unconstitutional Convention, the illegal deposition of an unworthy and unpopular monarch (very thinly palliated by the fiction of abdication) and the peaceful substitution of William and Mary as sovereigns on equal terms (another unprecedented action), ignoring the rights of James II's infant son. This series of illegalities and



irregularities was gratefully and readily accepted by the vast majority of the nation. Events in politics have a habit of overtaking dogma. Old principles, which had doubtless served their purpose in earlier ages, were now rendered obsolete. The hard reality of a quick, firm, peaceful and practical solution to the nation's problems left endless theoretical difficulties for those who still held by the older principles now so decisively set aside. The Revolution settlement was the triumph of practical political expediency over existing legal niceties. Once achieved, the accession of William and Mary had to be accepted as an accomplished fact. No quibbles about the method of its accomplishment would be heeded and no questioning its constitutional propriety tolerated.

The Church of England had since Henry VIII been committed to a high doctrine of the divine right of kings. Cranmer had firmly believed in the king's supreme headship. Obedience to the crown for conscience sake was taught in The Institution of a Christian Man and also in Cranmer's own works. Cranmer taught that a 'cure of souls of all their subjects' was inherent in the king by God's design. Claire Cross remarks that 'his writings display an idealised erastianism reached perhaps by no other of his contemporaries'.<sup>1</sup> Cranmer had been trapped, at his trial for heresy in September 1555, into the admission that Nero was head of the church when he martyred St. Peter and St. Paul and that the Grand Turk was head of the church in his realm.<sup>2</sup> From the later years of Queen Elizabeth the new 'high church' school of Whitgift, Bancroft and Hooker had asserted

---

1 Claire Cross, 'Churchmen and the Royal Supremacy', in F. Heal & R. O'Day, Church & Society in England: Henry VIII to James I (1977), pp.18, 19. (Hereafter cited as 'Claire Cross')

2 J. Ridley, Thomas Cranmer (1966), pp.375, 376.



the divine right of kings even as they re-asserted the divine right of the episcopate. In the early years of Elizabeth Bishop Jewel and others had defended the English church's reformation by simply allowing the right of godly princes to reform abuses in the church in their dominions. Later in Elizabeth's reign Bancroft and Bilson could reassert the divine or apostolic authority of the episcopate in the church. Bancroft held that 'while their primary calling came from God, their external jurisdiction derived from the supreme governor'. Claire Cross asserts that 'the idea of the royal supremacy being government under the Crown by bishops, which Elizabeth herself quite clearly preferred, was being advanced at the expense of the concept of the royal supremacy residing in the Crown in Parliament'.<sup>1</sup> In opposition to the increasingly assertive laity in the Commons, the high churchmen defended royal supremacy and the power of the crown, even as they rediscovered and re-emphasized the divine right of episcopacy. R.G. Usher has pointed out how James I by giving the royal assent to the canons of 1604 passed by Convocation, had effectively lent his support to the theory of the Crown in Convocation legislating for the church.<sup>2</sup> Elizabethan ecclesiastical legislation had been piecemeal, issued like Parker's Advertisements on primatial authority, or like the thirty-nine articles on the authority of Convocation alone and reissued in 1571 with a set of disciplinary canons by the same authority, or the canons and constitutions of 1597 made in Convocation, but confirmed by the queen and issued by letters patent under the great seal. James I had permitted Bancroft to codify and rearrange all existing

---

1 Claire Cross, op. cit., p.30.

2 R.G. Usher, The Reconstruction of the English Church (1910), i, 359-383, 385-402.

ecclesiastical laws in the new canons approved by the convocations in 1603, published and promulgated by royal assent in 1604. The Canterbury convocation thus became effectively an ecclesiastical legislature, operating under the terms of the Henrician legislation which required royal letters of business at the beginning of a session and royal assent to any canons so made in pursuance of those letters of business. Providing the sovereign was willing and ready to allow the church's own provincial synods to legislate, it now seemed established that the purely clerical convocations were the only bodies to debate and legislate on matters ecclesiastical. This claim had been consistently opposed by the lay gentry in the House of Commons and in James I's reign by the common lawyers and especially Chief Justice Coke and the King's Bench and Common Pleas judges in their attacks on the ecclesiastical courts. The Convocation of 1606, however, in a series of long and intricate deliberations, produced a comprehensive set of canons and definitions on the nature of both civil and ecclesiastical authority in opposition to the political doctrines of Parsons the Jesuit and the extravagant claims to civil and ecclesiastical supremacy of the papacy. Royal authority descended from the patriarchal authority of Adam, Noah and the Patriarchs over the children of Israel to the judges, and from the Israelite monarchy of Saul and David by devolution to the kings of the nations. Ecclesiastical authority was descended by devolution from the authority committed by Christ to the apostles and by them handed on to the episcopal successors such as Timothy and Titus and so downwards to presbyters and deacons established in the churches they founded. James I declined to give his assent or approval to this set of canons. His letter to Dr. George Abbot (later Archbishop of Canterbury)



condemned particularly the notion that subjects should give their allegiance to a successful usurper or conqueror.

You have dipped too deep into what all kings reserve among the arcana imperii. And whatever aversion you may profess against God's being the author of sin, you have stumbled upon the threshold of that opinion, in saying upon the matter that even tyranny is God's authority and should be revered as such.<sup>1</sup>

Despite James I's refusal of his assent, these canons remained at least a formal synodical expression of the Church's teaching and opinion, and were published as such by Sancroft before his deprivation in 1690. It seems strange in the light of this clear opinion of king James I that Dr. Claire Cross can say 'when Convocation in 1606 drafted canons which made reference to priests created by God's ordinance, and in no sense elected by the people, he (James) refused to allow their enactment'.<sup>2</sup> James I's objection was rather to prevent too precise a clerical interference in matters of royal, not ecclesiastical, government and supremacy. Large sections of the draft canons of 1606 in fact deny the papal temporal supremacy and claim to depose kings, while asserting that episcopal authority was to be exercised under the temporal rule of godly kings.<sup>3</sup> Overall's Convocation Book, named after the dean and later bishop of Norwich who was prolocutor in 1606, does set forth the authority of kings and princes by divine appointment, pointing out that Christ himself was voluntarily subject to the civil authority and in no way attempted to alter the civil sovereignty established by God's law, and insisting on his

---

1 The Convocation Book of 1606, commonly called Bishop Overall's Convocation Book (Lib. Ang. Cath. Theol., Oxford 1844), p.8. (Hereafter cited as 'The Convocation Book of 1606').

2 Claire Cross, op. cit., p.32.

3 The Convocation Book of 1606, Bk II, chap.vii, p.141.



injunction to render unto Caesar what is his.<sup>1</sup> It is of course true, as Claire Cross maintains, that Charles I threw in his lot with the Arminian high churchmen and became a much more definite upholder of the church than was his father. It is also true that Laud and the Convocation of 1640, in the first canon of that year, again pronounced that 'the most high and sacred order of kings is of divine right, being the ordinance of God himself, founded in the prime laws of nature and clearly established by express texts both of the Old and New Testaments!'.<sup>2</sup> That these canons of 1640, though given the royal assent by Charles I, were explicitly annulled by the restoration statutes is well known. The laity in the house of commons were still jealous of purely clerical and ecclesiastical claims to legislate in matters of faith and religion and the 1640 Convocations had sat on following the dissolution of the short parliament. What is surprising is that, despite the annulling of the 1640 canons, they should be reprinted in a valuable restoration collection of church ordinances, from the royal injunctions of Edward VI and Elizabeth to the canons of 1604, in an important semi-official handbook which ran through at least three editions, with a notable preface by Bishop Anthony Sparrow vigorously asserting a legislative as well as a judicial function in the church. Sparrow is at pains to refute the 'notorious slander' that the English reformation was 'altogether lay and parliamentary' and to use his collection of documents and canons to prove that the church itself, by Synodical means, reformed

---

1 Op. cit., pp.88, 89, Bk. II, chap.2.

2 Constitutions and Canons Ecclesiastical (1640), Canon I, 'Concerning the Regal Power', in A Collection of Articles, Injunctions, Canons, Orders, Ordinances and Constitutions ecclesiastical, with other public records of the Church of England (third edition, 1675), p.346.

itself by the authority of its own episcopal governors, 'confirmed by the supreme authority'.<sup>1</sup> Even Sparrow's attempt to reassert the apostolic and episcopal authority of the church in legislation and judicature includes the famous first canon of 1640. The Laudian-Arminian alliance of church and king of the pre-civil war era was thus still being reasserted well into the reign of Charles II. While pronouncing its own divine claims and apostolic authority, the church also taught the divine right of kings. Using its claimed divine right authority to legislate and define the faith in its own spiritual sphere, the church of England in 1606, in 1640, in Sparrow's collection and in the Cambridge and Oxford decrees of 1679 and 1683, again and again pronounced in favour of divine right monarchy, the duties of subjection and obedience, and against rebellion and resistance. The divine right stream ran deeply and consistently. The first canon of 1640 states further that 'the care of God's church is so committed to kings in scripture', and insists on the ruler's power to summon and dissolve national or provincial church councils, explaining that though bishops alone had called such councils in early times, it was because there were then no Christian kings,

'... and it was then only so used as in time of persecution, that is with supposition (in case it were required) of submitting their very lives unto the laws and commands even of those pagan princes, that they might not so much as seem to disturb their civil government, which Christ came to confirm, but by no means to undermine ... For subjects to bear arms against their kings, offensive or defensive, upon any pretence whatever, is at least to resist the powers which are ordained by God ...'<sup>2</sup>

---

1 Op. cit., Preface to the Reader, n.p.

2 Op. cit., p.347.



The same canon laid upon bishop and clergy the duty of regularly preaching and teaching non-resistance to their flocks.

Richard Hooker in his Laws of Ecclesiastical Polity had expounded his universal scheme of law whereby the eternal law of God is derived and conveyed to all orders of his creation. This system of laws is impressed on his creatures in various ways; by nature, by human enactment, and by revelation. Hooker, of course, attacked the puritans for preferring the law of individual conscience instead of the rightful authority of the rules made by the church for the good order of its members, maintaining that God had ordained a proper authority for making the laws for every province of human life, political, ecclesiastical, and moral, and that these laws are true manifestations of God's law in this or that sphere. Some laws could indeed, in a changing world, be mutable. God's own ordinances were often expressed in general terms, requiring to be adapted by proper authority to changing circumstances. Just as the apostles' devolved authority was the proper authority in the church, coming down to the episcopate, so the proper civil authority had a devolved authority coming down ultimately from God's ordinance. If, as Hooker maintains, we may rightly speak of episcopacy as God's ordinance, devolving through apostolic practice rather than an absolute fiat of Christ in the New Testament, so in the realm of civil government the royal power has devolved upon its holder by a long process of descent from the earliest times and is itself a working out of the natural law in the political sphere, the earthly monarch being a shadow and type of the heavenly rule of God. The king's divine right, like that of the bishop, need not be sought in explicit terms of Christ's own direct prescribing in the gospels. A long historical descent,



a continuous succession in office and in useful activity in its proper sphere, would fully justify its continuance as part of the working out of God's plan. The Calvinist or puritan principle requiring explicit scriptural authority for anything in the church was rejected by Hooker, who substituted the broader Anglican principle of not being contrary to scripture, sanction by primitive practice and custom, and long continuance. One great function of church or civil law was declaratory: to declare and clarify by authoritative pronouncement what had long been recognized by custom and prescription. Proper authority must thus pronounce a custom or institution to be in harmony with the spirit of scripture, not contrary to its letter, consistent with apostolic precept and primitive practice and historical investigation. Usefulness and antiquity and consistent practice to the present time, judged by proper human authority, were thus guides to the establishing of an institution or ordinance as being founded in or sanctioned by God's law. Thus the crown must make laws and enforce good government in its political sphere, and the church in its own spiritual sphere might teach and instil obedience to the crown to its members. If antiquity and historical succession would justify claims to divine or apostolic authority for the episcopate, then such evidence would clearly justify divine authority for the monarchy too. This kind of modified divine right by devolution, as it were, is typical of the normal Anglican teachings of the seventeenth century on both royal and episcopal authority, as opposed to the simpler and more immediate puritan theory. Proper human authority had every right to prescribe laws and rules by positive human enactment and to give authoritative interpretations of antiquity and custom. The anglican church was therefore, on

the terms of its greatest pioneer theoretician, the proper authority to prescribe to christian people the doctrines of the divine right of kings, passive obedience and non-resistance and to require clergy to teach these doctrines, even as Burnet and Tillotson required public confession of those beliefs by Lord (William) Russell on the scaffold. In Hooker's terms also, the crown was the proper authority to make laws concerning passive obedience and non-resistance, to require oaths of allegiance and supremacy of its subjects, and also of the clergy among its subjects. In accordance with his belief that a legislative and regulative power was inherent in the church as a society in areas of faith, morals, worship and practice where no express declaration of scripture or clear demonstrative argument from reason could be adduced, Hooker upheld the right of a national church (or of the universal church) to use its authority to reform or retain traditional features of its life, to abolish what was useless or corrupted and to ordain new and useful customs and ceremonies. If the church had this authority in its own sphere, then no doubt the state also had such essential political authority too and this also was a devolved divine, or divinely sanctioned, right.

Such was the classical seventeenth century theory. The anglican church itself, as a competent christian teaching authority, had decreed in repeated pronouncements that duty and obedience and loyalty were due to the King as the Lord's Anointed. State laws, especially those made since the restoration, imposed clear oaths and tests on subjects, especially those holding public office. The oaths and the non-resisting test, for example, were imposed by the crown and embodied teaching sanctioned and enjoined by the church. The terms on which clergy received their ordination and



held their livings involved making declarations of belief and taking oaths, prescribed by the church in spirituals and by the state, as far as priests and bishops were public officers in the realm holding responsible positions of local leadership. If an anglican priest took an oath of canonical obedience to his bishop and subscribed the thirty-nine articles as evidence of his belief in and agreement with the church's official standards of doctrine, then in his secular capacity he must also take his oath of allegiance to the king (and his heirs and successors according to law) and also take the non-resisting test, explicitly denying the lawfulness of resistance to the king upon any pretext whatever. Secular law and spiritual authority both concurred to impose the doctrine of non-resistance. To the Laudian churchmen, this perfect harmony and interdependence of church and state was ideally present in the establishment of the church of England, where civil laws guaranteed the church's place in society, its endowments and possessions, and the position of its episcopate. The restoration settlement's restrictions on protestant dissenters in the Clarendon Code and discrimination against papists in the Test Act were seen by many anglican clergy and laity as the state's concession of political power to themselves alone, as a counterpart to the church's having conceded the appointment of bishops and dignitaries to the crown and the exercise of extensive patronage of benefices to the laity. Such a balanced system of church and state was the Laudian dream, rudely shattered first by the Civil War and after the restoration again shattered after the fall of Clarendon and only briefly recovered in the final years of Charles II.



The circumstances and events of the Glorious Revolution were the triumph of resistance to George Hickes. In the autumn of 1688, once James II had learned of William's invasion plans, the king had made desperate last minute attempts to conciliate his alienated kingdom. James summoned Sancroft and several other bishops to Whitehall to advise him, and as leaders of the church-tory party they had advised him to abolish his Ecclesiastical Commission, to restore the borough charters, to reinstate the fellows of Magdalen, revoke the declaration of Indulgence, place the lieutenancies, commissions of the peace and other national and local government places in the hands of those qualified by law (i.e. members of the church of England) and call a free parliament to settle affairs. Archbishop Sancroft suggested even now that the king confer with Anglican divines to satisfy his conscience and return to the church of his birth, for which his father had died a martyr's death. Untrustworthy as ever, James made a few concessions but destroyed the parliament writs after William's landing in November 1688. During the period of opposition to the declaration of indulgence earlier in the summer, the bishops and some London clergy had conferred together, but also with the dissenters in the capital to get their support for the bishops' stand against James's preorgative indulgence. In return for that support, the dissenters were given assurances that the church of England would not oppose attempts to gain a legal parliamentary toleration for moderate dissent. Such leading clergy as Tillotson (sent for by Sancroft himself), Stillingfleet, Simon Patrick, Tenison and Edward Fowler had taken part in the

clergy conferences.<sup>1</sup> Sancroft's Injunctions to the bishops of his province sent out on 27 July 1688 exhorted the clergy 'that they have a very tender regard to our brethren the Protestant Dissenters'. Sancroft himself also set on foot a review of the anglican canons and liturgy to consider if any concessions could be made to encourage a reunion with the dissenters.<sup>2</sup>

In August and September 1688 the dean of Worcester was in Oxford overseeing the printing of his Anglo-Saxon and Gothic grammars at the University press. Rumours of a new parliament were everywhere and the Hyde brothers and the bishops were making their eleventh-hour bid to recover power in the king's counsels. Bishop Francis Turner of Ely, one of the Seven Bishops and Sancroft's close confidant, approached Hickes and asked him to provide any evidence of the sufferings of dissenters in recent years. Probably this was so that the primate could be given the facts of the prosecutions of dissenters, as they would obviously press for some kind of liberty of conscience, having recently been offered indulgence by James II and assurances of concessions by the anglicans too. Sancroft presumably would have favoured some form of comprehension to welcome dissenters back to the national church, rather than a toleration. Hickes replied to Turner that assize and sessions records would have to be examined in some detail, and though he was not in a position to do so immediately himself,

---

1 G. D'Oyly, The Life of Wm. Sancroft, Archbishop of Canterbury (2nd ed. 1840), p.155.

2 Op. cit., pp.193-6, 197-199.



I am so confident that the sufferings of the dissenters will appear so inconsiderable to the number of parishes and years since the Act of Uniformity was in force ... It will also be very requisite to let the world know how zealous your Lordship and the Lord Bishop of Bath and Wells were in interceding for the wretched criminals in the west, and that the numerous executions did not move greater compassion among any sort of men than those of our communion.<sup>1</sup>

Hickes was here already being consulted by <sup>one of</sup> Sancroft's closest advisers just before the Revolution crisis.

The dean returned to Worcester in October 1688 and was in the city during William's landing and march on London. Local nobility and gentry also appeared in arms against James II. Danby and Lord Lumley raised the north, the Duke of Norfolk seized Norwich, and the earl of Devonshire raised the midlands and seized Nottingham where he was joined by the Princess Anne and Bishop Compton. The city of Worcester was occupied by a motley mixed body of horse and foot, 'particularly by a company of four hundred men under the conduct of Mr. Thomas Foley and Sir Edward Harley, who took it upon them to secure the town for the prince'.<sup>2</sup> Hickes himself had preached in the cathedral at Worcester a sermon in the strongest non-resistance strain on the Sunday after the prince of Orange's landing. The dean and his family withdrew from the city to Hickes's country parish at Alvechurch at the end of November. He 'was not willing to be at home when my Lord de la Mer (Delamere) came hither, who as they reported was at the head of a thousand men, but in effect they

---

1 Bodl., MS Rawl. Letters 94, fol.176. Hickes to Turner, 3 September 1688.

2 Bodl., MS Eng. Misc. e.4, fol.24.



proved to be but between three and four hundred'.<sup>1</sup> Returning to Worcester, Hickes found that the self-appointed military governor, Sir Edward Harley, and his staff had 'set up two or three factious clergymen' to preach in the city churches, attacking James II and the dean. Harley was also intercepting and reading the dean's letters from London, but Hickes protested to Thomas Foley who caused the practice to cease. Hickes was also pressed to sign the Association, which bound its takers to achieve all the objects of William's declaration, but refused to do so.<sup>2</sup> He retired again to Alvechurch early in 1689 telling Charlett he intended to stay there all summer, away from the insults of the occupying troops.<sup>3</sup> Charlett had written to Hickes from Oxford on 16 December 1688, saying that Dr. Mill, Dr. Thomas Turner of Corpus Christi and Dr. Fitzherbert Adams of Lincoln college had refused to sign an address of welcome to the Prince of Orange.

Last night came hither the Princes of D(enmark) (Anne), conducted by the northern lords and gents., commanded by the Lord Bishop of London, on horse-back in a purple cloak with a large sword in his hand drawn ... The motto on the colours Nolumus Leges Angliae Mutari ... Cox of C.C.C. preached a sermon this afternoon setting forth in plain words the comparison of the king with Ahasuerus, Ch(ancellor Jeffreys ?) with Haman, P. of Orange with Mordecai and Hester with the Princess.<sup>4</sup>

---

1 Bodl., MS Ballard 12, fol.42; Hickes to Charlett, 1 December 1688.

2 Bodl., MS Eng. Misc., e.4, fol.25.

3 MS Ballard 12, fol.43; Hickes to Charlett, 27 February 1688/9.

4 Bodl., MS Eng. Hist. c.6, fol.125.

The act giving the throne to William and Mary laid down a new oath of allegiance to be taken by all in posts of responsibility under the crown, including all clergy of the church of England. Owing to the revolutionary nature of the new rulers' accession, the oath was to be imposed on all office holders and clergy. This was not usual practice. At a new king's accession existing office holders and clergy were not normally required to take a new oath if they simply retained their old position, as the old oaths bound them to monarch's heirs and successors. The new regime required the oath from every clergyman of the established church. William and Mary were to be accepted simply as King and Queen. The words 'lawful and rightful' were omitted from the new oath, but 'true allegiance' was demanded and the swearer promised to be 'faithful'. On James II's flight and William's temporary assumption of the government, it had been inevitable that the Convention must dispose of the succession. Sancroft refused to attend the critical sessions in January and February 1689 when the critical discussions took place. With Clarendon, Rochester, Danby and bishop Turner of Ely, Sancroft had come to favour a Regency in James's name. When both houses had passed resolutions that kings held power by an original contract the Lords by the narrow majority of fifty-three votes to forty-six, the Commons resolved that the crown be given to William and Mary. The Lords rejected this by five votes only, and a free conference between the two houses took place. The Lords' representatives included the bishop of Ely and the earl of Clarendon. Somers produced his famous explanation of 'abdication', pointing out that the



Lords' word 'desertion', for James II's flight, was 'temporary and relievable', while 'abdication' was final. Nottingham and Clarendon both insisted that the Lords did not wish to make the crown elective, and Turner of Ely pointed out that force or fear must void the notion of abdication. Turner, as Sancroft's mouthpiece, had contended that the Lords wished to say of king James II only that he had ceased to exercise his rights. In cases of sickness, lunacy, infancy, senility or leprosy the civil law recognized 'natural incapacity' to exercise a right. 'So, I take it, there is a Moral Incapacity', said bishop Turner, adding, 'In a successive kingdom an Abdication can only be a forfeiture as to the person himself.' Turner added that succession law in England was part of the common law, and so 'the disposition of the crown cannot fall to us till all the heirs do abdicate too'.<sup>1</sup> Turner and Clarendon however were overborne, despite their questions as to who was the next heir on James's removal, and nothing was said as to any claim of the infant Prince of Wales, whose birth was widely impugned by Whig pamphleteers with the warming pan legend and other accusations of James II's having foisted a spurious son on the nation. William's Declaration, published on his landing in England, promised to enquire into the circumstances of the birth. This was never done officially, and any claims of the infant prince were set aside in a significant silence.

---

1 The Debate at Large between the House of Commons and the House of Lords at the Free Conference, held in the Painted Chamber, in the Session of the Convention, Anno. 1688: Relating to the Word Abdicated and the Vacancy of the Throne, in the Commons Vote (~~1688~~), pp.25-27, 36-37, 51-59.  
(1695)



Despite the conservative character of the Revolution, new rulers and new oaths presented a heart-searching dilemma to the clergy and many laity of the established church. Most of those who took the new oaths only did so by inventing fine distinctions between kinds de jure and de facto, or making declarations that they swore allegiance in the sense of a simple promise of obedience to the new government. The act required the oaths to be taken within six months, by 1 August 1689, and then imposed a further six months' suspension on non-compliers. After the expiry of this period, on 1 February 1690, the benefices and places of the non-compliers were to be forfeit and their holders deprived ipso facto.

George Hickes's dilemma in the matter of the new oaths was typical of that of many strict passive obedience and divine right churchmen. Those who had consistently opposed the exclusion of James II as Duke of York had done so on the grounds that the law of hereditary succession was part of the fundamental constitution of England, the ancient common law, to alter which was beyond parliamentary competence. It now seemed that exclusion principles had triumphed, and indeed many of those who had formerly laboured earnestly for James's hereditary succession were now totally disillusioned by his period of government and were glad of his removal. It is most significant that Sancroft himself should have been (reluctantly) prepared to accept a regency exercised by William and that Bishop Francis Turner of Ely, formerly chaplain to James's household and bound to him by close ties of personal respect and gratitude, should at the free conference between the houses have been prepared to accept James's 'moral incapacity' as a reason to provide for his

permanent exclusion from the government. Even the most consistent divine right men did not want James II back<sup>as before.</sup> Turner had stated that he would accept the word 'abdicate' in the sense of 'abdicate the exercise of the government', though not the bare right and title of kingship, using the recent precedent in Portugal, where the incapacity of the king to rule had resulted in his younger brother exercising a regency with full control of all the royal powers, the king preserving only the empty status and title.<sup>1</sup> For Turner to have regarded James II's alleged 'moral incapacity' as a legitimate extension of the legally known and recognised incapacities of 'sickness, lunacy, infancy, senility or leprosy' was virtually to consent to James's permanent exclusion from the exercise of government. But Turner had fought hard at the free conference for the rights of the infant prince of Wales as the hereditary heir. 'In a successive kingdom, an Abdication can only be a forfeiture as to the person himself.' The two houses had no power 'to break the line of succession, so as to make the crown elective'. Serjeant Maynard, for the Commons, had reminded the Lords that there could be no hereditary succession during King James's lifetime, so there need be no discussion of an heir. Rather both houses had already resolved that James had forfeited the right to govern, and, as Sir Robert Howard remarked, the Lords themselves had invited William to exercise the effective government when James fled. The lords at Guildhall would surely not

---

1 The Debate at Large between the House of Commons and the House of Lords at the Free Conference held in the Painted Chamber, in the session of the Convention, Anno. 1688 (1695), pp.52-55.



have called in the prince of Orange if the next heir had been obvious. 'I doubt you had been ... all guilty of High Treason, if a known successor were in possession of the throne.'<sup>1</sup> To this there had been no possible answer, and the inevitable recognition that William was already in actual possession of the government had followed swiftly, the convention giving the crown to him and his wife.

The difficulties faced by Bishop Turner at the free conference foreshadowed the difficulties to be faced by strict royalist clergy. Before the date of the suspension of non-compliers George Hickes was anxiously enquiring from Arthur Charlett about his Oxford friends' reasons for taking the oaths. On 29 April 1689 he stated that he had been about to enquire 'what number of Confessors you were likely to have with you, but by your letter I find you are scarcely like to have any more than honest Mr. Dodwell'. Dodwell was reported to have 'baffled' Mr. Somers and others 'at the Coffee House; the first about Nonresistance; the second, about the succession in the Roman Empire; and the 3rd about the abdication, which he maintained to be force, and I was reported underhand to have set him on'. Hickes did not refuse the new oaths out of pride or pique, saying he had already seen 'many weak and fallacious papers about taking the oath, which give me no satisfaction'. He promised to consult 'the most learned compliers both among the lawyers and the divines, to know upon what principles they will take the oath', adding further:

In truth I should be glad to be satisfied, and kiss the feet of the man who satisfied me, but if I cannot be fairly and honestly satisfied how a man that believes

---

1 Ibid., pp.58, 59, 110, 111, 132.



K.J. to be rightful king of this realm can lawfully take a promissory oath of true allegiance to another.<sup>1</sup>

On 3 May 1689 Hickes sent to Charlett a statement of the position which he had so far reached in considering his position. He admitted that William and Mary were undoubtedly de facto king and queen, and that English law appeared to require subjects to live peaceably under their rule. But nothing beyond quiet and peaceful submission could be expected by a government which was only de facto. Hickes questioned whether the act itself, on a fair construction, allowed the oath to be taken in this sense. If the oath was only to give peace and security to a de facto regime, and the act said this, then compliance was possible. But if the law required the 'fullest and largest' sense of true allegiance, then the lower sense was dishonest and the oaths must be refused. Allegiance was indivisible and could not be transferred at will by subjects.<sup>2</sup> Charlett replied on 12 May 1689 reporting debates in the house of Commons,

Mr. Finch spoke an hour in defence of Lord Russell's trial, without any reply; and as long against imposing the oaths on the clergy, being many amongst them very scrupulous ... they deserved a very particular regard, since better evidence could not be imagined either of their respect to the present government or of their peaceable minds ...

... Perhaps in this dispute, considering the known principles of those in power, (we need have) no great scruples about the nature or meaning of Allegiance, since it cannot be doubted but they purely and simply Legal Obedience, exclusive of natural, original, paternal or any antecedent to Contract. We ought not therefore to consult old lexicons to know the meaning ...<sup>3</sup>

---

1 Bodl., MS Ballard 12, fol.45. Printed in Orthodox Churchman's Magazine, vi (1804), 13.

2 Bodl., MS Ballard 12, fol.47.

3 Bodl., MS Eng. Hist. c.6, fol.121.

Charlett therefore took the oaths, presumably as a simple promise of obedience to the new government, and presumably with a mental reservation of loyalty to the hereditary king, if he should recover his rights. But for Hickes this would not do. Since the bull Regnans in Excelsis had sought to depose Queen Elizabeth I and purported to absolve her subjects from their allegiance to foment rebellion, anglicans had condemned the idea of subjects rebelling against their sovereigns and denied the deposing power. Subjects were bound by their oaths. Allegiance meant binding oneself by a promissory oath invoking the sacred name of God. Under James I oaths had been imposed denying mental reservations and equivocations of all kinds, these being the familiar tricks of the Jesuits. Since the disastrous experiences of the civil war, the restoration statutes had imposed the non-resisting test as well as oaths of allegiance. The intention of these oaths was clearly to prevent a repetition of the Great Rebellion. William III's oath, despite moderate wording, was imposed on all and its intention seemed clear.

Hickes consulted Roger North, an eminent lawyer and brother of Lord Chancellor Guilford his former patron, and wrote to Charlett on 1 July 1689,

Mr. N. allows of an allegiance to a king in possession against all the world, but the king de jure, ... as a thief has a right to his stolen goods against all the world, but the true owner. Wherefore he thinks it is everyman's duty to assist K.W. against all invaders but K.J., and to endeavour to bring all conspirators against him to condign punishment, but such as are so in behalf of K.J., and if I thought our superiors obliged us to no more in the oath, I could take it every day in the year. But it seems apparent to me that they intend to oblige us to maintain K.W. in his possession against the right of K.J., nay, that is the



principal intent of the oath.... I am confident no man can judge right that will not prescind his preferments from the state of the question, and determine altogether as a disinterested man.<sup>1</sup>

Another letter to Charlett from Hicke followed on 8 July 1689. Hicke again allowed rulers in possession to be entitled to peaceful obedience, military assistance to defend the realm and disclosure of all conspiracies, save those in favour of the exiled ruler.

All this allegiance I will oblige myself to, if this quantum, as you call it, will be accepted. But then to swear in this sense is to swear ... with a salvo jure; but it is a salvo jure not expressed, but reserved in the mind of the swearer; and you have not told me how a man can take an oath in a limited and reserved sense, which takes away all security from the King in fact, against the King in right, in sincerity and truth.

How could Charlett defend himself against a charge of Jesuitry of the worst sort, in taking an oath with so large a mental reservation?

'... as to the famous expression of quiet behaviour and peaceable submission, ... those words perfectly debar every man against assisting K. James, unless they be taken in the qualified sense wherein Dr. Sanderson explains them in the case of the Engagement, till we have a fair opportunity.<sup>2</sup>

Hicke's mention of the name of Robert Sanderson, formerly Regius Professor of Divinity in Oxford and restoration bishop of Lincoln, referred to the nonjurors' great precedent for a change of government by illegal force, the civil war and the establishment of the Commonwealth after the beheading of Charles I. Anglican clergy had then been sharply divided over taking the Engagement,

---

1 Bod., MS Ballard 12, fol.49.

2 Bodl., MS Ballard 12, fol.50; Hicke to Charlett, 8 July 1689; printed in Orthodox Churchman's Magazine, vi (1804), 14.



the promise to live peaceably under the new 1649 and 1650 constitution, without king or house of Lords. Strict rigorists might refuse, but to men who might lose parish, livelihood and everything, Sanderson was prepared to allow a generous accommodation to circumstances which was realistic and wise, allowing that royalist churchmen were living under a prevailing condition of successful rebellion and overwhelming force. Sanderson's Case of the Engagement had become a classic case of conscience, and as he had allowed the Engagement to be taken in a low sense, providing the taker did not take it with a resolve to break it or think it conflicted with sworn allegiance to a king now murdered and his son a powerless exile out of the country. Sanderson also condemned the taking of the Engagement with a doubting conscience, simply to preserve one's livelihood. Only if the taker could honestly take the simply worded promise as an open promise of living peacefully under a de facto regime, would Sanderson permit its taking.<sup>1</sup>

The opposing view to Sanderson had been taken by Henry Hammond, a more rigoristic casuist, who denied that subjects might take new oaths of allegiance to an oppressor if their king was forced out of his realm against his will. Faithful subjects must exercise passive obedience to the full in such circumstances, suffering hardship rather than comply. Hammond had also rejected Sanderson's moderate view that anglican clergy might lay aside the strict use of the book of common prayer while under threat of prevailing force, and insisted on strict conformity to the liturgy

---

1 The Works of Robert Sanderson, D.D., ed. W. Jacobson (Oxford, 1854), V, 20-36; 'The Case of the Engagement'.

rejecting any compliance with the prevailing powers.<sup>1</sup> Hammond's stricter view of total non-compliance had been that of the young William Sancroft ejected from his fellowship at Emmanuel college, Cambridge, in 1651. He had perhaps avoided, rather than refused, the Solemn League and Covenant in 1644, and certainly did not seek a dramatic public refusal of the Engagement six years later, but had refused both oaths, following the strict tenet of passive obedience, with a quiet conscientious non-compliance.<sup>2</sup> Sancroft was a stiff divine of the strictest Laudian school, and would not follow the course allowed by Sanderson. This division, both over the Engagement and the use of the anglican liturgy, had continued for years within anglicanism during the Interregnum, and it had been to a great extent the rigorist Laudian party who had gained control of the restoration church, as R.S. Bosher has demonstrated. The experience of men of Sancroft's generation, who had already seen the established order of crown and church overthrown in the civil war and had suffered under Cromwell for their non-complying principles, was of great importance in guiding and stiffening the action taken by nonjurors in 1689 and 1690.

George Hickes's bishop, William Thomas, was an ailing man and by June 1689 was near to death. An ejected royalist sufferer of the civil war generation of Laudian clergy, he sent for Hickes two days before his death, which occurred on 25 June 1689, and made a forthright declaration of his purpose.

---

1 R.S. Bosher, The Making of the Restoration Settlement (1957), pp.14, 15. J.W. Packer, The Transformation of Anglicanism, 1643-1660, with special reference to Henry Hammond, pp.139-141, 180-181 [quoting Bodl., Western MSS 33651(6), MS Eng. Th. e.20, and Lambeth MSS No.VI, pp.10, 13, 595. Cod. Wharton.]

2 G. D'Oyley, Life of Wm. Sancroft (1840), pp.20-22, 35-39.



Mr. Dean, ... I bless God that I have twice suffered in the same righteous cause, and it is now time for me to die, who have outlived the honour of my religion, and the liberties of my country. It hath been a great comfort to me in this general Apostacy of my clergy, whom I have endeavoured to keep upright and steady to their principles, that you have not forsaken me, but kept constant with me ... And if my heart deceive me not, and the grace of God fail me not, I think I could burn at a stake before I took this new oath.<sup>1</sup>

The example of his bishop, to whom he was devoted and whose stand against the declaration of Indulgence he had so ardently supported, must have weighed heavily with Hickes. Thomas Hearne, writing in 1730, noted that Hickes had once prayed for William & Mary as 'de facto king and queen' in the state prayers at matins in the cathedral, but had been corrected by the bishop for so doing. Written forty years after the event, this may be unreliable, but it could be in accordance with Hickes's willingness to recognise the new rulers' de facto sovereignty.<sup>2</sup> But Bishop Thomas's dying fervency had a great effect upon Hickes.

A similar dying declaration was made by Bishop John Lake of Chichester, like Bishop Thomas and Hickes a product of Charles II's commission on ecclesiastical promotions, on 27 August 1689. This too was witnessed by Hickes, who went up to London in August and had been summoned by Jenkins, Lake's domestic chaplain, to receive Holy Communion with the bishop at his deathbed. Hickes wrote to Charlett on 23 September that he was 'perfectly surprized at it, when he told me of it, which was about half an hour before

---

1 F. Lee, Life of John Kettlewell (1718), pp.190, 199, 200. Hickes informed Sancroft of Thomas's death on 26 June 1689, see Bodl., MS Tanner 27, fol.61.

2 T. Hearne, Collections (Oxford Hist. Soc.), X, 237.



we received the Sacrament with him.'<sup>1</sup> Hickea asserted that the declaration was Bishop Lake's own idea, that he had indeed dictated every word of it, including the famous sentence about passive obedience being the distinguishing doctrine of the church of England. To a generation of convinced divine right men, who sincerely regarded the Great Rebellion as a punishment for the crying sins of the nation and the ruin of church and monarchy in the 1640's as a consequence of the evils of their age, the dying constancy of Thomas and Lake would inevitably be a signal example of courage and true loyalty. Hickea had Lake's declaration printed and widely circulated, and it was soon being said in London that it was his contriving because his name was on it as a witness.<sup>2</sup>

A savage pamphlet warfare had begun when William and Mary were declared as monarchs. Gilbert Burnet, who had landed with William at Torbay and was now rewarded with the see of Salisbury, issued his pastoral letter to his clergy on 15 May 1689, exhorting them to take the oaths with a good conscience. Allegiance was not absolute or indissoluble, but was merely lawful obedience. William's title had been judged by the estates of the realm, the proper judges in the case as the highest court of the realm. In any event, argued, Burnet, the prince's title to the throne rested on the right of conquest, success in a just war. Burnet's An Enquiry into the present state of affairs (1689) asserted that

---

1 Bodleian, MS Ballard 12, fol.52. Bodl., MS Tanner 27, fol.77, is the original of Lake's dying declaration.

2 Bodl., MS Ballard 12, fol.52, Hickea to Charlett, 23 September 1689.

'the reciprocal duties in civil societies are protection and allegiance; and wheresoever the one fails wholly, the other falls with it.' The old oaths of Charles II or James II, with their total condemnation of resistance upon any pretext, presupposed a king governing according to the law, not repeatedly violating it. The old oaths were to give security against popery, not to bind subjects hand and foot to witness the destruction of their religion and liberties. Hickes's assertions in Jovian that passive obedience and non-resistance would be quite unnecessary under James II, because English kings were obliged always to govern by the laws, now looked decidedly over-optimistic. Repeated use of the suspending and dispensing powers had annulled statute or common law at will.

Hickes entered the controversy with Reflections upon a letter out of the country to a member of this present Parliament ... concerning the Bishops lately in the Tower, and now under Suspension (1689), attacking an anonymous Letter to a Member of the House of Commons. He defended the nonjuring bishops vigorously, denying that they 'wilfully expose themselves to the rigour of the law'. They were not contumacious or defiant. Hickes hoped 'some expedient can be found to keep them from suffering the rigour of the law', but it was not up to the primate and bishops to prescribe remedies for their conscientious refusal to parliament. That must lie with the new government. It was presumptuous for those under suspension to prescribe a remedy against parliament's declared will. The dean defended Sancroft's signing the Guildhall invitation to William to come



to London, in the interests of public order. It was then right to hope that the prince would help in the calling of a free parliament to settle affairs, not a revolutionary convention. James II had not truly abdicated or deserted the realm. Other kings such as Charles I or Charles II had withdrawn from the capital or the realm and not thereby 'abdicated'. The people had deserted James II, rather than he them. It was neither James nor the nonjuror bishops who were 'playing at Bo-peep with the government', but those who supported illegal revolution and invited a stranger to rule over them. Hickes asserted the 'essential nullity' of such proceedings. The new oaths could not be reconciled with the old ones, nor with the doctrine of non-resistance. It was simply foolish to say the bishops 'betrayed themselves and their religion', or 'chose their own destruction'. There was no possibility of James making a legal abdication to release his subjects from sworn allegiance. The theory of James' 'moral incapacity' to rule was nonsense.<sup>1</sup>

Hickes also wrote to Charlett on 11 March 1689 saying that he could not regard the new oaths as a simple promise of peaceful submission and good behaviour. New oaths had to be taken on new principles, 'as that of forfeiture by misgovernment, of deserting his station, or of the reciprocal nature of allegiance and protection, all of which were within these ten days openly avouched here'. New theories were those of Burnet and the whigs, not of the church of England whose known principles forbade the oaths.<sup>2</sup>

---

1 G. Hickes, Reflections upon a Letter out of the Country to a member of this present Parliament (1689), P.6 (hereafter cited as 'Reflections').

2 Bodl., MS Ballard 12, fol.55.



As to a de facto government, Hickes asserted that it might be obeyed in many things, but not everything. 'In some things I think it lawful to obey K.W., and in some things it is not; and one of those things in which I think it not lawful to obey him is taking the oath.' The new oath was obviously to require absolute allegiance in all things. Those who believed James to be rightful king would commit perjury if they transferred their allegiance against a prior bond of conscience. The bishops under suspension must, as a duty of their sacred office, never countenance<sup>e</sup> perjury. They stood on their old known and inviolable principles. They could not be validly or legally deprived, and how could any good men in future regard such deprivations as valid and accept sees so vacated.<sup>1</sup> Hickes also came to the defence of Abednego Seller's History of Passive Obedience, which was a full catena of quotations from anglican authorities back to Queen Elizabeth, Archbishop Cranmer and Henry VIII teaching the doctrine openly and consistently. How could Seller's opponents falsely maintain that the doctrine was no older than Laud or taught by the clergy simply in their own interests? To attack nonjurors for not considering their country or their religion was nonsense. The obligations of their country's laws and the doctrines of their religion forbade them to swear. Their duty to their country involved the rights of their sovereign. Newly invented theories of providential possession of the government, conquest or abdication were mutually contradictory. How could a king be conquered, and not his realm? Could subjects

---

1 G. Hickes, Reflections, pp.6-8.

transfer their allegiance if they were not conquered? Could a king be said to be conquered if he was still in a position to reassert his rights? How could allegiance be due by right of conquest to a foreign prince who denied that conquest?

Providential possession was a theory like that of Major General Harrison, the regicide, who saw 'amazing providences' in Charles I's trial and execution. How could enforced flight be legal abdication? The new oaths were refused out of fear of perjury. Surely the inconsistent principles of many compliers meant they had taken the oaths with a bad conscience, with mental reservations or even dishonesty?<sup>1</sup> The implication behind the attacks on Seller's History of Passive Obedience, as shown in Edward Fowler's Vindication of the Divines of the Church of England, was that the duties of obedience and non-resistance were not concerned in the Revolution, but rather it was a secular affair. Obedience was due to any settled regime. This contradicted the divine right of kings and theories of God-sanctioned monarchy. The implication that sovereignty and government and the allegiance of subjects were merely worldly affairs of human contrivance was particularly obnoxious to stiff non-jurors who clung tenaciously to their old principles, which were part of their Christian faith and moral duty.

Hickes was in London in August and September 1689, back in Worcester in December, and again in London after Christmas. He dined at Lord Clarendon's on Tuesday 7 January 1690, with Bishops

---

1 G. Hickes, A Letter to the Author of a Late Paper entituled 'A Vindication of the Divines of the Church of England', in Defence of the 'History of Passive Obedience', (1689), passim.



Turner of Ely and Lloyd of St. Asaph and Dr. Thomas Tenison. Tenison 'owned there had been irregularities in our settlement, that it was to be wished things had been otherwise; but we were now to make the best of it, and join in the support of the government as it was, for fear of the worse'.<sup>1</sup> Lloyd of St. Asaph had with Bishop Compton of London visited Sancroft at Lambeth on 31 December 1689 to urge the primate to take some steps towards reconciliation with the new regime. Sancroft had replied that it was up to the government to see he was not deprived, and that the suspended bishops could never comply with the oaths. Hickes was also at Lambeth several times in January. During this time Sancroft decided to publish Bishop Overall's Convocation Book and set William Sherlock, Master of the Temple, to prepare the work for the press. Hickes collaborated with Sherlock on the work, and the Master sent him a memorandum enumerating the irresistible authority of sovereigns, and insisting that desertion was only a euphemism for deposition.<sup>2</sup> Sherlock considered the canons of 1606 and came to precisely the opposite conclusion from that which Sancroft had intended. He touched on the very point which had caused James I to withhold the royal assent. The Master of the Temple had been suspended and finally deprived as a nonjuror, but had been unsettled and ill at ease. Once the victory of the Boyne dashed James II's chances of a restoration, Sherlock now contended that the new regime was now 'thoroughly settled' in the sense of Canon XXVIII

---

1 S.W. Singer (ed.), Correspondence and Diary of Henry Hyde, Second Earl of Clarendon (1828), ii, 300.

2 St. John's Coll., Cambridge, MS Book 414 (Commonplace Book of Bp. W. Lloyd of Norwich), fol.35a. Sherlock's report to Sancroft on Overall's Convocation Book is Ibid., ff.11-19.



of the 1606 Convocation, and therefore that Englishmen must now regard the government as possessing God's authority and be subject for conscience sake.<sup>1</sup> Hickes was present at Sherlock's house in Highgate when this dramatic announcement was made. After a painful scene, the dean reported to Thomas Wagstaffe what had passed.

The Master began very warmly to talk against King James for behaving himself no better at the Boyne, and going out of the kingdom after the battle, saying to this purpose: What, shall we be ruined for a king that will not do his own part? I think we must look to ourselves and take the oaths. What, said I, Master, does that alter the law? Must we transfer our allegiance from the rightful king because he is not so valiant as other princes? Ah, but he is conquered, says he ... Put ye the case so, replied I, will conquest justify taking the oaths? I believe it will, says he, and I am resolved to try whether it will or not.<sup>2</sup>

Sherlock promised to give the reasons for his defection in writing, and early in 1691 produced his Case of Allegiance due to Sovereign Powers, asserting that the dispute over the oaths confused the issue of rights with that of obedience. Sherlock's preface complimented the government on its moderation. It had been 'mild and gentle in delaying the execution of the law', and had acted 'very honestly and sincerely'. Sherlock had been under sentence of deprivation, but on taking the oaths was at once reappointed to his Mastership. He had genuinely refused the oaths for reasons of conscience, not partiality to James or antipathy to William, but had now received full satisfaction from Overall's Convocation Book. Allegiance, said Sherlock, was not due to the king's legal right as sovereign, but rather

---

1 The Convocation Book of 1606, commonly called Bishop Overall's Convocation Book (Lib. Ang. Cath. Theol., 1844), Canon XXVIII, p.51.

2 Bod., MS Bodl. Add. c.180, ff.102-105. Hickes to Wagstaffe, 30 September 1690.

to God's authority. The Canon XXVIII in question condemned revolutions as wicked, but allowed that God's providence might use rebellions of subjects or oppressions of kings to execute divine judgements on a monarch or nation. God's province had now shown by victory that William was 'thoroughly settled'. The Convocation taught obedience to all settled rule by divine precept. This was the authoritative voice of the church of England. Once the former ruler had fled, and once he was effectively dispossessed, the old oaths must cease to bind as the matter of the oath had ceased. James was no longer king. 'The most that can be expected of them (subjects), according to the strictest principles of loyalty and obedience, is to have no hand in such revolutions, or to oppose them as far as they can, and not to be hasty and forward in their compliances.' If subjects have a bad ruler

'... that notoriously violates their rights and breaks the constitution upon which himself stands, and strikes at the dearest things they have, their Religion established by Law and their properties, I doubt the case may be altered ... It is enough in conscience patiently to bear so bad a prince, but a little too much to venture their lives and liberties to keep him in the throne to oppress them.<sup>1</sup>

The argument from a comparison of the Revolution with the Great Rebellion was fallacious. The Civil War was an open rebellion, followed by a wholesale destruction of church and monarchy alike. The very parliament was turned out and destroyed by Cromwell's military force. The situation in 1688-1690 was quite different. Church, crown and parliament were now preserved, not abolished. The comparison was 'odious'. Resistance was not involved in the Revolution.

---

1 W. Sherlock, The Case of Allegiance ... (1691), pp.16, 24-27.



'To fight against a king, and not to fight for him, I think are two very different things ... This is no Rebellion, no Resistance, but only Non-Assistance, which may be very innocent; for there are some cases wherein subjects are not bound to assist their prince, and if ever there was such a case, this was it.'<sup>1</sup>

Hickes attacked Sherlock bitterly in his Vindication of Some Among Ourselves against the False Principles of Dr. Sherlock (1692).

The principle of providential possession of the crown would sanctify any revolt and cover any evil usurper with a cloak of divine approval. Sherlock seemed now to Hickes to favour kings holding power on their subjects' sufferance, quamdiu bene se gesserint. This was mere sycophancy. Sherlock's own reply to Burnet's Enquiry into the present state of affairs had condemned 'ipso facto forfeiture' of the Crown as nonsense. Bishop Merks of Carlisle had in parliament opposed the deposition of Richard II and the claims of Henry IV. The parliament of 39 Henry VI had recognised the Yorkist claim to the throne by line of blood, despite a more than fifty year tenure of the throne by three Lancastrian kings. Sherlock's providential possession of the throne by William III was merely conquest and successful usurpation. Allegiance must be to the natural person of the king. The old civil war puritan false distinction between the king's person and office was the basis of the Revolution.<sup>2</sup>

Hickes also attacked Dr. John Sharp, the newly appointed Archbishop of York, who preached a farewell sermon at his London parish of St. Giles-in-the-Fields on 28 June 1691, in which he

---

1 Ibid., pp.46, 47, 49-51.

2 G. Hickes, A Vindication of Some Among Ourselves against the False Principles of Dr. Sherlock (1692), *passim*.



attacked the nonjurors' who were beginning to withdraw from public worship in the established church. Sharp insisted that loyal churchmen must not engage in parties or factions, 'and least of all any faction in religion which is grounded upon a State point'. Sharp was not concerned with politics, certainly not thinking it his duty to preach against 'Hypotheses ... about Government'. Church and State were both as they were before the Revolution. There was no change in the church, articles, prayerbook or doctrines. As for new monarchs' names in the state prayers, St. Paul commanded Christians to pray for all monarchs and all in authority. Christians must peaceably accept revolutions in political affairs. Surely a prince who favoured true religion should be submitted to. Submission to the powers that be, the powers now in being, was St. Paul's teaching in the epistle to the Romans, chapter 13. This was 'the very doctrine of the Church of England'. Christians should endeavour 'to be more concerned for your country and nation than the interest of any single man in it!'.<sup>1</sup>

Hickes 'Apology for the New Separation' (1691) maintained that Sharp's teaching was that of the Commonwealth men, attacking Sharp as a 'latitudinarian'. 'It matters not with you, ... My Lord, what the king be, lawful or unlawful, real or titular, rightful or wrongful, provided he be in possession of the throne.' This was a strange new interpretation of anglican teaching, common only to Sharp and Sherlock. The vast majority of anglican divines

---

1 The Farewell Sermon of Dr. John Sharp, Archbishop-elect of York, at St. Giles-in-the-Fields (1691), pp.26-30.

applied the notion of submission only to lawful and rightful kings, not usurpers. If 'a mere point of State' was a vital matter of conscience with truth and falsehood at issue, the new oaths were a vital religious matter where truth was at stake. Just as anglican clergy like Fell and Allestree and others met separately for worship in Oxford during the Commonwealth, separating themselves from corrupted worship, so the nonjurors must separate from the established church over the immoral oaths and the immoral prayers for the usurpers that went with them. The intrusion of new bishops into dioceses not canonically vacant was also a cause of separation for conscientious nonjurors, Hickes maintained. Sharp's allegation that the anglican liturgy was unaltered was untrue. To pray for usurping sovereigns<sup>1</sup> every day in the state prayers was to pray for the success of an illegal usurpation and therefore to pray for the rightful king's destruction. Hickes refuted Sharp's charge of Schism against the nonjurors. The novelties and changes were all on the side of the compliers and of the state. The Oxford decree of 1683 had pronounced resistance as damnable. Was it now become a duty?<sup>1</sup>

As early as December 1689, Hickes had faced the possibility that deprivation would indeed be the fate of those who refused the oaths. The immoral prayers in the church's liturgy, the new state fast days and special prayers for success in William's wars, occasioned great strain of conscience. The parallel with the civil war and Commonwealth was irresistible. Hickes had written to Arthur Charlett on 11 December 1689,

---

1 G. Hickes, An Apology for the New Separation (1691), pp.3, 4, 7, 8, 10-13.



I profess to you I am as averse to separations as ever, and am resolved never to join with aggressors in any, much less to be one myself; but if others making no conscience of breaking the canonical rules of ecclesiastical union, I shall make no difficulty in separating from them, when in so doing I do not separate from the church.

The dean added that he and his wife 'have been very merry in debating the way of living after the first of February'. They had thought of Yorkshire or Wales as cheap places,

... but at last we are resolved upon London, where I am to have board wages and shoes and bread, and small beer into the bargain, and this conceit has made us very merry for two or three days.<sup>1</sup>

Hickes was obviously influenced in his decision to refuse the oaths by Bishops Thomas of Worcester and Lake of Chichester. He was also at Lambeth several times early in 1691, at the time when Sancroft and Turner of Ely were using ~~himself~~ and Dr. Sherlock to prepare some defence of the nonjurors' non-compliance. As early as 22 August 1689, Turner was urging Sancroft to produce such a defence.

'... it would be very obliging if these two useful friends of ours the Dean of Worcester and the Master of the Temple ... were your guests too ... that we may know what is done in that absolutely necessary affair of preparing our Apology.'<sup>2</sup>

Sancroft appears to have moved slowly. His reserved and timorous nature is attested by all contemporaries, friends and enemies alike. But he had shown considerable courage in himself writing the Seven Bishops' petition to James II and presenting it himself

---

1 Bodl., MS Ballard 12, fol.53.

2 Bodl., MS Tanner 27, fol.74.



and also in attending the meeting of peers at Guildhall on 11 December 1688, after James's flight. After William's arrival in the capital, Turner had again urged Sancroft to put himself at the head of the bishops to give a clear lead at the time of the Convention. On 11 January 1689 the bishop of Ely wrote urging Sancroft to remember

'the design of drawing up propositions of our doctrine against Deposing, Electing or Breaking the Succession. And this scheme we earnestly beg of your grace to form and put into order for us ... I see nothing so likely to unite us and satisfy good men who are now expecting and fixing their hopes as well as their eyes on us (as the Body to make the stand) but such a representation as I propose.<sup>1</sup>

Sancroft made no public declaration against William and Mary, but refused to attend the Convention. Hickes maintained that Sancroft would not wait upon William nor send him any message after he took possession of St. James's Palace, 'because he had a perfect aversion to him upon account of the unnatural invasion of his father's kingdom, as he was wont to call it, and his ill treatment of the king'. When William accepted the crown, Sancroft declared,

... I have walked round about this spectre that has of late appeared among us to observe what kind of thing it was ... I have observed it in all its appearances and motions; before it hath an high forehead of ambition, behind it hath a long train of dissimulation. Its right hand is a right hand of wickedness and his left is full of iniquity, and I will not go unto it ... He told a great Lord and Minister of State that he had rather be persecuted under his lawful sovereign, than have preferment under an usurper.

---

1 Bod., MS Tanner 28, ff.318, 319.

I heard him call the prince upon his acceptance  
of the Crown Oliver the Second.<sup>1</sup>

Hickes further defended Sancroft's refusal to attend the Convention, which he regarded as illegal. The primate had said if he had attended the Convention he would have torn the prince's summons publicly in pieces, and would have declared he only attended to aid king James in his distress. If that had not been the intention of the two houses, he would have warned them of his disagreement and withdrawn.<sup>2</sup> Sancroft's inactivity and failure to make any public pronouncement about his total disagreement with the Revolution was a great neglect, which Burnet was able to use against him to great effect in The Bishop of Sarum's Vindication: or Reflections on a Pamphlet entitled 'Some Discourses upon Dr. Burnet and Dr. Tillotson (1696). Sancroft's silence was held against him in many quarters. Bishop Lloyd of Norwich wrote to the archbishop on 9 May 1691 saying 'Dr. Lowth and Mr. Newton were fiercely declaiming against our Conduct (as they call it) in yielding our possession to Intruders, ... in General it was expected we should stand up to maintain our rights and the church's.'<sup>3</sup> None the less, as a royalist sufferer and exile under Cromwell, Archbishop Sancroft's attitude to the Glorious Revolution was a quiet, dignified but clear dissent. Although he took no public stand, his private attitude was clear enough and his example helped to stiffen the other nonjurors.

---

1 MS Book, The Genuine Remains of the Late Pious and Learned George Hickes, D.D., and Suffragan Bp of Thetford; consisting of Controversial Letters and other Discourses (Hereafter cited as 'G.R.'), 'A Reply to a Pamphlet entitled the Bishop of Sarum's Vindication', pp.53, 54.

2 Ibid., p.54.

3 Bodleian, MS Tanner 26, fol.68.



The nonjuror refusal of the oaths of allegiance to William and Mary could only be expected from the stiffer men who held by the divine right of kings and the strict passive obedience and non-resistance views of the early 1680's, who had opposed Shaftesbury and the exclusion campaign and believed that James II's aberrations must be patiently borne. The refusal to consider the claims of James's infant son and the deliberate setting up of William III as king represented the triumph of views of omniscient parliamentary sovereignty and an end to indefensible divine hereditary right. Sancroft's willingness to suffer persecution under a legitimate king rather than recognise the de facto achievement of the Revolution represented an extreme divine right position, and a consistent following of passive obedience and non-resistance at a time when resistance had openly triumphed. Like Bishops Thomas and Lake, Sancroft had already seen a king dethroned and beheaded in 1649. The parallel was irresistible to men who had lived through the Great Rebellion and the Restoration. Unable to accept the Revolution, regarding it as entirely illegal and its proceedings therefore null and void as to conscience, the only compliance that nonjurors could give was to invoke their passive obedience and to live quietly under the prevailing force. Unable to take oaths which ran counter to their binding allegiance already pledged to James, the nonjurors were excluded from the mainstream of life in church and state, regarded with suspicion by fellow-countrymen as Jacobites. Sir Keith Feiling wrote,

'As ever, it was the bravest and most sincere who had taken the plunge. The bitterest scorn of such men was reserved for the doctrine of conquest, which preached obedience to whatever powers there be ... But the stream of apostasy, thought these idealists,



rose to its height in 1691, when Sherlock took the oaths and with them the Deanery of St. Paul's.<sup>1</sup>

To divine right men who revered equally both church and crown, to the successors of those rigoristic Laudians during the Commonwealth who would have stood with Hammond, or with Cosin and Sancroft the non-swearers and exiles, rather than with Sanderson the moderate who made his terms with the prevailing powers, Sherlock's Case of Allegiance was apostasy of the worst sort. To say that 'non-assistance' rather than non-resistance had been responsible for James's fatal flight and consequent deposition rang painfully true. Passive obedience, in contemporary terms, the refusal of active obedience to the prince's wicked, illegal or sinful commands, had been displayed by many churchmen under James II. Could it perhaps be that non-compliance, refusal to aid the falling monarch in his extreme hour of need had in fact brought in William and seated him on his father-in-law's throne? Englishmen had not resisted William's invasion. Though only a minority had actively promoted it, the majority had not actively dethroned or opened rebelled against James, and yet had more or less cheerfully accepted the Revolution. The nonjuror bishops and clergy, though only four hundred strong, were to be the confessors of the Revolution, as Charles I and Laud had been the martyrs of the Great Rebellion. The primate, five prelates and four hundred priests of conscientious high principles could not be ejected from their stations in the

---

1 A History of the Tory Party, 1640-1714, (1965), pp.300, 301.

church without attracting considerable sympathy, when it was remembered that the Archbishop and Bishops Turner, Ken and White of Peterborough, along with Lake (who like Thomas of Worcester died before the deprivations took effect), had been among the 'Immortal Seven' tried by James II. But it must be allowed that like Sancroft himself, or like Hickes, the nonjurors were among the strict and rigorist school of anglicans of Laudian descent rather than among the moderate school of Sanderson. Even so, as the nonjurors pointed out, Sanderson had not allowed the taking of the Solemn League and Covenant though he had permitted the Engagement.<sup>1</sup> Sir Keith Feiling wrote 'non-jurors and Jacobites did not, it is true, by any manner of means always coincide, but together they formed one stream of legitimist tradition, in which they baptized many of a new generation'. The Toleration Act, the barely staved-off attempts at Comprehensi<sup>on</sup> or reform of the Prayer Book, and the total abolition of Episcopacy in Scotland were seen as dangerous threats to the position of the Church of England and the restoration settlement. The nonjurors' deprivation was another serious blow, following directly on the illegal Revolution. The nonjuror deprivations and the resulting schism, combined with these other consequences of the Revolution, were the genesis of the cry of 'the church in danger' that so convulsed the politics of the reign of Anne. 'In actual fact', writes Feiling, 'the Church as they had known it - supreme, authoritarian, exclusive - was really "in danger", and politics until 1710 are heated by all the passions of a privileged caste,

---

1 R. Sanderson, Works (Oxford, 1844), v. 22; 'The Case of the Engagement'.

which suddenly realizes it is fighting for its life.'<sup>1</sup> The nonjuror bishops and clergy represented those who for the sake of their principles were prepared to lose all, and as such were a standing accusation to those complying tories who had swallowed the Revolution and compromised their principles irrecoverably. In politics the nonjurors' Jacobitism stood as a constant reactionary bogey with which the Whigs could frighten the nation with fears of future civil strife, by branding all tories as potential traitors. The nonjurors' refusal of the new oaths was necessarily a refusal to accept the Glorious Revolution and the new kind of constitution it implied. Sancroft, Hicke and their colleagues in refusing the Revolution and in resisting its consequences were, though they did not at first intend it, taking a stand which would inevitably lead them to question the whole received basis of the Anglican church's establishment.

---

1 K. Feiling, History of the Tory Party, 1640-1714 (1965), pp.302, 303.



## CHAPTER VI

THE CHURCH POINT:-THE DEPRIVATIONS AND THE SCHISM

It is impossible to refute the conclusions of Professor Laski and Dr. Norman Sykes that the fundamental reason for the nonjuror schism was political and not really religious.<sup>1</sup> No matter how quietly the Glorious Revolution had been effected, no matter how conservative its character, a crucial change in political and constitutional theory was involved. The swiftness and complete success of the events of the five months from November 1688 to March 1689 brought about an irreversible change in English politics. But this was not immediately apparent, and to those who had been brought up in the extravagant divine right principles of the age of the restoration, James II's exile was not necessarily permanent and the fictional 'abdication' might yet be reversed. If the post-Civil War constitution and the Commonwealth charges could be bloodlessly and providentially reversed in 1660, why could not the events of 1688 and early 1689? To nonjurors the new government was illegal usurpation and the most it could expect was mere submission to overwhelming force. It could not bind consciences. A primate, bishops and clergy could not in conscience accept the legitimacy of their enforced deprivation by an illegal regime. They could not conscientiously take oaths recognizing that regime, contrary to their faith already pledged to the rightful king. Nor could they pray for the blessing

---

1 H.J. Laski, Political Thought in England from Locke to Bentham (1919), p.66. N. Sykes, Church and State in England in the XVIIIth Century (Cambridge, 1934), Chap.vii, pp.284-290.

of God upon a prince who had dispossessed his father-in-law by force of arms, especially in the fulsome terms of the Prayer Book, state prayers or the collects for the king in the Holy Communion service.<sup>1</sup>

The nonjurors' opposition to state deprivations of bishops and clergy raised vital questions concerning the whole accepted legal nature of the Church of England as an established church. Most conformists and compliers made their own nice distinctions between church and state, arguing that the deprived bishops were still bishops of the church in an ecclesiastical sense. There was no question of denial by the government of their episcopal character, or of the orders they had received and up to now exercised. The nonjurors were deprived only of temporal jurisdiction and the material support of their benefices. They had refused civil oaths which were a condition of exercising their vocation and ministry, and therefore could not claim the benefits of an established church, incorporated within the state by law. In effect, the nonjurors were really asserting a new principle, unknown to the legal constitution of the established church, when they opposed state deprivation. They were in effect calling in question not only the authority of the new regime which had imposed the new oaths and the penalties of suspension and deprivation for refusers, but also the Royal Supremacy and the power of the crown as supreme ordinary. Dr. Edward Stillingfleet, the new bishop of Worcester, maintained that in an established church, the Royal Supremacy

---

1 See Bodl., MS Rawl. D.1234, fol.20a.



... though it does not extend to the administration of Holy Offices or Church Censures, yet it reaches the persons and external jurisdictions of bishops and the other clergy, and the regulating and ordering of the externals of religion: as the making and deposing of bishops, where there is just cause for it, belongs to the Supremacy.<sup>1</sup>

There was a real distinction, in a legally established church, between an ecclesiastical and canonical deprivation for heresy or some other ecclesiastical offence, and a state deprivation for purely political reasons. Stillingfleet continued:

The first concerns the character and ecclesiastical communion; it is the censure of the church which concerns him as a bishop ... Such a bishop is no longer a bishop of the catholic church, and no Christian must communicate with him as a bishop: But a state deprivation does not concern the character; such a man may be a bishop of the Catholic church still, ... but it only concerns the exercise of his episcopal authority in any diocese within the dominions of that state, or enjoying any ecclesiastical benefice in it.<sup>2</sup>

Stillingfleet concluded that as state deprivation did not concern the faith or Christian truth, it could not be a matter of schism and must be accepted by the church of England. To deny this power to the state was not merely to question the authority of a particular monarch or regime, but to deny any civil power such a right. In an established church, a civil or political offence was sufficient reason for the removal of a bishop, especially if he called in question the state's legal authority. To deny the validity of such a deprivation could only lead to the conclusion that the church was independent of the state altogether, and could have bishops who were not the state's subjects. This contradicted

---

1 E. Stillingfleet, A Vindication of their Majesties' Authority to fill the sees of the Deprived Bishops (1691), p.19.

2 E. Stillingfleet, op. cit., pp.17, 18.



the whole legal basis of the English church.<sup>1</sup> Stillingfleet concluded with irresistible logic,

If it be unlawful to succeed a deprived bishop, then he is bishop of the diocese still; and then the law that deprives him is no law, and consequently the king and parliament that made that law, no king and parliament.<sup>2</sup>

The majority of the nonjurors, and Hickes among them, based their stand on the invalidity of lay deprivation by an illegal civil power, and as Stillingfleet realized so clearly, from this point on they were obliged by the logic of their position to move inevitably towards an absolute denial of any secular authority over the church. Dr. Norman Sykes concludes that 'the question of the rectitude of the deprivations turned therefore upon the authority of the king and parliament which had imposed the oath of allegiance'.<sup>3</sup> The 'church point' of schism was therefore the inevitable consequences of the 'state point' of change of government just as it was inevitable that men of the nonjurors' still divine right principles would oppose Dutch William's assumption of the crown. As the great majority of bishops, clergy and laity did in fact accept the Revolution and its ecclesiastical consequences, and as the nonjurors were committed to oppose this acceptance, the schism was also inevitable. Thrust out of Zion into the wilderness so rudely, it was inevitable too that the nonjurors were obliged to justify their non-compliance. This, however, was still in the future. It appeared to many in

---

1 Ibid., pp.20, 17 (N.B. The pagination of the 1691 edition is faulty).

2 Op. cit., quoted in N. Sykes, op. cit., pp.288, 289.

3 N. Sykes, op. cit., p.289.

1690 that the government might perhaps not be obliged to enforce the full rigour of the deprivations. More than fifteen months were to pass after the official date of deprivation in February 1690 before the crisis came.

On 22 April 1691 William III approved royal warrants for the appointment of Dr. John Tillotson as Archbishop of Canterbury and the nomination of six other bishops to replace the deprived nonjurors. Another warrant granted the deanery of Worcester to William Talbot, a kinsman of Charles Talbot, earl of Shrewsbury, a member of one of the leading whig Revolution families. It appears that the nonjuring bishops and other senior clergy had taken legal opinions from sympathetic tory and nonjury lawyers as to their course of action, before the 'intrusions' actually occurred. Roger North, and the former judges Sir Edward Lutwyche and Sir Thomas Jones had all given firm legal opinions that deprivation could not take effect until a definite legal sentence had been pronounced against the nonjuring prelates and clergy. Lutwyche had been Chief Justice of the county-palatine of Chester and a judge of Common Pleas under James II and had concurred in the judgement given in Hales's case in favour of the dispensing power. He had fallen with James II, and now dismissed from the Bench had returned to practice at the Bar. He was a consistent lay nonjuror, and was fined forty shillings at York Assizes in 1693 for having refused the oaths to William and Mary.<sup>1</sup> Sir Thomas Jones had been a King's Bench puisne justice since 1676 and was Chief Justice of Common Pleas in 1683. He pronounced

---

1 E. Foss, Judges of England (1870), p.418. J.A. Hamilton in D.N.B.



the verdict confiscating London's charter for Charles II in the Quo Warranto case against the city. Jones was dismissed by James II in April 1686 for refusing to declare himself in favour of the dispensing power. He had actually been imprisoned briefly with Lord Chief Justice Sir Francis Pemberton in July 1689 for an alleged breach of parliamentary privilege in the case of Jay versus Topham of 1683.<sup>1</sup> Legal opinions from these distinguished tory and royalist lawyers were sought on two distinct questions; firstly, as to whether the non-swearing clergy could legally remain in possession of the temporalities of their places, such as episcopal or deanery houses, rectories and glebe; secondly, as to whether spiritual ministrations by bishops or clergy, declared by a disputable act of parliament to be suspended or deprived, were to be treated as legally invalid and whether such ministrations were punishable in any way.

Sir Thomas Jones's answers to questions put to him by Bishops Turner of Ely and Lloyd of Norwich were most discouraging. To the question: 'Whether it be an offence at Common Law punishable by indictment for a bishop deprived ipso facto by an Act of Parliament to act in spiritual things, as Confirmation, etc.', Jones replied, 'Yes; Because by that law he becomes no legal bishop, and so must answer for those acts.' The nonjuror bishops' second question was:

If, in case an ecclesiastical person happen to be deprived ipso facto by the tenor of a statute or act of a void parliament, there will be any course at law, by special pleading or otherwise, to bring the nullity of the act judicially in

---

1 E. Foss, op. cit., p.378. J.A. Hamilton in D.N.B.



in question, whereby the said incumbent may defend his possession of the benefice?

Jones's brief reply denied the possibility of any defence of such possession of temporalities by a nonjuror cleric, adding

... the validity of the act may come in question either in pleading or in evidence, as the action shall be brought; but it is scarce to be supposed that any counsel shall adventure it either one way or the other.

Turner and Lloyd also asked

If a plea setting forth the defective manner of summoning a meeting of such a Parlt., as may be advised for the purpose aforesaid, be lawful? Or whether it might not be construed an offence or contempt punishable at the Common Law by indictment or information?

Jones replied, 'As the law stands, it is probably it will be judged a contempt', and further stated his opinion that there was no difference at all between the case of the deprived archbishop and metropolitan and his suffragans, and that of the lower clergy.<sup>1</sup>

Bishop Lloyd of Norwich wrote to Sancroft on 18 May 1691 that he had been with Sir Edward Lutwyche at his chambers to ask him about 'the vexata quaestio', but Lutwyche had given the same opinion as Roger North to the question whether the bishops might continue in possession until evicted by legal process. Lutwyche had said they might dispute possession but must in the end 'expect to be outed' with costs against them, and run the risk of being called into Westminster Hall and obliged 'to answer hard questions and that with all rigour'. Sir Edward Lutwyche was evasive and did not directly answer the question whether he would appear for the bishops as counsel, and asked why they would

---

1 Bodl., MS Rawlinson c.735, fol.206, 206a.

put themselves to fruitless trouble, 'for, said he, if a happy turn should come, all their proceedings against you will be out of doors'. Lloyd also told Sancroft that he had seen Dr. William Beach, nonjuring rector of Orcheston St. George in the diocese of Salisbury, who had been indicted on a criminal charge of 'using seditious words' at Salisbury by the local justices there. The charge had been dropped on a legal technicality because the information had not contained the time or place of the alleged remarks. Beach was charged with saying, 'It was the same power that put our Saviour on the pinnacle of the Temple that put William and Mary on the throne'.<sup>1</sup> Bishop Lloyd added that Beach's parish had now been occupied by his complying successor, during his period in London. Gilbert Burnet, now bishop of Salisbury, later defended himself against George Hickes's charge in Some Discourses upon Dr. Burnet and Dr. Tillotson (1695) that he had pursued Beach like an inquisitor in the matter of the oaths of allegiance. Burnet maintained that he had spoken to Beach to warn him that the patron of his living had presented another priest to the benefice. Hickes had printed a biassed version of the interview to make it appear that Burnet was putting pressure on Beach, whereas the bishop maintained he had tried to get an answer from him as to whether he had taken or would take the oaths to William and Mary, as Burnet as diocesan was obliged to institute the new appointee under a possible threat of a Quare Impedit, if he did not admit the new rector within a few weeks. Burnet himself had written to Nottingham, the secretary

---

1 Bodl., MS Tanner 26, fol.59.



of state, and to Queen Mary herself to intercede for Beach to get the charge of sedition dropped.<sup>1</sup>

Roger North, himself a nonjuror, high steward of the Archbishop's courts and a close friend of Bishop Lloyd, produced for the nonjuror bishops an opinion that any attempt to continue to perform their spiritual functions after a legal deprivation would bring down upon them the penalties of Praemunire, which had been imposed by Henry VIII's legislation upon bishops performing any functions if they had not taken the required oaths of allegiance and supremacy. North pointed out that the Praemunire statutes of Edward III and Richard II imposed the penalty of forfeiture of lands, goods and liberty at the king's pleasure, and that not only the Henrician appointment of bishops act but also the statutes I Elizabeth cap. 1, V Elizabeth cap. 1, and III James I cap. 4 all imposed the pains of Praemunire for a refusal of the necessary oaths of allegiance. Elizabeth's Supremacy act clearly disabled any clerical refusers of such oaths from holding any ecclesiastical or secular position. Lord Chief Justice Coke had insisted that offenses punishable with a praemunire were not only to do with forbidding appeals to Rome, but were definitely those concerning the refusal of the oaths of allegiance and supremacy. The same penalty was also prescribed for deans and chapters refusing to elect the crown's nominee to a bishopric or bishops refusing to consecrate the crown's nominees to the episcopate. To make the point of criminal

---

1 G. Burnet, The Bishop of Sarum's Vindication; Reflections upon a pamphlet entitled 'Some Discourses upon Dr. Burnet and Dr. Tillotson (1696).



penalties even clearer for Sancroft and the other nonjuring bishops, North added gloomily, 'a peer of the realm shall be tried in praemunire by a common jury, not by his peers: for that privilege is only allowed in treason, felony and their misprision'. Praemunire was 'the highest Misdemeanour'.<sup>1</sup>

There could thus be no doubt in the minds of the nonjuror primate and bishops that there was no reasonable or possible defence in English law to allow them to dispute possession of their sees against the new 'Revolution intruders'. Roger North was able to offer very little to mitigate the severity of the conclusions of Jones and Lutwyche and his own memorandum on praemunire. North was however able to confirm what Bishop Lloyd and Sancroft (as learned ecclesiastics) must have known, that in old roman law and the civil and canon laws descended from it, and that in the invariable practice and opinion of the anglican ecclesiastical courts and church-lawyers since the reformation, ipso facto deprivations by canon or civil law required 'a Constat of the fact and a sententia lata by proper judges before it have its effect'.<sup>2</sup> It would therefore be necessary to have the deprivations confirmed and acted upon by some case and verdict given against those who continued to hold their sees or parishes against the new Revolution laws. Bishop Lloyd had known this as early as 1689 when he had been written to by nine priests of the diocese of Norwich begging his advice when the legal date of

---

1 B.M., Add. MSS 40, 160, ff.17, 18-20, 24, 25. (Bishop W. Lloyd of Norwich, Commonplace Book).

2 St. John's College, Cambridge, MS Book 414 (Bp. W. Lloyd's commonplace book), fol.44.

deprivation was approaching in February 1690. Stephen Newson, rector of Hawkdon, and eight others asked their bishop, 'we are passionately desirous to be instructed how we shall leave our respective cures, whether voluntarily, or stay till particular intruders thrust us out by pretext of Law; as also which way to behave ourselves to preserve (if possible) the old Church of England'. Lloyd replied on 6 January 1689/90;

It's the opinion of eminent lawyers that the decree of Deprivation doth not inure till a judicial sentence passeth further upon us: and therefore, if this opinion be good law, we may keep our legal possessions till we be further sentenced and thrust out.<sup>1</sup>

There could be little doubt that the nonjurors knew that the government did not wish to make martyrs of them and did not wish to proceed to extremities. It is clear, however, that the nonjurors wished to be prepared for all eventualities, even to the suspended primate and bishops trying to advise deans and chapters not to elect the crown's nominees to bishoprics still occupied by a suspended nonjuror or hoping to urge those bishops who had taken the oaths not to consecrate. In the case of a chapter refusing election, the crown could always nominate by letters patent without any election. Roger North opined:

The Dean not summoning a chapter is irregular and, it may be, deprivable (though perhaps not liable to a praemunire) ... But I fear this subterfuge will not serve, for the act is most strictly penned ... These will be shreds to hang upon in such a case. But it is better to avoid the occasion of

---

1 F. Lee, Memoirs of the Life of John Kettlewell, Appendix, No.ii and No.iii, Stephen Newson and others to Bishop W. Lloyd, no date, and Lloyd to Newson, etc., 6 January 1689/90.



such perilous questions by an election according to the law. For no subterfuges are justifiable; and the prosecutions of the government are too heavy in every case for a single person to defend, unless the right be exceeding plain upon his side.<sup>1</sup>

For Archbishop Sancroft an important test had come in March 1689, when Gilbert Burnet (who had come to England as the Prince of Orange's chaplain with the Dutch fleet and landed with William's army at Torbay) was nominated by William's own desire to the see of Salisbury, vacant by the death of Bishop Seth Ward on 6 January 1689. This action immediately created the crisis which the nonjurors had foreseen. However Burnet might be personally objectionable for his known opinions and actions, it could not be alleged against him that he was intruding into a see not canonically vacant, although he was nominated by a usurper, not the legitimate king. Nominated on 9 March 1688.89, Burnet was canonically elected by the chapter at Salisbury. Sancroft's part as metropolitan was to confirm the election and also consecrate the new bishop, and this the archbishop at first refused to do. As a witness in his own cause, Burnet wrote:

'Sancroft would not see me; and he refused to consecrate me; so, by law, when the mandate was brought to him, upon not obeying it he must have been sued in a premunire; and for some days he seemed determined to venture that; but as the danger came near, he prevented it by granting a commission to all the bishops of his province, or to any three of them, in conjunction with the bishop of London to exercise his metropolitical authority during pleasure. Thus he did authorise others to consecrate me, while yet he seemed to think it an unlawful act.'<sup>2</sup>

---

1 B.M. Add. MSS 40, 160, ff.24, 25

2 G. Burnet, History of His Own Time (1875), p.529.



In The Bishop of Sarum's Vindication (1696), in answer to Hicke's attack on him, Burnet (always a careless and inexact scholar, especially in the heat of controversy) stated that 'some bishops' and Nottingham himself went to Sancroft to try to persuade him to act, but he had refused. Once the praemunire threatened, Burnet continued, Sancroft had issued two commissions, one to the Archbishop of York and all the bishops of England, the other to the Bishop of London and the other Canterbury provincial bishops, to execute his functions as metropolitan. The vicar general of the province of Canterbury, Sancroft's senior legal officer, was at Burnet's consecration 'and had the fees too'. In his Vindication and the History of his Own Time, Burnet alleges that Sancroft soon afterwards was complained to by the stricter nonjurors for his actions. The archbishop therefore sent Mr. Wharton, his chaplain, to seize the commission from Mr. Tillet the provincial registrar, 'and got it into his own hands'. After Sancroft's death, Burnet threatened to sue Tillet in chancery before the commission was restored to the provincial registry, so authenticating his consecration.<sup>1</sup> Whether Sancroft did issue two commissions, one to the archbishop of York and one to Compton of London is not clear, but as Dean of the province of Canterbury, Compton assisted by Bishops Peter Mews of Winchester, Lloyd of St. Asaph and Beaw of Llandaff did consecrate Burnet at Fulham on 31 March 1689, these four being the bishops explicitly named in Sancroft's commission to Bishop Compton.<sup>2</sup> Whether Burnet's

---

1 G. Burnet, op. cit., p.529, and The Bishop of Sarum's Vindication (1696), pp.22-25.

2 Nathaniel Marshall, A Defence of our Constitution in Church and State (1717), Appendix I, pp.i-iii, Sancroft's Commission to Compton and others, dated 15 March 1688/89.

allegation that Sancroft was criticized by 'the party' for issuing his commission did cause the primate to take back his authorization is not clear, but it is also the case that the nonjuror bishops appear to have 'left authority with their chancellors' to act for them in their dioceses in the matter of institutions to benefices. Burnet says that he was spoken to 'when the oaths were in debate' to see if the nonjuror bishops might be allowed to continue in office if their chancellors were so empowered to institute and tender the oaths to clergy in their diocesans' names, and gave his opinion that chancellors might so act without a further authorisation from their diocesans. But all seventeenth century bishops normally empowered their chancellors also to act as vicars general and deputy by delegation in their absence. The nonjuror bishops' spending so much time in London and at Lambeth during 1689, as well as after their suspensions, necessarily meant they were out of their dioceses and this led to their chancellors granting institution for them. For Burnet to say the chancellors needed no further authority simply bears out the normal seventeenth century custom.<sup>1</sup>

D'Oyly in his life of Sancroft admits that the primate

'strictly speaking ... cannot be absolved from the charge (of inconsistency) since one who acts by means of others, must be considered as acting for himself; and it is vain to say that the commission did not in direct terms acknowledge the prince on the throne, when the very purpose for which it was granted, that of giving effect to his mandate, unavoidably implied a direct acknowledgement of his authority. At the same time, it is always found that a wide difference is made as to the feelings of the person concerned, whether he personally and directly performs an act, or whether, remaining aloof himself, he merely acquiesces in its being performed by others.'<sup>2</sup>

---

1 G. Burnet, The Bishop of Sarum's Vindication (1696), pp.26, 27.

2 G. D'Oyly, Life of Sancroft (1840), pp.261, 262.



Sancroft's biographer thus admits the charge of inconsistency against the primate, and by consequence the validity of Burnet's charge against Sancroft over his issuing the authority for Burnet's consecration, and also the justice of <sup>the</sup> same charge against all the nonjuror prelates in the matter of their granting institutions by their chancellors. Hickes in his defence of Sancroft's and the other nonjuror bishops' conduct in this matter could only point out that a bishop's empowering his chancellor to act in his name did not mean he abdicated his own authority and could always withdraw the authority at will, as Sancroft had sought to do.<sup>1</sup> Burnet's original charge in his funeral sermon on Tillotson must therefore stand as a serious indictment of the nonjuror bishops.

If they then did judge it so unlawful as they would now represent it, they ought to have thundered forth both with their sermons and their censures, especially in the first fermentation, when a vigorous opposition might have had considerable effects; and would have made them look like Confessors indeed, to which they afterwards pretended. They did it not; but left their authority entirely with their chancellors, who acting in their name and by their Commission were the same persons in law with themselves. Oaths were tendered to others and taken by them in their name, which they thought unlawful, and yet would scarce say so much even in confidence to any of their clergy that asked their opinions about it; both concealing their principles and withdrawing from the public worship of the church, and yet not daring to act or speak against it. They hoped at this rate to have held their sees and enjoyed their revenues ...<sup>2</sup>

Hickes's only answer to Burnet's charge of the inconsistency of acting by deputy was to relate the unedifying story of Burnet's

---

1 G. Hickes, Some Discourses upon Dr. Burnet and Dr. Tillotson (1695), pp.83, 84.

2 G. Burnet, A Sermon preached at the Funeral of the Most Revd. Father in God John, Lord Archbishop of Canterbury (1694), pp.21, 22.



refusal first to ordain and then to institute one Mr. Lambert, a former soldier who had fought at the Boyne. Leaving the army, Lambert had returned to Oxford to study for holy orders and finally obtained a sede vacante faculty from the dean and chapter of Canterbury, apparently for the orders of deacon and priest on the same day, on sight of which Burnet had refused to ordain him. Going up to London, and having been examined for orders for three hours by Drs. Beveridge, Alston and Isham at Fulham Palace, Lambert had finally been canonically ordained by the bishop of London. He then presented himself again, armed with another dispensation, to Burnet at Salisbury for institution to his family living and a second benefice in plurality. Burnet had again refused, causing Lambert to appeal over his head to Archbishop Tillotson, who examined him and said he himself would institute him if Burnet persisted in refusing. At this Burnet had capitulated and, with a very ill grace, permitted his own chancellor to grant Lambert his institution. If Burnet could so allow his chancellor to institute a man whom he had said was unworthy of holy orders and had got into the priesthood by a scandalous trick, and had not had the courage to refuse Lambert institution as he had also refused him ordination, then Burnet himself was condemned by his own censure of the nonjuror bishops' action. Hickes suggested that Burnet had sought to refuse Lambert because he disliked his connexions with an opposition noble family and believed he had got his dispensations for both deacon's and priest's orders and the plurality through the political influence of his high tory friends.<sup>1</sup> Although Hickes had made

---

1 G. Hickes, G.R., pp.15-17, from A Reply to the Bp of Sarum's Vindication. Compare Bodl., MS Rawl. d.841, ff.7-10.

a slashing use of this story against Burnet in his personal controversy with him, to accuse his opponent of a tu quoque was only to involve Burnet in the same condemnation, not to answer the bishop of Sarum's original charge. The nonjuror bishops' inconsistency from March 1689 onwards, therefore, does at least partly explain itself by the dangers of praemunire or Quare Impedit (which could also have threatened Burnet in the Lambert case), but as it involved the chancellors tendering oaths in the bishops' names - the bishops believing those oaths to be actually sinful and a recognition of an illegal government - the nonjurors themselves must bear some guilt of acting against their own declared principles, while retiring into a private non-compliance. Bishops, by their public character and station in the church, have a great responsibility to guard the flock from error and preserve the true faith.

R.S. Bosher, in his discussion of the controversy among the anglican clergy of the early 1650's over continuing or laying aside the use of the prayerbook liturgy when the Directory was being enforced by Cromwell, says 'Episcopi anglicani semper pavid'. In 1653 Bishop Matthew Wren, imprisoned in the Tower, could not pluck up courage to grant the clergy a dispensation from the strictly required conformity to the prayerbook rites, though he acknowledged the need of it. Gilbert Sheldon had pointed out to Wren that the episcopate was now 'in the state and condition of primitive bishops', and that in the present exigency clergy were 'necessarily freed from the obligation of such former laws as violence and rebellion have made utterly impractical'.<sup>1</sup> So

---

1 R.S. Bosher, The Making of the Restoration Settlement (1957), pp.19, 21, quoting P. Barwick, The Life of John Barwick (1724), p.541, ff.



episcopal leadership failed the harrassed anglican clergy during the Commonwealth and Protectorate years over the use of the liturgy. The bishops also failed the clergy of church of England over the matter of supplementary episcopal consecrations to replace the declining number of pre-civil war prelates. Lord Chancellor Hyde and Henry Hammond had been both exasperated and very apprehensive over the elderly Laudian bishops' failure to act in the matter of secret episcopal consecrations in 1659.<sup>1</sup> Boshier points out that Sheldon, Hammond and other prominent anglican clergy of the 1650's were hoping for real practical episcopal leadership in the crisis over the continuing of episcopal successsion, and the use of the liturgy, but failed to get it. Anglicanism in the Cromwellian years of persecution had no effective episcopal leadership, and only that of men like Gilbert Sheldon, Hammond and Sanderson, all presbyters who were thrust into positions of influence by circumstances and episcopal inaction, saved the church and preserved it till the Restoration.

If the nonjuror primate and bishops seem to present a picture of inaction and quiet passivity up until 1691, it is perhaps partly possible to explain their attitude by fear of praemunire, but also because no direct attempt had so far been made by the government to challenge their continued occupancy of their sees. Assured as they were, that a definitive judgement must be given against them, they continued in quiet but defiant occupation of their sees. Episcopal consecrations also took place in 1689 and 1690, in addition to that of Burnet, which were never challenged by the nonjurors, in spite of their lack of primatial confirmation

---

1 R.S. Boshier, op. cit., 89 ff, 95, 96 ff.



of the election or primatial consent to consecration, owing to Sancroft's suspension. Dr. Humphries was consecrated to the see of Bangor by Compton on 30 June 1689, Ironside to Bristol, Simon Patrick to Chichester and Stillingfleet to Worcester on 13 October 1689, Stratford to Chester on 15 September 1689, and Dr. John Hough, president of Magdalen and prebendary of Worcester, to Oxford on 11 May 1690. All these episcopal consecrations, the prelates being nominated by William III, took place after canonical election by the chapters, though none except Humphries<sup>1</sup> were confirmed by Sancroft owing to his suspension. Humphries' confirmation and consecration took place by virtue of the same commission from Sancroft to Compton which also confirmed and consecrated Burnet to Salisbury. The September and October 1689 consecrations all took place by royal mandates directed to Compton as dean of the province of Canterbury.<sup>1</sup> George Hickes himself wrote to Dr. Edward Stillingfleet when it seemed likely he would succeed to Worcester after Thomas's death.

The discourses I have formerly had with you about the bishopric of Worcester, and particularly at the last vacancy, doth oblige me in compliance with my own wishes to give you notice of this. Our good bishop died yesterday about 3 o'clock in the afternoon, and my own and my brethrens' hopes and wishes are that we may have your for his successor. I do not question but you may succeed if you please ...

(Hickes now solicited the post of episcopal secretary for a Mr. Price of Worcester, begging Stillingfleet to recommend Price to whoever succeeded to the see)

---

1 J. Le Neve, Fasti Ecclesiae Anglicanae (Oxford, 1854), ed. T. Duffus Hardy, 3 vols., passim; and J.W. Lea, The Succession of Spiritual Jurisdiction in every see of the Catholic Church in England at the Epochs of the Reformation and Revolution (Lond., n.d.).

... if you think fit to decline it yourself, which I hope you will not do.<sup>1</sup>

It is clear that none of these 1689 and 1690 episcopal appointments were in any way questioned by the nonjurors. Indeed, Hickes obviously approved of Stillingfleet. All the sees into which these bishops were nominated, elected, consecrated and enthroned were, however, vacant by death or the translation of their former occupant. The men appointed were unexceptionable, except in the case of Burnet's appointment to Sarum - and the objections there were largely personal and political, not serious theological or canonical objections. The nonjuror bishops therefore apparently acquiesced in these appointments. The 1691 appointments of Tillotson to Canterbury, with Kidder to Bath and Wells, Fowler to Gloucester, Moore to Norwich, Cumberland to Peterborough and Simon Patrick to Ely (translated from Chichester), were a very different matter. Here the new appointments were made directly to the sees still occupied by nonjuror prelates themselves in defiance of their deprivation. Here was a direct challenge. Dr. John Tillotson, knowing he was destined for the primacy, called on Sancroft at Lambeth to endeavour to see him, and though he sent in his name several times by a servant and waited for some time, Sancroft would not see him.<sup>2</sup>

The first and most forthright nonjuror protest against the new appointments was not made by a bishop, but by George Hickes. Reading of William Talbot's appointment to succeed him in the

---

1 Hickes to Stillingfleet, 26 June 1689; in unfoliated volume of manuscripts, 'Letters to Bishop Stillingfleet', in possession of the Stillingfleet family at Barnstaple, Devon. I am indebted to Dr. R.A. Beddard for this.

2 G. D'Oyly, Life of Sancroft (1840), p.274, quoting Wharton MSS, Lambeth Palace Library.



Gazette along with the other appointments, Hickes decided to act. He had taken his own legal opinions from Roger North, along with his advice on a formal written protest against the 'intrusion' of Talbot.<sup>1</sup> Not having entered the cathedral since his suspension in August 1689, Hickes on 2 May 1691 signed a forthright protest or claim of right asserting his own claim to the deanery, stating that he was conscious of no fault or crime, that he refused to relinquish his rights, and that he required the prebendaries, minor canons, chapter clerk and all members of the cathedral foundation to preserve his rights. The protest was witnessed by Dr. Ralph Taylor, canon in residence, Henry Panting, the quondam minor canon, and John Cheatle, the notary who drew up the text. Hickes fixed the document on the choir screen of the cathedral at the entrance to the chancel. North advised Hickes that he could not be guilty of praemunire in this case, and also asserted that he could keep possession of the deanery house against any intruder.<sup>2</sup> The protest was fixed up on the chancel gates before morning prayer and attracted a considerable stir. It was removed during evensong by an officer and four soldiers. Mr. Bromley, the whig member of parliament for Worcester, sent the document to London to be laid before the secretary of state, Lord Nottingham. Hickes, fearing arrest, fled to London in disguise, leaving his wife to keep possession of the deanery. The Worcester

---

1 Bodl., MS Eng. Hist. b.2, fol.110. Undated letter from London, unsigned, to Dr. Ralph Taylor, but obviously intended for Hickes. For Hickes's protest, see MS Eng. Hist. b.2, fol.107, and MS Rawl. D. ff.1, 2, 3, 4.

2 Ibid.



whigs procured a warrant for the dean's arrest on a charge of treason, and shortly Privy Council messengers came down from London to secure Hickes on a charge of seditious high misdemeanour.<sup>1</sup> The earl of Nottingham called the protest 'the dean's manifesto against the government', and engaged William Ritherdon, the dismissed parish clerk from All Hallows', Barking, to guide the messengers to arrest the dean. The deanery was surrounded by soldiers at four o'clock in the morning a few days later. Despite Mrs. Hickes's opposition the house was searched, 'with great rudeness, some threatening and other reviling and ridiculing the dean'. The intended victim having flown, the soldiers withdrew but not without confiscating the dean's coach and saddle horses, which were 'much battered and harrassed with drawing heavy artillery'.<sup>2</sup> This last indignity was soon reversed by the privy council, who ordered Sir William Clarke, the local commander (who had been married by Hickes and often entertained at the deanery), to restore the horses.<sup>3</sup>

The dean had absconded, but the nonjuror prelates in London knew his whereabouts. Lloyd of Norwich reported to Sancroft on 13 May 1691 that he had been with Hickes to the Temple to see Roger North and Sir Edward Lutwyche. Now that a warrant was issued, the lawyers could only advise concealment, and so Hickes 'like the

---

1 Bodl., MS Eng. Misc. e.4, ff.26, 27.

2 Ibid., ff.26-28.

3 Historical MSS Commission, Finch MSS, iii, 395.

tortoise in the winter time' remained 'earthed for some days'.

If Hicke had been discovered openly in London, said Lloyd,

'if the powers now malignantly fomented should find him walking abroad ... they would certainly take him up and be ready with an information against him, and so oblige him in 2 days to plead to the information. Ergo, it seemed better to avoid the blow by keeping out of the way.

On 26 May Bishop Lloyd told Sancroft that Nottingham had wished to charge Hicke with high treason and this had been discussed in privy council.<sup>1</sup> Lloyd added the story of the attempt to seize Hicke at Worcester in a letter on 30 May, and went on

Mr. Dean here writ a very submissive letter to the Rt. Rev. Ed(ward) St(illingfleet), Bp of Wor(cester), and humbly prays his help and assistance. The answer was that he should write such a letter as might be showed to the Q(ueen) or the earl of Nottingham; which was forthwith done, and therein the dean earnestly prays his favour to intercede for him and promises to live quietly and peaceably and to follow his studies, ... Now these same mortifying applications are the effect of that singular method and brisk attack lately made by Mr. Dean.<sup>2</sup>

Lloyd shows here his disapproval of Hicke's frontal attack on the government's new ecclesiastical appointments. He also noted strong feelings among some London nonjuror clergy at the lack of clear stand from their bishops. 'Dr. Lowth and Mr. Newton were fiercely declaiming our conduct ... in yielding our possession to intruders ... in general it was expected we should stand up to maintain our rights and the church's'. The same letter also noted Bishop Thomas Ken's strong verbal protest at Wells.<sup>3</sup> Bishop Ken's protest speech was made in his own cathedral. Another strong verbal protest had been made by Dennis Granville,

---

1 Bodl., MS Tanner 26, ff.12 and 16; Lloyd to Sancroft, 13 and 26 May 1691.

2 Ibid., fol.57, same to same, 30 May 1691.

3 Ibid., fol.68, 9 May 1691, same to same.



dean of Durham, who preached a violent sermon against the Revolution in his cathedral and then fled to France. Bishop Lloyd told Sancroft on 18 May 1691 that Dr. Beach of Orcheston St. George was now freed from the charges against him, but that Stillingfleet's intercession for Hickes had completely failed. 'Mr. D(ean) of W(orcester) begins to appear again and hopes the storm will blow over him. I heartily wish it may, sed timeo Danaos, for curiously they are not so generous ... the Grantees at court are extremely piqued'.<sup>1</sup> Neither the new bishop of Worcester's interest and intercession, nor the influence of Sir Edward Seymour, Speaker of the house of Commons, was sufficient to induce Nottingham to drop the prosecution against Hickes.<sup>2</sup> The dean attempted to draw up some conditions in mitigation of his protest, stating as precedents for his claim of right Dr. John Hough's protest against James II's ecclesiastical Commission at Magdalen college and even Archbishop Cranmer's protest against Cardinal Pole's legatine power, though restored by parliament. Hickes also declared that he would have made his protest (presumably verbally) at a chapter, if there had been enough members present to call one. Sir Edward Seymour took Hickes's attempted mitigating conditions to Nottingham, but again the secretary of state was unmoved.<sup>3</sup> In the summer of 1691, however, there was little chance of mercy for Hickes. After the discovery of lord Preston's jacobite conspiracy in December 1690 including letters from Bishop Francis Turner of Ely which appeared to

---

1 Ibid., fol.59.

2 Bodl., MS Eng. Hist. b.2, fol.107.

3 Ibid., ff.107, 108.



implicate Sancroft and other nonjuror prelates, there could be no further hopes of clemency or leniency.<sup>1</sup> Already a fugitive from justice, George Hickes was formally outlawed when he failed to appear at the August assizes at Worcester to answer the charges against him.<sup>2</sup>

Hickes's treatment at the hands of the government was only a foretaste of what was to come when Archbishop Sancroft refused in June to give possession of Lambeth palace to Tillotson after the new archbishop was consecrated on 31 May 1691. An order from Queen Mary commanded him to quit the palace, it being regarded as crown property, the temporalities of the see of Canterbury being sequestered by the crown after the deprivation. This order arrived on 20 May. The archbishop refused to leave, and a writ of trespass and intrusion was brought against him before the Exchequer court on 12 June. His attorney, Sir Francis Pemberton, appeared for him, but entered no plea. Judgement was given against Sancroft on 23 June and he left Lambeth palace that evening for a house in the Temple, and finally left London for Fresingfield in Suffolk (his native village) on 3 August.<sup>3</sup> The verdict of the barons of the Exchequer made it quite clear what would follow if other nonjurors attempted to dispute possession of their sees at law. Sir Francis Pemberton, the former Lord Chief Justice dismissed by Charles II in 1683, had sought an imparlance of the court, an extension of time to put in his response. It was the usual custom of the law in the sixteenth

---

1 T. Lathbury, A History of the Nonjurors (1845), pp.78-80; and J.H. Overton, The 'Nonjurors' (1902), pp.50-54.

2 N. Luttrell, A Brief Historical Relation of State Affairs (1857), ii, 275.

3 G. D'Oyly, Life of Sancroft (1840), pp.276-279.

and seventeenth centuries for a defendant to be granted his imparlance once in such a case, especially over a contested right to property and one where the defendant was in actual possession.<sup>1</sup> In Sancroft's case, however, the imparlance was refused and the judges ruled that Pemberton must join issue and plead to the charge or face judgement by default. This government inspired move obviously compelled Pemberton either to put in a plea impugning the law by which Sancroft was deprived or the authority of the parliament that made it. The crown was obviously unwilling that any imparlance or period of further negotiation should be granted, and in challenging Pemberton's delaying tactics brought about the clear judicial ruling that gave effect to the ipso facto deprivations and upheld them as valid and effective in law. This was therefore, in nonjuror eyes, after a long delay, finally to evict the true and canonical bishops, who were still uncondemned by ecclesiastical law and unexceptionable as to doctrine and performance of their church duties. The state had now caused new bishops to be irregularly consecrated to sees not canonically vacant, and had removed the existing bishops unjustly and irregularly. To be turned out on a writ of trespass and intrusion must have rankled bitterly with Sancroft and his brethren, who considered Tillotson, Moore, Kidder, Fowler and Cumberland as the real intruders. The charge of seditious high misdemeanour against Hickes also showed how the government would treat any opposition. Bishop Lloyd of Norwich also was in some personal legal difficulty. He wrote to Sancroft on 5 June 1691,

---

1 Heneage Finch, Law (1636), insisted that one imparlance was always to be granted. So did Blackstone, Commentaries (1768), III, xx, 299.



.... I am quasi a prisoner here.. I was summoned to appear at Mile End last Monday before some of the assize justices, or rather Inquisitors General of Middlesex. But because I appeared not, they threaten to run me into gaol, and in order thereto have had several meetings, where one of them declared that he had orders to pursue me with all application, ... but for all their Huffs, I will fix my heart in God and despise their fierce wrath.<sup>1</sup>

Lloyd had also written to Sancroft on 29 April 1691 saying that he had received a letter from the Reverend Mr. Newcombe and others in his diocese asking what they should do when the cathedral chapter at Norwich was formally summoned to elect his 'intruded' successor, Dr. John Moore. Lloyd stated that either to absent themselves or to vote against the crown nominee would involve the prebendaries in a praemunire. His reply to the enquiry from Newcome is not extant nor does he say to Sancroft what advice he gave the enquirers, but following on the nonjuror bishops' own example, the threat of praemunire was probably enough to force the bishop reluctantly to allow members of his former chapter to proceed to elect.<sup>2</sup> Lloyd also on 30 May 1691 informed Sancroft that Bishop Robert Frampton of Gloucester had 'made his peace' with the government and that Dr. Edward Fowler, the new 'intruder' bishop-elect was giving out that he had procured Nottingham's consent to Frampton retaining his vicarage of Standish, Gloucestershire, worth £200 per annum which is better than the third of the bishoprick'. Lloyd also reported a correspondence between Frampton, Nottingham, Fowler, and Bishop Compton of London. Frampton, though still refusing

---

1 Bodl., MS Tanner 26, fol.56.

2 Bodl., MS Tanner 26, fol.84.



the oaths and retaining his personal integrity as a nonjuror, had been permitted to retain his small parish, formerly held in plurality with the see, and to retire into private life, thus deserting the cause which the more active and strict nonjurors still upheld.<sup>1</sup>

It seems clear that the government of William III had lost patience with the nonjuror bishops after its long forbearance and was determined to insist on its legal rights by consecrating and installing the new bishops and other dignitaries in the summer of 1691. To strict royalist high churchmen who believed in the double divine right of church and king, the events of 1688-91 were a severe trial. Those who had been so staunchly for the crown, the restoration settlement in church and state and the re-enacting of the old legal constitution of the church of England as it had come down from Henry VIII and Queen Elizabeth, were now faced with the hard reality which had faced the English bishops and clergy at the time of the Submission of the Clergy, after King Henry had charged them all with admitting a foreign usurped jurisdiction. In 1531 and 1532 the English clergy had chosen the king, paid handsomely for their pardon, and given up their allegiance to the pope. In consequence they had accepted the shackles of Henrician legislation which enforced severe limitations upon the church's freedom and bound it to the crown far more tightly than ever it had been to the distant Court of Rome. As long as the Crown followed policies of which the Church approved, the situation was

---

1 Ibid., fol.57. In fact Frampton's income from Standish was small, and he was obliged to keep resident curates to officiate. Frampton had barely £40 a year. Vide T.S. Evans, The Life of Robert Frampton (1876), p.189.

tolerable. Under Charles I and Laud the system had worked perfectly, until the rude shocks of Civil War overthrew it. At the Restoration, the Church appeared to be again all powerful and privileged, but the declarations of Indulgence of 1672 and 1688 had shown clearly how the crown could use its powers, and the church was legally powerless to resist. Now the Revolution government appeared similarly to be using its power in ecclesiastical matters to intervene in spirituals. To men of the principles of Sancroft or George Hickes, this was an abuse of the powers of the crown, and it seemed that the usurping government was, through its nominees, establishing a stranglehold over the church. To Gilbert Burnet, however, it seemed that the nonjurors had, by their inaction, in fact let the church go by default and left the government no alternative.

'Thus did they (the nonjuror bishops) abandon the government of the church ... And therefore the same authority made their sees void that had displaced the nonconformists in '61 and the popish bishops in the beginnings of Queen Elizabeth's reign.'<sup>1</sup>

This conclusion was also drawn by a great majority of the nation.

To George Hickes, now outlawed, the consequences of the deprivations were hard enough. His wife remained in possession of the deanery at Worcester until July 1691, despite the visit from the soldiers seeking to arrest the dean, and she refused admittance to William Talbot, the new dean, when he came to be installed on 21 June 1691. Talbot soon noticed that several members of the Chapter were still drawing stipends and performing their spiritual duties though they had not taken the oaths.

---

1 G. Burnet, A Sermon Preached at the Funeral of the Most Revd. Father in God John, Lord Archbishop of Canterbury (1694), p.22.



Talbot's first sermon at Worcester was on the text Habakkuk 1:13:

Thou art of purer eyes than to behold evil and  
canst not look on iniquity. Wherefore lookest  
thou upon them that deal treacherously, and  
holdest thy tongue when the wicked devoureth  
the man that is more righteous than he?

William Hopkins reported gleefully to Arthur Charlett that this text was seized upon by Hickes's partisans and applied them to his supplanter. Talbot had been received into the city by the mayor, local gentry and a troop of horse, and had shortly noted at the cathedral that only one rather than the statutory three prebendaries were in residence. At his first Chapter on 20 June the new dean delivered a public rebuke to Jephcot and Hopkins himself.<sup>1</sup> Dr. Thomas Smith, fellow of Magdalen college, Oxford, wrote to Hickes to say that arrangements appeared to have been made for the removal of the dean's belongings. Hickes's books had been put in crates and were stowed in Hopkins's residence and the other household stuff had all been sent to Smith's brother's house at Evesham. Smith added that 'the soldiers depart tomorrow'. He also gave his opinion that Hickes 'had as much reason to oppose Mr. Talbot, as the President and Fellows of Magdalen had to withstand Mr. Farmer or the Bp. of Oxford, since the statutes of the college of Worcester (require) that the Dean should be ... (either bachelor or doctor in divinity or the law), neither of which degrees of honour Mr. Talbot had attained when the present government conferred your deanery on him!'.<sup>2</sup> It thus appears that Smith and William Hopkins had arranged details of the removal of both Hickes's books and household

---

1 MS Ballard 13, fol.21, Hopkins to Charlett, 29 June 1691.

2 Bodl., MS Eng. Hist. b.2, fol.263; Smith to Hickes, 4 June 1691.



goods at least two weeks before Talbot was installed as dean, and that Mrs. Hickes's refusal to give him possession of the deanery on 21 June was only a token gesture of opposition. Frances Hickes had played a brave part herself, which her husband gratefully acknowledged in a tender letter, written from London on 11 June 1691.

As far as I can judge, after a long and impartial enquiry against my worldly interest, we suffer for God's commandments, which are as sacred and dear to him as the Creeds; and men and women may certainly be martyres and confessors for the former or any of them, as well as for the latter, or any article thereof. Such were King Charles the Martyr, and those who suffered in pursuance of their duty to him, and they being dead yet speak ... Remember the bitter speeches of Shimei against David, remember what insolencies King Charles I endured from the vilest of men, ... remember what king James suffered at Feversham ... (also the sufferings of the Marquis of Montrose) ...

... Certainly it is honour enough for the subject to be as his sovereign, and the servant as his lord ... God be praised for what we have suffered. The loss of all is abundantly compensated by the joy I have in considering that through his help we have overcome so great a temptation. Without this trial, I could not have had the comfort of knowing that I did not love the world more than I did. O that we may love it still less, and prefer the principles before the preferments and revenues of our church and religion, nor even pretend for our own ease and safety to preserve some of its doctrines in their purity against the moral precepts thereof.<sup>1</sup>

Perhaps Hickes may have dramatised the fate of the nonjurors and regarded himself as a suffering confessor for the truth, but his consistency was absolute and his courage undaunted.

During the next eight years Hickes's movements are not easy to trace exactly. He and his wife were often in London for short

---

1 Bodl., MS Rawl. D.1234, fol.12a. Hickes to his wife, 11 June, 1691.

periods, under the names of Potter or Wood. Aliases and disguises were always necessary. Much time was spent in the houses of nonjuring gentry in the country, and at other times Hickes could also be in Oxford, again in disguise. Roger North wrote to Hilkiah Bedford after Hickes's death, 'In his disguise, which did not become him, ... he appeared exactly like a sectarian teacher'.<sup>1</sup> During these years of constant movement and feigned identity, Hickes was still able to produce further controversial works and to lay the foundations for his great work on the old northern languages, keeping up a wide correspondence with his learned friends. He owed much to the kindness of many devoted friends during this period, including many who had accepted William and Mary. During the autumn and winter of 1691 the dean was in London.<sup>2</sup> He was in close touch with Henry Dodwell, and assisted him in the preparation of his Vindication of the Deprived Bishops (1692) and appears to have been responsible for getting it printed at a private jacobite press.<sup>3</sup> In February and November 1693 he was again in touch with Charlett, now master of University College, about the printing of more illegal tracts, lamenting the difficulties in getting them published in a clandestine manner.<sup>4</sup> Hickes's Apology for the New Separation appeared in 1691, justifying the the nonjurors' separation from the established church on the grounds

---

1 Bodl., MS Eng. Hist., b.2, ff.170, 171. No date.

2 Bodl., MS Ballard 12, ff.68, 70, 72, 76. Hickes to Charlett, 8 and 19 September, 15 October and 23 December 1691.

3 Ibid., fol.76, same to same, 23 December 1691, and Bodl., MS Eng. Letters c.28, fol.92, Dodwell to Hickes, 18 July 1691.

4 MS Ballard 12, ff.83, 87. Hickes to Charlett, 9 February and 2 November 1693.



of new oaths, perjury and erroneous opinions on the tenure of kings, but also insisting that the intrusion of new bishops was a just cause for the nonjurors' separation from the established church. The dean's attack in 1692 on his former ally Sherlock, now an apostate and restored to his Mastership of the Temple, was an attack on the doctrine of providential deliverance, the doctrine Sherlock claimed to have extracted from Overall's Convocation Book. Hickes's Vindication of Some Among Ourselves against the false principles of Dr. Sherlock (1692) alleged that Sherlock's providential possession theory could sanction any rebellion or sedition, support wrong against right, or crime against the laws. If providential possession was used by Sherlock to give a new kind of divine right, it might just as well be Burnet's right of conquest. Hickes himself had, however, used exactly the same idea of a miraculous providence in his 1684 Sermon for the 29th May on the restoration, where (like so many other royalist preachers) he claimed that the restoration was a special providence of God, in restoring the monarchy, the church and the old legal constitution without bloodshed, overthrowing the military 'slavery' of Cromwell and the army without further civil wars and ending the sufferings of faithful royalists. All these events, Hickes maintained, were marks of God's special favour and almost miraculous.<sup>1</sup> For Sherlock to compare the Glorious Revolution, which similarly saved the nation from the threat of slavery and was peaceful and bloodless in its execution, with an intervention of providence was highly provoking to Hickes,

---

1 G. Hickes, Sermon for 29th May at Worcester Cathedral (1684), pp.16-23.



who spent a good deal of time in his Vindication of Some Among Ourselves pointing out the difference between what God may permit with what God directly appoints and actually provides. God's permissive will might allow the temporary triumph of evil, but without approving or sanctioning this. Providential possession appeared to give divine approval to any settled rebellion, no matter how evil or how much against the laws and constitution.<sup>1</sup> For Hickes, Sherlock's use of Overall's theory simply gave God's sanction to the works of antichrist. In actual fact, the providential intervention was in the eye of the interpreter.

G.M. Straka argues that 'this divine right of providence ... replaced the Stuart concept of divine hereditary right and characterized the political theory of the post-Revolution Anglican and his church'. If the interpretation of William's landing on 5 November as a sign from Providence, and, if the reference to the Gunpowder Plot was not enough, that the year 1688 was a century after the defeat of the Spanish Armada, and that the 'protestant wind' had brought William's ships safely down the Channel, were confirmed signs of God's overruling favour. The Bill of Rights itself canonized the 'miraculous deliverance from popery and arbitrary power'. What to Sherlock or Burnet was a divine intervention, to Hickes was high treason, and sinful rebellion and usurpation. Straka's perceptive assessment is that Sherlock's important new gloss on divine right theory in fact gave to the Revolution regime a sanctity and divine recognition in the eyes of the great mass of anglicans. That Hickes turned

---

1 G. Hickes, A Vindication of Some Among Ourselves, etc., pp.5, 6.

on his former colleague with vituperation is a strong indication that Straka's assessment is true.<sup>1</sup> A representative of the older strict hereditary right theory was anxious that this should not be unchallenged, but Hickes's resorting to mere personal abuse of Sherlock's wife, "Mrs. Satan and Sherlock", leads one to suspect that the dean found the Master of the Temple's arguments telling and preferred to adopt a more hectoring style to cover the weaknesses of his own position. If the Revolution had been by God's providence, then the nonjuror's principles (for which they suffered conscientiously) were invalidated and they had sinned by rejecting God's merciful deliverance through William's landing. This conclusion was intolerable, and provoked Hickes into a more than usually bitter attack. To accuse former friends of apostasy from former principles was an obvious weapon in controversy used by Hickes against Sherlock or Dr. John Sharp, but to those who believed that their doctrines of passive obedience and non-resistance were sacred precepts of holy Scripture and that meek suffering of insults was a Christ-given precept and a sacred duty, such apostasy was far more than a mere unwelcome change of political ideas. It was truly apostasy from vital scriptural principle and the plain commands of the Gospel. If passive obedience and non-resistance were so eminently displayed by Jesus Christ himself in his sufferings, then for those who claimed to be his followers to desert this 'doctrine of the Cross' was more than a mere lapse. It was the abandonment of what Bishop Lake of Chichester's dying declaration had called 'the

---

1 G.M. Straka, 'The Revolution Justified by Divine Right', in G.M. Straka (ed.), The Revolution of 1688 and the Birth of the English Political Nation (1973), pp.111-126.



distinguishing Character of the Church of England'. It was thus but a short step from accusing old colleagues of desertion to accusing them of new false principles. If desertion of old doctrines was bad enough, the active espousing and teaching of new Revolution principles and the sanctifying of usurpation by Sherlock were a kind of heresy, a false opinion obstinately maintained against an older known and accepted belief. The long-continued use of religious precepts in politics and the Stuart tradition of the inculcation of divine right theories and non-resistance by the clergy as gospel as well as political beliefs could only add the charge of gross religious error to that of desertion or aiding and abetting schism. Hickes's sense of the nonjurors' strict consistency in faith gave him the confidence and courage of the rightness of his own stand and its consistency with the true teachings of the old church of England. Once forced out into the wilderness, however, the nonjurors must perforce justify their continued stand and non-compliance by developing a strong challenge on principle to the established church. The charge of schism must be made to stick.

In 1695 Hickes produced his most vindictive polemical work, Some Discourses upon Dr. Burnet and Dr. Tillotson; occasioned by the late Funeral Sermon of the Former upon the Latter, in which he pursued the memory of the 'intruded' archbishop of Canterbury beyond the grave. The dean, in his preface, made his intention painfully clear. 'Those two gentlemen are not barren subjects, but furnish matter in choice and plenty for history against themselves.' If his book was called a 'defamatory libel' he could not help that. He would not intend to be malicious or injurious, he would merely tell the truth. Hickes accused



Burnet and Tillotson of persecuting their former brethren, and complained of the difficulties of printing against the state's censorship and licensing acts, but he clearly intended to show his two subjects as unworthy of the episcopate and show his care for the church. Hickes maintained that he had more respect for the episcopate than Burnet had ... 'Though Bishops turn rebels, and make rebels and outlaws Bishops, yet I must reverence the function by reason I think it of divine institution'.

Burnet and Tillotson were 'apostates' and 'traitors' to their orders. Plans for a Comprehension, a 'pretence of union with dissenters', which Burnet and Tillotson had advocated must be resisted. If a comprehension was advocated,

we must blend our pure orders and priesthood not only with ministers who derive their mission from presbyters, but with ministers who derive them ultimately from mere laymen, as many of the first Reformers in France and Savoy were.

Sherlock in his funeral sermon on Queen Mary and Dr. Bates, the dissenting leader, had both said that William and Mary wished to unit the churches in 'things essential to Christianity'. Hickes was afraid the new rulers might 'form a union against the Catholick church'. What was essential to the Christian faith and to the Church? The possession of apostolic and episcopal orders, the Sacraments, the doctrine of the Trinity, 'the Power of the Keys', and 'the divine authority of the Holy Scriptures, which depends so much upon Tradition' - all these beliefs were being attacked and undermined by the new Revolution latitude men. Hickes obviously intended to show that the church of England was in danger under such bishops as his two subjects. The dean clearly believed he was exposing the evils of his two victims to warn

Englishmen of the dangers the church faced due to its new Revolution bishops.<sup>1</sup>

Hickes began by styling Tillotson as the 'late dean of Canterbury', thus implicitly revealing that he could not accept Tillotson as a regular dean of St. Paul's from November 1689 to May 1691. Apparently Tillotson, as Stillingfleet's successor in the St. Paul's deanery, was to be an intruder even before his acceptance of Canterbury. Burnet was attacked for his circular letter to the Scottish bishops twenty years before, attacking their keeping coaches and expensive style of living. Archbishop Burnet of Glasgow had shown him Burnet's letter, and Stillingfleet, Fowler and Dr. Hascard had also seen it. Burnet's Scottish works, The Conference between a Conformist and a Non-Conformist (1669) and his Vindication of the Authority of the Church of Scotland (1673) had urged non-resistance and condemned 'that bloody opinion of defending religion by arms' and 'resistance upon the colour of preserving religion', and condemned any idea of people deposing their rulers. Burnet's Revolution tracts, the Enquiry into the Measures of Submission and Obedience and the Enquiry into the present State of Affairs now said just the opposite, sanctioned the deposition of kings and placed it in the power of parliament or people to judge their prince. In 1673, Burnet had praised the story of St. Maurice and the Thebean Legion as a marvellous example of non-resistance, but in his 1687 edition of the works of Lactantius he had called it 'an incredible legend'. Burnet's King Charles the Martyr sermon of 1672 spoke of dissenters as

---

1 G. Hickes, Some Discourses on Dr. Burnet and Dr. Tillotson, (1695), Preface, (n.p.).



renegades, and argued that the church of England was not guilty if her misguided children left her. The fault lay with the deserters. So Hickes applied this charge of apostasy to Burnet, whose notorious new principles had so decisively departed from the doctrines of the church. The bishop of Sarum had treacherously persuaded the Princess of Orange against her father, had forbidden the clergy of Exeter cathedral to pray for James II when William occupied the town and sat down at Salisbury during the prayers for the king. He had said in 1688 that James II ought to be deposed, and first said that he abhorred the idea of conquest and then shortly asserted the doctrine of conquest in his infamous pastoral letter. On 4 September 1690, as bishop, Burnet had said in anger that deprived nonjurors were worse than papists. Dr. Beach would vouch for that. Burnet now eulogised William, but in his Vindication of the Laws of Scotland (1673) he had eulogised the Duke of Lauderdale's rule in the northern kingdom and then finally had the fulsome dedication cut out when he fell out with the Duke.<sup>1</sup>

Tillotson's memory was savagely castigated by Hickes. Burnet's funeral sermon had called Tillotson a man without blemish, saying he was 'all sublime and heroical piety and virtue'. Tillotson once avowed passive obedience and non-resistance. His pressing these doctrines on Lord William Russell at his final interview before his execution was very well known. How could he reconcile what he said to Russell with his own conduct?

---

1 G. Burnet, op. cit., pp.1-26.



Tillotson's sermon on 31 January 1688/9 at Lincoln's Inn chapel had said 'our deliverance was the Lord's doing', but in a 5 November sermon of 1678 he attacked papists as rebels and bravely expatiated on non-resistance. Hickes pertinently asked if it was lawful for anglicans and a Dutch prince in 1688 to do what was unlawful for Papists in 1605. Drawing on his experiences at All Hallows', Barking, and previous intimacy with Lord Chancellor Guilford, Hickes alleged that Tillotson had been a three or four times a week visitor at Shaftesbury's home, Thanet house, and was responsible for the attempts to prove the Duke of Monmouth's mother, Lucy Walters (or Barlow), to have been Charles II's wife, in defiance of that king's two solemn declarations in the Privy Council registers in 1679 and 1680 that he had never married her. Tillotson's doctrines in his sermons were attacked by Hickes. The celebrated sermon Of the Eternity of Hell Torments, which cast doubt on the everlasting punishment of the wicked, was attacked for encouraging atheism and rank immorality. Tillotson's statement that the Being of God was 'purposely designed' for Mens' happiness taught that men could make God in their own image, to suit their own fancy and was a virtual apologia for atheism. As the 'Archschismatic' whose 'intrusion upon the Archbishop's throne' was the cause of schism, Tillotson's assize sermon on perjury condemned it's own utterer out of his own mouth. Burnet's alleged 'heroick virtue' was better applied to suffering nonjurors than to Tillotson, and Burnet's panegyric praising Tillotson for not practising 'pompous austerities' was a sneering jibe at Sancroft whose strict fasting and abstinence was justly well known. Sancroft's austerities were strict obedience to the teaching of the prayer

book's rubric, while Tillotson's puritan upbringing and education led him to a foolish tenderness to dissenters, and to break the rubrics in the liturgy even before the very altar in the eucharist by administering Holy Communion sitting in Lincoln's Inn chapel. Tillotson had no respect for the episcopate he had allowed to be conferred upon him, and for which Laud, Strafford and Charles I had died martyrs at puritan hands. As a notorious public perjurer, the author and architect of a scandalous schism, a 'Vicar of Bray', Tillotson was worthy only of infamy.<sup>1</sup>

Hickes concluded his grand indictment of his two enemies by defending the nonjuror bishops' conduct in withdrawing in the face of overwhelming force. Like James II's flight, like that of Athanasius, they had only withdrawn because of danger to themselves and the threat of severe and unjust penalties. Burnet's false parallel of the nonjuror depositions with those of the nonconformists of 1661-62 and of the Marian bishops under Elizabeth I was condemned. These cases concerned those of another communion and were quite different. In any case the secular power that deprived the nonjurors was illegal. Not even a legitimate secular power could deprive a canonical bishop. Hickes defiantly asserted the 'want of validity in any secular authority whatsoever to deprive Bishops'.<sup>2</sup>

This last assertion marked an important new emphasis in the nonjuring polemic. It had already been developed by Dodwell in his Vindication of the Deprived Bishops, but had yet to be worked

---

1 Op. cit., pp.34-67, 73.

2 Op. cit., pp.82-87.



fully to its conclusion. But this denial of authority even to a legitimate secular authority marked a significant shift in the nonjurors' controversial writings, justifying their stand on the grounds that the church was a free and independent divine society, exempt from state control. The persecution of the nonjurors drove them to look at the church in patristic ages, under the pagan roman emperors. Then the church had used its own inherent spiritual powers to ensure its continuance in times of great difficulty. The nonjurors, now in the same predicament (as they considered themselves), asserted the total spiritual independence of the church to justify their stand and finally to deny the whole foundation of the church of England from Henry VIII to William III.

Burnet replied to Hicke's charges in his The Bishop of Sarum's Vindication: Reflections ... upon some Discourses upon Dr. Burnet and Dr. Tillotson (1696), attacking the 'blackness of malice', 'venom' and 'peculiar sourness' of the charges against the late primate and himself, strongly hinting that despite anonymity he knew the name of his assailant. After defending his own consecration, Burnet proceeded to defend his political principles, by stating that he fixed the grounds of obedience upon the laws and constitutions of particular states, considering that an attempted 'total subversion' of the state justified extreme measures of resistance and defending his own and Tillotson's conduct towards Lord William Russell. The bishop of Sarum also declared, 'I can assure the world that in the list of divines who were represented as wishing that the (then) Prince would engage in our defence, the late Dean of Worcester was named for one; how truly, he best knows'. To Hicke's allegation that the



young Burnet had drawn up a 'Case of Barrenness' to discuss a proposal for Charles II's projected divorce of his queen, Burnet replied that he had done this not at Shaftesbury's suggestion (as Hickes alleged), but at Lauderdale's wish. Sancroft's silence was also animadverted upon. His refusal to appear in the Lords in the crucial debates of early 1689 was reprehended. Burnet alleged that Sancroft had actually signed the invitation to William to come over to England. The bishop of Sarum could hardly have been in a position to know that this was or was not fact, and Sancroft himself had several times denied it, unless William himself or Bishop Compton of London (the only bishop to sign the secret document) had told him so. It is most unlikely that the reserved and dour William did so. Henry Compton, passed over twice for the primacy in 1691 and again in 1694, might possibly have said something to Burnet, but as he had gone further into tory opposition by this time might well not have done so, and one may suggest that Burnet is only using a dubious but self-interested conjecture as to Sancroft's part in the invitation to William.<sup>1</sup> Burnet also revealed publicly several abortive approaches to the nonjurors in the summer of 1690, just after the Boyne, made at Queen Mary's request and also through the parliament. These had been met with a silent rebuff,<sup>2</sup>

The deprived dean of Worcester was goaded by Burnet's Reflections on some Discourses to compose a further bitter attack

---

1 G. Burnet, The Bishop of Sarum's Vindication, *passim*, and pp.96, 97. Sancroft's denial is in Bodl., MS Tanner 28, fol.224, dated 3 November 1688.

2 Op. cit., pp.103, 104.

on his adversary. He presented Burnet's charges against Sancroft and the nonjurors and defended the nonjuror position by revealing the fallen primate's true opinion of William as 'Oliver the second'. Hickes's Reply to Bishop Burnet's Vindication was never published, but is an extensive and thorough reply, though disfigured with personal bitterness, acrimony and self-justification.<sup>1</sup> Hickes complained of the compliers' great advantages in having liberty of printing to attack the nonjurors, who in all fairness must be allowed to defend themselves. The dean maintained,

We contend for principles and truths of natural and revealed religion; for justice and common dishonesty, and the obligation of oaths, and everything that is sacred in human societies; for our fidelity as civil and ecclesiastical subjects ...

'The Bishop of Sarum, as he styles himself', had paid Hickes the compliment of appearing in person against him, and the dean would enjoy defending his charges, rebutting Burnet's defence and taking off his false colours. Refuting the charge of disturbing the ashes of the dead, Hickes accused Burnet of the same offence in his treatment of both Sancroft and the duke of Lauderdale. Burnet's original manuscript of his Memoirs of the Duke of Hamilton was originally dedicated to the duke of Lauderdale and a fair copy of the manuscript had been given to the duke to read. Burnet alleged that 'the very copy which the D. of Lauderdale read, and was licensed by Secretary Coventry, has been left by me carelessly these many years in the bishop of Worcester's hands', and that Coventry had forced him to omit material passages relating to the year 1641 from the printed book.

---

<sup>1</sup> Genuine Remains (G.R.), pp.7-91, and a good copy in Bodl., MS Rawl. D.841.



Hickes claimed to have been able to compare Lauderdale's manuscript with that of Secretary Coventry, from copies made by Ralph Lowndes, a Cheshire non-juror.<sup>1</sup> Setting down the omitted paragraphs verbatim, Hickes showed that these were passages relating to the credit and honour of Lauderdale, arguing that records in Burnet's History of the Reformation had been misquoted, badly transcribed and simply perveted by Burnet, due to his partiality but also to his ignorance of old styles of handwriting.<sup>2</sup> A man of violent passion and partizan feeling like Burnet was untrustworthy as a scholar, not impartial, and therefore not to be taken seriously. As to Burnet's stating that the massacre of the Thebean legion was a fable, Hickes reminded Burnet that his stating that because Eusebius and Sulpicius Severus and Lactantius himself did not mention the incident, therefore it did not happen, was nonsense. Burnet himself was wrong when he assumed that the incident took place during Diocletian's persecution. The Thebean legion marched against the Bagaudae rebels in Gaul in A.D. 285, eighteen years before Diocletian's great persecution which began at Nicomedia. The Thebean legion were massacred in what was a brisk and savage work of military discipline, not a sustained persecution. Burnet's statement that Constantius Chlorus had not introduced the persecution edict to Gaul might be correct, but to say that this was why the Thebean Legion story was false was both foolish and uncritical, and a simple failure of chronology. For Burnet

---

1 G.R., p.18.

2 G.R., pp.21-24. Compare Bodl., MS Rawl. D.841, ff.11-17.



to defend his error, by saying that Lactantius was tutor to Crispus, Constantine's son, and so had opportunity to know the imperial family of Rome, was also foolish, as it took place at least eight years before Constantius Chlorus became a caesar. To say Constantius knew nothing about the Thebean legions' massacre, which was years before his time and ordered by Maximian, a previous ruler of the western roman empire, was foolish.

But for God's sake, how was this massacre, committed by Maximian on that Legion eight years before, the concern of Constantine's family, more than that in the Highlands was of the Prince or Princess of Denmark, and their son the Duke of Gloster?<sup>1</sup>

Bishop Stillingfleet's Origenes Britanniae certainly stated that the Legion was martyred in Gaul. Burnet's Life of Bishop Bedell, of Kilmore in Ireland was also biassed in its approach, praising Bedell at the expense of criticizing Archbishop Usher. Hickes concluded that Burnet was not above altering or falsifying sources 'in a prevaricating manner'. He 'hath altered and perverted the sense of records, not only by leaving out words, but whole periods'.<sup>2</sup>

Hickes also defended his own character, acidly remarking that 'the late dean of Worcester', 'if he would, might have been a bishop long before him (Burnet)'. Tillotson was also attacked, and it was alleged that he had advised Scottish episcopal clergy to submit to the triumphant presbyterians in 1689 and 1690, and done nothing to defend the unfortunate Scottish bishops. The duke of Hamilton had been advised by Tillotson to support the presbyterian cause if he wished to be in William's favour. Here

---

1 G.R., p.52.

2 G.R., p.26. MS Rawl., D.841, ff.18-20.

was Tillotson, the future complying archbishop and intruding supplanter of Sancroft, acting in favour of the presbyterianism in which he was educated and as a traitor to his own order.<sup>1</sup>

After again defending the duke of Lauderdale, Hickes related how Burnet had originally dedicated his Vindication of the Laws of Scotland to the duke, only to remove the fulsome dedication when he was discarded by Lauderdale after he had given evidence at the Bar of the Commons about Lauderdale's alleged remarks about bringing a Scottish army into England.

That is a paradox which no wise man can believe, for could a design to subdue England with a Scottish army create an horror in a wretched man who came in with a foreign prince and army to drive out his liege lord and master, and to bring the nation into a plague of all plagues the greatest, two titles to the crown. Could he have an horror at the discovery of such a design who had none to be an instrument in another ten times more destructive, not only to the common weal of the kingdom and common good of the Royal family, but to the obligation of faith, oaths, truth and justice and everything that ought to be most sacred among men, and in which the security of human society does consist. He that was engaged both in forming and executing an unnatural design which has made the name and Church of England odious ...<sup>2</sup>

Hickes now turned to his most detailed defence of the nonjuring bishops' conduct at the Revolution. He defended Sancroft's commission to consecrate Burnet by insisting that it was drawn in legal form and had insisted that the legal and canonical forms must be observed and the usual oaths taken. In any case, the commission was not specifically and entirely drawn up for Burnet's benefit, as Sir Jonathon Trelawney was translated from Bristol to

---

1 G.R., p.32. MS Rawl. D.841, ff.25-28.

2 G.R., pp.41, 42. Bodl., MS Rawl. D.841, ff.38, 39.



Exeter and Dr. Humphries consecrated to the see of Bangor by the same instrument. Hickes defended Sancroft's opposition to the Revolution, and declared that his opposition to the change of monarch and government was well enough known. Hickes firmly denied Burnet's accusation of Sancroft's removing the legal document from the registry as a 'plain robbing me of that writing upon which the canonicalness of my consecration and my legal right to my bishoprick was founded'. Could not Sancroft remove the document to show to several other bishops what he had done in issuing the document? Hickes wrote, 'I believe few archbishops of Canterbury ever died without papers and instruments of public concern in their keeping'. Many original papers and instruments of Archbishop Cranmer had recently been sold to a London bookseller, and Sir Robert Cotton's great library included many legal and ecclesiastical official records which had come into that great collector's possession from private families. Burnet's consecration authority was nothing unusual or special. It was a normal archiepiscopal commission drawn in standard form. If Burnet's consecration had been impugned by any-one, oaths and depositions from the Canterbury vicar general, registrar and actuary, and from the bishops who performed the episcopal consecration were quite sufficient to prove Sancroft's document had been granted. In any case, the formal record was in the archiepiscopal register. Burnet's use of this story indicated his malice against the deprived primate who had refused to consecrate him in person.<sup>1</sup>

---

1 G.R., pp.51, 52. MS Rawl. D.841, ff.51, 52.



Defending the nonjurors' conduct in remaining silent during the Convention and thereafter, and while James II challenged William III in Ireland, Hickes remarked on the mob violence during the Convention that threatened the house of Lords, including lord Lovelace's marching to Palace Yard with a turbulent crowd at his heels to petition the lords for despatch of business during the debates on James's 'abdication'. One bishop had a club hurled at his head by the mob and many of 'the king's friends had been threatened with violence'. 'This foreign art of mobbing and de-Witting, we learned with other foreign manners and customs since we let foreigners come in upon us', Hickes remarked, reminding Burnet of the whiggish pamphlet The Modest Enquiry which had advocated removing or 'de-witting' the non-complying prelates, accusing them of supporting plots to bring back James II. Had not Archbishop Laud suffered a great deal at the hands of the mob at the time of the crises just before the civil war? Hickes stated that he too had been threatened by the mob that winter (of 1688-89) 'again and again'. As for Sancroft's silence, had not his opposition to the writ of intrusion been 'public and notorious', known throughout the whole kingdom? The dean of Worcester's public protest had led to attempts to arrest him, privy councillors saying he deserved to be hanged, and orders were sent by the government that Dr. Ralph Taylor and Mr. Henry Panting, the witnesses to Hickes's protest, had been roundly abused in the most opprobrious manner by Judge Eyres at the assizes where the dean had been outlawed. Bishop Ken had protested verbally and publicly in his own cathedral at his successor's appointment and attempts had been made, though unsuccessful, to get a transcript of his words with

a view to prosecuting him. Mr. Wagstaffe had been committed to Shrewsbury gaol for high treason for opposing William's right to confer knighthoods and, refusing to plead, had met with such barbarous usage in prison, which had caused his death. The nonjuror primate and his episcopal brethren had in fact openly and clearly issued a pamphlet entitled A Vindication of the Archbishop and several other Bishops at midsummer 1690, after the notorious form of prayers The Jacobite Liturgy had been issued. Certainly the public protests of Ken and Hickes himself had not received any adherence of clergy or laity after they had been delivered, and only brought suspicion and trouble.<sup>1</sup>

Christian prudence had counselled the nonjurors' silence. Opposition to the deprivations or the new episcopal consecrations involved a praemunire and a sentence of imprisonment at pleasure. To remain free from arrest meant that the nonjurors were at least free to exercise a pastoral care for the small flocks left to them.

What could they have done for us shut up in so many several cages? ... Could they have provided for us and those who will succeed us in our catholic communion? Could they have met at any time together to consult about our spiritual necessities, or have acted socially upon any emergency in any of the church's concerns?

St. Cyprian had retired to a place of safety during persecution. St. Hilary of Poitiers, Paulinus, Eusebius of Vercelli, Lucifer Calaritanus and other bishops banished by Constantius had not made any public remonstrance, but quietly withdrawn. Hilary had admitted he was silent for five years together and had 'said not one ill word against that church quae se Xti Ecclesiam mentiebatur, which falsely pretended to be the church of Christ'. Hilary's

---

<sup>1</sup> G.R., pp.54-56. MS Rawl. D.841, ff.53-55, also T. Lathbury, The Nonjurors (1845), 59-61.



book Contra Constantium jam Vita Defunctum made this clear. St. Hilary

also saith he did not account it a fault in any man of the orthodox party to converse with the others, though they forbore to communicate with 'em as long as there was any hopes of their conversion, but when that failed then he fell to writing, and saith tempus est loquendi quia jam praeterit tempus facendi, and then he spoke to some purpose both by argument and invectives.<sup>1</sup>

St. Martin of Tours and St. Athanasius himself had both withdrawn under persecution. Athanasius,

'when the Synod of Antioch in the year 341 consecrated Gregory to his see, he did not excommunicate him, nor so much as stay to be turned out, but as soon as he heard of it went away from Alexandria to Rome, without any publick protestation of his right, or requiring his comprovincial bishops or clergy to adhere to him against Gregory ... But after he got safe to Rome under the protection of (pope) Julius, then indeed he wrote circular letters to the catholic and orthodox bishops against Gregory and George, who usurped his throne after Gregory.

The anglican bishops during the Great Rebellion were obliged to remain quiet and inactive for almost twenty years for prudence's sake, 'and yet no man ever ascribed this to an indifferency for their righteous cause, or imagin'd that they would be well-wishers to the usurping powers, who had deposed both them and their order, as some have since done in Scotland'. Hickes continued significantly that the deprived bishops of the 1650's

were resolved at peril of their lives, if the King had not returned when he did, to continue their Order by new consecrations, as may appear by the copies of some letters in St. John's College Library in Cambridge, which passed between the loyal and learned Sir Edward Hyde, afterwards Lord High Chancellor of England, and Dr. Barwick upon the subject a little before the Restoration.<sup>2</sup>

---

1 G.R., pp.55-58. MS Rawl. D.841, ff.56-58.

2 G.R., pp.58-60, Bodl., MS Rawl. D.841, ff.58, 59.



Burnet's charge of 'leaving authority with their chancellors' for institutions, was another false charge against the nonjuror bishops. Hickes argued that the bishops were not to be blamed for what they could not hinder. 'Forward and zealous Chancellors' ... 'who were very officious to the government' had proceeded to tender the new oaths, being 'glad of occasions to signalize their forwardness of their zeal'. The bishops could not publicly forbid or hinder their chancellors from acting, without reflecting on the new regime, and Burnet's statement implied that a special authority had been granted by the bishops to their chancellors to act for them. Hickes stated bluntly that he knew of no bishop among the nonjurors who had given such authority. Chancellors acted as the bishop's deputy in legal matters, including institutions, and in a bishop's absence often did so by common practice and regular custom.<sup>1</sup>

The long absences from their dioceses of so many sixteenth and seventeenth century bishops, the advanced age and ill health of other bishops in an age where appointments for life meant exactly what it said, and parliamentary duties in the lords meant that diocesan chancellors (themselves like the archdeacon, oculus episcopi and usually having a freehold office as official principal and vicar general, as well as that of chancellor, in anglican dioceses) exercised a great deal more practical day to day jurisdiction as the bishop's deputy than a modern chancellor would do. If the chancellor's office strictly was that of ecclesiastical judge hearing cases in consistory, the combined

---

1 G.R., pp.60, 61, 62. MS Rawl. D.841, ff.61, 62.

functions were often confused. Strictly, the chancellor's office alone carried the freehold, a bishop usually having to accept his predecessor's appointee as chancellor, but often using him as vicar general in purely spiritual matters for visitations or institutions. It was often difficult to separate the strictly judicial functions of the chancellor and official principal from the administrative duties of the chancellor, all these being held by the same person. Chancellors accustomed to act for bishops as vicar general would presumably do so during a bishop's suspension and during the legal vacancy after deprivation, institutions being a normal routine matter. A bishop would indeed have to give a formal authority to his chancellor to act as vicar general, but such authority might well be included in his patent to the chancellor or be granted only once on a new bishop's appointment. Once granted, to withdraw such an authority to institute or to attempt to inhibit a chancellor from exercising his vicar general's function, would bring any bishop on to dangerous ground and into a fruitful field of litigation. Dr. Sutton's case in 1627 had established that a chancellor's office was a freehold benefice, and to disentangle the concurrent duties and functions of the vicar general would be a task involving endless litigation and appeals as the case of Jones versus the bishop of Llandaff was to prove in 1693. Bishop Stillingfleet argued forcefully that only the chancellor's position was a legal freehold benefice, and strictly the vicar general's post was a temporary delegation of episcopal authority which could be done by special commission for a particular grant for a particular purpose. In practice, however, once such a commission as vicar general had passed to a chancellor it often became his regular duty. To revoke such a delegated function



deliberately would involve the bishop in endless legal controversy, inevitably resulting in the bishop being the loser and, in addition to suspension and deprivation, possibly involved in a praemunire too.<sup>1</sup> The charge in Burnet's The Bishop of Sarum's Vindication: or Reflections ... upon 'Some Discourses upon Dr. Burnet and Dr. Tillotson that the nonjuror bishops 'left authority with their chancellors' to institute as implying a specially granted commission to institute to benefices and tender the new oaths, was stigmatized by Hickes as deliberately ambiguous. Burnet had adduced no evidence that any special authority to tender the oaths had been granted, but sought to imply it by innuendo. Hickes repeated that he knew of no authority so granted by the nonjuror bishops.

There was an inevitable and close parallel in Hickes's mind between the deposition of James II and the deprivation of the nonjurors. The second followed closely upon the first, and both actions represented rebellion by the subjects of church and state against their respective lawful governors. Despite the confusion between the religious and secular spheres, the parallel held good so far. But the dean went further. Even a lawful sovereign might act unjustly. A Christian king might persecute the church. If such a rightful sovereign sought to make bishops or clergy break the tenets of the faith or the laws of Christian moral conscience and duty, he must be opposed by refusal of active obedience, though never armed resistance. This had been done in the Seven Bishops' case and was now being done again by the nonjurors, acting consistently by their old and well known principles of passive obedience.

---

1 R. Phillimore, The Ecclesiastical Law of the Church of England (1873), pp.1207-1211; and also J.T. Edgerley (ed.), Ecclesiastical Law (reprinted from Halsbury's Laws of England), (1957), pp.103, 104, and references in loco.



The prince's protection is indeed a great blessing to the church, when it can be had on lawful terms: but when it cannot, persecution is a thousand times a greater blessing to her, and as she is to break with the prince in defence of the faith, so she is to break with him in defence of morals too.

As Hickes wrote in his letter to his wife of 11 June 1691, the 'moral and practical doctrines' of Christian conduct and behaviour were every whit as sacred as the doctrines of the faith and 'speculative doctrines' like the Trinity.<sup>1</sup> Though the prince might endow dioceses and create new sees, as Henry VIII had done, the church herself did so in early days even against pagan emperors. In later ages the church had generally consented not to fill vacant dioceses without the prince's approval.

'yet in times of persecution, whether for matters of faith or moral duties, such agreements and concordats dissolve, and the bishops as they will answer to God for the trust he has reposed in 'em, must resume their original right and authority, and accordingly discharge their trust. I say in persecution the magistrate loses the honour he had of choosing and allotting bishops with the church; and bishops who were elected or consecrated upon his nomination, and after consecration admitted by him to this or that see, must then act as independently of him, as if he had never been concerned in their consecration and admission to their allotted sees.'<sup>2</sup>

Invalid deprivations by usurped civil powers only added to the injury to the church. Hickes added, 'I added that we insisted upon want of validity in any civil authority whatsoever to deprive bishops'. The deprivations of the Marian bishops by Elizabeth or the ejections of 1662 were proper parallels. Had not Anglicans opposed Lady Jane Grey as queen in opposition to the popish Mary Tudor, because of sworn oaths binding them to the legitimate hereditary ruler. Burnet and his Revolution church

---

1 G.R., p.67. Bodl., MS Rawl. D.841, fol.68.

2 G.R., p.68. MS Rawl. D.841, fol.68.

friends were the first members of the reformed church of England who sought to preserve their church and religion against its own doctrines, the law of the land and the rightful sovereign himself. Thus despite the parallels between the deposition of James II and the nonjuror bishops, by asserting the continuance of the obligation of loyalty to both, Hicke had taken up a new position. In defence of the deposed king, his attitude was plain, but by denying even the right of a legitimate civil power to deprive bishops, he had progressed well beyond the limits of the constitution of the church of England as it had been from Henry VIII to the Glorious Revolution. He had come to a position in which he was obliged to defend the nonjurors' stand in spirituals by denying the whole received constitution of the English church, and in suggesting that bishops deprived must be free to act in spirituals to preserve the whole church, had justified not only a separation on grounds of conscience but active attempts to keep up the schism by continuing episcopal consecrations or ordinations.

In 1693 Hicke was in France at the court of James II in exile, to receive the king's approval of the deprived bishops' plan to continue the episcopal succession of the nonjurors, following the precedent of the planned consecrations of 1659. Taken seriously ill at Rotterdam in August 1693, after leaving France, Hicke remained in his sickbed for almost five months, and only returned to England in January 1694, arriving at Harwich on 29 January. Here he was almost discovered, but 'he escaped being examined by one Macky, a Scotchman, placed there to examine the passengers, by sitting next to a foreign Minister in the boat which brought



the passengers on shore'.<sup>1</sup> Information reached the government in London in August 1694 that 'a non-jurant Dean' was at St. Germans in the summer of 1693, but it is unlikely that the precautions at Harwich were for his apprehension. It is highly unlikely that the dean's secret mission was known to the government in January 1694.<sup>2</sup> Hickes and Wagstaffe were consecrated to the episcopate in secret by Lloyd of Norwich, Turner of Ely and White of Peterborough on 24 February 1694. In the summer of 1694, Hickes and his wife were at Bagshot, at Colonel James Graham's hunting lodge. Graham was younger brother to lord Preston, the jacobite conspirator. The Hickeses left here for William Brome's residence at Ewithington, near Hereford, and spent the remainder of 1694 there.<sup>3</sup> Lady Pakington of Westwood Park, near Droitwich, and Mrs. Susanna Hopton at Kington, Herefordshire, provided refuges for the Hickeses from 1695 onwards. Mrs. Hopton's brother, Serjeant Geers, engaged Hickes in a long correspondence on the schism which led the dean to elaborate the controversial points he made in his later works on the priesthood, episcopate and eucharist, and materials which formed the basis of his posthumous Constitution of the Catholick Church (1715). For part of 1695, Hickes and his wife were at Francis Cherry's house at Shottesbrooke, Berkshire, and stayed for about three months. Hickes passed under the name of Dr. Smith and wore lay attire.

---

1 Bodl., MS Eng. Hist. b.2, ff.54-56, (Several detached leaves of the Hilkieh Bedford MS Life of Hickes, MS Eng. Misc. e.4); and Records of the New Consecrations, pp.1, 2.

2 H.M.C., Downshire MSS, i, part I, 446-448. Information of Owen Banahan, a captured Irish Jacobite agent. The name 'Hicks' appears twice in the margin.

3 J. Bagot, Col. James Grame of Levens: A Biographical Sketch of Jacobite Times (1886), pp.3-9. Also Bodl., MS Ballard 12, fol. 94. Hickes to Charlett. 30 May 1694.



It being at length understood that the Dr. was at Mr. Cherry's, the house was one night (about twelve o'clock I think) beset on purpose to apprehend him, but he got out of a back door, passed through the gardens into the churchyard and escaped safe to Bagshot to Colonel Grymes's (Graham), and his wife followed.<sup>1</sup>

Hickes had also been entertained by White Kennett, the young complying rector of Ambroseden for several weeks, and to divert his guest from politics, Kennett had suggested that Hickes should take up his Anglo-Saxon studies once more. Hickes must have been a difficult guest to entertain as he refused to enter the church, to join in family prayers or say grace at meals.<sup>2</sup>

The Hickeses were again at Bagshot in the winter of 1695 and 1696, but were obliged to leave again in some haste when warrants were issued in March 1696 for Colonel Graham's arrest on suspicion of involvement of another plot against William III's life. The local justices searched for Graham and the Hickeses fled once more.<sup>3</sup>

Hickes's return to his former study of the old northern languages occupied the ten years from 1695 to 1705 when his great Thesaurus was produced. This was a monumental classic of the grammar, syntax, lexicography, palaeography, literature, law, poetry and art of the old northern tongues, especially Anglosaxon and old Icelandic. The work was compiled under circumstances of extraordinary difficulty and secrecy, at the dean's own expense. He was often in debt, still an outlaw

---

1 T. Hearne, Collections (Ox. Hist. Soc.), X, 237.

2 G.V. Bennett, White Kennett, Bp. of Peterborough (1957), pp.19, 20.

3 J. Bagot, Col. James Grahme of Levens (1889), p.41; and Bodl., MS Eng. Misc. e.4, ff.45, 46.

under assumed names, and yet built up a circle of learned acquaintances which enabled him to have on loan large numbers of anglosaxon charters and manuscripts. Arthur Charlett, now Master of University College, Oxford, introduced Hickes to the young Humphrey Wanley who proved a valuable assistant and amanuensis and eventually as learned a master of the old northern tongues as his master.<sup>1</sup> Edmund Gibson, William Nicolson (later bishop of Carlisle), and Edward Thwaites of Queen's College also assisted Hickes. The work grew from a simple design to republish the dean's original 1689 Grammars into a complex and comprehensive study of the entire field. When the book was published in 1705, copies found their way all over Europe from St. Petersburg to Madrid and Naples and made Hickes a European reputation as a scholar.<sup>2</sup> Hickes's extensive learned correspondence on technical points of anglosaxon scholarship survives in the British Museum among the Harleian manuscripts and in various Bodleian collections.<sup>3</sup>

In the Thesaurus, in the Preface dedicated to Adam Ottley, Hickes declared that he had given up the study of theology, and since the Revolution entirely devoted himself to the old northern

---

1 Bodl., MS Ballard 12, fol.112; Hickes to Charlett, 10 June 1695.

2 Bodl., MS Eng. Misc. e.4, ff.47, 48, 49.

3 J.A.W. Bennett, "Hickes 'Thesaurus': A Study in Oxford Book Production", in English Studies: A New Series of Essays and Studies collected for the English Association, ed. F.P. Wilson, i (1948), 28-44. Also D.C. Douglas, English Scholars (2nd ed., 1951), pp.77-97. Hickes's correspondence with Wanley is in B.M., MS Harleian 3779, ff.45-257 (Letters dating from 1696-1703). Wanley's and Thwaites's Oxford letters to Hickes are in Bodl., MS Eng. Hist. c.6. Most of this correspondence is entirely to do with technical matters of anglosaxon linguistics and palaeography, or to do with printing, engraving or indices for the Thesaurus, or collecting money to pay for it.



tongues, being excluded from his priestly calling. No other occupation, he maintained, could relieve his mind of trouble and anxiety, and he had entirely devoted himself to these studies. This was to be the eventual reason for the lifting of Hickes's outlawry, the government being convinced that Hickes would no longer trouble the regime as he had retired into a private life of scholarship.

Edward Thwaites, fellow and 'preceptor in Saxon' at Queen's college, produced an edition of the Anglosaxon Heptateuch of Aelfric, which received the University imprimatur on 27 December 1697. The work was dedicated to Hickes as 'the great restorer of the Saxon learning' and announced Hickes's production of an extensive revision of his pioneer grammars. Dr. Charlett read the dedication in Latin (the rest of the work being Anglo Saxon, he could understand nothing else) and at once called the Vice-Chancellor to impound the edition, which was done. That the university should officially approve a formal dedication praising a man under severe government censure, was thought by Charlett and Dr. John Meare of Brazenose, the Vice-Chancellor, to be likely to harm Hickes and, worse, to destroy the university's credit with the government. As there were threats of a royal Visitation afoot, the Vice Chancellor demanded that the dedication be removed. Thwaites sought out Charlett, and high words passed between them. Copies of the book were to be presented to Lord Chancellor Somers and archbishop Tenison, so Meare and Charlett, aided by Dr. Hough of Magdalen (now bishop of Oxford), wrote urgently to Tenison asking if the dedication might stand. With Edmund Gibson, a 'saxonist of Queen's' as Tenison's senior chaplain, and with Somers as a Worcester man himself, the answers received



were no doubt favourable. The dedication of Thwaites Heptateuch of Aelfric remained, the books were released, and copies presented to great men in London.<sup>1</sup>

A large and celebrated work like Hickes's Thesaurus demanded a large subscription list. Prelates, peers and privy councillors were subscribers. The cathedral chapters of Durham, Sarum and Canterbury, the duke of Beaufort, the earl of Pembroke, lord Spencer, with other peers 'and even some spiritual Lords' contributed by January 1698.<sup>2</sup> The influence of great men eventually told. Lord Somers procured from William III a Nolle Prosequi to be entered by the attorney general against the charges against Hickes on 18 May 1699,<sup>3</sup> and the outlawry was lifted. Despite debts of over £400 in March 1703<sup>4</sup> and over £500 in June 1704,<sup>5</sup> the great work was finally finished. Money had to be borrowed and further subscriptions obtained. Hickes made no financial profit out of the work, but none the less it marked a great advance in the study of the old northern tongues. The absence of any controversial works from Hickes's pen between 1696 and 1705 is also proof of the truth of the dean's contention that he had for a decade abandoned all controversial work for the great scholarly achievement of the Thesaurus, but before he began

---

1 Bodl., MS Rawl. Letters 108, fol.245; Thwaites to Brome, 6 January 1697/8. MS Ballard 13, ff.35, 36; Thwaites to Brome, 16 January 1698. MS Eng. Hist. c.6, ff.198, 21; Wanley to Hickes, 18 February and 6 March 1697/8; and MS Rawl. D.377, ff.102, 110; Nicolson to Thwaites, 11 March and 7 May 1698.

2 Bodl., MS Ballard 12, fol.136; Hickes to Charlett, 17 January 1698/99.

3 Public Record Office, Privy Council Register, P.C. 2/77, p.334.

4 B.M., MS Harleian 3779, ff.202, 207; Hickes to Wanley, 4 July and 8 March 1704, and also MS Stowe 750, fol.2, Hickes to Parker, 1 June 1704.

5 B.M. MS Stowe 750, fol.2, Hickes to Parker, 1 June 1704.

this work in earnest he had also laid firm foundations of an enduring separation from the church of England. His controversy with Burnet had laid down key points which the nonjurors felt passionately would justify a complete separation of the nonjurors into a continuing communion, and his acceptance of a clandestine bishopric had showed that he had the courage to live up to his principles. Episcopi Anglicani semper pavid might be ascribed to the aged Laudian bishops of 1658 and 1659, but the nonjurors of the 1694 consecrations had the courage of their convictions. Sadly it was in a separatist cause marred by jacobitism, and the courage displayed only hardened and prolonged a schism which might otherwise have died with the 'deprived Fathers'.

## CHAPTER VII

THE SCHISM CONSOLIDATED:THE APOSTOLIC SUCCESSION AND HOLY ORDERSIN THE NONJUROR CONTROVERSY, 1689 - 1715

The seventeenth century in England was one of violent conflict. Political and religious conflicts brought about not only the downfall of King and Church and then their re-establishment, but also a profound sense of insecurity and of the dangers of subversive ideas which could overthrow the order of society. In the English Puritans of the Civil War and the Covenanters in Scotland, the force of militant religious dissent-in-arms proved strong enough to topple crown and episcopacy alike. The authoritarian Stuart doctrines of James I in his Basilikon Doron and Trew Law of Free Monarchies, combined with the sublime assurance of Charles I on the scaffold that the nature of sovereign and subject were radically different, presented a strong absolutist tendency. At the Reformation, Martin Luther had provided the princes of Europe with an ideology to use against the classic medieval conception of a united Christendom, under its two heads, Pope and Emperor. The papacy between Gregory VII and Innocent III had been at its zenith, claiming universal supremacy, the plenitude of power, and destroying the Hohenstaufen dynasty root and branch. But once Boniface VIII was successfully defied by Philip the Fair, national monarchies were well on the way to breaking the unity of Christendom into a loose confederation of national churches, owing allegiance to Rome, but through the sovereign prince. The Great Schism, the Conciliar Movement and the development of renaissance monarchies further damaged the old



idea of one Christendom, and Luther's appeal from Pope and bishops to the godly prince, father of his people, completed the ruin of the old order. The idea of the national church, the religious aspect of the nation under its divinely commissioned head, was born. Luther taught that if the Pope would not reform abuses in the church, then the monarch should do so, as he was charged with the total welfare of his people, spiritual as well as temporal.

Nowhere did these doctrines take root more firmly than in Henry VIII's England, where Thomas Cromwell's celebrated preamble to the Henrician Supremacy Act stated the case so clearly. Ecclesiastical jurisdiction must be seen to flow from the monarch. Bishops were seen as his delegates in religious matters, and a lay Vicar General ran the church as a department of state. At its most extreme, in the later years of Henry VIII and under Edward VI, bishops no longer held their diocese by the grace of God, but by a durante beneplacito commission from the crown.

Nowhere is the Anglican link with the state and monarchy seen so clearly as in the language of Cranmer's state prayers. The collects for the king in the Holy Communion service, the language of the Accession Day offices, the Exhortation to Obedience to Rulers and Magistrates of the First Book of Homilies and the Homily against Disobedience and Wilful Rebellion of the Second Book, all make clear in the official liturgical formularies of the English Church that the sovereign is to be accounted a minister of God. Not that the prince is to preach or minister the Sacraments, which is denied by article 37, but rather that the task of government is seen as instituted by God for the welfare and benefit of mankind in St. Paul's terms as "the punishment of evildoers and the praise of them that do well", or

as "the punishment of wickedness and vice" and the "maintenance of (God's) true religion and virtue" in the language of the prayer for the church militant here in earth. The Sovereign is a sacred person, set apart for his awesome responsibility by the sacramental dedication of coronation. His authority may not be challenged without sin. Gospel precepts of obedience to legitimate authority, meekness and patient suffering, are all used to emphasize that "the powers that be are ordained of God". "Rebellion is as the sin of witchcraft."

While this attitude towards the authority of the secular power was in the ascendant under Henry VIII and Elizabeth, and even to an extent under the early Stuarts, the Church of England itself was by the 1590's and early 1600's beginning to assert for itself a divine or apostolic authority like that of the crown. Even the classical Calvinist doctrines taught a divine right of the ordained ministry as preachers of the Gospel, and maintained that the doctrine and discipline of the church were the business of the clergy, not the laity. J.W. Allen's English Political Thought, 1603-1660 (1938) traces the development of the new high Anglican school, originally through the universities, which emphasized ecclesiastical authority by divine right. George Carleton's Jurisdiction; Regal, Episcopal, Papal (1610) rejected extravagant claims for secular sovereignty over the church and emphasized the distinctness of church and state. All 'coactive' or coercive power belonged to the king, but the spiritual realm belonged to the church itself. The spiritual government and internal jurisdiction of the church were the affair of the clergy. Princes cannot give or take away the divinely instituted powers of ordination, excommunication or administration of the sacraments.



Church authority is exercised in synods of the clergy, under episcopal authority. Richard Field, another Jacobean churchman, went further than Carleton in asserting episcopal authority, and declared that the civil sovereign could normally do no more than give sanction by legal penalties to ecclesiastical decisions.<sup>1</sup> This high Jacobean view gave rise to a 'neo-Catholic' or 'Anglo-Catholic' faith by the accession of Charles I which certainly went far beyond the erastian Elizabethan or Henrician view, and went beyond the views of Bancroft, Carleton or Field. This school is particularly associated with Sanderson, Montague and Laud, and tended to emphasize the historical continuity of the church with that before the Reformation, the doctrine of the visible church and the apostolic origin and succession of the episcopate. Whereas the late Elizabethan and early Jacobean divines had inclined to an erastian view of the church, the later Jacobeans and Carolines emphasized the testimony of the early fathers of the church and tended to view the Reformation not as the complete reconstruction of the church, which the Calvinists taught, but rather as merely the removal of medieval abuses and accretions and the return to a primitive and patristic catholicism, free from popish error. Richard Montague's New Gagge for an Old Goose and Appello Caesarem taught a high doctrine of church authority, the binding nature of doctrinal pronouncements on the laity, the necessity of episcopacy, a doctrine of the Real Presence in the eucharist, sacerdotal absolution and the value of private

---

1 G. Carleton, op. cit., ch.I, IV; and Richard Field, Of the Church, bk.V, ch.liii, p.427, and p.428. Quoted in J.W. Allen, op. cit., pp.123-136, 158-199, to which much in these pages is indebted.



confession to a priest. John Cosin's Private Devotions published in 1627 revealed a fully catholic system of canonical laws and recommended private confession.<sup>1</sup> Such a resurgence of a high ecclesiology propounded a theory of the church with rights and powers of its own, independent of the state, and with an inalienable spiritual character unaffected by its incorporation in the state. No wonder the Commons' reactions to Montague's books were so strident.

R.G. Usher called Bancroft's primacy 'the reconstruction of the English church'. The old Elizabethan, Edwardian and Henrician erastianism had been replaced by the doctrine that the crown in Convocation made laws for the Church, just as the Crown in Parliament did for the state. The 1604 canon law, much of it based on Elizabethan precedents, was enacted on this theory. Challenged by the Commons in 1604, the Church under Laud still asserted this doctrine in 1640 when the Convocations sat after the dissolution of parliament. Church and Crown had interests in common, to resist the assertive power of Coke and the Common Lawyers and the House of Commons alike. Just as Henry VIII's Supremacy Act emphasized the King's supremacy over clergy and laity, so the 1533 Act in Restraint of Appeals in its preamble emphasized that the spirituality, the English church, 'hath been always thought and is also at this hour sufficient and meet of itself, without the intermeddling of any exterior person or persons, to declare and determine all such doubts and to administer all such offices and duties as to their rooms spiritual doth

---

1 J.W. Allen, op. cit., pp.158, '9, 161-175.

appertain'. Here seemed to be a legal charter for the Convocations of Canterbury and York, meeting each parliament, recognizing that the ancient ecclesiastical synods of England were for the spirituality what parliament was for the temporality. The Edwardian Uniformity acts of 1549 and 1552, their repeal in parliament by Mary, and Elizabeth's acts of 1559 appeared to teach another doctrine, that parliament could legislate for the church, prescribe liturgy, rites and ceremonies, and also provide means to enforce such services. A contrary theory to that of the early seventeenth century churchmen thus existed also. But as long as the conservative interests of the king and the church ran together, opposing that of an increasingly assertive Commons, church and crown clung together for their mutual support. In consequence, both went down together in the civil war, destroyed by the lay aggressiveness of the Commons in parliament.

The intrusion of the sixteenth century revival of Roman civil law, under the influence of Bodin in France and in England in such books as Cowell's Interpreter (so rudely censured by the Commons) hastened the inevitable conflict between the Stuart monarchy's grandiose claims and those of the church on one side, and the assertive gentry in the Commons on the other. The "squirearchy" class, enriched and made more powerful by the reckless selling off of monastic estates by the crown after the dissolution, consistently claimed a right to legislate in church matters, despite Elizabeth's, James' and Charles I's attempts to exclude them. When the civil war came, church was destroyed as well as monarchy. Archbishop Laud was martyred as well as King Charles. The bishops, prayerbook and articles and canon law were abolished, just as was the kingly office. The ejection of Anglican clergy, their sufferings and



persecution, became a mark of the Commonwealth and Protectorate years. Anglicanism became a martyr faith.

This background is essential to explain the vehemence of the divine right and non-resistance fervour of Restoration Anglicanism. Archbishop Juxon had stood on the scaffold with Charles I, and his successors Sheldon and Sancroft both knew deprivation and persecution as malignants under Cromwell. The Restoration legislation re-establishing the Church of England did not restore the oath ex officio mero or the High Commission, thus partly depriving the church of its full pre-1640 judicial independence, but also protected the church's privileges by the penal statutes of the Clarendon Code, aimed at the restriction of religious dissent. But these acts were parliamentary statutes. Though the Convocations sat to revise the prayer book at the Restoration, their hands were again forced by the House of Commons, and when the clergy surrendered their right to separate taxation in 1664, the Convocations did not meet again until after the Glorious Revolution. In the reign of Charles II, Sheldon and five and twenty bishops in the Lords firmly opposed the declaration of Indulgence in 1672 and 73, and voted with Shaftesbury to force the king to accept the Test Act. When the crown thus attempted to undermine the church's privileged position, the king was determinedly opposed. Church and king sounded very well as a rallying cry, but an attempt to grant a prerogative toleration, even without political rights, was rejected by the church as much as the Commons. But when Shaftesbury's exclusion campaign appeared to threaten the crown and also the church's position in the Restoration settlement, the whigs using a good deal of dissenting support, the church stood firmly beside the crown and hereditary



succession. Indefeasible hereditary right was a fundamental law of England, part of the constitution of the realm. So was the position of the church. If a Whiggish majority in the Commons could change succession law for the crown, then it might also attempt to give toleration or political rights to presbyterians or other descendants of Cromwellian king-killers, who had overthrown the Church and beheaded Laud. The Crown and the Church were alike regarded as sacred and untouchable; a double divine right protected both. Like Elizabeth I who forbade the Commons to mention either church matters of her marriage, so Archbishop Sancroft and his episcopal phalanx in the Lords voted firmly against Exclusion and stuck to the king and hereditary succession, because it was so much in their interest to have the ecclesiastical part of the Restoration settlement thought as fundamental and unquestionable as the crown itself. Profane lay hands could not be laid on the ark. In the final years of Charles II, the crown's extensive ecclesiastical patronage was placed in the hands of the Commission for Ecclesiastical Promotions after 1681, a small committee of bishops and Anglican lay peers who deliberately rewarded suitable royalist divines with the best desirable benefices and dignities in return for their political support.<sup>1</sup> Royalist clerics were used in a strong propaganda campaign of sermons and pamphlets to brand Shaftesbury, Whiggery and Exclusion as revolutionary and threatening another civil war. Fear of violent social upheaval for the second time in a century drew the church to support the crown, using the gospel

---

1 R.A. Beddard, The Commission for Ecclesiastical Promotions, 1681-84; An Instrument of Tory Reaction, in the Historical Journal, X, part i, (1967), pp.11-40.

precepts of non-resistance and passive obedience as royalist propaganda.

The double blows of James II's treachery and the swift and total success of the Revolution of 1688-89 changed the whole situation. James's blatant attacks on the church clearly demonstrated (as Charles II had tried to do in 1672) that the interests of the crown were certainly not necessarily those of the church. The trial of the Seven Bishops looked like the trial of Laud over again, but the attack now came from an anointed king. The rapidity of James' flight and William's accession presented an unprecedented challenge to all received doctrines. Although most clergy took the new oaths to the new sovereigns with more or less uneasy consciences, it was the most ardent believers in strict hereditary monarchy, the anti-Exclusion churchmen of the later years of Charles II, who had the most difficulty with the new oaths. Men who believed and taught the divine designation of dynasties as much as they <sup>a</sup>accepted the divine right of the episcopate, who had personal memories of Cromwellian persecution of the church, could not lightly break their oaths to the son of the royal martyr. Besides, their very doctrines of passive obedience and non-resistance taught that if the sovereign did violate the law, his aberrations must be patiently borne. Active obedience to sinful or immoral commands was ruled out. Armed resistance was impossible. It was sinful, damnable. Following the example of the primitive church in the Roman empire, churchmen might pray for their sovereign's conversion, for a change of heart and policy, but must passively endure suffering rather than comply with an erring ruler's sin. Passive obedience became what we might call passive resistance.



How then was the Revolution dilemma faced? The very speed and completeness of James II's overthrow and the Convention's substitution of William and Mary rendered divine right and passive obedience simply obsolete. But that was not immediately apparent in 1689. It appeared that strict legality had been violated, that resistance had triumphed. To such men as Archbishop Sancroft, Bishop Thomas of Worcester or Lake of Chichester, who had lost fellowships and benefices under Cromwell, there could be no doubt. The new oaths were flatly refused. No step could be taken to give any public countenance to the new regime. To many clergy and laity the realization gradually came that the Glorious Revolution was in fact fairly conservative in its character and that the really revolutionary attempt on the constitution had been made by James II. and been justly thwarted. The Church of England had effectively opposed popery and arbitrary power. Such works as Edward Stillingfleet's attacks on transubstantiation and the council of Trent and George Hickes's Speculum Beatae Virginis (1686) or An Apologetical Vindication of the Church of England (1687) were the theological equivalent of the Seven Bishops' petition. But whereas the great majority in church and state ultimately agreed with Gilbert Burnet that the "total subversion" of church and state had been attempted by king James, in the first shock of the Revolution settlement it was hereditary succession and non-resistance that appeared to be subverted. By refusing the new oaths, and incurring suspension and deprivation, the nonjurors tacitly admitted that they did not recognize the Revolution or its consequences. When Tillotson and the other new bishops were appointed to fill the places of the deprived, it was clear that the government ignored the nonjurors'



stand. Sancroft and the other deprived fathers had accepted their deprivation with great courage and conscientious strictness, but now thrust out of their Zion it became increasingly necessary to justify their stand. What began as a refusal to comply with new oaths recognizing a regime of dubious legality, now had serious ecclesiastical consequences. Originally, George Hickes had witnessed the dying declaration of Bishop Thomas of Worcester:

"Mr. Dean, ... I bless God that I have TWICE suffered in the same righteous cause, and ... have outlived the honour of my religion and the liberties of my country. It has been a great comfort to me in this general Apostasy of my clergy ... that you have not forsaken me ... I could burn at a stake before I took this new oaths."<sup>1</sup>

Hickes also witnessed Bishop Lake's deathbed declaration, made as he received the last sacraments. The bishop of Chichester asserted:

"Whereas that Religion of the Church of England taught me the doctrine of Non-Resistance and Passive Obedience, which I have accordingly inculcated upon others, and which I took to be the distinguishing character of the Church of England, ... if the Oath had been tendered at the peril of my life, I could only have obeyed by suffering."<sup>2</sup>

Hickes had also been often at Lambeth palace, and heard the Archbishop declare that "he had a perfect aversion to him (William), on account of his unnatural invasion of his father's kingdom, as he (Sancroft) was wont to call it, and his ill treatment of the king". Hickes added, "I heard him call the Prince upon his acceptance of the Crown, Oliver the Second".<sup>3</sup>

---

1 F. Lee, Life of John Kettlewell (1718), pp.190, 199, 200.

2 Ibid., Appendix XIII, pp.xlviii-xlvix. The original document is in the Bodleian, MS Eng. Hist. b.2, fol.77, dated 27 August 1687.

3 Bodl., MS Rawl., d.841, p.52. Hickes's MS reply to Burnet's "Vindication", circa. 1695.

It is clear from these statements that the nonjurors drew a clear parallel between the disasters which befell church and crown between 1645 and 1649 and the Revolution crisis. The nonjurors' stand was political in origin, and their non-compliance, deprivation and the government's appointment of new bishops all flowed from that political stand, and the confusion of the Civil War dethroning of king and bishops with the revolution. The confusion was natural and inevitable to Anglicans who had lived through the 1640's and 50's, but the parallel was a false one. It is quite anachronistic to see the nonjurors as claiming freedom of conscience against state control of the church. The Toleration Act in England and the abolition of episcopacy in Scotland, offensive to Anglican sentiments as they were, were political inevitabilities not deliberate Williamite policy. The church of England had in fact weathered the crisis remarkably well, with its episcopate and established status little impaired. Divine right, passive obedience and non-resistance had been publicly flouted and overridden, and while the nonjurors were obviously Jacobite, it was unpleasantly true that the largest numbers of the exiled king's supporters were in fact members of the complying Revolution church. The issue of Jacobitism alone was thus inadequate as a defence. It was therefore necessary to attack the national church on the grounds of ecclesiology, the nature, rights and powers of the church itself. This attack was very effective, in one way appealing and in another unsettling the established church, but ultimately it represented a major departure from the whole received position of seventeenth century Anglicanism. In developing their case, the original stand on the oaths of allegiance



and royalist principles was left far behind, and the nonjurors developed a polemic more revolutionary to the accepted standards of contemporary churchmanship than the effects of the Glorious Revolution itself. Passive obedience, non-resistance and divine right of hereditary monarchy having been set aside by a successful parliamentary revolution, the rightful king now being permanently excluded and powerless to help (if as a papist he would wish to assist anyway) and the Revolution church apparently secure in possession of its usurped sees, there was only one way the controversy could go. As the Laudian divines of the 1640's and 1650's had continued to justify the Anglican church even from exile, so the nonjurors justified their continuing separation from the Revolution church on the grounds of ecclesiology. The Laudian clergy, excluded from their priestly calling by Cromwellian power and sometimes in exile, had provided a powerful apologia for persecuted Anglicanism in the 1650's. Cosin and particularly John Bramhall, then bishop of Derry (and later Archbishop of Armagh) produced a series of works defending Anglicanism against the church of Rome on the one hand and against the triumphant English puritans on the other, and both justified apostolic succession, Anglican orders, episcopacy and priesthood as an essential feature of the Church of England. Thorndike's writings throughout the 1650's, culminating in his massive Epilogue to the Tragedy of the Church of England, are in themselves a complete apologia for Anglicanism. Hamon L'Estrange's Alliance of Divine Offices justified liturgical worship and especially the Book of Common prayer. What anglicanism could do in the 1650's, the nonjurors would do again in the 1690's. The church after Laud's death was thrown back on its own resources, with no state support



and only opposition from Cromwell's tyranny. It was the same for the Nonjurors under William III. Between 1689 and 1692, nonjuring writers continue to defer to the monarchy, to passive obedience and the divine right of kings, but after 1693 and 1694, the church itself, the intrinsic apostolic rights of bishops and priests, and especially the excluded nonjuror clergy and the justification of their continuing stand, dominate the controversial scene.

Although the early controversial literature of 1689 and 1690 is vast, it largely concentrates on the 'state point' issues of oaths, perjury, the illegality of the Convention and its settlement of affairs on William and Mary. George Hickes's Reflections on a letter out of the Country to a Member of this Parliament, ... concerning the Bishops lately in the Tower and now under Suspension (1689) asserted the 'essential nullity' of the Revolution settlement, pointing out that James II's abdication was in ny way genuine and consequently could not release those bound by the old oaths of allegiance. The nonjurors stood on their old known principles opposed to any novelty. Another short work of Hickes's, A Letter to the author of a late paper entitled 'A Vindication of the Divines of the Church of England', in defence of 'The History of Passive Obedience' (1689), asserted passive obedience and non-resistance as precepts of the gospel, the known familiar teachings of the church of England. Perhaps compliers could justify their taking the offensive oaths on new principles, but such novelties were not the tenets of the church of England. In the Reflections on a letter out of the Country, Hickes concluded by defending the nonjuror bishops' conduct. By the nature of their sacred office, the bishops could not deny previous oaths

that still bound them by taking new contradictory commitments. It was a vital matter of principle. If bishops could be suspended simply for remaining faithful to known doctrines, then a contradictory situation would arise. Bishops so suspended could not in conscience be regarded as deprived and how could clergy in future accept the sees of men so deprived? Such deprivations could not really vacate a bishopric.

Once the deprivation date was past and once the government had allowed a whole year of grace and more to pass, Sancroft and his colleagues, having refused all overtures made to them, ~~and~~ still remained obstinately in possession of their sees and benefices. The government in April 1691 accordingly nominated Tillotson to Canterbury and six other bishops to fill the places of the deprived. Sancroft was driven from Lambeth Palace by legal proceedings when Tillotson obtained a writ of trespass and intrusion against him at midsummer.<sup>1</sup> The deprivations were not effected and successors to the deprived fathers consecrated and enthroned. Now the controversial tone changes. Less is now heard of usurpation, de facto or de jure kings, perjury and allegiance, and the ominous words 'schism' and 'unjust lay deprivation' begin to appear. Henry Dodwell, deprived Camdenian praelector at Oxford, sounded a clear warning in his Letter to Dr. John Tillotson, nominated to the Archbishopric of Canterbury, dated 12 May 1691. Dodwell had contributed his important Cyprianic Discourses to Bishop Fell's Cyprian, and was a patristic scholar of vast erudition. On 'Cyprianick principles', said Dodwell to Tillotson,

---

1 G. D'Oyly, Life of William Sancroft (1840), pp.276, 277, and chapter X, pp.245-249. T. Lathbury, The Nonjurors (1845), pp.85, 86.



... if their places be not vacant, the new consecrations must by the nature of the spiritual monarchy, be perfectly null, invalid and schismatical ... St. Cyprian ... admits this consequence ... that he who is ordained in the second place is not Secundus but Nullus; that he erects altar against altar, and cuts himself by so doing from the Communion of which he was before a member.<sup>1</sup>

As Dean of Canterbury, Tillotson was guilty of a grave ecclesiastical and spiritual crime in supplanting his lawful metropolitan. No 'lay pretended law' could dissolve the bonds of spiritual allegiance. 'You make it impossible for the Catholic church to subsist, as distinct and independent from the state.' This will 'fundamentally overthrow the being of the church as a Society ... It puts it into King William's power to ruin our Church by an act of State.'<sup>2</sup> This was precisely what was done in Scotland by the abolition of episcopacy, Dodwell or Hickeys might have added.

In June 1691, Dr. John Sharp, the former Dean of Norwich and new Archbishop of York, preached a farewell sermon in his London parish of St. Giles in the Fields. He condemned those who were "so distasted" because of their "hypotheses ... about government", that they withdrew from the public worship of the church. Sharp continued,

What is the meaning of this? Hath schism and separation from the established worship, which heretofore was branded as so heinous a sin (and deservedly too) so changed its nature all of a sudden, that it is become not only innocent but a duty? ... What an unaccountable humour it is to make a rent and schism in the church upon a mere point of state.<sup>3</sup>

---

1 F. Lee, Memoirs of the Life of John Kettlewell (1718), Appendix V, pp.viii, ix, x, xi.

2 Ibid.

3 J. Sharp, op. cit. (1691), pp.26, 27, 29.



George Hickes sharply answered Sharp in his Apology for the New Separation (1691), accusing him of sanctioning rebellion and the deposition of kings, and also drawing the parallel of the present persecution of the Nonjurors with that of anglicans by Cromwell. Was there not then reason enough to withdraw from public worship when the puritans had corrupted the liturgy as there was now when "immoral prayers" for usurping monarchs were said? Such prayers and the immoral oaths were only a beginning, and now the compliers were making a formal schism in the church. The Revolution church was boldly compared with the Donatists or early Arians, who sometimes retained possession of church buildings by the favour of the secular authorities but who were themselves the perpetrators of schism and error, not their catholic adversaries. How could those who remained faithful to their old doctrines be the cause of schism? Surely the innovators had caused the breach. Sharp's "mere point of State" had become a major issue of conscience. Truth and falsehood were at issue. The new oaths were a religious matter. Even the word "rightful" had been omitted from the new oaths, thus implying that the framers of those oaths admitted their new rulers to be unlawful. The intrusion of bishops into sees not canonically vacant was another cause of separation, but the separation was made by the intruders.<sup>1</sup>

No clear division is here obvious in Hickes's mind between church and state points. Obviously the one was indissolubly connected with the other, especially in a situation where the church was so clearly and constitutionally connected with the

---

1 Geo. Hickes, op. cit., passim.

state and incorporated into it. But by repudiating the right of the state to deprive bishops, the nonjurors were at least claiming a considerable autonomy for the church, a sphere of independent jurisdiction and action separate from state control. Only implicitly so far, but gradually more and more explicitly Hickeys and the other nonjurors came to question the whole received basis of the legal establishment of the church of England. What began as a protest against the new oaths soon became a protest against lay deprivations and the appointment of new bishops to fill the places of the deprived, and gradually turned into a strong reassertion of ecclesiastical independence based on a theological foundation. The independence of the church, the inherent spiritual powers of the clergy and bishops, were firmly opposed to the parliamentary supremacy of 1689. It had been all very well to allow, with Laud or Sanderson, that the purely external coercive power of ecclesiastical jurisdiction came from the Crown, in a church established by law and incorporated into the state. To allow the Crown the power of enforcement of ecclesiastical decisions, yet to deny any power of the Crown in matters of faith and certainly to deny such power to a lay assembly or parliament, was Laud's own position.<sup>1</sup> But Laud and Sanderson both asserted an essential, inherent church power, in preaching, ordaining and excommunicating or absolving, as a power of order. The church might well acknowledge the king as fount of all coercive power, but when that coercive power was used against and not for

---

1 W. Laud, The Answer of the Most Rev. Father in God, William, Lord Archbishop of Canterbury, to the speech of the Lord Saye and Sele, touching the Liturgy; Works, L.A.C.T., VI, part i, pp.142-5; and R. Sanderson, Episcopacy as Established by Law in England not prejudicial to Regal Power, Section II, para. xii; Works, ed. Jacobson, V, p.157 f. Quoted in P.E. More & F.L. Cross, Anglicanism (1935), pp.689-693.



the church's good, another situation arose. Passive obedience and non-resistance commanded peaceful passivity, not active acquiescence. Sanderson had laid down:

My assertion is, that the right of making ecclesiastical laws is vested in the Bishops and Presbyters ... assembled duly in a lawful Synod; yet so, that the exercise of this right and power ought to depend, in every Christian state, upon the authority of the civil magistrate.<sup>1</sup>

But when the civil power was usurped and illegal, and persecuted the Church, what then? The church then might surely be obliged to consult its own safety. This surely was logically the unspoken consequence of the Laudian position, and by degrees the nonjuror controversialists began to assert a radical independence of the state which could ultimately called in question the whole accepted legal constitution of the Church of England. Just as the rightful succession to the crown has been broken by usurpation, so had the apostolic succession of the church's bishops, her lawful rulers in spiritualibus.

It was to ecclesiology, and especially to patristic ecclesiology, that the nonjurors turned to defend their stand and to attack the Revolution church. The seventeenth century saw a great revival of patristic scholarship and ecclesiastical history. In the Anglican church Ussher, Pearson, Fell, Outram, Stillingfleet and others rivalled the Roman church's Baronius, Morin and Mabillon. Pearson's vindication of Ignatius of Antioch's epistles and Fell's great Cyprian (1682) won European acclaim, and these two fathers are precisely the two most explicit early Christian writers to set forth a high doctrine of the office and spiritual powers of

---

1 R. Sanderson, quoted in More & Cross, op. cit., pp.693-4.



the episcopate. Bishops, possessed of the awesome authority of excommunication, were God's own shepherds for his flock. Hickes, Henry Dodwell, Charles Leslie and others ransacked early church history for examples of episcopal authority in cases of schism, rejoicing in such precedents as Ambrose's excommunication of Theodosius as examples of episcopal power, as they had formerly searched for precedents of passive obedience and non-resistance like St. Maurice and the Thebean legion or the early Christians' attitude to Julian the Apostate.<sup>1</sup> Those who formerly so cried up hereditary succession and monarchy in the latter years of Charles II were now the very men who cried up apostolic succession by divine right and the inalienable spiritual powers of bishops and priests after the Revolution.

What made the nonjuror schism fixed and incurable was the decision to carry out episcopal consecrations in secret. Bishops Thomas of Worcester and Lake of Chichester by their dying declarations, and Sancroft in his isolation first at Lambeth and then at Fressingfield in Suffolk, had a profound influence on nonjuror conduct by reminding their followers of Anglican sufferings under Cromwell. Sancroft, now aged and frail, from his country retreat issued his famous secret commission to bishop William Lloyd of Norwich empowering him to exercise the full primatial and metropolitanical authority of the see of Canterbury, rejecting his deprivation as null and void and explicitly ratifying and confirming any actions taken by Lloyd to perpetuate the nonjuror episcopal succession, in the right

---

1 e.g. Hickes's Jovian (1683) and The Celebrated Story of the Thebean Legion no Fable; in answer to Dr. Burnet's Preface to Lactantius's "De Mortibus Persecutorum" (1714).

line of descent. This remarkable document sets out Sancroft's defiance of the Revolution church, and driven from the throne of St. Augustine like Athanasius, Cyprian or John Chrysostom from their sees, he made clear provision for the succession to be continued.<sup>1</sup> Francis Turner, deprived bishop of Ely and an ardent and active Jacobite, knew of the secret correspondence between Chancellor Hyde, Charles II and the deprived and elderly Laudian bishops in the critical years before the restoration between 1658 and 1660. It had then been proposed to carry out secret episcopal consecrations to supply the failing numbers of the English episcopate, to preserve Anglican continuity at the time of Cromwell's death when a restoration began to seem possible. This correspondence, in the library of St. John's college, Cambridge (itself a nest of nonjuror clergy) provided the essential precedent.<sup>2</sup> If one king in exile could sanction secret episcopal consecrations, so could another. George Hickes was accordingly smuggled across the Channel to St. Germain's in 1693, to secure the approval of the deposed James II. This consent was only given after the scrupulous James had consulted Bossuet, Harlai the archbishop of Paris, and the pope himself. Despite the savage penalties of Praemunire for performing any episcopal act outside the legal limits of the constituted church, Lloyd of Norwich assisted by the deprived bishops Turner of Ely and White of Peterborough, carried out the clandestine consecrations of George Hickes and Thomas Wagstaffe, deprived Chancellor of

---

1 G. D'Oyly, Life of Sancroft (1840), pp.294-6; J.H. Overton, The Nonjurors (1902), pp.84-88; and R. Rawlinson, Records of the New Consecrations (Bodleian copy), Introduction by G. Hickes.

2 P. Barwick, Vita Johannis Barwick, S.T.P. (1721), Appendix. See also R.S. Bosher, The Making of the Restoration Settlement (1957), chap.iii, pp.88-100.



Lichfield, on St. Matthias' day, 24 February 1694.<sup>1</sup> Hickes was named as suffragan bishop of Thetford and Wagstaffe of Ipswich. Both these suffragan sees were named in Henry VIII's suffragan bishops act, and were in Lloyd's diocese of Norwich. They thus avoided the error the nonjurors attributed to the Revolution church of setting up second rival claimants to occupied sees.<sup>2</sup> The schism was thus complete on both sides. The nonjurors persisted in their episcopal claims as lawful canonical bishops, forced to give up their dioceses by superior lay force, vi et armis, but insisting on their claims to spiritual jurisdiction. Bishop Ken had made a spirited verbal protest against his deprivation at Wells cathedral, and Beveridge had refused to accept his see in consequence. Hickes had made his own protest by fixing his placard on the chancel gates of Worcester cathedral.<sup>3</sup> Only on the ground of inalienable spiritual rights inherent in the episcopal and priestly office could such actions be defended. Since the majority of the Church of England simply accepted the Revolution and its consequences as legal, the nonjuror insistence on intrinsic spiritual rights and apostolic succession had some uncomfortable consequences, sometimes unexpected, for those who still accepted without question a national church incorporated into the state, with crown appointed bishops and dignitaries. George Hickes, Henry Dodwell and Charles Leslie, the Irish nonjuror — champion, soon built up a formidable indictment to challenge the whole accepted theory of the established church of England.

---

1 R. Rawlinson, Records of the New Consecrations; F. Lee, Life of Kettlewell, pp.338-347. Also T. Lathbury and J.H. Overton, op. cit.

2 Bodl., MS Eng. Hist. b.2, ff.52, 53.

3 F. Lee, Kettlewell, Appx. IV, pp.v-vii.



Dodwell's Vindication of the Deprived Bishops (1692), in reply to Dr. Humphrey Hody's publication of the Oxford Baroccian manuscript, stated the nonjuror case powerfully. Hody had printed a medieval Byzantine manuscript giving eighteen clear instances of Orthodox bishops deprived by mere state force, often for political reasons. Each of these deprivations, Hody claimed, had been accepted by the Byzantine church, by the affected dioceses and by the bishops themselves, for the sake of the peace of the church and to avoid schism. Surely, Hody argued, deprived bishops should accept their removal gracefully and retire to private life, as no attempt had been made by the government to deny or abolish the episcopal order, to upset the constitution of the English church or interfere with their regularly consecrated and enthroned successors. Dodwell retorted that none of Hody's eighteen cases were from "the purest and most primitive ages of the church", the Baroccian MS was in fact thirteenth century or later and eighteen examples of "successful wickedness and sacrilege" could not justify more injustices of the same kind. With his massive historical learning, Dodwell demolished each Byzantine precedent, harking back again and again to Cyprian's attitude to the Novatianist schisms in Carthage and Rome. "Secundus is nullus", occurs repeatedly. Even worse, schism defended by its perpetrators often led to heresy and false teaching to justify the original breach. "The Church's being as a society" was a fundamental of faith and "Latitudinarian principles" threatened to dissolve the church's very being. The schism of Meletius of Antioch, the deposition of John Chrysostom and other patristic precedents were cited and disposed of. The deprived bishops and their metropolitan stood not for any personal claims, but rather for

the inalienable rights of the episcopate, apostolic succession and the freedom of the church catholic. The church's essential independence must be asserted.

Dodwell's Defence of the Vindication of the Deprived Bishops (1695) went much further. If lay deprivation were invalid, then the deprived bishops "must still be bishops, and bishops of the same jurisdictions, and retain their rights to their subjects' obedience, ... as much (with regard to conscience) as if such depriving sentences had never been decreed". Dodwell further argued that submission to usurpers in spiritual matters was actually sinful. English churchmen who accepted Tillotson and the Revolution bishops were "accomplices in the injustice". Inevitably, the comparison with deposition of James II came up. Edward II and Richard II had both released their subjects from their allegiance and oaths by public acts of abdication. James II had not done so, nor had Sancroft and the deprived bishops abdicated or accepted their deposition. Those who had not acquiesced in such deprivations must be presumed to assert their claims still. Hody's contention that the "private interests" of governors should be renounced to preserve the public good of the whole was invalid. Surely it was always in the public interest that lawful rulers should not be ejected. Those who despise Christ's own officers in his household, despise him and God his Father. Possession of the mere temporalia of a see meant nothing as to conscience. Spiritual rights were vital. While criminous clergy might be judged by temporal sovereigns and punished for civil crimes, the episcopal character was inevitably involved in depriving a prelate of his see. The compliers' defence, that the Revolution changes did not affect



the episcopal status and character of the deprived fathers, was weak. Dodwell pointed out that ecclesiastical or synodical deprivation did not touch indelible character, but only restrained the exercise of the powers that priestly or episcopal character conferred. The state had done exactly that by depriving bishops guilty of no ecclesiastical crimes and replacing them with compliers. But episcopal character necessarily implied jurisdiction and episcopal acts. The state might well endow a diocese with lands, but it could not in fact create an area of episcopal oversight. Ecclesiastical dioceses had long existed under the pagan Roman empire, under persecution, long before Constantine. Dodwell concluded that on "Cyprianick" principles the true unity of a church lay in its "college of bishops". Where a perfect union of church and state did exist, where a good Christian prince protected the church, a church might indeed devolve certain of its spiritual rights to a monarch or only exercise them with his consent, but all such grants were revocable, and must be withdrawn ipso facto if the state persecuted the church.<sup>1</sup>

Dodwell also pointed out that the government had in fact not only deprived an English primate and several of his suffragans, but also the entire Scottish episcopate. He referred several times to Henry VIII's "usurpation" over the church, his assumption of the title "supreme head of the Church" being discarded by Elizabeth, who had enacted Article 37 which specifically denied the crown any preaching or sacramental function. Henry VIII's conduct was contrary to Magna Carta and his coronation oath. His spoliation of church revenues was condemned. The compliers

---

1 H. Dodwell, Defence of the Vindication (1695), passim.



were reminded that the English church has "as sacred a right in the fundamental constitution of the legislative power" as Parliament itself. The Anglican church had justly protested against the usurpation of James II's ecclesiastical commission. Dodwell concluded that the Submission of the Clergy could not bind their posterity for ever. A divine right could not be surrendered by human action to a human agent absolutely.<sup>1</sup>

An extremely hard and forceful position on episcopal and ecclesiastical rights was taken by George Hickes. As an outlaw since his protest at Worcester, he could not appear in print as readily as the layman Dodwell, but his propositions on "the Constitution of the Catholick Church" were widely circulated in manuscript, frequently copied and quoted, though only published after his death in 1716. The conclusions Hicks advanced were rigorous and logically consistent. All Dodwell's points were repeated emphatically, but Hickes went further and insisted that the guilt of schism 'by contagion' must extend to all the consecrators of the Revolution 'intruded' bishops, to all clergy and laity who adhered to them, and that all their episcopal acts were invalid, null and void. One set of twenty-four propositions in Hickes's own hand, and his more famous forty from the posthumous Constitution of the Catholic Church (1716), make their author's position very clear.<sup>2</sup> He regarded the barriers between the Revolution church and the nonjurors as insurmountable, without a complete surrender and penitential submission by the established church. Contact with schismatics was impossible. Apart from

---

1 Ibid., pp.26, 27, 87, 93-95, 104-109.

2 Bodleian, MS Rawlinson D.1234, ff.19-41, and Constitution of the Catholic Church (1716), pp.1-60.

the 'immoral prayers' for William and Mary as king and queen said in all parish churches, the ministrations of complying clergy were sinful and must be avoided. In Hickes's final view, the altered state prayers alone were enough to warrant absence and separation from the national churches' worship. It was "less heinous to be present at divine offices where Ave Maries, etc., are said, than at such offices".<sup>1</sup> Abstaining from contact with the compliers was a religious and moral duty. Hickes concluded, "I cannot make the gate wider, nor the way easier and broader than Christ hath made it ... Principles are principles, that is they are very strict and rigid things. They are like glass drops, you may easily break them, but you cannot bend them".<sup>2</sup>

Hickes began from the scriptural background that the church is called in the New Testament the kingdom of Christ, the City and Household of God, Christ's mystical body and a holy temple. Christ, as its supreme head, is both king and priest and bishops are his "legates, Vicars and Viceregents" exercising a similar kingly and priestly authority. Ruling and judging, using the power of the keys, were as essential to the episcopal office as the sacramental and preaching ministries. So a bishop's function must necessarily carry with it the powers of ruling a diocese, the exercise of proper jurisdiction over clergy and laity, the powers of excommunication and discipline. Christian kings were baptised laymen, who gained no spiritual powers over the church by their coronation and enthronement but rather a stronger obligation to protect and defend it. As the church had no

---

1 Ibid., p.8.

2 Ibid., p.141.



secular power by divine right, no power to depose kings or coerce the state, so the civil power had no authority in matters of spiritual jurisdiction. The state might punish clerics for civil crimes, and the church could punish laymen by excommunication. The church in a Christian kingdom might voluntarily restrain some of its inherent spiritual prerogatives in return for protection or state endowments, but this must be seen as a contract or concordat with the Civil Power. Such a contract was voidable. Hickes itemised a list of specific abuses by the state in England of the church's rights; the treatment of tithes and lay patronage as lay-fee cognisable at common law; the crown as supreme ordinary; the necessity to have the crown's license before and assent after making Canons in Convocations; writs of Quare Impedit issued by civil courts against bishops refusing to institute unworthy clerics to benefices; prohibitions, by which King's Bench could stop a process in the church courts; and finally the "unchristian acts of parliament touching the election and consecration of bishops". All these were sinful encroachments on Christ's kingdom and His rights by profane lay force. Lay deprivation of bishops was the rebellion of children against their spiritual fathers, unnatural insurrection against Christ and his representatives.<sup>1</sup> To add to this downright catalogue of crimes against the church, Hickes asserted that the spiritual relationship between a bishop and his flock was unbreakable save by ecclesiastical process. Lay deprivation even by a lawful and rightful monarch was always sinful. 'This way of dethroning and depriving a rightful, canonical bishop, is

---

1 Bodl., MS Rawl., D.1234, ff.27-28. Propositions XVII, XIX.



itself utterly null and void from the beginning, tho' done by lawful secular powers'. The Revolution bishops were 'detestable usurpers', 'very Corahs', and 'no bishops'.

"... They can perform no valid acts of priesthood; their very prayers are sin; their sacraments are no sacraments; their absolutions are null and of no force; God ratifies nothing in heaven which they do in his name upon earth; they and all that adhere to them are out of the church; they can claim no benefit of God's promises, no, not of his assisting grace, not remission of sins through the merits of Christ's blood. Nay, though they should die martyrs in the schism, their martyrdom would not be accepted."<sup>1</sup>

Hickes quoted Cyprian's Epistle LXIX to Magnus: 'Dicimus omnes omnino haereticos et schismaticos nihil habere potestatis ac juris'.

Cyprian's attitude to schismatics, and that of Augustine and Optatus of Milevis towards the Donatists, set irreversible precedents which the nonjurors used with telling effect to unsettle the national church.

Hickes's two treatises on The Christian Priesthood and The Dignity of the Episcopal Order also originated in the controversies of the 1690's, in manuscript form, in his controversies with Serjeant Thomas Geers, serjeant at law, brother of Mrs. Susanna Hopton of Kington, Herefordshire, who had shielded the dean in his years of outlawry. Hickes set out to prove the 'free estate or independent nature of the Church, and its real distinction as a society from the state', and 'a distinct and independent spiritual authority in the bishops of the church'. The inevitable consequence of these doctrines was that the church must be set free from all state control, to prevent its being manipulated or controlled

---

<sup>1</sup> Ibid., f.29. Proposition XXIII.

either by a James II or a William III. Hickes's treatises were not in fact published until 1707 and then reissued in 1709 and again reprinted, much enlarged, in 1711. A final edition again much enlarged and supplemented, appeared in 1715. Hickes published the works in answer to Matthew Tindal's Rights of the Christian Church Asserted (1706), which maintained that in England church and clergy were mere creations of the civil power and legislature.

The Church of England ... being established by acts of parliament, is a perfect creature of the civil power; I mean as to the polity and discipline of it, and 'tis that which makes all the Contention.

Tindal continued by alleging that high church clergy

... treat the Articles as they do the Oath of Allegiance, which they say obliges 'em not actually to assist the government, but to do nothing against it; that is nothing that would bring them to the gallows."

Tindal was able to seize upon the nonjurors' use of the apostolic succession and inherent spiritual powers of the clergy as controversial arguments to brand the entire High Church party in the English church as Jacobite and disruptive and dangerous. To Tindal, a national church must be subject to national authority. The Convocations, therefore, only had delegated powers, strictly limited by law.

So that the Clergy's seems not to be so great as that of every petty corporation; for whom as our King's can't make any byelaw, so what they make for themselves are binding, though not consented to by the King, or without observing those formalities the Convocation is obliged to.<sup>1</sup>

The nonjuror controversy, reviving the concepts of apostolic

---

1 M. Tindall, Rights of the Christian Church Asserted (1706), Preface, pp.iv, v, vii.



succession and priestly authority, had far reaching effects in unsettling the Church of England. When William III refused to allow further sittings of the Convocations after the fiasco of 1689, the nonjurors deliberately used these doctrines to foment the notion of the church in danger, the unreliability of the Whigs, the dangers of tolerated Dissent and therefore to raise demands for a sitting Convocation. Using these strong doctrines, with their Jacobean and protoCaroline past, the known teachings of Bancroft, Richard Montague, or the martyred Laud (the 'English Cyprian') himself, and using them without the corresponding emphasis on the divine rights of the crown which the early sixteenth century high churchmen displayed, the nonjurors were able to represent themselves as in the authentic line of development from the church of England before the Civil War through to the 'Laudian'-party of Anglicans who made the restoration settlement. There was also the obvious parallel that the nonjurors desired to suggest: that they, as an outed minority, represented the true successors of the persecuted Anglicans of the Commonwealth and Protectorate years, the faithful remnant of the true old church for which Laud and Charles I had died as martyrs. While in reality the nonjurors were a small irreconcilable minority, which split both the Jacobite movement politically and the high church movement ecclesiastically, the influence of the nonjuror controversy was far greater than the size of the party that fomented it. With their known rejection of the Revolution, William III and the church settlement of 1689-91, the reassertion of the spiritual rights of the clergy and episcopate in so forcible a divine right manner, had inevitable results which had serious reflections on the Anglican establishment and its whole legal basis.



Dodwell, Hickes and Charles Leslie carried their attack boldly against Henry VIII, Thomas Cromwell, the Edwardine Reformers and the Elizabethan settlement. Dodwell produced The Doctrine of the Church of England concerning the Independence of the Clergy on the Lay Power (1697), asserting the need to go back behind the Reformation and the middle ages, beyond both royal or papal usurpation over the church, to pure and patristic times. 'Our late brethren' of the Revolution church insisted on the royal deprivations of bishops by Edward VI and Elizabeth as precedents for the removal of Archbishop Sancroft and the other deprived fathers. Dodwell dragged in the embarrassing evidence of Burnet's History of the Reformation that Archbishop Thomas Cranmer had regarded the Crown as the fount of holy orders and jurisdiction, and clergy as the King's delegates in spiritual matters. Cranmer also regarded episcopal ordination or consecration of the clergy as inessential, stating that simple appointment by the crown would be sufficient, though ordination ceremonies should continue as edifying ceremonies of appointment like the swearing-in of Privy Councillors or judges. Dodwell roundly condemned the Reformation primate's 'singular opinions' and 'licentious principles'. Henry VIII merely substituted a royal tyranny over the church for a papal one. Lord Protector Somerset and Thomas Cromwell were also condemned. Henry VIII denied the church's freedom decreed by Magna Carta. The principles of a 'sacrilegious age' had enslaved the church. Henry's assumption of the title '"Supreme Head of the Church"' was mere blasphemy, and even Elizabeth as Supreme Governor could never be 'an original of sacerdotal power, who was by her sex incapacitated from exercising any sacerdotal act'. Henry VIII's first supremacy Act (24 Hen. VIII, cap. 12)

distinguished sharply between spiritual and temporal, and allowed a Supremacy of the crown over laity and clergy in purely civil affairs, allowing the spirituality its own proper sphere. But Henry and Cromwell had usurped the spirituality's area of jurisdiction. But the Elizabethan understanding of the Supremacy, in the Queen's injunctions and Article 37, was like that of James I and Archbishop Ussher, radically different from the 'Cranmerian' and later Henrician and Edwardian erastianism. The awkward precedent of Elizabeth's depriving the Marian bishops by lay power and act of parliament was answered by stating that they were allowed a synodical hearing in Convocation, but that as Romanists they were 'heretical' and 'of another communion'. In any case, they had left no succession to dispute Archbishop Matthew Parker and the Elizabethan bishops. Dodwell allowed that usurping kings, or bishops consecrated in schism and so usurping a diocese, might well keep unlawful possession of their realm or see long enough for their rightful predecessor to be removed by death. When no longer 'secundus', the nullity might be removed. But mere physical possession of kingdom or see required to be ratified either by secular legislature, recognition by subjects as lawful king, or in church matters recognition by other bishops of undoubted validity.

Charles Leslie's Case of the Regale and the Pontificat stated; in a Conference concerning the Independency of the Church appeared in 1700 and again in 1701, with an enlarged second edition in 1702. Leslie raised the question of the submission of the Clergy of 1532. How could Anglican clergy still be bound by this? 'Have we not shaken off Popery yet?' How could the submission of a popish synod bind their anglican successors? "That secular spirit",



said Leslie, "which the principles of Erastianism have begot in the clergy, must be exorcised?" Mere legal recognition and establishment was not coterminous with the divine right of apostolic succession. Dodwell's and Hickes's points were restated, and Leslie concluded by praising the Gallican Articles and the French church's attempt to free itself from papal domination - a papal usurpation just as detestable as the royal tyranny enslaving the English church. Leslie had already in 1698 produced his Discourse showing who they are that are now qualified to administer Baptism and the Lord's Supper, wherein the Cause of Episcopacy is briefly treated. While roundly condemning non-episcopal ministries in this tract, Leslie also asserted episcopal rights and apostolic succession. In the Case of the Regale, Leslie asserted that the king did not gain power over the Church by coronation nor was there any essential tie between church and crown. 'The Regal is not fixt and inherent in the crown, but fleeting and casual, may be gained or lost.' To deprive a king or a bishop virtually took away from his character, and was 'a virtual degradation', '... a taking of his character from him, which remains then only in potentia, as the Schools speak, in a capacity to be afterward reduced in Act'. Leslie scorned 'the mockery of a *congé d'elire*', and stated 'this ought not to extend the Regal to the choice of persons (to be elected bishop), because it is an encroachment upon the Divine Commission granted by Christ to his church'.<sup>1</sup>

Dodwell and Hickes levelled their heaviest guns against the Royal Supremacy and the Henrician and Elizabethan settlements.

---

1 C. Leslie, op. cit., (1702), Preface to Second Edition, pp.20, 21, 41-43, and passim.



Dodwell's Defence of the Vindication of the Deprived Bishops dealt not only with unjust deprivations and violations of episcopal rights by the present government, but turned the old Whig arguments of the liberties of Magna Carta and the law of the land to the church's advantage. 'Ecclesia Anglicana libera sit.' Henry VIII's spoliation of church revenues was trivial compared with his claim to be the fount of spiritual jurisdiction. Dodwell emphasized the English church's essential and received place in the historically received constitution of the nation, as it had "as sacred a right in the fundamental Constitution of the Legislative power" as Parliament itself. A free Convocation was the church's right. Bishops must be unfettered by state control. Hickes's Dignity of the Episcopal Order reserved its severest criticism for Henry VIII, Somerset and Thomas Cromwell, for their requiring bishops 'to take out commissions for their bishoprics from the king to hold them only during his pleasure, and exercise their episcopal office only as his delegates, in his name and by his authority'. Giving examples of these Commissions, and sarcastically remarking that the Crown thus took to itself the power to give or withhold absolution and the administration of the Sacraments, Hickes continued:

'... Thus did two of our kings, ... the one out of pride and ambition, the other in nonage and ignorantly, set themselves in the throne of our Lord. And the bishops of the church of England, ... overawed through human weakness ... gave up the cause of Christ and the Church, for which they ought to have died martyrs, and by their compliance have left a blot upon their memories which no apology can wipe off ... And from the rigid practice of this new ecclesiastical supremacy, ... the true notion of the church as spiritual society distinct from the world, ... and of her spiritual power and authority invested by Christ in his ministers, hath been too much forgotten and neglected amongst us,

to the great dishonour of God, the unspeakable damage of religion, and contempt of the church and clergy.'<sup>1</sup>

These cataracts of denunciation of the English Church established by law were completed by Charles Leslie's enlarged second edition of the Regale & Pontificat (1702) which attacked the 'holy farce' of English episcopal elections and caustically remarked that the first clergy made by a king's usurpation of spiritual rights were the golden calf priests of Jeroboam the son of Nebat. The first Christian bishops to appeal to the crown for aid in spiritual disputes were the Donatists, and Constantine called them 'proditores'.<sup>2</sup>

It must be strongly emphasized that the whole nonjuror use of the 'high church' doctrines of apostolic succession and the spiritual rights of the clergy was highly polemical and controversial. That the nonjurors influenced Atterbury's campaign for a sitting convocation is undeniable, but that Atterbury was damaged by his presumed association with Jacobites and irreconcilable schismatics is also true. White Kennett and William Wake, the leaders of the moderate high churchmen within the established church, were quick to point out Atterbury's unsavoury allies. It can be seriously and consistently argued that Atterbury's own firebrand tactics and his association in the popular mind (though never in fact) with the nonjurors, did the high church cause more harm than good. The Victorian-Tractarian fiction of a wicked Williamite low church Whig episcopate trying to keep down a Tory lower clergy is a ludicrous over-simplification of the facts, largely

---

1 G. Hickes, op. cit., I, vii, in Hickes's Treatises (Lib. Ang. Cath. Theol.) (1847), pp.363-365.

2 Op. cit., pp.88, 89, 97-123.



because Isaac Williams and the other editors of the Library of Anglocatholic Theology believed George Hickes's controversial treatises too naively and uncritically. William's episcopate included such men as John Sharp at York, George Bull, William Beveridge and Edward Stillingfleet. Such men amply compensate for a Kidder at Bath and Wells or Richard Cumberland at Peterborough.<sup>1</sup>

The nonjuror schism was at bottom political and Jacobite. Its controversies and consequences shook the Church of England to its foundations. The attacks on the power of the Crown in matters ecclesiastical, coming from those who had so vehemently defended the rights of the Crown in the years before Charles II's death, have a regrettable ring of political expediency. For all the nonjurors' evident courage, sincerity, scholarship and labour, their use of the divine rights of apostolic succession as a weapon of controversy to overturn the whole received ecclesiastical fabric had become a revolutionary challenge, a plea for the total freedom of the church from any state restrictions at all. But the nonjurors did not remain united. Dodwell, Hickes and Leslie were to disagree seriously among themselves in the use of their controversial weapon, and another prominent nonjuror controversialist was to disagree radically with their attack on the establishment. Bishop Stillingfleet's Vindication of their Majesties' Authority to fill the Sees of the Depriv'd

---

1 See G.V. Bennett, White Kennett, Bishop of Peterborough (1957), and the same author's The Tory Crisis in Church and State; The Career of Francis Atterbury (1975), chapters I-IV; and N. Sykes, Wm. Wake (1957); and G.V. Bennett, "William III and the Episcopate", in Essays in Modern Eng. Church History, ed. Bennett & Walsh (1966).



Bishops asked a pertinent question which no nonjuror could answer, without confessing Jacobitism as the basis of his grievances.

If it be unlawful to succeed a deprived bishop, then he is bishop of that diocese still; and then the law that deprives him is no law, and consequently the King and parliament that made that law, no King and parliament.<sup>1</sup>

John Kettlewell, the nonjuring spiritual and moral writer, ascetic and casuist, was a confirmed Jacobite and an opponent of those who took the new oaths. He firmly believed the Revolution church was in schism, but refused to distinguish 'church point' from 'state point', and wrote:

In Christian kingdoms the church is incorporated into the state, and by the benefit of this incorporation bishops and pastors have their spiritual ministrations backed with secular effects ... All these secular fortifications, jurisdictions ... conferred on bishops and pastors of an incorporate church, are the gifts of the state, and are secular additions to what spiritual powers they received from Jesus Christ. And what the state gives, the state when it sees cause may deprive them of ... Although the state has no Power either to give or to deprive the ministers of Christ of their mere spiritual powers, yet it has a direct authority to grant and deprive them of their temporal additions.<sup>2</sup>

Kettlewell thus specifically allowed the Crown's rights in the appointment of bishops to their sees. The deprived primate and bishops had themselves accepted nomination, election, confirmation and consecration by virtue of a royal mandate, taken oaths of allegiance and done homage for temporalities. All this they had accepted from the crown, as well as receiving actual consecration

---

1 Quoted in N. Sykes, Church and State in the Eighteenth Century, pp.288, 289.

2 J. Kettlewell, Of Christian Communion to be kept in the Unity of Christ's Church (1693), Part II, chapter i.

from other bishops and enthronement at the hands of a particular cathedral chapter. How, we may ask with Kettlewell, could they logically or consistently object to the very system which had originally raised them to the episcopate? Only on the grounds of refusing deprivation at the hands of a new king they regarded as an unlawful usurper. Thus the primary objection was to the king, not to the system. Jacobitism, not freedom for the church from state control, was the true origin of the nonjuror protest. Dodwell, Leslie and Hickes carried their protest so far as to attack the whole church establishment and to declare it enslaved the church, but this provoked Matthew Tindal's scathing reply, or in March 1717, Bishop Benjamin Hoadly's infamous sermon on the text, "My kingdom is not of this world". The nonjurors so overemphasized absolute episcopal authority, as much as any Innocent III or Boniface VIII, that in reaction Tindal and Hoadly reduced the visible church to the loosest of voluntary associations, canonizing personal sincerity and absolute private judgement as the only criteria of the Christian faith. Hoadly's extremism was directly provoked by George Hickes's own in the posthumous Constitution of the Catholick Church.

Dodwell, too, eventually allowed that the schism must have an end. Writing to Bishop Stillingfleet as early as 26 January 1693, Dodwell accused the new bishop of Worcester of aiding and abetting the schism, acquiescing in lay deprivations and intruding bishops into sees not lawfully vacant, but he added:

your abetting persons brought in on vacancies made by lay deprivations can maintain the breach no longer than the persons live who are turned out.<sup>1</sup>

---

1 Bodl., MS Rawlinson, C.735, ff.106-109.



The Doctrine of the Church of England concerning the Independency of the Church (1697) had specifically allowed that once the intruders ceased to be second bishops, on the death or resignation of the deprived fathers, passage of time would render the bishops in possession true and undisputed.<sup>1</sup> Dodwell's Case in View (1705) and Farther Prospect of the Case in View (1707) argued that when bishop Lloyd of Norwich died, the removal of the only deprived father who still stuck to his claims would remove the formal cause of schism, as bishops Ken and Frampton of Gloucester had both renounced their claims, giving up their pretensions to their complying successors. Dodwell's Paraenesis ad Exteros (1704) advanced a plea for the restoration of episcopacy in European reformed churches, justified the nonjurors' stand and appealed for support. The work was originally written in 1699 and was suppressed for several years by bishop Turner of Ely, who objected that it was not emphatic enough in its exaltation of the episcopate. Turner was shocked that

you take it for granted (as if it were of no ill consequence to be allowed) that such a form of church government as is now established was not delivered in the canonical scriptures, its settlement being postponed until the writing of those sacred books.

This was tantamount to saying episcopacy could not be proved from scripture, and was a mere human contrivance. Dodwell's other theory of a primitive Jerusalem primacy in James 'the Lord's brother' and the other descendants of the Holy Family opened the way for depressing the episcopate to mere delegates of a pope. Bishop Turner demanded a clear historical proof of episcopacy jure

---

1 H. Dodwell, op. cit., pp.68-71.



divino, and this Dodwell had not provided.<sup>1</sup> George Every's High Church Party, 1688-1718, in its chapter on the High Church Schism, does not note Turner's important letter, but does make the valuable point that the nonjurors, in their obsession with the need for some clear divine authority for their claims, were now turning to the apostolic succession instead of the Stuart royal succession, substituting the episcopate and its authority transmitted by succession from Christ himself for the monarchy as their object of loyalty.

George Hickes would have none of Dodwell's moderation, and refused to admit that the cause of schism was extinguished by the death of the original deprived bishops. He was determined to keep up the nonjuror episcopate at all costs. The anonymous Mr. Dodwell's 'Case in View' thoroughly considered (1705) is clearly Hickes's work, distinguishing between 'the intrinsic validity of episcopal orders, and the external form'. A bishop in schism (in the Revolution church)

... has not that intrinsic validity; for he that is not a member of the true episcopacy can have no share in its intrinsic valid power; but must need an addition thereof from the true Catholic episcopacy, whose unity and communion he has lost. And till that is done, he can give or hand down no more than he has himself, viz. only the empty external form, capable of the Church's ratification upon a voluntary return to her.

Hickes added, 'How does that Nothing (Nullity) become something, till a return to the true Communion of the Catholic Church?'<sup>2</sup>

Thus he regarded episcopal consecrations and ordinations in the Church of England as void, and after the death of Lloyd of Norwich in January 1710 Hickes alone formed the true episcopate of the

---

1 Bodl., MS St. Edmund Hall 10, ff.11-20. Turner to Dodwell, 10 February 1699/1700.

2 Op. cit., pp.45, 78, 167, 168.

"faithful remnant of the old Church of England", his colleague Wagstaffe having refused to act with him to consecrate further nonjuror bishops. Charles Leslie urgently begged Hickes not to perform further episcopal consecrations at a time in 1710 and 1711 when Queen Anne's ministers, Oxford and Bolingbroke, appeared to be prepared to make some overtures to the pretender. A secret letter from the Jacobite court in exile sought to delay further secret episcopal consecrations.<sup>1</sup> Another secret letter, circa 1711, undated, now preserved in the Episcopal Safe at Edinburgh Episcopal Theological College, contains similar advice to delay episcopal consecrations.<sup>2</sup> Hickes was prepared to put his narrow view of episcopal rights and the claims of the 'faithful remnant' before the claim of the Pretender in exile, and carried out his further consecrations on Ascension Day, 14 May 1713.<sup>3</sup> Charles Leslie challenged Hickes's action, writing from the Jacobite court in exile at St. Germain.

"I thought the right of (Episcopacy) could not be overvalued. But I was frightened when I saw it put in the scale and overbalance the honour of God, which we should endure to be to see profaned in the most solemn manner, at the very altar, rather than the right of (Episcopacy) should be touched."

... Can (Popery) be adored in an higher strain?

- 
- 1 J. Macpherson, Original Papers containing the Secret History of Gt. Britain from the Restoration to the Accession of the House of Hanover (1775), ii, 382-3.
  - 2 Episc. Safe, MS No.1945, 'J.M.' to Archibald Campbell.
  - 3 Edinburgh, Episcopal Safe, MSS No.'s 75, 95, 109, for original consecration deeds of bishops Collier, Hawes and Spinckes, consecrated by bps. Hickes, Campbell and Gadderar.



Leslie accused Hickes of being "obstinately stiff and tenacious", trying "to make the breach (with the Church of England) irreconcilable". Hickes retorted that Leslie thought more of the Pretender's claims than those of the Church, and said that Leslie had 'given up the rights of the church'. Were not Anglican ordinations clandestine during the Cromwellian era, and why not now? Hickes charged Leslie with worshipping the Stuart claim,

You who are so zealous for the right of the King and the lineal uninterrupted succession may more justly be said to set up his right ... against the honour of God and idolize him, than we to set up the rights of our bishops ... You are plainly more for the state than the church, and ... would have us sacrifice this to that.<sup>1</sup>

Thus the nonjurors' own principles proved irreconcilable. 'Church point' and 'state point' were inevitably linked and as inevitably clashed, as much in the latter years of Anne's reign as in the early days of the 1690's, just after the Revolution. The old 'No Bishop, No King' of James I, and the Laudian and Restoration alliance of Church and King broke down under the stress of king James II's attacks on Anglicanism, the Revolution upheavals and deprivations, long years of exclusion from their priestly calling for the nonjuror bishops and clergy, and the final inevitable split in the Jacobite ranks which occurred after 1710 when it became clear that the Pretender's court was more anxious to court Bolingbroke and Oxford than to care for its most long-suffering and faithful supporters. After 1710 the nonjurors themselves were rent by internal divisions and Henry Dodwell with

---

1 St. John's College, Cambridge, MS 492, pp.110-114. Leslie to Hickes, 1 January 1714; and , pp.114-128, Hickes to Leslie (not dated), but early 1714.



the Shottesbrook group of nonjurors and Robert Nelson, the founder of S.P.C.K. and Hickes's close friend and neighbour, returned to the communion of the established church, with a considerable group of followers. Hickes remained as bishop Lloyd's successor, a shadowy primate of a small and scattered group of ageing clergy and laity. John Pitts, a Norwich nonjuror priest of Dodwell's views had attacked Lloyd and Hickes savagely in his Character of a Primitive Bishop (1709). How could one old, infirm prelate seriously imagine that the entire spiritual rights and powers of the pre-Revolution church and episcopate had devolved on himself alone, as a one man primate, pope and episcopal college? The claim was absurd, and doubly so after Lloyd's death in January 1710, when applied to Hickes, whose episcopal claim was still not widely known. Out of charity the sole surviving nonjuror prelate should follow Bishop Thomas Ken's example and resign his claim to the established church - most of whose bishops were not now the Revolution 'intruders'. To sustain such a claim for the sake of one man was pointless. Thus the insistence on episcopal rights was opposed in their own ranks. While Hickes chose the rights of episcopacy and jettisoned those of monarchy, the nonjurors' controversial weapon became the cause of division among themselves.

The nonjuror schism was thus in large part based on the obsolescent political doctrines of Sancroft and his colleagues concerning divine right monarchy and passive obedience. Seeking a new divine right belief as a secure, authoritative basis on which to defend their rejection of the REvolution and its consequences, the nonjurors appealed to early church history, to Cyprian, Ignatius, Augustine and Optatus. Their formidable

controversial weaponry was in reality a gallant rearguard action by a small group of essentially conservative high churchmen, fatally discredited by their association with Jacobitism. The controversy, anticipating in some ways the Tractarians' stand in the 1830's, did help to produce a new theological depth and emphasis in Anglicanism, a revival of the doctrine of the Apostolic succession, a serious threat to the whole legal position of the established church, and a revolutionary demand for the church's independence. It is a sad irony that a group of essentially conservative and reactionary churchmen was forced into a position that was, by the accepted standards of the age, more revolutionary than that of the keenest supporters of king William III. The abandonment of the divine right of kings which the Revolution involved inevitably entailed the transference of the old ways of thinking, arguing and writings from the old belief to the new one. Unconsciously, royal and episcopal succession were all along confused in the nonjurors' minds. George Every's remarks on Dodwell's theory of episcopacy are true and significant.

It fails to carry conviction, because we are so aware of a non-theological factor governing its development. Dodwell is so evidently thinking not only of the Nonjuring succession, but of the succession to the English throne ... The divine right of kings has ceased to charm, and everywhere in Christendom he sees the Regale ... as an obstacle to Christian reunion. But as the regale fades, the episcopal power acquires new lustre. Apostolic succession, not passive obedience, is to be the distinctive doctrine of the church of England. (The High Church Party, 1688-1718 (1956), page 73.)

But seventeenth century Anglican churchmen could never shake off the legacy of their church's past, and the confusion between royal and episcopal succession resulted in claims for episcopacy as high as medieval popes' claims to universal authority. The

legacy of seventeenth century civil war, revolt and religious dissent caused the nonjurors to see schism in terms of rebellion against lawful rulers and to exaggerate the claims of episcopacy beyond the range acceptable to their contemporaries.



## CHAPTER VIII

THE EUCHARIST IN THE NONJUROR CONTROVERSYIN ENGLAND, 1707 - 1715

The nonjuror's controversy with the established Church of England was already eighteen years old in 1707. At this time a dispute which had been flagging and diminishing in intensity was actively fanned into new life by Dr. George Hickes and others. The old challenge to the established church of the 1690's, that of lay-deprivation of bishops and other clergy, was a well worn theme and was now largely played out in polemics and controversies which had unsettled, but not really damaged, the Church of England. Many of the grievances of the nonjurors were being forgotten. The accession of Queen Anne had brought a monarch avowedly loyal and devoted to the Church of England. The Convocations were sitting and even attempting to do business once more. But certain grievances and suspicions still lurked in the minds of Tory parsons. The old exclusive monopoly of political power of the Church of England had been seriously undermined by the Toleration Act. Religious dissent was now openly legalised, and the practice of occasional conformity for political reasons, by which dissenters could receive the Sacrament of Holy Communion in the established church once a year to obtain their necessary certificate, had become very common. Dissenters were thus evading the intentions of the Test Act and qualifying for public office. Although that act of 1673 contained its forthright declaration against transubstantiation to bar Roman Catholics, the intentions of Danby and its other framers, including Archbishop Sheldon, had been to exclude protestant dissenters too. Richard Baxter's well

known practice of still occasionally receiving the Sacrament in Anglican churches, as a gesture of charity and willingness for reconciliation, had been turned by Shaftesbury's whigs into a means of qualifying protestant dissenters for public office to circumvent the Clarendon Code, and since the Toleration Act the practice was increasingly widespread. Tory parsons, those genuine, "high church" men who looked back to "good King Charles's golden days", strongly objected to being obliged by that "good King's" laws to connive at sacrilege and administer the Holy Communion to known opponents of episcopacy and the prayer book, simply to qualify those enemies of the national church for magistracies and other public positions. Since James II's Declaration of Indulgence and the Toleration Act hard on its heels, parish clergy had found it increasingly difficult to get churchwardens to present non-attenders at church and also even moral offenders to the archdeacons' courts for prosecution. The whole discipline and authority of the English church was being seriously undermined.<sup>1</sup> Tories in Parliament sought from 1702 onwards to bring in an Occasional Conformity Bill to make the practice a penal offence. Lord Rochester, the Queen's uncle, son of Lord Chancellor Clarendon and leader of the High Church Tories in the Lords, suffered a humiliating defeat on the "Church in danger" cry in 1705 and was out of office. In 1707 the Act of Union with Scotland had particularly given offence to high churchmen by guaranteeing

---

1 G.V. Bennett, "Conflict in the Church" in Britain after the Glorious Revolution, 1689-1714, ed. G. Holmes (1969), pp. 155-175, particularly the bibliography for evidence of clergy discontent. A very brief, and by no means comprehensive study of archdeaconry Visitation records for Norwich diocese, shows nothing but Nil Returns from Church wardens after 1690. Study made by G.M. Yould, 1971 and 1972.



the inviolability of the Presbyterian Kirk. Archbishop Tenison had to secure a special act to guarantee the Church of England,<sup>1</sup> but this did little to allay suspicion and even reminded Anglican clergy rather uncomfortably that their church establishment did depend on laws made in Parliament. In 1708 the Tories lost heavily in the general election and the Godolphin - Marlborough administration was obliged to lean very heavily on whig support. Here was the very moment when the nonjuror champions, stoutly marshalled by George Hickes in the realm of theology, Jacobitism and the succession to the throne, could renew their attacks on the Church of England and the government. The double-barrelled nonjuring blunderbuss, political and theological, was reloaded and discharged with vigour into the already wavering ranks of their opponents. Once again, as in the early 1690's the nonjurors, small minority though they were, became the gadfly to goad and terrify high churchmen in the established church, to set lower clergy against bishops, and to use the sacraments of the Gospel as a stick with which to beat their opponents. When the Whigs were so foolish as to use the sledgehammer of a full-scale impeachment before the Lords to crack the nut of Dr. Sacheverell, whose 1709 Sermon in St. Paul's provoked a major debate on the old questions of the principles of the Revolution (deposition of Kings, non-resistance, passive obedience, and divine right), the nonjuror controversialists headed the field of those attacking whiggery and lowchurch principles. Whereas the Whigs had hoped for a triumphant vindication of

---

1 E. Carpenter, Thomas Tenison, Archbishop of Canterbury (1948), pp.393, 394.



their principles and to brand the Tories and High Churchmen as entirely Jacobite, the grand Whig design rebounded on its authors. The nonjurors were able to increase the intensity of their campaign in 1710 on the wave of popular "high church" enthusiasm raised by the Sacheverell case and the catastrophic defeat of Whiggery in the following election.<sup>1</sup>

George Hickes's Christian Priesthood and Dignity of the Episcopal Order, published in 1707 in answer to Tindal's provocative book The Rights of the Christian Church (1706), began the campaign. Hickes treated of the power of the priesthood, the divinely called and commissioned order of men to whom was committed the sacred trust of celebrating and administering the great Gospel Sacraments, and particularly that of the Eucharist. The Sacrament of Baptism similarly became a matter of controversy when Roger Lawrence, a young nonjuror layman baptised in infancy by a dissenting minister, repudiated that baptism as performed by one not in apostolic orders and therefore not a properly commissioned minister of Christ's sacraments. The Lay-Baptism controversy begun by Lawrence's Lay Baptism Invalid (1708) was simply another aspect of the whole nonjuror claim about the inalienable rights, exclusive powers and divinely conferred prerogatives of the priesthood and episcopate. George Hickes contributed a lengthy 'Letter to the Author', prefixed to the second edition of Lawrence's book. Hickes supported Lawrence's contention that baptism ministered by dissenting preachers, who had no episcopal ordination, was not merely irregular but invalid,

---

1 G.V. Bennett, op. cit., pp.170, 171.

and null and void. In fact, being administered in direct opposition to the lawful, regularly episcopally ordained parish clergy, such baptisms were schismatic, sinful and worthless. Lawrence himself had been quite right to be rebaptised by an anglican priest with the adult baptism service. Lawrence's book, with Hickes's letter prefaced to it, had the distinction of calling forth a declaration from Archbishop Tenison and a meeting of thirteen other bishops against its opinions, though the dissent of Archbishop Sharp of York and three other bishops prevented the publication of the document. The English bench of bishops were seriously embarrassed by the Lay Baptism controversy, and the lower house of the Canterbury Convocation refused to concur with the bishops in condemning Lawrence's views.<sup>1</sup> This is, however, to anticipate later stages in the controversy.

Hickes's Christian Priesthood revived the doctrines of eucharistic sacrifice which had lain almost dormant for some time in the English church. Most of the controversy which resulted was simply polemical, sterile and valueless, each side striving to make points at the other's expense, misinterpreting each other and accusing each other of unworthy motives. But of all the aspects of the nonjuror controversies, the eucharistic controversy probably achieved the most lasting and valuable results, a renewed interest in patristic theology and liturgy, and a thorough study of the whole subject which benefitted the church by the large number of scholarly and profound works produced.

---

1 E. Carpenter, op. cit., pp.315-320, and A. Tindal Hart, John Sharp, Archbishop of York (1949), p.257.



Hickes began his argument with the statement that Christian clergy, though obviously teachers and preachers of the Gospel, were also and essentially priests because of their sacramental functions. Divinely commissioned functionaries administering divinely instituted rites were appointed by Christ in the gospels, in his choice of the Twelve, his commission to them at the Last Supper, "Do this in rem<sup>m</sup>embrance of me", and particularly his conferring special gifts of the Holy Spirit on them in John 20.

"Ministration at the Lord's Table being the most special and excellent part of their priestly function in which making the bread and wine an holy and acceptable sacrifice to God by solemn oblation and prayer, they thereby make intercession and atonement for their own sins and the sins of the people, as by a most solemn rite of supplication, according to the nature and use of sacrifices, by which God is atoned and his favour and mercy procured."<sup>1</sup>

A priest, said Hickes as early as 1697 in a manuscript tract on the Eucharist, is

"the common advocate, mediator, intercessor, transactor, negotiator, interpreter, mandatory representative, interpellent vicegerent, or if there be any other name which will better suit his character or better express his office, which by divine appointment is to officiate betwixt God and Man in the spiritual concerns they have betwixt one another."<sup>2</sup>

Such definitions of priesthood and sacrifice were bound to have far-reaching consequences and unpleasant repercussions in the reformed Church of England of Queen Anne. Hickes emphasized the Covenant-nature of the Eucharist as part of the mediatorial role of the clergy, who performed rites instituted by Christ,

---

1 G. Hickes, The Christian Priesthood, in Hickes's Treatises, Lib. Ang. Cath. Theol., ii, 87.

2 B.M. Add. Mss. 40, 160, ff.95, 96. Hickes's Tract on Eucharistic Sacrifice in commonplace book of Bp. Lloyd of Norwich.



acting in his name and with his <sup>u</sup> authority. What his priests performed on earth, the Lord would ratify from heaven. To refute Bishop Burnet's embarrassing evidence of Cranmer's views on priesthood and Eucharist, Hickes reprinted Cranmer's Sermon of the Authority of the Keys in his preface to the Divine Right of the Episcopacy Asserted (1708). Hickes's intention was to counteract the evidence concerning Cranmer's opinions produced in Burnet's History of the Reformation. The Reformation primate's sermon said of priests,

"When they baptize you, when they give you absolution, and distribute to you the Body and Blood of our Lord Jesus Christ, these (priests) you shall esteem as if Christ himself in his own person did speak and minister to you."<sup>1</sup>

Here again the mediatorial role of the priesthood was asserted.

The Eucharist was seen as a supreme intercessory mediation by the priest, pleading Christ's sacrifice before the Father and thus applying the benefits of the sacrifice of the Cross to sinful men. Thus the Eucharist, by its commemorative nature, could truly be said (though Hickes is careful to add in a derived sense) to make atonement or propitiation for sin.

The Eucharist was a proper offering or sacrifice, in its own right, however, not merely as a derived commemoration of the Cross or the Last Supper. Hickes asserted that he held Joseph Mede's doctrine of a proper sacrifice or offering of bread and wine in the Eucharist, but without trans-substantiation, "not effecting or properly making propitiation, but only

---

1 G. Hickes, Preface to The Divine Right of Episcopacy Asserted (1708), pp.xxxviii-xi, reprinting the sermon originally published in Cranmer's Catechism of 1548.

applying the propiation already made by Jesus Christ upon the Cross".<sup>1</sup> Hickes analysed many of the early liturgies, which all used the words we offer, offerimus, or prospheromen, of the elements of bread and wine. This idea of sacrificial offering appeared to Hickes to be an integral part of all early liturgies, especially that of the Apostolic Constitutions, which ought to be regarded as normative on the grounds of its antiquity. Its authority was unquestionable. Hickes built up a long and impressive list of liturgical and patristic citations from Justin and Irenaeus to Chrysostom, Ambrose and Augustine, and the Gelasian and Gregorian sacramentaries.

"The ancient liturgies, how different soever among themselves, agree in all these things with Justin Martyr's account of the Eucharist, and the eucharistical office in the Apostolical Constitutions, which is the standard and test by which all others are to be tried. And by comparing those with this, the innovations and additions in after times, be they good or bad, will appear."<sup>2</sup>

Patristic authority and evidence, relentlessly and resolutely built up by Hickes, was irresistible. This recovered truth must be strongly reasserted. Hickes remarked:

"I do not justify, much less commend, the shyness of our Reformers to use the word sacrifice, or real sacrifice, or pure sacrifice, or their offices for administering the Lord's supper, or in their catechisms."<sup>3</sup>

Old Testament sacrifices prefigures and adumbrated the Cross, the grand sacrifice, but were nonetheless real offerings though

---

1 B.M. Add. Mss. 40, 160, f.85.

2 G. Hickes, 'The Christian Priesthood', in Hickes's Treatises (Lib. Ang. Cath. Theol.) ii, 148, 149.

3 B.M. Add Ms. 40, 160, ff.85, 88.



powerless to remove guilt by their own merit. For all that the Jewish sacrifices were but types of Calvary, they were still real sacrifices. The Eucharist, representing and commemorating the Cross, was derived from Christ's own institution at the Last Supper.

"As the typical sacrifices before and under the Law did represent and prefigure the great propitiatory sacrifice of Christ, which was to be offered on the Cross; so the oblation of bread and wine in the Holy Eucharist was instituted by Christ, if I may use the word, to postfigure the same."<sup>1</sup>

Hickes referred to the English Communion office of 1549 and the Scottish rite of 1637. The "Sacrifice of praise and thanksgiving" in the prayer of oblation was that of the offering of the elements. The words "alms and oblations" in the church militant prayer meant money and oblations of bread and wine. The clear prescription of the manual acts and the rubrics of the 1662 consecration prayer meant that the Church of England intended to do what Christ instituted, though the prayer was now truncated and shortened. Even if the church had rejected the notion of sacrifice, which Hickes asserted she had not, "yet her error would not have been fatal to her, or destructive to her priesthood, and by consequence of her essence as a true church". A solemn memorial or commemoration of Christ's passion was sufficient for the Eucharist, though it was less perfect than that of the full eucharistic sacrifice.<sup>2</sup> Hickes insisted that the idea of sacrifice must be disentangled from Romish perversions of it. Sacrifice, like priesthood, should be purified and reformed, not thrown away entirely.

---

1 Ibid.

2 Ibid., ff.93-95.



Examining Christ's own words of institution at the Last Supper, Hickes proceeded to examine the words used in Greek and Latin, pointing out forcibly that the verbs poiein and facere were commonly used in classical languages as sacrificial terms. In old pagan Greek thusias poieesthai and thusias erdein were commonly used to signify the offering of sacrifice. Hickes cited Herodotus' use of these terms of the sacrifices of the old Persian Magi. Passing into Septuagint usage the dean remarked, "more especially it is used in the Septuagint translation, which all learned men know is followed by the writers of the New Testament, even where they recite the words and speeches of our blessed Saviour". Hickes pointed out the uniform Septuagint use of poiein to translate the Hebrew asah, and quoted forty examples of such sacrificial usage. If in the Hebrew and Greek Old Testaments words whose root meaning was "make" or "do" were used so frequently in precise contexts where they mean "offer sacrifice", and if Jerome in the Vulgate translation also translated such instances by facere, then Hickes's point was clear. Christ's words at the Last Supper, "do this in remembrance of me", recorded in the Gospels and by St. Paul in I Corinthians 11:23-25, must be a command to offer sacrifice, and to offer the bread and wine as a sacrifice. Hickes quotes forty examples of poiein and facere translating Hebrew sacrificial expressions, especially from Exodus, Leviticus, and Deuteronomy. Such verses as Leviticus 4:20 are highly significant:

"Thus shall he (Aaron) do with the bull; as he did with the bull of the sin offering, so shall he do with this;"

and so also is Leviticus 9:7:

"Then Moses said to Aaron, 'Draw near to the altar and offer your sin offering and your burnt offering, and make atonement for yourself and for the people; and bring the offering of the people, and make an atonement for them!'"

These two examples, quoted from Hickes's forty, both show that the Septuagint used poiein simply, without any attached noun, to mean offer sacrifice. Jerome's Vulgate translations were given verbatim, to show that the great Latin bible translator himself accepted and recognised the correspondence of poiein with the Hebrew asah. Poiein was used elsewhere in the New Testament to mean 'to offer' or 'make sacrifice', as in the epistle to the Hebrews 11:28, "By faith he (Moses) kept (pepoiēke, made or offered) the passover and the sprinkling of the blood, etc." Hickes made this point strongly in The Christian Priesthood and also in his Preface to the Second Collection of Controversial Letters (1710; pp.lxxvii, lxxviii). He added that in I Timothy 2:1, "First of all then, I urge that supplications, prayers, intercessions and thanksgivings be made (or, offered) for all men". 'Poieisthai may very well be rendered "offered",' remarked Hickes. 'Was not prayer offered to God?'

Hickes continued his technical linguistic argument by giving further examples from the early Christian fathers, where poiein is used to mean 'offer sacrifice'. In the first Epistle of Clement of Rome, in Justin Martyr's Apology and Dialogue with Trypho, and Eusebius's Ecclesiastical History - all had examples of this usage, and so did John Chrysostom's Homily on St. Matthew, number lxxxii, commenting on the Lord's words of institution of the Eucharist in Matthew's gospel Chapter 26. The Greek liturgies showed a similar usage of Poiein. Irenaeus and Cyprian among the earliest fathers both interpreted Christ's words to mean an



offering or sacrificial ceremony.<sup>1</sup>

To "do this" must therefore mean to offer bread and wine as

"a federal commemorative sacrifice, in which as Christ represents unto God his passion and the merits of it as our High Priest in heaven, so in this sacrifice the priests on earth, in conjunction with it, present and commemorate the same unto him by setting before him the symbols of his dead body and blood effused for our sins."

The earthly minister

"represents before Him the passion of his Son and the merits of it on earth ... and in virtue of it ... intercedes until him for the people."<sup>2</sup>

The eucharistic rite itself involved two distinct oblations, or acts of offering. The first was at the offertory, when the elements were set on the altar, and the second at the consecration, when the elements were sanctified by the use of Christ's own words "as symbols of Christ's Body and Blood, or as the mystical Body of Christ, to represent the oblation he made of both upon the Cross".<sup>3</sup>

John Johnson of Cranbrook in Kent, a complying Anglican Rector, came to Hickes's assistance in 1710 with his anonymous Propitiatory Oblation in the Holy Eucharist. It was not clear at first who the author of this work was, but through his friend Robert Nelson, Hickes soon came to correspond with Johnson and a firm friendship developed, though Johnson refused all the nonjuror's blandishments to leave the established church for the "faithful remnant". Hickes had been heavily attacked in 1709 by Dr. John Hancock, Vicar of St. Margaret's,

---

1 Hickes, 'Christian Priesthood', Hickes's Treatises (Lib. Ang. Cath. Theol.), ii, 53-68, especially pp.59-65.

2 Ibid., ii, 87, 107, 109.

3 Ibid., 119, 120.



Lothbury, in his Answer to some things contained in Dr. Hickes's "Christian Priesthood", and Patres Vindicati: or Some Observations from the Fathers, making it probable they did not think the Bread and Wine in the Sacrament a True and Proper Sacrifice. Bishop Charles Trimmell of Norwich also published a weighty charge in 1709, which was several times reprinted and enlarged. While Trimmell dealt in general terms only with nonjuror doctrines such as the independence of the Church from the state, the necessity of sacerdotal absolution, and a proper sacrifice in the Eucharist, he was moderate and restrained. The expression "proper" sacrifice caused all the trouble. Trimmell quoted Herbert Thorndike, a favourite Restoration high sacramentalist divine, who said of the sacrifice in the Eucharist that the fathers always added the qualifying adjective "unbloody", "commemorative", "reasonable", or some other expression to "Sacrifice" when speaking of the Eucharist, as a "necessary evidence of an abatement in the property of the words, according to their meaning". Trimmell also complained of the interpretation of "alms and oblations" in the church militant prayer to mean a proper offering of bread and wine and denied that the Scottish rite of 1637 had any value or authority in England.<sup>1</sup> Dr. Hancock attacked Hickes by name, calling the Christian Priesthood "so bad a book: that no-one wished to answer it, and accusing Hickes and the nonjurors of trying to introduce popery covertly. No-one denied that in a broad and "improper sense", the Eucharist might be loosely or piously termed a sacrifice, but a true and

---

1 C. Trimmell, Charge to the Clergy of the Diocese of Norwich - 1709 (2nd ed., enlarged, 1713), pp.18-21.

proper material sacrifice could not be asserted without popery. For Hancock a proper sacrifice must in some way be destroyed or consumed, like a Jewish holocaust or sin offering. Surely placing the chalice and patten on the holy table could not be called an offering or sacrifice, when it was a mere necessary preliminary to the receiving of the consecrated sacramental signs. How can the commemoration of a past event be offered as a real or material offering? In a solemn prayer perhaps, but this is a verbal commemoration only. Even if we may say loosely that bread and wine are offered for sacramental use and reception, it is certainly wrong to say we offer Christ. When the Father has already received the substance of Christ's one offering in reality, he has no further need of a shadow repeated by men. To Hancock, Hickes's "low definition of sacrifice" ... "will prove the paten and chalice, the Table-Cloth, etc., as much sacrifice as the bread and wine". When Hickes had mentioned the Old Testament cereal offerings and shew-bread as sacrifices not consumed by fire, as simple gifts dedicated to God, yet truly sacrifices, Hancock contended that this widening of the definition of sacrifice seriously derogated from the unique and costly sacrifice of Calvary, which best answered in type to the Jewish whole-offering or sin-offering, wholly consumed by fire. Destruction of the victim must be essential to sacrifice, and therefore bread and wine cannot be said to be in any real sense Christ's body and blood without falling at once into transubstantiation. Hickes was seeking to turn a commemorative supper solemnly received into the sacrifice of the mass.<sup>1</sup>

---

1 J. Hancock, An Answer to some things contained in Dr. Hickes's "Christian Priesthood", (1709), passim., especially pp.147-149, 169, 170 ff.



Hancock's Patres Vindicati pursued the "low definition of sacrifice" theme, remarking that the prayers in the Liturgy of the Apostolic Constitutions Book VIII, 'we offer unto thee for the Emperor, for the Bishops,' etc., referred to the offering of a sacrifice of prayer and praise in words, not the elements. Hancock produced his own catena of patristic citations referring to faith, virtues, almsgiving and good works as spiritual sacrifices. The expression 'sacrifice' often referred to the whole service, readings, sermons and prayers, as well as the Eucharist proper.

John Johnson's Propitiary Oblation in the Holy Eucharist (1710) refuted the accusations of popery against Hickes, citing other contemporary Anglican authorities in favour of eucharistic sacrifice. Hancock's unworthy insinuations that only those who had "fallen out with the state", nonjurors or Jacobites, advocated such doctrines, were refuted. Johnson pointed out that Hickes had quite correctly shown that the Jewish Passover was a sacrifice not consumed by fire, but by eating. The Sacrifice of the Cross was not destroyed by fire either. The other Old Testament points of cereal offerings, the mincha and shew-bread, were again analysed. Johnson pointed out that in Numbers 16 verses 46 and 47, Aaron made atonement with Incense after the rebellion of Corah, Dathan and Abiram, without any other sacrifice. The Jewish Temple's altar of incense was mentioned. The Consecrated bread and wine really were a genuine material offering, and "the Body and Blood of Christ are communicated to us by the bread and wine" ... "What was sacrificed is communicated to us, and not the effects of that sacrifice only" ... "The Body and Blood are actually there, whether they discern



it or not".<sup>1</sup> Johnson emphasized another point mentioned by Hickes, the epiclesis in the ancient liturgies, asking the Holy Spirit to consecrate the elements by making them a perfect representation, to "exhibit" and show forth to communicants Christ's body and blood in sacramental terms.<sup>2</sup>

Against Hickes and Johnson, another Kentish champion entered the lists in June 1710. Dr. Thomas Wise, Rector of St. Alphege's church, Canterbury, preached a sermon on the important occasion of Archbishop Tenison's visitation of the diocese. After again asserting that nonjurors "and persons disaffected to our present establishment" were the only asserters of eucharistic sacrifice in real terms, Wise again asserted the memorial aspect of the Eucharist and a receptionist theory of sacramental grace, although allowing that the term "commemorative sacrifice" could be loosely used. Johnson's Propitiatory Oblation and Hickes were directly attacked.<sup>3</sup>

Hickes retorted with a long Preface to his Second Collection of Controversial Letters (a work actually concerning the controversy with the Roman church) in 1710, quoting Bramhall, Thorndike, Beveridge, John Potter (Regius Professor of Divinity at Oxford), Bingham's great Origenes Ecclesiasticae, Bishop Andrewes and more contemporary Anglican authorities on the Eucharistic Sacrifice, and defending his contention that "oblations" in the church militant prayer did refer to the bread and wine. Hickes wondered why his opponents could not seem to

---

1 J. Johnson, The Propitiatory Oblation (1710), passim., esp. pp.27, 28.

2 Ibid., p.32, and Note.

3 T. Wise, The Faithful Stewards: or the Pastoral Duty Open'd. (Visitation Sermon, June 1710).

distinguish between a real oblation of bread and wine, which by consecration became the representative of the Lord's Body and Blood, and the Roman doctrine. "In the mystery or sacrament, tho' they are a real, yet they are but an ante-typal or symbolical sacrifice, and not the one proper sacrifice which Christ offered on the Cross; of which they are ... only a representative, commemorative sacrifice, and not the represented sacrifice, but in a figurative sense". There was an important difference between the "real" body of Christ (i.e. his natural flesh and blood), and his "sacramental" or "mystical" body and blood which were a real bread and wine offering.<sup>1</sup>

Dr. Wise returned to the charge. His long and very tedious Christian Eucharist Rightly Stated: or An Occasional Proof that the Lord's Supper is not a true and proper Sacrifice appeared in 1711. He referred to Hickes as a "provoking adversary", and pointed out the inconsistency of nonjurors and Jacobites saying "they have been constant champions of the Church of England, against enemies of all sorts since the Revolution".<sup>2</sup> That was too much to swallow, coming from known enemies of the Revolution settlement! Nonjurors still refused the oaths to Queen Anne, and Hickes's recent publications of the devotional work Devotions in the Ancient Way of Offices contained an office for the departed and strong hints of a doctrine of purgatory. Wise repeated the usual points about bread and wine not being capable of being a true, real or proper sacrifice, and yet called Christ's body and

---

1 G. Hickes, op. cit., Preface, pp. xlvi-xlviii, lxii, lxxx.

2 T. Wise, op. cit., pp.2, 3, and passim.



blood, without some lurking notion of literal identity, obviously transsubstantiation. Large parts of the book were taken up with mere invective and abuse, and sarcastic remarks about the nonjurors' airs of martyrdom and political objections to church and state. The most that Dr. Wise would admit of the Eucharist was that bread and wine were only "sacramental signs" of Christ's sacrifice, of his body and blood, and its essence was "the spiritual sacrifice of praise and prayer, which is properly Eucharist, or thanks for the benefits of Christ".<sup>1</sup>

John Johnson, in a postscript to the Propitiatory Oblation, published with later editions of the work, brought the discussion back to a less abusive level. He now took up a point which both he and Hickes had previously defended, that of the "ante-oblation", of "First oblation" of the elements at the offertory in the Anglican rites. Hickes, and the first edition of the Propitiatory Oblation, had insisted that the term "Offertory" applied to the offering of the bread and wine as well as the money collection. Johnson now conceded that this was not so. Although "oblata" in the early church meant the elements, and "oblations" in the 1662 addition to the church militant prayer could still be interpreted thus, the expression "Offertory" must be strictly interpreted of the offertory sentences, said or sung. "Offertorium" was the offertory-chant, psalm verses or other scripture sentences or anthems. In his extensive private correspondence with Johnson, published in Thomas Brett's Life of John Johnson, A.M. (1748),

---

1 Ibid., pp.35, 36, 43, 44.

2 Op. cit., p.385. Hickes to Johnson, 11 July 1712.



Hickes said that "the primitive doctrine of the eucharistical sacrifice (is) as inconsistent with the Popish sacrifice of the mass, as the doctrine of Episcopacy is with the supremacy of the Pope".<sup>1</sup> By 1713, Hickes had entirely come to accept Johnson's contention on the offertory, and the merely practical nature of setting the elements on the holy table without the necessity of an ante-oblation. "I foresee I shall come entirely into your notion of the one sacrifice", wrote Hickes to Johnson on 21 April 1713, this being the oblation of the elements when consecrated as the body and blood of Christ.<sup>2</sup> Johnson further explained his notion of the one oblation of the consecrated elements in his letter to Dr. Thomas Brett of 24 March 1713/14, when he had begun to write his Unbloody Sacrifice, his greatest work on the Eucharist. This detailed letter, written to Brett (who was already on his way to becoming a useful and learned catch as a convert to the nonjurors), helped to set him on the road to the study of liturgy and patristic eucharistic doctrine.<sup>3</sup>

Hickes's most complete and enlarged third edition of the Christian Priesthood and Episcopal Order came out in 1711. Hickes now added "An account of the additions to the third edition", as well as appendices of further patristic citations, more seventeenth century Anglican writers supporting his views and republishing the English 1549 and Scottish 1637 Communion

---

1 Op. cit., p.385. Hickes to Johnson, 11 July 1712.

2 Op. cit., pp.390, 391. See also J. Johnson, Works (Lib. Ang. Cath. Theol., 1807), i, 46-52.

3 T. Brett, Life of John Johnson (1748), pp.401, 402. See also Episcopal Theol. College, Edinburgh, Episcopal Safe Mss. 2447, 2448, for T. Brett's letters of orders as deacon and priest, 1690 and 1691, endorsed "G.H. 1st July 1715" in Hickes's unmistakeable, bold hand at Brett's reception as a convert to the nonjuring church.

offices in full. Here was the prayer of oblation in its original place, and Hicke's readers should see that Anglicans and Scottish Episcopalians had not scrupled to use these oblatory prayers in their official liturgies. But Hicke now made clear the whole crux and marrow of his argument from patristic sources. The real and proper offering or oblation of the Eucharist must depend on the correct understanding of sacrifice itself. Thus a wide definition of sacrifice was essential. Slaughter and whole burnt-offerings were not the only Old Testament offerings, Hicke reiterated. If the oblation of consecrated bread and wine was the absolutely essential act of oblation, it was necessary to define closely and clearly how the bread and wine were to become the body and blood of Christ, to avoid the charge of Romanism and yet sustain the clear patristic doctrine. Hicke concluded that by virtue of the Lord's divine institution, the elements could be properly offered as bread and wine and also properly be called body and blood by substitution or representation, in the mystic symbolism of sacramental ordinances. This was ...

"By virtue of the Divine institution whereby the bread and wine are substituted and deputed in the Lord's supper for his body and blood, and in virtue of that deputation, are to be deemed, taken and esteemed as his natural body and blood."

Hicke speaks of a "straight mystical union and conjunction" between the consecrated elements and Christ's body and blood.

"I hope it is no great or dangerous paradox to say that by divine fiction, or substitution, the bread is made the body and the wine the blood of Christ, ... and that by virtue of this substitution and mystical union between them, his body is supposed and deemed to be broken and his blood shed in this holy sacrament, as it was upon the cross; or in other words, that the offering and breaking of the



bread is supposed to be the offering and breaking of his body, and the pouring out of the wine, the effusion and sprinkling of his blood; and in this mystical union and relation between them, the real identity as to all spiritual virtues and effects, the mystery of the Holy Eucharist doth consist."<sup>1</sup>

The terms 'substitution; and 'Divine fiction' are precisely used in a highly technical civil law sense. As an attorney represents his principal, or an ambassador his king, as Abraham's faith was imputed to him for righteousness or as Christians are justified by faith, so by Christ's positive institution the consecrated elements represent, become and (forensically speaking) are, putatively or imputatively, what they represent. When they are so "deemed" or "supposed" to be what they signify, Hickes means that they are not only so to faithful receivers, but also deemed so by God himself, by virtue of divine institution. God himself observes his side of the sacramental covenant. Just as Christ is termed the "lamb of God" without literally being a sheep, and yet really and effectively is a sacrificial lamb, the Christian sacrifice in himself, so by this kind of "legal fiction" and technical substitution the identity of bread and wine with the body and blood is established. As to how what he had plainly and clearly asserted to be a commemorative and representative offering could be thought either the same as, additional to, supplying defects in or increasing the value of, that which it represented and commemorated, Hickes could not comprehend. The Eucharist derived from and constantly referred back to the great sacrifice of Christ which it represented. If Dr. Hancock demanded express warrant in scripture for sacrificial language used of the Eucharist, Hickes retorted that many unquestioned Christian truths, such as the Trinity, the divinity of the Holy Ghost or the doctrine

---

1 G. Hickes, "Christian Priesthood", in Hickes's Treatises (Lib. Ang. Cath. Theol.), ii, 158-161.



of episcopacy, were implicit rather than explicit in the New Testament, and therefore the consentient evidence of the early fathers was vital to interpret scripture as those nearest to the purest primitive times. The very word "sacrament" was unscriptural, and yet was safe enough and well respected and valued on grounds of tradition alone.<sup>1</sup> Finally, as to the use of the word 'proper' in relation to the sacrifice in the Eucharist, Hickes notes that it is used in two senses; first, as opposed to "metaphorical and allusive"; secondly, as opposed to the sacrifice, the literal immolation of Christ on the Cross. The Account of this Third Edition of the Christian Priesthood, in answer to all Hickes's critics, made it quite clear that, "when therefore we assert the

Eucharist to be a 'proper' sacrifice or oblation, we take the word purely in the first sense, meaning no more thereby than that the bread and cup ... are really offered unto God in the Eucharistical service to be the sacramental representation and commemoration of the sacrifice of Christ on the cross, or the mystical sacrifice of his body and blood."<sup>2</sup>

The Eucharist is thus a 'proper' offering to God of bread and wine, but an 'improper' sacrifice of Christ's body and blood. There is no literal repetition of Christ's death in the Eucharist, except representatively and commemoratively by the priest's manual acts, taking, blessing, breaking and giving the sacred symbols. For Hickes's precise, logical and formally scholastic mind, it was quite easy to see that the Eucharist was thus both a 'proper' and 'improper' sacrifice at one and the same time.

---

1 G. Hickes, Second Collection of Controversial Letters (1710), Preface, p. liii-lvi.

2 G. Hickes, "Account of this Third Edition", in Hickes's Treatises (Lib. Ang. Cath. Theol.), pp. 23-29.

Hickes added further to his account of the Eucharist in the early church in his Discourse, wherein some account is given of Dr. Grabe and his Manuscripts (1712). Referring to the late and distinguished Prussian scholar's abandonment of his native Lutheranism for Anglicanism and episcopacy, Hickes defended Grabe's advocacy of the mixed chalice, the unction for the sick, prayers for the dead, "confession and sacerdotal Absolution, as judicial", and the use of chrism in confirmation, as well as the eucharistic sacrifice. The controversy of the nonjurors' making over the Eucharist was widening into other spheres. John Johnson's volumes on The Unbloody Sacrifice, and Altar Unveiled and Supported appeared separated, the first in 1714, the second in 1718. The first part insisted upon consecration by epiclesis, the solemn calling down of the Holy Ghost on the bread and wine, so that the Holy Spirit is seen as the true consecrator, changing the elements into the body and blood, and uniting Christ's presence to the earthly symbols. Looking into the intricately vexed question of the relationship between the Last Supper and the Cross, whether Christ offered himself twice as a self-sacrifice, Johnson writes:

"... Christ entered on his priestly office in the Eucharist; that there he began the one oblation; there he offered himself in a spiritual mystical manner, as he afterwards did corporally upon the Cross;" ... "in the Eucharist he actually yielded and consigned himself up to these sufferings;" ... "in the Institution of the Eucharist this sacrifice was first made in our Saviour's will and intention; that then he actually made the tender of his body and blood, after which the actual payment presently followed."

Johnson insisted that Christ offered himself in sacrifice at the Last Supper when offering the bread and wine. Taking the Last Supper to be the Passover, and quoting Theodoret and Chrysostom,



Johnson showed that Christ had instituted the eucharist to put an end to the old Jewish paschal supper which was only a type or foreshadowing of the true offering. "For the archetype of the Passover is in the Apostle's language, 'Christ our Passover is sacrificed for us'." Chrysostom was cited, including the famous phrase, "On the same table ... there are both passovers, that of the type and that of the verity; ... (Christ) first represented the typical Passover, and then added the true one". In the highly allusive setting of the Passover, Christ took the bread and wine and offered them as his body and blood, and thereby actually in ritual and ceremonial form dedicated himself to his death on the Cross and offered himself in liturgical form to his Father. Christ's mental struggle at his Agony in the Garden, his allowing himself to be betrayed and arrested, tried and finally crucified, "all this was the consequence of his offering himself up to do and suffer the will of God; as was also all that followed upon it, until ... he said 'It is finished'." Christ made his intention clear by his words and actions at the Last Supper, thus giving his own vital interpretation and understanding of the events leading up to his death, which he knew would very soon follow. Just as in an annual sacrifice the victim was first dedicated, then killed, then burnt, "we ought no more to reckon them two or three several oblations, than we would say an animal is three several sacrifices". Any one of these actions might be called an oblation, but the whole process is one and the same sacrifice. Using the high priestly language of the Epistle to the Hebrews, Johnson continued:



"He began this oblation in the Eucharist, and continued it on the cross; ... (his death) was the effect of his personal Oblation of himself, which he began in the Eucharist; ... the one personal oblation performed by our Saviour is not to be confined to any one instant of time; but commenced with the Paschal solemnity, and was finished at his Ascension into heaven, there to appear in the presence of God for us. And if our adversaries will restrain the oblation to the cross alone, then they must exclude Christ's sacerdotal entry into heaven as the holy of holies, and say that the oblation was finished before the blood of the sacrifice was brought into the most holy place and there offered, ... and if it was consistent with the one oblation to be made in the Holy of Holies as well as on the altar, in heaven, as well as on the cross, then I cannot conceive why the oblation made in the eucharist should make the oblation cease to be one, any more than the double offering it on the cross and in the Holy of Holies."<sup>1</sup>

Johnson here anticipates the views of Pere Maurice de la Taille, S.J., in his Mystery of Faith which emphasises the sacrificial death of Christ as represented in the institution of the eucharist symbolically, but that the Lord's words and actions over the bread and wine constituted an actual and deliberate self-surrender and dedication of himself into the hands of God, a giving himself up to his sacrificial death. The clearly expressed will of Christ is here shown forth. He instituted the eucharist with the clear intention of providing the key to the understanding of his death which he wished his followers to have.<sup>2</sup>

In his discussion of the oblation at the supper and its relation to the cross, Johnson concludes:

"The distinguishing of the oblation in the eucharist from that on the Cross ... is really a confounding or obscuring the whole mystery."

---

1 J. Johnson, The Unbloody Sacrifice, Part I, in Works (Lib. Ang. Cath. Theol.), pp.135, 144, 145, 163, 164.

2 M. de la Taille, S.J., op. cit., (Eng. Trans. 1941), I, pp.51-57.

The careful readers, says Johnson, must

"distinguish between the mactation and the sacerdotal act of oblation; and though the former belongs to the cross only, yet this cannot be truly affirmed of the other."

If the epistle to the Hebrews compares Christ's priesthood with Melchisedek's, the bread and wine must be connected indissolubly with Christ's sacrifice, and the Last Supper and Institution of the Eucharist must be his sacerdotal act of self-offering to his Father as an offering for sin.<sup>1</sup>

"The chief end, or primary intention, which Christ seems to have had in the celebration of the first Eucharist, was to devote and resign himself up as a sacrifice for the life of the world, and to institute a perpetual commemoration of it." ... "We do not offer the Body of Christ in order to its being crucified, but as a memorial of its having been thus devoted to crucifixion, or mactation, now long since past."<sup>2</sup>

Another English bishop appeared in print in 1712 against Hickes and his supporters. This was Bishop William Talbot of Oxford, in a Visitation charge delivered first in Oxford to his clergy and then printed and widely circulated. The charge was all the more irritating to Hickes, as William Talbot - a younger son of the great Whig aristocracy, of the Duke of Shrewsbury's family, had been the "Revolution intruder" who took the deanery of Worcester from which Hickes was ejected in 1691. Bishop Talbot condemned those who sought to disrupt the English church from within, using the words from Christ's parable of the wheat and tares, "An enemy hath done this". A church divided against itself could not stand, and so a strict and loyal adherence to

---

1 J. Johnson, 'The Unbloody Sacrifice', Part I, in Works, (Lib. Ang. Cath. Theol.), pp.135, 144, 145, 164-169, 176.

2 Ibid., p.176.



the Church of England's doctrines was essential in divided times. The independence of the Church, "a proper sacrifice in the Sacrament of the Lord's supper", the "necessity of sacerdotal absolution" ... "as a condition ordinarily necessary; that Repentance and Conversion cannot blot out sins without it", the invalidity of lay baptism and the absolute necessity of episcopal ordination to the priesthood for any valid sacramental ministrations, were all strongly condemned. Bishop Talbot knew well enough where the nonjuror controversialists shafts were aimed, at the clergy of the established church. He therefore referred to the University of Oxford's formal letter to the pastors of Geneva, which coming from the unimpeachable source of high church orthodoxy, could be fairly reckoned as representing Anglican opinion. The Oxford letter had said that it was very far from English charity to judge or condemn other reformed churches which had lost the primitive form of episcopal government through no fault of their own, and with great unwillingness, at the Reformation. The loss of the episcopate in this case, said the Oxford letter, was by "ineluctable necessity", not willingly. As to the claims of Hickes that an episcopally ordained celebrant was essential for a valid eucharist, like Roger Lawrence's that an episcopally ordained minister was essential for baptism, Bishop Talbot added two strong footnotes.

"Necessity cannot make their sacraments valid if an Essential ... is wanting. Necessity may excuse irregularity, or the absence of something relating to the bene esse of a sacrament, but not to the Esse of it. If the Administrator be of the Esse of the sacrament of Baptism, necessity can no more make that Baptism, where there is not a proper Administrator, valid, than it can where either the matter or the form, the water or the words, are not used."



Speaking of the nonjurors' insistence on episcopally ordained priests as being necessary for the validity of the two great Gospel sacraments, Talbot added:

"either those (foreign Reformed) churches have lawful pastors and sacraments or they have them not; if they have them not, they are destitute of them, altogether destitute; but if they have them, they are not destitute of them at all."

Talbot now quoted Hickes against himself: "There is no magis and minus in the validity or invalidity of sacraments, which cannot be partly valid, and partly invalid". Here the severe conclusion of Hickes in his preface to his Account of Dr. Grabe and his Manuscripts (1712) was used against its author. Talbot deliberately drew the logical conclusion of the arguments of Hickes, Roger Lawrence and others in both the eucharistic and lay-baptism controversies, that these strict and severe conclusions unchurched foreign Protestants as well as dissenters at home, and invalidated not only their baptisms but their eucharists as well.<sup>1</sup>

After 1712, the whole nonjuror controversy widened. The advanced age and childlessness of Queen Anne, the Tory ministers' known Jacobite sympathies, and some fears of the Hanoverian succession, made the nonjuror controversialists work harder to keep the possibility of a Jacobite Restoration open. The ecclesiastical side of the controversy now included more than the eucharist alone, and lay baptism, priestly absolution, prayers for the dead, and other high church doctrines were used in the controversial battles. Younger men like Roger Lawrence and Dr.

---

1 W. Talbot, The Bishop of Oxford's Charge at his Visitation 1712, passim., esp. pp.10, 11, and p.14 (Notes).

Thomas Brett took up the struggle until Brett's Review of the Lutheran Principles (1714), a thinly disguised attack on the Hanoverian elector's faith, went even too far for Hickes, who feared government reprisals against the nonjurors. Roger Lawrence wrote to Brett on 26 October 1714 saying that Hickes, as nonjuror "Primus", had now forbidden any further controversial writing on lay-baptism, the powers of the priesthood or other contentious doctrines, as

"it will be interpreted by the malicious as a design to make K. George appear to the world as no Christian, which may bring the rage of the Party upon us ... The Whigs and some nominal Tories reckon (The Review of the Lutheran Principles) a daring thing, ... it may bring you into some trouble at court."

Lawrence added, however, that after the Sacheverell fiasco the Whigs would be as well to leave Brett alone.<sup>1</sup>

Thus ended the nonjurors' grand controversy. The doctrines of eucharistic sacrifice and apostolic succession, the invalidity of lay baptism and lay-deprivations, and all the other controversial points were in truth used in a political rather than a truly theological cause. The tragic result for the nonjurors after Hickes's death in 1715, was a schism among themselves over the very controversial doctrines Hickes and his friends had revived. The nonjurors' four "usages" became the very means of splitting the little group of diehard followers of Hickes, once his magisterial guidance was removed, and the controversy rebounded fatally on its own originators. The prayer of oblation in the eucharist, the mixed chalice, the epiclesis or solemn invocation of the Holy Spirit upon the bread and wine to effect their consecration, and

---

1 Bodleian, MS Eng. Theol. C.25, ff.87-89.

prayers for the dead, became the rock of offence which destroyed nonjuror solidarity and shattered the English nonjuror church into fragments.<sup>1</sup> Three of these four "usages" concerned the eucharist, all of them were raised and advocated by Hickes and, ironically, it was these very points which destroyed the already weakened nonjuror church. While it encouraged patristic study, a major revival of interest in liturgical matters and eucharistic theology, the nonjurors' use of the Sacrament of the Altar and related matters as controversial weapons in the cause of Jacobitism finally did more damage to its authors than to the established Church of England.

---

1 See H. Broxap, The Later Nonjurors (1902), pp.290-307. Also the Brett Mss., in the Bodleian, Oxford, Mss. Eng. Theol. C.24 - C.29, C.38, C.39, C.40, et seq.



## CHAPTER IX

DESERTIONS AND DIVISIONS:DOGMATISM AND DISSENSIONS

Legitimacy means what is in accordance with the law. The seventeenth century had a great respect for the law of the land, even in an age of civil wars and Revolution. The royalist reaction of 1641 in favour of Charles I was a conservative appeal to known law, legality and old, tried ways against the revolutionary excesses of Pym and the Long Parliament. Charles I on the scaffold maintained that he only took up arms to defend the fundamental laws of the kingdom. The Restoration was a conservative return to the old, known legal constitution in church and state. Respect for known laws, a strongly conservative attitude of stare super vias antiquas, a resistance to anything novel or revolutionary, mark the attitude of the seventeenth century governing classes. There was a marked reluctance to admit that even Parliament could bring in any innovations. 'Novelty' was a dirty word. Fear of another civil war powerfully aided the crown at the end of Charles II's reign in resisting Shaftesbury's exclusion campaign. It is probably fair to say that the successful resistance to Exclusion and the peaceful accession of James II supported, as did the Restoration, the conception of fundamental laws - such as hereditary succession to the crown - which were beyond the powers of a parliament, beyond even the sovereignty of king and parliament together. The legal fiction of James II's "abdication" and the passing over of his infant son in silence, also testify to the need to pretend that the Revolution was not really revolutionary and that somehow

succession law had been followed by appointing Mary II, the next hereditary heir after her infant brother, Queen regnant on equal terms with her husband. A great respect for law and legitimacy was necessary in a century that had seen a king beheaded and Cromwell's regime turn into military dictatorship. The same spirit that was seen in the fallen Thomas More's advice to Thomas Cromwell was still found in conservative circles in the later Stuart period: "ever tell him (the King) what he ought to do, but never what he is able to do ... For if a lion knew his own strength, hard it were for any man to rule him".<sup>1</sup> As Hickes had insisted in Jovian, even the king was thought to be limited and bound by the moral law, scripture and the claims of his own conscience. The natural law and the divine and moral laws were the standard by which state policy must be guided. Sir Edward Coke had claimed that the ancient wisdom of the received common law of England could judge the validity of an act of parliament, and that an act of parliament contrary to those 'good old laws' was invalid. In an age which still thought of so much parliamentary legislation as declaratory and which still tended to regard parliament as a high court of justice, the idea of the divine law, eternal, fixed and immutable, limiting and prescribing human legislation was still strong. Thus Tories as the traditional church and king party were embarrassed by the Revolution, the word "rightful" had been omitted from the oaths to William and Mary, and the Association, proclaimed in response to the Assassination plot against William III, was refused

---

1 R.W. Chambers, Thomas More (1976), p.291, quoting William Roper's Life of Sir Thomas More, ed. E.V. Hitchcock (1935), pp.56, 57.



by many Tory gentry (including even the Earl of Nottingham) when it referred to William III as 'rightful and lawful' king. Tories were embarrassed by the triumph of resistance and the overthrow of strict hereditary succession. The Jacobites could therefore mount a strong appeal to the English constitution, to old known law, to the precedent of the Restoration, and to the true divine fundamental laws lying behind a mere piece of parliamentary expediency. Jacobitism claimed to represent legitimacy, in church and state, the old constitution free from dubious and unheard of innovation. It was reactionary, in an age where what Bishop White Kennett called "The wisdom of looking backwards" seemed normal, and when precedent was the basis of all lawful authority. Original contract Whigs and loyalist Tories both appealed to the past, and tended to interpret past events to suit the present situation.

George Hickes ceaselessly emphasized that the nonjuror schism was based on principles, and not on mere injustice to personalities. It was apparent as early as 1692 and 1693, however, that differing ideas and objections among the leading nonjurors, bishops and clergy and some laity, made any real unanimity difficult. Some based their objections to the Revolution purely on the personal matter of conscience raised by contradictory oaths of allegiance. Some took a harder line, objecting not only to the oaths, but the unlawfulness of the whole revolution settlement, thus emphasizing the 'state point'. Other nonjurors, while no doubt Jacobite, placed more emphasis on the schism in the Church and its evil consequences, and yet even here there were those who were more concerned with the claims of individual deprived bishops rather than the broader issue of schism in general.



Some 'church point' diehards, Hickes included, went as far as to accuse the established church of heresy, in that the rejection of passive obedience and non-resistance involved in the Revolution was a denial of gospel precepts and essential Christian moral principles. Soon after the deprivations took effect and the 'Revolution intruders' were appointed in 1691, serious differences of emphasis began to appear among the nonjurors. Attempts were made particularly by Henry Dodwell and Hickes to secure a common nonjuror platform and a common propaganda campaign based on the invalidity of lay-deprivation of bishops, but as the deprived fathers themselves were not unanimous in their objections and attitudes, no consistency was possible from the first, though this did not at first appear serious. After Sancroft's death, however, and particularly after the deaths of William III and James II, ~~in 1701~~ and the death of the active Jacobite Bishop Francis Turner of Ely in 1700 (White of Peterborough also having died in 1698), the nonjuror claim to rest the main reason for their schism on the uncanonical lay deprivation of ecclesiastics began to look somewhat forced. After the accession of Anne, only three of the original deprived fathers remained, Lloyd of Norwich, Frampton of Gloucester and Ken of Bath and Wells. It was notorious that only Lloyd still asserted his claim actively, regarding himself as 'Primus' of the 'faithful remnant of the old Church of England'. Ken and Frampton did not actively pursue their claims, and while maintaining their personal conscientious inability to take new oaths or recognize new sovereigns or the ecclesiastical settlement made at the Revolution, they had retired into strictly private life and refused to play an active part against the government in church or state. With only one of the three surviving pre-

Revolution bishops thus adhering to his claims publicly and as he was increasingly old, ill and frail, George Hickes as his suffragan bishop began to play an increasingly important role in the leadership and direction of the nonjuror controversial stance. But Hickes was destined to be unable to establish unanimity among the faithful remnant, to see his own episcopal claims challenged and rejected, and to see a large party of lay nonjurors return to the established church in 1710. The vital differences of emphasis between nonjurors in their opposition to the Revolution settlement in church and state burst into the open in the middle years of Queen Anne and resulted in a major departure from nonjuror ranks. Henry Dodwell was the leader of this secession and, though one of the leading controversialists and most able writers of the early stages of the schism, was also the main worker for reconciliation with the established church. Hickes remained only as leader of a diehard rump of irreconcilables. At bottom, only Jacobitism really united the nonjurors. There were three main tasks needed to maintain a semblance of a united front among the nonjurors: the establishment of the clear legitimacy of the Pretender 'James III', the continuation of their protest against lay-deprivation, and the assertion of the independence of the church. Only in the first were the nonjurors successful, and the two latter causes resulted in major controversy in nonjuring ranks, which led to large scale defections to the established church.

George Hickes took a leading part in maintaining the loyalty of jacobites and nonjurors to the son of James II. It was first necessary to establish that the pretended Prince of Wales really was his father's true son, in face of the warming pan legend,



widespread denials of the prince's legitimacy and continuing suspicion that James II had somehow smuggled a healthy boy child into his wife's childbed. Whiggish propaganda had raised considerable doubts even in the minds of the strongest supporters of James II. It was necessary to obtain eyewitness evidence beyond all reasonable doubt, to add to the testimony already published by James II in the summer of 1688, to deny Whiggish slanders and rumours even in the minds of the educated and intelligent persons that the child of Mary of Modena was not really genuine. Even so eminent an ecclesiastic among the compliers as William Lloyd, bishop of St. Asaph and later of Worcester, seriously believed as late as 1702 that Mary of Modena had miscarried of her child in May 1688 and that a papist conspiracy had substituted a healthy child. On Monday, 15 June 1702 the bishop had been visited by two of his clergy, the Rectors of Tewkesbury and Hatfield in Gloucestershire, who were seriously concerned about the abjuration oath and the legitimacy or otherwise of the Pretender. Lloyd could assure them that as the first three of James II's children by Mary of Modena had died within a few months of birth, and as the queen had a history of miscarriages between 1676 and 1687, the physicians had said that no children of the union could live, owing to the 'mala stamina vita' "by reason of the duke's distemper". Bishop Lloyd's "evidence" was in fact a tissue of gossip, secondhand opinion and hearsay, gathered from his own apothecary (who knew one of the court physicians) and the Countess of Clarendon, who had reported that the Queen feared she would miscarry.<sup>1</sup> A typical

---

1 B.M. Add. Mss. 33, 286, ff.5-7, 8-10, for Bp. Lloyd's narrative. A detailed refutation in an unknown hand follows, ff.13-30.



Whiggish pamphlet of 1689, A Full Answer to the Depositions: and all other pretences and Arguments concerning the Birth of the Prince of Wales, actually included a survey engraver's plan of St. James's palace showing "the particular doors and passages thro' which the child was conveyed to the Queen's Bedchamber". Stories of the fraud supposedly perpetrated by James II were confidently repeated again after James II's death, and many Jacobites apparently had serious scruples of conscience about recognizing the Prince of Wales. Whig propaganda had obviously unsettled even those who had stood out for so long against William of Orange, and if the Pretender were another Perkin Warbeck, Anne would be legitimate queen and the abjuration oath no violation of conscience. The adding of the abjuration of the "pretended Prince of Wales" to the oaths of allegiance and supremacy at the end of William's reign had increased nonjuring scruples and also unsettled Jacobites within the established church. If, however, "James III" was an imposter, the whole nonjuring protest was over.

Anticipating such problems of allegiance, Bishop Francis Turner of Ely and Hickes, in company with Ralph Lowndes, a nonjuror from Middlewich, Cheshire, had in 1696 visited Mrs. Margaret Dawson, a former Woman of the Bedchamber to Mary of Modena, who had assisted the midwife at the queen's labour and delivery. Mrs. Dawson's testimony, dated 31 October 1696 and witnessed by three nonjurors, made it quite clear that the queen's pregnancy and labour had been quite normal and that Mrs. Dawson had actually assisted in taking the child from the queen's body. Attending on the queen daily during her pregnancy and intimately observing her in all the months before the birth, Mrs. Dawson's evidence

was clear and irrefutable.<sup>1</sup> The deliberate exclusion of the Stuart pretender by the Act of Settlement caused some wavering among Jacobites, however. A further visit to Margaret Dawson at her lodgings in St. James's palace was made by Hickes on 13 February 1700/1, in company with Dr. Thomas Smith (ejected fellow of Magdalen) and Thomas Bowdler (the nonjuring printer), and on 8 September 1701 Mrs. Dawson signed another detailed statement in the presence of three other witnesses.<sup>2</sup> Hickes also met Lady Isabella Wentworth at Mrs. Dawson's lodgings on 22 April 1702, and obtained another eyewitness account of the former queen's labour, and a refutation of Bishop Lloyd of Worcester's statements.<sup>3</sup> Mrs. Elizabeth Bromly, another of Mary of Modena's former ladies in waiting, wrote on 23 October 1702, confirming the other womens' statements from her own eyewitness of the birth.<sup>4</sup> George Hickes and his nonjuror associate Samuel Hawes also visited Dr. Windebank, one of the former queen's physicians, and Mr. St. Amand, James II's former apothecary, and obtained medical evidence of Mary of Modena's pregnancy and giving birth.<sup>5</sup> Windebank's statement was dated 20 November 1702, and St. Amand's statement, witnessed by Hickes and George Harbin, 4 April 1703.

On William III's and James II's deaths, William Fuller the printer had in 1701 republished Twenty-six Depositions of Persons

---

<sup>680,</sup>  
1 Bodl., MS Rawl. D.680, ff.113, 114. Also see Mrs. Dawson's own MS notebook, B.M. Add. MSS 26, 657, ff.2-14.

2 B.M. Add. MSS 33, 286, ff.1, 2.

3 Ibid., ff.3, 4, and Bodl., MS Rawl. D.680, ff.124-6.

4 Bodl., MS Rawl. D.680, ff.118, 119. Also MS Rawl. D.198, ff.79-89.

5 Bodl., MS Rawl. D.680, ff.107-111, and BM Add. MS 32096, ff.39-46.



of Quality and Worth, originally published by order of James II in 1688, containing the evidence of the eyewitnesses of the pretender's birth. Both houses of parliament retaliated by imprisoning Fuller in the Fleet and ordering his prosecution for sedition. Hickes produced a manuscript tract entitled The Pretences of the Prince of Wales examin'd and Rejected, in a Letter to a friend in the Country in November 1701.<sup>1</sup> The title was apparently designed to disguise the real point that any impartial examination of the pretender's claims could not lead to their rejection. Hickes reminded readers that the oaths of allegiance bound their takers to the king and his heirs and successors. Such usurping kings as Stephen, Henry IV and Richard III had not imposed new oaths. So many objections had been made to the prince's birth, but no clear conclusive proof had ever been forthcoming. The depositions were all made by persons of honour and good reputation, including many of the Church of England. The precedent of 1660 argued strongly for a Stuart restoration. The obstinacy of subjects could yet be healed by recalling the true king, "a grandson of the Royal Martyr, a nephew of Charles the merciful, the son of an injured yet of a forgiving father, and an Englishman born". As for disproof of the birth, William's Declaration having promised enquiry into it, but

... the wise Prince of Orange did not, upon second thoughts, conceive it fit to refer the birth to the enquiry of parliament; but contented himself with the Crown only, (and) did by his prudent silence save (as much as in him lay) the reputation of his father-in-law.<sup>2</sup>

---

1 B.M. Add. MSS 38, 851, ff.15-30.

2 B.M. Add. MSS 38, 851, ff.27, 28.



English succession law entailed the crown by primogeniture in one family. An exclusion bill was a legal and constitutional impossibility. The whole tradition of English succession law argued against it, and in actual fact the exclusion bill had not passed. Hickes spoke of the "supreme and inviolable laws" of hereditary succession, taking again the old seventeenth century principle that there was a fundamental law of the realm, like the 'Imperial laws' of Jovian. In other words, there were laws beyond the competence of parliament. Ancient and received succession law affecting the Crown and its succession were beyond the competence of the two houses. Just as the acts of parliament entailing the crown in Henry IV and his Lancastrian heirs were later declared void by the Yorkists, so other and more recent statutes purporting to limit the descent of the Crown might be nullified.<sup>1</sup> By keeping the question of the strict hereditary succession to the crown open, the nonjurors sought to emphasize the illegality of all English political life since the Revolution.

In the autumn of 1701, Robert Jenkins, the former chaplain to Bishop Lake of Chichester and (with Hickes) a witness to his dying declaration, was involved in a controversy with the dean over the claims of the Prince of Wales. Jenkins was anxious about allegiance to be paid to a prince under the control of Louix XIV of France. Hickes argued, in a long series of letters, that the Acts of Settlement and Attainder of the Pretender, and the government's refusal to enquire into the birth, really testified

---

1 Ibid.

to the impossibility of disproving his legitimacy. William had 'promised to enquire it again, but never did, and therefore we may safely conclude he cannot disprove it, but believes it to be true'.<sup>1</sup> Hickes also remarked that James II often condemned the principle of <sup>evi</sup>ocation, and by his own constant openness about his Roman Catholicism had brought much inconvenience and trouble on his own head. His straightforwardness and downright honesty made him a confessor for his own religion. The reason the prince's friends wanted a second hearing "is to silence the cavils which his father's and mother's enemies made against the depositions of the first".<sup>2</sup> Hickes added that it was "a great unhappiness" that the pretender was under French control, but

... if he were under the regency of the Grand Signior it cannot affect our allegiance, which is by law and constitution due to the person of the King wheresoever he is in exile or captivity.<sup>3</sup>

Hickes concluded a letter to Laurence Waltham by stating:

... Such a clear proof (of the alleged imposture) legally made would better secure the nation against his succession, than all the new Acts of Settlement or any others to abjure or attain him ... But for my own part, tho' it is so much my interest that a clear proof of such an imposture should legally be made, yet I despair of it ... Nothing, in my opinion, but proof in law can discharge conscience.<sup>4</sup>

In protest against the abjuration oath, Hickes sent an anonymous note to Dr. John Sharp, the archbishop of York, dated 18 April 1702,

---

1 Bodl., MS Eng. Hist. b.2, fol.123. Hickes to Jenkins, 25 September 1701. See also G.R., p.121. The whole controversy exists in a good copy in G.R., pp.118-148.

2 G.R., p.136. Hickes to Jenkins, 30 October 1701.

3 Bodl., MS Eng. Hist. b.2, fol.124.

4 Bodl., MS Rawl. D.377, fol.44. Hickes to Waltham, 30 September 1702.



alleging that he had taken the original 1689 oaths in the same spirit as Nottingham, Danby and other great men had done, insisting that the word "rightful" be left out of the oaths to William and Mary. The new abjuration explicitly renounced any claims by the "pretended Prince of Wales" and also promised full support for the Protestant succession. To take this oath obviously meant a clear recognition of the Revolution settlement, parliamentary monarchy and the ability of the legislature to dispose of the crown outside the strict canons of hereditary lineal succession. Hickes begged Sharp to refuse the abjuration oath. He reminded the archbishop that the statutes recognizing James I, Mary I and Charles II had all insisted that these sovereigns were monarchs by lineal, hereditary descent who came to the throne by right of blood and birth. Queen Mary I "was recogniz'd not as a testamentary but lineal Heir to her father born in lawful wedlock". The Yorkist Edward IV had repudiated the Lancastrians parliamentary title. Henry IV, Henry V and Henry VI were "kings in fact and not of Right". The Yorkist claim was one of blood by descent from Lionel, Duke of Clarence, elder brother of John of Gaunt, through whom the Lancastrian claim descended. "The Lineal Succession was never interrupted, but the powers who interrupted it were declared usurpers by the princes of the lineal succession; but the interrupters of the lineal succession never presumed to declare those kings usurpers who came to the Crown as lineal heirs."<sup>1</sup> Hickes here again made the point that the established English succession and inheritance

---

1 G.R., pp.211, 212. Hickes to Sharp, 18 April 1702.



law was that of primogeniture and entail, historic custom coming down from ancient common law and a feudal past, which had become a fundamental law of the land, beyond the competence of any parliament. The acts recognizing Mary I, James I and Charles II were declaratory statutes, declaring what the known law of succession was, not purporting to establish any new law or set aside existing law and custom. If therefore the "pretended prince of Wales" was in fact the true son of James II, the conclusion inescapably followed that William and Mary and Anne were usurpers and that the Revolution was illegal.<sup>1</sup>

With the Pretender's legitimacy established, the question of the royal succession and the ability of usurping powers to set aside an antecedent right was again open. But the question of episcopal succession was equally important for consistent non-jurors, and for Hickes's hard logical mind the two successions were parallel. For Henry Dodwell, however, there was an essential difference. Dodwell fastened on one key point, which Hickes (with his personal interest in the nonjurors' secret episcopal succession) could never afford to admit. The Royal succession was an hereditary matter, governed by the succession and inheritance laws of the land. Episcopal succession was a very different matter, the office being for life only. For Dodwell, the issue of lay deprivation was paramount, but he regarded the deprived bishops' stand as valid only for their own lifetimes. He wrote to Bishop Stillingfleet as early as 26 January 1692/3, attributing the cause of the schism to lay deprivation and the consecration

---

<sup>1</sup> Ibid.

of Tillotson and the other "intruders" as "secundi" on Cyprian's principles. The deprived fathers must be regarded as the only lawful and rightful bishops of their dioceses, Dodwell asserted.

"Can you think it for the interest of a religion professing the cross to disengage us from all opinions that may enable us and oblige us to subsist as a society under persecution? Can you really think it for the advancement of your episcopal authority to tell us we owe you no duty whenever a lay power shall deprive you? ... Your abetting persons brought in on vacancies made by lay deprivation can maintain the breach no longer than the persons live who are turned out by invalid deprivation; but your defending the right of lay deprivation by principles will betray the rights of the church and of your function fundamentally ... This, if you force them to it, may make your deprived brethren think themselves obliged in conscience to prolong the difference further ... not to suffer it to die with them, but to fill up your sees and their own as they shall fall vacant, by substituting successors to all succeeding generations."

Dodwell expressed the hope that

"the death of the persons concerned in the causes of our differences is likely enough to extinguish the differences themselves ... as soon as a just prescription or a freedom from competitors shall give the possessors a justifiable title."

Could the Revolution bishops not make a declaration against lay-deprivation? Or could the state not show some favour to the deprived, so they might conscientiously resign their claims.<sup>1</sup>

Dodwell thus clearly foresaw an end to the schism when death removed the deprived bishops and their 'intruded' supplanters, but he also foresaw the possibility of the schism being extended, if the issue of lay deprivation was not faced. The whole of Dodwell's case against the later nonjuror diehards is contained here, though his letter to Stillingfleet was written

---

1 Bodl., MS Rawl. C.735, ff.106-109.



at a time before the original clandestine consecrations had taken place.

The whole eleven years of conflict within the nonjurors' ranks between 1699 and 1710 is contained in Dodwell's letter to Stillingfleet. Dodwell's approaches to Archbishop Tenison<sup>1</sup> and Bishop Ken's approaches to Hickes,<sup>2</sup> between late 1699 and 1701, fit exactly into the situation envisaged in the letter to Stillingfleet. Dodwell himself had been in touch with Bishop Frampton in 1694,<sup>3</sup> and was in more definite contact with Ken in 1701.<sup>4</sup> Ken and Dodwell wished the deprived bishops to resign their claims on their former dioceses in favour of their successors, with some sort of saving clause against lay-deprivation. On the other hand, Lloyd of Norwich (though now aged and infirm) and Hickes clearly considered the lay-deprivation issue a fundamental matter of principle which demanded a definite repudiation of lay-deprivation as such by the Church of England before the breach could be healed. To Hickes's mind, and that of other nonjurors of the diehard variety, the original schism had by now involved more than simply schism. Lay-deprivation

---

1 Lambeth MSS 930, ff.38-41, and Bodl., MS Cherry 23, ff.329, 333, 343-6, 351. Dodwell to Tenison, 29 August, 25 November and 29 December 1700 and 20 May 1701. Tenison to Dodwell, 5 December 1700 and 4 March 1701.

2 E.H. Plumptre, Thomas Ken (1889), ii, 108, 109. Ken to Hickes, 7 March 1700/1, and G.R., pp.148-154. Hickes to Ken, 24 October 1699; Ken to Hickes, 17 March 1700; 6 June (1700); Hickes to Ken, 10 November 1701. See also St. John's, Cambr. MS Book 492, pp.64-67.

3 Bodl., MS Rawl. Letters 68, ff.53-60. Dodwell to Frampton, 31 January and ? March 1693/4, and Frampton to Dodwell, 17 February 1693/4.

4 Bodl., MS Cherry 23, ff.192-5, 197, 198. Ken to Dodwell, 10 November 1701; Dodwell to Ken, 21 October and 27 November 1701.



and the consecration of second bishops had been defended by principles, and the older doctrines of passive obedience and non-resistance had been flouted. Schism had become compounded with false doctrine and heresy. To those who believed that passive obedience was "the doctrine of the Cross", and that "the powers that be are ordained of God" was of perpetual obligation on Christian conscience, the triumph of the Revolution was unacceptable. To the rigid clarity of Hickes's mind, the duties of Christian morality were as important as the articles of faith. Moral precepts of the faith were as vital as, say, the doctrine of the Trinity. Hickes wrote to his wife on 11 June 1691

"... as far as I am able to judge, after a long and impartial enquiry against my worldly interest, we suffer for God's commandments, which are as sacred and dear to him as the Creed; and men and women may certainly be martyrs and confessors for the former, or any of them, as well as for the latter or any article thereof. Such were King Charles the Martyr and those who suffered in pursuance of their duty to him, and they being dead yet speak ..."

"... Oh that we may love ... and prefer the principles before the preferments and revenues of our Church and religion, nor ever pretend for our own ease and safety to preserve some of its doctrines in their purity, against the moral precepts thereof."<sup>1</sup>

Obviously the consequences of the Revolution in church and state alike were before Hickes's eyes. Neither a usurping king nor a usurping bishop could have any authority or right to allegiance. The inevitable confusion of 'church point' and 'state point' is clearly reflected here, but to Hickes the offence to the church was at least equal to the offence to the state. Dodwell's distinction between the state law of royal hereditary succession

---

1 Bodl., MS D.1234, ff.13-15.

and the church's episcopal succession was not acceptable to Hickes, who regarded the lay-deprivation issue not as a sin to be forgiven but as a matter of principle requiring the explicit renunciation of false belief. Obviously Hickes, as one of the bishops of the 1694 clandestine consecrations, had an enormous personal interest in the maintenance of the nonjuror hard line on the 'church point'. His own episcopal consecration owed its origin to Sancroft, Turner of Ely and Lloyd of Norwich being of the opinion that the divine right of the episcopate had been fatally compromised by the Revolution episcopal consecrations consequent on their deprivations. Hickes's assertion of his own episcopal claim was based on the assertion that his episcopate and that of Wagstaffe was, with Lloyd, the only valid and regular episcopate in the Church of England. The nonjuror remnant was the authentic Church of England, not the Revolution church. False principles undermined the gospel far more seriously than mere personal interests, in Hickes's view. His very acceptance of episcopal consecration in the first place is witness of his rigid consistency of purpose, and his acceptance of the view that the church of England was totally infected by schism and in slavery to the secular power. The whole Case in View controversy, principally between Hickes and Dodwell, hinged on the point that Hickes and his followers believed that the Revolution church's ministry and sacraments were now null and void, hopelessly invalid.

Bishop Turner of Ely, as well as Hickes, had taken a very strict, high view of the divine institution of episcopacy, with bishops as Christ's vicegerents in the church. Lay-deprivation to Turner, as to Hickes, was analogous to rebellion in the state. Turner had refused to accept the manuscript of Dodwell's Paraenesis



ad Exteros for publication in 1700, owing to what he regarded as Dodwell's shyness in asserting the divine right of the episcopate. Dodwell had spoken of Timothy and Titus as merely delegates of St. Paul, rather than clearly as diocesan bishops.

"1. Those who now wear the Episcopal Character are the Successors in Ordinary of those who once had the Apostolical; whereas you have interposed a sort of extraordinary officers never heard of before, and base the ordinary power of Bishops over their several churches as coming to them by devolution, and not conferr'd upon them in its plenitude from the beginning. This makes Church government Ambulatory ... and supposes its instability.

2. We observe you take it for granted (as if it were of no consequence to be allowed) that such a form of church government as is now established was not delivered in the Canonical Scriptures, its settlement being postponed to the writing of those sacred books. But this runs counter to the receiv'd opinion; to our great principle of the sufficiency of holy Scripture; to the mighty importance of the subject matter, the Ius Divinum so long insisted upon ... in opposition to the Irenicum (of Stillingfleet)."

Turner was "startled" by Dodwell's assertion of a primitive Jerusalem primacy. Had not Bellarmine used this as an argument for papal supremacy? The bishop was not merely the delegate of a pope. But at the same time, Dodwell had not appealed to universal catholic and primitive practice.

"Your stating the case of each Bishop as independent from his colleagues by the Church's constitution as it was left and dependent on the rest of his Order barely upon Contract among themselves, - which contract might be revocable and every bishop to judge for himself when it becomes necessary to revoke, - this we are afraid will bring anarchy into the Church, as it does into the State when subjects first assume an original contract, and then Particulars make themselves the judges when to retract it."

The unity of the whole episcopate was vital, on Cyprianic principles, Turner averred, because ...



... our Brethren at home may deprive of our Resources but cannot divest us of our Spiritualities; the majority of Bishops in a particular church were never empowered to be the dernier resort. But this our defence must stand not upon a principle of Independency (such as you contend for) but quite contrary on the Dependency of particular churches upon the Catholic.<sup>1</sup>

Turner thus wished to establish primitive and patristic catholic custom and precedent as a law fundamental to the nature of the church as a society, to show that lay deprivation had never been accepted in any part of the church. The Church of England must be dependent on and bound by such fundamental custom and practice. Dodwell retorted that the nonjuror position was a weak one, as the majority of English bishops could always deprive the nonjurors by synodical process and that an appeal to the universal church was impracticable, so much of it being either of the Roman obedience or the non-episcopal Protestant churches. Any idea, therefore, of a General Council or a legal appeal by the deprived fathers to the universal church was impossible. Dodwell concluded, "you are necessarily therefore left without remedy in this life."<sup>2</sup>

Hickes's view of episcopal rights was as high as Turner's. Of the Revolution church's bishops and clergy he wrote:

They can perform no valid acts of priesthood; their very prayers are sin; their sacraments are no sacraments; their absolutions are null and of no force; God ratifies nothing in heaven which they do in his name upon earth; they and all that adhere to them are out of the church; they can claim no benefit of God's promises, not of his assisting grace, no remission of sins through the merits of Christ's blood. Nay, tho' they should die martyrs in the schism, their martyrdom would not be accepted.<sup>3</sup>

---

1 Bodl., MS St. Edmund Hall 10, ff.11-20. Turner to Dodwell, 10 February 1699/1700.

2 Bodl., MS Cherry 23, ff.303-7. Dodwell to Turner, 29 February 1699/1700.

3 Bodl., MS Rawl. D.1234, f.29.

Bishop Ken had mentioned his own wish to resign his episcopal claim to Hickes as early as the autumn of 1699 at Longleat. Hickes begged Ken not to lay down his claim, fearing it would cause scandal to the faithful nonjuror clergy and laity. Hickes spoke of "the blessed Independency upon the state" and "a farther Reformation" which would make the church of England "as pure and Apostolic a communion as ever was in the Christian world".<sup>1</sup> Ken replied later that the desire to end schism and restore unity to the church "is of that importance that it ought to supersede all ecclesiastical canons, they being only of human and not of divine authority". As for the deprived fathers' stand, Ken opined they might now resign, with some statement about the rights of the church, "having long enough maintained it to justify our character".<sup>2</sup> Hickes asserted in reply, after consulting Lloyd of Norwich and Wagstaffe, that "the deprived Bishops' claim of right is founded on the very Commission which Christ gave to the Apostles, and not upon any Canons of after times". Hickes further asserted that he did not believe that the clergy of the established church were interested in a reconciliation with the nonjurors, but more in 'the legal parliamentary rights of an English Convocation'.<sup>3</sup> Hickes finally asserted that Ken could not resign his claim separately but only into the hands of his nonjuror brethren and with their consent, they reserving the right to choose another into Lloyd's place.

---

1 G.R., pp.148-150. Hickes to Ken, 24 October 1699.

2 G.R., pp.150, 151. Ken to Hickes, 17 March 1700.

3 G.R., pp.151, 152. Hickes to Ken, 9 June 1700.



Behind the attitude of Dodwell, in his early letter to Stillingfleet and in the controversy following on The Case in View after 1704, and the opinion of Hickes was a vital difference of approach. Regarding reasons for the schism as valid only for the lifetime of the deprived bishops, Dodwell remained convinced that the Revolution bishops would acquire a valid title to their sees on the death of the ousted bishops. A long continued possession and the removal of any antecedent claim would legitimate the Revolution bishops. By now, many of the original "intruders" were dead - and as the original supplanters were removed, the schism "by contagion", involving those who elected, consecrated and enthroned the original intruders would also vanish. Dodwell's Case in View now in Fact (1711) argued that now the 'case in view', the death of Bishop Lloyd of Norwich in January 1710, had become a reality, no deprived bishop survived who still asserted his rights. The possessing bishops now acquired a good title, and as they were no longer in schism became the valid and bona fide possessors of the sees. Death removed the deprived, whose violated spiritual rights were the formal reason of schism. Dodwell's Appendix to the Case in Fact went further. Even if the deprived bishops had granted commissions to others to act in other dioceses, now filled by intruders, such grants were now void. Bishops could only grant commissions to others to act for them during their own lifetime. After their deaths such commissions were of no force. Episcopal commissions were essentially granted to others to exercise the issuing bishops' own rights, but could only last during the donor's lifetime. Anything beyond this was simply impossible. Thus Sancroft's commission, or any other granted by those consecrating a further



bishop in the schism, must be void. Thus the granting by the deprived of powers not to be exercised until after their death was invalid.<sup>1</sup> Dodwell admitted he had changed his earlier opinion, that the deprived bishops might have appointed diocesan successors, even in the sees of those not filled by an "intruder". Any such successor only derived his authority from a small minority of the episcopal college, had the majority against him, and also now was opposed by true diocesans, who themselves had played no part in the original schism of 1691. It was the nonjuror bishop who now stood as Secundus to lawfully possessed diocesans. If the 1691 substitution of new bishops for unexceptionable existing diocesans was schismatic, so now was any nonjuror attempt to do the same. The bishops in possession were consecrated, elected and enthroned canonically, and had a spotless title. No bishop could choose his own successor. Besides, divisions resting on personal injury could not survive the injured person. "Schism cannot be continued without a continuation of the injury offered to the Person who has the title which is disputed." The church and episcopate were governed by elective not hereditary succession. The deprived fathers could not give any new rights to be exercised after their deaths. It was one thing to maintain old rights unlawfully invaded, but quite another to try to perpetuate claims which must die with them. The only possible case where the deprived could have continued their apostolic succession by further episcopal consecrations was if the entire church and episcopal order had been overthrown, as in Scotland.<sup>2</sup>

---

1 Op. cit., pp.25-33.

2 The Case in View Now in Fact (1711), Appendix, pp.1-49.

Hickes's view of Dodwell's arguments was scathing and bitter. Dodwell's recognition of the established church, with all the secular controls and trammels on the church's essential freedoms could not be allowed to go unanswered. As a rigid upholder of divine right, Hickes could not accept the realism of Dodwell, who allowed that the small number of nonjurors could not possibly hope to bring the whole church of England to submission. Regarding the whole schism as a long continued oppression of the church by the state, Hickes now believed that in the "state of persecution" to which the nonjurors were now reduced, "when the orthodox heads of the true church are forcibly driven or kept out of their Sees, she (the Church) is unavoidably forc'd into the same condition as she was in before the Sees and Dioceses were made, and necessitated to act as she did then".<sup>1</sup>

R.S. Bosher remarked in The Making of the Restoration Settlement that Lord Chancellor Hyde in 1659 had been annoyed by Herbert Thorndike's great work The Epilogue to the Tragedy of the Church of England, published that year. 'Its author had maintained that the one hope of raising the church from ruins was in a drastic reconstruction of its constitution along more primitive and catholic lines; he clearly despaired of any return to the old ecclesiastical order'.<sup>2</sup> After fifteen years of Puritan rule and the abolition of the English church, Thorndike's pessimism was apparently justified, as it had hardly been possible in 1659 to forecast the miraculous restoration of Charles II and the Church of England. Fifteen years after the nonjurors' separation, Hickes

---

1 (G. Hickes), Mr. Dodwell's Case in View Thoroughly Considered (1705), pp.42, 43.

2 Op. cit., (1957), p.93.



and the nonjuror diehards were anxious to avoid any return to the old ecclesiastical order, and to follow Thorndike's scheme - or something like it. Had not Hickes in his letter to Bishop Ken of 24 October 1699 spoken of the "blessed Independency" of the church, making "by a farther Reformation as pure and Apostolical a Communion as ever was in the Christian World?".<sup>1</sup> If, as appears possible, Hickes and other nonjurors were cherishing the ideal of a free anglican episcopal church, independent of the state and freed from the legal ties which bound the established Church of England, their vision was as impracticable as their insistence that the whole established church should submit and acknowledge its guilt of schism. Hickes produced his stern Cyprianic arguments that intruded bishops were Nulli. Dodwell sought to maintain that the nullity properly arose because the Revolution bishops were secundi. When, therefore, they were no longer seconds, at their competitor's death, the nullity must cease. Hickes, however, maintained that nullity was a permanent defect, unless removed by penitential submission. A bishop must possess 'the intrinsic validity of episcopal orders, as well as the external form', and a bishop in schism

'... has not that intrinsic validity; for he that is not a member of the true episcopacy, can have no share of its intrinsic valid power; but must need an addition thereof from the one true Catholic Episcopacy, whose unity and communion he has lost. And till that is done, he can give or hand down no more than he has himself, viz. only the empty external form, capable of the Church's ratification upon a voluntary return to her. For whatsoever bare external form may be granted to be given in schism, or to remain with a lapsing bishop;

---

1 G.R., p.148.



yet it is a mere nothing with respect to the true Communion, without their confirmation.<sup>1</sup>

Other bishops and clergy ordained and consecrated by those in schism were themselves invalidly ordained, and their priesthood or episcopate null and void. The true (nonjuror) church was now in a state of persecution, so

"when the orthodox heads of the true church are forcibly driven or kept out of the sees, she is unavoidably forc'd into the same condition she was in before the sees and dioceses ere made, and necessitated to act as she did then."<sup>2</sup>

Bishops driven from their dioceses were still bishops of the whole church and might still act validly in all places their ministrations were sought. But the invalidly ordained bishops in possession could have no rights at all. They outwardly possessed the temporalities, but a mere absence of competitors could confer no spiritual rights. Their essential nullity could not be removed by the death of their canonical rivals. How could nullity cease? "How does that Nothing become something, till a return to the true Communion of the Catholick church?"<sup>3</sup> Now so many of the sees were vacant by the death of the original deprived bishop, the possessors could not be validated by mere possession against right. The true church alone could ratify and confirm their appointment. State deprivation of bishops injured not merely their persons, "but the immediate injury is done to the Church ... by invading her Right and Property of Deposing from Spirituals".<sup>4</sup>

---

1 (G. Hickes), Mr. Dodwell's Case in View Thoroughly Consider'd (1705), pp.7, 8.

2 Ibid., pp.42, 43.

3 Ibid., p.45.

4 Ibid., pp.81, 82.

As for Dodwell's contention that for need of episcopal oversight the nonjurors must return to the established church on Lloyd's death, if no true bishops remained, then foreign Protestant bishops could assist them. Hickes pointedly reminded Dodwell of what he had formerly written in his Vindication of the Deprived Bishops and his letter to Stillingfleet, that schism defended by principles usually becomes heresy and that the "deprived fathers ... were possessed of all the rights of the national church of England and might have filled the sees".<sup>1</sup> Hickes several times quoted the old Roman civil law maxim: "What was vitiated from the start, can't revive by mere passage of time."<sup>2</sup>

Hickes was also consulted by several nonjurors living in the country about what they should do when Bishop Lloyd died. One such was Walter Harte, formerly fellow of Pembroke College, Oxford, vicar of St. Mary Magdalen, Taunton, and prebendary of Bristol and Wells, who lived in retirement at Kinbury near Hungerford. Hickes asked Harte, 'if Bishops be provided to succeed B.N. when he is dead, (whether) they will not have the best claim on our duty, preferable to any others; and by consequence whether we are not to pay our duty to 'em?' If such 'provisional bishops' were duly consecrated, they would be 'promulgated to the faithful in such a prudent Xtian. manner, as in such a state of persecution ... shall be thought convenient'. When there was an episcopal vacancy, the care of the church rested with the presbyters, in any case, and recourse might be had to bishops overseas. As far as patristic precedent went, had not St. John Chrysostom called

---

1 Ibid., p.119, 120, 167.

2 e.g. Ibid., p.49.



his intruded successor Arsacius an adulterer, and did an adulterer become a lawful husband, because he was living with the wife when the cuckolded husband died? Hickes added bitterly:

To churches engaged in Schism and still maintaining it upon a false Principle, I can never join myself, ... I will rather live segrex all my life ... than become a member of such a church.

On Dodwell's reasonings, the revolution church on Lloyd's death 'without any act of their own or of the Church, their sacrilege is at an end, their usurpations are turned into right, and their Nullity becomes title and validity'. Such reasoning, said Hickes, would only be valid if succession to sees was hereditary, like the Crown. The established church's bishops would not be willing to make any acknowledgement of their sins and schism.

I know, sir, it is objected that the Schism will be continued, and the case of the church very deplorable. But who can help that? Or who is to be blamed and answerable to God for it? Who is responsible to him for all the miseries of a 20 years rebellion, the Usurper and those who support him, or the rightful king? ... Who was answerable to God for all the miseries of the African church, the true bishops or the Donatists, who would neither offer nor accept terms?<sup>1</sup>

Here the church point and state point were inextricably bound together in Hickes's mind.

As Dodwell had so publicly announced his intentions when the last deprived bishop should die, it became immediately necessary for Hickes to begin to assert his own episcopal claim. An appendix to Mr. Dodwell's Case in View thoroughly considered raised the question of coadjutor or suffragan bishops, pointing out that they were fully in episcopal orders and no more lost their spiritual power when their diocesan died, than did beneficed

---

1 MS Rawlinson D.844, ff.83-89, and MS Rawl. D.845, ff.59, 60, 207-209.



priests in a diocese whose bishop died in office.

'A suffragan bishop did not act purely by the authority of his diocesan, but by the authority of the whole college of bishops ... A suffragan bishop's power was not limited by his diocesan's, so that he could not actu duly ... but durante beneplacito of the diocesan ... the suffragan bishop shared with his colleagues in the whole vacancy, and so long as the Diocesan See was vacant, he had a right to exercise his episocopal powers in the whole diocese, he being before appointed a coadjutor in that diocese by the whole (episcopal) college.

Suffragans were equal in order and character to diocesans, and such a bishop was

"equal to one of the Apostles, being only such in the unity of the episcopal college, he had a just right to share in the right and government of all vacancies that happen by death, schism or heresy, by Popish supersitious worship or any other practical desertion of the catholic unity and communion.<sup>1</sup>

Hickes also wrote two letters to Samuel Parker, son of James II's bishop of Oxford and President of Magdalen, asserting the full episcopal status of suffragans, quoting Henry VIII's suffragan bishops act, and pointing out that Matthew Parker, Elizabeth I's primate, had been consecrated by four bishops, none in actual possession of a see. Barlow, Scory and Coverdale were all deprived by Mary I, and Hodgkin was a suffragan.<sup>2</sup> In a second letter, Hickes asserted that if in a time of persecution the number of bishops in a province might be reduced to two, 'their consecrations to fill up vacant sees are as valid as if they were ten'.<sup>3</sup> In cases of necessity, suffragans were complete bishops

---

1 Op. cit., pp.177-185, also quoted in J.H. Overton, The Nonjurors (1902), pp.120, 121.

2 Bodl., MS Eng. Hist., b.2, ff.141-144. Hickes to Parker, 2 May 1706.

3 Ibid., same to same, 7 May 1706.

in all respects, differing no more from diocesans "than curate presbyters differ from parochial priests". A list of sixteen queries on suffragan bishops was also circulated at this time, making it clear that if Hodgkin, suffragan bishop of Bedford, 'gave the Spirit' at Matthew Parker's consecration, then suffragan bishops were competent for all episcopal duties. It was also maintained that a suffragan consecrated by the deprived fathers must have a prior claim on the nonjurors' allegiance, before any intruded diocesans, "neither regularly nor legally nominated, chosen, consecrated nor thronized, and continuing in schism".<sup>1</sup> Thus indirectly, without openly admitting that any episcopal consecrations had in fact taken place, Hickes prepared the way for his own episcopal claim.

Dodwell's publication of the Case in View caused a considerable controversy among the nonjurors. Bishop Lloyd, as the nonjurors' 'Primus', was embarrassed and extremely angry and wrote to Thomas Wagstaffe on 2 September 1705,

It's some comfort that one of my brethren is free of that tricking humour that is spread among our fraternity. For the Case in View has been perused by the Dean of Worcester and many more of our Brethren within this twelvemonth. It was lodg'd in the Dean's hands to be communicated to the Brethren, yet not one of 'em had such kindness for me as to give me the least hint of it ... It's not the first time Mr. Dodwell has assumed the freedom to truck for his friends and make bargains for them without their privity or approbation ... I know that Mr. Dean, Mr. Gandy, Mr. Hawes and Mr. Cook have seen and perused this Case; and it was Mr. Cook that handed it to the press ... Mr. Higden was also one of the confidants to whom this Case in MS was communicated.<sup>2</sup>

---

1 F. Lee, Life of John Kettlewell, Appendix XII, pp.xlv-xlvii.

2 Bodl., MS Eng. Hist. d.1, ff.29, 30.



While Lloyd's attitude was clearly in opposition to Dodwell, and while Hickes's attitude remained the same, other nonjurors named in Lloyd's letter were holding consultations about returning to the national church. Dodwell's arguments clearly met a favourable reception, and William Higden and Shadrach Cook began to try to get several leading nonjuror clergy to put their names to a petition addressed to Lloyd, asking him to resign his claims. The paper was to be presented by Bishop Sheridan of Kilmore, the sole Irish nonjuror prelate, and he was urged to add his weight to the petition's contents.<sup>1</sup> Charles Leslie was also approached by Higden and Cook, and was accused by Hickes of being "the great promoter and encourager of those party meetings" and of trying to present a united front of those wishing to rejoin the established church. What was worse, Hickes maintained, was that Higden and Cook "are more excusable in this than you, that they act more openly and avow what they act ... But you cover and hide and palliate what you do among them, though you are ... one of their chief encouragers of their proceedings". Hickes accused Leslie of conspiracy:

You conspire together with others to put him  
(Bishop Lloyd) upon doing that which you know  
he hath declared he will not do, because he  
believes he cannot do it without betraying  
that trust which is committed to him by God.<sup>2</sup>

Bishop Lloyd himself wrote to Hickes confirming that nothing could prevent Higden and Cook from rejoining the established church, and that Cook had protested that "there was none so free and forward in our concern as Mr. Leslie". Cook and Higden had both

---

1 H. Broxap, The Later Nonjurors (1924), p.7, quoting N. Brett, Considerations on the present state of the Nonjuring Church (1770).

2 MS Eng. Hist. b.2, ff.100, 101. Hickes to Leslie, 12 November 1706.



visited Lloyd to inform him of their intention to leave the nonjurors' communion.<sup>1</sup> Lloyd added that letters had also been sent to some nonjuror clergy in the diocese of Norwich to get their signatures to the proposed petition, and also that Higden had already consulted 'some of the church divines upon the point of their coming in to them, and hath received a favourable encouragement from no less a dignitary than Archdeacon Kennett, who made no scruple to assure him that the church would gladly and readily receive 'em'.<sup>2</sup> While Higden and Cook shortly returned to the established church, taking Robert Jenkins with them, Leslie accepted his rebuke and broke off further contacts with the dissidents.

The controversy begun by Higden, as Dodwell's disciple, was acrimonious and involved. Church point and state point arguments alike were interspersed with appeals to precedent and history. In the matter of the schism and the deposition of James II, both sides assumed that precedent and history could decide their cases. The events of church history in the first four or five centuries and of English history from the Norman Conquest to the Revolution would provide a rule of conscience for personal guidance and a clear path for churchmen and true Englishmen to follow. The whole of the year 1705 was taken up with the controversy. Henry Dodwell had written to Samuel Hawes on 14 February 1704/5 lamenting "our own intestine divisions", adding "even our bishops are not so agreed as they should be for governing us as a separate Body".

---

1 MS Eng. Hist. b.2, ff.215, 216. Lloyd to Hickes, 28 December 1706 and 4 January 1706/7.

2 Ibid.

Frampton's known attitude and Ken's resignation of his claim had made the nonjurors' stand was impossible. Hickes remarked, concerning Dodwell's contentions, that the nonjuror church was united in its essential point of the charge of Schism against the established church. Frampton never had been a genuine nonjuror, and Ken's desertion of a position he had maintained for more than twelve years was an act of weakness.<sup>1</sup> What is clear is that this internal controversy went in two stages. First, on the church point, resulting in the departure of Higden, Cook and others to the official church of England; and second, on the state point, resulting in a longer drawn out controversy with a more inconclusive ending. It seems clear that Higden and Cook returned first to lay communion in the established church, and only later, after two or three years of further controversy, qualified themselves for benefices by taking the oaths to Queen Anne and the abjuration of the pretender.

In the dispute over the church point, Higden and Samuel Hawes exchanged voluminous manuscript tracts between 1706 and 1708. Both agreed that schism existed in the English church, that the schism was the fault of the 1691 'intruders' and that all schism was a violation of Christian unity. A slightly less amicable agreement was reached that the episcopal order (and the orders of deacon and priest) were conveyed in schism, among schismatics, and that recognition or 'ratification' by the church was what was needed to make the Intruders and their successors' orders and ministrations valid and canonical. Hickes, in

---

1 St. John's, Cambridge, MS Book 492, pp.23-26.



opposition to Dodwell, had on his 'Cyprianick principles' nullified all holy orders conferred in Schism, distinguishing between 'the intrinsic validity' and the 'external form' of holy orders. Hawes, taking up this line, argued that 'No consecrations could have any validity, but those ... performed by an authority derived from Christ,' and continued: 'Neither could they who presumed so to consecrate, derive the blessed spirit upon them on whom they laid their hands!'.<sup>1</sup> Even if the 'anti-Bishops' did receive the episcopal character, they could still perform no valid actions.

... They cannot be allowed to perform valid or canonical ministrations till the Church hath recognized them, although the possessor of the see to which he pretends were dead.

'Tis the Spirit, or Holy Ghost, which every bishop is supposed to receive at his consecration, and that makes his ministerial acts authentic and beneficial; but no-one in Schism is thought to receive this Blessed Spirit, but to lose what they had of it before, and therefore cannot impart it to others.<sup>2</sup>

Cyprian had judged all ordinations of secundi, Intruders, to be null and void. When schismatics returned to the Catholic church and received a laying on of hands to reconcile them, this had been interpreted as re-ordination, Hawes alleged.

"The Character so imprinted, (in Schism), could produce no effect, nor the ministrations of orders so conveyed be beneficial without an Act of the Church to ratify and give force and virtue to them."

Higden countered by saying that Hawes appeared to be entirely nullifying orders given in schism and yet that his allowance that a penitential return to the church could ratify such orders appeared to allege that renunciation of schism conferred true

---

1 Bodl., MS Rawl. D.844, f.53. Hawes to Higden, 10 March 1707/8/

2 Bodl., MS Rawl. D.90, f.126. Part of an undated Tract written by S. Hawes (1705 or 1706).



holy orders on clergy ordained in schism. Higden had objected that '... Renunciations don't give Orders'. Hawes replied, 'And yet it is true that they make way for force and virtue to be given to them'. Schismatic or heretical baptisms needed to be ratified, and so did Orders, 'to be made effectual'. For Hawes, there were two necessary conditions in conferring ordination, first the 'right and authority of the ordainer', and second, 'the solemnity of consecration or ordination itself'. Schismatics could only perform the second, having no right or authority behind their ministrations.<sup>1</sup>

Higden argued that when Lloyd died, the formal reason for schism would cease, on Dodwell's principles. 'If upon death or cession they are no longer in a state of schism, then ... Confession of their past schism ... is only a matter of discipline.'

'In this divided state of the Christian church,  
in this general relaxation of discipline, shall  
we carry this single point to such an height?'<sup>2</sup>

It was the nonjurors' continual attempt to represent schismatic orders, and thus the ordinations of the established church, as null and void. Higden was able to draw from Hawes the admission that strict Cyprianic principles would have nullified all sacraments in schism, but that following Augustine catholic faith and practice had allowed that sacraments administered in schism were valid but irregular. Hawes sidestepped the issue of strict Cyprianic theory that all ordinations performed by schismatics are invalid and need repetition, and concentrated on the schism itself. He refused to follow the Cyprianic line to its logical conclusion and

---

1 Bodl., MS Rawl. D.844, ff.54, 55.

2 Bodl., MS Rawl. D.890, ff.110, 111.

say that all ordained priests or consecrated bishops in the established church were invalidly consecrated or ordained, and shifted his ground to the ministrations of those so ordained. 'Whatever character might be imprinted by such (schismatic) consecrations, yet I did not look upon the ministrations of persons so consecrated as valid and canonical, till the church had ratified and confirm'd 'em.'<sup>1</sup> Higden therefore retorted that if Hawes, Hickes and the nonjuror hard-liners insisted on a renunciation of schism by the established church, 'Whether this renunciation is so absolutely necessary, that a Union which would then (on Lloyd's death) be our duty, will become schismatical or sinful on our part without it?' Surely, Higden argued, the precedents of church history showed "that this renunciation was a matter of discipline, which had been waived or insisted on, and might be so again".<sup>2</sup> Hawes had alleged that Novatian's schism in Rome on the death of Pope Cornelius was a good example of where the intruded bishop was not regarded as being in possession and therefore having a valid title on Cornelius's death. Higden countered by alleging that Novatian had been synodically condemned before Cornelius's death. The ending of the Donatist schism in Africa, along the terms agreed in 411 A.D. was cited, whereby two bishops - a catholic and a Donatist - occupied each see jointly until the death of one, the other being then regarded as sole bishop irrespective of his origin. Higden pointed out that no renunciation of schism was demanded from the Donatists, and they

---

1 Bodl., MS Rawl. D.844, f.139. Hawes to Higden, 21 October 1706.

2 Ibid., f.1.



in turn dropped their practice of rebaptism of catholics and reordination of convert clergy. The Antiochene schism between Meletius and Paulinus was also quoted, where the proposed settlement of allowing both bishops to hold the see jointly till the death of one was approved by the ecumenical council of Constantinople in 381. Higden pointed out that "Meletius exacted no renunciation, nor did Paulinus make any". This was an excellent precedent for the nonjurors to follow. 'Closing a schism by a compromise on equal terms, without any renunciation' agreed exactly with Dodwell's suggestions. The judgement of Pope Melchiades in the Donatist appeal of 313 had suggested that where there were two claimants to a see, the senior by consecration should be confirmed in possession, and the junior translated to a vacant see, irrespective of allegiance.<sup>1</sup> Hawes and George Hickes, who annotated and approved several of Hawes's' scripts, made much of the deprivation of St. John Chrysostom from Constantinople by imperial intervention. A schism in the church of Constantinople occurred after Chrysostom's removal, and his supporters (the 'Joannites') had refused to accept Arsacius, his imperially 'intruded' successor. Hickes wrote in Hawes's manuscript that the schism was not closed till Chrysostom's name was restored in the diptychs, and that of the intruder erased. Hickes noted on Hawes's manuscript:

The restoring of St. John's name in the Diptychs, or Church Register of the Bishops, was an acknowledgement that he was all along, from the time of his deposition to the time of his death, lawfull Patriarch of Constantinople,

---

1 MS Rawl. D.844, ff.1-3, 8, 11, 12, 39-41. Higden's tracts, dated 26 July 1707.



and that Arsacius and Atticus, as long as John lived, were Intruders and Schismatics; and that Atticus was to be his and not Arsacius's successor; which perfectly healed the Schism and secured the C(onstantinople) succession in an uninterrupted line ...

... N.B. We have a Register of the succession of our Bps from the Reformation, which are the diptychs of the Church of England; out-of which let them raze out Tillotson, Moore, etc., and the case will be parallel.<sup>1</sup>

Hawes concluded, with Hickes still noting his approval of the manuscript,

I utterly deny ... that upon the cessation or death of our canonical bishops, the formal reason of the schism ceases. The formal reason of our schism is Apostasy from its Doctrine, and in consequence a violation of its canons, denouncing excommunication against them, and finally ... the setting up of bishops against those who steadfastly adhered to the Doctrine and Canons of our church.<sup>2</sup>

Hawes added "Is not the quitting of the doctrine of Passive obedience an error?" How could Higden and Dodwell allege that the injury to the church ceased at the death of the injured bishops, when the assailants continued in defiant possession of the sees? The injury persisted in the nonjurors being deprived of their true bishops. To receive intruders was not a matter of obligation, but of choice. But it was not possible to choose the church's peace at the price of truth. The Revolution church had seriously compromised and disastrously changed its doctrines. Though it still had the books of canons and articles, it had not the true substance of doctrine and faith. As the parliamentary armies of 1642 said that they levied war on

---

1 MS Rawl. D.844, ff.149-152.

2 MS Rawl. D.890, f.129.

Charles Stuart in defence of King and constitution, so the Revolution church had cast away non-resistance, the true gospel doctrine, to keep its worldly possessions and endowments.<sup>1</sup> Again, a comparison was made between a state precedent and a church situation.

On the state point, the deposition of a king and the new oaths, the controversy, a controversy began in 1706 between Hawes and Higden, which later went into print when the latter published his View of the English Constitution in 1709 to justify his taking the oaths. Higden's original draft of this work probably existed in manuscript in 1706, as Samuel Hawes' manuscript Review is clearly dated 1707. Higden took his stand on the De Facto act of Henry VII of 1495 (11 Henry VII, c.1) which declared that no-one following the king 'for the time being' to war, or defending him against rebellion, could be guilty of treason. Higden declared that between the Norman Conquest and the accession of Henry VII no less than thirteen English kings had ruled and reigned without a strict hereditary title, and only six had an unimpeachable hereditary claim, and yet the nation had submitted to them and obeyed their laws. A king in possession, 'for the time being', must therefore be possessed of all the essentials of Kingship, irrespective of his right or title to the throne.<sup>2</sup> Lord Elton alleges that this act of Henry VII 'has been over-ingeniously explained' ... 'Bacon started it (in his life of Henry VII)'.<sup>3</sup> Certainly Higden's claims for the De Facto act are ingenious.

---

1 MS Rawl. D.844, fo.175.

2 MS Rawl. D.844, ff.177-203.

3 G.R. Elton, The Tudor Constitution (1968), p.2 (and p.2, note 2).



After surveying early medieval precedents, such as Robert of Normandy's invasion of his younger brother William II's kingdom and Stephen and Matilda, Higden considered the wars of the Roses. Richard, Duke of York, swore allegiance to Henry VI no less than three times, and yet "we are apt to look at them (Yorkists) to have been so many Non-Jurors to the kings of the house of Lancaster".<sup>1</sup> After the first deposition of Henry VI, Edward IV had caused a statute to be passed validating all laws and judgements of the Lancastrian kings. After Edward IV was driven into exile by Warwick the kingmaker, Henry VI returned to the throne, held a parliament and was acknowledged by all. Edward IV's return and final overthrow of his rival had not affected the previous recognition of Lancastrian acts. This recognition of the validity of the acts of de facto not-strictly-hereditary sovereigns was declared by statute by Henry VII. To remove the danger of treason from those who followed a king for the time being was tantamount to saying a de facto king could be a lawful king. The dispossession of a king, such as Edward II, Henry VI, Richard III or Edward V, was always treated as a demise of the crown in law, though natural death did not occur till well after the deposition. The maxim of English law 'that the Crown takes away all manner of defects and stops in blood' must be interpreted of the mere possession of the Crown. Edward IV's acts spoke of the Lancastrians as 'King indeed, but not of right', and so did Henry VII's laws referring to Richard III. The prescription of many years must hold good, as William the Conqueror's judgements

---

1 W. Higden, View of the English Constitution (1709), p.5.



upheld the laws of Edward the Confessor. That de facto kings had exercised an undoubted legislative power could not be denied, and had been recognized by acts and judgements of their hereditary successors. In the reign of Henry VI, parliament (the house of Lords) had been very wary to promote judgement on Richard of York's claim by line of blood, as the Lancastrian dynasty had been in possession for over sixty years. Even the strictly legitimate Duke of York thus appealed for Parliament to decide his valid title.<sup>1</sup>

Passing to the Tudors, Higden emphasized the wording of the act of ~~11~~<sup>XI</sup> Henry VII c.1 that it was a subject's duty to follow and obey the king for the time being, and that it was against law, and reason and conscience to punish subjects for obeying the king in possession. The Stuart acts recognizing James I as next heir of royal blood only declared the old theories of hereditary right, and didn't grant or propound a new form of hereditary succession. Elizabeth's act, 13 Eliz. c.1, made it high treason to say that the Queen couldn't limit the descent of the Crown. The opinions of the greatest English jurists, Coke, Bridgeman and Hales, on the Edward III Treason Act and Lord Chancellor Bacon on the act 11 Henry VII c.1, all agreed that a king in possession, an effective king, must be the sovereign within the meaning of the act. A king out of possession could not come within the meaning of the act.<sup>2</sup>

---

1 Ibid., pp.26-33, 37-47, 49-54.

2 Ibid., pp.69, 72, 75-79, 81-87.

Hawes retaliated by insisting on the strict Stuart theory of hereditary succession to the Crown. If allegiance was due absolutely to the possessor of the Crown irrespective of his claim and title to it, 'then the English Constitution is not an hereditary monarchy'. All the Stuart laws at the accession of James I and the restoration of Charles II emphasized hereditary descent by primogeniture as being the Constitution of the realm. Stephen and Henry IV had both produced a claim of hereditary right to legitimate their usurpations. Richard of York's oaths to Henry VI only proved that 'it is too plain that men in former times have made bold with God Almighty, and have planned to take oaths for their own convenience, without regard to any other obligation'.<sup>1</sup> ~~Bishop~~ Stillingfleet in his Grand Question of Bishops' Rights to Vote in Parliament in Cases Capital (1680) argued that English law did not assume a dispossession of the Crown was the same as a demise. There was obviously no legal term (except criminal and approbrious ones) for a usurper. Many usurping rulers had kept law and government flowing in their accustomed channels, and so were regarded as kings. The law knows only a lawful king, and therefore always assumes an hereditary ruler. The maxim that the Crown 'assoyles all faults and takes away all stops in blood', could not be true of a Crown got by force 'which is the greatest of all crimes' ... 'In truth, a Crown so taken is no Royal Diadem; it is like a false king, it is a nullity, an inconsistency in the very nature of the thing.'<sup>2</sup>

---

1 S. Hawes, Mr. Higden's View of the English Constitution Reviewed; in Bodl., MS Rawl. D.844, ff.177-203.

2 Ibid., ff.189-196.

Charles Leslie also attacked Higden in The Constitution, Laws and Government of England Vindicated (1709) pointing out that even Sherlock and Stillingfleet, when accepting the original oaths to William III had reserved a right in the dispossessed prince to recover his claim if he could. But now a definite Abjuration was also involved. Leslie alleged that Higden's view of mere possession of the throne was 'bare possession without right, and against the right heir claimant, and obtained by manifest injustice, ... for right to become wrong, and only because it suffers wrongfully! And wrong to become right, by being still more wrong and improving in wickedness'. Higden made the Glorious Revolution 'an iniquity established by Law'. Surely, Leslie argued, Higden would condemn rebellion, but what, on his theory of mere possession of power, would he think of Cromwell's regime or of the Duke of Monmouth's rebellion? Even the regicides who judged Charles I appealed to rights and principles, such as the rights of the people to judge a bad ruler. John Cook, the parliamentary Solicitor General who prosecuted Charles I, maintained that mere possession of the Crown was "a vain plea, when the matter of Right is in question, for right can never die". Higden therefore must be an unprincipled advocate of tyranny and force.<sup>1</sup> Leslie asserted that possession of the Crown in law must mean just and lawful possession. Higden's notions would justify Colonel Blood's right to possession of the Crown of England, after he stole it from the Tower!<sup>2</sup> Leslie contended, 'No Usurper can come to the Crown, but by ravishing the municipal laws. These

---

1 C. Leslie, op. cit., pp.3-5, 21-24, 27-32.

2 Op. cit., pp.34, 35.



are his power, and he can make them speak as he pleases'. William III's succession acts and act of Settlement, excluding papists from the throne, absolving subjects from allegiance in such a case and entailing the Crown on Protestant heirs, were nothing but Exclusion Bill principles. Leslie asked, after proving that parliaments, courts and laws were all historically descended from the Crown's acts and allowances and grants, 'has the crown, whence all subjects derive their Rights, has this fountain of right no right at all itself?'<sup>1</sup> If subjects are secured by good laws, surely the Crown must be too? Success or mere force against right was originally Sherlock's idea, "and it was generally disliked by the Best Friends of the Government. No government can like it. For as it sets them up today, so it pulls them down tomorrow, if the weathercock comes about ... It tempts me to betray every government, but makes them steady to None."<sup>2</sup> Mere success in war, brute force or superior strength was an immoral way of arguing, destructive of all right and wrong. The government received no benefits from Jacobite and nonjuror converts. Had not Hoadly attacked Bishop Blackhall for reasserting non-resistance by alleging that his principles made Queen Anne's title dependent on a successful usurpation?

Higden's Defence of the View of the English Constitution (1710) sought to answer some of these objections. The author made great play with the statute 13 Elizabeth c.1, which made it treason to say that Queen and parliament could not make a law to limit the

---

1 Op. cit., pp.83-85, 104-105.

2 Op. cit., pp.104-108.

the succession (i.e. to exclude Mary Queen of Scots, as a papist). Higden asked if hereditary right was inalienable and indefeasible, or if it could be limited. Another statute to his purpose was Henry VIII's third succession act (35 Henry VIII, c.1) empowering the king to bequeath the crown and regulate the succession by his will. Mary I and Elizabeth had both succeeded to the Crown despite being bastardized in earlier laws. Higden made a point at the expense of Hickes's Jovian (1683) which had advanced the famous theory that there was 'a fundamental law of the Monarchy, which seems to invalidate all acts of parliament which would limit and bind the succession'. Hickes had argued that Henry VIII's will had bequeathed the throne, after Mary and Elizabeth, to the heirs of his younger sister Mary, the Suffolk family, thus excluding the heirs of his elder sister Margaret (the Stuart line), but that the peaceful accession of James VI and I had rendered Henry's statute and will null and void. Higden remarked that the act of Henry VIII itself entailed the Crown on Edward VI, Mary and Elizabeth, only reserving a power to nominate further successors if these children and their issue should all fail. Thus Mary and Elizabeth really had parliamentary titles to the Crown. Had not both More and Fisher told Henry VIII and Thomas Cromwell that they could willingly swear to the power of king and parliament to limit the succession, though they had refused the Supremacy and the marriage to Anne Boleyn? Thus the crown could be limited and the royal title altered by parliament.<sup>1</sup>

George Harbin, another nonjuror priest, and Hilkiah Bedford, produced 'The English Constitution fully stated' (1710), attacking

---

1 Higden, Defence (1710), pp.1-10 (quoting G. Hickes, Jovian (1683)), Preface, pp.43, 44.



Higden. This was another strongly conservative piece advocating hereditary monarchy by proximity of blood, and pointing out that Edward IV's act validating Lancastrian laws spoke of the 'pretended king' Henry VI's 'usurped reign', and made his statutes, grants and judgements as good "as if he had been a lawful king ... reigning by a just title". The rightful king thus confirmed the usurper's acts, implying that the usurper's title was false and that he had no right to the crown. Oaths of allegiance and supremacy, since Henry VIII, had always included a promise of allegiance to the king's heirs and successors according to law. Higden's usurper being King 'for the time being' simply meant 'as long as his power lasts'. This and the de facto principle together were as bad as papal bulls deposing a monarch and absolving subjects from their allegiance. Harbin claimed that the restoration of 1660 was the great standing denial that a de facto sovereign had power 'to extinguish old rights, and create and establish new legal rights and titles; so that whoever stands excluded by them, whatsoever they may have had, have now no longer any right or title to the crown'. The wicked husbandmen of the parable in Matthew's gospel, chapter 21, killed the heir and effectively possessed the vineyard, but that did not exempt them from just punishment. The restoration of Charles II, dating 1660 as the twelfth year of his reign, surely taught that hereditary succession was the true law of England. The old conservative position that the Crown was virtually a piece of private property in one family and governed by normal succession and inheritance law was strongly restated.<sup>1</sup>

---

1 Op. cit., pp.89, 31-50, 72-74, 75-78, 90-100.



Appearing in print at the time of the Dr. Sacheverell impeachment and crisis, the controversy over the crown, the succession and the Revolution revealed that passive obedience and non-resistance and divine hereditary right were still potent controversial issues. The controversy among the nonjurors themselves had a wider reference and Jacobite controversialists used their opportunity to the full. In 1713 a final nonjuring broadside appeared, again by George Harbin, in the shape of The Hereditary Right of the Crown of England asserted and A Vindication of Her Majesty's Title and Government. Higden's possession of the Crown doctrine was again scathingly refuted, and the Restoration statutes reaffirming Charles II's undoubted right of succession emphasized. The Revolution had been justified at the time on the basis that James II had abdicated or been lawfully deprived. Oliver Cromwell's practical effectiveness as a ruler and the power behind his government were all acknowledged, but all was null and void because it was usurpation in opposition to the legal ruler. Harbin asked, tellingly, if Higden's possession thesis - intended to legitimate William and Mary - really meant that the estates of the realm claimed a deposing power and consequently a power to set up new rulers.

"To create one king is to destroy another;  
therefore they who have not a power of destroying  
have none of creating; and if they will create,  
the being they produce is Morally nothing ...  
Does he (Higden) think king Charles would have  
quitted the regal title if Oliver had assumed  
it?"

The Act 13 Charles II c.1 clearly denied a true legislative power in either or both houses of parliament, without the King.

'It is hard to understand how the three estates can give a legislative authority which they have not, to a king who hath it not, and that their consent, which is no law, can make a lawgiver and become a law to all the subjects, by laying the obligation of allegiance on them.'<sup>1</sup>

Harbin alleged that Higden

'could find no Precedents in which there was not a long chain of wickedness, perjury, rebellion, invasion, deposition, murder and possession. He hath collected out of history the greatest crimes, and called them the Constitution ... A divine might have considered what hath been often urged and seems unanswerable; that unjust possession obliged to repentance and restitution.'<sup>2</sup>

The Vindication of Her Majesty's Title and Government purported to defend true Revolution principles, quoting Hickes's old antagonist Samuel Johnson, author of Julian the Apostate, whose Address to the Commons of England denied desertion, conquest or usurpation in 1688 and 1689;

'Desertion is manifestly false, for king James must needs go; he was as much driven from England, as Nebuchadnezzar was driven to grass.'

Johnson could justify the Revolution, and did so openly, only on grounds of a deposition and the election of a new ruler, openly Whiggish theories, which Higden denied. These theories clearly denied the fictions of conquest, abdication, or providential possession of the crown, which complying Tory passive obedience men tried to use as fig leaves to cover a deposition. William III either had a whiggish parliamentary title, or was clearly a usurper, either of which theories was unacceptable to complying Tories. Thus the only morally honest men were open Whigs or

---

1 G. Harbin, The Hereditary Right, etc. (1713), pp.1-7.

2 Op. cit., p.17



nonjurors and Jacobites.<sup>1</sup>

'Nullity' and 'null and void' were terms used frequently by nonjurors and Jacobites in religious and political matters. This presupposes consent in subjects to the authority in church or state which rules over them, and a consequent willingness to be bound in conscience to obey laws and commands issued by that authority. 'Nullity' in nonjuror terms meant as to conscience, not of automatic binding obligation, because the law or command came from an illegal and usurped authority. Crown and mitre, church and state, had alike fallen into the hands of usurped powers whose titles were dubious and ultimately rested on illegal force. Schism in the church and rebellion in the state presented similar problems and similar challenges to old principles. To those like Hickes, Hawes and Harbin, who followed the anti-Exclusion principles of Jovian, there would come another Case in View on the death of the ageing Queen Anne, when the possibility of another restoration of the lawful hereditary king might yet be considered and must be kept constantly before the public mind. With a reactionary belief supported by the gospel doctrines of passive obedience and non-resistance the Jacobite claim was formidable and unsettling. Church and state alike were attacked by the nonjurors, and especially the high church high-flyers among the clergy of the established church, whose inconsistencies and loose principles frequently made them uncomfortable. The nonjurors stood for the old Stuart royalism of King Charles the Martyr and the Restoration, consistent and vociferous, loyal to true old principles

---

1 Op. cit., pp.17-20.



and declaring the Glorious Revolution to be a grievous national sin. The challenge was serious, and its formulation on both the royalist-political and church-theological fronts was guaranteed to produce serious effects and unsettlement among the nonjurors' opponents, harking back from Glorious Revolution political expediency to a pure and high principles vision of the unstained purity of the Stuart church and king theories of Laud and Clarendon, Charles I and Sheldon. This 'wisdom of looking backwards' to a purer age, free from the moral stain and weakness of the present time, was a typical attitude of the seventeenth century before Locke and Newton brought a new confidence and reasoning into vogue. Ideas of right and title deduced from precedent were dismissed by Locke as so much historical lumber, compared with the practical questions of what is government's function and usefulness, or its purpose. The nonjuror platform was already dated, but when the literary polemic was in good hands, it could still disturb the England of Queen Anne with doubts and fears that past errors and mistakes might yet see a new restoration of the male line of the Stuarts.

## CHAPTER X

CONCLUSION.FINAL YEARS: LOYALTY IRRECONCILABLE

The appearance of Henry Dodwell's Case in View Now in Fact in 1711 presented Hickes with a severe and testing challenge to his attempt to secure his own episcopal leadership of the small nonjuror church, now that Bishop Lloyd of Norwich was dead. Even Bishop Ken had died on 19 March 1711. Dodwell denied the "deprived fathers" right to continue the schism after their deaths. The original deprived bishops and many of their Revolution 'intruded' supplanters being dead, the formal cause of the schism had now disappeared. 'Thence it follows further, that our Fathers' claim to be the Church of England, and to all the rights and powers which our Church has ... were extinguished in their persons also.'<sup>1</sup> The nature of episcopal commissions to other bishops to act for them in matters spiritual must of necessity terminate at the death of those who granted the original deputising power. Even the plea of heresy and false doctrine against such complying establishment bishops as Dr. Gilbert Burnet of Salisbury could not be sustained, as only bishops could judge other bishops. If subjects could not depose a lawful prince for misgovernment, then ecclesiastical subjects, priests or laity, could not depose their spiritual superiors or rebel against them. 'The Ecclesiastical Government is beyond the power of subjects either to give or limit it.'<sup>2</sup> Now that

---

1 H. Dodwell, The Case in View now in Fact (1711), pp.26, 27.

2 Ibid., pp.67-78.

undisputed possession and an unchallenged precriptive right over several years had legitimated Queen Anne's bishops in their dioceses, canonically elected, enthroned, consecrated and performing episcopal functions unopposed, a surviving nonjuror bishop (if such there were) or a secret bishop endeavouring to perpetuate the nonjurors' claims by further secret ordinations or episcopal consecrations, must himself now be a 'secundus', acting in opposition to the now valid and legitimate bishops of the English church. The bishops now in undisputed possession must have a much better title than any consecrated in secret by a few deprived prelates, who despite the real personal injustices against them, were a small minority of the whole episcopal college. The deprived bishops, indeed any bishop at all, could not validly or regularly confer powers to fill up their places after their death. 'That had been a power to ordain into sees already filled by the unrivalled successors'; indeed, it was a schismatic act, now the possessing bishops were themselves unrivalled occupants of their sees. As incumbent tenants-for-life only, bishops could not choose their own successors, and the church's succession was elective not hereditary. If the original deprived fathers had in fact set up a secret episcopal succession, it was now doubly invalid and schismatic, because their rights were extinguished at their deaths and any secret successors' claims now violated the rights of the bishops in possession. Any further nonjuror episcopal consecration was 'originally invalid', as they would be 'made with a design of eluding the devolution and the conveyance of the same right to those who are the Canonical Successors of it upon the extinction of that right, which had before been only personal'.<sup>1</sup> Dodwell thus nullified Sancroft's

---

1 Ibid., Appendix, pp.11-23.



authority to empower Lloyd of Norwich to act after his death, as well as nullifying any attempt of Lloyd's to hand on his own episcopal authority. This directly challenged and denied Hickes's own personal episcopal claim. Dodwell intended to close the schism after his own return to the established church in 1710, and since Robert Nelson, Hickes's near neighbour and friend, had also returned to the church, Hickes was under considerable pressure to assert his claim to leadership of the nonjuror body. Either Dodwell's and Nelson's action was right, on Case in View principles, or else Hickes had to give a clear lead to the 'faithfull remnant' to keep them loyal to strict nonjuror principles.<sup>1</sup>

George Hickes was approaching seventy years of age in 1711, in bad health, subject to severe bouts of pain from stones in the bladder and kidneys. Dodwell's arguments, so publicly produced in print, needed to be firmly contradicted. Both Hickes and his fellow nonjuror suffragan bishop, Thomas Wagstaffe, were now old and frail, and if the nonjuror episcopal succession was to survive, urgent action had to be taken. Hickes had been one of those original nonjurors deprived of a dignity second only to a bishopric, and from a position of power and influence had been cast into obscurity by events simply for the crime of

---

1 Hickes's Correspondence with Nelson is in Edinburgh Theol. College, College Papers (Jolly Kist), Folio Book 6; Nelson to Hickes, 15 January, and Hickes to Nelson, 16 January 1709/10, ff.2, 2a. Also see General Dictionary Historical and Critical, VI (1738), pp.160, 161, article on Hickes; and T. Sharp, Life of Archbishop Sharp (1825), ii, 28, 31; and C.F. Secretan, Life and Times of the Pious Robert Nelson (1860), pp.78, 79.

remaining loyal to those very principles of divine right and passive obedience which had originally won him high preferment under Lauderdale and Charles II. The dean had outlived many of his generation and lived to see many of his cherished principles rejected by the great majority of both church and nation. Despite his well deserved reputation as a scholar and divine, Hickes was still debarred from the public exercise of his priestly vocation by offensive oaths. At least Dodwell, Nelson and Francis Cherry, as laymen, could avoid the sinful oaths of allegiance and abjuration, while even a humble curate was required to take them. The plight of the nonjuror clergy was in this respect always worse than that of the laity.

George Hickes had been bred in the loyalist and high episcopalian traditions of restoration Anglicanism and the Laudian principles of Bishops Gilbert Sheldon, George Morley and John Fell, and had risen to his position of eminence after the anti-exclusion crises of the later 1670's in the period of high tory reaction in the final years of Charles II's triumph. To such a man the double blows of James II's treachery to the Church of England and William III's attack on its cherished principles had been severe. Not only had the monarchy failed the church, but leading churchmen themselves had connived at false doctrine, schism and lay usurpation. But Hickes's courage and resolution stood firm, even after the shameful defection of some of his former greatest friends. His rigid and legalistic mind remained active, and he was absolutely determined to ensure the continuance of the faithful remnant of the old Church of England. The parallel with the state of anglicanism under Cromwell and the proposed secret episcopal consecrations of 1658 and 1659 was



still before his eyes. The precedent of his own episcopal consecration in secret strengthened his resolve. God would not now desert his faithful little flock who had suffered so much already, and might yet grant another glorious restoration of church and king as had happened in 1660.

To ensure the continuance of the nonjuror church, further episcopal consecrations were urgently necessary, and Hicke now had to assert his own episcopal claim as nonjuring 'primus' after Bishop Lloyd's death. He was now cautiously admitting his episcopal rank to those nonjurors who consulted him after Lloyd's death. Sir Christopher Calthorpe, a staunch nonjuror Norfolk squire, had been a devoted adherent to Bishop Lloyd for over twenty years. Calthorpe consulted Hicke on 14 January 1709/10. There appears to have been a flourishing little congregation of nonjurors at East Barsham on Calthorpe's estate, and he had used his local influence to ensure a continuance of the service of resident nonjuror clergy on his estates to serve East Barsham church. Calthorpe declared himself ready to submit to Bishop Ken, the last survivor of the deprived bishops, and against any attempt to terminate the schism.

I have already had occasion to let some know I had no doubt upon me as long as Bishop Ken lives, but we ought to continue as we were, which we do. Nor shall I, if an episcopal succession be provided by our bishops.<sup>1</sup>

Hicke's undated reply informed Calthorpe of Ken's desertion of the nonjuror cause, and added

---

1 Edinburgh Theol. College, College Papers (Jolly Kist); Folio Book no.6, p.1; Calthorpe to Hicke, 14 January 1709/10. See also G.M. Yould, Two Nonjurors: Sir Christopher Calthorpe, in Norfolk Archaeology, vol.xxxv, part III (1972), pp.374-381.



the great loss you worthily lament is supplied,  
and by God's providence provision hath been  
regularly made for what you mention, just as  
it was going to be made in 1659, when it was  
prevented by an unexpected turn of affairs.<sup>1</sup>

Hickes's episcopal rank had most likely been kept secret for many years. By the terms of his and Wagstaffe's consecration, Hickes had been bound to remain secret and inactive until the removal by death of the deprived fathers. Archbishop Tenison had certainly known that Bishop Lloyd of Norwich had continued to ordain in secret, and had written to Bishop John Moore, the Revolution bishop of Norwich on 20 September 1698 that he knew of Lloyd's illegal activities, threatening to raise the matter with the Privy Council to have Lloyd called to account for it. Tenison wrote, 'the consequence of this thing is insufferable ... A stop must be put, and the sooner the better'.<sup>2</sup> Henry Dodwell, even if he knew that Hickes and Wagstaffe were secret bishops, had no occasion to refer to the matter in The Case in View or the Farther Prospect, as long as Lloyd was alive. The possibility of hidden bishops had been raised by the diehards themselves in Mr. Dodwell's Case in View thoroughly considered (1705). Dodwell's Case in View Now in Fact (1711) only admitted a possibility that the episcopal succession might have been continued, and its Appendix denying the deprived bishops' right to continue the succession only admitted Dodwell's 'secondhand informations and guesses'. This may have been said to safeguard his former friends

---

1 Edinbg. Theol. Coll., College Papers (Jolly Kist), Fo. Bk. no.6, p.1a. Also H.M.C., 3rd Report, Appx. P.273; Lloyd to Calthorpe, 29 June 1702.

2 Bodl., MS Tanner 22, fol.93. See G.M. Yould, Two Nonjurors: Dr. William Lloyd, Bishop of Norwich and Nonjuror Primus, in Norfolk Archaeology, vol.xxxv, pt.III (1972), pp.364-374.

rather than an admission of real ignorance.

Certainly Hickes's episcopal rank was known before his death. In Ralph Thoresby's Diary, the entries for 18 May 1714 and 20 June 1714 make this clear.

18 May. (I went) ... to visit Mr. Nelson and the learned Dr. Hickes ... and when his nonjuring conventicle was over, I visited the said Dean who, is said to be Bishop of — (no title given).

20 June. ... I visited the learned Dr. Hickes, who this day entered upon his 73rd year. I learned from Mr. Bennett of Colchester that his title is suffragan of Thetford, in the bishopric of Norwich; for it being death by the present laws to confer or receive episcopal ordination without the Sovereign's authority, the nonjuring bishops supplied the defects of the vacant bishoprics by ordaining Suffragan bishops, who have the power of ordination, etc., as well as bishops themselves. ...<sup>1</sup>

Hickes's episcopal rank was thus clearly known by 1714 to a circle of trustworthy friends. Conclusive proof was established in September 1716, when Lawrence Howell, a nonjuror priest ordained by Hickes, was arrested and his papers seized. In court on a charge of seditious libel, Howell produced his letters of orders and claimed to be a clergyman. The court disallowed his plea to be in holy orders and his letters of orders as priest, dated 2 October 1712 and signed by Hickes as Bishop of Thetford, were published in several newspapers, such as the Daily Courant for 10 September 1716 and Abel Boyer's Political State of Great Britain (1716), volume XII, pages 259-268 and 350-366.<sup>2</sup>

---

1 Diary of Ralph Thoresby, F.R.S. (ed. J. Hunter, 1830), ii, 212, 224.

2 See also Bodl., MS Rawlinson D.835, ff.11, 11a, and MS Rawl. D.842, ff.1, 2, 67, 71.



George Hickes wrote earnestly to Wagstaffe in December 1711 to urge him to collaborate in new episcopal consecrations. A great difficulty would obviously be to secure the usual three bishops required by canon law to perpetuate the succession. Hickes wrote to Wagstaffe:

I cannot be easy in my mind till I have done all that is in me to continue the succession, and were it entirely in my power I should think myself obliged in conscience to do it for the following reasons:

(i) Because I think our principles cannot continue without upholding our communion, nor can our communion be upheld without continuing the succession.

(ii) Because the great national schism can never be cured and healed without a succession of Catholick Bishops, to whom the schismatics may return, and by returning the vitiosity and nullity of their schismatical orders may be removed ...

(iii) Because it was the desire and command of the late King James, who thought the true Church of England to be in the Communion of them, that the succession might be continued down with the regal succession; that when it pleased God to restore him or his line, they might find Bishops of true Church of England principles, in whom they might resettle the national church ...

(iv) Because I find the continuance of the succession is the desire and expectation of the faithful remnant, both clergy and people; and that the most considerable among the former think us obliged by the trust reposed in us to continue it, and thereby and by God's blessing to secure our communion.

Wherefore to satisfy my own conscience in this particular I herein make my application to you ... that if you think fit we may join together in this good work, which I remember at our last conference you told me you thought that the survivor of us was in duty bound to do ... I think it is incumbent upon us to do it with joint consent ... As for the danger of doing it, I think that is not great; but were it greater, I think life and estate may as well be ventured now, as when but one of us is left to do it ...<sup>1</sup>

---

1 Edinburgh Theol. College, College Papers (Jolly Kist), Fo. Book No.6, pp.2, 3, cited in H. Broxap, The Later Nonjurors (1924), p.8. Broxap's citing the text of this letter is inaccurate in several places.



Hickes wrote again urgently to Wagstaffe on 4 February 1711/12 asking for his reply. Wagstaffe wrote on 21 February, pleading old age and illness, and saying:

Upon the best consideration I can now make, the thing itself appears to me to be impracticable, that it has no foundation to stand on, but that the least opposition that will or may hereafter be made to it cannot fail, but it must sink under it and come to nothing, and that consequently we shall destroy and irrecoverably defeat what is designed to be built up.<sup>2</sup>

Wagstaffe's refusal to assist Hickes was a severe blow, but Hickes was determined to proceed. Wagstaffe's distance from London and illness were serious impediments anyway, and he later died on 17 October 1712. Hickes had for years been in touch with the deprived Scottish bishops, however. Archibald Campbell, of the family of the dukes of Argyll, was a Scottish episcopalian and Jacobite clergyman long resident in London and a close confident of Hickes's. Through him Hickes had been for some years in touch with Alexander Rose, ejected bishop of Edinburgh and primus of the persecuted and disestablished episcopal church of Scotland. Rose had been kept fully informed of the Case in View dispute. As early as 2 December 1706, Rose had unsuccessfully sought Campbell's consent to return home to be consecrated bishop.<sup>3</sup> Campbell refused, and John Falconer, ejected minister of Carnbie, had been consecrated at Dundee in April 1709.<sup>4</sup> Bishop Rose again urged Campbell to be consecrated bishop on 14 March 1710, urging

---

1 Ibid.

2 Edin. Theol. Coll., College Papers (Jolly Kist), Fo. Book No.6, p.95, cited in H. Broxap, op. cit., p.9.

3 Edinburgh Theol. Coll., Episcopal Safe, No.1807.

4 Ibid., No.1808, 1809; Rose to Falconer, 15 and 21 April 1709.

the old age and severely reduced numbers of the Scottish bishops.<sup>1</sup> Campbell agreed in 1711 and travelled to Dundee in July, where he was consecrated by Rose, Falconer and Robert Douglas, the aged bishop of Dunblane, on 24 August.<sup>2</sup> Very possibly, Campbell's reluctance to receive episcopal orders was overcome by Hickes, who desired to use him as a co-consecrator with himself and Wagstaffe in his desire to continue the English nonjuror episcopate. On Thomas Wagstaffe's refusal to act, another Scottish bishop had to be called upon. James Gadderar, 'outed' rector of Kilmalcolm in the diocese of Glasgow, was selected by Hickes. Like Campbell, Gadderar had been in exile in London for several years. Rose wrote to Campbell on 1 May 1711 and again on 8 May approving Gadderar's consecration,<sup>3</sup> which took place in Hickes's private oratory in his house in Ormonde Street in London. Bishop Falconer came down from Scotland to assist Hickes and Campbell to perform the ceremony of Gadderar's consecration on 24 February 1712/13. Gadderar's consecration deed, dated 28 February, states that Bishop Rose's permission had been obtained, as vicar-general of the vacant Scottish primatial see of St. Andrews, and that Gadderar took an oath of canonical obedience to Rose as his 'primus'.<sup>4</sup> Broxap's statement that Campbell and Gadderar 'were not really consecrated as bishops of the Scottish church' must be modified by Gadderar's oath and Rose's clear approval of both consecrations.<sup>5</sup>

---

1 Ibid., No.1812.

2 Ibid., No.1823; Rose to Campbell, 28 June 1711; and No.1824, Rose to Falconar, 2 July 1711.

3 Ibid., No.1819 and 1820.

4 Ibid., No.85.

5 H. Broxap., The Later Nonjurors (1924), pp.11-13.

It is clear, however, as Broxap argues, that both Campbell and Gadderar were consecrated at Hickes's urgent desire for the immediate purpose of continuing the English nonjuror episcopal succession.<sup>1</sup>

Hickes's consecration of Jeremy Collier, Samuel Hawes and Nathaniel Spinckes on Ascension Day, 14 May 1713, took place with the assistance of Campbell and Gadderar. All consecration deeds of the three new English nonjuror bishops have the phrase regio consensu prius impetrato.<sup>2</sup> Whether explicit permission had been sought from the pretender 'James III' for Hickes's action in consecrating the three new bishops is not clear. A general leave to continue the episcopal succession had apparently been sent some years earlier, but in 1713 when the ageing Queen Anne's ministers, Oxford and Bolingbroke, seemed willing to come to some agreement with the pretender, advice was sent from the Jacobite court-in-exile urging no further episcopal consecrations. A cryptic letter from 'J.M.' to Archibald Campbell in 1712 or 1713 urged caution.<sup>3</sup> Lord Middleton, Jacobite secretary of state at the court in exile, wrote to Mr. Abram, a Jacobite agent in London on 13 February 1713,

I communicated your letters of 20 January to Sir Joseph (the king), in answer to which he ordered me to tell you that he is very sensible of Cowley's (Church of England's) friendship, and truly concerned

---

1 Ibid., p.10.

2 Edinbg. Theol. Coll., Episcopal Safe, Nos.75, 95 and 109.

3 Ibid., No.1945.



for the right succession of that worthy family; that the power he sent over some years ago by Mr. Lamb (Charles Leslie) subsists still, and empowers Cowley's relations ... (the Nonjurors) to act according to the tenor thereof as occasion offers, without need of renewing the same; but since they are desirous of knowing Sir Joseph's opinion ... before they proceed to the choice of any new overseer, you are desired ... to let them know that he is of opinion this is no proper time, either for himself or Cowley, to be making any new steps of that nature.

First: because he is advised, by his best friends and wisest lawyers, to make as few plain acts belonging to his character as possible, in his present circumstances.

Secondly: because of the difficulty of secrecy in performing the thing, and the bad consequences knowledge thereof might produce at this juncture of time.

Thirdly: because the overseers of Cowley's family, who are now in possession, being by far the greater number, ought not in prudence to be provoked at this time.

For these and other reasons, Sir Joseph thinks it will be much better ... to sit quiet at present, and defer till a better opportunity, especially since the thing has been delayed so long already. This you will be pleased to communicate to Mr. Hartley (Hickes ?) and Mr. Lamb (Leslie), ... in answer to the commission they charged you with ...

... You are also to tell them to recommend all their friends to associate with Hickman and Company (the earl of Oxford, Harley, and the ministry) in all their measures ...<sup>1</sup>

This letter appears to indicate that Hickes had been in contact, through some secret channels, with James III about the new episcopal consecrations and that (assuming the message from France reached him before 14 May 1713) he performed the consecrations

---

1 J. Macpherson, Original Papers, containing the Secret History of Great Britain from the Restoration to the Accession of the House of Hanover (1775), ii, 382, 383.

of Collier, Hawes and Spinckes in direct contravention of the Pretender's wishes. The letter was endorsed: "Reasons why the Pretender should not nominate Bishops; the Jacobites are desired to support the ministry". If, as seems a reasonable assumption, Hickes thus defied the wishes of the king-in-exile, it is easy enough to account for his action. His extreme rigorism and legalistic cast of mind could bear no equivocation or deception. Any suspicion of temporizing, politically expedient compromise or shuffling was anathema to Hickes. Any seeming collaboration with the complying Jacobite Tories in Queen Anne's ministry or any regard for the 'intruded' bishops in possession was a betrayal of the cause of church and king, the double divine right of episcopacy and monarchy, for which the nonjurors had suffered so much. Hickes's efforts in the matter of the Pretender's legitimacy and his whole political and theological controversial work during the reign of William III and Anne had been solely directed towards preserving true loyalty to the house of Stuart and true old-fashioned 'Church of England loyalty' of the Laudian passive obedience variety. Any last minute advice from the Stuart court-in-exile to defer his cherished and carefully laid plans must have come as a bitter blow to Hickes. Advice to consider the sensitivities of the Revolution church must have been particularly galling. To Hickes, an old man in a hurry to achieve his dearest wish for the true Church of England (as he saw it), such advice from the Pretender's court could only seem that popish or political considerations had taken the place of true regard for the most loyal and consistent of all the fallen dynasty's supporters.



If Hicke did perform these crucial episcopal consecrations in defiance of the king-in-exile, he must bear a major part of the responsibility for splitting the Jacobite ranks in the critical final year of Queen Anne's reign, during the final period of the Oxford and Bolingbroke ministry, when the fascinating prospect of a legitimist Stuart restoration along the lines of 1660 had begun to seem feasible once more. Hicke's absolute rigidity precluded any kind of co-operation or regard for the usurped monarch or the Revolution church. What regard had William III or Anne's ministers for the nonjurors? For Hicke, the faithful remnant, the true Israel, the Peculium Dei, could have no truck with Corah, Dathan and Abiram. Any relaxation of the diehard nonjurors' rigid stand would only be a faithless sign of weakness, and the example of Dodwell's defection still rankled. The complying Revolution-tories were still guilty of perjury. Hicke had provided the means of perpetuating the remnant of the true old Church of England, which kept the nonjuror schism in being for a large part of the eighteenth century, and his own implacable resolution and fixity of purpose had ensured that the critical episcopal consecrations took place. If Hicke did consider that the Stuart court-in-exile had deserted him in a critical moment, he would not desert what he conceived to be his episcopal duty to the little faithful flock, which was his paramount duty and obligation.<sup>1</sup>

One final challenge remained to be answered. His action in perpetuating the episcopal succession was attacked by none other than his fellow nonjuror Charles Leslie. Leslie's own

---

1 See H. Broxap, The Later Nonjurors (1924), chap.I, pp.1-17.



nonjuring tracts of the 1690's had included the notorious Gallienus Redivivus of 1695, attacking William III for his alleged complicity in the murder of the De Witt brothers in Holland in 1672. Leslie's own Regale and Pontificat had been perhaps the most far-reaching and revolutionary of the works asserting the independence of the church as an apostolic, spiritual society from any state control. Tindal's Rights of the Christian Church had been provoked by Leslie's radical claim for the church's independence, and had been soundly answered by Hickes's two treatises on the Christian Priesthood and the Episcopal Order. Leslie's Rehearsal, a weekly journal, had from 1704 to 1709 carried on a savage and satirical running fight with Defoe's whiggish Review and Tutchin's Observator, and his controversy with Benjamin Hoadly remained a thorn in the side of the Whigs. Leslie's constant barbs of satirical invective had kept open the question of Queen Anne's successor and continually brought it before the public. Hickes must have been in regular touch with Leslie for a large part of Anne's reign, though no correspondence survives. Hickes wrote to Arthur Charlett on 7 September 1710 that he resented the 'most unjust and spiteful expressions' and especially 'the injurious reflexions against Mr. Lesley' during the pamphlet warfare of the Sacheverell crisis, adding that the Rehearsal had done much to defence the established church and the rights of its clergy during the previous years.<sup>1</sup>

After the 1713 episcopal consecrations, Leslie wrote Hickes a long letter from his outlawry and exile in France, condemning the attempt to perpetuate the schism and urging the dean to try to put an end to the separation. Leslie repeated that the

---

1 Bodleian, MS Ballard 12, fol.180.

Pretender was

most willing to gratify you and partners in everything that might not be prejudicial to him and them too, by putting Crawford (the church of England) out of hopes of Reconciliation, seeing the plea renewed against his legitimacy, and therefore must think that he was to be excluded from the Inheritance ... (the Pretender had said) this was a very critical juncture and he thought that to delay for some time would be most secure; that he had sent you his reasons last year, and hearing no answer from you in all this time, he thought you had acquiesced in them ... The utmost secrecy on the one hand and on the other, such a notoriety as will stand the shock of enemies in after ages, by which only the Nag's head story could have been cleared; I foresaw all this ... (Leslie had clearly been having trouble with Roman Catholics at the Pretender's court, who were asking where was the true church of England, when secret nonjuror episcopal consecrations were taking place against the established church).

Leslie argued that continued divisions in church matters among the Anglican Jacobites could only damage the Pretender's claim and be of advantage to his popish advisers. 'I never thought it was meant to carry on the Law-suit with Crawford (the Church of England) longer than the principle was owned', wrote Leslie. 'The principle' of lay-deprivation was not now, in fact, insisted on in the established church, the doctrine of the Church's independence having many supporters.

You might have had the glory and the comfort, and may still, of making peace, after having carried on the war to the uttermost, even to victory, in having our principles owned; for which we fought with success till they were acknowledged by our adversaries, and then gave them peace, to show it was Truth only and nothing personal for which we have contended ... By not taking hold of this opportunity we have made a fraction among ourselves, and lost the most considerable members we had.

Any more attempts to make more secret bishops must be defeated by the very clandestine circumstances in which such consecrations



must necessarily take place. Where were the witnesses and public records of such episcopal consecrations? Who could vouch for the authenticity of such secret bishops?

... You know I never asked for a sight of your Deeds (of consecration), being fully satisfied with your word. But alas, what is this to posterity? What is it to adversaries who will dispute every inch of ground? It appears impossible to me that Crawford's (the church of England's) shame (share) can be preserved in this manner; and it is possible that another may do as your colleague did.

Hickes declared intention might cost him the Pretender's good will. James III would not know where to find the genuine Church of England if the schism was so kept up. 'I think you ought not to keep up the dispute any longer', advised Leslie.

I thought the right of Black (episcopacy) could not be overvalued. But I was frightened, when I saw it, put in the scale and overbalance the honour of God, which we should endure to see profaned in the most solemn manner, at the very altar, rather than the right of Black be touched! ... Can Puddle (the pope, or popery) be adored in an higher strain?<sup>1</sup>

Hickes's undated reply to Leslie was detailed and devastating. Leslie had changed his principles. As for being 'obstinately stiff and tenacious' and 'likely to make the breach irreconcilable', Hickes protested that he and 'the old Church of England' heartily wished for a true reconciliation, 'upon reasonable terms'. But only Hickes and his followers possessed the valid and proper means and authority to make the Revolution church's 'succession legitimate and valid' ... 'on easy conditions'. Both James II and his son had approved the secret episcopal consecrations. If the deprived Scottish bishops were right to continue their episcopal succession, which Leslie allowed, 'what has Scotland done that has not been,

---

1 St. John's College, Cambridge; MS Book 492, pp.110-114. Leslie to Hickes, 1 January 1714.



or may not be done here?' The English and Scottish nonjurors and deprived bishops and clergy were on the same footing, with episcopal consecrations having taken place in both countries and both successions were entirely valid. The two churches were in full communion with one another. The established church's only  
 → title to its dioceses and parishes was 'bare corporal possession by intrusion, without and against right'. Hickeys suspected that Leslie had advised the king to go over to the 'possessing church' rather than the nonjurors.

The idea of secrecy in nonjuror episcopal consecrations was mere prudence. The legal instruments of episcopal consecration were carefully preserved. 'Would not the Consecrations intended before the Restoration have been as clandestine as any now would be?' The usual precedent of Athanasius fleeing from persecution was cited.

His (Athanasius') apology for flying and absconding in time of Persecution will justify our private ordinations for which you use the criminal odious word clandestine, as well as our private sacraments and prayers.

Leslie had sadly departed from his own principles in The Case of the Regale and the Pontificat and 'given up the rights of the church'. Hickeys maintained that the principles of the independence of the church, passive obedience and the invalidity of lay deprivations were still at stake. Any justification of the established church of England by mere possession was useless. This principle, 'of your friend Mr. Dodwell' would justify the presbyterians in Scotland or the papists.

Hickeys reminded Leslie that he had been interviewed by Bishop Compton of London in 1705. Leslie had then disliked Compton's terms and further conferences had been forbidden,

presumably by Bishop Lloyd of Norwich. 'In short your whole scheme is for our church to go over to the Schism, ... and not to contrive how they may return to our Communion as Penitents.' As for the divisions among the nonjurors, the guilt and cause of these lay wholly with those who had now 'shamefully' contradicted their old doctrines and beliefs. The possessing bishops themselves 'will neither offer nor receive any proposals for a just, lasting and solid accommodation, or do anything by which they should acknowledge themselves to be in the wrong'. Any overtures to Lambeth would be like the old story of Dodwell's approach to Tenison of years before, 'It is impracticable'. In the ancient Roman province of Africa, the bishops from Caecilian to Optatus of Milevis and St. Augustine consistently opposed the Donatist schism,

... when, though appressed as they were with the Schismatical Bishops and their numerous followers, they still stood upon their right, tho' the schismatics had no corrupt offices or immoral prayers. They sent messengers to them to invite them to return to the Church, and made them such condescending proposals as they thought needed an apology to other churches, who might be offended at them. And therefore excus'd their proceedings to the bishop of Rome, upon the account of the church as great distress, which moved them to act as they did. For they not only offered the Schismatics to allow their orders and baptisms, but that the schismatical Bishops should share their dioceses with them, and upon survivance succeed to the whole. But though they made these and many other such condescending offers to them, yet it was still upon this indispensable condition, that they should acknowledge their error by returning to the church ... I hope you will not charge us with stiffness ... because we follow the example of these H(oly) Fathers.

Hickes accused Leslie of considering the political rather than the ecclesiastical point of controversy. 'You are plainly more for the state than the church, and by your scheme of union



you would have us sacrifice this to that.'

... 'You who are so zealous for the right of the king and the lineal uninterrupted succession may more justly be said to set up his right (could that be) against the honour of God and to idolize him, than we to set up the rights of our bishops and idolize them.'

If the complying bishops of the established church would acknowledge their error, the schism could easily be healed. The rights of the bishops of the church could not be in competition with God or his truth, but were vitally necessary to the church itself and to its God given rights.<sup>1</sup>

George Hickes thus remained irreconcilable to the end. Despite his professed wish to end the schism with the established church, despite his rigid high-principled consistency, Hickes's action in perpetuating the nonjuror schism was taken in an atmosphere of complete unreality. His vision of the entire established church submitting to his small nonjuror remnant was an impossible dream. The compassion of the condition of the anglican church and episcopate between 1645 and 1660 and the state of the small diehard rump of nonjurors in the later years of Queen Anne, was false and misleading. When under the Great Rebellion and Cromwell the entire constitution of church and state, monarchy and episcopate, prayer-book, ordinations and the entire anglican church system were in abeyance, there was certainly excuse for men of high Christian principles to continue to worship or ordain in secret in the anglican manner. But now the situation had wholly changed, even since 1691. While it was understandable for the original deprived bishops to assert a continuing claim

---

1 St. John's College, Cambridge, MS Book 492, pp.114-128; Hickes to Leslie, no date, but early in 1714.



against lay deprivation by an illegal Revolution regime, as they saw it, and to oppose the consecrations of Tillotson and the other 'intruders', it was far less defensible for Hicke to continue the schism after the basic reasons for it had ceased to exist. Even the political reason of the exiled king's wish to continue 'the true old church of England' was excluded by the Pretender's advice not to consecrate new bishops.

It must, however, be allowed that in the last resort, Hicke's action in perpetuating the schism against the wishes of James III and his advisers indicates his readiness to put the interest of the church (as he conceived it) before any political claim or mere reason of state. When faced with a grave choice between the 'church point' and the 'state point', Hicke put the things of God before those of Caesar. Whatever criticism may validly be made of Hicke's actions in performing more secret episcopal consecrations, in the final analysis his high church view triumphed over his allegiance to the king in exile, even though a tempting prospect of another legitimist Stuart restoration appeared possible. Although the 'state point' inevitably caused the 'church point' to arise and the schism clearly originated with the revolutionary change of monarchs in 1688 and 1689, the stand taken by the deprived fathers and by Hicke as their successor, questioned the whole relationship of the Church of England to the state. It showed that there were those who, in a time of crisis, were prepared to protest against the subjection of the church to political expediency. Though the nonjurors' protest was originally caused by their adherence to the obsolescent political doctrines of the divine right of kings, non-resistance and passive obedience, once they were

forced to justify their stand on the ecclesiastical issue their doctrine of the church's independence of the state became a formidable controversial weapon. In the end, this shift from the strictly political to the ecclesiological sphere of controversy led George Hickes and the nonjuror diehards intransigently to insist on the cause of the true church as they understood it, even in despite of the attractive illusion of another Stuart restoration.

Hickes's final notions, as published by Archibald Campbell, Jeremy Collier and his successors as nonjuror bishops in the posthumous Constitution of the Catholick Church (1716), like Charles Leslie's Regale and Pontificat regarded any link between church and state as a voluntary concordat or bargain between two equal partners, which was terminable if the state persecuted or coerced the church. That concordat had been shattered by the Revolution of 1688-89 and the 1691 consecrations. Hickes actually floated a paper of suggestions that in the vacancy of any see, the archbishop of the province should summon his convocation and that each house should choose a list of six possible candidates for the bishopric. The primate himself might then choose six of those twelve names to present to the king, who would select one within twenty-one days. The archbishop would then consecrate and enthrone the new bishop within thirty days. Hickes~~§~~ also proposed that the crown should increase the episcopal incomes and endowments of eight poorer bishoprics to at least <sup>f</sup>1,000 per annum, to obviate the need for commendams and pluralities, which distracted bishops' interests away from their dioceses and led to necessary residence elsewhere.<sup>1</sup>

---

1 Bodl., MS Rawl. D.848, fol.55: 'Thoughts for a Bill making Bishops less dependent on the crown'; a paper of suggestions attributed to Hickes.



Leslie's Letter to the Bishop of Sarum, dated 1 January 1715, recalled the Pretender's declarations of 3 March 1701/2 and 2 March 1711, stating that if restored he would allow a permanent commission of the archbishop of Canterbury and four other bishops to nominate to all crown appointments in the church.<sup>1</sup> No doubt all such schemes were mere chimaeras, hopelessly impracticable dreams, but they were part of the bait with which nonjuror controversialists sought to allure the church of England by reasserting the possibility of safeguarding anglicanism under a popish Pretender and also guaranteeing more independence to the church.

Leslie's advice to Hickes's nonjuror successors in 1716 was to remind them that he had always done his best to play down the issue of the schism,

... and put the cause of our separation upon the immorality of the prayers. Would it be any service to the Church of England to let her mortal enemy (Rome) know that she is schismatical, all her bishops, clergy and body of her people, except a few, very few Nonjurors, whose private consecrations, the consecrators, consecrated and witnesses all being dead and no public record to appeal to ... I refused to be consecrated, unless they would agree to own it publicly to the world.

Leslie asked Campbell, Collier and the other 'diehards' if they would have James III 'make a new Church of England, and turn out all the present bishops and clergy in her?' The king could reasonably ask the nonjuror remnant, so small in numbers, how they could turn out their rivals, when his expected restoration took place.

---

1 Edinburgh Theol. College, Episcopal Chest, No.1180; A paper entitled 'Out of Mr. Lesley's Letter to the Bp of Sarum (Burnet), dated New Year's day, 1715'.



... You complained of a lay deprivation, and would you have me (the Pretender) to do it, and how otherwise would you make up a synodical deprivation? ... Would you have me disgust the whole Church of England, and all her friends, upon whom is all my dependence, under God, for the recovery of my right, and to whom I have made solemn promises of their safety and establishment? And shall these look upon my Restoration as their utter ruin?

Leslie begged the nonjurors finally to drop the question of the schism and close the breaches with their former brethren, which so seriously threatened Jacobite unity at a critical time.<sup>1</sup>

Hickes's intransigence in continuing the nonjuror episcopate thus came to be seen, within a year of his death, as a threat to Jacobitism and a serious danger to the very cause for which he had suffered so much. The inherent lack of unity between the nonjurors themselves, between political 'state point' Jacobites and theological 'church point' nonjurors, thus continued to cause fatal weaknesses and disunity. If many, even the majority of political Jacobites were in fact found within the Tory party and the established church, they were at least within the mainstream of English political life and influence, not completely excluded like Hickes and his more rigid followers. Hickes's own absorption first with his anglo-saxon studies and then in theological controversy appears to have taken its toll and made him more unrealistic as the years passed. His interest in the eucharist, in the liturgies of the ancient church, and in the use of certain 'usages' or liturgical customs like using the prayer of oblation after the prayer of consecration in the 1662

---

1 Abel Boyer, The Political State of Great Britain, Vol.xii (1716), pp.633-636; 'Mr. Lesley's supposed Letter to the Nonjurors', no date.

prayer-book Holy Communion service, the mixed chalice or the epiclesis or prayers for the dead, appear to indicate increasing absorption in pietism and devotion. These very liturgical usages became the stumbling-block on which the later nonjurors split asunder in a new schism, when Collier, Campbell and others tried to give expression to them in a new liturgy and to give them synodical sanction. Conservative reaction among nonjuring clergy and laity provoked a schism, led by Bishops Spinckes, Hawes and Gandy, which lasted until 1732. By this time, the nonjuror schism had become a tiny group of an inconsiderable few elderly clerics, clergy without congregations, bishops without flocks, apparently more interested in quarrelling over liturgical, ritual or ceremonial niceties than in pursuing Hickes's more singleminded aim of preserving the continuity of the faithful remnant of the old Church of England.

### CONCLUSION

Hickes's life and career were in many ways a tragedy. Reacting against a dissenting upbringing and launched into a highly successful career in the Church of England, Hickes had been the chosen servant and confidant of the duke of Lauderdale, Charles II's longest serving minister of state, had been in close touch with great matters of politics and had seen at first hand the threat to the established order from militant religious dissent-in-arms. As a product of Restoration Oxford, he knew from experience that divine hereditary right was a true doctrine by having lived in youth through the proof of it in the providential return to the throne of Charles II. As a prominent city divine,



he had played a valuable minor role in the crown's reconquest of London at the end of Charles II's reign, and become a formidable exponent of the fashionable political divinity of the age. Having attained his deanery and declined the offer of a bishopric, Hickes had been bitterly disappointed and shocked by James II's ingratitude and treachery towards the church of England. The greater shock of the Glorious Revolution and the resulting schism in the church had been a sore trial for the church-tory divines who had seen their most cherished beliefs overthrown, but Hickes - influenced by the examples of the deprived fathers who had lived through the bitter years of the Great Rebellion and Oliver Cromwell's military rule - had been one of those few who had made the difficult choice of refusing the new oaths. To suffer deprivation, eight years of outlawry and danger, had been hard. From a prominent position in the highest ranks of his priestly calling, Hickes had been driven to become a leader of a small and embittered reactionary faction, defending their stand skilfully in heated controversy which disturbed both church and state. Hickes's tenacity, intellectual integrity and massive learning were remarkable. His great Thesaurus of the old northern languages won him a European reputation. The Thesaurus remained a monumental work of scholarship, unsurpassed in its field for over a century. But Hickes was hard and rigid. The barrenness of his achievement in continuing the nonjuror schism must be seen clearly when his successors split into new schisms among themselves after his death, over the very doctrines and practices the dean himself had advocated. Hickes was the last great nonjuror of the first generation, and as Broxap's Later Nonjurors shows so clearly, his disciples were incapable of



sustaining his achievement once his dominating influence was removed.

Professor D.C. Douglas wrote:

Born into a changing world, his standards were incapable of change, and it was his limitation as well as his misfortune, that he lived to some extent an exile amid his own generation. Nevertheless, his erudition was massive in its honesty, and his enthusiasms were single in their strength. The vassal of suffering, wedded to a lost cause, austere devoted to an integrity of steadfast purpose, George Hickes seems almost drawn into the orbit of classical tragedy. His learning and character combined to make him a unique influence. There was a root of authority in him. He lived and died a leader of men.<sup>1</sup>

Hickes's very integrity and fearless honesty and deep Christian faith combined to exclude him from the English church and drove him into a gallant but pitiable rearguard action as leader of a small reactionary sect. His courageous last stand commands admiration, but his fruitless achievement was finally merely to perpetuate the evil of a schism which he deplored.

The later seventeenth century witnessed a general decline of the aggressive militancy in faith of the early religious movements of that era. Calvinism, Presbyterianism, Laudian Anglicanism, all faded into a gentler and even more tolerant era. The decline and overthrow of the old concept of church and king, the unitary state with its two aspects, spiritual and secular, and the decline of the REformation theologies led to the rise of rationalism. The age of Locke, Hobbes and Newton replaced the older beliefs of Whitgift and Cartwright, Prynne or

---

1 D.C. Douglas, English Scholars, 1660-1730 (1951), Essay on Hickes, p.97.

Laud. The edges of past controversy blurred into a suave and easier religion, not persecuting but persuading, not rejecting but rather embracing the spirit of a more pliable era. Revealed theology was dethroned as queen of sciences by the age of the Royal Society and Newtonian mathematics and physics. The beginning of an age of confident rational speculation had arrived, beginning with Locke and Newton, reaching its climax in Voltaire, so cynical and critical of everyone and everything, or Benjamin Hoadly, substituting subjective sincerity for objective truth, and reaching its nadir in a Talleyrand. An era which began with Chillingworth and the Cambridge Platonists, which then produced Bishops Berkeley and Butler as great philosophers of religion, only intellectualized religion into remote abstractions. It needed the human emotional warmth of the Wesleys to counter-balance such aridity of thought and bring back religion into touch with the common man. The nonjurors' protest, reactionary though it was, was at least an attempt to go back to the foundations of the church in scripture and the early ages of the church. To that extent at least, it represented a genuinely Caroline anglican attempt to appeal to the fathers, history, reason and scripture to seek for new sources of authority in the divine rights of the church, now that the monarchy and the state were no longer to be depended on. Despite the partisan and controversial note of so much nonjuror theological writing, it still has the authentic seventeenth century anglican note. It is the Tory appeal to the good old authority of known law, standards and constitution, an appeal to familiar history and precedent - not to Locke's analysis, novelty and speculation as to usefulness. The nonjurors sought their authority in the anglican appeal to early church



history and patristics, no longer in the fatal seventeenth century political alliance of church and crown. They continued the great Caroline tradition, seeking their true sources of authority in scripture, the sacraments, and the apostolic ministry of bishops, priests and deacons with divine authority to bless, consecrate or absolve. Once cast out by the state, the nonjurors learned again to substitute the divine authority of a bishop for that of a king, and also to withdraw from the world into pious sacramentalism rather than make the easy, worldly compromises which the generous and more charitable allowances of Tillotsonian latitude would permit. The nonjurors, and George Hickes in particular, were rigorists in a new world of greater tolerance, less rigid authority and greater intellectual freedom.

The seventeenth century alliance of the crown and the church in England proved disastrous to the old Elizabethan idea that the bishops and clergy in Convocation could govern the church (including the laity), under the royal supremacy. After the disasters of the Civil War and the martyrdoms of Laud and Charles I, the restoration church was re-established on a firmly parliamentary basis in the Act of Uniformity and the Clarendon Code. The restoration had in fact solved few of the issues raised during the Civil War, and the restored Laudian churchmen under Archbishops Sheldon and Sancroft were forced into playing a strongly partizan role in parliament to preserve the restoration's exclusive ecclesiastical settlement, which they believed should be theirs by divine right. The suspension of the Convocations after 1664 also deprived the church of its own legislative power, and only served to underline the challenge made by the Commons to the purely clergy-made canons of 1604 and the nullification of the canons of



1640. The restoration church was in fact already a parliamentary established church even before the final parliamentary triumph of 1688 and 1689 destroyed the divine right of kings and allowed the dissenters a moderate toleration. The nonjurors disastrously split the ranks of the high church party at a time when it was already thrown on to the defensive and their strongly reactionary stand embarrassed complying Tories and high churchmen until well into the eighteenth century.

'Ius suum cuique'. Such is the latin tag used at Magdalen college, Oxford, when the loving cup is passed round at the end of the annual dinner commemorating the restoration of the college's fellows, statutes and constitution and the defeat of James II's attempt to convert William of Waynefleet's foundation into a counter reformation seminary. 'To each his own right.' The seventeenth century was in England a period of parliamentary advance and the decline of the power of the monarchy. It is an irony of history that both church and monarchy claimed untouchable divine rights, God given authority, in an age when it was already becoming clearer that government depended on regular Parliamentary taxation and the consent of the governed, meaning the politically conscious gentry and merchants who also represented the laity against priestly or episcopal overlordship as much as they represented the Commons against the Crown. The Henrician or Elizabethan church and nation as one body was in fact a myth. The laity in parliament were as anxious to maintain their increasingly aggressive posture against crown and church, as crown and church were compelled to take refuge in more authoritarian theory. The church of England itself considered its own divine rights inviolable, and to preserve those divine claims the church

supported Charles II when by quo warrantos he took away the historic charters and civic liberties of a hundred corporate towns and cities, including London.

To convinced divine-right churchmen like George Hickes, the church itself was a divine society of Christ's own foundation, ruled and shepherded by apostolic <sup>ic</sup> offers appointed in succession from the apostles themselves. In the hard reality of the restoration settlement, the church of England was established and protected by the same kind of practical parliamentary laws as those which defined crime and punishment or assigned revenue, and parliamentary law could be changed by the same authority which originally made it. George Hickes himself realized the church's own position as itself a great national institution or aggregation of lesser corporations, with its own canon law and system of courts for its own regulation of its own affairs. In his first pamphlet, the Letter from Beyond the Seas, Hickes had attacked the 1672 declaration of Indulgence as a misuse of crown prerogatives intended to ruin the church. His attacks on religious dissent as politically subversive and rebellious were strengthened by the early impressions of his upbringing and his Scottish period as Lauderdale's chaplain. Religious dissent was also a 'conspiracy against the universal government of Christ's church' by bishops. Hickes could also attack English whiggery and dissent in the city of London in a series of impressive political pulpit orations, making divine right and passive obedience into strong controversial weapons against his opponents. As dean of a cathedral he stood up to Charles II over the matter of Henry Panting's incompatible benefices, denied a royal letter of dispensation and forced the withdrawal of the offending letter.



The church's rights, even the statutes of a cathedral, were part of the received law of the church within its own field of competence, and were not to be overridden even by a Stuart king. James II's attacks on the church's exclusive monopoly were opposed by Hickes too, who even declared himself willing to risk a praemunire and refuse to elect an unsuitable royal nominee for the bishopric of Worcester, in the event of Bishop Thomas's death. All these actions lend credence to the view that Hickes was a genuine high churchman, whose views of the church's own God-given powers were consistent and formed long before the Revolution of 1688. To oppose religious dissent and crown interference in the church's own internal affairs is a consistent attitude and a firm catalogue of support for the church against all opposition, even before the Revolution and the consequent schism. As a hard, rigid and consistent figure, Hickes's character was already formed and fixed by experience and principle, before the nonjuror schism. That the restoration monarchy had used the church to support itself against Shaftesbury, exclusion and the Whigs, appeared merely to be giving the churchmen who showed the right loyalty the best preferments. But in fact during the crucial early years of the 1680's, the royal Commission on ecclesiastical promotions set a pattern of rewards for political services to the crown which bound the divine right churchmen to an obsolescent political theory just at the very time when that theory was to be finally challenged and discarded.

Hickes's rearguard action as Jacobite and nonjuror was a strong and rigid twenty year struggle to retain the loyalty of the small faithful remnant of the old church of England, based on the precedent of Sheldon's and Hammond's work for the church during



the Interregnum. Seeing William III as 'Oliver the Second', Hickes, like Archbishop Sancroft, regarded the Revolution as doubly disastrous to both church and state, episcopate and the crown. Acting on the precedents of the later 1650's, the nonjurors levelled their polemic against the twofold treason of the majority of the church and nation. It was the original issue of the lay-deprivation of bishops for no true ecclesiastical offence that caused the schism and the nonjuror attack on the Revolution church. From here, it was merely a natural progression to go on to attack the Henrician royal supremacy and to seek to free the church from state control altogether. One who like Hickes had opposed Charles II's dispensation over a minor Canon's benefice which infringed a cathedral statute, or threatened to oppose an unworthy royal candidate for election as bishop, could certainly quite consistently oppose the consecration of Tillotson and the other 'intruders' of 1691 and ultimately demand the independence of the church by emphasizing the divine right of its ministers and their sacred functions. By defending divine right against practical political convenience, however, the nonjurors soon became a small, shrill reactionary group. Archbishop Sheldon, having secured the re-establishment of the English church by law in 1662, had fought in a practical parliamentary way to preserve the Lord's household, against papists, dissenters, the crown or the laity. By the end of Charles II's reign, however, the divine right churchmen had become so bound to the crown that its rights appeared to be as sacred as those of the church itself. Hickes and the nonjurors sought to defend obsolescent political dogmas with scriptural and theological weapons in a situation where firstly James II and then William III attacked the Anglican church's

monopoly and prestige with hard, practical and deeply wounding attacks. To oppose dogmatism to practical political expediency is usually a disastrous course, and though it may win some admiration for its logical courage and consistency, yet in worldly terms it is often both self-defeating and unprofitable. That George Hickes and the other nonjurors had the courage of their convictions is admirable. That they endured twenty-five years exclusion from the exercise of their priestly vocation on points of high principle commands respect for such austere and selfless integrity. Hickes's own tenacious courage and logical rigorism were key factors in maintaining the nonjurors' stand, but in the end were exercised in a fruitless cause. In the episcopal consecrations of 1712 and 1713, Hickes was finally driven to choose between church and king, and when the pretender's court-in-exile clearly chose to throw in its lot with complying Tories and Bolin<sup>g</sup>broke and Oxford, rather than their truest and most consistent supporters. But Hickes's courage and consistency triumphed even over this blow, and were shown in his determination to hand on his episcopal responsibility for the care of the whole church (as he saw it) and, with it, the only possibility of ultimately reconciling, validating and regularizing the Revolution church and closing the schism within anglicanism. That Dodwell or Nelson might have been in the right could not move Hickes. As a coadjutor of the original deprived bishops and consecrated by them, Hickes clearly believed in the responsibility of the episcopate for the church's true welfare. If the rights of a deposed king were not merely personal, but in fact guaranteed the rights and immunities of all his subjects and the whole realm, then the rights of unlawfully deposed bishops affected the whole

church, the entire dioceses from which they had been driven, and all the lesser clergy and laity. Hickee was not moved even by the defection of his closest friends. His sense of duty was obsessive. His regard for his principles was massively consistent, and his conviction was unshakeable that the guilt of schism lay with the new regime and the Revolution church, not with the faithful remnant. Such courage and consistency against such odds are amazing and a great testimony to the strength of character of the man whose single handed efforts preserved the continuity of the little nonjuror church for another generation.



BIBLIOGRAPHYA. MANUSCRIPT SOURCES

THE BRITISH LIBRARY, LONDON:

BRITISH MUSEUM (DEPARTMENT OF MANUSCRIPTS)

Additional Manuscripts (Add. MSS) 4,048. 4,163. 4,235.  
 4,253. 4,275. 5,485.  
 19,399. 22,911. 23,113-23,138.  
 23,242-23,246. 23,249.  
 23,251. 26,657. 28,747.  
 32,094. 32,095. 32,502.  
 32,551. 33,286. 35,125.

Egerton MSS 929; 2,717.

Harleian MSS 3,779.

Lansdowne MSS 987; 988; 1,024; 1,034.

Sloane MSS 3,984; 4,037; 4,038.  
 4,041-4,043; 4,059.  
 4,063; 4,066-4,068.

Stowe MSS 746; 749; 750.

Portland MSS (unpublished) Loan 29/146 (785.D).  
 Loan 29/313 (755.C).

BODLEIAN LIBRARY, OXFORD (DEPARTMENT OF MANUSCRIPTS)

MS Eng. Hist. b.2, c.6, d.1.  
 MS Eng. Letters, c.28.  
 MS Eng. Theol., c.24-c.29, c.38, c.40.  
 MS Bodl. Add. c.180, c.286.  
 MS Eng. Misc. e.4.  
 MS Top. Oxf. b.9, c.11.  
 MS St. Edmund Hall 10, 14.  
 MS Ashmole 1815.  
 MS Ballard 10, 12, 13, 62.  
 MS Cherry 22, 23.  
 MS Don. 88.  
 MS Rawlinson A.333, B.281, B.459, C.105, C.735, C.739,  
 C.795, C.802, C.983, D.198, D.366, D.377,  
 D.680, D.809, D.835, D.841, D.842, D.844-D.846,  
 D.848, D.890, D.1234, D.1238, D.1254, D.1386.  
 MS Rawl. Letters 7, 13, 14, 15, 16, 42, 69, 91, 92, 94, 98,  
 99, 108.  
 MS Smith 50, 63, 64.  
 MS Tanner 22, 24-28, 30, 32, 34, 37.  
 MS Wood F.42.

EDINBURGH:NATIONAL LIBRARY OF SCOTLAND (DEPARTMENT OF MANUSCRIPTS)

MSS. 575; 578; 597; 2070; 2512; 3136; 3424; 7024; 7025; 7034;  
7103.

Yester Papers (Tweeddale MSS), Acc.4862(unfoliated). Box 3.F.5;  
Box 5.F.5.

Advocates' MSS 81:1:12; 81:1:14.

EPISCOPAL THEOLOGICAL COLLEGE, COATES HALL, EDINBURGH

Scottish Episcopal Safe papers

Papers of the Scottish Episcopal College, in the 'Jolly Kist'.

(Folio Book 8, Commonplace Book 6, Octavo Book 5 and  
Duodecimo Book 4 are now mislaid. All contained copies  
of letters of George Hickes and other English nonjurors.  
See Catalogue of the Scottish Episcopal Church Library  
(Edinburgh, 1863), pp.131, 136, 137. These MS volumes  
have disappeared since H. Broxap's time in the 1920's.)

DEAN AND CHAPTER LIBRARY, WORCESTER CATHEDRAL

Liber Decani et Canonorum Ecclesiae Cathedralis Wigorniensis  
(Chapter Act Book, 1660-1700)

Treasurer's Books, A xxvii and A xxx.

Add. MSS 154.

WORCESTERSHIRE COUNTY RECORD OFFICE, ST. HELEN'S CHURCH, WORCESTER

MS 899:209. B.A.1834.

Diocese of Worcester, Episcopal Register, 1660-1722.

PUBLIC RECORD OFFICE, CHANCERY LANE, LONDON

Privy Council Register, 1699.

S.P. 29/421.

LINCOLN COLLEGE LIBRARY, OXFORD

Notebooks of Andrew Clarke.

Notebooks of the late Canon R.R. Martin.

College Registers.

ST. JOHN'S COLLEGE, CAMBRIDGE

MS Books 414 and 492.

STILLINGFLEET MSS.

Bishop Edward Stillingfleet's papers, in possession of the  
Stillingfleet family of Barnstaple in Devon. Letter from  
Hickes to Stillingfleet in an unfoliated volume of transcripts,  
'Letters to Bishop Stillingfleet'.



'THE GENUINE REMAINS OF THE LATE PIOUS AND LEARNED GEORGE HICKES, D.D., AND SUFFRAGAN BISHOP OF THEFORD; CONSISTING OF CONTROVERSIAL LETTERS AND OTHER DISCOURSES'

A 257-page MS book, in the hand of Hilkiah Bedford, Hickes's literary executor, in private hands. Owned by the family of the late Robert Walmsley, Antiquarian Bookseller, of Atherton, Manchester, and quoted with permission.

B. HICKES'S PUBLISHED WORKS

A Letter sent from beyond the Seas to one of the Chief Ministers of the Non-Conforming Party. London 1674.

A Discourse to Prove that the Strongest Temptations are Conquerable by Christians. London 1677.

Ravallac Redivivus; A Narrative of the Trial of James Mitchell, a Conventicle Preacher, who was executed on 18 Januar last, for an Attempt which he made on the sacred person of the Archbishop of St. Andrews. To which is annexed an Account of the Trial of Thomas Weir. In a letter from a Scottish to an English Gentleman. London 1678.

The Spirit of Popery Speaking out of the Mouths of Phanatical Protestants; or, the Last Speeches of John Kid and John King. Two Presbyterian Ministers, who were executed for High Treason and Rebellion at Edinburgh on 14 August 1679; with Animadversions and the history of the Archbishop of St. Andrews his murder. London 1680.

The Spirit of Enthusiasm Exorcised, in a Sermon preached before the University of Oxford on July 11th. London 1680.

The True Notion of Persecution Stated, in a Sermon. London 1681.

A Narrative of a Strange and Sudden Apparition of an Archangel at the Old Bayly, on Monday, 7 March 1680 (English Style), between the Hours of Three and Five into the Afternoon. London 1681.

Peculium Dei: A Discourse about the Jews as Peculiar People of God. London 1681.

A Sermon preached before the Lord Mayor, Aldermen and Citizens of London on 30 January, 1681/2. London 1682.

The Moral Shekinah; or A Discourse of God's Glory, in a Sermon at the Yorkshire Feast. London 1682.



A Discourse of the Sovereign Power, in a Sermon before the Artillery Company of London. London 1682.

The Case of Infant Baptism, in Five Questions. London 1683.

Jovian; or An Answer to Julian the Apostate, by a minister of London. London 1683.

A Sermon Preached at the Cathedral Church of Worcester, on 29 May. London 1684.

A Sermon on Easter Tuesday before the Lord Mayor, &c, together with the Governors of the Hospitals, upon the Subject of Alms-giving. London 1684.

The Harmony of Divinity and Law, in a Discourse about Not Resisting Sovereign Princes. London 1684.

Speculum Beatae Virginis; a Discourse of the due praise and honour of the Virgin Mary. London 1686.

An Apologetical Vindication of the Church of England. London 1687.

A Plain Defence of the Protestant Religion; being a Full Confutation of 'the Net for the Fishers of Men', published by two gentlemen lately gone over to the Church of Rome. London 1687.

The Missionaries' Arts Discovered, or an account of their Artifices in making Converts; with a letter to Mr. Pulton, challenging him to make good his charge of Disloyalty against Protestants. London 1688.

A Defence of the Missionaries' Arts, wherein the charge of Disloyalty, Rebellion and Plots, are proved against the members of the Church of Rome. London 1689.

Institutiones Grammaticae Anglo Saxonicae et Moeso-Gothicae. Oxford, 1689.

Reflections upon a letter out of the Country to a member of this Present Parliament, occasioned by a late letter to a Member of the House of Commons, concerning the Bishops lately in the Tower, and now under Suspension. London 1689.

A Letter to the Author of a late Paper entitled 'A Vindication of the Divines of the Church of England', in Defence of the 'History of Passive Obedience'. London 1689.

[ A Reply to the Answerer of the Letter Sent to the Author of a Paper called 'Passive Obedience and Jure Divino Disproved'. ]  
[ London 1689. ]

An Apology for the New Separation; in a Letter to Dr. John Sharpe, Archbishop of York, occasioned by his farewell sermon at St. Giles's in the Fields. London 1691.

A Vindication of Some Among Ourselves, against the False Principles of Dr. Sherlock; in a Letter to the Doctor, occasioned by the Sermon he preached at the Temple Church on 29 May 1692. London 1692.

Some Discourses upon Dr. Burnet and Dr. Tillotson, occasioned by the late Funeral Sermon of the Former upon the Latter. London 1695.

The Pretences of the Prince of Wales Examined and Rejected. London 1701.

Preface to William Higden's The Case of Sureties in Baptism. London 1701.

Mr. Dodwell's Case in View Thoroughly Considered; or the Case of Lay Deprivations and the Independency of the Church set in a New Light. By a Presbyterian of the Church of England. London 1705.

Several Letters which passed between Dr. Hickes and a Popish Priest, upon the occasion of a young Gentlewoman's departing from the Church of England to that of Rome. London 1705.

Linguarum Veterum Septentrionalium Thesaurus Grammatico-Criticus et Archaeologicus. Oxford 1705.

Two Treatises; one of the Christian Priesthood, the other of the Dignity of the Episcopal Order; written to obviate the erroneous opinions of a Book entituled 'The Rights of the Christian Church'. London 1707, and 3rd edition much enlarged, 1711. (Reprinted in the Library of Anglo-Catholic Theology, 1847 and 1848)

Preface to The Divine Right of Episcopacy Asserted, by a Presbyterian of the Church of England, Anon. London 1708.

Preface to Seventeen Sermons of the Reverend Dr. William Hopkins, late Prebendary of Worcester. London 1708.

Preface to Two Discourses; The First, an Exhortation to the strict observance of Ash Wednesday; the Second, a Defence of those who keep Lent. London 1708.

Preface to Three Short Treatises; viz. I, A Modest Plea for the Clergy; II, A Sermon of Sacerdotal Benediction; III, A Discourse published to Undeceive the People in point of Tithes (by Peter Heylin), formerly printed, and now again published by Dr. George Hickes, in defence of the Priesthood and true rights of the Church, against a late book falsely entituled 'The Rights of the Christian Church'. London 1709.

Preliminary Discourse to Spinoza Revived: or a Treatise proving the Book entituled 'The Rights of the Christian Church' (in the most notorious parts of it) to be the same with Spinoza's 'Rights of the Christian Clergy'. London 1709.



A Second Collection of Controversial Letters concerning the Church of England and that of Rome, as they passed between an honourable Lady and Dr. George Hickes. London 1710.

A Letter to the Author, prefixed to Roger Laurence's Lay Baptism Invalid, 2nd Edition, 1710.

Preface to J. Groome's The Dignity and Honour of the Clergy, represented in an Historical Collection, showing how useful and serviceable the Clergy have been to this Nation. London 1710.

Recommendatory Preface to John Thomas's An Answer to J.O(wen)'s Arguments for Ordination by Presbyters without Bishops. London 1711.

A Discourse, wherein some account is given of Dr. Grabe and his MSS. London 1712.

[A Vindication of the Revd. Dr. George Hickes and the Author of the Seasonable and Modest Apology, &c., from the undeserved Reflections of the Revd. Dr. Thomas Wise in his Book entitled The Christian Eucharist Rightly Stated, 1712.]

The Judgement of Dr. George Hickes concerning this Book, prefixed to Archibald Campbell's Some Primitive Doctrines Reviv'd; or the Intermediate State of Departed Souls proved from the Holy Scriptures. London 1713.

A Letter to the Translator, in Hilkieh Bedford's An Answer to Mr. de Fontenelle's 'History of Oracles'. London 1713.

A Letter to the Reverend Mr. J(ames) G(adderar), in Archdeacon Hamilton's Episcopal the only Apostolical Ordination; or the Case of Ordination Truly Considered. London 1713.

Sermons on Several Subjects (ed. Nathaniel Spinckes). London 1713.

The Celbrated Story of the Thebean Legion No Fable; in answer to Dr. Burnet's Preface to his translation of Lactantius's 'De Mortibus Persecutorum'. London 1714.

Seasonable Queries Relating to the Birth and Birthright of a certain Person. London 1714.

The Constitution of the Catholick Church, and the Nature and Consequences of Schism. London 1716.

The Last Will and Testament of Dr. Geo. Hickes. London 1716.

Posthumus Discourses (ed. Nathaniel Spinckes). London 1726.

Thirteen Sermons on Practical Subjects (ed. Nathaniel Spinckes). London 1741.

A Declaration made by the Rt. Rev. Dr. George Hickes concerning the Faith and Religion in which he lived and intended to die, and referred to in his Will. London 1743.



C. OTHER WORKS EDITED OR PUBLISHED BY HICKES

Devotions in the Ancient Way of Offices, with Psalms, Hymns and Prayers for every day in the week and every holy day in the year; reformed by a Person of Quality (Mrs. Susanna Hopton) and published by George Hickes, D.D. London 1700.

Advice to the Clergy, in Six Sermons Representing their Dignity and Duty (by John Cock, a Nonjuror, formerly Rector of Gateshead and St. Oswald's Durham. See C.E. Whiting, Nathaniel, Lord Crewe (1940), p.198). London 1705.

Instructions for the Education of a daughter, by the Author of Telemachus (Francois Fénelon), done into English and revised by Geo. Hickes, D.D. London 1707.

The Christian Pattern: being the genuine works of Thomas a Kempis; translated, and recommended by George Hickes, D.D. (The Imitation of Christ), London 1708.

A Gentleman Instructed in the Conduct of a Virtuous and Happy Life. London 1709.

D. CONTEMPORARY PRINTED WORKS

Anon., The Impeachment of the Duke & Dutchess of Lauderdale, with their Brother My Lord Hatton, presented to His Majesty by the City of Edinburgh. Edinburgh 1679.

-----, Some Remarks upon a late Popular Piece of Nonsense called Julian the Apostate; together with a particular Vindication of H.R.H. the Duke of York. 1682.

-----, Passive Obedience and Jure Divino Disproved. 1689.

-----, The Letter Sent to the Author of Passive Obedience and Jure Divino Disproved, Answered and Refuted. 1689.

-----, Passive Obedience in Actual Resistance; or Remarks upon a Paper fix'd up in the Cathedral Church of Worcester by Dr. Hicks. 1691.

-----, The Debate at Large between the House of Lords and the House of Commons, at the Free Conference held in the Painted Chamber at the Session of the Convention, Anno. 1688; Relating to the Word ABDICATED and the VACANCY of the THRONE in the Commons' Voted. 1695.

- Anon., The Royal Supremacy in Ecclesiastical Affairs Asserted, in a Discourse occasioned by the Case of the Regale and Pontificat. 1701.
- , Mr. Dodwell's Case in View Thoroughly Considered; or the Case of Lay Deprivations and the Independency of the Church set in a New Light. By a Presbyter of the Church of England. 1705.
- , A Letter to the Reverend Dr. George Hickes: Occasioned by a late Book, entitled The Character of a Primitive Bishop. 1709.
- , A Seasonable and Modest Apology in behalf of Dr. George Hickes and other Nonjurors, in a Letter to Dr. Thomas Wise. 1710.
- , A Vindication of the Realm and Church of England from the Charge of Perjury, Rebellion and Schism. 1716.
- , Memoirs of the Life of John, Lord Somers. 1716.
- , A Vindication of the late Archbishop Sancroft and of his Brethren the rest of the Deprived Bishops from the Reflections of Mr. Marshall, in his Defence of our Constitution in Church and State. 1717.
- Bedford, Hilkuah, A Vindication of the Church of England from the Aspersions of a Late Libel intituled 'Priestcraft in Perfection' &c., with a Preface containing some remarks upon the reflections upon that Pamphlet by a Priest of the Church of England. 1710.
- , A Seasonable and Modest Apology in behalf of Dr. George Hickes and other Nonjurors: in a letter to Thomas Wise, ... on the Occasion of his late Visitation Sermon preached at Canterbury. 1710.
- , A Defence of the Church of England from Priestcraft, in Vindication of the contested clause of the XXth Article. Extracted out of the Vindication of the Church of England from the Aspersions of a late Libel, &c. 1711.
- , A Vindication of Her Majesty's Title and Government from the Dangerous Insinuations of Dr. Higden's View of the English Constitution. 1713.
- Bingham, Joseph, A Scholastical History of the Practice of the Church in Reference to the Administration of Baptism by Laymen. 1712.
- Bisby, Nathaniel, Unity of Priesthood necessary to Unity of Communion in a Church. With some Reflections on the Oxford MS and the Preface attached. Also a collection of Canons, part of the said MS, concealed by Mr. Hody and his Prefacer. 1692.



- Bohun, Edmund, A History of the Desertion. 1689.
- Boyer, Abel, The Political State of Great Britain, Vol.XII. 1716.
- Brady, Robert, A True and Exact History of the Succession of the Crown of England. 1681.
- Brett, Thomas, A Sermon on the Remission of Sins. 1711.
- , The Honour of the Christian Priesthood. 1711.
- , The Doctrine of the Remission of Sins and the Power of Absolution Explained and Vindicated. 1712.
- , The Christian Altar and Sacrifice. 1713.
- , The Dangers of A Relapse. 1713.
- , The Extent of Christ's Commission to Baptize. 1714.
- , A Review of the Lutheran Principles. 1714.
- , True Moderation. A Sermon on Philipians, iv, verse 5. 1714.
- , Dr. Brett's Vindication of Himself, from the Calumnies thrown upon him in some late News-Papers, wherein he is falsely charged with turning Papist: In a Letter to the Hon. Archibald Campbell. 1715.
- , The Life of John Johnson, A.M. 1748.
- Burnet, Gilbert, An Enquiry into the Measures of Submission to the Supreme Authority, and of the Grounds upon which it may be lawful or necessary for subjects to defend their religion, lives and liberties. 1688.
- , A Sermon preached at the Coronation of William III and Mary II, King and Queen of England. 1689.
- , A Pastoral Letter to the Clergy of the Diocese of Sarum. 1689.
- , An Enquiry into the Present State of Affairs. 1689.
- , A Sermon Preached at the Funeral of the Most Reverend Father in God John, Lord Archbishop of Canterbury. 1694.
- , Reflections upon a Pamphlet, entituled Some Discourses upon Dr. Burnet and Dr. Tillotson. 1696.
- Collier, Jeremy, The Desertion Discussed. 1689.
- , Dr. Sherlock's Case of Allegiance Considered: with some remarks on his Vindication. 1691.
- , A Persuasive to Consideration, tendered to the Royalists, particularly those of the Church of England. 1693.



- Collier, Jeremy, A Caution Against Inconsistency: or the Connexion between Praying and Swearing; in Relation to the Civil Powers. 1703.
- Consett, Henry, The Practice of the Spiritual or Ecclesiastical Courts; To which is added a brief discourse of the structure and manner of framing the libel or declaration. 1685.
- Dodwell, Henry, Concerning the Case of taking the New Oath of Fealty and Allegiance. 1689.
- , A Letter to Dr. John Tillotson, nominate to the Archbishoprick of Canterbury, in the room of Dr. William Sancroft, now deprived. 1691.
- , A Vindication of the Deprived Bishops. 1692.
- , A Defence of the Vindication of the Deprived Bishops. 1695.
- , The Doctrine of the Church of England concerning the Independency of the Clergy on the Law Power. 1697.
- , An Admonitory Discourse Concerning the late English Schism (A Translation of Paraenesis ad Exteros by Thomas Browne). 1704.
- , A Case in View Considered, in a Discourse. 1705.
- , A Further Prospect of the Case in View. 1707.
- , The Case in View Now in Fact, proving that the Continuance of a Separate Communion ... is Schismatical; with an Appendix proving that our late Invalidly Deprived Fathers had no right to substitute Successors who might legitimize the Schism. 1711.
- Gandy, Henry, A Conference between Gerontius and Junius. 1711.
- Grantham, Thomas, Truth and Peace; or, a last and most friendly Debate concerning Infant Baptism. 1689.
- Grascombe, Samuel, Two Letters to the Author of a Pamphlet entitled Solomon and Abiathar. 1692.
- , The Resolution of a Case of Conscience; viz. the case, whether as matters now stand, it be lawful to frequent our Parish Churches for Communion in Divine Worship. 1700.
- Hancock, John, An Answer to some things contained in Dr. Hickeys's Christian Priesthood. 1709.
- , Patres Vindicati; or Some Observations from the Fathers making it probable they did not think the Bread and Wine in the Sacrament a True and Proper Sacrifice. 1709.

- Harbin, George, The English Constitution Fully Stated, with some Animadversions on Mr. Higden's mistakes about it. 1710.
- , The Hereditary Right of the Crown of England Asserted. 1713.
- Higden, William, A View of the English Constitution, with Respect to the Sovereign Authority of the Prince and the Allegiance of the Subject, in a Vindication of the Lawfulness taking the Oaths to her Majesty, by Law required. 1709.
- , A Defence of the View of the English Constitution. 1710.
- Hill, -?-, Solomon and Abiathar; or the Case of the Deprived Bishops and Clergy discussed, between Eucherus a Conformist and Dyscheres a recusant. 1692.
- Hoadly, Benjamin, A Preservative Against the Principles and Practices of the Nonjurors both in Church and State. 1716.
- , The Nature of the Kingdom, or Church, of Christ. 1717.
- Hody, Humphrey, The Unreasonableness of a Separation from the new Bishops: or a Treatise out of Ecclesiastical History, showing that although a Bishop was originally depriv'd, neither he nor the Church ever made a Separation if the Successor were not an Heretic. Translated out of an ancient MS in the Public Library at Oxford. 1691.
- Hopkins, William, Animadversions on Mr. Johnson's Answer to Jovian, in Three Letters to a Country Friend. 1691.
- Johnson, John, The Propitiatory Oblation in the Holy Eucharist. 1710.
- , The Unbloody Sacrifice and Altar Unveiled and Supported, first ed. 1714-16, and reprinted in The Theological Works of John Johnson, M.A., 2 Vols., 1847 (Library of Anglo-Catholic Theology).
- Johnson, Samuel, Julian the Apostate. 1682.
- , Julian's Arts to Undermine Christianity. 1689.
- Keith, George, Divine and Immediate Revelation and Inspiration, continued in the true Church. Second Part: The Pretended Exorcist Detected. 1685. A reply to Hickeys's The Spirit of Enthusiasm Exorcised, 1680.
- Kennett, White, A Compleat History of England, with the lives of all the Kings and Queens from the earliest times to the death of William III. Vol.iii, 1706.



Kennett, White, A Vindication of the Church and Clergy of England from some late Reproaches rudely and unjustly cast upon them. 1709.

-----, A Letter to the Lord Bishop of Carlisle, concerning one of his Predecessors, Bishop Merks; on the occasion of a New Volume for the Pretender, intituled The Hereditary Right of the Crown of England Asserted. 1713.

-----, The Wisdom of Looking Backward to Judge the Better of one Side or T'Other by the Speeches, Writings, Actions and other Matters of Fact on Both Sides, for the Four Years last Past. 1715.

-----, A Second Letter to the Lord Bishop of Carlisle ... upon the subject of Bishop Merks; By Occasion of seizing some Libels, particularly A Collection of Papers by the late R. Reverend George Hickes, D.D. 1716.

-----, A Third Letter to the Lord Bishop of Carlisle ... upon the subject of Bishop Merks; wherein the Nomination, Election, Investiture and Deprivation of English Prelates, are shew'd to have been originally constituted by the Sovereign Power of Kings and their Parliaments: Against the Pretensions of the New Fanaticks, who have withdrawn themselves from the Established Church, under the Name of some Deprived Bishops and their Successors. 1717.

Kettlewell, John, Works. 2 Vols. 1719.

Laurence, Roger, Lay Baptism Invalid, especially when Administered in Opposition to the Divine Right of the Apostolical Succession. 1708. 2nd ed. revised, 1710.

-----, Sacerdotal Powers; or the Necessity of Confession, Penance and Absolution; together with the Nullity of Unauthoriz'd Lay Baptism. 1711.

-----, The Bishop of Oxford's Charge Considered. 1712.

Lee, Francis, Memoirs of the Life of Mr. John Kettlewell, B.D. 1718.

Le Neve, John, Fasti Ecclesiae Anglicanae. 1716.

Leslie, Charles, A Discourse showing who they are that are now Qualified to Administer Baptism and the Lord's Supper, wherein the Cause of Episcopacy is Briefly Treated. 1698.

-----, Gallienus Redivivus: or Murder will Out. 1695.

-----, Tempora Mutantur; or the Great Change from 73 to 93 in the Travels of a Professor of Theology at Glasgow. 1694.



- Leslie, Charles, The Charge of Socinianism against Dr. Tillotson Considered. 1695.
- , Some Reflections upon the Second of Dr. Burnet's Four Discourses concerning the Divinity and Death of Christ. 1694.
- , Remarks on Some late Sermons, and in particular Dr. Sherlock's Sermon at the Temple, 30 December 1694. 1695.
- , Now or Never: or the Last Cast for England. 1696.
- , The Case of the Regale and the Pontificat stated: in a Conference concerning the Independency of the Church. 1700.
- , [The Constitution, Laws and Government of England Vindicated, in a Letter to the Revd. Mr. William Higden, 1709.]
- , A Letter from Mr. Lesley to a Member of the Parliament in London. 1714.
- , A Letter to the Lord Bishop of Sarum. 1715.
- Lewis, John, The Bread and Wine in the Holy Eucharist not a Proper, Material, Propitiatory Sacrifice. 1714.
- Lockhart, George, Memoirs Concerning the Affairs of Scotland from Queen Anne's Accession to the Throne, to the commencement of the Union of the Two Kingdoms. 1714.
- Mackenzie, Sir George, of Rosehaugh, A Vindication of the Government in Scotland during the Reign of Charles II, against misrepresentations made in several scandalous pamphlets. 1691.
- , Memoirs of the Affairs of Scotland from the Restoration of King Charles II. Edinburgh, 1821.
- Macky, John, Memoirs of the Secret Services of John Macky during the reigns of King William, Queen Anne and King George I. 1733.
- Marshall, Nathanael, A Defence of Our Constitution in Church and State: or, an Answer to the late Charge of the Non-Jurors, accusing us of Heresy and Schism, Perjury and Treason. 1717.
- Nelson, Robert, The Life of Dr. George Bull, late Lord Bishop of St. David's. 1713.
- North, Roger, Autobiography (ed. Augustus Jessop). 1887.

- North, Roger, Examen; or an Enquiry into the Credit and Veracity of a Pretended Complete History. 1740.
- Pitt, Moses, A Letter from Moses Pitt to the Author of a Book intitul'd Some Discourses upon Dr. Burnet and Dr. Tillotson. 1695.
- Pitt, John, The Character of a Primitive Bishop. 1709.
- Pulton, Andrew, Some Reflections upon the Author and Licenser of a Scandalous Pamphlet entitled The Missionaries' Arts Discovered. 1688.
- Sanderson, Robert, De juramenti promisorii obligatione praelectiones septem. 1696.
- , De obligatione conscientiae praelectiones X. 1696.
- , Episcopacy not prejudicial to regal power. 1661.
- , XXXV Sermons; whereunto is now added the Life of the Author by Izaak Walton. 1681.
- Seller, Abednego, The History of Passive Obedience. (Amsterdam, 1689.
- Sharp, John, A Farewell Sermon by Dr. John Sharp, Archbishop-elect of York, at St. Giles's in the Fields. 1691.
- , A Discourse concerning Conscience; The First Part; Wherein an account is given of the Nature and Rule and obligation of it, and the Case of those who separate from the Church of England. 1686.
- , A Discourse concerning Conscience; The Second Part. 1688.
- Sherlock, William, The Case of Resistance of the Supreme Powers stated and resolved. 1684.
- , A Fast Day Sermon before the Queen, 17 June 1691. 1691.
- , A Sermon before the House of Commons on 30 January 1691/2. 1692.
- , A Sermon at the Temple Church, 29 May 1692. 1692.
- , The Case of Allegiance due to Sovereign Powers. 1691.
- , A Vindication of the Case of Allegiance, ... in Reply to a late Pamphlet intituled 'Obedience and Submission to the Present Government'. 1691.



- Somers, John, A Brief History of the Succession, Collected out of the Records and the Most Authentick Historians.  
Written for the Satisfaction of the Earl of H. 1680.
- Stillington, Edward, A Discourse concerning the Unreasonableness of a New Separation on account of the Oaths. 1689.
- , A Vindication of their Majesties' Authority to fill the Sees of the Deprived Bishops. 1691.
- Talbot, William, A Sermon at Worcester Cathedral, on the Fast Day, 16 September 1691. 1691.
- , The Bishop of Oxford's Charge at his Visitation. 1712.
- Thoresby, Ralph, Ducatus Leodiensis; or the Topography ... of Leeds. 1715.
- Tindal, Matthew, The Rights of the Christian Church Asserted. 1706.
- , A Defence of the Rights of the Christian Church. 1707.
- Trimnell, Charles, A Charge to the Clergy of the Diocese of Norwich. 1709. 2nd Ed. enlarged, 1713.
- Tutchin, John, The Western Martyrology, or Blood Assizes. 5th Ed., 1705.
- Williams, John, A Vindication of a Discourse Concerning the Unreasonableness of a New Separation. 1690. In STATE TRACTS, William III, Vol.i, p.618 ff.
- Wise, Thomas, The Faithful Stewards; or the Pastoral Duty Opened. A Visitation Sermon at St. Margaret's, Canterbury, on 1 June 1710. 1710.
- , The Christian Eucharist Rightly Stated: or an Occasional Proof that the Lord's Supper is not a True and Proper Sacrifice. 1711.
- , An Answer to the Exceptions made against the Lord Bishop of Oxford's Charge by Mr. L. and Dr. Brett. 1713.
- , The Christian Eucharist No Proper Sacrifice, clearly proved in a Letter to the Lord Bishop of Norwich. 1714.
- Wodrow, Robert, The History of the Sufferings of the Church of Scotland. Edinburgh, 1721-22.
- Womock, Laurence, A Short Way to a Lasting Settlement, ... in a Letter to Fanaticus Ignoramus. 1683.



# E. LATER PUBLICATIONS

(The place of publication is London unless otherwise stated.)

Airy, Osmund (ed.), Letters Addressed to the Earl of Lauderdale,  
in THE CAMDEN MISCELLANY, Vol.VIII. 1883.

----- (ed.), The Lauderdale Papers, 3 Vols., Camden Society, 1884  
and 1885.

Allen, J.W., English Political Thought, 1603-1660, 2 Vols. 1938.

Anderdon, J.L. ('A Layman'), The Life of Thomas Ken, Bishop of  
Bath and Wells, 2 Vols. 1854.

Anon., The Life of Bishop Kennett. 1730.

-----, The Life of John Radcliffe, M.D. 1736.

Bagot, Josceline, Colonel James Grahme of Levens: A Biographical  
Sketch of Jacobite Times. 1886.

Bannatyne Club; Letters from Lady Margaret Burnet to John, Duke  
of Lauderdale. Edinburgh, 1828.

Barwick, Peter, Vita Iohannis Barwick, S.T.P. 1721.

Beddard, R.A., William Sancroft as Archbishop of Canterbury, 1677-  
1691. (Unpublished D.Phil. thesis, 1965. Bodleian,  
MS D.Phil. d.3906.)

Bennett, G.V., White Kennett, 1660-1728; Bishop of Peterborough.  
1957.

Biographia Britannica, Vol. vi, part ii, Supplement. 1766.  
Article on Hickes.

Birch, Thomas, The Life of Dr. John Tillotson. 1752.

Bohun, Edmund, Diary and Autobiography (ed. S. Wilton Rix). 1853.

Bosher, R.S., The Making of the Restoration Settlement. Reprinted,  
1957.

Broxap, Henry, The Later Non-Jurors. Cambridge, 1924.

Bulletin Historique et Literaire de la Societé de l'histoire du  
Protestantisme Francais. Annual Vols. for 1896, 1918,  
1934, 1960.

Butler, D., The Life and Letters of Robert Leighton, Restoration  
Bishop of Dunblane and Archbishop of Glasgow. 1903.

- Burnet, Gilbert, History of his own Time, 6 Vols. Oxford, 1833.
- Calamy, Edmund, Calamy Revised. A Revision of Edmund Calamy's Account of the Ministers and others Ejected and Silenced, 1660-62. (ed. A.G. Matthews). Oxford, 1934.
- CALENDAR OF STATE PAPERS, DOMESTIC.
- Carpenter, Edward, Thomas Tenison. 1949.
- , The Protestant Bishop; being the Life of Henry Compton, 1632-1713, Bishop of London. 1956.
- Comber, Thomas, The Autobiographies and Letters of Thomas Comber (ed. C.E. Whiting), 2 Vols; Surtees Society, 1946 and 1947.
- Cyprian, Saint, Bishop of Carthage, Works, ed. J. Fell. Oxford, 1682.
- , The Treatises of St. Caecilius Cyprian, Bishop of Carthage and Martyr, trans. J.H. Newman. Oxford, 1839.
- , De Lapsis and De Unitate, trans. Maurice Bevenot, S.J. Oxford, 1971.
- Douglas, D.C., English Scholars, 1660-1730. 1939. Revised ed., 1951.
- D'Oyly, George, Life of Dr. William Sancroft, 2 Vols. 1821.
- Durham, J., The Parish Church of All Hallows by the Tower of London. 1967.
- Ellis, Henry, Original Letters Illustrative of English History; Second Series. 1827. Vol. iv.
- Evelyn, John, The Diary of John Evelyn, (ed. E.S. De Beer), 6 Vols. Oxford, 1955.
- Every, George, The High Church Party, 1688-1718. 1956.
- Feiling, Keith, A History of the Tory Party, 1640-1714. Oxford, 1965.
- Figgis, J.N., The Divine Right of Kings. 2nd ed. Cambridge, 1922.
- , Studies in Political Thought from Gerson to Grotius. 2nd Ed. Cambridge, 1923.
- Foster, W.R., Bishop and Presbytery: The Church of Scotland, 1661-1688. 1958.



General Dictionary Historical and Critical. Vol. vi. 1738.  
Article on Hickes.

Gordon, J.F.S., Scotichronicon: An Ecclesiastical Chronicle for Scotland, 2 Vols. 1875.

Granville, Denis, The Remains of Denis Granville; Surtees Society, 1865.

Granville, Roger, The Life of the Hon. and Very Rev. Dennis Granville, Dean and Archdeacon of Durham. 1902.

Green, Valentine, The History and Antiquities of the City and Suburbs of Worcester, 2 Vols. 1796.

Hale, Sir Matthew, L.C.J., Historia Placitorum Coronae; The History of the Pleas of the Crown. 1736.

Harmer, F.E., Anglo-Saxon Writs. Manchester, 1951.

Hart, A.T., The Life and Times of John Sharp, Archbishop of York. 1949.

Hawkins, L.M., Allegiance in Church and State: The Problem of the Nonjurors in the English Revolution. 1928.

Hearne, Thomas, Collections, 11 Vols. Oxford Historical Society, 1884-1918.

#### HISTORICAL MANUSCRIPTS COMMISSION.

3rd Report, Appendix.

11th Report, Part vi (1887), and Supplement (1932),  
Hamilton MSS.

Downshire MSS. i, part i.

Finch MSS. iii, iv.

Laing MSS. ii.

Portland MSS. ii; iii; iv; v.

Stuart Papers i, iii, v.

Hopton, Madeleine, Froma Canonica; or the History of Canon Fromo and the Hopton Family. 1902.

Hyde, Henry, The Correspondence of Henry Hyde, Earl of Clarendon ... and the Diary of Lord Clarendon, 1687-90 (ed. S.W. Singer), 2 Vols. 1828.

King, C.W. (Translator), Julian the Emperor; containing Gregory Nazianzen's Two Invectives and Libanius' Monody, with Julian's Extant Theosophical Works. 1888.

King, N.Q., The Emperor Theodosius and the Establishment of Christianity.

Kinloch, T.F., The Life and Works of Bishop Joseph Hall, 1574-1656. 1951.



- Lang, Andrew, Sir George Mackenzie. 1909.
- Lathbury, Thomas, The Nonjurors. 1845.
- Lee, Maurice, The Cabal. 1965.
- Letters written by Eminent Persons in the Seventeenth and Eighteenth Centuries ... from the Bodleian Library and Ashmolean Museum, 2 Vols. 1813.
- Lockhart, George, The Lockhart Papers. Memoirs and Commentaries upon the Affairs of Scotland from 1702-1715, by George Lockhart, Esquire, of Carnwarth; his Secret Correspondence with the Son of King James II from 1718 to 1728, 2 Vols. 1817.
- London County Council, Survey of London, Vol. XII: The Parish of All Hallows, Barking, Part i.
- Luttrell, Narcissus, A Brief Historical Relation of State Affairs, 6 Vols. Oxford, 1857.
- Macadoo, H.R., The Structure of Caroline Moral Theology. 1949.
- Mackenzie, Sir George, The Institutions of the Laws of Scotland. 6th ed. revised. Edinburgh, 1723.
- Mackenzie, W.C., John Maitland, Duke of Lauderdale. 1923.
- Macpherson, James (ed.), Original Papers; containing the Secret History of Great Britain, from the Restoration to the Accession of the House of Hanover, 2 Vols. 1775.
- Nichols, John, Literary Anecdotes of the Eighteenth Century, comprising the Memoirs of William Bowyer, Printer, F.S.A., 7 Vols. 1812 and 1813.
- Newton, John A., Susanna Wesley and the Puritan Tradition in Methodism. 1968.
- Notes and Queries. (Second Series). Vol. ix (1860), p.128.  
(Sixth Series). Vol. xii (1885), pp.401-403.
- Oldmixon, John, The History of England during the Reigns of the Royal House of Stuart, Vol. i. 1730.
- Orthodox Churchman's Magazine. Vol.ii. 1802.
- Overton, J.H., The Nonjurors. 1902.
- Packer, J.W., The Transformation of Anglicanism, 1643-1660; with special reference to Henry Hammond. 1969.
- Pepys, Samuel, The Diary and Correspondence of Samuel Pepys (ed. Richard, Lord Braybrooke), 6 Vols. 3rd ed., 1848.

- Petheram, John, An Historical Sketch of the Progress and Present State of Anglo-Saxon Literature in England. 1840.
- Petrie, Sir Charles, The Jacobite Movement: The First Phase, 1688-1716. 1948.
- Plumptre, E.H., Thomas Ken, 2 Vols. 1889.
- Registers of the Privy Council of Scotland (3rd Series), ed. P. Hume-Brown, Vol. III (1673-76), Vol. V (1676-78).
- Round, J.T. (ed.), The Prose Works of the Rt. Rev. Father in God Thomas Ken, D.D., sometime Lord Bishop of Bath and Wells. 1838.
- Sanderson, Robert, Works (ed. W. Jacobson), 6 Vols. Oxford, 1854.
- Secretan, C.F., Memoirs of the Life and Times of the Pious Robert Nelson. 1860.
- Sisam, Kenneth, Studies in the History of Old English Literature. Reprinted 1962.
- Skinner, John, An Ecclesiastical History of Scotland, 2 Vols. 1788.
- Stephen, W., A History of the Scottish Church, 2 Vols. Edinburgh, 1896.
- Straka, G.M. (editor), The Revolution and the Birth of the English Political Nation. Lexington, Mass., U.S.A., 1973.
- Strickland, Agnes, The Lives of the Seven Bishops Committed to the Tower in 1688. 1866.
- Sutch, V.D., Gilbert Sheldon, Architect of Anglican Survival, 1640-1675. The Hague, 1973.
- Sykes, Norman, Church and State in England in the XVIII Century. Cambridge, 1934.
- Thoresby, Ralph, Letters of Eminent Men addressed to Ralph Thoresby, F.R.S., 2 Vols. 1832.
- , Diary of Ralph Thoresby, F.R.S. (1677-1724), (ed. J. Hunter), 2 Vols. 1830.
- Usher, R.G., The Reconstruction of the English Church, 2 Vols. 1910.
- Victoria County History. Worcestershire.
- Walmsley, Robert, John Wesley's Parents, Articles in the Manchester Guardian newspaper, 2 and 3 July 1953.



Waterland, Daniel, Works (ed. W. Van Mildert), 10 Vols. Oxford, 1823.

Whitaker, T.D., The History of Richmondshire, 2 Vols. 1823.

Whiting, C.E., Nathaniel, Lord Crewe, Bishop of Durham. 1940.

Wood, Anthony, Athenae Oxonienses (ed. P. Bliss), 4 Vols. 1813-20.

-----, The Life and Times of Anthony Wood, antiquary of Oxford, 1632-95, described by himself (ed. A. Clark). Oxford Historical Society, 5 Vols. 1891.

Young, Patrick, Catalogus Librorum Manuscriptorum Bibliothecae Wigorniensis (ed. I. Atkins and N. Ker). Cambridge, 1944.

Zouch, Thomas, Works of the Reverend Thomas Zouch, D.D., F.R.S. (ed. F. Wrangham), 2 Vols. York, 1820.

#### F. ARTICLES

Beddard, R.A., 'The Commission for Ecclesiastical Promotions, 1681-84: An Instrument of Tory Reaction': The Historical Journal, X, part i (1967).

-----, 'The Guildhall Declaration of 11 December 1688 and the Counter Revolution of the Loyalists': The Historical Journal, XI, part iii (1968).

Bennett, J.A.W., 'Hickes's Thesaurus: A Study in Oxford Book Production': English Studies, 1948 (Vol. i of a new series of Essays and Studies collected for the English Association, by F.P. Wilson).

Gardner, W.B., 'The Later Years of John Maitland, second earl and first duke of Lauderdale': Journal of Modern History, XX (1948), 113-122.